CHAPTER 4
Consolidated Responses

4.0 Introduction

Because several of the comment letters raised similar issues on the Draft Environmental Impact Report (EIR), a set of consolidated responses were developed to address common topics in a comprehensive manner. Although not required by the California Environmental Quality Act (CEQA), the Consolidated Responses presented in this chapter are intended to improve the readability of the document by reducing repetition and numerous cross-references throughout the individual responses presented in Chapter 5, *Responses to Draft EIR Comments*, and Chapter 6, *Responses to Public Hearing Comments*.

For each Consolidated Response, the individual comments addressed, entirely or in part, by that Consolidated Response are identified at the start of the response. The reader should be aware that only portions of one or more Consolidated Responses may be directly applicable to any given comment. However, the Consolidated Responses thematically address related issues in a holistic manner in an effort to provide the most comprehensive response to frequently made comments and/or comments of relatively high importance.

The Consolidated Responses shown in **Table 4.0-1** are presented in this chapter.

TABLE 4.0-1
LIST OF CONSOLIDATED RESPONSES

TABLE 4.0-1 (CONTINUED)
LIST OF CONSOLIDATED RESPONSES

4.1 Project Description

Comments Addressed: A-7-10, A-7-11, A-7-37, A-12-7, O-3-4, A-12-45, A-15-10, O-3-4, O-27-10, O-27-33, O-27-34, O-27-36, O-27-65, O-29-9, O-29-10, O-29-30, O-29-61, O-29-116, O-41-9, O-43-1, O-46-14, O-46-15, O-51-3, O-51-29, O-51-34, O-55-12, O-55-13, O-57-17, O-61-3, O-62-2, O-62-5, O-62-8, O-62-9, O-62-10, O-62-22, O-62-23, O-62-24, O-63-5, I-179-5, H-1-25, H2-2-1, H2-2-13, and H2-3-20.

This consolidated response addresses comments regarding the appropriate type of EIR for the proposed Oakland Waterfront Ballpark District Project (Project) as well as the adequacy of the Project Description presented in the Draft EIR.

4.1.1 Type of EIR—Project and Program

This response addresses comments suggesting that the City should modify the Draft EIR to be a combined program/project EIR, with a project-level EIR analysis for Project Phase 1 and a program-level EIR analysis for Phase 2, with any necessary future environmental review to be tiered from the program EIR. Stated similarly, other comments suggest revisions to make clear that this EIR constitutes a "first-tier," project-level EIR for purposes of Phase 1 and that the City and the Port will subsequently tier their later environmental review for Phase 2 and the Maritime Reservation Scenario (Comments A-7-10 and A-7-12). Various comments cite the phased approach to the proposed Project, the lack of detail known for the Phase 2 (Buildout) components, and the programmatic nature of several of the mitigation measures applied thereto, as reasons they believe the analysis is consistent with a programmatic EIR.

CEQA does not mandate that the City prepare a specific type of EIR for the proposed Project. Rather, CEQA requires only that "the EIR addresse[s] the environmental impacts of this Project to a 'degree of specificity' consistent with the underlying activity being approved through the EIR. (Guidelines, § 15146, see § 15168, subd. (c)(5).)." (*Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1051 (Id. at 1052.) "It is the substance, rather than the form, of [the environmental] document which determines its nature and validity." (*Id.*)

The City prepared a Draft EIR as a project EIR in full compliance with CEQA, basing its analysis on available information – and the level of detail available – for each phase of development. Latter phases of the proposed Project are described with a relatively high level of specificity, such as the land use, size, intensity, and location of future development at the block level; conceptual grading; and specific ingress, egress, and circulation. As explained in Section 3.6.2 (p. 3-35 of the Draft EIR), any future development "would be evaluated to determine whether they would result in environmental impacts beyond those disclosed in this Draft EIR. If new environmental impacts would occur, or if identified impacts would become more severe, additional environmental review would be required prior to a decision to allow the proposed modification." CEQA allows for project EIRs that provide meaningful information about the project while providing for flexibility needed to respond to changing conditions and unforeseen events that could possibly affect the Project's final design. (*Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1049.) Courts do not "require resolution of all hypothetical details prior to approval of an EIR." (*Id.* at 1054.)

The Draft EIR includes a sufficient degree of analysis to provide the decision makers with information that enables them to make a decision intelligently taking into account the environmental consequences of the project as a whole (State CEQA Guidelines Section 15151), and the City is not required to separately prepare a program EIR for the later phases of the Project. To the extent any future discretionary approvals are required for later phases of the Project, the City will ensure full compliance with CEQA at every stage of the process.

4.1.2 Project Description

A number of comments alleged that the Draft EIR failed to adequately describe the proposed Project in a manner that provided readers with a clear understanding of what the Project proposes. Comments claim that the description of the proposed Project in the Draft EIR "omits concrete details" and was "confusing and uncertain as to the nature and variety of actions that will be taken for the Project" (Comment O-27-36). Other concerns raised by certain comments include that the description of the proposed Project was "impermissibly vague and incomplete," with certain comments perceiving it as "inconsistent." These comments fall within three primary categories:

- Comments that claim various Project elements were not adequately described: the Buildout Phase (also frequently referred to in comments as "Phase 2"), the Project variants treatment of the existing container cranes, the plan for and location of affordable housing, and the Maritime Reservation Scenario. A recurring theme in the comments regarding the Project description is that the Draft EIR incorrectly described certain elements as *not* part of the

proposed Project or the detailed analysis in the Draft EIR, failing to describe and analyze these elements or related actions in suitable detail at this time.

- Comments that assert at the Draft EIR did not include certain things as part of the proposed Project. These comments further contest that, because of the lack of certainty or specificity set for certain Project elements or potential actions by other parties at unknown times in the future, the Draft EIR contains incomplete or insufficient analysis of the Project's effects on certain environmental factors (Comment O-29-9). In particular, comments claim that certain analyses and mitigation measures rely on "studies that have not been completed" (Comment I-260-1), because not enough information was known by the Project sponsor, the Oakland A's, at the time the Draft EIR was prepared. Comments frequently refer to these mitigation measures as impermissibly "deferred"—an assertion that is fully responded to in Consolidated Response 4.2, *Deferral of Mitigation,* in this chapter. For example, some comments that assert that future redevelopment of the RingCentral Coliseum (also referred to as Oakland Coliseum, and previously the Oakland–Alameda County Coliseum) (Coliseum) has been improperly "piecemealed" from the Project. Other Comments that contend that proposed terms of the Development Agreement between the City of Oakland (City) and the Oakland A's (Comment O-41-9), or potential public funding of off-site infrastructure improvements within the scope of the Draft EIR (Comment O-51-34), are inappropriately omitted from the Project description.

- Some comments suggest that the Draft EIR document itself should be modified and to be combined program EIR, with a project-level EIR analysis for Phase 1 of the Project, and a program-level EIR analysis for Phase 2, with any necessary future environmental review to be tiered from the program EIR. (See, e.g., Comment A-7-10).

These concerns are addressed in the subsections below. A few comments pose questions about certain Project characteristics or suggest specific gaps in the Project information presented. This Consolidated Response 4.1 clarifies questions raised multiple times, while singular, focused clarifications are addressed by Individual Responses in Chapter 5 of this document.

4.1.2.1 Project Description Requirement Under CEQA

The project description is a substantive requirement of a draft EIR, critical to a lead agency's ability to analyze a project's potential significant effects (State CEQA Guidelines 15121(a)). CEQA specifies that a "project" means the "whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (State CEQA Guidelines Section 15378(a)).

CEQA is explicit about what a draft EIR's project description must include, as well as certain parameters for the level of detail and scope of the information presented. Under CEQA Guidelines 15124, the required components include:

"a) The precise location and boundaries of the proposed project…;

b) A statement of objectives sought by the proposed project…,

c) A general description of the project's technical, economic, and environmental characteristics…;

d) A statement briefly describing the intended uses of the EIR"

CEQA Guidelines Section 15124 makes clear that the project description should be kept general and short and that extensive detail is not required or desirable. The adequacy of a project description must be evaluated in the context of its purpose, which in turn informs what makes a description inadequate. As long as the EIR's description identifies the project's main features and other information needed for an assessment of the project's environmental impacts, the description may allow for the flexibility needed to respond to unforeseeable events and changing conditions that could affect the project's final design. (*Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal App.4th 1036, 1053.)

4.1.2.2 The EIR Project Description

Some comments claim various project elements were not adequately described in the Draft EIR. The Draft EIR complies with CEQA's requirements for a project description and includes each of the required components of CEQA Guidelines Section 15124. The following discussion is meant to provide a summary of the project information found in the Draft EIR to assist the reader in understanding the scope and components of the proposed Project and how this project description complies with CEQA.

Chapter 1, Introduction (on page 1-9) presents an overview of the Project Description:

> "**Chapter 3, Project Description** – This chapter describes the whole of the proposed Project, including the Project's Maritime Reservation Scenario, off-site improvements, infrastructure proposed to support the Project, and brief summaries of Project variants under consideration. The chapter describes the physical location of the site, the site's boundaries, and the Project Objectives, as well as the proposed uses and the physical design of the Project, its operational characteristics (number and timing of events, employment, etc.), and its phasing and construction processes. Consistent with State CEQA Guidelines Section 15124, this chapter also describes (A) a list of the agencies that are expected to use the EIR in their decision making, (B) a list of permits and other approvals required to implement the project, and (C) a list of related environmental review and consultation requirements required by federal, State, or local laws, regulations, or policies."

The Draft EIR (at p. 1-2) also explains that "the Oakland A's have also identified two Project 'variants,' described below, consisting of project features that have the potential to become part of the Project, but that may not be possible to incorporate within the Project due to cost, feasibility, and other factors." Page 1-9 continues:

> **"Chapter 5, Project Variants** – This chapter describes variants that the Project sponsor is considering incorporating into the Project and evaluates each variant in sufficient level of detail to identify where the variants may result in new or substantially more severe significant impacts, or where mitigation requirements would be different from the proposed Project. For each variant, this chapter also identifies the environmental setting to the extent it differs from the setting described in Chapter 4 and agency approvals required for implementation."

Chapter 3, *Project Description*, includes separate sections on each component of the project description as required under State CEQA Guidelines Section 15124. As described below, all parts of the Project Description discuss what is actually proposed, in addition to describing options (such as variants, container cranes, and Fire Station 2) or where flexibility is anticipated

(Buildout Phase), including potential actions by other agencies that may affect the Project in the future (Maritime Reservation Scenario). Not all design details of the Project are known; however, the description of that development includes sufficient detail to analyze the environmental impacts, including the maximum height and massing of proposed buildings, the site layout and circulation improvements, and open spaces. The level of detail presented is commensurate with the scope and of the proposed Project. Numerous detailed high-quality exhibits (referred to as "figures") and tables of existing conditions and Project information support the Project Description. While mindful of CEQA guidance that a project description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact" (State CEQA Guidelines Section 15124), the Project Description is comprehensive and explains the proposed Project in as much specificity as has been provided by applicant.

The first three sections establish the project location, setting and jurisdiction (State CEQA Guidelines Section 15124(a):

- Sections 3.1 through 3.3 (starting on p. 3-1 of the Draft EIR) describe all existing characteristics of the Project site and its surroundings. Of particular note, Section 3.2.1 specifies the type and acreages of existing uses at Howard Terminal, including truck parking and vessel berthing at the wharf area, as well as the number and type of employees currently employed on-site. (See also Section 3.17 of the Draft EIR, which elaborates on truck parking in particular.)

- Section 3.2.4 (p. 3-8 of the Draft EIR) describes existing physical site conditions pertaining to past and existing hazardous conditions, utilities, trees and landscaping, and the pile-supported wharf structure, quay wall, and rock dike, accompanied by an explanatory exhibit for the unique element of the Project site (Figure 3-4 on p. 3-10 of the Draft EIR).

- Section 3.3 (starting on p. 3-11 of the Draft EIR) describes the existing zoning and planning for the site and explains the jurisdictional relationship of the City and the Port of Oakland (Port) relative to the Project site and entitlements.

- Section 3.4 (starting on p. 3-14 of the Draft EIR) is the statement of Project objectives (State CEQA Guidelines 15124(b)).

A description, in text, graphic and tabular forms, of the proposed Project's "technical, economic, and environmental characteristics," (State CEQA Guidelines 15124(c), are included in Sections 3.5 through 3.12. Section 3.18 explains the variants, or optional components of the proposed Project. These sections include, among others:

- Section 3.5 (starting on p. 3-16 of the Draft EIR) provides the site plan, overview and major components of the proposed Project.

- Table 3-1 in Section 3.5 (p. 3-20 of the Draft EIR) specifies each Project component by Project phase, applicable measure (square feet, acres, rooms), and development intensity, in addition to maximum building heights and parking designated for each component. This section states:

  > "The development intensity of proposed uses is described in Table 3-1, although there could be some adjustments (for example building less commercial use and more housing…) in the future based on market conditions," (p. 3-21 of the Draft EIR) in

addition to "absorption, financial feasibility, and construction practicalities." (p. 3-32 of the Draft EIR)

- Section 3.6.2 (discussed below) notes that such modifications would be subject to City review under CEQA. Also, in the description of proposed residential uses as part of the Project, the Project Description states:

  "The Project will have an affordable housing program, which may include on-site or off-site affordable housing units and/or the payment of impact fees. Should the Project satisfy its affordable housing component via off-site development at as-yet unidentified sites, that development would require separate environmental review and entitlement; these units would fall within the overall cumulative growth forecast used in the analyses contained in this EIR." (p. 3-26 of the Draft EIR)

- Section 3.5 (p. 3-31 of the Draft EIR) also describes the Project sponsor's intention to retain the existing container cranes, yet the Draft EIR also conservatively analyzes the potential impacts resulting from their loss if retention is not feasible. (p. 3-32 of the Draft EIR)

- Section 3.5 further makes clear that only the development of the proposed Project at Howard Terminal is proposed at this time. This passage also specifies:

  - "Any redevelopment at the Oakland Coliseum is not part of or the Project sponsor's application nor a prerequisite for development of the proposed Project, and no physical changes are proposed at the Oakland Coliseum site as part of the Project." (p. 3-16 of the Draft EIR)

- As noted in Section 3.5, the proposed Project will proceed in two phases. Section 3.6 (starting on p. 3-32 of the Draft EIR) describes the physical and timing aspects of the phased development of the Project and the site:

  "During and after Phase 1, the pace of building out the remainder of the site (Buildout) would be dependent on market demand, absorption, financial feasibility, and construction practicalities. Construction of Buildout could overlap with occupancy and use of Phase 1 buildings, and construction of multiple development parcels/blocks could occur concurrently. The analysis in this Draft EIR conservatively captures this possibility by modeling Buildout in the eighth year after construction begins (referred to as "Year 8")."

  Section 3.5 explains why this approach is considered conservative for purposes of assessing environmental impacts:

  "The proposed phasing for development of the Project is considered conservative from an impact perspective because it assumes development of non-ballpark uses within a relatively short period of time." (p. 3-16 of the Draft EIR)

- Section 3.6 also discloses that due to unknown variables, including future market conditions, it is possible that the Project sponsor may seek to revise the mix of uses included in the Project. Section 3.6.2 (p. 3-35 of the Draft EIR) further explains:

  "Any Project modifications that are proposed would be evaluated to determine whether they would result in environmental impacts beyond those disclosed in this Draft EIR. If new environmental impacts would occur, or if identified impacts would become more severe, additional environmental review would be required prior to a decision to allow the proposed modification."

- Section 3.7 (starting on p. 3-37 of the Draft EIR) describes the Maritime Reservation Scenario in detail, including its purpose, time considerations, status, and resulting implications to the geography and land uses on the proposed Project site. A full set of Maritime Reservation Scenario exhibits relevant for comparison with the proposed Project is presented in the Project Description chapter, along with a detailed description and list of characteristics of the Maritime Reservation Scenario that differ from those of the proposed Project. As stated on page 3-40 of the Draft EIR (and originally introduced in Section 4.0, *Introduction to the Environmental Analysis*):

  > "[E]ach technical analysis section of the Draft EIR discusses the environmental effects of the Maritime Reservation Scenario, identifying impacts and mitigation measures where necessary to address effects that are different from those identified for the proposed Project. …[T]he impacts from the construction of an expanded turning basin would be analyzed as a separate project under a separate CEQA document. …[T]he analysis in the Draft EIR does not analyze the construction or operational impacts of the turning basin expansion itself; that is a separate project initiated by the Port that would be addressed in a separate CEQA document.
  >
  > The reason this EIR analyzes the Maritime Reservation Scenario is to identify the impacts of the Project, in the event the Project is reconfigured to accommodate the Port's exercise of its option. Thus, the focus is to show how the Maritime Reservation Scenario can be accommodated, in the event the Port decides to move forward with expanding the turning basin. The Maritime Reservation Scenario is analyzed separately because it is not the Project proposed by the sponsor."

  See additional discussion of the Maritime Reservation Scenario under 4.1.3 further in this Consolidated Response.

- Section 3.8 (starting on p. 3-42 of the Draft EIR) introduces all aspects of transportation and circulation infrastructure associated with the Project, both on-and off-site improvements, including a suite of improvements pertaining to railroad corridor safety (p. 3-43 of the Draft EIR). The Transportation Management Plan (TMP) and off-site improvements are summarized with a full description provided and analyzed in Section 4.15, *Transportation and Circulation*, and Appendix TRA of the Draft EIR.

- Section 3.18 (starting on p. 3-63 of the Draft EIR) introduces each of the two Project variants, stating:

  > "These variants are potential project features that may or may not be included by the Project sponsor as part of the proposed Project because the implementation of each is beyond the control of the Project sponsor at this time."
  >
  > "Chapter 5, *Project Variants*, of the Draft EIR is dedicated to describing the Peaker Power Plant Variant and the Aerial Gondola Variant in full detail, in text and exhibits, followed by the impact analysis of the proposed Project with each of the variants, separately and combined."

  Several sections discuss the various approvals, agreements and permits required for the proposed Project (see CEQA Guidelines Section 15124(d)). These include:

- Section 3.16 (starting on p. 3-60 of the Draft EIR) introduces the Seaport Compatibility Measures and describes how they relate to the proposed Project and the environmental analysis. The section explains:

> "The Seaport Compatibility Measures to be negotiated between the Project sponsor and the Port include measures, designs, and operational standards to ensure that the Project does not impact or interfere with the Port's use or operations outside of the Project…if agreed upon between the Project sponsor and the Port, [the Seaport Compatibility Measures] may address non-CEQA impacts relating to the Port's use or operations outside of the Project….CEQA impacts with respect to land use compatibility are addressed in Section 4.10, *Land Use, Plans, and Policies*…." (p. 3-61 of the Draft EIR) (Also see Consolidated Response 4.4*, Port Operations and Land Use Compatibility*.)

- Sections 3.19 and 3.20 (starting on p. 3-65) list all discretionary permits and approvals that would be required before development of the proposed Project could proceed, including with each of the Project variants, in case one or both of them is pursued. The lists are organized by the particular agency responsible for each permit or approval. Of particular interest to commenters on the adequacy of the Project Description, the numerous approvals include, among several others, a Preliminary Development Plan (Planned Unit Development or PUD), a Final Development Plan (Planned Unit Development–Final or PUD-F), a Development Agreement, and a Community Benefits Agreement.

Overall, the Draft EIR contains a Project Description with sufficient information for the reader to understand all components of the Project and in enough detail to conduct the appropriate analysis of all potential environmental effects of the proposed Project in the EIR under CEQA standards. All final design details of the Project are not required to be known to sufficiently analyze the impacts of the Project under CEQA. However, the description of that development includes the siting, size, and massing proposed to be built among other information that is sufficient to analyze and identify significant environmental impacts and mitigations. The level of detail is sufficient to analyze the Project impacts so that the public and decision makers can evaluate the environmental impacts of the project. Numerous detailed exhibits (referred to as "figures") and tables of existing conditions and Project information support the Project Description. Additional details about certain Project characteristics are provided throughout Draft EIR Chapter 4, *Environmental Setting, Impacts, and Mitigation Measures*, and Chapter 5, *Project Variants.*

4.1.2.3 "Possible" Parts of the Proposed Project

As discussed above, many commenters expressed concern that the description of the proposed Project in the Draft EIR "contains numerous *possible elements* [emphasis added], leaving the reader to speculate as to exactly what will be undertaken." (Comments O-27-36 and O-27-33.) As described above and in additional detail below, the Draft EIR describes all elements of the proposed Project and explains what actions may occur and what is assumed in the impact analysis to ensure that the assessment is conservatively worst-case for those potential actions, in compliance with CEQA.

Variants

A specific comment states that "two variants…would seem to be able to move forward without further environmental review, even though they are not fully described in the Project Summary reviewed for this EIR." (Comment O-63-5.) As stated previously, the Draft EIR (at p. 1-2) explains that "the Oakland A's have also identified two Project 'variants,' described below, consisting of project features that have the potential to become part of the Project, but that may

not be possible to incorporate within the Project due to cost, feasibility, and other factors." Accordingly, although an optional part of the proposed Project, the Draft EIR analyzes the environmental impacts of including one or both of the variants. Specifically, Draft EIR Chapter 5 describes and analyzes the potential impacts of the proposed Project with either and both of the variants. Chapter 5 (at p. 5-1) further explains that potential Project features "are included as variants so that they can be incorporated into the Project in the event the necessary land can be acquired and the necessary approvals can be obtained. There is no way to determine at this time whether the variants can be implemented." The analysis therein focuses on existing setting or impacts that differ from those of the proposed Project (in the analysis throughout Chapter 4 of the Draft EIR). Second, the impacts and applicable mitigation measures to address variant-specific impacts are included in Table 2-1, Summary of Impacts and Mitigation Measures (starting on p. 2-96 of the Draft EIR), immediately following the summary of the proposed Project's impacts without either variant. Accordingly, the potential impacts of implementing one or both of the variants are identified and addressed in the Draft EIR.

Cranes

Some comments contend that the Project sponsor's intent to retain the existing container cranes may not be feasible, in which case the cranes would be removed or demolished. Impact CUL-4, starting on p. 4.4-25 of the Draft EIR, contains the impact analysis for the Project scenario in which the cranes would be demolished. Thus, the potential impacts of this scenario are disclosed and analyzed in the Draft EIR.

Affordable Housing

Some comments posed questions about the possibility that the Project may satisfy its affordable housing component via off-site development at as-yet unidentified sites, on-site, and/or with the payment of impact fees. Because either option was assumed to be available to the Project sponsor when the Draft EIR was prepared, the Project analysis assumes the affordable units as part of the up to 3,000 total units proposed on the Project site. Including affordable units in the total 3,000unit count would not result in additional environmental impacts because, as explained in Consolidated Response 4.12, *Affordable Housing*, whether units are market rate of affordable does not affect the environmental impacts. The Draft EIR fully discloses that any affordable housing component that may be developed off-site at locations not identified at this time would require separate environmental review and entitlement (p. 3-26 of the Draft EIR; see also *Approach to Analysis* on p. 4.12-14 in Section 4.12, *Population and Housing*, of the Draft EIR). Off-site development of housing units is not part of the Project analyzed in this EIR. Accordingly, the Draft EIR properly addresses the potential impacts of the affordable housing units if accommodated onsite. See Consolidated Response 4.12, *Affordable Housing*, which further discusses the proposed Project's Affordable Housing Program in terms of its adequate description and CEQA evaluation in the Draft EIR.

Fire Station 2

Some comments posed questions about the possibility that the Project sponsor's intent to retain and upgrade Fire Station 2 in place may change, in which case the structure would be demolished

in the future. The analysis of Impact PUB-1 regarding the Project's potential increase in the demand for new or physically altered fire protection facilities, addresses both potential scenarios for Fire Station 2, starting on p. 4.13-24 in Section 4.13, *Public Services*, of the Draft EIR.

Further, Draft EIR Chapter 3, *Project Description*, and Section 4.13, *Public Services,* explain that if Fire Station 2 is demolished, a replacement fire station would likely be located within the Project's development envelope. Therefore, the physical impacts related to demolition and construction of this facility are addressed as part of the Project and are included within the analyses in the appropriate environmental resource topic sections of the Draft EIR. Also, the Draft EIR states that construction impacts related to retaining and upgrading (retrofitting) Fire Station 2 would be less than those associated with a demolition and replacement scenario.

Overall, no significant CEQA impact is identified regarding whether the Project would generate an increase in the demand for new or physically altered fire protection facilities. However, Necessary Improvement Measure PUB-1 is identified and specifies requirements that the Project sponsor shall implement if Fire Station 2 is upgraded or demolished.

On-Site and Off-Site Improvements to Implement TMP and TDM

Some comments posed questions about the options for on- and off-site improvements identified to implement the TMP and TDM programs, to meet the 20 percent Vehicle Trip Reduction requirement of Assembly Bill (AB) 734 and result in a less than significant environmental impact relating to vehicle miles traveled (VMT).

The transportation analysis in the Draft EIR (Section 4.15, *Transportation and Circulation*) identifies Mitigation Measure TRANS-1a and 1b to address the potential impact that ballpark and non-ballpark development of the proposed Project would have on VMT. Mitigation Measure TRANS-1a and 1b specifies required strategies and provides a menu of optional actions that the Project could use to attain a 20 percent Project vehicle trip reduction performance standard derived from AB 734 (pp. 4.15-144 and 4.15-188 of the Draft EIR). Specifically, Mitigation Measure TRANS-1a lists actions that are "required" for the proposed Project. See Section 4.2.1, *Use of Performance Standards*, in Consolidated Response 4.2, *Formulation, Effectiveness and Enforceability of Mitigation Measures*, which explains the Draft EIR's use of a specific performance standard that the Project must meet and will result in a less than significant impact with a menu of measures that can be implemented to meet the performance standard (such as the list in Mitigation Measure TRANS-1a and 1b) complies with CEQA's mitigation requirements.

The effectiveness of the TMP and TDM programs to achieve the 20 percent vehicle trip reduction was analyzed in the Draft EIR (Appendix TRA.2); also see the discussion of effectiveness in Consolidated Response 4.23, *Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations*. Also, the potential impacts that could occur from the construction and implementation of all transportation improvements identified in Section 4.15, *Transportation and Circulation,* were considered in the Draft EIR, including the on-site and off-site improvements to implement the TMP and TDM programs. As discussed **s**tarting on Draft EIR p. 4.15-94, none of the improvements trigger secondary transportation impacts because the measures do not increase roadway capacity, induce additional vehicle travel beyond that already

assumed in the analysis, and can be constructed within the existing roadway rights-of-way. Further, Impact TRANS-4 regarding the potential effects of the Project's construction over several years discusses how off-site transportation improvements in the public right-of-way, could result and would be mitigated by preparation and implementation of a Construction Management Plan (Mitigation Measure TRANS-4), which helps to address potential construction-related impacts disclosed in other sections of the Draft EIR, such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, stormwater pollution prevention, noise control, complaint management, and cultural resource management. Overall, the Draft EIR adequately describes and analyzes the options for on- and off-site improvements identified to implement the TMP and TDM programs to meet the 20 percent Vehicle Trip Reduction.

Future Project Modifications

Some comments posed questions about the possibility that the Project sponsor may seek to revise the mix of uses included in the Project: As explained previously, Table 3-1 on p. 3-20 of the Draft EIR specifies the land use development program and intensity analyzed for the Project and discloses that there could be some adjustments between uses in the future. Such adjustment would be limited by the maximums specified for each land use in Table 3-1 (p. 3-21 of the Draft EIR) and that actual buildout of non-ballpark uses would likely to occur over a longer period of time than envisioned (p. 3-32 of the Draft EIR). (See Section 4.1.3, Type of EIR—Project and Program, below.) Where assumptions about the project development had to be made for the purposes of environmental analysis, the Draft EIR contains the most conservative assumptions (from an environmental standpoint) to assure that the impacts described are "worst case" or highest level of impact that may occur. In addition, as stated above any Project modifications that are proposed in the future would be evaluated to determine whether they would result in environmental impacts beyond those disclosed in this Draft EIR. If new significant environmental impacts would occur, or if identified impacts would become substantially more severe, additional environmental review would be required prior to a decision to allow the proposed modification.

Taken together, the "possible" Project elements listed above, in addition to all Project components described in Chapter 3 of the Draft EIR, represent the "whole of the action" that is the proposed Project. Each of these elements is appropriately factored into the impact analysis of the Project to ensure that all of the Project's potential environmental effects are analyzed. The project description may identify variations or options in designs as long as the possible variations are fully described and separately evaluated, and the maximum possible scope of the project is clearly disclosed. (See *South of Market Community Action Network v. City & County of San Francisco* (2019) 33 Cal.App.5th 321, 332.) Overall, the Draft EIR is consistent with the State CEQA Guidelines pertaining to an EIR project description and does not contain omissions or errors that preclude readers' clear understanding of what the Project proposes and its resulting environmental impacts.

4.1.3 Certain Considerations Not Part of the Proposed Project

This section responds to comments that contend that the description and analysis of the Project proposed in the Draft EIR incorrectly excludes certain elements from the whole of the action that is the Project.

4.1.3.1 Seaport Compatibility Measures

Some comments indicate that there is not a clear and concise description of the Seaport Compatibility Measures (Comment O-41-9) and infer that "the measures are an integral part of the Project…[and] should be analyzed in this D[raft] EIR" (Comment O-51-29). Consolidated Response 4.4, *Port Operations and Land Use Compatibility*, responds to several concerns raised about the Seaport Compatibility Measures, including these. The background and intent of the Seaport Compatibility Measures are also described in Section 3.16 of the Project Description in the Draft EIR and are discussed further in Draft EIR Section 4.10, *Land Use, Plans, and Policies*.

The Exclusive Negotiation Term Sheet for Howard Terminal requires the Port and the Project sponsor to negotiate various measures or designs related to seaport compatibility to determine if any can be mutually agreed upon and included as part of the business terms for the real estate transaction. The Port, along with Seaport and maritime stakeholders, have worked to identify potential measures and design features that support seaport compatibility during the City's preparation of the Draft EIR for the proposed Project. The Port submitted a *Summary of Certain Seaport Compatibility Measures (SCMs) included in the Draft EIR,* which lists potential Seaport Compatibility Measures to be negotiated with Project sponsor, depending on the final scope of the EIR, to the City on July 15, 2021.[1] This Summary List identifies several potential Seaport Compatibility Measures that would incorporate elements of CEQA mitigation measures from the Draft EIR identified to reduce CEQA impacts related to land use, transportation/circulation, aesthetics, noise, and air quality, as well as design features and other measures not related to CEQA impacts. This is consistent with the Draft EIR's statement that the "Seaport Compatibility Measures may incorporate results of this chapter's analysis of those fundamental conflicts that could result in a direct or indirect physical impact on the environment…." (Draft EIR p. 4.10-33).

While the Port and the Project sponsor may ultimately agree upon certain Seaport Compatibility Measures, in part, based on the information in the EIR, these are business terms for the transaction and not necessary to understand the environmental impacts and mitigation measures associated with the proposed Project, Thus, CEQA does not require them to be released at the same time as the Draft EIR. Accordingly, the CEQA analysis of the Project has not "impermissibly moved these yet to be negotiated project components out of the scope of this project" (Comment O-51-29).

[1] Port of Oakland letter to the City of Oakland City Council, *Port Considerations of the Oakland A's Howard Terminal Proposed Project*, July 15, 2021.

4.1.3.2 Maritime Reservation Scenario

Comments suggest that the Maritime Reservation Scenario is a "reasonably foreseeable consequence of the Project should the Port exercise its right to utilize the Maritime Reservation Area for the Inner Harbor Turning Basin expansion that it is currently studying…" (Comment A-12-7).

The comments are incorrect. The Project sponsor is not proposing expansion of the turning basin as part of its project and has no role in the Port of Oakland's future decision to terminate (or not) the Project sponsor's development rights to some or all of approximately 10 acres referred to as the Maritime Reservation Area if the Port deems that area necessary to accommodate the expansion of the turning basin (Draft EIR p. 3-37). Moreover, the proposed Project and the potential turning basin expansion by the Port that led to the Maritime Reservation Scenario have independent utility, and the Port may pursue the turning basin expansion with or without the proposed Project. The Port has not yet decided whether to exercise their option, and construct a turning basin and at this point, the EIR cannot speculate whether they will do so.

Certain comments assert that the impact analysis with respect to the Maritime Reservation Scenario is not adequate and does not support the conclusions that the Project's impacts assuming that Scenario would be essentially the same as those described for the proposed Project (Comment A-12-7, H-1-25). Even though the Maritime Reservation Scenario is not part of the Project, the Project under this Scenario and its impacts are fully described and evaluated in the Draft EIR. Chapter 4 of the Draft EIR analyzes the Maritime Reservation Scenario to identify the impacts of the proposed Project that could occur if the Project is reconfigured to accommodate the Port's exercise of its option. The analysis of the Maritime Reservation Scenario is presented at the end of each environmental topic section in Chapter 4, following the Project and cumulative analysis. The analysis focuses on any impacts or mitigation measures pertinent to the section's environmental topic, that are different than those identified for the proposed Project. In some cases, there are supporting Maritime Reservation Scenario exhibits for comparison purposes with Project exhibits. Also, Chapter 5 of the Draft EIR analyzes the Maritime Reservation Scenario in combination with either or both of the Project variants.

Generally, the commenters on the Draft EIR have not specified how the analysis of the Maritime Reservation Scenario is not adequate, so the scope of this response is general. A few comments raise specific concerns, such as the following:

- Whether the Maritime Reservation Scenario would benefit the effects of the sea level rise and flooding mitigations identified for the proposed Project (Mitigation Measure HYD-3: Sea Level Rise Final Adaptive Management and Contingency Plan). Responses to Comments O-55-29 and O-55-31 in Chapter 5 of this document explain that the additional flood storage gained from the larger turning basin under the Maritime Reservation Scenario would be negligible in the context of the Bay and that past modeling of the 35-mile shoreline unit that includes the Project area demonstrates that the Project would not cause significant changes to flood hazards in surrounding areas. Therefore the potential flooding impact (Impact HYD-3) and Mitigation Measure HYD-3 would continue to apply and effectively mitigate the potential sea level rise and flooding effects.

- The comparative shadow effects of the proposed Project and the Maritime Reservation Scenario on an existing photovoltaic solar energy facilities on a nearby structure (737 2nd Street), which Response to Comment I311-8-17 in Chapter 5 of this document explains would be virtually identical under the Project and the Scenario.

- An assessment of the comparative publicly accessible open space provided under the Maritime Reservation Scenario and the proposed Project, in terms of the percentage of total site acreage, the existing usable group open space requirements in Downtown, and other certain residential zones for planned unit developments areas, is provided in Response to Comment A-12-57 in Chapter 5 of this document. The proposed Project under the Maritime Reservation Scenario would provide 14.9 acres of publicly accessible open space, which would constitute about 33% of the site acreage, which is the same ratio as with the proposed Project, with its 18.3 acres on a 55 acres site, and would similarly absorb a substantial part of the demand from new residents, employees, and visitors of the Project.

- The site conditions relative to hazardous material contaminants under the Maritime Reservation Scenario would be the same as those described for the proposed Project without the Maritime Reservation Scenario, since any changes to where excavation and development would occur would still be located within the Project site area where the nature and extent of contamination has already been characterized. This is discussed, referencing comparative site plans of both the Maritime Reservation Scenario and the proposed Project, in Response to Comment A-12-62 in Chapter 5 of this document.

Also, the analysis of the Maritime Reservation Scenario in each section of Draft EIR Chapter 4 considers the conservative timing assumptions of when the Port could exercise its option and associated construction could commence, including relative to development of other parts of the Project (Comment O-55-31).

Overall, the analysis described in this response (and the specific individual responses listed above) is the only analysis associated with the Maritime Reservation Scenario that is warranted in the Draft EIR. "…[T]he analysis in the Draft EIR does not analyze the construction or operational impacts of the turning basin expansion itself; that is a separate project initiated by the Port that would be addressed in a separate CEQA document (Draft EIR p. 3-40).

4.1.3.3 Oakland Coliseum

A number of comments stated that redevelopment of the Oakland Coliseum should be treated as part of the proposed Project because its redevelopment must occur for the proposed Project to go forward; specifically, comments cite public statements by the City and the Project Sponsor that indicate a potential financial link between the two activities (Comments O-62-22 through O-62-24, and O-27-34). Those comments contend that redevelopment of the Coliseum should have been identified and analyzed as part of the proposed Project rather than an alternative or a stand-alone project, and by not doing so, the Draft EIR improperly piecemeals or segments its analysis, failing to describe and analyze the "whole of the action." Taken together, the comments conclude that the EIR is deficient until it is revised to describe proposed mixed-use redevelopment at the Coliseum and analyze the impacts of this proposed development under CEQA as part of the proposed Project.

"Improper piecemealing occurs 'when the purpose of the reviewed project is to be the first step toward future development' or 'when the reviewed project legally compels or practically presumes completion of another action.'" (*East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 293.) The analysis in the Draft EIR is consistent with these legal standards.

The Draft EIR makes clear that only the development of the proposed Project at Howard Terminal is proposed at this time. As noted above, with respect to the Coliseum, the Draft EIR explains that "[a]ny redevelopment at the Oakland Coliseum is not part of or the Project sponsor's application nor a prerequisite for development of the proposed Project, and no physical changes are proposed at the Oakland Coliseum site as part of the Project." (p. 3-16 of the Draft EIR.) Chapter 4.0 (at p. 4.0-11) further explains that "the Project sponsor anticipates proposing future redevelopment of the Oakland Coliseum site based on the Coliseum Area Specific Plan and EIR, which was adopted by the City in 2015 to guide future development of the Oakland Coliseum site as a mixed-use district with commercial, residential, and other uses…. Therefore, the impacts of redevelopment of the Oakland Coliseum site (and other cumulative projects) in combination with the Project are disclosed and analyzed for all impact areas as part of the EIR's cumulative analysis." The Project sponsor has a 50 percent interest in the site, and does not control the remainder of the site, which is owned by the City. Thus, not only is the redevelopment of the Oakland Coliseum site not part of the proposed Project (and, therefore, does not need to be part of this EIR), there is already a separate certified EIR and planning process for its redevelopment. Accordingly, the Draft EIR properly did not include the redevelopment at the Oakland Coliseum site as a component of the Project. Please see Consolidated Response 4.10, *Alternative 2: The Off-Site (Coliseum Area) Alternative*, for a focused discussion of this alternative analyzed in Chapter 6 of the Draft EIR.

In addition, issues relating to site control and financial cost of future development of the Oakland Coliseum site are not environmental issues required to be addressed in the environmental analysis in the Draft EIR. (See Chapter 4, p. 4.0-11 – 4.0-12.). Those comments do not address the adequacy or accuracy of the Draft EIR or any environmental effects of the proposed Project, and CEQA does not require the financial details of a proposed Project to be addressed in the EIR (State CEQA Guidelines Section 15097).

4.1.3.4 Terms of a Development Agreement/Infrastructure Funding

Certain comments suggest that significant environmental effects could result from Project components that are part of the Development Agreement or features of the Project or decisions relating to the financing of proposed mitigation measures. For example, comments suggest that the use of public funds to subsidize and develop infrastructure for the proposed Project at some point in time should be considered to be within the scope of the Draft EIR. Otherwise, they believe that the public will not have opportunity to review the evolving and most current information with respect to infrastructure financing, community benefits, environmental clean-up, sea-level rise and GHG mitigation, affordable housing, and other Draft EIR topics as part of the CEQA process (Comments O-51-34 and O-57-17).

The Project sponsor proposed business terms to the City in April 2021, and the City Council held a public hearing and approved a term sheet with certain modified terms in July 2021. As the Final EIR was drafted, the Development Agreement and related terms continued to be negotiated between the City and Project Sponsor in accordance with the Term Sheet. Once approved by the City, the Development Agreement will be a binding agreement between the City and Project Sponsor and will establish the terms under which the proposed Project may occur. While the Development Agreement and related terms may be developed, in part, based on the information in the EIR (including commitments to finance mitigation measures), these are financial and business terms and not necessary to understand the environmental impacts and mitigation measures associated with the proposed Project. CEQA does not require the analysis of business or financial terms. The anticipated project that will result if the Development Agreement and related terms are adopted by the City is described within the "Project Description" chapter of the Draft EIR, and the physical impacts of the proposed Project, site improvements, and infrastructure, would not change based on financial terms relating to the source of funding of off-site improvements relating to the Project.

The comments regarding financial aspects of the proposed Project and negotiations between the City and the Project sponsor on financial terms will be available to the decision makers who will consider whether to approve the Project and adopt a Development Agreement, but the comments do not relate to the adequacy of the EIR. To the extent that comments concern the timing of mitigation, this will be specified in the Mitigation Monitoring and Reporting Program (MMRP) that will be considered for adoption at the time of Project approval; a draft MMRP is provided in Appendix 2. Also, the approval of the Development Agreement will require findings that any physical environmental impacts of the terms of the Development Agreement are addressed in the EIR. Therefore, as stated previously, the Draft EIR appropriately defined and analyzed all environmental effects of the proposed Project that could result from Development Agreement, and no revisions are necessary in response to any comments received.

4.2 Formulation, Effectiveness and Enforceability of Mitigation Measures

Comments Addressed: A-7-12, A-7-13, A-7-14, A-7-15, A-7-16, A-7-18, A-7-20, A-7-22, A-7-54, A-11-2, A-11-3, A-11-4, A-11-6, A-11-8, A-11-11, A-12-8, A-12-14, A-12-15, A-12-16, A-12-60, A-13-20, A-17-1, A-17-3, A-17-4, A-17-5, A-17-6, A-17-7, A-17-8, A-17-9, A-17-12, A-17-14, O-17-3, O-17-4, O-18-3, O-18-4, O-24-3, O-24-4, O-27-8, O-27-18, O-27-19, O-27-20, O-27-21, O-27-22, O-27-23, O-27-24, O-27-26, O-27-45, O-27-47, O-27-55, O-27-57, O-27-63, O-27-72, O-29-12, O-29-14, O-29-21, O-29-23, O-29-25, O-29-26, O-29-33, O-29-43, O-29-44, O-29-45, O-29-46, O-29-53, O-29-64, O-29-82, O-29-85, O-29-86, O-29-87, O29-1-45, O29-1-46, O29-1-48, O29-1-49, O29-1-52, O29-1-54, O29-1-68, O29-1-70, O29-1-74, O29-1-76, O-30-2, O-30-3, O-36-2, O-36-4, O-36-5, O-45-21, O-46-1, O-46-4, O-47-8, O-47-14, O-49-1, O-50-6, O-51-23, O-51-26, O-51-32, O-53-3, O-53-4, O-54-4, O-55-2, O-55-11, O-55-13, O-55-19, O-55-23, O-55-25, O-56-4, O-57-5, O-57-6, O-57-7, O-57-9, O-57-12, O-57-15, O-57-16, O-57-81, O-59-4, O-62-25, O-62-33, O-62-34, O-62-35, O-62-36, O-62-37, O-62-38, O-62-44, O-62-45, O-62-47, O-62-48, O-62-51, O-62-54, O-62-59, O-62-62, O-62-65, O-62-66, O-62-70, O-62-71, O-63-8, O-63-10, O-63-14, O-63-15, O-63-17, O-63-48, O-63-56,

O-63-83, O-63-84, O-65-7, I-93-4, I-93-9, I-93-14, I-97-8, I-145-6, I-153-1, I-163-1, I-175-3, I-178-2, I-225-2, I-243-4, I-253-3, I-258-4, I-260-3, I-260-4, I-267-1, I-271-3, I-275-1, I-277-4, I-288-4, I-292-4, I-307-1, I-307-2, I-307-6, I-307-18, I-307-19, I-307-20, I-307-21, I-307-27, I307-1-25, I307-2-2, I307-2-18, I307-2-22, I307-4-7, I-308-1, I311-1-3, I311-1-5, I311-1-6, I311-1-7, I311-1-8, I311-1-11, I311-1-14, I311-1-15, I311-1-16, I311-1-24, I311-2-4, I311-2-19, I311-2-24, I311-3-9, I311-3-12, I311-3-16, I311-3-22, I311-3-23, I311-4-9, I311-4-11, I311-4-12, I311-4-13, I311-4-16, I311-4-19, I311-4-20, I311-4-21, I311-4-25, I311-4-27, I311-4-28, I311-4-29, I311-4-30, I311-4-31, I311-4-32, I311-5-13, I311-5-24, I311-6-4, I311-6-7, I311-6-8, I311-6-12, I311-7-30, I311-7-31, I311-7-34, I-332-2, I-332-6, I-332-7, I-332-8, I-332-12, I-332-14, I-332-15, I-332-16, I332-1-35, I332-1-41, I-333-6, I-333-7, I-333-8, I-334-6, I-334-14, I-334-24, I-340-5, H2-1-14, H2-1-21, H2-1-33, H2-1-37, H2-1-38, H2-2-1, H2-2-3, H2-2-4, H2-2-5, H2-2-8, H2-2-27, H2-2-28, H2-2-55, H2-2-63, H2-2-75, and H2-3-1.

A number of comments allege various issues with the formulation of the mitigation measures. These comments fall within three primary categories:

- Comments that claim the Draft EIR improperly deferred mitigation, pointing to various mitigation measures that called for refinement of certain details after specific steps are taken, and suggesting that these should have been completed concurrent with the Draft EIR and should be subject to public review/input. For example, some comments, such as Comment O-27-8, allege a systemic deficiency of "deferred study and mitigation" related to a range of topics, and some cite specific sections of the State CEQA Guidelines or case law such as *Communities for a Better Environment v. City of Richmond* (184 Cal. App. 4th 70), alleging that the Court's decision in that case invalidated approaches like the one that the Draft EIR uses to address GHG emissions (Comments O-62-36 and O-62-37).

- Comments (for example, Comments A-7-12, A-8-7, and A-12-8) that assert that mitigation measures provided in the Draft EIR are not sufficiently enforceable or effective, arguing that the effectiveness of some measures is unclear, requesting that the mitigation measures be modified to incorporate reporting requirements, and pointing to instances where they should include objective standards. (Comment A-7-15.)

- Comments that refer to specific mitigation measures as flawed, such as claiming that mitigation measures calling for preparation of a criteria pollutant mitigation plan and a greenhouse gas (GHG) reduction plan as improper deferral of mitigation.

This Consolidated Response 4.2 clarifies questions raised multiple times with respect to the formulation of mitigation measures, and generally explains how the Draft EIR complies with CEQA requirements regarding the contents and timing of mitigation, and how mitigation enforcement and monitoring would occur. Singular, more focused questions are addressed by Individual Responses in Chapter 5 and 6 of this document.

Concerns addressed in this Consolidated Response are responded to in the six subsections below focused on Use of Performance Standards (4.2.1), Mitigation Effectiveness (4.2.2), Use of Regulatory Measures (4.2.3), Mitigation Enforceability (4.2.4), Feasible Measures (4.2.5), and Specific Mitigation Measures (4.2.6). The last two subsections discuss suggestions regarding additional mitigation measures and questions raised multiple times with respect to specific mitigation measures. All mitigation measures presented in the Draft EIR were reviewed in light

of the comments received, and many of the specific measures are discussed below. In some cases, adjustments to the language of the mitigation measures are included to clarify and enhance the measures in response to comments received on the Draft EIR. These adjustments do not change the conclusions of the EIR regarding impacts or mitigation, and they are also not new mitigation measures that the City or the Project sponsor decline to adopt or implement, and, thus, do not trigger any requirement to recirculate the Draft EIR. See Consolidated Response 4.3 regarding recirculation.

4.2.1 Use of Performance Standards

Certain comments (for example, Comments O-55-11 and O-27-18) fail to acknowledge the explicit performance standards that are included in the mitigation measures and specific impact reduction measures identified. In many cases the comments fail to account for, or otherwise dismiss, the list of actions included in the measures to achieve the performance standard, and the reasons or evidence explaining their effectiveness to reduce impacts. As described below, the Draft EIR complies with the CEQA's requirements for the use of performance standards in mitigation measures.

CEQA requires that an EIR identify ways in which significant environmental impacts can be lessened in severity or avoided, including by the adoption of feasible and effective mitigation measures (State CEQA Guidelines Section 15126.4). To this end, mitigation measures must reduce the severity of potentially significant impacts, their effectiveness must be clear, and they must be enforceable (State CEQA Guidelines Section 15126.4(a)). Although formulation of mitigation measures cannot be deferred until some future time, State CEQA Guidelines Section 15126.4(a)(1)(B) provides:

> The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review, provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard that will be considered, analyzed, and potentially incorporated in the mitigation measure.

In the current case, there are two primary reasons provided for additional details of mitigation measures in the future. The first is that actual the magnitude of the impact, while estimated in the Draft EIR, will depend on the pace of Project build-out or other factors that are not know at this time. The second reason is that the effectiveness of various mitigation strategies is likely to change over time, and thus flexibility is required to ensure that strategies can adapt and be refined as long as a performance standard is met. As explained in *Golden Door Properties v. County of San Diego* (2020) 50 Cal.App.5th 467 and similar cases, if an EIR includes a mitigation measure that allows for final details of proposed mitigation to be further refined, the EIR should include the following information as evidence that (1) it was necessary to defer final articulation of the measure's features, and (2) the proposed mitigation will serve to effectively mitigate the identified effect:

- An explanation of why proposed future studies cannot be provided at the current time.

- Realistic performance standards or criteria that will ensure that the measure will be effective in mitigating the significant effect.
- A list of specific contents, standards, or alternative actions to be included in the future plan.
- An explanation or analysis of the effectiveness and feasibility of the measure and its potential for success in reducing or avoiding the identified impact.
- Commitment that the project proponent will complete the proposed studies/plan and implement actions to achieve the performance standard.
- A requirement that advancement of future site-specific project approvals will be contingent on ensuring that those components of the project meet the success/performance criteria.

As described throughout this Consolidated Response, the Draft EIR fully complies with requirements for mitigation, as provided in State CEQA Guidelines and confirmed in recent cases, by providing mitigation measures that either require very specific action or actions with predictable results, or include clear performance standards (i.e., required results) that would be accomplished through a mix of required measures and, in some cases, a menu of additional measures that are outlined in the measure. All of the mitigation measures in the EIR meet these elements as discussed below. The comments appear to misunderstand these requirements and the Draft EIR's compliance with such standards. Some comments also incorrectly assert that mitigation measures and the quantification of impacts are "deferred until other public agencies provide or approve future plans, reports, findings and/or permits." This is not the case. The EIR describes and analyzes the extent of the impact and whether the impact is significant based on applicable thresholds. Where mitigation measures mention other agencies, it is to describe the agency's regulatory role or the need to consult with them during implementation of the measure. Specific examples are discussed further below.

The Draft EIR contains performance standards for certain mitigation measures. Most performance standards used in the Draft EIR mitigation measures are quantitative, such as a 20 percent reduction in vehicle trips (Mitigation Measure TRANS-1a) or no net increase in GHG emissions (Mitigation Measure GHG-1). Mitigation measures in the Draft EIR that contain performance standards also contain a list of *required* actions, a menu of other specific actions that may be used to supplement the required actions, and a process for ensuring that the performance standard is met. For example, Mitigation Measure GHG-1 identifies emission reduction strategies that "shall" be implemented in section A.2.a, *Horizontal Construction Emission Reduction Measures,* and in part (2) of section A.2.b, *Vertical Construction and Operational Emission Reduction Measures*. A menu of additional measures that may be implemented to achieve the performance standard is included in parts (3) and (4) of section A.2.b, which also places limitations on when the purchase of carbon offset credits may be used to ensure compliance with AB 734 and the City's 2030 Equitable Climate Action Plan. This type of "menu" approach to a mitigation measure is not "deferred" because the specific actions are identified that can be combined and quantitatively calculated to meet the performance standard.

In a few instances, the performance standards for certain mitigation measures are more qualitative, such as for the impacts of potential recreational watercraft using waters adjacent to

the new ballpark (Mitigation Measure LUP-1a). There is no requirement under CEQA that all mitigation measures have quantitative performance standards, especially where the impacts themselves are qualitative. The practical effect of potential recreational watercraft is not a quantitative impact, as the impacts are temporary and may change given the time and circumstance, and there is a need to be responsive to developing conditions with different measures to address specific issues. The identification of a range of actions to address such qualitative impacts is also not deferred mitigation; it is the proper approach under CEQA to provide dynamic and event-specific mitigation.

Several examples are provided here:

- Because over the 30-year or more useful life of the proposed Project, the feasibility and effectiveness of various vehicle trip reduction measures is likely to change over time as there are changes in transit services, parking supplies, travel behavior, and advances in technology. Thus flexibility is needed and Mitigation Measures TRANS-1a and TRANS-1b appropriately use a 20 percent vehicle trip reduction performance standard derived from AB 734 that represents vehicle trip reductions that can be attained by the identified mix of required and menu of additional measures.[2] The effectiveness of the measures will be monitored, and strategies used to achieve the performance standard may be adjusted accordingly.

- As noted on Draft EIR p. 4.7-65, the Draft EIR quantifies annual and Project GHG emissions based on a conservative (fast) construction schedule. The actual pace of Project build-out may be longer than analyzed, GHG emission factors will improve over time, and GHG reduction measures may change due to new technologies or methods. The mitigation measure is designed to ensure actual GHG emissions meet the performance standard regardless of the time it takes for build-out of the Project. This was recognized in the California Air Resources Board's (CARB's) AB 734 determination and is reflected in Mitigation Measure GHG-1, which establishes a "no net additional" performance standard, includes required measures and a menu of additional measures, and requires calculations and verification accompanying each construction permit.

- Because it is impossible to predict the specific characteristics of all individual incidents of recreational watercraft using waters adjacent to the new ballpark and the most effective methods for preventing such activities can only be determined in response to actual experience, Mitigation Measure LUP-1a appropriately uses a performance standard and outlines a process for adaptive management to ensure the measure's effectiveness. The process outlined in the measure starts with consultation involving multiple agencies: the City of Oakland, the Port of Oakland, the San Francisco Bay Area Water Emergency Transportation Authority (WETA), the Harbor Safety Committee of the San Francisco Bay Region, and the U.S. Coast Guard. It is not deferred mitigation to require coordination with the agencies with expertise on these issues. (See *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1276.) The measure also specifies that the City, the Port, and the Project sponsor are the "approving parties," and gives the Port the ability to impose operational safety measures as needed even if the other approving parties do not agree.

[2] This responds to Comment O-27-23, which refers to descriptive text on Draft EIR p. 4.15-137, while ignoring the 20 percent performance standard associated with Mitigation Measures TRANS-1a and TRANS-1b, and objecting to the Transportation Management Plan (TMP) as a "living document" that will necessarily evolve over time. For more information, see the mitigation measure itself on p. 4.15-189 and the Draft TMP in Appendix TRA. Also see Consolidated Response 4.24, *Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations*.

Water-based patrols by the Oakland Police Department (OPD) are identified as the primary enforcement mechanism; thus, the measure does not rely on other agencies for enforcement as suggested in Comment O-29-64.

As indicated in Chapter 7, *City-Initiated Updates and Errata to the Draft EIR*, the introductory paragraph of Mitigation Measure LUP-1a has been amended to be consistent with the definition of "approving parties" later in the measure. See Consolidated Response 4.4, *Port Operations and Land Use Compatibility*, for more discussion of Mitigation Measure LUP-1a and its effectiveness.

Other specific mitigation measures referred to by commenters are discussed further in the following subsections and in responses to individual comments.

4.2.2 Mitigation Effectiveness

Some comments claim that the Draft EIR does not adequately address the effectiveness of the mitigation measures. The Draft EIR identifies the effectiveness of proposed mitigation measures—whether they are discrete actions or a suite of actions to achieve a performance measure—in reducing the severity of, or avoiding outright, the significant impact identified. In some cases, the Draft EIR includes a subheading and discussion regarding the effectiveness of mitigation after the mitigation measures themselves. In response to comments received on the Draft EIR and to amplify the effectiveness of mitigation measures included in the Draft EIR, similar subheadings and/or discussions have been added for each mitigation measure or group of mitigation measures. See Chapter 7, *City-Initiated Updates and Errata to the Draft EIR for the specific additions*.

Identifying the effectiveness of mitigation is an important and required component of measures that make use of performance standards, because these measures must demonstrate that although "the precise form of mitigation remains to be selected, feasible mitigation is available and reasonably likely to be effective." The Draft EIR studies and discloses the Project's environmental impacts and requires the Project sponsor to meet specific performance standards by implementing specific actions (and under certain circumstances, a menu of additional measures) to mitigate those impacts, and to provide ongoing verification and reporting to the City.

The Draft EIR also provides evidence to demonstrate that the mitigation measures provided would achieve the stated performance measure unless the impact is identified as significant and unavoidable. For example, the Transportation Management Plan (TMP) required in Mitigation Measure TRANS-1b includes a 20 percent trip reduction as a performance standard, and includes required and a menu of other measures to achieve this standard. The effectiveness of the mitigation measure is supported by the technical analysis in the memorandum referenced on p. 4.15-141 of the Draft EIR and included in Appendix TRA, which includes a range of reductions for the trip reduction strategies included in the measure and demonstrates the implementation of the measures or some combination thereof could feasibly achieve the performance standard. By pointing to the 6 percent listed in Table 15 of the Draft TMP (Draft EIR Appendix TRA-2) in Comment O-63-83, the commenter is choosing to highlight the bottom of the range for selected strategies and fails to acknowledge that the analysis concludes that the strategies identified in the TMP are effective and feasible and would achieve the 20 percent performance standard. Please

see Consolidated Response 4.23, *Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations*, for additional explanation.

The effectiveness of Mitigation Measure GHG-1 is discussed on pp. 4.7-65 and 4.7-66 of the Draft EIR, which identifies the expected, total mitigation (emission reduction) obligation based on what is known now, and acknowledges that this obligation would change over time because "the applicable emission factors and regulatory requirements will change, and new technologies will become available and effective." The discussion ends by concluding that because of the emission reduction measures specified and the requirement for ongoing monitoring and reporting, the mitigation measure would be effective at meeting the no net additional performance standard and Impact GHG-1 would therefore be less than significant. Commenters have not provided evidence to justify altering this conclusion.

The case law cited in Comments O-62-36 and O-62-37 asserts that the EIR declines "to state any conclusions about the extent of GHG impacts or potential mitigation." This is incorrect. In this case, the Draft EIR contains a quantification of GHG emissions from the Project, complete analysis of the significance of the Project's environmental impact (see Draft EIR pp. 4.7-50 *et seq.*) and includes a detailed mitigation measure (Mitigation Measure GHG-1) that includes specific performance criteria, required actions, recommended actions, and a reporting structure to ensure compliance and that the "no net additional" standard will be met. (Also see the individual response to Comment H2-2-55.) The Draft EIR also discusses the effectiveness of the mitigation measure (pp. 4.7-65 and 4.7-66) and its conclusion is supported by CARB's determination that the project would result in "no net additional" emissions if agreed-upon actions are adopted as conditions of approval and implemented as described.[3]

While there are some complexities associated with methodological differences between the GHG analysis conducted for AB 734 and that conducted for CEQA compliance in the Draft EIR (as explained on Draft EIR p. 4.7-40 and elsewhere), these differences do not change the fact that there is substantial evidence in the record supporting the feasibility of achieving "no net additional" GHG emissions and the mitigation is enforceable and will result in meeting this standard. Thus, Mitigation Measure GHG-1 meets the standards for proper and appropriate deferral of determination of mitigation measures in final plan under CEQA and relevant case law.

In instances where the Draft EIR concludes that the mitigation would reduce the severity of the impact, but the feasibility of one or more of the actions required to reduce the impact to less than significant cannot be determined at this time, the impact is identified as significant and unavoidable. In these cases, the City's obligation is to adopt all feasible mitigation, and the performance standards and lists of required actions in the mitigation measures presented in the Draft EIR were designed to support the findings regarding feasibility set forth in CEQA Guidelines Section 15091(a). For example, Mitigation Measure AIR-2e and related measures AIR-2a, AIR-2b, AIR-2c, and AIR-2d, contain a suite of requirements intended to achieve performance standards equivalent to the thresholds of significance for criteria pollutant emissions. Measure AIR-2e anticipates use of strategies or technologies that may be identified in the future

[3] CARB, 2020. *CARB Determination for the AB 734 Oakland Waterfront Ballpark District Project*, letter dated August 25, 2020 to Scott Morgan, Chief Deputy Director, Office of Planning and Research.

and emission offsets. As discussed on Draft EIR p. 4.2-84, there are not established emission offset programs and approval of other agencies would be required should offset programs become available, therefore effectiveness of this strategy cannot be established and the impact is considered Significant and Unavoidable. Please see Section 4.2.6 below for further discussion of Mitigation Measure AIR-2e and its effectiveness.

In instances where the Draft EIR concludes that the mitigation measure(s) would be effective at meeting specified performance standard(s) as a result of the required actions, the impact would be less than significant. In some instances, multiple mitigation measures combine to achieve this conclusion. For example, the mitigation measure effectiveness discussion beginning on p. 4.2-115 of the Draft EIR explains how the seven mitigation measures identified to reduce project-specific health risks (Impact AIR-5) were evaluated and determined to reduce the impact. In instances where the effectiveness of an individual measure could not be quantified, its effectiveness is described qualitatively and deemed to support three measures (AIR-1c, AIR-2c, and AIR-4a) that were quantitatively shown to result in risks/concentrations below the thresholds. (See Draft EIR Table 4.2-13.) In these circumstances, use of terms like "where feasible" indicates where the feasibility of a particular action cannot be known at this time and the description of an action's effectiveness uses the term "likely" when describing the possible outcomes of a particular action or measure that can be anticipated, but are not known with certainty.

In some instances, the mitigation measures contain a mix of very specific, mandatory actions as well as "best management practices." Courts have found that these types of "best management practices" are proper mitigation under CEQA, especially where they are "widely employed." (See *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 838.) Mitigation Measure BIO-1b is such a measure, which the Draft EIR concludes would be effective at reducing potential bird collisions because of the mandatory measures related to project design and the best management strategies encompassing the lighting restrictions during migration periods. To clarify this point and to address comments received, the text of Draft EIR p. 4.3-38 has been amended as shown in subsection 4.2.6 Specific Mitigation Measures, below. With these changes, the measure addresses concerns expressed in Comment A-7-14 and sets forth mandatory measures as explicit requirements that would reduce the impact to less than significant.

4.2.3 Use of Regulatory Measures

State CEQA Guidelines Section 15126.4(a)(1)(B) states that "[c]ompliance with regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standard."

Mitigation measures included in the Draft EIR are within the jurisdiction of the City, and thus, the City is able to ensure their implementation except where noted.[4] However, in some cases, the

[4] Only Mitigation Measure TRANS-3a is identified as within the jurisdiction of another agency, as discussed in Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation*. Also, as noted above, Mitigation Measure LUP-1a is also in the jurisdiction of the Port, and the Port would have the authority to impose additional strategies if and as needed to ensure effective mitigation. No impacts have been identified that would require improvements (or fair-share contributions) to the state transportation network as suggested by Comment A-13-20.

mitigation measures reference required actions of other agencies with regulatory and/or permitting authority over the Project's related impact, and therefore, are designed to provide a mechanism for the City to ensure compliance with regulatory requirements that mandate a certain outcome. This is the case with the following mitigation measures:

- Mitigation Measures HAZ-1a, HAZ-1b, HAZ-1c, and HAZ-1d, which allow the City to ensure that the Project sponsor complies with state regulations regarding hazardous materials to the satisfaction of the California Department of Toxic Substances Control (DTSC), the agency with jurisdiction.
- Mitigation Measures GEO-1, HYD-1a, and HYD-1b, which allow the City to ensure that the Project sponsor complies with provisions of the California Building Code, the City's Creek Protection Ordinance, and the City's Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System.

In the case of Mitigation Measures HAZ-1a through HAZ-1d, substantial evidence is provided in the form of the regulatory regime described starting on Draft EIR p. 4.8-32 and the applicable (and approved) risk management plan. Potential impacts (Impact HAZ-2, Listed Hazardous Materials Site) would be addressed by complying with requirements of state law to the satisfaction of DTSC, which is consistent with State CEQA Guidelines Section 15126.4(a)(1)(B). Comment O-62-51 notes that the Draft EIR identifies a suite of possible remediation activities that could be used to meet the regulatory requirements; however, this is not an "impermissible deferral" as alleged, but is consistent with the approved risk management plan and demonstrates that meeting the regulatory requirements would be feasible. Suggesting that the remediation plan should be provided as part of the EIR and that the Draft EIR is not adequate because the remediation plan is "deferred" represents a misunderstanding of the regulatory process. In fact, DTSC cannot legally approve a remediation plan until the Final EIR is certified. Please see Consolidated Response 4.16, *Remediation Plans, Land Use Covenants, and Human Health and Ecological Risk Assessment* for more information on this subject.

In the case of Mitigation Measure GEO-1, substantial evidence is provided in the form of the Preliminary Geotechnical Exploration Report cited on p. 4.6-16 of the Draft EIR, and the potential impact (exposure of people or structures to geologic hazards) would be addressed by requirements of the Oakland Building Code, which incorporates by reference the California Building Code, and the Oakland Grading Regulations. See individual responses O29-1-44 through O29-1-80 for responses to comments provided in the Terraphase Report referenced in Comment Letter O-27.

Other mitigation measures provide the City with a mechanism for monitoring compliance with statutory (rather than regulatory) requirements. These include Mitigation Measures TRANS-1a and TRANS-1b, which provide mechanisms for the City to ensure compliance with AB 734 (Public Resource Code Section 21168.6.7), and Mitigation Measure HYD-3, which provides the City with a mechanism for monitoring compliance with AB 1191 requirements addressing adaptation management to sea level rise.

4.2.4 Mitigation Enforceability

As required by State CEQA Guidelines Section 15126.4(a)(2), and as noted in several comments, mitigation measures must be "fully enforceable through permit conditions, agreements, or other legally binding instruments." The mitigation measures included in the Draft EIR are proposed for adoption by the City as conditions of Project approval.

If the City considers the merits of the proposed Project, and determines to approve it with the EIR mitigation measures as conditions of approval, CEQA also requires City decision makers to adopt certain findings, including a finding that "changes or additions have been required in, or incorporated into, the project" to avoid significant impacts, and findings regarding whether those changes are within the jurisdiction of the agency (State CEQA Guidelines Section 15091(a)). This requirement ensures that mitigation measures included in the EIR are considered by decision makers and adopted as a requirement of the project unless the decision makers determine that the measures are infeasible or find them to be in the jurisdiction of another agency. A related requirement in State CEQA Guidelines Section 15097 requires the lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) that establishes how the agency would monitor implementation of the adopted mitigation measures.

Only Mitigation Measure TRANS-3a is identified in the Draft EIR as within the jurisdiction of another agency. All other measures would be adopted by the City as conditions of Project approval unless they are determined by the City to be infeasible based on "specific economic, legal, social, technological, or other considerations" supported by substantial evidence in the record at the time of project approval (State CEQA Guidelines Sections 15091(a)(3) and 15091(b)).

Mitigation measures presented in the Draft EIR, as amended in the Final EIR, identify the Project sponsor, its agents (including in some instances, qualified biologists and contractors), or successors as the parties responsible for implementing the mitigation measure, and indicate when the measure is to be implemented. For example, Mitigation Measure TRANS-1b would be implemented by the Project sponsor and Mitigation Measure TRANS-1a would be implemented by each building owner or their designee. In some cases—particularly when a mitigation measure contains performance measures and requirements for future plans/protocols, the measures are structured to allow the City to withhold future permits or approvals, or to take other enforcement actions, if measures have not been implemented. The MMRP reflects steps established in the mitigation measures by requiring the entity responsible for implementation to submit reports to the City at specific points in the development process. For example, Mitigation Measure TRANS-1a requires each building owner or designee to submit an annual compliance report to the City "through and including the fifth year following buildout of the non-ballpark development" (Draft EIR p. 4.15-188).

The MMRP is the mechanism for ensuring that mitigation measures are carried out as required and would ensure compliance with related provisions of AB 734 (Public Resources Code Section 21168.6.7(d)(5)). Certain commenters question whether the City can be relied upon to ensure that adopted mitigation measures are implemented. The City of Oakland is the lead agency and thus is responsible for considering the adequacy of and certifying the Final EIR; considering

the merits of the proposed Project and, if it chooses, approving the Project; and adopting the MMRP as part of the findings pursuant to CEQA. Assertions that the City has a "vested interest in project implementation" reflect a lack of understanding of the City's role and responsibility as the local agency with land use authority and lead agency responsibilities under CEQA, and are not relevant to the adequacy and effectiveness of identified mitigation.

In the event that the City approves the proposed Project, all documents submitted to the City in compliance with adopted mitigation measures, including, for example, the GHG reduction plan required in Mitigation Measure GHG-1, would be a matter of public record and available for review. While Mitigation Measure GHG-1 does not specify a public review period for documents submitted to the City, they are public documents and the City could elect to establish a process to ensure that the public is aware of their availability and can provide comments although this is not required by CEQA.

4.2.5 Feasible Measures

CEQA defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors" (State CEQA Guidelines Section 15364). This definition is relevant to the development of mitigation measures, given the requirement to "describe feasible measures which could minimize significant adverse impacts" (Section 15126.4(a)(1)). Measures are also required to be consistent with applicable constitutional requirements, including being "roughly proportional" to the impacts and legal for the Lead Agency to impose (Section 15126.4(a)(4&5).

Feasibility is also relevant to the findings that agencies must adopt at the time of project approval based on the certified EIR and other evidence in the record (Section 15091(a)). As discussed above, in these findings, the agency must find that "specific economic, legal, social, technical, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures… identified in the final EIR (Section 15091(a)(3)).

Consideration of feasibility of mitigation measures may also be based on practicality (*No Slo Transit, Inc. v. City of Long Beach* (1987) 197 Cal.App.3d 241, 257). CEQA "does not demand what is not realistically possible, given the limitation of time, energy and funds" (*Concerned Citizens of South Central Los Angeles v. Los Angeles Unified Sch. Dist.* (1994) 24 Cal.App.4th 826, 841). An EIR should focus on mitigation measures that are feasible, practical, and effective (Public Resource Code Section 21003(c); *Napa Citizens for Honest Govt. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 13 365)

In this instance, the Draft EIR contains mitigation measures that the City as lead agency believes are necessary to address potentially significant impacts and that are feasible to implement except where noted otherwise. There are some instances, most notably Impact AIR-2 regarding criteria pollutant emissions, where the Draft EIR concludes that the mitigation would reduce the severity of the impact, but the feasibility of one or more of the required actions to reduce the impact to less than significant cannot be determined at this time. In these instances, the impact is identified

as significant and unavoidable and the City's obligation is to adopt *all feasible mitigation* to reduce the severity of the impact.

A number of comments on the Draft EIR suggested additional strategies for inclusion as mitigation where the impact is identified as significant and unavoidable. In determining whether to accept a commenter's suggested changes, either in whole or in part, the lead agency in the Final EIR can consider, among other things, the following factors: (i) whether the proposed revisions are feasible from an economic, technical, operational, legal, environmental, or other standpoint; (ii) whether the proposed revisions would be effective in mitigating the impact or represent a clear improvement, from an environmental standpoint, over the draft language that a commenter seeks to replace; and (iii) whether the proposed revisions are sufficiently clear as to be easily understood by those who will implement them. The suggestions in these comments have been evaluated and responded to in individual responses. Consistent with State CEQA Guidelines Section 15088(c), each individual response indicates where a suggested strategy has been incorporated into existing mitigation measures or contains a reasoned analysis as to why a suggested strategy has not been included based on the standards discussed above. For example:

- Comment Letter A-7 suggested inclusion of a universal requirement for Tier 4 construction equipment without exceptions, the use of renewable diesel in all construction equipment that doesn't meet Tier 4 standards (if exceptions are retained), a consistent schedule for evaluating the soil moisture content of exposed surfaces during construction to ensure the 12 percent requirement is met, and public and community engagement when developing specific health risk reduction measures identified in Mitigation Measure AIR-3. These suggestions have been evaluated and responded to in responses to comments A-7-13, A-7-22, A-7-23, A-7-54 and changes have been incorporated into Mitigation Measure AIR-1c.

- Comment Letter A-11 suggested inclusion of a zero-emission shuttle service to/from BART, EV charging infrastructure on 50% of parking spaces, carshare station, a requirement that all heavy-duty trucks meet model year standards and be fully electric, a non-motorized zone, additional TDM and TMP requirements to exceed the 20% VTR performance standard, additional public transit infrastructure expansion funding, bike-share, class 4 bike lanes, showers and locker room facilities, alternatives to diesel fueled generators, location of exhaust stacks away from sensitive receptors, a plan to avoid construction activity overlap with other nearby development projects, a less intensive and overlapping development schedule, zero-emission construction equipment, the use of electricity for construction activities, on-site PM monitoring, a plan to stop construction activities when PM levels exceed certain thresholds, including all recommended measures listed in Mitigation Measure AIR-2e as requirements, WOCAP strategies as project mitigation measures, a plan to ensure truck traffic to the Port is not impeded by Project construction trucks, and specific requirements for GHG actions contained in Mitigation Measure GHG-1. These suggestions have been evaluated and responded to in responses to comments A-11-2, A-11-3, A-11-4, A-11-8 and changes have been incorporated into Mitigation Measure AIR-2e.

- Comment Letter A-12 suggested inclusion of a comprehensive truck parking strategy to reduce diesel truck emissions. These suggestions have been evaluated and responded to in response to comment A-12-28.

- Comment Letter A-13 suggested inclusion of on-site zero-emission heavy-duty truck charging and/or fueling stations. These suggestions have been evaluated and responded to in response to comment A-13-11.

- Comment Letter A-17 suggested inclusion of contractual language in tenant lease agreements that requires electric hookups for trucks with transportation refrigeration units (TRUs), electric TRUs on all trucks, zero-emission delivery trucks and vans, zero-emission service equipment, model year 2014 heavy-duty trucks, zero-emission heavy-duty trucks by 2030; and that diesel fuel use be prohibited on the Project site. These suggestions have been evaluated and responded to in responses to comments A-17-6, A-17-7, and A-17-9, and changes have been incorporated into Mitigation Measure AIR-2d.

- Comment Letter O-29 suggested inclusion of more specific requirements for the emissions offsets option contained within Mitigation Measure AIR-2e. These suggestions have been evaluated and responded to in response to comment O-29-21 and changes have been incorporated into Mitigation Measure AIR-2e.

- Comment Letter O29 suggested inclusion of either a citation to Oakland code that requires a two-minute time limit for deliveries or a more realistic time limit. These suggestions have been evaluated and responded to in response to comment O29-1-41 and changes have been incorporated into Mitigation Measure 2d.

- Comment Letter O-36 suggested inclusion of requirements for the purchase of green consumer products based on actual reductions in ROG emissions, on-site emission reduction actions in place of offsets as outlined in Mitigation Measure AIR-2e, and a prohibition on fireworks. These suggestions have been evaluated and responded to in responses to comments O-36-3 and O-36-7.

- Comment Letter O-45 suggested inclusion of all-electric solutions throughout the Project site, including backup batteries with solar generation in place of emergency diesel generators and all-electric buildings. These suggestions have been evaluated and responded to in responses to comments O-45-7 and O-45-10, and changes have been incorporated into Mitigation Measure AIR-2e and GHG-1.

- Comment Letter O-47 suggested inclusion of distributed electrical outlets, the minimization of diesel generator use, additional clarity on the timeline and process for verifying mitigation measure adequacy, and to mitigate construction-related GHG emissions as they occur during buildout. These suggestions have been evaluated and responded to in responses to comments O-47-7, O-47-8, and O-47-10, and changes have been incorporated into Mitigation Measure AIR-2c, AIR-2e, and GHG-1.

- Comment Letter O-51 suggested inclusion of a requirement that all trucks use electrical hookups when at the loading docks, all TRUs accessing the site smaller than 25 horsepower meet Tier 4 standards for 25-50 horsepower engines, a definition for truck intensive tenants, additional enforcement provisions for the two-minute idling limit for delivery trucks, a defined truck route program to avoid sensitive receptors, time limits on truck deliveries, prohibiting trucks during peak traffic hours, independent representative who documents compliance with mitigation measures, liquidated damages clauses in all tenant contracts for non-compliance of mitigation measures, a requirement for all trucks to meet model year 2010 emissions standards, and Tier 4 engines for all construction equipment. These suggestions have been evaluated and responded to in response to comment O-51-26, and changes have been incorporated into Mitigation Measure AIR-2d.

- Comment Letter O-62 suggested inclusion of a concrete GHG mitigation plan, on-site affordable housing, a local hire policy, generally stricter mitigation measures to reduce the project's health risk impacts to the West Oakland community, and supplemental mitigation measures proposed by the West Oakland community. These suggestions have been evaluated and responded to in responses to comments O-62-38, O-62-39, O-62-44, O-62-46, and O-62-47, and changes have been incorporated into Mitigation Measure AIR-2e and GHG-1.

- Comment Letter O-63 suggested inclusion of training for residents to report violations of mitigation measure requirements, increase funding for AC Transit to increase bus service to the Project site, a tree-planting maintenance plan, incentives to future tenants to retrofit their fleets to zero-emission vehicles, a game or event day community safety ambassador program, a general mitigation measure implementation program, clear requirements for localized emissions offsets, fully-electric buildings, a requirement that 100% of GHG offsets be local, implementation of the city's bike plan, and an economic development project which sponsors youth-owned bicycle based businesses with living wages. These suggestions have been evaluated and responded to in responses to comments O-63-14, O-63-16, O-63-48, O-63-56, and O-63-62, and changes have been incorporated into Mitigation Measure AIR-2e and GHG-1.

- Comment Letter I-82 suggested inclusion of a water taxi / ferry service to the ballpark with electric/battery-powered propulsion. These suggestions have been evaluated and responded to in response to comment I-82-6.

- Comment Letter I-93 suggested inclusion of solar roofs, industrial style battery storage facilities, renewable electricity used on-site, natural gas generators, hydrogen filling stations for fuel cell vehicles, natural gas and electric buses and shuttles, air quality monitoring, and the allowance for natural gas use on-site in buildings. These suggestions have been evaluated and responded to in responses to comments I-93-5, I-93-6, I-93-7, I-93-8, I-93-9, I-93-11, I-93-12, I-93-13, and I-93-14, and changes have been incorporated into Mitigation Measure AIR-2e and GHG-1.

- Comment Letter I-260 suggested inclusion of a specific list of required measures with estimates of their emission reductions be added to Mitigation Measure AIR-2e and GHG-1. These suggestions have been evaluated and responded to in response to comment I-260-4, and changes have been incorporated into Mitigation Measure AIR-2e and GHG-1.

- Comment Letter I-333 suggested inclusion of a specific list of required measures with estimates of their emission reductions be added to Mitigation Measure AIR-2e and GHG-1. These suggestions have been evaluated and responded to in response to comment I-333-7, and changes have been incorporated into Mitigation Measure AIR-2e and GHG-1.

4.2.6 Specific Mitigation Measures

As noted earlier, some comments were directed at specific mitigation measures, claiming that the mitigation measures did not comply with one or more of the concepts above. In some cases, adjustments to the language of the mitigation measures are included to clarify and enhance the measures in response to comments received on the Draft EIR. Because multiple comments raised the same issues or suggested changes to certain mitigation measures, seven mitigation measures are discussed in this subsection below. Other mitigation measures are discussed in Consolidated Responses 4.4, *Port Operations and Land Use Compatibility*, 4.6, *Rail Safety, Grade Crossing, and Grade Separation*, 4.23, *Transportation and Demand Management Plan and Transportation*

Management Plan Considerations, and in individual responses. Adjustments to the text of the mitigation measures do not change the conclusions of the EIR regarding impacts or mitigation, and they are also not new mitigation measures that the City or the Project sponsor decline to adopt or implement.

Mitigation Measures AIR-1b and AIR 1-c

Mitigation Measures AIR-1b and AIR-1c are derived from a City of Oakland condition of approval (SCA) and reference preparation and submittal of a construction emissions minimization plan by the Project sponsor at each approval (i.e., prior to grading, remediation, horizontal infrastructure, and each construction-related permit) as a monitoring mechanism that would enable the City to ensure that the specific actions in these measures are implemented. In the case of Mitigation Measure AIR-1b, the plan would ensure that construction equipment complies with requirements of Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off Road Diesel Regulations"), which can change over time, and would ensure that construction contractors agree to comply with the six specific actions listed in the measure. In the case of Mitigation Measure AIR-1c, the plan would ensure the use of construction equipment that meets Tier 4 Final off-road emission standards unless such equipment is not "commercially available."

Because commenters were misinterpreting references in the mitigation measures to a plan, and in order to clarify required elements of Mitigation Measures AIR-1b and AIR-1c, the language in these measures is clarified as follows (additions are <u>underlined</u> and deletions are ~~crossed out~~). As requested by commenters, the changes also clarify the "commercially available" standard in Mitigation Measure AIR-1c, and provide more specificity about exceptions to the requirement for Tier 4 equipment.

> **Mitigation Measure AIR-1b: Criteria Air Pollutant Controls.**
>
> The Project sponsor shall implement all of the following ~~applicable~~ criteria air pollutant control measures during construction of the Project <u>as applicable to equipment used for Project construction</u>:
>
> 1. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes. Clear signage to this effect shall be provided for construction workers at all access points.
>
> 2. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off Road Diesel Regulations").
>
> 3. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation shall be kept at the construction site and be available for review by the City, Port and the Air District as needed.

4. Portable equipment shall be powered by grid electricity if available. If grid electricity is not available, propane or natural gas generators shall be used ~~if feasible;~~ diesel engines shall only be used if grid electricity is not available and propane or natural gas generators cannot meet the electrical demand.

5. Low VOC (i.e., ROG) coatings shall be used that comply with BAAQMD Regulation 8, Rule 3: Architectural Coatings.

6. All equipment to be used on the construction site shall comply with the requirements of Title 13, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") and upon request by the City (and the Air District if requested), the Project sponsor shall provide written documentation that fleet requirements have been met (please see Enhanced Controls below for equipment inventory requirements).

~~*Enhanced Controls*~~

~~1. Construction Emissions Minimization Plan:~~ The Project sponsor shall ~~prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified criteria air pollutant reduction measures. The Emissions Plan shall be~~ submit~~ted~~ documentation of incorporation of the above measures in construction plans to the City for review and approval prior to the issuance of construction-related permits for site preparation (including but not limited to grading activities, hazardous materials remediation, and/or horizontal infrastructure) for each individual project site (or phase with multiple project sites to be constructed concurrently by one entity). If requested, a copy ~~of the Emissions Plan~~ shall be provided to the Port and Air District. The documentation ~~Emissions Plan~~ shall include ~~the following:~~

   ~~a.~~ ~~An~~an equipment inventory including the list of off-road equipment anticipated to be required for each phase of construction, and ~~including~~ a protocol requiring that a current list of equipment shall be maintained on each construction site for review by City inspectors at all times for conformity with this measure. ~~the Emissions Plan.~~ The list of equipment maintained on site shall include, but is not limited to, the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all Verified Diesel Emissions Control Strategies (VDECS), the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

   ~~b.~~ ~~A~~ The documentation submitted to the City shall also contain a Certification Statement signed by each construction contractor agreeing to comply fully with the ~~Emissions Plan~~measures and acknowledging that ~~a significant violation of the Emissions Plan~~failure to comply with the measures shall constitute a material breach of contract.

Mitigation Measure AIR-1c: Diesel Particulate Matter Controls.

In addition to implementing the measures in Mitigation Measure AIR-1b, p~~P~~rior to the issuance of a construction permit the Project sponsor shall also submit documentation that ~~implement the following:~~

~~1. The Project sponsor shall implement appropriate measures during construction to reduce potential health risks to sensitive receptors due to exposure to diesel particulate matter (DPM) from construction emissions, including the following:~~

~~a.~~ A~~a~~ll off-road diesel equipment ~~shall have~~ engines ~~that~~ meet Tier 4 Final off-road emission standards, as certified by CARB, except as provided for below. The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. This shall be verified through submittal of an equipment inventory and Certification Statement to the City building official (see Mitigation Measure AIR-1b). The Certification Statement must state that the Contractor agrees to compliance and acknowledges that a significant violation of this requirement shall constitute a material breach of contract. Exceptions to the requirement for engines that meet Tier 4 Final emission standards shall include only selected ~~following~~ pieces of specialty equipment specified below, for which such engines are not available at the start of a construction phase requiring that equipment. Specifically, exceptions may be granted for~~. In these instances, which are expected to be limited to~~ cranes required for geotechnical work (deep dynamic compaction and deep power or ovibro-compaction). ~~If engines that comply with Tier 4 Final off-road emission standards are not commercially available for specific off-road equipment necessary during construction, then~~ To qualify for an exception, the Project sponsor shall provide the City with evidence supporting its conclusion that equipment meeting Tier 4 standards is not available and shall use the next cleanest piece of off-road equipment as provided by the step-down schedule~~s in Table M-AIR-1c~~ below. ~~The Contractor shall provide to the City for review and approval documentation showing that engines that comply with Tier 4 Final off-road emission standards are not commercially available for specific off-road equipment necessary during construction.~~

TABLE M-AIR-1C
OFF ROAD EQUIPMENT COMPLIANCE STEP DOWN SCHEDULE

Compliance Alternative	Engine Emissions Standard	Emissions Control
1	Tier 4 Interim	N/A
2	Tier 3	ARB Level 3 VDECS
3	Tier 2	ARB Level 3 VDECS

For purposes of this mitigation measure, evidence that equipment meeting Tier 4 standards is not available ~~"commercially available"~~ shall include documentation that such equipment is not being used ~~mean the availability of Tier 4 Final engines similar to the availability~~ for other large-scale construction projects in the ~~City~~ Bay Area occurring at the same time and/or cannot be obtained without ~~taking into consideration factors such as (i) potential~~ significant delays to critical-path timing of construction~~, for the ballpark and (ii) geographic proximity to the Project site of Tier 4 Final equipment~~.

~~The Project sponsor shall maintain records concerning its efforts to comply with this requirement.~~

How to use the table: if engines that comply with Tier 4 Final off-road emission standards are not ~~commercially~~ available, then the Project sponsor shall meet Compliance Alternative 1. If off-road equipment meeting Compliance

Alternative 1 are not ~~commercially~~ available, then the Project sponsor shall meet Compliance Alternative 2. If off-road equipment meeting Compliance Alternative 2 are not ~~commercially~~ available, then the Project sponsor shall meet Compliance Alternative 3.

In all instances where off-road diesel engines do not meet Tier 4 standards or do not have advance exhaust controls per item #1 above, the Project sponsor shall use alternative fuels such as renewable diesel, biodiesel, natural gas, propane, or electricity unless such fuels are not available for the specific engine/equipment or are demonstrated not to reduce ROG, NO_X, and PM emissions compared to traditional diesel fuel. In addition, if the Project sponsor uses any of the compliance alternatives in Table M-AIR-1c, the Project sponsor must demonstrate to the satisfaction of the City that the health risks from Project construction and operation do not exceed a total of 10 in a million excess cancer risk for any on-site or off-site receptor and also that the annual average $PM_{2.5}$ concentrations from Project construction and operation do not exceed a total of 0.3 $\mu g/m^3$ for any on-site or off-site receptor.

2. Documentation of Compliance~~Construction Emissions Minimization Plan~~

   To demonstrate compliance with this measure, if the Project sponsor seeks exceptions to the requirement for engines that meet Tier 4 Final emission standards, the documentation submitted in compliance with Mitigation Measure AIR-1b shall include the evidence that equipment meeting Tier 4 standards is not available as required by item (1) of this measure. ~~The Project sponsor shall prepare a Construction Emissions Minimization Plan (Emissions Plan) for all identified DPM reduction measures (if any). The Emissions Plan shall be submitted to the City (and the Port and Air District if requested) for review and approval prior to the issuance of construction-related permits for site preparation (including but not limited to grading activities, hazardous materials remediation, and/or horizontal infrastructure) for each individual project site (or each phase with multiple project sites to be constructed concurrently by one entity). The Emissions Plan shall include the following:~~

   ~~a. An equipment inventory including the list of off-road equipment anticipated to be required for each phase of construction, including a protocol requiring that a current list of equipment shall be maintained on each construction site for review by City inspectors at all times for conformity with the Emissions Plan. The list of equipment maintained on site shall include, but is not limited to, the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.~~

   ~~b. A Certification Statement signed by each construction contractor agreeing to comply fully with the Emissions Plan and acknowledging that a significant violation of the Emissions Plan shall constitute a material breach of contract.~~

Taken together, the mitigation measures for Impact AIR-1 (criteria pollutant emissions from construction) appropriately provide a list of specific requirements, the effectiveness of which is described on Draft EIR pp. 4.2-67 through 4.2-69, and the Draft EIR concludes that the impact would nonetheless remain significant and unavoidable because nitrogen oxides (NOx) emissions would exceed the threshold during one year of construction when construction activity peaks and

activity associated with geotechnical work, demolition, grading and site preparation, and Phase 1 building construction overlap (see Draft EIR Table 4.2-5 and p. 4,2-69).

Mitigation Measure AIR-2c

Mitigation Measure AIR-2c, which would reduce emissions of criteria pollutants and health risks associated with backup generators during Project operations, would require all generators to meet Tier 4 engine standards, generators to not exceed an annual testing limit of 20 hours, and non-diesel-fueled emergency generator technology to be implemented when it is approved for use by the City fire department for safety purposes. This measure is designed to reduce operational criteria pollutant emissions and health risks. With implementation of this and other measures, health risks would be reduced below the significance thresholds, thereby achieving a less-than-significant impact. This is explained, and mitigated emissions and health risks are quantified, on Draft EIR pp. 4.2-84 through 4.2-87, pp. 4.2-105 through 4.2-108, and pp. 4.2-115 through 4.2-119. Also see Response A-11-11.

In addition, in order to clarify required elements of Mitigation Measures AIR-2c, the language in this measure is clarified as follows (additions are underlined and deletions are ~~crossed out~~). As requested by commenters, the language "if feasible" is also removed.

> **Mitigation Measure AIR-2c: Diesel Backup Generator Specifications.**
>
> To reduce NO_X associated with operation of the proposed Project, the Project sponsor shall implement the following measures. These features shall be submitted to the City for review and approval and be included on the Project drawings submitted for the construction-related permit or on other documentation submitted to the City:
>
> 1. If non-diesel-fueled emergency generator technology is approved for use by the City fire department for safety purposes, non-diesel-fueled generators shall be installed in new buildings, provided that alternative fuels used in generators, such as biodiesel, renewable diesel, natural gas, or other biofuels or other non-diesel emergency power systems, are demonstrated to reduce ROG, NO_X, and PM emissions compared to diesel fuel. ~~If feasible, non-diesel-fueled generators shall be installed to replace diesel-fueled generators. Alternative fuels used in generators, such as biodiesel, renewable diesel, natural gas, or other biofuels or other non-diesel emergency power systems, must be demonstrated to reduce NO_X emissions compared to diesel fuel.~~
>
> 2. All new diesel backup generators shall have engines that meet or exceed California Air Resources Board Tier 4 off-road Compression Ignition Engine Standards (title 13, CCR, section 2423) which have the lowest NO_X emissions of commercially available generators. If the California Air Resources Board adopts future emissions standards that exceed the Tier 4 requirement, the emissions standards resulting in the lowest NO_X emissions shall apply.
>
> 3. All new diesel backup generators shall have an annual maintenance testing limit of 20 hours, subject to any further restrictions as may be imposed by the Air District in its permitting process. Testing shall be limited to non-ballgame hours.
>
> 4. All diesel backup generator exhaust shall be vented on the rooftops of each building where the generators are located. This could be achieved by either placing the diesel backup generators themselves on the rooftops, or by constructing exhaust stacks from

the diesel backup generator locations to the rooftops. Alternatively, the generators or exhaust stacks could be located in areas where the Project sponsor can quantitatively demonstrate that these locations would not result in health risks that exceed those associated with rooftop placement for both existing offsite and future onsite sensitive receptors. This analysis must consider health risks from the Project as a whole at full buildout, including all 17 generators installed at the Project site, and including emissions from off-site sources of TACs under cumulative conditions, and the impact of all existing offsite or new onsite sensitive receptors.

5. For each new diesel backup generator permit submitted to the Air District for the Project, the Project sponsor shall submit the anticipated location and engine specifications to the City for review and approval prior to issuance of a permit for the generator from the City of Oakland 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 and all other non-testing operations 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 AIR-2d

Mitigation Measure AIR-2d, which would reduce emissions of criteria pollutants and health risks associated with diesel trucks during Project operations, requires all loading docks to be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units and a number of actions derived from one of the City's standard conditions of approval (SCAs) that can be used to reduce exposure to toxic air contaminants (TACs). The Draft EIR did not quantify the effectiveness of these actions, but emission reductions for electric TRUs are quantified in *CEQA Air Quality Technical Addendum* (Ramboll, 2021).[5] Other required actions cannot be quantified. This measure is designed to work in concert with other measures to reduce both criteria pollutant emissions and health risk. With implementation of this and other measures, health risks would be reduced below the significance thresholds, thereby achieving a less-than-significant impact. This is explained, and mitigated emissions and health risks are quantified without inclusion of actions in Mitigation Measure AIR-2d, on Draft EIR pp. 4.2-84 and 4.2-85.

In order to clarify required elements of Mitigation Measures AIR-2d, and respond to requests for incorporation of additional strategies, the language in this measure is clarified as follows (additions are underlined and deletions are ~~crossed out~~). Please see responses to Comment Letters A-13 and A-17 for more discussion.

Mitigation Measure AIR-2d: Diesel Truck Emission Reduction.

The Project sponsor shall incorporate the following health risk reduction measures into the Project design and construction contracts (as applicable) in order to reduce the potential health risk due to exposure to toxic air contaminants. These features shall be submitted to the City for review and approval and be included on the Project drawings

[5] Ramboll, 2021. CEQA Air Quality Technical Addendum, November 2021.

submitted for the construction-related permit or on other documentation submitted to the City. ~~Emissions from Project-related diesel trucks shall be reduced through implementing the following measures, if feasible~~:

1. All loading docks for non-residential uses, including the ballpark, shall be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units ~~Installing electrical hook-ups for diesel trucks at loading docks~~.

2. ~~Requiring trucks to use Transportation Refrigeration Units (TRU) that meet Tier 4 emission standards.~~Signs shall be posted at all loading docks requiring trucks without electrical hookups for TRUs to meet Tier 4 emission standards and prohibiting those TRUs from operating for more than thirty minutes.

~~3. Requiring truck-intensive tenants to use advanced exhaust technology (e.g., hybrid) or alternative fuels.~~

43. Signs shall be posted at the site entry point, at all loading locations, and throughout the project site, to ~~P~~prohibit~~ing~~ trucks from idling for more than two minutes.

54. The Project sponsor shall e~~E~~stablish~~ing~~ truck routes to avoid sensitive receptors in the Project. The Project sponsor shall also prepare ~~A~~a truck route program, along with truck calming, parking, and delivery restrictions, which shall be implemented for all project-related truck operations.

In addition, the Project sponsor shall require trucks serving the ballpark to use TRUs and auxiliary power units that are electric plug-in capable, and shall provide a notice on the lease or title to all new tenants or owners of the Project or any portion thereof requiring any truck-intensive uses on the site, such as large grocery stores or distribution facilities with their own fleet of trucks, to use TRUs and auxiliary power units that are electric plug-in capable and trucks that use advanced exhaust technology (e.g. hybrid) or alternative fuels.

Mitigation Measures AIR-2e

Mitigation Measure AIR-2e, which addresses emissions of criteria pollutants during Project operations and overlapping construction and operations, would require additional criteria pollutant reduction measures, documentation of these measures' emission reductions, and a requirement that the project has reduced total criteria pollutant emissions below the City's thresholds of significance for criteria pollutant emissions. In this instance, the mitigation measure articulates specific performance standards and actions that must be included in the plan to reduce emissions to below the performance standards. The measure incorporates the CEQA significance thresholds described on Draft EIR p. 4.2-34 as performance standards and requires the documentation to include both specific requirements and to identify "all feasible criteria pollutant emission reduction measures that reduce or offset the project's incremental criteria pollutant emissions below the City's thresholds of significance." The use of this mitigation measure to identify "all feasible measures" was intended to ensure that any new strategies (e.g. technologies, programs) for reducing or offsetting criteria pollutant emissions that are not currently known/available are used when they become viable (i.e. feasible). Mitigation Measure AIR-2e requires all measures necessary to meet the performance standard.

Far from deferring the contents of the emission reduction actions, as asserted in comments, the measure identifies current and specific required on-site emission reduction measures, future on-site emission reduction measures, and ways that off-site emission reduction projects could be used to offset Project emissions. While the Draft EIR measure refers to the on-site reduction measures as "recommended," these were intended as requirements. As such, the measure has been revised to use the work "required" for all on-site measures. The mitigation measure includes a reporting requirement that would allow the City to monitor the implementation and effectiveness of the measure over time. In this way, the mitigation measure addresses criteria pollutant emission impacts identified in Draft EIR Tables 4.2-6 and 4.2-7, and does not "leave it up to the applicant" to determine impacts of the Project as asserted in Comment A-17-5. The measure would require the Project sponsor to submit recalculated emissions estimates at each phase of development because emissions would change over time in response to fuel standard changes, new technologies, and the development schedule.

Because commenters were misinterpreting references in the mitigation measure to a plan, and in order to clarify and add to the required elements of the mitigation measure in response to comments received on the Draft EIR, Mitigation Measure AIR-2e is revised to:

- Remove references to a Criteria Pollutant Mitigation Plan and substitute provision of documentation to the City demonstrating implementation of required measures.
- Require all buildings at the Project site to be 100 percent electric and not include any natural gas appliances, including water heaters, clothes washers, HVAC systems, and stoves. (There is a possible waiver for food service uses.)
- Require additional EV charging stations to be installed at the project site equal to 13 percent of total parking spaces, which exceeds the 10 percent required in the Draft EIR. The measure would also require additional "EV-capable" infrastructure, which consists of electric panel capacity, to be installed at 29 percent of total parking spaces, which exceeds both City code and the Draft EIR requirements. The measure would allow the Project sponsor (or future tenants) to install additional EV charging stations at EV-capable spaces to support future demand for vehicle charging.
- Require additional TDM measures that go beyond the 20 percent vehicle trip reduction in the TDM Plan to achieve the maximum feasible reduction of at least 22 percent for non-ballpark development. The use of a higher performance standard will ensure that the measure is reducing vehicle trips and emissions to the maximum extent feasible while still allowing for flexibility to address site- and event-specific impacts, technologies, and individual measure effectiveness that are not possible to predict at this time. See Consolidated Response 4.23, *Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations*, for a discussion of why the performance standards in this measure represent the maximum feasible for the Project.
- Require additional TMP measures that go beyond the 20 percent vehicle trip reduction in the TMP Plan to achieve the maximum feasible reduction of at least 23 percent for the TMP for the ballpark unless the project as a whole can be shown to get below the threshold of significance via other required emission reduction measures and offsets. The use of a higher performance standard will ensure that the measure is reducing vehicle trips and emissions to the maximum extent feasible while still allowing for flexibility to address site- and event-

specific impacts, technologies, and individual measure effectiveness that are not possible to predict at this time. See Consolidated Response 4.23, *Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations*, for a discussion of why the performance standards in this measure represent the maximum feasible for the Project.

- Require zero-emission service equipment, such as forklifts and pallet jacks.
- Require a zero-emission shuttle-bus service connecting the ballpark's Transportation Hub to one or more of the three nearby BART stations when appropriately sized zero-emission shuttle vehicles are available through local vendors.
- Allow the Project sponsor to fund programs to implement strategies identified in the West Oakland Community Action Plan, provided that these programs are underway and that they would reduce criteria pollutant emissions. This is included in the emissions offsets portion of the measure because these programs would largely occur off-site, the specifics of their implementation are currently unknown, and administration of offset programs would be conducted by BAAQMD or other governmental entities and is outside the jurisdiction and control of the City and the Project sponsor.

All of these clarifications and enhancements have been provided in response to observations and suggestions included in comments on the Draft EIR and do not alter the impact conclusion. Specific edits to the text of the mitigation measure are provided below (additions are underlined and deletions are ~~crossed out~~):

> **Mitigation Measure AIR-2e: Additional Criteria Pollutant Reduction Measures ~~Mitigation Plan~~.**
>
> The Project sponsor shall implement the following emission reduction measures and provide documentation as required by this measure for the City's Bureau of Planning's review and approval ~~Inspectionprepare a Criteria Pollutant Mitigation Plan (CPM Plan)~~ prior to the issuance of building construction related permits for site preparation (including but not limited to grading activities, hazardous materials remediation, and/or horizontal infrastructure) for each individual project site (or phase with multiple project sites to be constructed concurrently by one entity). The documentation shall include an updated calculation of ~~purpose of the CPM Plan is to document~~ expected construction and operational criteria pollutant emissions associated with the Project as a whole as well as the individual site or phase consistent with the methodology in the EIR (when multiple project sites would be constructed concurrently by one entity), including ROG, NO_X, PM_{10} and $PM_{2.5}$ emissions.
>
> The documentation shall quantify criteria pollutant emission reductions associated with each reduction measure and shall document the Project's performance in relation to the City's adopted thresholds of significance. The documentation shall demonstrate, based on substantial evidence, that the project has reduced total criteria pollutant emissions below the City's thresholds of significance. This represents a quantitative, objective performance standard for this mitigation measure~~; and to identify all available feasible measures (as defined under CEQA; see below) to reduce total criteria pollutant emissions below the City's thresholds of significance. The criteria pollutant emissions estimate for the Project shall include consideration of all criteria pollutant emission reduction measures and emission reduction actions that will be implemented by the Project and shall describe the approximate criteria pollutant emissions reductions that will be associated with each action and reduction measure~~.

~~The CPM Plan shall be submitted to the City of Oakland Planning Department for review and approval or conditional approval based on a determination of whether the CPM Plan meets the conditions described below. The CPM Plan shall include some or all of the recommended measures listed below, as needed to reduce the Project's criteria pollutant emissions below the City's thresholds of significance. Should the Project sponsor deem any of the recommended measures infeasible, the CPM Plan shall clearly explain why such measure is considered to be infeasible, and how the goal of reducing all criteria pollutant emissions below the City's thresholds will be accomplished without the measure, and the Project sponsor shall only be permitted to remove measures if the City of Oakland Planning Department, in its discretion, determines that the measure is infeasible. The criteria pollutant emissions estimate for the Project shall include consideration of all mitigation measures and emission reduction actions that will be implemented by the Project and shall describe the approximate criteria pollutant emissions reductions that will be associated with each action and mitigation measure.~~

~~The CPM Plan shall include a detailed description of the criteria pollutant emissions for all construction activities and all operational components of each Project site as shown in final development plan or equivalent based on the best available construction and operational activity and energy use data at the time of Project approval and the latest and most up-to-date emissions modeling and estimation protocols and methods. The plan shall, at minimum, include the following elements:~~

1. ~~**Project Criteria Pollutant Emissions** –~~ The ~~Project's~~ criteria pollutant emission estimates ~~presented in the CPM Plan~~ shall include both construction and operational emissions associated with the Project and ~~will~~ be based on the emission factors for mobile sources, area sources, energy sources, and stationary sources commonly used at the time ~~the CPM Plan is completed~~, and shall incorporate ~~along with the incorporation of~~ existing vehicle emission standards and building energy standards. If shuttle service to and from the Transportation Hub is provided as part of the TMP, then the estimates shall include emissions from this service. Emission factors are likely to decrease over time for some emission sources, such as mobile sources as the vehicle fleet shifts to more low- and zero-emissions fuel sources, and as new future technology that cannot currently be anticipated is adopted. The initial Project criteria pollutant emission estimates will be based upon final design, Project-specific traffic generation estimates, energy use estimates, equipment to be used on-site, and other emission factors appropriate for the Project prior to construction. Methods should generally follow the approach used in this DEIR and in Appendix AIR.

2. ~~**Criteria Pollutant Emission Reduction Measures** – the CPM Plan shall include all feasible criteria pollutant emission reduction measures that reduce or offset the Project's incremental criteria pollutant emissions below the City's thresholds of significance. All emission reduction measures shall be verifiable and feasible to implement over the Project life. The CPM Plan shall be consistent with all regulatory requirements at the time the CPM Plan is developed, and shall include the recommended reduction measures identified below unless the Project sponsor provides evidence reasonably satisfactory to the City of Oakland Planning Department that (a) one or more measures are infeasible, or (b) that one or more measures are not required to reduce the Project's criteria pollutant emissions below City's thresholds. Measures shall be implemented as needed to achieve the City's significance thresholds. In addition, all measures shall be considered in the order of City preference as follows: (1) on-site measures, (2) off-site measures within the City of Oakland, and (3) off-site measures within the San Francisco Bay Area Air Basin.~~

~~All feasible on-site and off-site measures must be implemented before emissions offsets are considered in the CPM Plan.~~

~~For the purposes of this mitigation measure, "feasible" shall mean as defined under CEQA "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors."~~

a. ***~~Recommended~~ Required On-Site Emission Reduction Measures:***

~~i.~~ ~~*Minimize the Project's energy demand through physical design features, with the ultimate goal of zero net energy buildings.* Minimize electricity and natural gas demand through implementation of design measures. New development, including residential, commercial, and retail buildings, shall be designed as zero net energy buildings as defined by the U.S. Department of Energy as follows: "An energy-efficient building where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy" (DOE, 2015).~~

~~ii.~~i. Comply with the building electrification requirements in City Ordinance 13632 that eliminates the use of natural gas in newly constructed buildings, unless a waiver is granted for food service uses in conformance with the City's building code. Compliance with regulatory measures shall not qualify as a mitigation measure. ~~*Electrify all residential development.* Residential buildings shall be 100 percent electric and not include any natural gas appliances, including water heaters, clothes washers, HVAC systems, and stoves. Notwithstanding the fact that this is a recommended measure, the Project shall comply with applicable building electrification requirements adopted by the City as part of its building code unless a waiver is granted by the City for a Project use and compliance with regulatory requirements shall not be considered mitigation.~~

~~iii.~~ ~~*Electrify nonresidential development.* Nonresidential buildings shall be 100 percent electric and not include any natural gas appliances, including water heaters, clothes washers, HVAC systems, and stoves. Notwithstanding this measure, the Project shall comply with any applicable building electrification requirement adopted by the City as part of its building code unless a waiver is granted by the City for a Project use and compliance with regulatory requirements shall not be considered mitigation~~.

~~iv.~~ii. *Additional electric vehicle (EV) charging stations beyond regulatory requirements.* Install EV charging stations that provide charging opportunities at the Project site beyond regulatory requirements. The Project Sponsor shall promote the use of clean fuel-efficient vehicles through preferential (designated and proximate to entry) parking and installation of charging stations on at least 13 percent of all parking spaces, which is the maximum amount deemed feasible and effective in the year 2027 (based on analysis prepared in *Electric Vehicle Assumptions for the Oakland Waterfront Ballpark District Project* [Ramboll, 2021]) and is beyond the level required by regulatory requirements. This increased percentage shall be met at each phase or subphase and shall not apply to temporary parking spaces. Provide electric panel capacity (as defined by City Municipal Code

section 15.04.3.11.130) sufficient to supply 29 percent of total parking spaces with EV charging in the future; these spaces would be "EV-capable" parking spaces. Install inaccessible raceway (conduit) to all permanent parking spaces at the Project site.

iii. Promote the use of zero-emission vehicles by requesting that any car share program operator with vehicles provided on the Project site include electric vehicles within its car share program to reduce the need to have a vehicle or second vehicle and to reduce vehicle emissions.

~~v.~~iv. *Preferred parking for alternative-fueled vehicles and car sharing.* Reduce the need to have a vehicle (or second vehicle) by providing preferential (designated and proximate to entry) parking for ride sharing vehicles on site beyond regulatory requirements. Promote the use of zero-emission vehicles by requesting that any car share program operator with vehicles provided on Project site include electric vehicles within its car share program.

~~vi.~~v. *Additional TDM ~~or TMP~~ measures.* Implement TDM ~~or TMP~~ measures that go beyond the 20 percent vehicle trip reduction in the TDM ~~or TMP~~ Plan to achieve the maximum feasible reduction of at least 22 percent for non-ballpark development by encouraging mode shift from vehicles to other modes of transportation including transit, biking, walking, and ride-sharing~~.~~.~~.~~

vi. *Additional TMP measures.* Implement TMP measures that go beyond the 20 percent vehicle trip reduction in the TMP Plan to achieve the maximum feasible reduction of at least 23 percent for the ballpark by encouraging mode shift from vehicles to other modes of transportation including transit, biking, walking, and ride-sharing. This requirement shall be waived if the project as a whole can be shown to get below the threshold of significance via other required emission reduction measures and offsets.

vii. *Zero-Emission Service Equipment.* Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission.

viii. *Electric Shuttle Bus Service.* The project sponsor will provide a shuttle bus service connecting the ballpark's Transportation Hub to one or more of the three nearby BART stations (West Oakland, 12th Street, and Lake Merritt) on game days and for large concerts. The shuttles will be of the size and type required by the TMP and shall utilize electric, hydrogen fuel cell, or other ZEV technology, unless the City determines that such vehicles are not available from local vendors at the start of the baseball season. This determination shall be based on evidence provided by the Project sponsor, which shall demonstrate that ZEV shuttles are not available and that the vehicles proposed for use represent the lowest emission shuttle engine technology available at the time from local vendors.

~~vii. *Additional actions from Mitigation Measure GHG-1.* Implement any additional on-site actions from Mitigation Measure GHG-1 (Preparation and Implementation of a GHG Reduction Plan) that would reduce criteria pollutant emissions in addition to GHG emissions.~~

viii. *Additional measures and technology*. Implement additional measures and technology to reduce criteria pollutant emissions from Project construction and operations that are not currently known or available. This may include new energy systems (such as battery storage) to replace natural gas use, new transportation systems (such as autonomous vehicle networks) to reduce fossil-fueled vehicles, or other technology (such as alternatively-fueled emergency generators or renewable backup energy supply) that is not currently available at the project-level, provided that the documentation submitted by the project sponsor CPM Plan demonstrates to the City's satisfaction that such measure are as or more effective as the existing measures described above.

b. ***Recommended Off-Site Emission Reduction Measures for Consideration:***

i. *Community energy efficiency retrofits*. Fund, contribute to, or implement community energy efficiency retrofits in West Oakland, the greater Oakland community, or other communities selected for the CARB's Community Air Protection Program under AB 617, to reduce off-site building energy use.

ii. *Off-site EV chargers*. Fund or implement a program that expands the installation of EV chargers in West Oakland, the greater Oakland community, or other communities selected for the CARB's Community Air Protection Program under AB 617, to reduce mobile source emissions from gasoline and diesel vehicles.

iii. *Additional actions from Mitigation Measure GHG-1*. Implement any additional off-site actions from Mitigation Measure GHG-1 (Preparation and Implementation of a GHG Reduction Plan) that would reduce criteria pollutant emissions in addition to GHG emissions.

c. ***Offsite Emission Reduction Measures, New Technologies, and Emissions Offsets:*** Prior to issuance of the first building permit for which the documentation provided for the City's review and approval demonstrates that the combination of construction and operational ROG and NO_X emissions as a result of the Project as a whole will first exceed 54 pounds per day and/or 10 tons per year, or that the combination of construction and operational PM_{10} emissions as a result of the Project as a whole will first exceed 82 pounds per day and/or 15 tons per year final certificate of occupancy for the final building associated with Phase 1, the Project sponsor, with the oversight of the City of Oakland Bureau of Planning Department, shall implement one or more of the following measures to achieve annual reductions or offsets of ROG, NO_X, and PM_{10} equal to the amount required to reduce emissions below significance levels after implementation of other identified mitigation measures, as calculated and approved through the documentation submitted to the City as required aboveeither:

The order of priority for the type of emission reduction measures contained herein shall be: (1) physical design features; (2) operational features; and (3) the use of offsite emission reduction projects.

The order of priority for the location of physical design features and operational features shall be: (1) the project site; (2) off-site within the neighborhood surrounding the Project site, including Old Oakland, Jack London Square,

Chinatown, and West Oakland; (3) the greater City of Oakland community; and (4) within the San Francisco Bay Area Air Basin.

Offsite emission reduction projects shall occur in the following locations in order of priority to the extent available: (1) off-site within the neighborhood surrounding the Project site, including West Oakland; (2) the greater City of Oakland community; and (3) within the San Francisco Bay Area Air Basin. Any offsite emission reduction projects are subject to the approval of the City.

To the extent that the Project sponsor proposes offsite emission reduction projects that do not conform to the priorities set forth above, the Project sponsor shall provide substantial evidence to support the exclusion of higher priority measure(s) considered and determined to be infeasible as defined under CEQA.

i. *Install additional EV charging stations at EV-capable parking spaces.* As the demand for EV charging increases, install additional EV charging stations beyond the 13 percent requirement of on-site emission reduction measure (a)(ii) at EV-capable spaces. To take emission reduction credit for these additional EV charging stations, the project sponsor must quantitatively demonstrate that the demand for EV charging exceeds the required percentage stipulated in item (a)(ii) above. The evaluation must use the same methods used in this EIR for evaluating the demand for EV charging, including fleet projection data from CARB, and may include additional data, revised calculation protocols, or model updates as they become available.

ii. Implement additional measures and technology. Implement additional measures and technology to reduce criteria pollutant emissions from Project construction and operations that are not currently known or available. This may include zero-emission off-road construction equipment, new energy systems (such as battery storage) to replace natural gas use or diesel fuel use, new transportation systems (such as autonomous vehicle networks) to reduce fossil-fueled vehicles, or other technology (such as alternatively fueled emergency generators or renewable backup energy supply) to replace diesel and fossil fuel use that is not currently available at the project level, provided that the documentation submitted by the Project sponsor demonstrates to the City's satisfaction that such measure are as or more effective as the existing measures described above.

iii. Directly fund or implement a specific offset project within the City of Oakland to achieve the equivalent of annual tons-per-year reduction equal to the total estimated operational ROG, NO_X, and PM_{10} emissions offsets required to reduce the Project's criteria pollutants below City's significance thresholds.

The emissions offset measures will be based on the criteria pollutant reductions necessary after implementation of all other emission reduction measures ~~implemented through the verified CPM Plan described above~~. 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 West Oakland or the surrounding community. Such projects could include community-level strategies and control measures

identified in BAAQMD's AB 617 West Oakland Community Action Plan (or any future AB 617 plan for nearby communities), such as zero-emission trucks, upgrading line-haul and switcher locomotives with cleaner engines, replacing existing diesel stationary and standby engines with Tier 4 diesel or cleaner engines, or expanding or installing energy storage systems (e.g., batteries, fuel cells) to replace stationary sources of pollution. Projects could also include local programs not included in the WOCAP such as accelerating the WETA ferry fleet to meet Tier 4 engine standards or use zero-emission engine technology ahead of regulatory requirements. Such projects may also include BAAQMD programs such as the vehicle buyback program or the fireplace retrofit program; Port programs such as landside infrastructure and/or harbor craft engine retrofits; or other community programs such as participation in a community energy-efficiency retrofit program, installation of off-site EV chargers, or similar programs/activities including programs to implement strategies identified in the West Oakland Community Action Plan. Prior to implementing the offset project, it must be approved by the City of Oakland Bureau of Planning, as consistent with the requirements of this mitigation measure. The Project Sponsor shall notify the City of Oakland Bureau of Planning within six months of completion of the offset project for verification; and/or

~~ii~~iv~~i~~. *Pay mitigation offset fees or purchase and retire Emission Reduction Credits (ERC)s* to reduce emissions within the San Francisco Bay Area Air Basin. Mitigation offset fees shall be paid to an independent third party approved by the City, such as the Air District Bay Area Clean Air Foundation, or with another~~other~~ governmental entity. The mitigation offset fee shall fund one or more emissions reduction projects within the San Francisco Bay Area Air Basin. The fee will be determined by the City, the Project Sponsor, and the independent third party~~Air District or other governmental entity~~, and be based on the type of projects available at the time of the payment. ~~This fee is intended to~~ ERCs may be used to offset the project's emissions in the future if ERCs are available and permitted by the BAAQMD at the time of purchase. The purchase and retiring of ERCs must follow all BAAQMD regulations and requirements (including Air District Regulation 3) and include all applicable costs and fees, based on the type of ERCs available at the time of the payment. The offset fee and/or the retiring of ERCs shall fund or derive from emissions reduction projects to achieve annual reductions of ROG, NO_X, and PM_{10} equal to the amount required to reduce emissions below significance levels after implementation of other identified mitigation measures as ~~currently~~ calculated and implemented through the documentation submitted to the City as required above~~CPM Plan~~.

~~The offset fee for ROG and NO_X shall be made prior to issuance of the first building permit for the Project when the combination of construction and operational emissions is predicted to first exceed 54 pounds per day. This offset payment~~ The additional measures, offset projects, and/or offset fees and ERCs purchased as required by this section shall be used to supplement requirements of Mitigation Measures AIR-2a through AIR-2d and this measure AIR-2e so as to reduce project emissions as calculated in the documentation submitted to the City's Bureau of Planning to below the 54 pounds-per-day and 10 tons-per-year threshold for ROG and NOx and the

82 pounds-per-day and 15 tons-per-year threshold for PM10. ~~shall total the annual tons per year of ROG and NO_X above the 54 pounds per day and 10 tons per year threshold after implementation of Mitigation Measures AIR-2a though AIR-2d and~~ the verified CPM Plan. The offset fee for PM_{10} ~~shall be made prior to issuance of the final certificate of occupancy for the final building associated with Full Buildout of the Project when operational emissions of PM_{10} is predicted to first exceed 82 pounds per day. This offset payment shall total the annual tons per year of PM_{10} above the 82 pounds-per-day and 15 tons per year threshold and PM_{10} after implementation of Mitigation Measures AIR-2a though AIR-2d and the verified CPM Plan.~~

The total emission offset amount shall be calculated by summing the maximum daily construction and operational emissions of ROG, NO_X, and PM_{10} (pounds/day) remaining above the City's threshold after implementation of Mitigation Measures AIR-2a through AIR-2d and required measures in this AIR-2e, 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, NO_X, and PM_{10} emissions offsets required to reduce the Project's criteria pollutant emissions below the City's thresholds after implementation of all other mitigation measures ~~implemented through the CPM Plan~~.

Documentation of offset projects or ERC acquisition and mitigation offset payments, as applicable, shall be provided to the City for review and approval prior to issuance of the final certificate of occupancy for each building constructed after the documentation submitted to the Bureau of Planning demonstrates that the combination of construction and operational ROG and NO_X emissions associated with the Project as whole will exceed 54 pounds per day or 10 tons per year, or to exceed 82 pounds per day or 15 tons per year of PM_{10}.

When paying a mitigation offset fee under ~~paragraph (c)~~ item (~~i~~iv), the Project sponsor shall enter into a memorandum of understanding (MOU) or a purchase agreement with the independent third-party approved by the City, such as the Air District Clean Air Foundation, or with another~~other~~ governmental entity. ~~The MOU shall include details regarding the funds to be paid, the administrative.~~ The MOU shall include details regarding the funds to be paid, the administrative fee, and the amount of emissions reductions resulting from and timing of the emissions reductions project. Acceptance of this fee by the air district or the other independent third party shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the Bureau of Planning ~~Department~~ and the Project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG, NO_X, and PM_{10} reduced (tons per year) within the San Francisco Bay Area Air Basin from the emissions reduction project(s). When purchasing and retiring ERCs, the Project sponsor shall enter into a purchase agreement with the entity selling the ERC as required by BAAQMD's ERC banking and trading requirements, including Regulation 3. The Project sponsor shall provide documentation to the Bureau of Planning describing the ERC, including the amount of emissions of ROG, NO_X, and PM_{10} reduced (tons per year) within the San Francisco Bay Area Air Basin. To qualify under this

mitigation measure, the specific emissions reduction project or ERC must result in emission reductions within the air basin that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. The requirement to pay such mitigation offset fee or retain such ERC shall terminate if the Project sponsor is able to demonstrate that the Project's emissions upon the: (a) full buildout or (b) termination of the Development Agreement if it is later than full buildout are less than the 10-ton-per-year thresholds for ROG and NO_X and the 15-ton-per-year threshold for PM_{10}.

In addition to submitting documentation prior to the issuance of a permit to construct each phase of the Project, t~~T~~he Project sponsor shall prepare an Annual ~~CPM~~ Verification Report in the first quarter of each year following completion of each project site as shown in final development plan or equivalent. The purpose of the Report is to quantify total Project construction and operational criteria pollutant emissions for the previous year based on appropriate emissions factors for that year and the effectiveness of emission reduction measures that were implemented, and determine the on-site and off-site emission reduction measures and additional ROG, NO_X, and PM_{10} offsets needed to bring the Project below the City's thresholds of significance for the coming year. The Report shall be prepared by the Project sponsor ~~proponent~~ and submitted to the City Bureau of Planning ~~Department~~ for review and verification. Criteria pollutant offsets for the previous year, if required, shall be in place by the end of each reporting year. If the City Bureau of Planning ~~Department~~ determines the report is ~~reasonably~~ accurate, it may approve the report; otherwise, the City shall identify deficiencies and direct the Project sponsor to correct and re-submit the report for approval.

The Draft EIR explains the effectiveness of measures proposed to mitigate Impact AIR-2 by quantifying some of the measures and explaining why some of the measures cannot be quantified (Draft EIR pp. 4.2-83 through 4.2-86). This explanation is revised as shown in Chapter 7 to reflect the revisions to Mitigation Measure AIR-2e and is included below. As noted earlier and as discussed on Draft EIR p. 4.2-84, Impact AIR-2 would remain significant and unavoidable because on-site feasible emission reductions are not sufficient to reduce the impact below the significance threshold and offset programs would be required. However, there are not established emission offset programs or mitigation fee programs and approval of other agencies would be required should offset or mitigation fee programs become available, therefore the impact is significant and unavoidable.

Mitigation Measure AIR-2e (Additional Criteria Pollutant Reduction Measures ~~Mitigation Plan~~) would reduce ROG, NO_X, PM_{10}, and $PM_{2.5}$ emissions ~~from implementation of the CPM Plan,~~ and~~to~~ be implemented prior to the start of Project construction activities for any uses not included in Phase 1 (currently anticipated to occur in Year 5) and approved by the City of Oakland Bureau of Planning. ~~However, the exact amount of daily and annual emission reductions from implementation of the required CPM Plan is not currently known~~. Mitigation Measure AIR-2e ~~The CPM Plan~~ also includes the provision for installation of additional EV charging, implementation of new technologies to reduce emissions, offsite emission reduction projects, emissions offsets, or the purchase and retiring of ERCs to reduce ozone precursor emissions equal to the total estimated operational and construction-related ROG and NO_X emissions offsets required to reduce related ROG and NO_X emissions below the City's adopted thresholds

of significance (54 pounds per day and 10 tons per year) after implementation of all other emission reduction measures required by and implemented through Mitigation Measure AIR-2e and documented in the Annual Verification Report~~the verified CPM Plan~~. However, the exact amount of emission reductions achieved through these programs and provisions is not currently known given the uncertainty regarding specific future technologies and offsite emission reduction projects and programs. In addition, implementation of the emissions reduction project(s) would be conducted by BAAQMD or another government entity and is outside the jurisdiction and control of the City and not fully within the control of the Project sponsor. Further, should the Project sponsor choose to purchase and retire ERCs, although ERCs are real and verifiable, the availability of ERCs to mitigate the Project's emissions over the life of the Project could change. Mitigation Measure AIR-2e also allows the Project sponsor to directly fund or implement an offset project, which may include community-level strategies and control measures identified in the BAAQMD's AB 617 West Oakland Community Action Plan.

Mitigation Measures AIR-4a and -4b

Mitigation Measure AIR-4b contains a number of health risk reduction actions derived from one of the City's standard conditions of approval (SCAs) that would reduce exposure to toxic air contaminants (TACs). However, the effectiveness of these actions cannot be quantified, and it is the prior measure, Mitigation Measure AIR-4a, that was quantified to demonstrate that the collective mitigation measures would reduce the impact to Less than Significant. Impacts AIR-4 and AIR-5 would be less than significant with the implementation of Mitigation Measure AIR-4a without the additional actions in Mitigation Measure AIR-4b. However, Mitigation Measure AIR-4b is designed to work in concert with Mitigation Measure AIR-4a (Install MERV16 Filtration Systems) and other measures to further reduce health risks. This is explained, and mitigated emissions are quantified without inclusion of actions in Mitigation Measure AIR-4b, on Draft EIR pp. 4.2-105 through 4.2-108 and pp. 4.2-115 through 4.2-119.

To clarify that Mitigation Measure AIR-4b is subsidiary to Mitigation Measure AIR-4a, and to eliminate duplicative or irrelevant components of Mitigation Measure AIR-4b (i.e. air filters and construction within 500 feet of freeways), the text of Mitigation Measures AIR-4a and AIR-4b has been modified as follows (additions are underlined and deletions are ~~crossed out~~):

Mitigation Measure AIR-4a: Install MERV16 Filtration Systems.

The Project Sponsor shall install a mechanical ventilation system at all residential buildings at the Project site capable of achieving the protection from particulate matter ($PM_{2.5}$) equivalent to that associated with a Minimum Efficiency Reporting Value (MERV) 16 filtration (as defined by American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE] standard 52.2). The system must meet the requirements of Mitigation Measure AIR-1c (Diesel Particulate Matter Controls) and shall be included on plans submitted to the City of Oakland's Bureau of Building for review and approval prior to construction and be fully operational prior to issuance of a certificate of occupancy. ~~As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required.~~

Alternatively, the Project sponsor shall retain a qualified air quality consultant to prepare an updated HRA for the Project in accordance with the CARB and the Office of

Environmental Health and Hazard Assessment requirements to determine the health risk of exposure of Project residents/occupants/users to TAC emissions. The updated HRA shall be conducted during final design for the proposed building or phase, when the exact level of TAC exposure is known, based on proximity to actual, then-current emission sources from both the entire Project and background cumulative sources consistent with the methods used in the EIR for cumulative analysis. The updated HRA shall be submitted to the City for review and approval. If the approved updated HRA concludes that health risks are at or below both the City's project-level and cumulative thresholds of significance for new on-site sensitive receptors with a filtration system alternative to MERV16, then the alternative MERV filtration system identified in the approved updated HRA shall be allowed rather than MERV16.

The Project sponsor or its designee shall maintain, repair, and/or replace the HVAC system on an ongoing and as-needed basis. To ensure this is done, the Project sponsor shall provide an operation and maintenance manual for the HVAC system, including the maintenance and replacement schedule for the filter, to the City's Bureau of Planning prior to issuance of the final certificate of occupancy, shall file a copy with the County Recorder's office, along with a signed statement committing to ongoing maintenance by the building manager or homeowners association, along with contact information for that person or entity.

Mitigation Measure AIR-4b: Exposure to Air Pollution—Toxic Air Contaminants.

The Project sponsor shall incorporate the following supplemental and non-quantifiable health risk reduction measures into the Project design where ~~in order to reduce the potential health risk due to exposure to toxic air contaminants as~~ feasible and shall include them ~~for the Project's sources of TACs. These features shall be submitted to the City for review and approval and be included~~ on the Project drawings submitted for the construction-related permit or on other documentation submitted to the City:

~~1. Installation of air filtration to reduce cancer risks and Particulate Matter (PM) exposure for future on-site residents and other sensitive populations in the Project that are in close proximity to sources of air pollution. Air filter devices shall be rated MERV-16 or higher (with exceptions as provided in 4a above). As part of implementing this measure, an ongoing maintenance plan for the building's HVAC air filtration system shall be required.~~

~~2. Where appropriate, install passive electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph).~~

~~3. Phase~~ing of residential developments ~~when proposed within 500 feet of freeways such that homes nearest the freeway are built last, if feasible.~~

~~4.~~1. ~~The Project shall be designed to locate~~ Sensitive receptors shall be located as far away as possible ~~feasible~~ from the Project's source(s) of air pollution such as loading docks and emergency generators. Operable windows, balconies, and building air intakes shall be located as far away from these sources as possible ~~feasible~~. ~~If near a distribution center, residents shall be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods.~~

~~5.~~2. Sensitive receptors shall be located on the upper floors of buildings, where ~~if~~ feasible.

~~6.~~3. Planting trees and/or vegetation between sensitive receptors and off-site pollution sources~~,~~ in landscaped buffer areas where ~~if~~ feasible. Trees that are best suited to trapping PM shall be planted, including one or more of the following: Pine (*Pinus nigra* var. *maritima*), Cypress (*X Cupressocyparis leylandii*), Hybrid poplar (*Populus deltoids X trichocarpa*), and Redwood (*Sequoia sempervirens*).

~~7. Sensitive receptors shall be located as far away from truck activity areas, such as loading docks and delivery areas, as feasible.~~

~~*Maintenance of Health Risk Reduction Measures.* The Project sponsor or its designee shall maintain, repair, and/or replace installed health risk reduction measures, including but not limited to the HVAC system (if applicable Prior to occupancy, the Project sponsor shall prepare and then distribute to the building manager/operator operation and maintenance manual for the HVAC system and filter including the maintenance and replacement schedule for the filter.~~

Mitigation Measure AIR-2.CU

Mitigation Measure AIR-2.CU, which would reduce the project's contribution to cumulative health risks, would require that the Project sponsor incorporate sufficient health risk reduction measures such that the Project does not result in a cumulatively considerable contribution to health risks associated with TAC emissions. This is explained on Draft EIR pp. 4.2-84 through 4.2-156 through 4.2-159. Also see Response A-11-3 and A-11-4.

In addition, in order to clarify required elements of Mitigation Measures AIR-2.CU, and respond to requests for incorporation of additional strategies, the language in this measure is revised as follows (additions are underlined and deletions are ~~crossed out~~).

Mitigation Measure AIR-2.CU: Implement Applicable Strategies from the West Oakland Community Action Plan.

The Project sponsor shall incorporate the following health risk reduction measures to the extent necessary to achieve the equivalent toxicity-weighted TAC emissions emitted from the Project or population-weighted TAC exposure reductions resulting from the Project, such that the Project does not result in a cumulatively considerable contribution to health risks associated with TAC emissions. These measures, derived from the West Oakland Community Action Plan, shall be incorporated into the Project design. As an added benefit, these measures may also reduce health risks associated with existing background sources of TACs within the West Oakland community, to lessen the degree to which the Project exacerbates these existing TAC health risks (given than these measures will not reduce Project-generated TAC emissions to zero). These measures shall be specified on the Project plans for confirmation by the City's building official at the time of plan check and would be subject to periodic inspection.

1. *Action 14a:* The Project sponsor shall work with the BAAQMD to help distribute information to future tenants about subsidized loans for local businesses to install energy storage systems (e.g., batteries, fuel cells) to replace stationary sources of pollution (e.g., back-up generators).
2. *Action 14b:* The Project sponsor shall install energy storage systems (e.g., batteries, fuel cells) instead of diesel backup generators, if feasible.

3. *Action 18:* The Project sponsor shall install truck charging stations for electric vendor and delivery trucks serving the Project site.
4. *Action 29:* The Project sponsor shall provide incentives to future tenants to retrofit their truck fleets to zero-emission vehicles.
5. *Action 36:* The Project sponsor shall work with the BAAQMD and CARB to help distribute information about financial incentives for fueling infrastructure, and for low and zero-emission equipment.
6. *Action 49:* The Project sponsor shall work with the BAAQMD to help distribute information to future tenants about funding incentives to pay for the cost of purchasing cleaner equipment in West Oakland potentially including: electric lawn and garden equipment and battery electric Transportation Refrigeration Units.
7. *Action 52:* The Project sponsor shall offer incentives for the purchase of electric bicycles for bike share programs.
8. *Additional measures and technology.* The Project sponsor shall implement additional measures and technology to reduce TAC emissions from Project operations that are not currently known or available. This may include new transportation systems (such as autonomous vehicle networks) to reduce fossil-fueled vehicles or other technology (such as alternatively-fueled emergency generators or renewable backup energy supply) that is not currently available or feasible at the project-level, provided that the Project sponsor demonstrates to the City's satisfaction that such measures are as or more effective as the measures above.
9. *Directly fund or implement a specific emissions or exposure reduction project(s) within the City of Oakland* to achieve the equivalent toxicity-weighted TAC emissions emitted from the Project or population-weighted TAC exposure reductions resulting from the Project, such that the Project does not result in a cumulatively considerable contribution to health risks associated with TAC emissions. The emissions or exposure reduction measures will be evaluated after implementation of all other emission reduction measures implemented above. To qualify under this mitigation measure, any emissions reduction project must result in TAC emission reductions that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented locally within West Oakland or the surrounding community. Such projects could include community-level strategies and control measures identified in BAAQMD's AB 617 West Oakland Community Action Plan (or any future AB 617 plan for nearby communities), such as providing incentives to local businesses to limit truck operations (Action 9); installing solid or vegetative barriers between buildings and sources of air pollution (Action 16); replacing traditional trucks with zero-emission trucks (Action 29); implementing traffic calming measures to keep truck traffic off residential streets (Action 40); provide funding to implement transit local improvements and ridership (Action 45); upgrading line-haul and switcher locomotives with cleaner engines (Actions 51, 62, 64, and 65); increase the frequency of street sweeping to decrease road dust, particularly on streets adjacent to schools, on designated truck routes, and on streets near freeways (Action 59); replacing existing diesel stationary and standby engines with Tier 4 diesel or cleaner engines (Action 70); installing high-efficiency air filtration systems at schools, daycare facilities, and homes (Actions 75 and 78); expanding or installing energy storage systems such as batteries, fuel cells, etc. (Action 14); or providing increased electrical infrastructure and power storage to support electric trucks (Action 18). Projects could

also include local programs not included in the WOCAP such as accelerating the WETA ferry fleet to meet Tier 4 engine standards or use zero-emission engine technology ahead of regulatory requirements. The offset project shall be approved by the City of Oakland Bureau of Planning prior to its implementation. The Project sponsor shall notify the City of Oakland Bureau of Planning within six months of completion of the offset project for verification.

Mitigation Measures BIO-1b

As noted earlier, the Draft EIR finds that Mitigation Measure BIO-1b would be effective because it includes mandatory measures and because of the assumption that some of the best management practices would also be included in a Bird Collision Reduction Plan that would be developed pursuant to the measure. In response to comments expressing concerns about reliance on a future plan, and to clarify required measures, the text of Draft EIR p. 4.3-38 has been amended as shown below (additions are underlined and deletions are ~~crossed out~~):

Mitigation Measure BIO-1b: Bird Collision Reduction Measures.

The Project sponsor shall comply with the most recent City of Oakland Bird Safety Measures (currently 2013) during Project design, as administered by the City of Oakland Bureau of Building. This measure applies to all construction elements that include glass as part of the building's exterior AND at least one of the following: (a) The project is located immediately adjacent to a substantial water body (i.e., Oakland-Alameda Estuary); OR (b) The project is located immediately adjacent to recreation area or park larger than one acre and which contains substantial vegetation; OR (c) The project includes a substantial vegetated or green roof (roofs with growing medium and plants taking the place of conventional roofing such as asphalt, tile, gravel or shingles) but excluding container gardens; OR (d) The project includes an existing or proposed substantial vegetated area (generally contiguous one acre in size or larger) located directly adjacent to Project buildings.

Prior to the approval of a construction-related permit, the Project sponsor shall submit building plans ~~prepare and submit a Bird Collision Reduction Plan~~ to the City of Oakland Bureau of Building which reflect the City of Oakland Bird Safety Measures and the Howard Terminal Design Guidelines regarding highly reflective or mirrored glass, and include the specific design measures set forth below for review and approval ~~to reduce potential bird collisions to the maximum feasible extent~~. The ~~Plan~~ Project sponsor shall also implement ~~include all of the following mandatory measures, as well as applicable and~~ the specific Project Best Management Practice (BMP) strategies~~,~~ described below and encompassing the lighting restrictions during migration periods, which shall be subject to verification and enforcement by the City's Code Enforcement staff as needed~~, to reduce bird strike impacts to the maximum feasible extent. The Project sponsor shall implement the approved Plan. Mandatory measures include all of the following:~~

i. For large buildings subject to federal aviation safety regulations, install minimum intensity white strobe lighting with three second flash instead of solid red or rotating lights.

ii. Minimize the number of and -co-locate rooftop-antennas and other rooftop structures.

iii. Avoid the use of mirrors in landscape design.

iv. Avoid placement of bird-friendly attractants (e.g., landscaped areas, vegetated roofs, water features) near glass unless shielded by architectural features taller than the attractant that incorporate bird friendly treatments no more than two inches horizontally, four inches vertically, or both (the "-two-by-four" rule), as explained below.

v. Apply bird-friendly glazing treatments to no less than 90 percent of all windows and glass between the ground and 60 feet above ground or ~~to~~ 60 feet above the height of existing or proposed adjacent landscape. Examples of bird-friendly glazing treatments include the following:

- Use opaque glass in window panes instead of reflective glass.
- Uniformly cover the interior or exterior of clear glass surface with patterns (e.g., dots, stripes, decals, images, abstract patterns). Patterns can be etched, fritted, or on films and shall have a density of no more than two inches horizontally, four inches vertically, or both (the "two-by-four" rule).
- Install paned glass with fenestration patterns with vertical and horizontal mullions no more than two inches horizontally, four inches vertically, or both (the "two-by-four" rule).
- Install external screens over non-reflective glass (as close to the glass as possible) for birds to perceive windows as solid objects.
- Install UV-pattern reflective glass, laminated glass with a patterned UV-reflective coating, or UV-absorbing and UV-reflecting film on the glass since most birds can see ultraviolet light, which is invisible to humans.
- Install decorative grilles, screens, netting, or louvers, with openings no more than two inches horizontally, four inches vertically, or both (the "two-by-four" rule).
- Install awnings, overhangs, sunshades, or light shelves directly adjacent to clear glass which is recessed on all sides.
- Install opaque window film or window film with a pattern/design which also adheres to the "two-by-four" rule for coverage.

vi. Reduce light pollution in non-ballpark structures, and prohibit nighttime architectural illumination treatments pointing upward to avoid and reduce potential collision hazards for migratory and resident birds during migration (February 15 to May 15 and August 15 to November 15). Acceptable architectural illumination that may be used year-round includes full cut off, shielded or downward directional lighting that minimizes light spillage, glare or light trespass into the night sky.

vii. Prohibit upward beams of light during the spring (February 15 to May 15) or fall (August 15 to November 15) migration, including during nighttime programming at the ballpark. ~~and a~~Apply additional best management practices to nighttime programming and for field lighting consistent with Major League Baseball (MLB) Field Lighting Standards and for concert and event light shows at the ballpark to avoid and reduce potential collision hazards for migratory and resident birds~~,to the extent feasible~~. Examples may include the following:

- Direct field lighting at the ballpark in a downward direction ~~to the extent feasible~~.

- ~~Minimize night-time architectural illumination treatments during bird migration season, except with respect to nighttime programming at the ballpark for field lighting and event and concert light shows, which shall apply best management practices (e.g., install time switch control devices or occupancy sensors on non-emergency interior lights; reduce perimeter lighting whenever possible; install full cut-off, shielded or directional lighting to minimize light spillage, glare or light trespass) to avoid and reduce potential collision hazards for migratory and resident birds (February 15 to May 15 and August 15 to November 30).~~

- Install time switch control devices or occupancy sensors on non-emergency interior lights that can be programmed to turn off during non-work hours and between 11:00 p.m. and sunrise.

- Reduce perimeter lighting to the extent feasible taking into consideration safety, crowd control and Homeland Security ~~concerns~~requirements.

- Install full cutoff, shielded, or directional lighting to minimize light spillage, glare, or light trespass with respect to best management practices for field lighting or event and concert light shows.

- ~~Do not use upward beams of lights during the spring (February 15 to May 15) or fall (August 15 to November 30) migration except with respect to nighttime programming at the Ballpark for field lighting and event and concert light shows, which shall apply best management practices to avoid and reduce potential collision hazards for migratory and resident birds.~~

viii. Prior to issuance of a certificate of occupancy for buildings at the Project site, the Project sponsor or building owner shall d~~D~~evelop ~~and implement~~ a building operation and management manual that promotes bird safety and provide a copy to the building manager/operator and to the City's Bureau of Planning ~~& Building Inspection~~. ~~Example measures in t~~The manual shall~~may~~ include the following measures:

- Donation of discovered dead bird specimens to an authorized bird conservation organization or museums (e.g., UC Berkeley Museum of Vertebrate Zoology) to aid in species identification and to benefit scientific study, as per all federal, state and local laws.

- Distribution of educational materials on bird-safe practices for the building occupants. Contact Golden Gate Audubon Society or American Bird Conservancy for materials.

- ~~Asking~~ Requesting employees to turn off task lighting at their work stations and draw office blinds, shades, curtains, or other window coverings at end of work day.

- Install interior blinds, shades, or other window coverings in windows above the ground floor visible from the exterior as part of the construction contract, lease agreement, or CC&Rs.

- Schedule nightly maintenance during the day or to conclude before 11 p.m., ~~if~~where possible.

Mitigation Measures GHG-1

As noted earlier, the Draft EIR finds that Mitigation Measure GHG-1 would be effective because it includes mandatory measures and a menu of additional measures, an objective and quantitative performance standard, and substantial evidence show that the performance standard can be met by a combination of the identified measures to be included in the Greenhouse Gas Reduction Plan that would be developed pursuant to the measure. In response to comments expressing concerns about reliance on a "future plan",", to clarify required measures, and to eliminate redundancies (i.e. repeating measures already encompassed in cross references to other mitigation measures), the text of Draft EIR p. 4.7-56 has been amended as shown below (additions are underlined and deletions are ~~crossed out~~):

> **Mitigation Measure GHG-1: Preparation and Implementation of a GHG Reduction Plan.**
>
> Prior to the City's approval of the first construction or grading-related permit for the Project, the Project sponsor shall retain a qualified air quality consultant to develop a Project-wide GHG Reduction Plan (Plan) for implementation over the life of the Project in accordance with the requirements of this mitigation measure.
>
> The Plan shall quantify, using the most current information available, projected emissions from the first phase of Project construction as well as Project construction for full buildout of all phases of the approved development, and operational GHG emissions for the life of the project (defined as 30 years of operation). The Plan shall specify anticipated GHG emission reduction measures sufficient to reduce or offset these emissions in accordance with the standards set forth below, such that the resulting GHG emissions are below the City's "no net additional" threshold of significance pursuant to CEQA. The Plan shall also contain a separate schedule of projected GHG emissions, emission reductions and GHG offset purchases prepared in accordance with CARB's AB 734 determination (CARB, 2020) in order to comply with AB 734's requirement that that those measures be monitored and enforced by the City for the life of the Project sponsor's obligation.
>
> For each phase or sub-phase of development, the Plan shall be updated as set forth in greater detail in Section B.1 below. At all times throughout the life of the Project, the Plan shall demonstrate that emissions from all construction and development are below the City's "no net additional" threshold of significance pursuant to CEQA for (1) phases already completed, permitted, and being proposed for permitting; and (2) anticipated future phases.
>
> The City shall retain the services of a third-party expert to assist with the City's review and approval of the Plan. The third-party expert shall also assist the City with its review and approval of updates to the GHG Reduction Plan and Annual Reports, as described below. All costs relating to the third-party expert, including City review of its services, shall be paid by the project applicant.

A. GHG Reduction Plan Contents and Standards

Specific information on the components of each element of the Plan, as it pertains to CEQA compliance, is described below:

1) ***Land Use Program and Project GHG Emissions Estimates, by Phase*** –The GHG Reduction Plan shall identify the amount of construction and square footage of development anticipated within each phase or sub-phase of the Project and shall estimate the projected annual and total net emissions of the Project by phase or sub-phase, inclusive of all sources of Project emissions and consistent with all categories of sources identified in the EIR.

   To estimate the construction and operational emissions, the Plan shall utilize full approved buildout (e.g., number of units, square footage of retail, etc.), inclusive of any required design features or other GHG Emission Reduction Measures as described below. The Project GHG emissions estimates in the Plan shall be based upon design and energy use estimates, Project-specific traffic generation, and equipment to be used on-site. The emission factors for electricity and transportation shall be based on those commonly used at the time the Plan is completed or at the time the Plan is subsequently amended, reflecting vehicle emissions standards and building energy standards in effect at the time. Consistent with the methodology used in the EIR, future year emissions factors shall be based on enacted regulations that are in effect and affect the emissions source (e.g., California's Renewables Portfolio Standard for electricity, and fuel efficiency standards for on-road vehicles).

   Construction-related emissions shall be presented for both horizontal and vertical construction emissions by year for each phase. Net (incremental) emissions shall be derived by subtracting from total Project emissions (construction plus operations) the emissions from the existing A's baseball operations at the Oakland Coliseum and at their offices in Jack London Square using the methodology in EIR. Future emission factors shall be applied both to the Project and to the existing operations so as to reflect vehicle emissions standards and building energy standards in effect at the time, as described in the previous paragraph. The net emissions calculated shall demonstrate compliance with the "no net additional" threshold as set forth in greater detail above.

2) ***GHG Emission Reduction Measures*** – The Plan shall identify GHG Emission Reduction Measures that shall be implemented for each Project phase or sub-phase to achieve the "no net additional" CEQA significance threshold. Measures shall be verifiable and feasible to implement, and the Plan shall identify the person/entity responsible for each measure, each measure's reduction amount, and the person/entity responsible for monitoring that reduction, all subject to review and approval by the City. If reduction measures associated with any given phase are shown to exceed net (incremental) emissions of that phase, the estimated credit towards future phase(s) shall be identified as set forth in Section B.1 below.

   GHG reduction measures to be considered include, but are not be limited to, those listed below, as well as measures in the 2030 ECAP, Pathways to Deep GHG Reductions in Oakland: Final Report (City of Oakland, 2018b), BAAQMD's latest CEQA Air Quality Guidelines (May 2017, as may be revised), the California Air Resources Board Scoping Plan (November 2017, as

may be revised), the California Air Pollution Control Officers Association (CAPCOA) Quantifying Greenhouse Gas Mitigation Measures (August 2010, as may be revised), the California Attorney General's website, and Reference Guides on LEED published by the U.S. Green Building Council.

a. **Horizontal Construction Emission Reduction Measures**

The reduction measures for horizontal construction emissions from the Project shall be:

(1) Mitigation Measure AIR-1b Criteria Air Pollutant Controls; and

(2) Purchase of Carbon Offset Credits subject to Section 2c, *Standards for Carbon Offset Credits*, below.

b. **Vertical Construction and Operational Emission Reduction Measures**

(1) Type and Location Requirements.

GHG reduction measures shall be subject to the following requirements with respect to type and location.

The order of priority for the type of reduction measures shall be: (1) physical design features; (2) operational features; and (3) the purchase of carbon offset credits subject to the standards described below under Section 2c, *Standards for Carbon Offset Credits*.

The order of priority for the location of physical design features and operational features shall be: (1) the project site; (2) off-site within the neighborhood surrounding the Project site, including Old Oakland, Jack London Square, Chinatown, and West Oakland; (3) the greater City of Oakland community; and (4) within the San Francisco Bay Area Air Basin.

To the extent that the Plan proposes GHG reduction measures that do not conform to the priorities set forth above, the Plan shall contain substantial evidence to support the exclusion of higher priority measure(s) considered and determined to be infeasible as defined under CEQA.

(2) Required Measures.

The Plan shall incorporate the following measures to reduce Project emissions:

i. Mitigation Measure AIR-1b: Criteria Air Pollutant Controls.

The Plan shall incorporate the following mitigation measures related to operation:

ii. Mitigation Measure AIR-2c: Diesel Backup Generator Specifications.

iii. Mitigation Measure AIR-2d: Diesel Truck Emission Reduction.

iv. Mitigation Measure AIR-2e: Additional Criteria Pollutant Reduction Measures~~Emission Reduction Plan~~.

v. The ballpark receives LEED Gold certification or above for new construction within one year after completion of the first baseball season. Each new nonresidential building receives LEED Gold certification or above for new construction within one year after completion of the applicable nonresidential building. Any residential building shall achieve sustainability standards of at least a LEED Gold level or the comparable GreenPoint rating, including meeting sustainability standards for access to quality transit.

vi. Mitigation Measure TRANS-1a: Transportation and Parking Demand Management (TDM) Plan.

vii. Mitigation Measure TRANS-1b: Transportation Management Plan.

~~viii. Install EV chargers at 10% of onsite parking spaces.~~

~~ix. Electrify a minimum of 50% of the residential units as required by CARB certification.~~

~~Unless a waiver is granted by the City for a Project use, t~~The Project would also be required to comply with building electrification requirements in ~~the~~ City~~'s~~ Ordinance 13632 ~~building code~~ that ~~reduce or~~ eliminates the use of natural gas in newly constructed buildings, unless a waiver is granted for food service uses in conformance with the City's building code ~~effect at the time of Project development~~. Compliance with regulatory measures shall not qualify as a mitigation measure.

(3) Menu of Additional Emission Reduction Measures: On-Site

The following types of measures shall be included in the Plan as necessary to meet the requirements of this mitigation measure and the "no net additional" GHG emissions requirement for the Project.

i. *On-site measures to reduce operational energy emissions:*

(a) *Minimize the Project's energy demand through physical design features, with the ultimate goal of zero net GHG emissions from energy use:* Minimize electricity and natural gas demand through implementation of design measures. New development, including residential, commercial, and retail buildings, could be designed as zero net GHG emissions buildings.

(b) *100 percent zero-carbon electricity for all land uses:* Procure 100 percent zero-carbon electricity through East Bay Community Energy or other renewable energy provider (e.g., green power purchase agreement with electric utility) for all electricity loads, including residential, commercial, and retail buildings.[6]

(c) *On-site rooftop solar PV panels or other on-site renewable energy generation:* Install on-site roof-top solar PV panels or other on-site

6 East Bay Community Energy (EBCE). Information available online: https://ebce.org/our-power-mix/index.html.

renewable energy on all buildings at the Project site subject to space availability.

~~(d) *Electrify residential and nonresidential development:* Go beyond building code requirements for electrification of residential and nonresidential buildings. Any requirement for building electrification then in effect and applicable to the Project under the City's Building Code shall not qualify as a mitigation measure but shall be treated as a project design feature and its efficacy in reducing GHG emissions shall be taken into consideration in calculating the Project's emissions.~~

(d)~~(e)~~ *Reduce refrigerant emissions:* Specify low-GWP (global warming potential) refrigerants in heat pumps installed in residential and nonresidential buildings, such as for HVAC systems, water heaters, and refrigeration.

(e)~~(f)~~ *Convert the Peaker Plant:* Remove the jet-fueled turbines in the Peaker Plant and the associated jet fuel storage tank and replace with a battery energy storage system. The methodology used to calculate emission reductions and the amount of reduction resulting from Peaker Plant conversion attributable to the Project and applied towards the "no net additional" CEQA significance threshold shall be subject to City review and approval based on information provided as part of the Plan and other available information.

(f) *On-site solar energy battery storage systems:* In conjunction with on-site rooftop solar PV panels, install solar energy battery storage systems to store electricity that can be consumed after sundown, during energy demand peaks, or during a power outage.

ii. *On-site measures to reduce transportation emissions:*

(a) *Additional ZEV infrastructure ~~charging stations~~ beyond regulatory requirements:* Install ZEV infrastructure ~~charging stations,~~ that provides EV charging and hydrogen fueling opportunities beyond regulatory requirements and the requirements of Mitigation Measure AIR-2e, including but not limited to installing medium- and heavy-duty truck charging stations for delivery vehicles, installing curbside public EV charging stations, and installing hydrogen fueling stations for fuel cell vehicles~~, that provide charging opportunities beyond regulatory requirements~~.

(b) *Preferred parking for alternative-fueled vehicles and car sharing:* Reduce the need to have a vehicle (or second vehicle) by providing ~~Promote the use of clean fuel-efficient vehicles through~~ preferential (designated and proximate to entry) parking for ~~ozero~~zero-~~emission~~ ride sharing vehicles on site beyond regulatory requirements. ~~Reduce the need to have a vehicle (or second vehicle) by providing preferential (designated and~~

~~proximate to entry) parking for ride sharing vehicles on site beyond regulatory requirements.~~ Promote the use of zero-emission vehicles by requesting that any car share program operator with vehicles provided on Project site include electric vehicles within its car share program.

~~(c) *Additional TDM and/or TMP measures:* Implement TDM and/or TMP measures that go beyond 20 percent vehicle trip reduction in the TDM and TMP Plans by encouraging mode shift from vehicles to other modes of transportation including transit, biking, walking, and car-sharing, with preference to active transportation and public transit.~~

iii. *On-site measures to reduce solid waste emissions:*

(a) *Ballpark solid waste diversion:* Increase waste diversion rate at the new ballpark to 75 percent or greater.

(b) *Organic waste diversion:* Ensure that unused edible food at restaurants and supermarkets is donated to recovery and collection organizations such as FoodShift, a non-profit organization in Alameda, California, that can distribute it to the neediest populations beyond regulatory requirements.

(c) *Increase the use of reusable bags and compostable containers:* Require vendors and restaurants providing food at the ballpark to use compostable containers, encourage ~~P~~promotions by on-site merchants to support the City's "Bring Your Own Bag" campaign, and increase the use by customers of durable reusable bags.

iv. *On-site measures to reduce water and wastewater emissions:*

(a) *Water efficient fixtures:* Install water efficient fixtures in residential and commercial buildings, including water-saving sinks, showers, urinals and toilets beyond regulatory requirements.

v. *On-site operational measures to reduce area source (landscaping) emissions:*

(a) *Water-efficient landscaping:* Install water-efficient landscaping and irrigation systems, including the use of native drought-tolerant vegetation beyond regulatory requirements.

(b) *Compost application:* ~~Include a minimum of 0.5-inches of~~ Apply compost ~~applied~~ to any landscaping consistent with the Bay Friendly Landscaping Guidelines.

(c) *Recycled water:* Install dual plumbing (purple pipe) for the use of recycled water for landscape irrigation, fire protection, toilet and urinal flushing in non-residential facilities, and outdoor landscape features such as fountains and water features beyond regulatory requirements.

vi. *Additional on-site measures and technologies.*

(a) The Plan may include additional or substitute measures and technology to reduce GHG emissions from Project construction or operations that are not currently known or available. This may include new energy systems (such as battery storage), new transportation systems (such as autonomous vehicle networks), or other technology (such as carbon capture and storage) that is not currently available at the project-level, provided that the GHG Reduction Plan demonstrates to the City's satisfaction that such measures are equally or more effective as existing available measures, including those described above.

(4) Menu of Additional Emission Reduction Measures: Off-Site

i. *Off-site measures to reduce energy emissions:*

(a) *Community energy efficiency retrofits:* Fund~~, contribute to,~~ or implement community energy efficiency retrofits to reduce offsite building energy use.

(b) *Community energy decarbonization projects:* Fund or implement measures to increase use of non-carbon sources of energy, such as retrofits or other infrastructure projects (e.g., electrification), to reduce offsite building energy use.

(c) *Community solar projects:* Fund or implement community solar PV installations.

(d) *Community energy storage projects:* Fund or implement community energy storage installations, such as batteries or mechanical energy storage.

ii. *Off-site measures to reduce transportation emissions:*

~~(a) Fund or implement programs to increase use of public transit so as to exceed the 20 percent vehicle trip reduction requirement of the TDM Plan and TMP.~~

~~(b) Fund or implement programs to increase use of bicycles, including electric bicycles, so as to exceed the 20 percent vehicle trip reduction requirement of the TDM Plan and TMP.~~

~~(c) Fund or implement programs that promote walking in the communities neighboring the Project site, including West Oakland, and/or the greater Oakland community, so as to exceed the 20 percent vehicle trip reduction requirement of the TDM Plan and TMP.~~

(~~d~~a) *Off-site EV chargers:* Fund or implement a program that expands the installation of EV chargers, including but not limited to curbside public EV charging stations.

(~~e~~b) Fund or implement programs that increase use of electric vehicles.

(~~f~~c) ~~Contribute to~~Fund or implement programs that increase electrification of public transit buses in the communities neighboring the Project site, including West Oakland, and/or the greater Oakland community.

iii. *Off-site measures to increase carbon sequestration:*

(a) *Tree planting and vegetated buffers:* Fund or implement program that results in significant new tree planting and/or vegetated buffers.

iv. *Purchase of Carbon Offset Credits:* The purchase of Carbon Offset Credits, subject to Section 2c, *Standards for Offset Credits*, below, shall only be used as a reduction measure for construction and operational emissions after all the following conditions are satisfied: (1) AB 734's commitment to reduce 50% of net new emissions associated with the ballpark and other non-residential uses through the implementation of local direct measures has been met; and (2) for non-transportation sector and non-ballpark and non-hotel uses only, physical design features or operational features located on the project site or off-site within the City of Oakland have reduced project emissions levels to at or below 0.6 $MTCO_2e$/service population in keeping with the City's GHG emission reduction target.[7]

c. **Standards for Carbon Offset Credits**

(1) Carbon offset credits can result from activities that reduce, avoid, destroy or sequester an amount of GHG emissions in an off-site location to offset the equivalent amount of GHG emissions occurring elsewhere. For the purpose of Project mitigation, carbon offset credits shall consist of direct emission reductions or sequestration that are used to offset the Project's direct emissions. As described in the CARB Determination for AB 734, all carbon offset credits shall be purchased from a carbon offset registry approved by CARB, which at present include the following: the American Climate Registry, Climate Action Reserve, and Verra (formerly Verified Carbon Standard). The carbon offset credits shall be verifiable by the City and enforceable in accordance with the registry's applicable standards, practices, or protocols. The carbon offsets must substantively satisfy all six of the statutory "environmental integrity" requirements applicable to the CARB Cap-and-Trade Program, generally as set forth in both subdivisions (d)(1) and (d)(2) of California Health and Safety Code §38562: real, permanent, quantifiable, verifiable, enforceable, and additional. All offset credits shall be verified by an independent verifier who meets stringent levels of professional qualification (i.e., ANAB Accreditation Program for Greenhouse Gas Validation/Verification Bodies or a Greenhouse Gas Emissions Lead Verifier accredited by CARB), or an expert with equivalent

7 This performance metric is derived from the 2030 ECAP, which incorporates the City of Oakland's adopted GHG emissions target of 56 percent below 2005 levels by the year 2030. For non-transportation emissions this equates to a Citywide efficiency threshold of 0.61 $MTCO_2e$ per service population. Refer to the City of Oakland's Downtown Oakland Specific Plan Draft EIR, Table V.D-3 (p. 277), for its derivation, which divides the citywide 2030 non-transportation emissions target of 491,799 $MTCO_2e$ by a projected service population of 812,535.

qualifications to the extent necessary to assist with the verification. Without limiting the generality of the foregoing, in the event that an approved registry becomes no longer accredited by CARB and the offset credits cannot be transferred to another accredited registry, the project applicant shall comply with the rules and procedures for retiring and/or replacing offset credits in the manner specified by the applicable protocol or other applicable standards including (to the extent required) by purchasing an equivalent number of credits to recoup the loss.

(2) Geographic location: Carbon offset credits shall be obtained from GHG reduction projects that occur in the following locations in order of priority to the extent ~~feasiblefeasible~~available: (1) off-site within the neighborhood surrounding the Project site, including West Oakland; (2) the greater City of Oakland community; (3) within the San Francisco Bay Area Air Basin; (4) the State of California; and (5) the United States of America. Any offset credits used for mitigation are subject to the approval of the City.

B. **Implementation, Monitoring, and Enforcement**

1) ***Updated GHG Reduction Plan Required for Each Phase***[8]

Prior to issuance of the first grading or construction-related permit for each phase or sub-phase of development (i.e., a Final Development Plan and/or permit for horizontal improvements) the Applicant shall update the GHG Reduction Plan to calculate the actual quantity of emissions from construction and operation of the phase or sub-phase for the life of the Project (defined as 30 years of operation), to calculate the reductions necessary (including local, direct, and offset credits) to achieve the "no net additional" threshold for the proposed phase or sub-phase, and to identify the specific local reduction measures and offset requirements that will be implemented to meet the threshold for the proposed phase or sub-phase. The Applicant shall provide the updated Plan to the City for review and approval, along with a separate "AB 734 Compliance Memorandum" for the phase or sub-phase, prepared in conformance with the methodology set forth in the CARB Determination, a courtesy copy of which shall also be provided to CARB.

The GHG Reduction Plan, as amended, shall identify any proposed GHG Emissions Reduction Measures to be implemented or offset credits to be purchased as part of each phase that exceed those required to offset the phase's emissions and achieve the "no net additional" threshold, in which case the balance of the reductions and/or credits shall be considered a "credit bank" applicable to subsequent phases.

2) ***Implementation***

The Project sponsor shall implement the updated and approved GHG Reduction Plan during construction and operation of each permitted phase as follows:

For physical GHG reduction measures to be incorporated into the design of the Project, the measures shall be included on the drawings submitted for construction-

[8] CARB's AB 734 Determination refers to the GHG Reduction Plan Updates completed at each phase as the "AB 734 Compliance Memorandum."

related permits and implemented during construction. The City shall confirm inclusion of these measures in the plans prior to issuance of a building permit for the applicable phase and confirm the measures were built as part of the final inspection for a Temporary Certificate of Occupancy (TCO).

For physical GHG reduction measures to be incorporated into off-site projects, the Project sponsor shall obtain all necessary permits/approvals and the measures shall be included on drawings and submitted to the City Planning Director or his/her designee for review and approval prior to issuance of the first building permit for the applicable phase. These off-site improvements shall be installed prior to completion of the applicable phase as shown in final development plan or equivalent. The City shall confirm completion of these measures prior to issuance of a TCO for the applicable phase and as part of the final inspection.

For GHG reduction measures involving the purchase of carbon offset credits for horizontal construction emissions, contracts for purchase of credits shall be entered into prior to issuance of the first grading and/or permit for horizontal construction (P-Job permit) for each construction phase or subphase for horizontal construction and the Applicant shall provide the third-party verification report concerning those credits, and the unique serial numbers of those credits showing that they have been retired prior to issuance of the construction permit for each construction phase or subphase. ~~The City shall confirm receipt evidence that the contract has been entered into prior to issuance of the permit and evidence of the of the verification reports and serial numbers prior to completion of the phase.~~ The City shall confirm receipt of verification reports and serial numbers prior to permit issuance.

For GHG Reduction measures involving the purchase of carbon offset credits for vertical construction emissions, contracts for purchase of credits shall be entered into prior to issuance of the building permit for each building's construction, and the Applicant shall provide the third-party verification report concerning those credits, and the unique serial numbers of those credits showing that they have been retired prior to issuance of the building permit for each building's construction. The City shall confirm receipt of verification reports and serial numbers prior to permit issuance.

For GHG Reduction measures involving the purchase of carbon offset credits for operational emissions, contracts for purchase of credits shall be entered into prior to issuance of a TCO for each building and the Applicant shall provide the third-party verification report concerning those credits, and the unique serial numbers of those credits showing that they have been retired. The City shall confirm receipt of the verification reports and serial numbers prior to issuance of a TCO.

3) ***Annual Report Required***

The Applicant shall submit an annual report to the City's Planning Director on November first of each calendar year starting one year after the City issues the first TCO for the project.

The Annual Report shall summarize the Project's implementation of GHG reduction measures over the preceding year, provide information on past, current, and anticipated Project phasing, describe compliance with the conditions of the Plan, and include a brief summary of any revisions to the GHG Reduction Plan

since the previous Annual Report was submitted, including the start of new phases or sub-phases affected by the Plan. The Annual Report shall keep an ongoing tally of all carbon offset credits that have been purchased and applied to the Project, including the serial numbers of the credits, and the registry into which they have been permanently retired.

The City or its third-party GHG emissions expert shall review the Annual Report to verify that the GHG Reduction Plan is being implemented in full and monitored in accordance with the terms of this mitigation measure. The City retains the right to request a Corrective Action Plan if the Annual Report is not submitted or if the GHG Reduction Measures in the Plan are not being fully implemented and/or maintained as appropriate over the Project's 30-year lifetime, and to enforce provisions of that Corrective Action Plan if specified actions are not taken or are not successful at addressing the violation within the specified period of time.

Notwithstanding the foregoing, the City retains its discretion to enforce all mechanisms under the Municipal Code and other laws to enforce non-compliance with the requirements of this mitigation measure.

The City shall have the discretion to reasonably modify the timing of reporting, with reasonable notice and opportunity to comment by the Applicant, to coincide with other related monitoring and reporting required for the Project, provided that the Annual Report shall be submitted not less than once per calendar year.

4.3 Recirculation of the Draft EIR

A number of comments assert that the Draft EIR should be revised to address issues raised in comments, republished, and recirculated for public comment.

Normally, an EIR is circulated for one round of review and comment by the public and by public agencies. However, an EIR or a portion thereof must be recirculated for a second round of review when the CEQA standards for recirculation are met.[9] Examples of situations where recirculation is required include the following:[10]

- New significant information becomes available after Draft EIR publication that results in any of the following conditions:

  a) A new significant environmental impact would result from the project or from a newly proposed mitigation measure.

  b) A substantial increase in the severity of an impact would result unless mitigation measures are adopted that reduce the impact to a less-than-significant level.

  c) A new project alternative or mitigation measure that, based on substantial evidence, is (i) feasible, (ii) considerably different from the alternatives or mitigation measures

[9] Public Resources Code Section 21092.1; State CEQA Guidelines Section 15088.5.

[10] Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5.

already evaluated in the EIR, (iii) clearly lessens the project's significant environmental impacts, and (iv) is not adopted by the project proponent.

- The draft EIR was so fundamentally and basically inadequate and conclusory that meaningful review and comment were precluded.

New information is not significant unless the EIR is changed in a way that "deprives the public of a meaningful opportunity to comment upon a substantial environmental effect of the project or a feasible way to mitigate or avoid such an effect … that the project's proponents have declined to implement."[11] Recirculation is not required when the revisions to the Draft EIR merely clarify or amplify or make insignificant modifications to an adequate EIR.[12]

For example, where information is added to an EIR in response to a comment, but the additional information does not result in the identification of a previously undisclosed significant impact on the physical environment, recirculation is not warranted.

In accordance with Section 15088 of the State CEQA Guidelines, this document includes written responses to all comments received during the public review period for the Draft EIR. As required by Section 15132 of the State CEQA Guidelines, the responses in this document address substantive environmental points raised by commenters as well as comments on the content and adequacy of the Draft EIR. The responses are intended to provide clarification and refinement of information presented in the Draft EIR and, in some cases, to correct or update information in the Draft EIR. In some instances, the text of the Draft EIR has been revised. All modifications to the Draft EIR text are presented in Chapter 7, *City-Initiated Updates and Errata to the Draft EIR*, of this document. Modifications that address a specific comment received on the Draft EIR are presented in the response to the particular comment in this Chapter 4, *Consolidated Responses*; Chapter 5, *Responses to Individual Comments*; and/or Chapter 6, *Responses to Public Hearing Comments*.

Although information has been modified and added to the Draft EIR, no "significant new information" (i.e., no new significant impact, no substantial increase in the severity of an impact, or no feasible project alternative or mitigation measure that is considerably different from others previously evaluated but that will not be adopted, as stated above, pursuant to CEQA Guidelines Section 15088.5) has been added to the EIR since publication of the Draft EIR. The discussion of each modification in the responses to comments in this document makes clear that no conditions under the first bullet of CEQA Guidelines Section 15088.5 are met. For these reasons, and as supported by substantial evidence in the administrative record, the EIR does not need to be recirculated. [13]

With regard to the second bullet under CEQA Guidelines Section 15088.5, the City prepared the Draft EIR in accordance with CEQA requirements, and agencies and community members have engaged in substantive review of and comment on the document.

11 State CEQA Guidelines Section 15088.5(a).
12 State CEQA Guidelines Section 15088.5(b).
13 State CEQA Guidelines Section 1588.5(e).

4.4 Port Operations and Land Use Compatibility

Comments Addressed: A-3-13, A-7-37, A-7-38, A-12-8, A-12-11, A-12-12, A-12-13, A-12-17, A-12-21, A-12-22, A-13-6, A-15-2, A-15-3, A-15-4, A-15-5, A-15-6, A-15-10, O-14-1, O-15-2, O-15-4, O-15-5, O-21-1, O-25-1, O-25-3, O-26-1, O-26-3, O-26-5, O-27-2, O-27-4, O-27-11, O-27-15, O-27-24, O-27-27, O-27-29, O-27-64, O-27-65, O-27-67, O-29-57, O-29-58, O-29-60, O-29-61, O-29-64, O-29-80, O-29-82, O-29-116, O-32-1, O-32-2, O-32-5, O-32-6, O-33-1, O-34-2, O-34-6, O-36-2, O-37-1, O-37-2, O-38-1, O-41-3, O-41-4, O-41-6, O-41-9, O-43-2, O-46-8, O-46-10, O-49-1, O-51-3, O-51-6, O-51-16, O-51-27, O-51-28, O-51-29, O-54-1, O-57-17, O-63-10, O-63-18, O-63-67, O-63-97, O-64-1, O-64-2, O-66-1, O-67-1, I-3-1, I-9-1, I-18-1, I-25-1, I-32-1, I-41-1, I-69-2, I-91-3, I-96-3, I-149-1, I-149-2, I-149-3, I-151-1, I-153-3, I-156-1, I-156-2, I-176-5, I-179-4, I-181-1, I-193-1, I-193-2, I-201-2, I-207-8, I-215-4, I-224-1, I-229-1, I-240-2, I-242-1, I-243-1, I-243-3, I-243-6, I-243-9, I-243-10, I-243-12, I-243-13, I-243-14, I-243-15, I-243-19, I-243-20, I-243-21, I-243-22, I-243-23, I-243-25, I-243-26, I-243-32, I-243-33, I-243-41, I-243-44, I-243-45, I-253-1, I-255-1, I-255-3, I-264-1, I-265-2, I-268-1, I-269-4, I-282-4, I-292-1, I-292-5, I-292-6, I-298-1, I-299-1, I-302-2, I311-5-13, I-312-1, I-316-1, I-316-3, I-316-6, I-317-1, I-318-1, I-322-1, I-322-2, I-330-1, I-335-5, I-339-2, H2-1-18, H2-2-16, H2-2-17, H2-2-18, H2-2-19, H2-2-21, H2-2-32, H2-2-33, H2-2-34, H2-2-66, H2-2-67, H2-2-80, H2-2-81, H2-2-82, H2-3-11, H2-3-29, H2-3-34, H2-3-47, H2-3-48, H2-3-50, H2-3-52, H2-3-55, H2-3-57, H2-3-60, H2-3-61, H2-3-67, and H2-3-76.

Many comments address the issue of the proposed Project's land use compatibility with Port operations, suggesting that the discussion of land use compatibility between the proposed Project and the Port of Oakland is inadequate, that conflicts with Port-related uses should have been analyzed differently in the EIR or that various significant impacts have not been accounted for and should be mitigated. Potential impacts referred to by the commenters include land-based transportation conflicts (e.g., traffic congestion leading to truck and rail delays), water-based transportation conflicts (e.g., vessels using the Inner Harbor Turning Basin), the loss of area for future Port expansion (e.g., container terminal use or expansion of the Inner Harbor Turning Basin), and economic effects on Port operations generally.

As discussed in this Consolidated Response 4.4, *Port Operations and Land Use Compatibility*, the Draft EIR describes existing conditions and contains an analysis of land use conflicts and potential impacts related to Seaport road and rail access, recreational watercraft and maritime navigation, and light and glare and maritime navigation. Under CEQA (State CEQA Guidelines Section 15131), there is no obligation to mitigate economic impacts except to the extent they result in physical effects on the environment.

Commenters have expressed concerns about economic issues (e.g., job loss resulting from conflicts with Port operations), and about impacts that may result. CEQA Guidelines Section 15126.2 states that an "EIR shall identify and focus on the significant effects of the proposed project on the environment." CEQA Guidelines Section 15131 further states that "economic or social effects of a project shall not be treated as significant effects on the environment." To the extent that comments appear to claim that the Project's economic impacts will cause physical impacts on the environment, there is no substantial evidence (Public Resources Code

Section 21080(e)) provided in the comments that these economic effects would result in significant environmental impacts requiring analysis under CEQA. These issues and the adequacy of the Draft EIR are discussed further in the following subsections.

Although commenters assert that the proposed Project would have a fundamental conflict with adjacent Port-related uses, these arguments fail to address the substantial evidence in the Draft EIR and the administrative record that support the Draft EIR's conclusion that a fundamental land use conflict would not occur and the impact would be less than significant with mitigation incorporated. Per CEQA Guidelines Section 15384, substantial evidence (including facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts) means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that a project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence. The City has outlined its factual analysis and conclusions concerning the existence, extent, and significance of impacts in the following sections and elsewhere in the EIR based on the evidence in the record.

This Consolidated Response focuses on Port-related land use compatibility, including Seaport road and rail access, recreational watercraft and maritime navigation, and Seaport Compatibility Measures. For additional information regarding this topic, see Consolidated Response 4.5, *Truck Relocation*; Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation*; and Consolidated Response 4.18, *Effects of Light and Glare on Maritime Operations and Safety*.

4.4.1 Port-Related Land Use Compatibility

A number of comments express concerns regarding the Project's Port-related land use compatibility. As Comment O-34-2 states, "Simply put, the DEIR fails to provide a substantive evaluation of the impact that the Project would have on Port operations and how it would fundamentally change every aspect of the Port's activities. As such, the DEIR fails to meet CEQA's standards for review on its most basic level."

As described in the Draft EIR, although fundamental land use conflicts are no longer included in the State CEQA Guidelines Appendix G checklist, this topic remains an adopted CEQA significance threshold for the City of Oakland. Thus, the potential for fundamental land use conflicts was evaluated in Section 4.10, *Land Use, Plans, and Policies*, of the Draft EIR through an assessment of potential physical impacts of the proposed development (e.g., the Project's potential to affect trucks or vessels associated with maritime operations, resulting in environmental impacts).

For the purpose of the analysis in the Draft EIR, a *fundamental conflict with adjacent or nearby land uses* means that the character of activities associated with one land use is in fundamental conflict with the uses of adjacent land, or the characteristics of one land use disrupts or degrades

adjacent land uses to such a degree that the functional use of the adjacent land for its existing or planned purpose is imperiled (Draft EIR p. 4.10-32). The following discussions provide a summary of comments and responses related to specific Port-related land use conflicts.

4.4.1.1 Seaport Road and Rail Access

Many comments express concerns, for example, that "the stadium will attract traffic of its own further slowing the port" (Comment I-316-1).

As discussed in Section 4.10 and Section 4.15.5 of the Draft EIR, the Project includes various roadway improvements, such as lane configuration on Adeline Street, to promote truck movement in and out of the Seaport on Adeline Street (also see Section 4.5.8, *Potential Impacts on Port Operations,* for additional information). These off-site transportation improvements are non-CEQA recommendations and as indicated on Draft EIR p. 4.15-97, are recommended for implementation prior to or during development of the Project. They are not needed to address a CEQA impact, but would support the Project's transportation needs, and in some cases, support those of the Port and the surrounding neighborhoods. Decision makers for the Project will consider non-CEQA recommendations during their consideration of the Project and may impose them as Project-specific conditions of approval. In addition, as mitigation, the Project sponsor would be required to develop and implement a Transportation and Parking Demand Management (TDM) Plan for non-ballpark development to reduce vehicle traffic generated by the Project by 20 percent. The Project sponsor would also be required to establish a TDM Plan for the performance venue that incorporates traffic management strategies to minimize its traffic impact on neighboring communities, including the Seaport. Measures have also been included in the Project's Transportation Management Plan (TMP) to specifically address ballpark event transportation that could affect Seaport operations, including signage and traffic management at key intersections to protect Seaport access on Adeline Street. The TMP also includes several performance metrics regarding Port operations to ensure truck travel times between the Port and the nearby freeways are reasonable and that traffic cutting through the Port is effectively deferred. Traffic management strategies may also include traffic and/or parking control officers or other personnel acceptable to the City to manage traffic at key intersections and railroad crossings. This active management of traffic volumes before and after ballgames and large events coinciding with peak periods would be incorporated into the TMP. The TMP also includes measures to protect truck movement on Adeline Street for small and medium events. The TDM and TMP are proposed as part of the Project to meet the requirements of AB 734, and Mitigation Measure TRANS-1a and Mitigation Measure TRANS-1b are included in the Draft EIR to ensure their implementation and ongoing effectiveness.

The technical analysis in Draft EIR Appendix TRA shows that Port-related traffic would not be substantially affected by trips to and from the Project site. Port-related traffic would continue to be able to use Adeline Street to travel between the Port and the Interstate 880 (I-880) corridor. It is possible, however, that some truck drivers may make the conscious choice to avoid the Adeline Street corridor when there is an event at the ballpark and use either the 7th Street or Maritime Street access to the Seaport (see Draft EIR Appendix TRA.7, *Port of Oakland Intersection Operations Sensitivity Analysis*).

For this reason, a sensitivity test was performed to analyze traffic conditions that could occur under two scenarios diverting trucks from the Adeline Street corridor. The sensitivity analysis shows that the transportation network would function well under these scenarios, with all but one intersection operating at Level of Service (LOS) C or better and average queues within available storage lengths. As stated in the TMP, if Port-related performance standards for travel time are not met—for example, as a result of increased ballpark traffic that further diverts trucks from Adeline Street —additional measures could be implemented, such as additional road closures or traffic control personnel.

Other comments express concern about Port-related rail access. For example, Comment I-243-23 states, "Currently, there's no proposal that I've seen that shows any kind of overpasses, easements, or parking that would allow for Oakland A's game day traffic, residential traffic, and hotel visitors to get in and out of this area without impeding the port traffic. Our overweight trucking lanes run right adjacent to Howard Terminal. The railroad runs right adjacent to Howard Terminal."

As discussed in Section 4.10, a series of at-grade and grade-separated crossing improvements have been identified for the railroad corridor. These railroad crossing improvements are required for the Project under Mitigation Measure TRANS-3a (Implement At-Grade Railroad Crossing Improvements). Additionally, Mitigation Measure TRANS-3b (Pedestrian and Bicycle Overcrossing) would require the construction of a grade-separated overcrossing for pedestrians and bicyclists seeking to access the Project site, which would reduce the potential for conflicts with rail traffic and the potential for delay in Seaport access. The Draft EIR noted that proposed improvements imposed through Mitigation Measures TRANS-3a and TRANS-3b would substantially improve railroad corridor safety within the limits of the improvements, but are subject to review and approval by the California Public Utilities Commission (CPUC), and would not eliminate the use of at-grade crossings by pedestrians, bicyclists, and vehicles accessing the Project site. For this reason, and because the improvements are subject to the review and approval of another agency, transportation hazard impacts would be significant and unavoidable (see Impact TRANS-3 in Draft EIR Section 4.15, *Transportation and Circulation*). The potential land use impact studied under Impact LUP-2, however, found that impacts related to Seaport rail access (analyzed under a threshold standard of a fundamental land use conflict) would be less than significant with mitigation incorporated. The difference in the outcome of these analyses is based on the type of impacts and standards applied; a fundamental land use conflict is a qualitative standard based on disruption or degradation of nearby land uses, which is different than the transportation hazard-related impact discussed under Impact TRANS-3.

As discussed in the Draft EIR, with or without the rail safety improvements in Mitigation Measure TRANS-3a and TRANS-3b, the TDM and TMP incorporate traffic management strategies to minimize impacts of Project traffic on neighboring communities, including the Seaport, that may include traffic and/or parking control officers or other personnel acceptable to the City to manage traffic at key intersections. These personnel may also be deployed to railroad crossings if needed to ensure either the safety or continued operation of the crossings (Draft EIR pp. 4.10-33 through 4.10-35). As discussed above and in Response A-12-6, for the purpose of the analysis in the Draft EIR, a *fundamental conflict with adjacent or nearby land uses* means that the characteristics of one land use disrupts or degrades adjacent land uses to such a degree that the

functional use of the adjacent land for its existing or planned purpose is imperiled (Draft EIR p. 4.10-32). The TDM and TMP traffic management strategies would maintain road and rail access to the Seaport and minimize disruptions. The Draft EIR determined that with the TDM and TMP, and implementation of Mitigation Measures TRANS-1a and TRANS-1b that ensure TDM and TMP implementation and ongoing effectiveness, the Project would not result in a fundamental land use conflict with Seaport road operations and rail access, and impacts would be less than significant with mitigation incorporated (Draft EIR pp. 4.10-33 through 4.10-35).

See Consolidated Response 4.5, *Truck Relocation*, for concerns related to the relocation of existing uses at Howard Terminal. See Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation*, for more information regarding the effects of increasing motor vehicle and pedestrian traffic across the railroad tracks.

4.4.1.2 Recreational Watercraft and Maritime Navigation

A number of comments express general concern about potential conflicts between an increase in recreational water users and Port-related maritime navigation and the effectiveness of Mitigation Measure LUP-1a (Boating and Recreational Water Safety Requirements). For example, Comment O-15-4 states, "My colleagues and I are also extremely concerned about increasing small passenger boats a stadium at Howard Terminal would likely attract during game days, similar to the Giants McCovey Cove. However, unlike McCovey Cove, Howard Terminal is on the working waterfront and has large shipping vessels constantly making their way through the waterways."

The Draft EIR describes how the proposed ballpark's siting and orientation differ and how the existing setting adjacent to the Inner Harbor differs from the setting at Oracle Park and McCovey Cove (see Draft EIR pp. 4.10-35 and 4.10-36). While the conditions of McCovey Cove and the Inner Harbor differ, the Draft EIR acknowledges that the potential exists for an increase in conflicts between recreational watercraft and ships in the Inner Harbor Channel and Turning Basin, and identifies Mitigation Measure LUP-1a, which would require the Project sponsor to develop a boating and recreation water safety protocol with certain specified elements for approval by the City and the Port. The protocol would be implemented during baseball games, concerts, and large events at the new ballpark to minimize conflicts with maritime navigation resulting in safety hazards and ship delay, and would be enforceable by OPD. Its effectiveness would be evaluated over time and the protocol would be adjusted as needed to effectively address the types of potential conflicts identified by the commenters. WETA, the Harbor Safety Committee of the San Francisco Bay Region, and the U.S. Coast Guard would be consulted during preparation of the protocol (Draft EIR p. 4.10-37). See below for clarifying edits to Mitigation Measure LUP-1a.

A number of comments address Mitigation Measure LUP-1a specifically, and question the "degree to which the plan will actually be effective" (see, for example, Comment A-12-13). Mitigation Measure LUP-1a addresses this concern by including required elements consistent with established regulations in the Inner Harbor Channel and Turning Basin adjacent to the Project site.

The Draft EIR describes the established regulations for watercraft in the vicinity of the Project site, noting that any vessel traveling within the Inner Harbor is subject to the U.S. Coast Guard's Inland Navigation Rules and Regulations, including recreational motorized and non-motorized watercraft. Notably, in the Oakland-Alameda Estuary (Estuary), anchoring is prohibited outside of designated anchorages except when required for safety, and recreational boats are required to keep as near to the outer limit of the channel as is safe and practicable; to not cross the channel if a container ship or other large vessel is moving toward them; and to avoid and allow the safe passage of container ships and other large vessels using the Inner Harbor Channel and Turning Basin (Draft EIR p. 4.10-36). Additionally, the Draft EIR acknowledges that while commercial vessels have licensed captains and typically operate within the confines of the established regulations, operators of recreational watercraft may be unaware of these regulations (Draft EIR pp. 4.10-36 through 4.10-37).

Thus, Mitigation Measure LUP-1a requires the Project sponsor to install and maintain signs along the wharf informing recreational watercraft of the prohibition on docking, loitering, and anchoring adjacent to the Project site, and to disseminate the protocol for boating and water recreation around the Project site to its guests, customers, and the public through its websites and in communications to those who have purchased entry to ballpark events. Additionally, Mitigation Measure LUP-1a requires the Project sponsor to, at a minimum, fund water-based patrols by OPD during and reasonably before and after all baseball games, concerts, and other large events at the ballpark or the Waterfront Park, sufficient to remove any boating and water recreation activity that is not in compliance with applicable laws, regulations, and rules governing navigation in the shipping channel or in the turning basin, and to ensure that no such boating or water recreation activity loiters, anchors, or otherwise impedes maritime navigation.

With incorporation of these specific required elements of Mitigation Measure LUP-1a, the City determined that the Project would not result in a fundamental conflict with maritime navigation or water-based uses, and impacts would be less than significant with mitigation incorporated (Draft EIR p. 4.10-38). Mitigation Measure LUP-1a also contains ongoing requirements for the protocol to be monitored, reviewed, and revised as necessary to ensure its effectiveness in preventing non-compliant boating activity, shipping delays, and water safety hazards, including both monthly and annual reviews of the protocol. The measure gives the Port the ability to impose additional strategies if deemed necessary as a result of the ongoing monitoring.

Other comments suggest that "the DEIR does not first attempt to quantify or analyze the scope and scale of the identified risks associated with the attractive nuisance that the Project would be to commercial navigation and marine traffic" (see Comment O-51-16) and note that "it would be more conservative to consider the impact significant and unavoidable" (see Comment A-12-13).

As discussed above, for the purpose of the analysis in the Draft EIR, a *fundamental conflict with adjacent or nearby land uses* means that the character of activities associated with one land use disrupts or degrades adjacent land uses to such a degree that the functional use of the adjacent land for its existing or planned purpose is imperiled (Draft EIR p. 4.10-32). This is not an impact that lends itself to quantification, although the Draft EIR does contain data regarding use of the turning basin adjacent to the site (Draft EIR Table 4.10-1).). There is no requirement under CEQA that all mitigation measures have quantitative performance standards, especially where the

impacts themselves are qualitative. Rather than speculating regarding the number of potential conflicts with marine traffic, the Draft EIR considers whether use of the Inner Harbor Channel and Turning Basin would be disrupted or degraded to a degree that the functional use of these resources for maritime navigation as a whole would be imperiled. Mitigation Measure LUP-1a therefore uses qualitative standards to evaluate the potential for a fundamental land use conflict and requires elements in the boating and recreational water safety protocol and allows the City and the Port to monitor, review, and revise the protocol, as needed. See Consolidated Response 4.2, *Formulation, Effectiveness and Enforceability of Mitigation,* for additional information.

Consistent with State CEQA Guidelines Section 15370, Mitigation Measure LUP-1a mitigates the potential impact related to a fundamental land use conflict with maritime navigation or water-based uses by requiring a protocol for enforcement by OPD, and by providing for regular review and revision during the life of Project operations, ensuring the protocol's effectiveness in achieving a performance standard: to prevent non-compliant boating activity, shipping delays, and water safety hazards resulting from uses of the ballpark. As noted above, with incorporation of Mitigation Measure LUP-1a, the City determined that the Project would not result in a fundamental conflict with maritime navigation or water-based uses, and impacts would be less than significant with mitigation incorporated (Draft EIR p. 4.10-38).

Several comments express concerns or ask for clarification about the Approving Parties listed as part of Mitigation Measure LUP-1a (see Comments A-15-3, O-21-1, and O-67-1). In accordance with State CEQA Guidelines Section 15097, a public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity that accepts the delegation; however, until mitigation measures have been completed, the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program. In this case, the City has elected the Approving Parties of the protocol as the City of Oakland and the Port of Oakland, but would continue to include consulting agencies including WETA, the Harbor Safety Committee, and the U.S. Coast Guard in review meetings and revision efforts to consult on the effectiveness of the protocol, as needed.

The text of Mitigation Measure LUP-1a is amended to clarify this process as indicated below. The City also notes several specific comments by the Harbor Safety Committee (Comments A-15-4 through A-15-6) requesting that certain additions to the protocol requirements be added to Mitigation Measure LUP-1a. Where the City agrees with these revisions, they have been added below. Others pertaining to OPD patrols are largely incorporated into the measure as originally drafted. Additionally, as a "Consulting Agency" for the protocol, the Harbor Safety Committee would be able to suggest more specific measures at the time the protocol is developed. Mitigation Measure LUP-1a on Draft EIR pp. 4.10-38 through 4.10-39 has been revised consistent with the above (new text is <u>underlined</u>; deleted text is in ~~strikethrough~~):

> **Mitigation Measure LUP-1a: Boating and Recreational Water Safety ~~Plan and~~ Requirements.**
>
> The Project sponsor shall ~~develop~~ have a protocol for boating and water recreation around the Project site <u>including the requirements set forth in this measure, as approved by</u> ~~with the approval of~~ the City of Oakland and the Port of Oakland, <u>in consultation with</u>

the San Francisco Bay Area Water Emergency Transportation Authority, the Harbor Safety Committee of the San Francisco Bay Region, and the United States Coast Guard (collectively, the "Consulting Agencies").

The protocol shall specify measures ~~intended~~ to minimize conflicts with maritime navigation resulting in safety hazards and ship delay, and shall be implemented prior to and during baseball games, concerts, and other large events (as defined in the TMP) scheduled at the ballpark or the Waterfront Park. The protocol shall include, but shall not be limited to, the following requirements:

1. Installation and maintenance of signs along the wharf informing recreational watercraft of the prohibition on docking, loitering, and anchoring adjacent to the Project site, including the wharf adjacent to the Project site;

2. Water-based patrols by the Oakland Police Department during and reasonably prior and subsequent to, all baseball games, concerts, and other large events (as defined in the TMP) at the ballpark or the Waterfront Park, sufficient to remove any boating and water recreation activity that is not in compliance with all the applicable laws, regulations, and rules governing navigation in the shipping channel or in the turning basin, as well as ensuring that no such boating or water recreation activity loiters, anchors, or otherwise impedes maritime navigation;

3. Procedures for response to water-related emergencies adjacent to the Project site during all baseball games, concerts, and other large events (as defined in the TMP) at the ballpark or the Waterfront Park and evaluations of procedures for the imposition of safety zones, security zones (including navigational security needs under all Maritime Security [MARSEC] levels), and restricted navigational areas; and

4. Communications by the Project sponsor to its guests, customers, and the public regarding this protocol and appropriate safety measures for any recreational boating or water-based activities through communicating on (without limitation) its websites and on communications to those who have purchased entry to ballpark events.

The Project sponsor shall solely fund the cost of all of the above requirements, including the incremental cost of the additional water-based OPD patrols.

The ~~Project sponsor, the~~ City of Oakland, and the Port of Oakland (collectively, the "Approving Parties") in consultation with the Project sponsor shall reach agreement on a protocol achieving all of these requirements prior to the issuance of a certificate of occupancy ~~and Port Building Permit~~ for the ballpark. During the opening baseball season in which games are played in the ballpark, the Approving Parties shall meet at least monthly with the Project sponsor to review the effectiveness of the protocol in preventing non-compliant boating activity, shipping delays, and water safety hazards in consultation with interested Consulting Agencies. After this opening baseball season, the Approving Parties shall continue to meet monthly with the Project sponsor to review the effectiveness of the protocol unless less frequent meetings are mutually agreed upon in consultation with interested Consulting Agencies. Additionally, the Approving Parties shall review annually the number of OPD warnings and citations, safety incidents, and water-related emergency responses to ensure that the safety measures are effective in consultation with interested Consulting Agencies.

The Approving Parties and the Project sponsor shall make good faith efforts to ~~regularly~~ revise the initial protocol as necessary based on information on the effectiveness ~~and~~

~~feasibility~~ of the protocol in preventing non-compliant boating activity, shipping delays, and water safety hazards in consultation with the Consulting Agencies. If the Approving Parties and Project sponsor cannot mutually agree to revise the protocol to ensure that it effectively prevents non-compliant boating activity, shipping delays, and water safety hazards within 30 days of first making such efforts, then the Port may require additional operational safety measures that are similar to those listed in the initial protocol, including measures such as increased water-based patrols or enhanced signage, which shall be promptly implemented by Project sponsor at Project sponsor's sole cost.

Other comments regarding Mitigation Measure LUP-1a express concern about a lack of "3rd party" inclusion in development of the protocol for boating and water recreation by groups such as commercial maritime organizations (see Comment O-49-1). As noted in Comment O-67-1, "The Harbor Safety Committee comprises various Bay Area maritime stakeholders, including the San Francisco Bar Pilots, the U.S. Coast Guard, WETA, commercial tug and ship operators, and recreational boaters. The Harbor Safety Committee meets frequently to discuss matters bearing on safe navigation and has historically formulated suggested policy and guidance for transmission to concerned agencies. The Committee receives diverse input from entities concerned with all aspects of commercial and recreational navigation on the Bay."

Input on the protocol required by Mitigation Measure LUP-1a would include third-party groups, such as commercial maritime organizations, through the measure's inclusion of the Harbor Safety Committee as a Consulting Agency for all aspects of the protocol development, review, and revision activities.

Other comments ask about the regularity of and funding for OPD patrols of the Estuary under Mitigation Measure LUP-1a (see Comment I-243-41). Violations by vessels in the Estuary can be enforced by the U.S. Coast Guard and local law enforcement, including the Alameda County Sheriff's Office and the OPD Marine Unit, which has been designated to carry out enforcement by the Captain of the Port. The U.S. Coast Guard conducts patrols of the entire San Francisco Bay and issues violations to ensure marine safety and security, and operates the San Francisco Bay Vessel Traffic Service, which coordinates the safe and efficient transit of vessels in San Francisco Bay in an effort to prevent accidents and the associated loss of life and damage to property and the environment. OPD assigns one officer from the OPD Marine Unit to patrol the Port and the Estuary via water. The Alameda County Sheriff's Office Marine Unit also performs routine patrols of the Estuary and other waters of Alameda County, and responds to calls and assists the U.S. Coast Guard and OPD as needed (Draft EIR pp. 4.13-16 through 4.13-17).

Mitigation Measure LUP-1a would provide dedicated water-based OPD patrols in the Inner Harbor Channel and Turning Basin during and reasonably before and after all baseball games, concerts, and other large events at the ballpark or the Waterfront Park, because those are the periods that could attract recreational water users. As stated in Mitigation Measure LUP-1a, the Project sponsor shall solely fund the cost of all requirements that are part of the protocol, including the incremental cost of the additional water-based OPD patrols (Draft EIR p. 4.10-38). The procedures for response to water-related emergencies adjacent to the Project site in Mitigation Measure LUP-1a would also include consideration for weather, fire, and other conditions such that safety for maritime navigation is preserved and enforcement is provided by OPD. As also

discussed in the Draft EIR, with implementation of Necessary Improvement Measure PUB-2, the Project would provide a command post to be used by all agencies involved in event and security operations at the ballpark, including landside coordination with water-based patrols (Draft EIR p. 4.13-34).

4.4.1.3 Light and Glare and Maritime Navigation

Many comments expressing concerns regarding conflicts with maritime navigation also reference the potential impacts of light and glare, including concerns that the scope of analysis of measuring light and glare on maritime maneuvering in the turning basin was too narrow (see Comments O-37-1 and O-37-2). See Consolidated Response 4.18, *Effects of Light and Glare on Maritime Operations and Safety,* which summarizes concerns related to the potential for light and glare land use conflicts and addresses the effects of light and glare on maritime operations and safety.

4.4.1.4 Seaport Compatibility Measures

Several comments address the Seaport Compatibility Measures referenced in Section 3.16 of Chapter 3, *Project Description*, of the Draft EIR, claiming that these measures are necessary to reduce impacts related to land use compatibility and stating that "any compatibility measures that have already been negotiated should be incorporated into the Final EIR" (Comment A-7-37). Other comments request more detail about the "timing or status of the subject [Seaport Compatibility Measure] negotiations" (Comment O-57-17) or infer that "the Seaport Compatibility Measures are an integral part of the Project…[and] should be analyzed in this DEIR" (Comment O-51-29). Additionally, Comment O-27-65 claims, "The DEIR improperly defers mitigation to future potential 'Seaport Compatibility Measures' to ensure that the Project does not impact or interfere with the Port's use or operations."

As discussed in Chapter 3, *Project Description*, of the Draft EIR, the Exclusive Negotiation Term Sheet for Howard Terminal requires the Project sponsor and the Port to negotiate Seaport Compatibility Measures as part of the business and operational terms for the real estate transaction. The Seaport Compatibility Measures to be negotiated include measures, designs, and operational standards to ensure that the Project would not affect or interfere with the Port's use or operations outside of the Project, including the following (Draft EIR pp. 3-60 through 3-61):

(i) The Port's current or reasonably anticipated future use, operation, and development of Port facilities, properties, and utilities of Port tenants, Port contractors, or operators engaged in the maritime use of the Port Area.

(ii) The health and safety of the Port's employees, tenants, contractors, or operators engaged in Port operations in the Port Area (and their respective employees), as well as of the future occupants of the Project site.

(iii) Measures to ensure that the future users, owners, lessees, and residents of and in the Project shall be notified of potential impacts of Port maritime and marine operations on their use and waive rights to claims arising therefrom.

(iv) Measures to ensure that the Project minimizes vehicular congestion from the Project and avoids conflicts between vehicular and pedestrian traffic generated by the Project with Port seaport operations, including cargo truck routes and traffic.

As stated previously, the background and intent of the Seaport Compatibility Measures are described in Section 3.16 of the Project Description in the Draft EIR and are discussed further in Draft EIR Section 4.10, *Land Use, Plans, and Policies*.

The Port held five meetings in Fall 2019 (including a Seaport Compatibility Measures Conference) with Seaport and maritime stakeholders who represented a range of interests: shipping companies, terminal operators, truck companies, rail, labor, and beneficial cargo owners. The purpose of the meetings was to hear stakeholder concerns and ideas for Seaport Compatibility Measures. The Port used the feedback from the first three meetings to develop a framework for the primary issues to be addressed at a Seaport Compatibility Measures Conference, organized into three main topic areas: Maritime Navigation and Safety, Site Planning, and Truck Movement and Safety. At the Seaport Compatibility Measures Conference, stakeholders reviewed and commented on this framework and brainstormed potential Seaport Compatibility Measures that could address these issues.[14] In addition, four focused stakeholder meetings to address specific categories of SCMs were held in 2021 following release of the Draft EIR.

The Port submitted a *Summary of Certain Seaport Compatibility Measures (SCMs) included in the Draft EIR,* which lists potential Seaport Compatibility Measures to be negotiated with Project sponsor, depending on the final scope of the EIR, to the City on July 15, 2021.[15] This Summary List identifies several potential Seaport Compatibility Measures that would incorporate elements of CEQA mitigation measures from the Draft EIR identified to reduce CEQA impacts related to land use, transportation/circulation, aesthetics, noise, and air quality, as well as design features and other measures not related to CEQA impacts. See also Consolidated Response 4.1, *Project Description*, which also responds to concerns involving the Seaport Compatibility Measures and the description and analysis of the proposed Project in the Draft EIR, and Consolidated Response 4.2, summarizing the purported issue of deferral of mitigation in the Draft EIR.

Other anticipated Seaport Compatibility Measures may address business and economic terms that relate to the Port's use or operations that do not involve environmental considerations analyzed under CEQA. If the Port and the Project sponsor mutually agree upon any Seaport Compatibility Measures to be incorporated into the real estate transaction, the decision makers will have to consider whether any potential environmental impacts of the Seaport Compatibility Measures have been adequately addressed in the EIR. The Port's Board of Commissioners will consider adoption of the aforementioned negotiated Seaport Compatibility Measures when it takes action on the land agreements for the Project.

[14] Port of Oakland, 2019. *Memorandum – Seaport Compatibility Measures Conference: Summary of Maritime Stakeholder Feedback*, December 19, 2019.

[15] Port of Oakland letter to the City of Oakland City Council, *Port Considerations of the Oakland A's Howard Terminal Proposed Project*, July 15, 2021.

Regarding the comments that the Seaport Compatibility Measures are required to mitigate land use impacts, CEQA impacts with respect to land use compatibility were addressed in Section 4.10, *Land Use, Plans, and Policies*, in Chapter 4 of the Draft EIR. As discussed in this Consolidated Response, the Draft EIR presents a comprehensive impact analysis of land use conflicts that have the potential to result from the proposed Project, and provides for mitigation measures to address any such impacts. Accordingly, the Draft EIR supports the conclusion that a fundamental land use conflict would not occur with implementation of mitigation measures.

4.4.2 Turning Basin Expansion and Maritime Reservation Scenario

Commenters also express concern about the potential future expansion of the turning basin located within Oakland's Inner Harbor, stating, for example:

- "The expansion of the turning basin is not only essential if pilots will be asked to safely accommodate larger vessels which may call on the Port of Oakland in the future, but it also expands the margin of navigational safety for all vessels of all sizes which are required to transit and turn in the Oakland Inner Harbor." (Comment O-51-28.)
- "Right here is the turning basin...We know we're going to have to expand it in order to accommodate future generations of ships. This will be an evaluation of how you can expand the turning basin, what makes sense, and working with what the pilots and the wharfinger of the Port of Oakland and Core of Engineers to make accommodations about what that looks like. The preliminary understanding is that it will take at least ten acres off the southwest corner of Howard Terminal to accommodate one of the potential designs for that turning basin." (Comment I-243-21.)

As described in Chapter 3, *Project Description*, of the Draft EIR, under the Maritime Reservation Scenario included in the Exclusive Negotiation Term Sheet between the Project sponsor and the Port of Oakland, the Port has established a "Maritime Reservation Area" at the southwest corner of Howard Terminal for up to 10 years from the approval date of the Exclusive Negotiation Term Sheet (May 13, 2019). At any point during the reservation period, the Port of Oakland may elect to terminate the Project sponsor's development rights to some or all of the approximately 10-acre Maritime Reservation Area, if the Port deems that area necessary to accommodate expansion of the turning basin that is used to turn large vessels in Oakland's Inner Harbor. Under this scenario, the approximately 10 acres in the Maritime Reservation Area would be returned to the Port.

If the Port were to exercise this option, the Project site plan would be modified, and the proposed development would be more dense because the Project sponsor would fit the same development program (i.e., the same ballpark and mix of other uses proposed) onto the smaller site with less open space. The Port has not proposed, designed, approved, or secured permits for an expanded turning basin, and the Draft EIR did not consider the impacts of an expansion, should one be proposed. If the Port were to exercise its option and take back a portion of the Project site from the Project sponsor, the Port would analyze the potential impacts of expanding the turning basin under CEQA as a separate project at that time.

However, the Draft EIR analyzed a Maritime Reservation Scenario to identify the impacts of the Project, in the event the Project is reconfigured to accommodate the Port's exercise of its option to terminate the Project sponsor's development rights to some or all of approximately 10 acres of the Project site (the Maritime Reservation Area) to accommodate the expansion of the turning basin that is used to turn large vessels in Oakland's Inner Harbor, an independent project outside of the Project sponsor's control. Thus, the purpose of the analysis is to show how the Project would be developed under the Maritime Reservation Scenario, and what Project-related impacts would result in the event the Port decides to move forward with expansion of the turning basin and the Project site is reduced accordingly.

The Maritime Reservation Scenario is analyzed separately because it is not the Project proposed by the Project sponsor. The Port has entered into a Feasibility Cost Share Agreement with the U.S. Army Corps of Engineers (USACE). The Port and USACE are evaluating the feasibility of widening the Oakland turning basin. The feasibility study is scheduled to be completed by the end of 2023 (Draft EIR p. 3-40). Until the feasibility study has been completed, it is not known how much of the 10-acre Maritime Reservation Area would be needed to accommodate an expanded turning basin; however, Draft EIR Figures 3-17 and 3-18 illustrate the Project site plan with the maximum 10 acres designated by the Port removed.

Again, as discussed in the Draft EIR, any impacts of expanding the turning basin, or impacts on vessels using an expanded turning basin, would be subject to a separate analysis under CEQA if and when the Port elects to proceed with design, permitting, and construction of expanded turning basins and exercise its option (Draft EIR p. 4.10-64). The analysis in the Draft EIR does not analyze the construction or operational impacts of the turning basin expansion itself; that is a separate project that would be initiated by the Port and the U.S. Army Corps of Engineers, if determined to be feasible, and would be addressed in a separate CEQA document (Draft EIR p. 3-40).

To further clarify the relationship of the possible turning basin expansion to the proposed Project and the EIR's analysis, the following explanation has been added to Section 4.0 of the Draft EIR on p. 4.0-12 (additions are underlined and deletions are ~~crossed out~~):

> ***Turning Basins Widening Feasibility Study at Oakland Seaport***
>
> The U.S. Army Corps of Engineers (USACE) and Port have partnered to evaluate the feasibility of widening both the Inner and Outer Harbor turning basins of the Oakland Harbor (also known as the "Feasibility Study"). The Port would be the lead agency under CEQA and would be required to review the potential impacts on the environment from a tentatively selected plan for expanded turning basins identified as a result of the Feasibility Study. As of the release date of this Draft EIR, the Feasibility Study has not been completed, and a Notice of Preparation of an EIR for a project involving the construction of an expanded turning basin adjacent to the Project site has not been released. Because an expanded turning basin is still being assessed in terms of feasibility, it is not considered a cumulative project in this Draft EIR. As described in Section 3.7, any impacts of expanding the turning basin or on vessels using an expanded turning basin would be subject to a separate CEQA analysis if and when the Port elects to exercise its option and proceed with design, permitting, and construction. The analysis in the Draft EIR does not analyze the

> construction or operational impacts of the turning basin expansion itself; that is a separate project that would be initiated by the Port and the U.S. Army Corps of Engineers, if determined to be feasible, that would be addressed in a separate CEQA document.

Some commenters also express a preference for the Project under the Maritime Reservation Scenario, asserting that safety and compatibility concerns between the proposed Project and the Inner Harbor Turning Basin would be ameliorated. For example, Comment O-51-28 states, "This project should only proceed in a manner which accommodates the future ability of the Port of Oakland to expand its turning basin. Any other outcome would result in a sub-optimal safety and commercial operations and would foreclose future growth and improvements in service. For enhancement of navigation safety, implementation of the Maritime Reservation Scenario is imperative if this project is to ultimately proceed." However, the Project sponsor is not proposing the expansion of the turning basin as part of its project and has no role in the Port of Oakland's future decision to terminate (or not) the Project sponsor's development rights to some or all of approximately 10 acres of the Maritime Reservation Area, if the Port deems that area necessary to accommodate the expansion of the turning basin (Draft EIR p. 3-37). Nor is the Maritime Reservation Scenario an alternative to the proposed Project. Rather, it is discussed in the Draft EIR to disclose that the Port of Oakland holds this option and explain how the Project would be developed in the event the Port makes a decision to expand the turning basin and what the environmental impacts of the proposed Project would be under this Scenario as compared to the impacts identified in the proposed Project analysis.

Furthermore, as discussed in the Draft EIR, under the Maritime Reservation Scenario, the potential for conflicts with adjacent or nearby land or water-based uses would remain similar to that described for the Project (Draft EIR p. 4.10-64). Mitigation Measure LUP-1a included in the EIR would also apply to the Project under the Maritime Reservation Scenario. The mitigation measure would require the Project sponsor to develop a boating and recreation water safety protocol, including certain requirements intended to minimize conflicts with maritime navigation resulting in safety hazards and ship delay, in consultation with the City of Oakland (including OPD), the Port of Oakland, WETA, the Harbor Safety Committee of the San Francisco Bay Region, and the U.S. Coast Guard for implementation during baseball games and large events at the new ballpark.

With the Project-specific boating and recreational water safety protocol and specific requirements called for in Mitigation Measure LUP-1a, the Draft EIR found that the risk of an increase in conflicts between recreational boaters and other vessels using the Inner Harbor Channel would be reduced, and that the Project would not result in a fundamental conflict with maritime navigation or water-based uses, and impacts would be less than significant with mitigation incorporated. Although the Project could indirectly create a new demand for recreational watercraft users adjacent to the Project site, there is no evidence to suggest the proposed Project would "result in a sub-optimal safety" after implementation of Mitigation Measure LUP-1a as compared to the Project under the Maritime Reservation Scenario.

4.4.3 Disruption of Economic Activity at the Port of Oakland

As described in the Draft EIR, the Howard Terminal portion of the Project site, approximately 50 acres of the site, is currently leased by the Port to short-term tenants for maritime support uses (Draft EIR p. 3-3). Many comments note that the Howard Terminal portion of the Project site is vital for Port operations, suggesting, for example, that the proposed Project "gambles with a sensitive and irreplaceable asset…Maritime industrial waterfront capable of handling large oceangoing shipping is scarce and rapidly diminishing" (see Comment O-64-2).

Container and ro-ro operations[16] continued at Howard Terminal into 2013. The terminal was closed for vessel loading and unloading activities in early 2014 as part of a larger, complex consolidation of marine terminals at the Port of Oakland—which involved three other terminals in addition to Howard Terminal—stemming from financial pressure on ocean carriers (and their marine affiliates) serving the U.S. West Coast. Howard Terminal remains suitable for vessel loading and unloading activities given its deep-water berths (-42 feet mean lower low water), access to a wide and deep-water federal navigation channel, and relatively square geometric configuration. However, because of its small size (50.3 acres or less, depending on the potential turning basin project) relative to other modern container terminals and its limited room for expansion (i.e., it is separated from the next nearest marine terminal by Schnitzer Steel), Howard Terminal is not desirable for loading and unloading of the larger container ships that call at the Port.

Therefore, without changes to one or more of these current physical limitations, Howard Terminal may be better suited to the following types of marine uses: container operations for smaller vessel services that currently call at other terminals; bulk operations; break-bulk operations; and ro-ro operations. Since 2013, the Port has identified and engaged with interested parties for potential long-term tenancies associated with these types of vessel loading and unloading operations, but these discussions have not materialized into leasing arrangements for a variety of reasons. As a result, Howard Terminal is currently being used for deep-water vessel layup berthing, truck and container parking and depot operations, uses by trucking companies, training of longshore workers by the Pacific Maritime Association, and similar ancillary logistics services that support Port operations.[17]

See Consolidated Response 4.5, *Truck Relocation, which* describes current uses at Howard Terminal and areas identified within the Port and OAB where some current uses on the Project site could potentially relocate.

Commenters also express concern about the potential for disruption of maritime business to lead to Port-related employment declines and limitations on future Port growth, stating, for example:

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16 *Roll-on/roll-off (rO-ro) ships* are cargo ships designed to carry wheeled cargo, such as cars, trucks, semI-trailer trucks, buses, trailers, and railroad cars, that are driven on and off the ship on their own wheels or using a platform vehicle.

17 Port of Oakland, 2019. *Agenda Report, Resolution: Approve and Authorize the Executive Director to Execute an Exclusive Negotiation Term Sheet with Athletics Investment Group LLC, dba the Oakland Athletics, a California Limited Liability Company, for a Term of Four Years for an Initial Payment of $100,000 for Property Located at 1 Market Street, Oakland (Not a Project under the California Environmental Quality Act [CEQA]),* May 13, 2019. Available at: https://www.portofoakland.com/wp-content/uploads/Howard-Terminal-microsite-Agenda-Report-13-May-2019-updated.pdf, accessed July 15, 2021.

"The Howard Terminal ballpark and condominium proposal does not justify undermining Port of Oakland maritime operations and placing at risk the 520,328 California jobs of longshore workers, truckers, warehouse workers, freight forwarders, customs brokers and others" (Comment O-26-5) and "The HT DEIR analyzes the net new employment at the stadium, but it does not appear to address the loss of employment at the Port from closure or reduced operations at Port businesses (partially attributed to the reduced truck parking/staging capacity as a result of conversion of the site, and increased restrictions on Port activities as a result of increased pedestrian activity)" (Comment O-29-80).

CEQA does not require an analysis of commercial business displacement or other economic issues, except to the extent that these issues may result in secondary environmental impacts. The Draft EIR has identified and mitigated potential impacts related to a fundamental conflict with Port-related uses as discussed under Impact LUP-2 in the Draft EIR and as clarified in this Consolidated Response. There is no evidence to suggest that significant environmental impacts would occur that have not already been identified and mitigated. To the extent that the Project could have an impact on Port operations generally unrelated to environmental impacts, this is a non-CEQA issue for consideration by the Port Commission and the City Council at the time they consider Project-related approval actions, and is not an issue requiring analysis in the EIR.

Furthermore, the Port of Oakland has indicated that the proposed Project provides the opportunity to enhance the Port's commercial real estate portfolio. The Port has also stated that its commitment to the maritime industry and to the growth of maritime business at the Port of Oakland and has affirmed that a new development on 50 acres at the eastern edge of the Port would not be detrimental to growth.[18] By including transportation safety, infrastructure, and Seaport compatibility measures, the proposed Project would limit its impact on Seaport operations. The Port has been consulted from the start of the environmental impact analysis and on the siting and development program of the Project so that potential impacts on Seaport operations are considered and addressed.[19]

As discussed in the Draft EIR, the Project would be required to implement Mitigation Measure LUP-1c, which prohibits residential uses west of Myrtle Street, which would separate potential on-site sensitive receptors from Port and industrial operations west of the Project site, and would place residential uses over 1,000 feet from the Union Pacific Railroad (UPRR) railyard to the northwest of the Project site (Draft EIR p. 4.10-49). The Project would also implement TDM and TMP measures (and Mitigation Measures TRANS-1a and TRANS-1b to ensure their implementation and ongoing effectiveness), which would minimize disruption to truck and rail access to the Port. The Port's Term Sheet requires that measures, designs, and operational standards be negotiated to ensure that the Project would not affect or interfere with the Port's use

[18] Port of Oakland, 2019. Letter from Board President and Former Executive Director to Port Stakeholders, May 16, 2019. Available at: https://www.portofoakland.com/howard-terminal/chris-lytle-letter-port-stakeholders/, accessed July 16, 2021.

[19] City of Oakland, 2021. Frequently Asked Questions (FAQs) about the Waterfront Ballpark District at Howard Terminal, posted June 14, 2021, last updated November 30, 2021. Available at: https://www.oaklandca.gov/resources/waterfront-ballpark-district-at-howard-terminal-faqs.

or operations outside of the Project; these Seaport Compatibility Measures are discussed in Section 4.4.1.4 of this Consolidated Responses.

4.5 Truck Relocation

Comments Addressed: A-7-10, A-7-45, A-7-53, A-11-4, A-11-10, A-12-18, A-12-19, A-12-20, A-12-21, A-12-22, A-12-23, A-12-28, A-13-9, A-13-11, A-17-11, A-17-12, A-17-14, O-27-11, O-27-15, O-27-28, O-27-29, O-27-30, O-27-31, O-27-32, O-27-39, O-27-67, O-27-68, O-29-11, O-29-20, O-29-57, O-29-59, O-29-67, O-29-80, O29-1-2, O29-1-14, O29-1-15, O29-1-16, O29-1-17, O29-2-1, O29-2-41, O-33-2, O-34-3, O-34-4, O-34-5, O-34-6, O-38-1, O-41-3, O-41-4, O-41-7, O-41-8, O-46-7, O-47-25, O-50-2, O-51-2, O-51-3, O-51-4, O-51-5, O-51-6, O-51-7, O-51-15, O-51-19, O-62-27, O-62-28, O-62-29, O-63-18, O-63-22, O-63-41, O-63-97, O-65-3, I-90-1, I-93-12, I-97-4, I-145-2, I-156-6, I-176-4, I-183-1, I-240-2, I-243-9, I-243-22, I-243-31, I-243-34, I-243-35, I-243-37, I-243-45, I-258-2, I-260-5, I-260-6, I-292-2, I311-7-4, I-322-1, I-333-1, I-333-9, I-339-2, H2-1-5, H2-1-9, H2-2-23, H2-2-34, H2-2-48, H2-2-69, H2-2-83, H2-3-41, H2-3-62, and H2-3-65.

Many comments address the issue of truck parking, suggesting that the description of current uses of Howard Terminal is inadequate, that displacement of the current uses should have been analyzed differently in the EIR and/or would have various significant impacts that have not been accounted for and should be mitigated. Potential impacts referred to by the commenters include loss of parking, traffic congestion, VMT, neighborhood intrusions, safety, air pollutant emissions, GHG emissions, economic effects on smaller trucking companies and Port operations generally. Under CEQA (State CEQA Guidelines Section 15131) there is no obligation to analyze economic impacts except to the extent they result in physical effects on the environment and thus discussions in the EIR and below primarily focus on the potential for environmental impacts.

Of particular concern to many commenters is the potential that displacement of existing uses from the Howard Terminal site could lead to an increase in truck parking and idling in West Oakland, where efforts to reduce truck activities have been ongoing for many years, and where residents are already exposed to greater levels of air pollutant emissions than in other neighborhoods.

The City recognizes the conditions and concerns related to West Oakland, and as discussed in this Consolidated Response, the Draft EIR describes existing conditions in West Oakland and contains an analysis of potential impacts of commercial tenant relocation that is consistent with CEQA requirements.

4.5.1 Current Uses of Howard Terminal

As noted on p. 3-3 and p. 4.2-39 of the Draft EIR, prior to publication of the Draft EIR, Howard Terminal accommodated a variety of short-term Port tenants, including the following:

- Truck parking/container depot—23 acres
- Longshoreperson training facilities—5 acres
- Drayage truck yards (including loaded and empty container storage and staging)—4 acres

- Vessel berthing for maintenance and storage (wharf area requirements)—7 acres
- Roadways, unused areas, truck repair, and offices—11 acres

The summary of uses, and the accompanying explanation of employees, contractors, and independent owner/operator truck drivers, was provided by the Port of Oakland in August of 2018, updated in the Fall of 2020 prior to publishing the Draft EIR, and a further update is provided below. In all of these updates, the original estimate of 40 on-site employees and 58 contractors and drivers who may work on-or off the site (see citation on p. 3-3 of the Draft EIR) remains the same and has not changed due to these adjustments.

A number of commenters suggest that the Draft EIR's description of existing uses is inadequate, and request additional information (see, for example, Comments A-12-19 and O-27-29). These commenters note that Howard Terminal "serves as a hub for a variety of marine-support activities, including heavy truck parking and layover, container storage and drayage, relief space to avoid queuing and impacts of heavy trucks on local street systems" and more. They request a more detailed description of the types of parking and truck movements at Howard Terminal, saying that such uses as short-term parking and container staging do not have a designated relocation site at the Port. They also say that berths at Howard Terminal are "still in regular use by ocean-going vessels for lay-berthing" and suggest that further study of existing uses "would allow for a clearer picture of the likely impacts…" and mitigation measures needed to address adverse effects "even if the potential impacts are not fully known." These uses are updated as noted in the Draft EIR text changes below; vessel berthing is a described use.

One commenter requests detailed information for existing Howard Terminal uses, stating the "the DEIR includes a summary of 'acreage' but does not discuss how the acreage is actually broken down for use with any level of specificity on site, or how many actual parking spots exist per acre, how many are spots for trucks and how many are spots for containers and chassis and other equipment, and just how many of those sites are used and for how long or how often." The commenter goes on to suggest that such information is a "baseline" that is required under CEQA: "the baseline needs to be established prior to a discussion of impacts, otherwise there is no basis for any evaluation of the impacts, speculative or not." (Comment O-51-4.) The acreages are broken down by use category and the truck trips to and from the site have been counted and analyzed as further discussed below.

Some commenters also offer their own description of existing operations at Howard Terminal, explaining that:

- Howard Terminal is a "critical piece of terminal infrastructure that is not easily replaceable, providing space for small trucking companies who do not own their own yard in the Port area which affords them the opportunity to maximize efficiency and reduce contributions to air emissions and congestion by providing them with this space that will accommodate a 'dray-off' delivery model." (Comment O-41-8.)
- Howard Terminal allows these small trucking companies "to take their trucks and interchanged equipment and containers off the roads and streets of West Oakland." (Comment O-41-8.)

- "Howard Terminal performs approximately 325,000 annual gate moves by trucks and the 35-acre support facilities are used by over 3,200 truckers. Howard Terminal staging allows trucks to get out of West Oakland communities and creates off-peak opportunities so trucks can avoid peak congestion periods, reducing diesel emissions and traffic." (Comment O-33-2.)
- Howard Terminal "expedites logistics, is critical to the supply chain, reduces congestion and wait times and creates flexibility for equipment and container storage" and removing the 35-acre staging area at Howard Terminal will not eliminate the activity, but will displace "trucks into the surrounding community." (Comment O-33-2.)
- "Howard Terminal currently contains 225 25' parking stalls and 874 40' parking stalls, along with 125 short term (daily) parking stalls for a total of 1,224 parking stalls…" (Comment O29-1-15.)

In response to these comments and suggestions regarding existing operations at Howard Terminal, the description on p. 3-3 of the Draft EIR has been updated as follows (additions are underlined and deletions are ~~crossed out~~):

> The Howard Terminal portion of the Project site, approximately 50 acres of the site, is currently leased by the Port to short-term tenants for maritime support uses including a variety of activities such as heavy truck parking and layover, and equipment and container storage and staging. Uses fluctuate somewhat over time. A~~a~~s of October 15, 2021 ~~September 18, 2020~~, existing uses at Howard Terminal and their approximate acreages include the following:
>
> - Truck parking/container depot – 16~~233~~ acres
> - Longshoreperson training facilities – 7~~5~~ acres
> - Drayage truck yards (including loaded and empty container storage and staging) – 17~~4~~ acres
> - Vessel berthing for maintenance and storage (wharf area requirements) – 2~~7~~ acres
> - Roadways, unused areas, truck repair, and offices – 8~~11~~ acres
>
> The existing tenants at Howard Terminal currently employ approximately 40 on-site employees and 58 contractors and drivers who may work on or off the site.[1] In addition, an unknown number of independent owner/operator truck drivers rent parking spaces from an on-site parking operator, ABM Parking Services, which occupies the 16~~23~~ acres of truck parking/container depot use.

The numeric updates reflected in this text change and the date of October 15, 2021 are also included on p. 4.2-39 of the Draft EIR.

[1] Port of Oakland, 2020. Memorandum – Estimate of Current Employees Located at Howard Terminal; from Andrea Gardner/Port of Oakland, to Molly Maybrun/City of Oakland, September 21, 2020. Updated estimate via email from Andrea Gardner dated July 15, 2021.

Note that this updated description of existing uses at Howard Terminal is provided in response to comments and for clarity; it does not constitute substantial new information because the uses remain the same and the change in acreage for uses is limited. Also, the acreages are descriptive and do not form the basis of the quantitative analyses in the Draft EIR Therefore, the description of tenants at the site and their activities has not changed in a way that affects the Draft EIR's analysis of potential impacts and significance conclusions. Other baseline data in the Draft EIR include multimodal traffic counts, which were used to describe baseline conditions at Howard Terminal on Draft EIR p. 4.15-47 (Draft EIR Table 4.15-12), indicating a range of from 50 to 194 truck trips per hour at Howard Terminal between 7:00 a.m. and 7:00 p.m. By observing all trucks coming and going from the site for a full day, the counts capture trips associated with container and equipment interchanges as well as short-term and overnight truck parking, and were an appropriate basis for establishing existing and forecast intersection traffic volumes. The analysis of potential health risks resulting from emissions of TACs, also used baseline data regarding Port operations, including the 336,494 annual gate transactions at Howard Terminal in 2018, and localized truck activity at the Terminal, expressed in terms of in-queue movement, in-terminal idling, and in-terminal driving derived from a 2017 emissions inventory prepared by the Port. This baseline data is included in Appendix AIR, Section 5, Table 131. Both the traffic counts and the baseline data about Port operations adequately characterize existing activities at the site as the baseline for analysis because – while site activities do fluctuate over time -- there have not been substantial operational changes at the site since it ceased being used as a container shipping terminal in 2014.

Given the availability and use of baseline data needed to support analyses in the Draft EIR, additional specificity and monitoring of the existing parking areas to see how they are used over time (as requested by comment O-51-4) and additional analysis of circulation patterns unique to some users of the site (as requested by Comment A-12-19) are not needed to disclose the Project's direct impact (i.e., displacement of all of the current tenants and uses) or to analyze indirect impacts resulting from this displacement as discussed further below. Specifically, the traffic counts and other truck activity data for existing trucks parking at Howard Terminal were used to estimate existing health risks for these trucks (Draft EIR p. 4.2-53 and Appendix AIR.1 p. 35), health risks associated with relocating these trucks to the Roundhouse (Draft EIR p. 4.2-98 and Appendix AIR.5), and criteria pollutants from Port truck delays due to the Project (Draft EIR p. 4.2-45 and Appendix AIR.1 p. 26). There have not been substantial operational changes at the site since these analyses were conducted and they accurately characterize the baseline for the topics addressed.

4.5.2 Request for Additional Analysis of Relocation

Many commenters request that the EIR identify where existing uses would relocate to when they are displaced from Howard Terminal, and also request that the EIR provide further analysis of impacts associated with the relocation. For example: "The DEIR does not adequately describe the nature and importance of existing uses at the Howard Terminal, nor does it sufficiently analyze the impacts of relocating all such uses from Howard Terminal to other locations, in some instances identifying no location and avoiding any impact analysis at all." (Comment O-29-11.)

The comments suggest that displacement of the current tenants at Howard Terminal would increase traffic inside and outside the Seaport and would force trucks "to travel longer distances to find alternative parking, including on city streets" (Comment O-34-4), displacing approximately 400,000 truck transactions per year (Comment O-51-6). They also suggest that the EIR should indicate precisely where trucking, container storage and other current activities would be relocated to or perform some kind of "spatial analysis" in order to determine what "air quality, transportation, safety, economic and other impacts would be imposed" on the surrounding communities that are receiving areas for the displaced uses. (Comments O-46-7 and O-62-28.) One comment (Comment A-12-18) suggests that the EIR "consider where alternative sites for truck parking, including overnight parking, short term parking, and container staging exist in the region, potentially using data from Caltrans' ongoing statewide truck parking study, and based on a survey of the trucking companies that currently use HT." Other comments simply state that saying trucks "are assumed to move" is not an analysis of the impacts that will result (for example, Comments I-97-4, I-145-2, I-258-2, and I-333-8).

As stated in the EIR (e.g., Draft EIR p. 3-61), with the exception of the parking operator, tenants engaging in truck-related activities at Howard Terminal are on short term leases which can be terminated with 30 days' written notice prior to commencement of construction of the Project. These Howard Terminal tenants and users of the ABM parking have several options in lieu of Howard Terminal, including but not limited to the following:

- Relocate to the 15 acres of parking that the Port has committed to provide (currently the Roundhouse parking facility) to the extent space is available, or to the City's parking in the former Oakland Army Base (OAB), especially for overnight and short-term parking.
- Relocate to a site outside of the Port. The zoning regulations of many jurisdictions within and adjacent to the Bay Area region have a variety of industrial zoning districts that permit and contain supply-chain related activities including truck parking and container storage and that could presumably accommodate additional activity. These jurisdictions include, but may not be limited to, industrial areas of Oakland (for example, near the Airport), San Leandro, Hayward, Unincorporated Alameda County, Richmond, San Pablo, Unincorporated Contra Costa County, Tracy, French Camp, and Unincorporated San Joaquin County. These same jurisdictions accommodate many of the warehouses and related facilities that are the origin or destination of truck trips to/from the Port.
- Adjustment of logistics operations to eliminate use of truck parking or container staging. For some current users of Howard Terminal, Howard Terminal is an interim stop on the trip to or from the Seaport to wait for an appointment at a terminal, stage a container to wait for less congested traffic or for a warehouse to open, etc.

While some comments anticipate economic impacts (such as Comment O-41-8), alleging that existing tenants at Howard Terminal support some truck-related activities such as short-term parking and staging that cannot be efficiently conducted from more remote locations, and there would be "less capacity for smaller trucking companies to utilize an efficient dray-off model of operations." However, the EIR analysis appropriately focuses on potential impacts of the physical changes as a result of the Project, which would include intensification of activities at the site with the proposed Project and displacement of current uses. The economic impacts of commercial tenant displacement is not in and of itself considered a significant impact for CEQA purposes,

thus, contrary to commenters' assertions, the EIR is not required to identify potential relocation sites for truck-related activities as mitigation. However, consistent with CEQA requirements, the EIR *does* consider potential secondary impacts of tenant displacement on the physical environment, focusing on the environment proximate to the Project site, rather than at the tenants' new locations, because there is no sufficiently reliable information on the location existing tenants would relocate to as explained below and in the Draft EIR.

The EIR's statement that tenants who cannot relocate within the Seaport will have to move to other areas where there is land available and where their uses are permitted by local zoning (e.g., see Draft EIR p. 3-61) is an accurate and reasonable assumption based on the available facts. The EIR does not contain an analysis of zoning district locations or vacant/available land in these jurisdictions and is not required to do so because of the large number of potential relocation areas and because the lack of specific and reliable information sources on where existing truck parking tenants would locate to makes any assumptions of relocation areas speculative. Nor is it required to provide an analysis of hypothetical scenarios so that potential impacts and benefits of these hypothetical scenarios can be compared. Surveys of existing tenants and drivers could not be utilized because the information would not be reliable or static, as tenants and drivers change over time, responses would not be binding or capable of confirmation, and could change before the start of Project construction/lease termination if the Project is approved. In addition, this is a dynamic industry with a mix of large trucking companies, small trucking companies, and independent owner-operators that frequently change their business operations in response to market conditions and other factors.

The ongoing Caltrans study referenced by one commenter was initiated in 2020 to "identify existing truck parking shortages and potential locations and develop strategies for enhancing the truck parking supply, including public and private partnerships." The study is expected to be completed in February 2022 and tasks include a needs assessment, creating a prioritized list of State-owned properties that could be used for truck parking in the San Diego region, and development of a truck parking feasibility guide with siting and layout considerations for use statewide. In work completed to date, the study authors have identified Oakland as a priority region with a parking need and have also identified strategies – rather than sites – that can address this need. The strategies include activities like building dedicated truck parking near shippers and receivers via public-private-partnerships, encouraging industrial property owners to provide truck parking space on unused properties, and encouraging shippers and receivers to provide on-site parking.[20] The scope and timing of the study is such that it will not provide meaningful and relevant information about possible relocation sites for existing tenants of Howard Terminal. Instead, the study will provide strategies that may be pursued in the future to add parking where allowed by local zoning.

The State CEQA Guidelines are clear that if a lead agency "finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact" (State CEQA Guidelines Section 15145). In this case, the EIR cannot speculate regarding the location to which displaced tenants will move if they cannot be accommodated within the

[20] Rebecca Light, Caltrans Sustainable Freight Branch, California Statewide Truck Parking Study, Technical Advisory Committee Information Packet, August 11, 2021.

Seaport and the EIR is not required to assess potential impacts of truck activities at specific locations that are not known at this time. While commenters suggest that such an analysis is "complicated" but not speculative (Comments O-41-7 and O-41-8), the issue that makes the analysis speculative is that each tenant, including individual ABM customers, will make its own business decision about where to relocate or how to change their business operations when their lease is terminated; that decision has not been made at this time, and there is no reliable and available information at this time to determine where the new locations would be.

Moreover, and contrary to commenter's assertions (for example, see Comment O-41-8), the EIR does consider whether the tenant displacement would result in physical changes that constitute significant environmental impacts requiring mitigation using reasonable assumptions based on available information (State CEQA Guidelines Section 15064(e)). "A public agency can make reasonable assumptions based on substantial evidence about future conditions without guaranteeing that those assumptions will remain true." (*Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1036.) In this case, the Draft EIR focuses on the changes in diesel truck emissions that would occur proximate to the Project site, using a reasonable assumption that the trucks may relocate on Port property because the availability of Port property to accommodate such a use (Impact AIR-4). Based on specific information available about Port operations and property, the Draft EIR analyzed the potential scenario of truck activities relocating from Howard Terminal to the nearby Roundhouse. As discussed further below, this is a "worst case" assumption because the Roundhouse is a potential relocation site that is close to Howard Terminal and nearby sensitive receptors and because the Roundhouse is currently occupied and may have capacity when tenants at Howard Terminal seek to relocate. See Section 4.5.7 for more on this subject.

There are a number of factors that inform the scope of the EIR's analyses and their assumptions, each of which is discussed further below. Specifically:

a. As indicated on Draft EIR p. 4.2-40, only the "trip ends" and localized activity associated with truck-related activities at Howard Terminal would be displaced under the Project, which represents a small subset of diesel truck emissions impacts associated with Port operations. All other drayage trucks currently bringing goods to and from the Port of Oakland from a variety of off-site locations via the regional freeway system would remain the same. This activity generates the vast majority of the VMT associated with Port operations, and would continue with the proposed Project.

b. As discussed on Draft EIR pp. 3-62 and 4.2-39, the Port and the City each have an existing obligation to provide 15 acres for truck parking dating from plans to redevelop the Oakland Army Base. To meet this obligation, the City has identified and provided 15 acres of land at the OAB for ancillary maritime services (which may include short term parking, staging, and equipment interchange) and the Port is currently providing 15 acres at the Roundhouse site, directly west of Schnitzer Steel, for overnight parking, suggesting that tenants of Howard Terminal may have the option to relocate to one of these locations. As noted above, the Roundhouse was selected to be analyzed in the Draft EIR as the "worst case" scenario for purposes of the health risks associated with TAC emissions.

c. As noted on Draft EIR p. 4.2-39, some truck-related activities such as container storage would likely not be able to relocate within the Seaport, and those activities/tenants would

need to find a location outside the Seaport in areas of the city or the region where such uses are permitted by zoning or revise their operations.

d. As indicated on Draft EIR pp. 3-62 and 4.2-40, the City's West Oakland Truck Management Plan was approved in May 2019 with the aim of reducing the effects of transport trucks on local streets. Implementation and enforcement of the plan's strategies are intended to prevent displaced tenants from simply moving their parking/staging activities to City streets.

With regard to item (a), there is no evidence (and commenters have provided none) that the number of truck trips to transfer cargo containers between the Port and shippers/receivers elsewhere in the region would change if Howard Terminal is no longer available for truck-related activities. Trucks will still be needed to service the Port. Thus, the EIR appropriately assumes that the trucks that currently park or stage containers at Howard Terminal would continue to access and serve the Seaport, and their principal routes of travel would be the same as they are today, bringing full containers from shippers to the Port, and from the Port to the receivers. The portions of the trip between the freeway system and Howard Terminal, and between Howard Terminal and the Port terminals, would be eliminated by the Project. Stated another way, Howard Terminal currently serves as a stop along the route of trips from shippers and receivers to/from active shipping terminals and would no longer be available for this localized activity (e.g., parking and staging) that occurs there. However, it is assumed that the trips from shippers and receivers to/from the shipping terminals would still occur.

Even though the localized truck staging and parking activity at Howard Terminal will be eliminated, it is uncertain whether all of this activity will be retained and moved to another location, especially to a location outside of the Seaport. Some trucks currently using Howard Terminal may add a new "leg" to this primary route for parking or staging containers at a new location. The length of trips that currently use Howard Terminal could increase if truck parking relocates outside the Seaport. However, as Port staff notes, there is no other West Coast Port that provides an in-port staging area for pick-ups and drop-offs, which are always by appointment.[21] Relocating outside the Seaport could pose logistical challenges for displaced tenants or ABM customers who could not efficiently stage their operations and for tenants who could no longer store containers, chassis, or trucks there overnight or on a longer-term basis. The market is expected to respond to accommodate this change; for example trucking companies could alter their operations to eliminate the need for an additional stop, or they could rent from or consolidate into trucking companies that have their own yards.

Whether or not the length of truck trips changes when truck-related activities are displaced from Howard Terminal, it is clear that localized truck-related activities at Howard Terminal would decrease because existing tenants would no longer be located there. In other words, truck trips would no longer begin and end at Howard Terminal. This change would result in a localized reduction in TAC emissions and related health risks experienced by sensitive receptors (residents) unless the truck-related activities were to relocate to a new site that is closer to the residents.

The EIR (see p. 4.2-40) appropriately considers this possibility and concludes that localized truck-related activities would *not* move closer to nearby residents because (1) while the City's

[21] Oral communication with Port staff, July 19, 2021.

zoning allows truck uses in the in the "T" overlay zone, which is located directly north of Howard Terminal and south of 5th Street, parcels in the "T" overlay zone are currently occupied by other uses, including buildings and structures (e.g. utility infrastructure) that would preclude their use for parking and existing warehousing or fleet storage (e.g. bus yard) uses; and (2) the City's adopted Truck Management Plan would prohibit long- or short-term truck parking on nearly all streets in West Oakland, and unattached trailers (chassis) would be prohibited throughout the City of Oakland. The West Oakland Truck Management Plan is discussed further below. Nonetheless, as noted above, the Draft EIR did analyze potential available sites at the Seaport to which trucks may relocate from Howard Terminal and analyzed localized air quality impacts if trucks were to relocate to the Roundhouse, which is close to Howard Terminal.

Additionally, commenters conjecture that the "significant shortage in truck parking options, particularly within the West Oakland Community and Port of Oakland area" will result in drivers "parking in local neighborhoods and streets while waiting to access the Port" because "the need for drivers to park is seldom discretionary" and results from a terminal's commercial practices (e.g., hours of operations) and federal/State rules related to "hours of driving and mandatory rest periods." (Comment A-13-9.)

Drayage parking demand is regulated by operational policies of Port terminals and City laws and rules as well as state and federal policies regarding driver safety. The approved West Oakland Truck Management Plan would prohibit long- or short-term truck parking on nearly all streets in West Oakland, and unattached trailers (chassis) would be prohibited throughout the City of Oakland(see subsection 4.5.6 below). Also, as noted above, parcels in the "T" Overlay zone immediately north of Howard Terminal are already occupied and unavailable for truck parking. Thus the activities displaced from Howard Terminal that cannot be conducted from more remote locations where permitted by local regulation would have to cease unless the tenants can modify their operations or make arrangements for such activities at other Port or OAB facilities. As indicated above, the EIR analyzes the Port's Roundhouse site, west of Howard Terminal as a nearby location that could potentially accommodate some of the displaced truck-related activities from Howard Terminal.

As noted by some commenters (such as Comment A-12-19), only a portion of the parking at Howard Terminal is overnight parking and that other uses include short-term parking and container staging. The City's 15 acres at the OAB (noted in item (b) above) is intended to address some of the logistical challenges for trucks serving the Port, and may be another area that is available to accommodate small trucking companies and maritime support uses displaced from Howard Terminal. The OAB site totals 16.7 acres and contains two distinct areas. Area A, south of West Grand Avenue, includes the majority of the site and is currently operated by Oakland Maritime Support Services (OMSS) for "a range of support services for trucking companies that serve the Port of Oakland."[22] Area B, north of West Grand Avenue including areas under the ramps, makes up approximately 7 acres of the site and is operated by the City. It opened in the Summer of 2021 to provide areas for short-term and overnight truck parking, including for trucks with and without containers. Impacts associated with redevelopment of the OAB were previously

[22] Oakland Maritime Support Services, OMSS web page. Available at: https://www.oaklandmss.com/, accessed June 15, 2021.

analyzed in the EIR for the OAB Area Redevelopment Plan in 2002 (SCH#2001082058) and the City's 15-acre site for truck parking is farther from the sensitive receptors that would be affected by development at Howard Terminal than the Roundhouse, which as noted earlier, was analyzed as a "worst case" location for relocated diesel truck emissions and the impact of the OAB use on sensitive receptors would be less than that identified for the Roundhouse.

Because the Roundhouse (and any other potential area at the Seaport) is located farther from maximally effected sensitive receptors than Howard Terminal, localized TAC emissions and resulting health risks would be less than under existing-plus-project conditions. (See Draft EIR p. 4.2-102.) While some commenters express concerns based on past experiences in West Oakland, they acknowledge that current conditions related to truck-activities are better than in the past, and the fear that trucks would relocate to the streets of West Oakland—would be addressed via implementation and enforcement of the West Oakland Truck Management Plan, as discussed further below.

4.5.3 Analysis of Vehicle Miles Traveled

A number of commenters disagreed that the EIR was unable to quantify changes in VMT due to displacement of trucks from Howard Terminal and their relocation to other, unknown locations. (See Comment O-29-67.) While the principal source of VMT associated with truck trips from shippers/receivers to and from the Port's marine terminals would not change, it is likely that there would be some change in VMT associated with the local "trip ends" that currently start/end at Howard Terminal, as discussed above. However, because the Draft EIR cannot speculate regarding the location to which truck-related activities would relocate, it notes this and declines to speculate, which is entirely consistent with State CEQA Guidelines Section 15145 (Draft EIR p. 4.15-86). (See Subsection 4.5.2 above.)

If some truck-related activities are able to relocate within the Seaport (for example, to the Roundhouse) or to the OAB rather than to other industrially zoned areas in other parts of Oakland or other jurisdictions, the information on change in VMT can be reasonably ascertained and would be negligible because while each location would be somewhat farther from I-880, they would also be somewhat closer to the terminals. Given the short distances involved[23] and the fact that shorter trips to and from the terminals would offset longer trips to and from the freeway, for this truck activity there could be a reduction in VMT or an increase that would represent a tiny percentage of overall project VMT and would therefore not materially alter conclusions of the VMT analysis or the analyses that depend on VMT (i.e., criteria pollutant emissions and GHG emissions). Re-routed trucks accessing the Roundhouse (instead of Howard Terminal) were analyzed in the health risk assessment (which does not rely on VMT); both northbound and southbound truck traffic would use Adeline Street to navigate from I-880 to the Roundhouse,

[23] The EIR preparers estimate that travel between truck parking and the freeway would increase about 0.25 miles, assuming that 50 percent of the trips are to and from I-880 south and 50 percent are to and from I-880 north. The distance between truck parking and the terminals would be approximately 0.3 miles shorter at the Roundhouse and 1.0 mile shorter at OAB.

whereas current trucks would use Market Street to travel to and from Howard Terminal (see Appendix AIR.5 p. 2/5).

As noted by many commenters (such as Comment A-12-19), if truck related activities relocate to locations where zoning permits such uses elsewhere in the City or the region, the increase of VMT may be greater if the principal trip (from shippers and to receivers) remains the same, but the interim stop at Howard Terminal is relocated to a site farther from the Seaport. As noted by one comment: "When the location choice for drivers cannot be furnished by the facility (terminal or yard), the truck operator may drive a significant distance for the right location." (Comment A-13-9.) However, VMT may be the same or less if the principal trip (from shippers and to receivers) remains the same, and the interim stop is either eliminated or relocated close to the shipper or receiver. Again, as indicated on Draft EIR pp. 4.2-41 and 4.7-41, while VMT associated with truck travel is likely to change to some extent because of the changes to local "trip ends" and displacement of activities like long term parking and container storage, the magnitude of this change is unknown and estimating the VMT or resulting emission changes would be speculative and is therefore outside the bounds of CEQA. (See Subsection 4.5.2 above.)

Commenters object to the conclusion that it would be speculative to conduct an analysis of unknown relocation scenarios, and to the assumption that the increase in VMT would fall outside the Project's "zone of influence," requesting evidence to support this assumption (Comments O-27-32 and O-29-20). As noted above, the change in VMT if truck activities were to relocate within the Seaport or to OAB would be negligible, and the change in VMT if truck activities were to relocate elsewhere in the City or the region cannot be determined without speculation. The analysis does not fail to analyze VMT because of any "zone of influence" or study area boundary, but chooses not to speculate consistent with State CEQA Guidelines Section 15145.

4.5.4 Analysis of Greenhouse Gas Emissions and Energy Use

Because VMT is used as a data input for analyses of GHG emissions, many of the same commenters suggest that the EIR's failure to speculate as to possible increases in VMT means that these other impacts have not been sufficiently analyzed (Comments O-29-20 and O-27-39).[24] Commenters object to the EIR's failure to quantify GHG emissions associated with relocation of existing activities at Howard Terminal because of the assumption that these uses will continue at new locations, insisting that the GHG emissions will be greater at the new locations because the locations are farther away from the Seaport (Comments O-62-27 through O-62-29). Please see Subsection 4.5.2 above regarding the EIR's determination that the analysis of certain impacts is speculative consistent with State CEQA Guidelines Section 15145.

As discussed on Draft EIR pp. 4.7-41 and in Subsection 4.5.3 above, all trucks currently making trips to and from Howard Terminal would continue to make the same number of trips to and from the Seaport from their new locations, and although VMT associated with these trucks is likely to change, the magnitude of the change and whether VMT would increase or decrease is currently

[24] The same commenters mistakenly refer to the analysis of health risks, noise, traffic congestion, and land use compatibility, none of which rely on VMT data inputs.

unknown. Therefore, estimating the change in VMT and resulting emission increases or decreases would be speculative.

Mitigation Measure GHG-1 requires that the Project sponsor quantify Project emissions, including operational mobile source emissions, in order to demonstrate that emissions from all construction and development are below the City's "no net additional" threshold of significance pursuant to CEQA. *No net additional* means that the Project would not result in any net additional emissions of GHGs compared to the CEQA baseline. Because existing land uses at Howard Terminal are expected to continue at other (currently unknown) locations, the GHG analysis assumes emissions associated with these uses would continue with or without the Project, and therefore does not include these emissions as either baseline or Project emissions.

The Draft EIR's analysis of Energy Use does not assume an increase or decrease in energy use associated with relocation of tenants from Howard Terminal because the analysis cannot speculate as to where the tenants would relocate and whether more energy would be used to access and occupy the new locations.

The State's transition to zero-emission trucks over time is expected to encompass trucks that serve the Port regardless of whether there are areas for on-port staging and container storage.[25]

4.5.5 Analysis of Air Quality Impacts

Some commenters confuse the analysis of localized emissions and the health risks they cause, which is based on data representing truck volumes/uses in the immediate vicinity of the Project and nearby sensitive receptors, with the analysis of VMT and criteria air pollutants, which is regional in scale.

The air quality analyses presented in the Draft EIR are prepared in conformance with Bay Area Air Quality Management District (BAAQMD) guidance and other accepted protocols and examine potential impacts of the Project at these two scales. First, the analysis (Draft EIR Impact AIR-2) considers whether the Project would result in increases in criteria air pollutant emissions at the regional scale (i.e., for the Bay Area Air Basin as a whole). For these impacts, the analysis considers net changes in VMT along with other emission sources associated with operation and construction of the proposed project and compares the resulting emissions to BAAQMD's thresholds of significance, which have also been adopted by the City of Oakland. Emissions from existing activities at Howard Terminal are not subtracted from the analysis despite tenant relocations because these existing activities would continue elsewhere in the region and would therefore still produce criteria air pollutant emissions within the Air Basin (see Draft EIR pp. 4.2-39 through 4.2-41). As discussed above, emissions associated with any change in VMT associated with tenant relocation was not added (or subtracted) to the Project's emissions in the analysis because it is unknown where the tenants would relocate to if they do not stay within the Seaport and the principal routes of truck trips (from shipper to terminal and from terminal to

[25] See California Air Resources Board, Advanced Clean Trucks Fact Sheet, June 25, 2020. Available at: https://ww2.arb.ca.gov/resources/fact-sheets/advanced-clean-trucks-fact-sheet, accessed July 20, 2021.

receiver) would not change. Please see Subsection 4.5.2 above regarding the EIR's appropriate absence of speculation consistent with State CEQA Guidelines Section 15145.

Secondly, the analysis (Draft EIR Impact AIR-4) considers whether the Project would result in localized increases in TACs such that existing sensitive receptors near the site would experience increased health risks above the BAAQMD thresholds of significance; this is known as the health risk assessment (HRA). The HRA is local in nature and does not use total VMT as an input. This is because the length of the vehicle trips and total miles travelled are not relevant to the HRA, which focuses on truck activities including volumes along nearby roadway segments, parking, idling and delays. This approach is consistent with BAAQMD guidance. The roadway segments included in the HRA are discussed in Appendix AIR, on p. 34 and Figure 6. The HRA appropriately subtracts health risks associated with TAC emissions from existing activities at Howard Terminal because they would no longer occur at that location with implementation of the Project and the applicable significance threshold is based on the increases in risks due to the Project.

The two types of analyses, with different scales and data inputs, are the reason that the Draft EIR can deduct existing TAC emissions from Howard Terminal truck-related activities from the Project health risk calculation under the HRA, recognizing that the existing activities and associated TAC emissions would no longer occur in the localized area, while recognizing that regional criteria pollutant emissions of Howard Terminal trucks serving the Port would still occur within the region and therefore not taking a deduction when calculating criteria air pollutants or GHG emissions. This approach was noted by the commenters (see Comment O-27-32) while arguing that increases in VMT associated with displacement of truck activities at Howard Terminal should somehow be quantified and considered. (Again, see Subsection 4.5.2 above regarding VMT and the EIR's appropriate absence of speculation consistent with State CEQA Guidelines Section 15145.)

For the localized analysis of TAC emissions and health risks, the Draft EIR analyzes the Roundhouse site, just west of Howard Terminal and Schnitzer Steel, as a potential location for the relocation of truck parking. This is because the 15 acres of the Roundhouse is currently being used as truck parking to fulfil the commitment associated with OAB redevelopment referenced earlier. Selection of the Roundhouse site for this analysis is also intended to provide a "worst case" analysis of localized TAC emissions and health risks that would occur if all truck-related uses were relocated from Howard Terminal to another site at the Seaport. The Roundhouse is "worst case" because it is the Seaport site that is closest to the Project site (and closer than OAB site) and to the MEIR analyzed in the Project's health risk analysis and because the available acreage is smaller than the acreage of truck-related activities currently located at Howard Terminal, which means that TAC emissions would be concentrated in a smaller area and result in higher concentrations at the MEIR locations (Draft EIR p. 4.2-98 and Appendix AIR.5). In other words, if trucks were to relocate elsewhere in the region, the total combined health risk impact of the proposed Project plus the relocated trucks would be less than what was analyzed in the Draft EIR for the Roundhouse site. See Section 4.5.7 below for a discussion of cumulative parking issues.

Again, the analysis of health risks associated with possible relocation of trucks to the Roundhouse is admittedly conservative, since it assumes that all truck parking uses at Howard Terminal would

be able to relocate there. But, it results in an analysis of worst case scenario for localized air quality impacts of any other available location on the Port. Some uses/tenants may relocate elsewhere in the City or the region as discussed above. If this were the case, the health risks at the MEIR associated with a portion of the total relocated trucks operating at the Roundhouse would be less than the health risks associated with 100 percent of trucks relocating to the Roundhouse (as assumed in the Draft EIR under Impact AIR-4).

See the individual responses for more information regarding the analysis of potential health risks associated with truck parking at the Roundhouse site.

4.5.6 West Oakland Community Exposure and Truck Management Plan Implementation

As noted earlier, many of the commenters expressed concern that displacing truck-related activities from Howard Terminal "will force thousands of large trucks back onto West Oakland streets as they wait for shipments and drop-off times, undoing years of work to improve health and safety in West Oakland..." by diverting such trucks "into neighborhood streets due to the development" (Comments I-97-4, I-145-2, I-258-2, I-333-8, O-50-2, and O-65-3). These commenters suggested that the EIR was somehow faulty for not concluding there would be "gridlock and pollution" in West Oakland due to trucks parking and queueing on freeways and local streets. However as noted above, the EIR did describe displacement of truck-related activities from Howard Terminal, and the need for these activities to relocate elsewhere in the Seaport, the City, or the region.

With regard to the commenters' concerns about the potential for displaced trucks to attempt to relocate onto surrounding streets and neighborhoods, the City has committed to implementation of a truck management plan and zoning restrictions to avoid increased truck activity in West Oakland. Truck parking is not a permitted land use in West Oakland, except in the "T" overlay zone and in circumstances where there are existing uses that are considered legal and non-conforming (i.e., they are grandfathered). See p. 4.2-40 for a discussion of the T-Overlay zone, which also explains the West Oakland Truck Management Plan was prepared to reduce the effects of Port and City trucks serving the former OAB on local streets in compliance with Mitigation Measure 4.3-7 of the OAB EIR. The Plan includes ten strategies to address truck and trailer parking by changing regulations and improving enforcement. As discussed starting on Draft EIR p. 4.15-67, the strategies and implementation steps most relevant to the Project are as follows:

> **Strategy 3, Update the Network of Truck Routes and Truck Prohibited Streets:** Propose additions or changes to the Truck Routes and Truck Prohibited Street network so that Truck Routes are more effective.
>
> > ***Implementation Step 2:*** Engage stakeholders affected by the proposed changes, including residents and businesses and the truck drivers that support those businesses, as described in Implementation Approach.
>
> **Strategy 7, Improve Training for Issuing Parking Tickets:** Improve training for issuing truck and trailer parking tickets in West Oakland to increase compliance with parking regulations.

Implementation Step 1: The Truck Management Plan Team will work collaboratively with OakDOT and OPD to develop the enhanced training, including content and supporting materials.

Implementation Step 4: OakDOT and OPD will deliver training to relevant City or Port staff. Consider videotaping training sessions so it is easy to train additional staff.

Strategy 8, Change Parking Regulations: Change the parking regulations so they are applicable to more streets in West Oakland and are easier to enforce.

Implementation Step 2: Develop maps of West Oakland that identify where truck parking is currently allowed and where it may no longer be allowed under proposed changes to truck parking regulations. Engage with stakeholders to obtain feedback on proposed changes.

Implementation Step 3: Identify businesses that could be affected by proposed changes. Conduct direct outreach to these businesses for feedback and help them develop a plan to comply with changes in parking regulations.

Implementation Step 7: Conduct enforcement training on the new regulations (see Strategy 7). Consider a "grace period" while businesses and enforcement staff adjust to the parking regulation changes.

Strategy 9, Consider Increasing Truck Fines: Consider revisions to the City's Master Fee Schedule to increase truck parking fines or other penalties.

Strategy 10, Conduct Targeted Parking Enforcement: Provide targeted enforcement of parking regulations at specific times and locations.

Implementation Step 1: The Truck Management Plan Team will use the annual parking ticket data from Strategies 7 and 8 to identify locations where trucks and trailers continue to regularly park in prohibited areas.

The City and Port are in the course of implementing the Plan and have engaged the community regarding changes to truck parking and truck routes and conducted additional truck route analysis in response to community comments. The City has also begun improved training for parking enforcement. Each of these strategies is assessed and adjusted over time. The West Oakland Truck Management Plan and zoning restrictions are evidence that support the EIR's approach and the assumption that displaced truck parking would not result in increased truck parking in West Oakland, resulting in unidentified safety, noise, or air quality impacts. The suggestion that the EIR should nonetheless analyze a hypothetical situation in which three trucks park in front of the MEIRs (Comment A-11-10) is not consistent with CEQA law or practice (see State CEQA Guidelines Section 15145). Implementation of the Plan that has already been adopted and is being implemented is also not required as mitigation in the Project EIR because it would already ensure that trucks currently using Howard Terminal are not "diverted into neighborhood streets." The plan calls for annual updates on strategy implementation and results for a five-year period, with permanent changes to parking regulations, truck route regulations and enforcement (Truck Management Plan Chapter III. Implementation Approach). In addition, the proposed changes to

parking regulations would prohibit truck parking adjacent to residential uses in West Oakland, including the MEIRs.[26]

The Draft EIR discusses West Oakland's cumulative exposure burden to air pollution, applicability of California AB 617), and preparation of the West Oakland Community Action Plan (WOCAP) with strategies to reduce air pollutant emissions and decrease residents' exposure. (See Draft EIR pp. 4.2-2 and 4.2-3, as well as pp. 4.2-18 and 4.2-30.) See also the responses to individual comments regarding the City's implementation of WOCAP strategies.

4.5.7 Analysis of Impacts from Cumulative Port Development, Including Parking Availability

A couple of commenters suggested that the EIR should consider the cumulative impacts of parking supply changes and parking demand at the Port, pointing to possible parking constraints associated with specific projects like the Eagle Rock Sand and Gravel project at Berths 20–22 (Comment A-11-10) and to the 2050 cargo forecast prepared by the Tioga Group, which they suggest calls into question the EIR's statement (p. 3-16) that 15 acres at the Roundhouse and 15 acres at OAB would be sufficient (Comment A-12-20). Other comments (Comment O29-1-14) suggest that there will not be enough room at the Roundhouse and OAB unless other uses are displaced and provide their own tabulation of existing uses at the Roundhouse (Comment O29-1-15).

A study assessing parking demand and capacity at the Port is not required under CEQA. As noted on p. 4.1-1 of the Draft EIR, parking impacts of the proposed project are exempt from environmental review pursuant to Public Resources Code Section 21099(d).

One of the commenters (Comment O-27-30) notes that a prior CEQA document prepared by the Port (Negative Declaration, State Clearinghouse No. 2015052062) indicated that 15 acres of the 37-acre Roundhouse property would be used for a new UPRR railcar-to-ship transloading facility for grain and other agricultural commodities, with an additional 5.9 acres leased to UPRR for dedicated parking, effectively leaving "only 15.2 acres of the 37-acre property still (potentially) available for non-UP [UPRR] related truck parking and other activities…" Another comment (Comment A-12-20) suggests that the future forecast of maritime activities assumes that the Roundhouse will be put to other uses. The implication of these comments and others suggesting that "there is little to no available space at the Roundhouse" is to question the feasibility of relocating truck parking from Howard Terminal to the Roundhouse, and particularly the feasibility of relocating all truck parking from Howard Terminal to the Roundhouse as analyzed in Draft EIR Impact AIR-4. However, the 15-acre parking facility at the Roundhouse has been implemented and is in use for parking. If the Port were to decide in the future to use the Roundhouse site for a different use, such as that in the Negative Declaration noted above, the Port would be obligated to provide 15 acres for parking in another location within the Seaport. Uses of sites within the Port are subject to change as evidenced by Howard Terminal itself, which was not used for truck operations until eight years ago.

[26] See the draft of the proposed changes on the City's website at https://caO-94612.s3.amazonaws.com/documents/Truck_Parking_Memo_20200601.pdf.

As indicated on pp. 3-62 and 4.2-39 in the Draft EIR, the Tioga report's forecast of goods movement through the Port suggests that the City and Port acreage referenced in item (b) above are roughly comparable to the demand for 30.5 acres of truck parking under the strong growth forecast for 2050. While the Tioga report assumes that the Roundhouse would not be used for parking, it is the forecast of growth in the report that is relevant to the report conclusions (and not this assumption) since the Port is the agency with land use authority and must fulfill its commitment to provide 15 acres of truck parking, whether at the Roundhouse or elsewhere.[27] Also, comments noting that the Roundhouse currently has insufficient capacity to accommodate displaced parking from Howard Terminal and that other parking areas may redevelop fail to recognize that parking locations and occupancies in the Seaport change over time. For example, Howard Terminal was not available for parking prior to 2014 and the Roundhouse was made available for parking much more recently. If the Roundhouse cannot accommodate displaced users of Howard Terminal when their leases are terminated, the users wanting parking would have to seek locations elsewhere in the Seaport, the city, or the region.

The cumulative growth in traffic analyzed in the EIR is not derived from the Tioga report, but instead from the forecast in the Metropolitan Transportation Commission's Plan Bay Area 2040 as it was incorporated into the Alameda County Transportation Commission's travel demand model. This forecast shows a 62 percent increase in total traffic volumes by the year 2040. The analysis assumes that the percentage of these trips that are by heavy duty trucks is equivalent to the ratio of heavy trucks to total traffic volumes witnessed in traffic counts collected by the City's traffic consultants in 2018 at study intersections and road segments. The truck percentages vary by study location. For example, Adeline Street near the Port is 59 percent heavy trucks in the AM peak hour and 31 percent in the PM peak hour. While Washington Street in Old Oakland is 5 percent and 2 percent respectively. Because overall traffic volumes are forecast to increase and the percentage of these trips by heavy duty trucks was held constant, the analysis assumes that the total number of truck trips would increase in the future, reflecting increased growth in Port activities as well as in the region generally. The Tioga Report (2019 to 2050 Bay Area Seaport Forecast https://www.bcdc.ca.gov/seaport/2019-2050-Bay-Area-Seaport-Forecast-Draft.pdf) shows TEU forecasts through 2050 (Exhibit 3). There are three forecast trends in the exhibit. Between 2020 and 2040 the slow growth trend yields about a 30 percent increase in TEUs, the moderate growth yields 60 percent increase, and the strong growth yields 100 percent growth in TEUs. As noted above, the traffic volume forecasts show 62 percent growth in traffic volumes between 2020 and 2040 which is consistent with the moderate growth forecasts in the Tioga Report.

As noted in Comment A-12-20, the proposed development of a dry-bulk terminal at Berths 20-22 would displace existing uses at that location. Just as the Draft EIR cannot speculate as to where existing tenants at Howard Terminal would relocate, it cannot speculate where existing users of Berths 20-22 would relocate, and the likely outcomes are the same: tenants would relocate to elsewhere in the Seaport, the City, or the region. Nonetheless, p. 4.2-142 of the Draft EIR

[27] While focusing on terminals such as Howard Terminal, BCDC's May 2020 report to the Seaport Planning Advisory Committee makes this point on page 22: "The Draft Cargo Forecast estimates total Bay Area cargo flows and terminal land productivities to project how much land would be required to accommodate future cargo needs. Tioga did not attempt to optimize terminal use or assignments…."

provides a conservative analysis of potential cumulative health risks associated with the change of use at the Berths 20-22 site to accommodate the Eagle Rock Aggregates Oakland Terminal Project. This analysis is provided in response to a request by BAAQMD prior to publication of the Draft EIR and is conservative because emissions from Port of Oakland activities were included in BAAQMD's health risk modelling for the WOCAP via use of an aggressive growth rate of 5 percent per year (which is significantly greater than the Tioga Group's strong growth forecast of 3.2 percent per year). As discussed on p. 4.2-60 of the Draft EIR, data from the WOCAP analysis was used in the Draft EIR's evaluation of cumulative health risk impacts.

4.5.8 Potential Impacts on Port Operations

A number of commenters suggest that displacing truck parking/container depot and container storage and staging from Howard Terminal would have an impact on Port operations as a whole (Comment O-34-4), pointing out that the trucks that serve the Port are a "major factor in Oakland's economy" (Comment I-183-1), and requesting that the EIR consider "what will happen to the 3,200 trucks that currently use Howard Terminal as a staging area" (Comment I-260-6). They state that "The importance of this activity, and continued access to the Port for maritime-related commerce, heavy industrial uses and transportation-related purposes, cannot be overstated. For example, the Draft EIR estimates that as of October 2018, approximately 3,000 drayage trucks are in daily operation, making one or more trips to and from the Seaport (Draft EIR, p. 4.15-45). However, the Project would remove all access to the Howard Terminal for trucks to park, plan efficient trips, store containers, and avoid queuing and idling on local streets and freeways…" (Comment O-27-15). Other commenters suggest impacts due to displacement of lay-berthing of vessels (for example Comment O-41-7).

CEQA does not require an analysis of parking, traffic congestion (e.g., intersection Level of Service or LOS), commercial business displacement or other economic issues except to the extent that these issues may result in secondary environmental impacts, and the EIR correctly states that existing uses at Howard Terminal would be displaced by development of the proposed project and that the analysis therefore assumes that existing uses would move.[28] The analysis correctly notes that the location to which the uses would move is unknown, except to the extent that some may be accommodated in areas reserved for truck parking in Seaport and the OAB. Other tenants and ABM customers would have to relocate to areas of the city and/or the region where the uses are permitted under local zoning regulations, or would have to otherwise change their operations to access Port terminals without stopping or staging at Howard Terminal.

Furthermore, the comments fail to note that truck operations at Howard Terminal represent only a small percentage of Port activities, and users of Howard Terminal are effectively stopping there on their way to one of the Port's four active terminals. As noted earlier, the EIR appropriately avoids speculating regarding the location to which displaced commercial tenants would relocate, and analyzes resulting physical environmental impacts to the extent feasible, relying on

[28] Public Resources Code Section 21099(b)(2) indicates that traffic congestion shall not be considered environmental impacts for purposes of CEQA, and Section 21099(d)(1) indicates that parking shall not be considered significant environmental impacts when sites are within Transit Priority Areas (which applies to Howard Terminal). Section 15131 of the State CEQA Guidelines indicates that economic or social impacts "shall not be treated as significant effects on the environment."

reasonable assumptions and available evidence. Commenters have not provided additional substantial evidence that refutes the EIR's assumptions or analytical methods.

Some commenters suggest that the displacement of current uses from Howard Terminal (including truck-related activities, vessel berthing for maintenance and storage, and others) could affect Port operations generally; these operational concerns are a non-CEQA issue for consideration by the Port Commission and the City Council at the time they consider project-related approval actions. To the extent these commenters assert these issues raise a fundamental land use conflict, please see Section 4.4 for a response to comments regarding Land Use Compatibility and the Draft EIR's analysis of potential fundamental land use conflicts. Moreover, as noted above, to the extent that the potential secondary impacts of tenant displacement can be estimated, they are included in the analysis of TAC emissions and resulting health risks (Impact AIR-4). Also, because this impact is identified as potentially significant, mitigation measures are included to reduce emissions to less than significant (in the case of Impact AIR-4) or to the extent feasible (in the case of Impact AIR-2.CU).

4.6 Rail Safety, Grade Crossing, and Grade Separation

Comments Addressed: A-3-12, A-4-1, A-6-1, A-6-2, A-6-3, A-6-4, A-6-5, A-6-6, A-6-14, A-8-1, A-8-2, A-8-3, A-8-4, A-8-5, A-8-6, A-8-7, A-8-10, A-8-11, A-8-12, A-8-13, A-8-15, A-8-16, A-8-17, A-8-18, A-13-5, A-14-14, A-16-4, O-8-2, O-16-1, O-16-2, O-16-3, O-22-1, O-22-2, O-22-3, O-22-4, O-22-5, O-23-1, O-27-71, O-29-71, O29-2-6, O29-2-8, O-30-5, O-31-1, O-31-2, O-31-3, O-31-4, O-31-5, O-31-6, O-31-7, O-31-8, O-31-9, O-31-10, O-31-11, O-31-12, O-32-3, O-34-7, O-39-3, O-41-3, O-41-10, O-43-2, O-43-3, O-45-24, O-46-10, O-46-11, O-47-3, O-47-22, O-48-1, O-48-2, O-48-3, O-48-4, O-48-6, O-48-7, O-48-8, O-48-15, O-48-24, O-48-31, O-48-34, O-48-44, O-48-45, O-57-74, O-57-80, O-57-82, O-60-1, O-60-2, O-62-56, O-63-7, O-64-1, I-2-2, I-8-3, I-26-1, I-26-2, I-30-1, I-32-1, I-43-1, I-52-1, I-59-1, I-59-2, I-59-3, I-71-1, I-72-2, I-73-1, I-74-1, I-75-1, I-77-1, I-78-1, I-79-1, I-80-1, I-81-1, I-83-1, I-87-1, I-88-1, I-89-1, I-94-1, I-98-1, I-99-1, I-100-1, I-101-1, I-102-1, I-103-1, I-104-2, I-105-2, I-107-1, I-108-1, I-109-1, I-110-2, I-111-2, I-111-4, I-112-1, I-113-1, I-114-1, I-115-1, I-117-2, I-117-3, I-117-5, I-118-4, I-118-5, I-118-6, I-119-2, I-120-1, I-121-1, I-122-1, I-122-3, I-124-2, I-126-1, I-128-2, I-129-1, I-130-1, I-131-1, I-133-1, I-134-1, I-135-2, I-136-2, I-137-2, I-138-1, I-139-1, I-140-3, I-142-2, I-143-1, I-146-2, I-147-1, I-148-2, I-148-3, I-156-3, I-176-5, I-177-1, I-180-1, I-181-1, I-186-1, I-187-1, I-194-1, I-194-2, I-197-1, I-198-1, I-207-2, I-210-1, I-211-1, I-211-2, I-214-1, I-217-1, I-219-1, I-220-1, I-227-1, I-232-1, I-233-1, I-239-1, I-243-17, I-243-23, I-243-33, I-249-1, I-254-1, I-260-7, I-266-1, I-268-4, I-273-2, I-275-2, I-277-2, I-279-2, I-281-2, I-281-3, I-281-4, I-281-5, I-281-6, I-281-7, I-281-8, I-281-9, I-281-10, I-283-2, I-284-1, I-288-2, I-307-28, I307-2-3, I311-1-19, I311-2-20, I311-4-24, I311-4-26, I311-4-33, I311-7-1, I311-7-2, I311-7-3, I311-7-10, I311-7-24, I311-7-28, I311-7-30, I-324-1, I-327-3, I332-1-1, I-334-10, I-334-15, I-334-17, I-334-20, I-334-24, I-335-6, I-338-2, H2-1-4, H2-1-25, H2-2-10, H2-2-12, H2-2-21, H2-2-22, H2-2-26, H2-2-45, H2-2-50, H2-2-77, H2-3-45, and H2-3-79.

Many commenters express concerns about the adequacy of the proposed mitigation measures to address the effects of the adjacent at-grade rail lines on the additional demand for access to the

site generated by the Project. A few commenters underscore the increased collision risk for all road users along the at-grade crossings in the vicinity of the Project given that drivers, pedestrians, and bicyclists alike will need to cross the railroad tracks adjacent to Howard Terminal to access and leave the Project site.

Additionally, some comments address the consequences of potential collisions on train operations, causing significant delays. Some commenters also mischaracterize the Draft EIR analysis, stating that the Draft EIR fails to reflect the "unpredictable, complex, and dynamic nature of UP's freight train movements and operations" (Comment O-48-2) and that the EIR wrongly "presents a far different picture of predictable and static freight train operations having minimal impact on vehicle traffic and vehicle and pedestrian safety" (Comment O-48-2). One commenter offers that the "DEIR fails to address major issues regarding . . . safety of pedestrians and vehicles crossing heavily trafficked rail tracks to enter and leave the Ball Park Complex" (Comment I-243-1).

Of particular concern to many commenters is that mitigation measures outlined in Mitigation Measure TRANS-3a do not extend to the railroad crossings along Embarcadero West on Franklin Street, Webster Street, and Oak Street. One commenter points out that the area around these three crossings "has a high density of entertainment venues, restaurants, parking areas and residences that will generate significant game-day increases in pedestrian, bicycle, and scooter travel at these crossing locations" (Comment I-147-1). Another commenter suggests that "omitting Franklin, Webster and Oak crossings would be doing a 'half job' and leaving the door open to many potential safety issues" (Comment I-59-1).

The City is fully cognizant of conditions and concerns related to the safety of the at-grade railroad crossings adjacent to the Project. As discussed in this Consolidated Response, the Draft EIR describes the mitigation measures to reduce the impact of additional demand the Project would generate crossing the railroad tracks and contains an analysis of potential impacts that is consistent with CEQA requirements. Where appropriate, the Final EIR makes modifications and clarifications to the information in the Draft EIR and provides additional information to support its determinations. These issues and the adequacy of the Draft EIR are discussed further in the following five subsections. In addition, Consolidated Response 4.9, *Alternative 3: The Proposed Project with Grade Separation Alternative*, provides responses to comments regarding the Draft EIR's analysis of an alternative to the Project that would include a vehicular grade separation. Consistent with CEQA Guidelines Section 15091 (Findings), Project decision makers will consider possible adoption of alternatives and mitigation when they consider Project approvals.

4.6.1 Feasibility of Roadway Grade Separation

There were many comments relating to the safety of at-grade crossings present in the vicinity of the Project and requesting a grade-separated corridor. "At-grade railroad crossings, even with the best grade crossing improvements, will be inadequate to mitigate the safety hazards. We strongly urge the City of Oakland to work with the Project Sponsor to evaluate the feasibility of a combination of grade separation and permanent closures for all railroad crossings near or adjacent to the Waterfront Ballpark District" (Comment A-8-18). Additionally, a commenter offers that

the "DEIR's efforts to study grade-separated overcrossings at Market Street and Brush Street for vehicle-only use are inadequate as presented, and without a combination of grade-separation for all ground transportation modes and permanent closures at the nearby crossings, the Project would be imprudent" (Comment A-4-1). Others claim that the Final EIR "must consider a far broader range of mitigation measures" (Comment A-8-5) and request grade separations for all ground transportation modes at each of the five railroad crossings.

The Draft EIR analyzed grade separation through various technical studies, including a study by BKF Engineers that is part of the Administrative Record.[29] That study focused on utility and property access impacts for two grade separation alignments, one along Market Street and the other along Brush Street. This section of the Consolidated Response addresses all the comments regarding grade separation by outlining the analysis and conclusions of the latest BKF Engineers' *Howard Terminal Grade Separation Alternatives Feasibility Study,* July 9, 2021 (BKF study), which has been reviewed by Fehr & Peers. (Readers are also directed to Section 4.9 for a Consolidated Response to comments regarding grade separation alternatives.) The BKF study was developed with an expanded scope from the previous study to evaluate "how to best connect the Project's proposed development to the existing transportation network and develop feasible alignments for increasing vehicle connectivity, managing vehicle travel, and reducing possible vehicle delay caused by trains traveling along the UPRR corridor."[30]

4.6.1.1 Grade-Separated Alignments Considered

The BKF study considered nine grade-separated alignments: Adeline Street, Chestnut Street, Linden Street, Filbert Street, Myrtle Street, Market Street, Brush Street, Jefferson Street, and Clay Street. These alignments were evaluated and scored using criteria such as right-of-way and utility impacts, circulation, and traffic impacts on the existing network. Based on this scoring, the Market Street and Brush Street alignments were considered the most feasible options because they provide northerly connections to key destinations within the city, while having the least impact on existing properties and land uses. Both Market Street and Brush Street have more limited utility impacts and traffic impacts on existing circulation patterns than the other alignments because both streets connect through to northerly connections in Oakland.

This conclusion is consistent with Alternative 3: The Proposed Project with Grade Separation Alternative as specified in the Draft EIR (p. 6-21). This alternative identifies Market Street and Brush Street as the two potential locations for a grade-separated vehicular crossing. The Draft EIR identified the acquisition of privately and publicly owned properties and substantial utility relocations as constraints for the implementation of this alternative, and provided an analysis of impacts (and benefits) of this alternative sufficient to inform the City's decision whether to adopt and implement this alternative in lieu of the Project. For more information, please see Consolidated Response 4.9, *Alternative 3: The Proposed Project with Grade Separation Alternative.*

[29] BKF Engineers, 2019. *Howard Terminal – Railroad Grade Separation Alternative – Market and Brush Streets*, August 9, 2019.

[30] BKF Engineers, 2021. *Howard Terminal Grade Separation Alternatives Feasibility Study,* July 9, 2021.

4.6.1.2 Providing Multiple Grade Separation

According to the BKF study, the primary constraints for both the Market Street and Brush Street corridors are their intersections with 3rd Street where traffic signals and left-turn lanes would be required to handle the increased traffic loads. If all at-grade crossings were closed, two grade-separated crossings would need to be provided to serve the Project because the existing roadway network, including 3rd Street and the streets north of 3rd Street, do not have enough lanes to handle all vehicle traffic along a single corridor. Nevertheless, two grade-separated structures would not be feasible, given the property access constraints and right-of-way impact summarized below. The most feasible overpass alignments, Brush Street and Market Street, both converge on Embarcadero West; therefore, only one overpass can be constructed along the Embarcadero West alignment while the second overpass would need to encroach into the Project site, altering its street circulation and land use access (also see Section 4.9 for a Consolidated Response to comments regarding grade separation alternatives). Additionally, two grade-separated structures would require more extensive right-of-way acquisition, i.e., right-of-way acquisition along two corridors with two crossings versus one corridor with one crossing. Two crossings would also land-lock two parcels located between Market and Brush Streets, making them undevelopable, because these parcels would not have access to the public street. Therefore, the BKF Study concludes that constructing both alignments is considered infeasible.

The BKF study concludes that the grade separation of all at-grade railroad crossings along Embarcadero West is infeasible. If all at-grade crossings were closed, at least two grade-separated crossings would be required to accommodate the Project's traffic both without and with a ballpark event. This is because the existing roadway network, north of the project site, does not have enough lanes to handle all the project's vehicle traffic along a single corridor. However, as noted in the BKF study, two grade-separated structures would not be feasible, given the property access constraints, right-of-way impacts, and compounding effects of the costs on the Project. By extension, grade-separating more than two crossings would also be infeasible. Therefore, maintaining at-grade crossings will be required.

The decision makers will need to make findings on the feasibility of grade separation alternatives or mitigation measures as part of its approval of the project based on the record as a whole. The record will include all evidence submitted as part of the project processing, including public comments. Based on the evidence in the record as a whole, the decision makers will make findings on the feasibility of grade separation alternatives or mitigation measures.

4.6.2 Geographic Scope of Rail Safety Improvements

A number of commenters ask why the railroad crossings along Embarcadero West at Franklin Street, Webster Street, and Oak Street were excluded from the analysis (see Comments I-26-1, I-26-2, and I-43-1) and suggest that these crossings would "benefit from the same safety measures proposed at the adjacent crossings" (Comment I-43-1). One commenter offers that "omitting Franklin, Webster and Oak crossings would be doing a 'half job' and leaving the door open to many potential safety issues" (Comment I-59-1). Another commenter points out that "game attendees arriving on Amtrak or from Lake Merritt BART or driving from the south may need to go across one of the 3 crossings not included in the plan" (Comment I-117-2). Commenters furthermore

highlight that "this project, as proposed, could create significant safety hazards for pedestrian, vehicle and bicycle traffic crossing active railroad tracks in order to access the site" (Comment O-60-1). Commenters additionally express that "for pedestrians arriving at Lake Merritt BART, or returning from the Project to that same BART station, the walking route along Oak Street through [Jack London] District would pass dozens of restaurants, bars and entertainment venues between Lake Merritt BART and the Project, especially along Water Street" (Comment O-22-2). Destinations along Jack London District "can be expected to try to capitalize on game day activity by staging, and advertising, post-game promotions. Those promotions will undoubtedly make the route through the District at least as desirable as the route along 8th street" (Comment O-22-2). The comment further states that while wayfinding measures are intended to direct foot traffic through Chinatown, some pedestrians will choose to walk through the Jack London District instead.

As noted on p. 4.15-88 of the Draft EIR, the Project would generate additional pedestrian demands to nearby transit stops, particularly during ballpark events. Additionally, people walking from the Lake Merritt BART station would use 8th Street to Broadway or Washington Street. Pedestrian routing through 8th Street was identified in the Draft EIR because of the high quantity of points of interest that would be open around game hours and would benefit from the increased patronage. Additionally, 8th Street was identified as having planned pedestrian improvements in several plans reviewed (pp. 4.15-62 through p. 4-15-79), which would further encourage pedestrian usage.

A closer comparison of the pedestrian routes to and from the Lake Merritt BART station highlighted in the Draft EIR and those mentioned in the comments found that there are many more points of attraction along the proposed pedestrian route along 8th Street and Broadway to the Project during the hours of a typical ballpark event than there are along the alternative routes suggested by commenters (Comment O-22-2). The 22-minute-long pedestrian route identified in the Draft EIR that goes through Chinatown along 8th Street, Broadway, and Embarcadero West between the Lake Merritt BART station and the Project site has up to 19 businesses that are open before, during, and after a typical ballpark event. Some of the alternative suggested routes lead pedestrians through the Jack London District's Water Street to the Project, guiding them from the Lake Merritt BART Station down Oak Street and Embarcadero West, or down Oak Street, 4th Street, and Webster Street. These alternative routes, such as down Oak Street and 4th Street, have up to 11 businesses open during a typical ballpark event, fewer than the route via 8th Street highlighted in the Draft EIR.

Some comments suggest that the walk on Oak Street might be more pleasant than the walk taking pedestrians through Chinatown, but a review of Oak Street to Embarcadero West shows fewer active frontages and fewer people walking. The stroll through Chinatown, however, offers many active businesses, including late-night restaurants, cafes, and dessert shops, improving pedestrian comfort and safety—i.e., providing more eyes on the street during both midday and evening ballpark events.

The Draft EIR under Mitigation Measure TRANS-3a proposes the following at-grade railroad crossing improvements, among other elements (Draft EIR p. 4.15-236):

- Install fencing along both sides of the railroad corridor extending along the Project site's frontage starting at the Schnitzer Steel boundary and continuing to Oak Street.

- Upgrade the existing at-grade railroad crossings at Market Street, Martin Luther King Jr. Way, Clay Street, Washington Street, Broadway, Franklin Street, Webster Street, and Oak Street with features like quad gates for motor vehicles and separate signals and gates for pedestrians and bicyclists. Provide improved pedestrian and bicycle surfaces at each crossing and clearly defined staging areas for pedestrians and bicyclists to wait as a train passes by. The final suite of at-grade crossing improvements will be established through the GO 88-B Request (Authorization to Alter Highway Rail Crossings).

Additionally, it states that "the Project sponsor shall install at-grade railroad crossing improvements including fencing and railroad crossing features to enhance multimodal safety along and across the railroad tracks including elements that would facilitate a Quiet Zone (if pursued by others) designation through Jack London District."

The Draft EIR appropriately identified the walking route with the greatest concentration of businesses between the Lake Merritt BART station and the Project site, making recommendations (Draft EIR Mitigation Measure TRANS-1e) to improve sidewalk features and provide wayfinding along the route. The City recognizes that Mitigation Measure TRANS-1b would implement a Transportation Management Plan to manage transportation systems before, during, and after ballpark events. The TMP would outline improvements and operational strategies to optimize access to and from the ballpark within the constraints inherent in a large public event, while minimizing disruption to existing land uses and communities.

The TMP considers the travel characteristics of ballpark attendees, workers, and all other visitors to the ballpark site. Its primary goal is to ensure safe and efficient access for all people traveling to and from the site, with a focus on promoting pedestrian, bicycle, and transit access, thereby reducing vehicular impacts on the site and surrounding neighborhoods. The TMP would be a living document and amended periodically by the Project sponsor, in consultation with the City and the Port, and with input from key stakeholders including neighborhood and community groups. The City would approve all amendments to the TMP before they are implemented.

Through the analysis conducted for the DEIR the most desirable corridors for walking between the BART stations and the ballpark were identified, one of which included the 8th Street corridor through Chinatown connecting the Lake Merritt BART station with the ballpark via Broadway and Water Street. The City appreciates the comments about the Jack London District; the commenters' desire for ballpark attendees to walk through the Jack London District between the Lake Merritt BART station and the Project site; and the associated rail safety at the at-grade railroad crossings along Embarcadero West at Franklin Street, Webster Street, and Oak Street. In response to these comments and suggestions, Mitigation Measure TRANS-3a on p. 4.15-236 of the Draft EIR has been expanded and updated as follows, including the addition of safety features at the at-grade railroad crossings along Embarcadero West at Franklin Street, Webster Street, and Oak Street (additions are underlined and deletions are ~~crossed out~~):

> **Mitigation Measure TRANS-3a: Implement At-Grade Railroad Crossing Improvements.**
>
> Subject to obtaining necessary approvals from CPUC and other responsible agencies, the Project sponsor shall install at-grade railroad crossing improvements including fencing and railroad crossing features to enhance multimodal safety along and across the railroad

tracks including elements that would facilitate a Quiet Zone (if pursued by others) designation through Jack London District. The mitigation measure would substantially improve safety along the railroad corridor and shall include the measures like those listed below.

- Install fencing along both sides of the railroad corridor extending along the Project site's frontage starting at the Schnitzer Steel boundary and continuing to ~~Broadway~~ Oak Street. This change would alter Embarcadero West circulation as follows:

  - Between Market Street and Schnitzer Steel Embarcadero West would remain two-way with a signalized intersection at Market Street.

  - Between Market Street and Martin Luther King Jr. Way the street would be abandoned such that there would no longer be a motor vehicle intersection at Martin Luther King Jr. Way.

  - Between Jefferson and Webster Streets Embarcadero West on the north side of the active UPRR tracks would remain as a public street with forced right turns at intersecting streets if the fence line separating the railroad tracks and Embarcadero would be offset from the active track by approximately 10 feet.

  - The portion of Embarcadero that is south of the active UPRR tracks and between Martin Luther King Jr. Way to ~~Washington Street (and potentially to~~ Broadway or Oak Street) would be physically separated from the railroad tracks by a fence. A multi-use path would be constructed between Martin Luther King Jr. Way and Jefferson Street and between Clay Street and Washington Street (and potentially to Broadway) ~~to accommodate a multi-use path~~. The multi-use path would replace the vehicle street that exists today (emergency vehicles would be accommodated to the extent feasible). The fence line separating the railroad tracks and Embarcadero would be offset from the active track or third track by approximately 10 feet, or the minimum allowable by UPRR and/or the CPUC. The multi-use path would be up to 30 feet wide between the fence and the existing buildings if the fence is offset from the active track. The portion of Embarcadero between Washington Street and Broadway and potentially Oak Street could also accommodate a multi-use path between the fence and the existing buildings, to the extent feasible, if the existing 12-foot wide vehicle lane were combined with the 8-foot wide sidewalk. The portion of Embarcadero between Jefferson and Clay Streets would remain a vehicle access with sidewalk serving the Vistra Power Plant where bicyclists would share the street with motor vehicle traffic. ~~On the north side of the railroad Embarcadero West would remain one-way westbound with forced right turns at Jefferson, Clay, and Washington Streets as well as at Broadway. Vehicle access to the Vistra Plant could be via an extension of Water Street at Clay Street or driveway easement and used infrequently solely for site access.~~

    The portion of Embarcadero that is south of the active UPRR tracks and between Broadway and Webster Street would be physically separated from the railroad tracks by a fence. The fence line separating the railroad tracks and Embarcadero would be offset from the active track or third track by approximately 10 feet, or the minimum allowable by UPRR and/or CPUC. If offset from the active track, the remaining width between the fence and the sidewalk would be used as a service access and emergency vehicle route. If offset from the third track, there

would be no width for a service access or emergency vehicle route serving the Jack London Square businesses along the south side of Embarcadero West between Broadway and Webster Street.

- Upgrade the existing at-grade railroad crossings at Market Street, Martin Luther King Jr. Way, Clay Street, Washington Street, ~~and~~ Broadway, Franklin Street, Webster Street, and Oak Street with features like quad gates for motor vehicles and separate signals and gates for pedestrians and bicyclists. Provide improved pedestrian and bicycle surfaces at each crossing and clearly defined staging areas for pedestrians and bicyclists to wait as a train passes by.

- Install a traffic signal at the Market Street at-grade crossing and its intersection with Embarcadero West as well as a traffic signal on Market Street at 3rd Street. These signals would be part of the railroad preemption system[25] and include queue cutter loops[26] on Market Street that would be tied to both traffic signals to minimize the potential for motor vehicles to queue across the railroad tracks. Also, install blankout turn restriction signs for the eastbound right turn and the westbound left turn at 3rd Street that are activated during railroad preemption.

- While there is no motor vehicle intersection at the Martin Luther King Jr. Way at-grade crossing, install a traffic signal at the at-grade crossing as well as traffic signals at 2nd Street where left turns would be prohibited and at 3rd Street where a left-turn lane would be provided to separate left turning and through movement traffic. These signals would be part of the railroad preemption system and include a queue cutter loop on Martin Luther King Jr. Way that would be tied to all three traffic signals to minimize the potential for motor vehicles to queue across the railroad tracks. Also, install blankout turn restriction signs for the eastbound right turn and the westbound left turn at 3rd Street that are activated during railroad preemption.

  The Project sponsor shall be responsible for undertaking the necessary Diagnostic Study based, in part, on the suite of improvements described above and coordinating with the City, CPUC and affected railroads and obtaining all necessary permits/approvals, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings), and constructing the at-grade improvements prior to opening day of the ballpark. The final suite of at-grade crossing improvements shall be established through the GO 88-B Request.

With Mitigation Measure TRANS-3a as modified, Impact TRANS-3 would continue to be significant and unavoidable. Another commenter offers that "even with the proposed mitigation measures, the hazard would be significant and unavoidable" (Comment A-8-1). They further state that "for a project of this scale and importance, this level of transportation safety risk […] should be unacceptable to the City of Oakland" and that "efforts to mitigate transportation hazards related to the crossings must go above and beyond […] in order to reduce significant and unavoidable impacts to railroad safety, but that is not what is shown in this DEIR" (Comment A-8-1).

As explained in the Draft EIR, even with the implementation of the safety enhancements outlined in Mitigation Measure TRANS-3a, "some travelers to and from the site would continue to use at-grade crossings at the numerous crossing locations along Embarcadero West." Additionally, these improvements are "subject to the review and approval of another agency," and therefore cannot be guaranteed. Therefore, the impact would remain significant and unavoidable.

4.6.3 Union Pacific Railroad's Train Crossings and Double Threats

UPRR submitted an "hour-by-hour scatter plot of UP's signal activation data depicting both UP freight trains and passenger trains occupying Embarcadero West intersections between Market Street and Martin Luther King Jr. Way during the two-month period January 1 to February 29, 2020" (Comment O-48-2). The commenter underscores that of particular interest is not only "the sheer number of trains occupying these intersections throughout each day, but also the unpredictable, complex, and dynamic nature of UP's freight train movements and operations which have no discernible pattern" (Comment O-48-2). Additionally, they offer that "the DEIR presents a far different picture of predictable and static freight train operations having minimal impact on vehicle traffic and vehicle and pedestrian safety" (Comment O-48-2) and state that "nothing could be further from the truth" (Comment O-48-2).

The additional data provided by UPRR regarding train operations is consistent with the data that was used in preparing the Draft EIR and does not alter its conclusions. The data cover a two-month period in 2020 (pre-COVID-19) and are consistent with the data presented in the Draft EIR representing the week of July 22–July 28, 2019. Draft EIR data were for a 12-hour period of 11 a.m. to 11 p.m., corresponding to likely event start and end times. **Table 4.6-1** summarizes the data provided in the Draft EIR and provided by UPRR. Weekday- and weekend-average train crossings identified in the Draft EIR during this time (12-hour period of 11 a.m. to 11 p.m.) align with the data provided by UPRR. According to the UPRR data, about 60 percent of all train crossings occur during the observed 12-hour period, the busiest period of the day (**Table 4.6-2**). Finally, UPRR's data do not include gate downtimes at the crossings; therefore, the Draft EIR provides more information than what was submitted by UPPR.

TABLE 4.6-1
COMPARISON OF AVERAGE DAILY TRAINS CROSSING DATA FOR EMBARCADERO WEST AND MARKET STREET BETWEEN 11 A.M. AND 11 P.M.

Period	Draft EIR	Union Pacific Railroad (Comment O-48-2)
Weekday	43	42
Weekend	38	39

TABLE 4.6-2
DAILY 12-HOUR AND DAILY TRAINS CROSSING DATA FOR EMBARCADERO WEST AND MARKET STREET

Period	11 a.m.–11 p.m.	11 p.m.–11 a.m.	Daily	Percentage of Daily Train Crossings (11 a.m.–11 p.m.)
Weekday	42	28	70	60%
Weekend	39	21	60	66%

UPRR provided data (Comment O-48-2) for the period from January 1 to February 29, 2020.

The commenter is incorrect in stating that the Draft EIR presents predictable and static freight train operations. See Draft EIR Table 4.15-9 and Figure 4.15-12, which illustrate the variable nature of gate downtimes attributable to train activity at Market Street and Martin Luther King Jr. Way. For example, gate downtimes at the Martin Luther King Jr. Way crossing to accommodate freight trains range from less than one minute to 19 minutes. This variability is not predictable or static as suggested by the commenter.

One comment (O29-2-8) notes the maximum observed gate down time of 87 minutes (Draft EIR p. 4.15-39) and states that there is no evidence that this event is a rare occurrence. The comment also states that this specific gate downtime event was not evaluated against ballpark attendees leaving an event. The Draft EIR incorporates the 87-minute gate downtime at Market Street into the analysis of gate downtimes both in Table 4.15-9 which establishes the minimum, median, and maximum gate down times as well as on Figure 4.15-12 establishing the gate downtime variability observed during the one-week data collection period. This information was then used to address Impact TRANS-3, the resulting Mitigation Measure TRANS-3a and 3b, and the conclusion that the Impact TRANS-3 is significant and unavoidable (pp. 4.15-233 through 240).

As described in the Draft EIR (p. 4.15-39) the Market Street railroad crossing was blocked for 87 minutes and during that time the crossing at Martin Luther King Jr. Way was blocked for 29 minutes across eight down times, with the longest being 16 minutes. As noted on Draft EIR p. 4.15-234 the Project's employees, residents, and visitors who drove would not be able to exit the site during times when both the Market Street and Martin Luther King Jr. Way at-grade crossings are blocked by a train. As a result, during an 87-minute gate downtime ballpark attendees leaving an event who drove and parked on-site would remain on-site because they would be unable to leave the site by car. Attendees walking and bicycling across the railroad tracks would be inconvenienced leaving the site because they could not cross at either Market Street or Martin Luther King Jr. Way. But people walking and bicycling would have several options including: Clay Street, Washington Street, Broadway, Franklin Street, and Webster Street as well as via the pedestrian and bicycle bridge (see Mitigation Measure TRANS-3b) noted by the commenter. Grade separation would be required for ballpark attendees who drove and parked on-site to exit the site if both crossings were blocked. To provide clarification to Impact TRANS 3 the text on Draft EIR p. 4.15-234 is revised as follows:

> There were six instances during the week when the gates were down at both crossings for freight trains with the longest being about 19 minutes and the shortest being about 7 minutes. Site employees, residents, and visitors <u>who drove</u> would not be able to exit the site <u>via their car</u> during times when both the Market Street and Martin Luther King Jr. Way at-grade crossings are blocked by a train. <u>Grade separation would allow site employees, residents, and visitors who drove to exit the site via their car when both at-grade crossings are blocked.</u> However, the EVA connecting the site with Middle Harbor Road at Adeline Street would provide emergency access when needed.

Another concern regarding train crossings revolves around the risk of a double threat. As noted by a commenter, "trains in this corridor travel both east and west, creating the risk of a 'two-train scenario,' where a pedestrian (or vehicle) attempts to cross tracks occupied by a train, only to

encounter a second train traveling in the opposite direction. If unaware of the second train, the pedestrian or driver may be struck and killed by that second train" (Comment O-48-6). A commenter suggests that "even though freight trains have variable schedules, the potential simultaneous blockage of multiple grade crossings should be accounted for in crossing volume analyses" (Comment A-8-13). Furthermore, another commenter suggests that "the DEIR should analyze the risk of multiple trains occupying the same crossing and causing a second train incident with pedestrian" (Comment A-6-6).

Based on data collected for the Draft EIR, these double threats occurred in about 4 percent of all gate-down instances, about 2.5 times per day. Measures included in Mitigation Measure TRANS-3a, such as quad gates, pedestrian gates, and fencing, are intended to minimize collisions associated with double threats by discouraging all road users from crossing when the gates are down. Information regarding double threats, while informative, does not represent new information that raises a new CEQA issue not addressed in the Draft EIR and the mitigation measure addresses these situations by deterring people from crossing the railroad tracks when the gates are down.

The City appreciates these comments regarding the risk of double threats at the at-grade railroad crossings along Embarcadero West. In response to these comments and suggestions, p. 4.15-39 of the Draft EIR has been expanded and updated as follows (additions are <u>underlined</u> and deletions are ~~crossed out~~):

> There were six instances during the week when the gates were down at both crossings for freight trains, with the longest being about 19 minutes and the shortest being about 7 minutes. <u>Instances where both tracks were occupied by either freight or passenger trains occur about 4 percent of all gate-down instances, about two to three times a day.</u>

The revision to Mitigation Measure TRANS-3a would also apply to double threats referenced by the comments.

4.6.4 Safety Impacts of Additional Demand

Many commenters expressed their concerns about the safety of "motorists, pedestrians, bicyclists, and other roadway users crossing the railroad tracks along Embarcadero West" (Comment A-4-1) and "the degree of pedestrian grade crossings," considered "unusual among Major League stadiums" (Comment A-3-12). One commenter "requests that the City thoroughly evaluate the potential for railroad crossing incidents on both passenger and freight rail operations in the area" (Comment A-4-1). Some comments that summarize concerns regarding the safety of all road users are listed below.

- "When a freight train stops for an extended time, pedestrians do the craziest things and crawl under or climb over the train cars, not having any idea when it might start moving again." (Comment I-2-2)
- "Impatient individuals will climb between cars of a stopped freight train to get to the other side of the tracks." (Comment O-31-5)

- "Large gatherings of pedestrians attempting to cross railroad tracks are in danger, especially if impaired or impatiently seeking to reach an imminent baseball game or other event, or go home following a game." (Comment O-48-7)
- "Drivers of vehicles can be expected to try to outrun oncoming trains to reach a ball game or other Project destination to avoid being stuck on the wrong side of a stopped train. Such drivers also can be expected to drive through intersections controlled by signal gates." (Comment O-48-8)
- "The Howard Terminal development would drastically increase the volume of traffic crossing the railroad at-grade, in turn increasing risk of accidents." (Comment O-62-56)

The Federal Railroad Administration (FRA) updated its grade crossing Accident Prediction and Severity (APS) model (1986) in October 2020. FRA determined that the 2020 model "outperformed the APS, and its adoption would result in more accurate risk ranking of grade crossings, more rational allocation of resources for public safety improvements at grade crossings, and the ability to assess the statistical significance of variances in the measured risk at grade crossings."[31] This model serves as a Safety Performance Function[32] applicable to individual or aggregated crossings. The data used to develop the model correspond to public at-grade crossings across the United States. The following variables are shown to be statistically significant in the model:

- Average annual daily traffic
- Daily crossing trains
- Presence of lights as warning device
- Presence of gates as warning device
- Location type (urban or rural)
- Surface material (e.g., asphalt, concrete, timber)
- Maximum train speed
- Observed collisions in a five-year period

This model was used to quantify the additional collisions expected to occur because of the Project-related increase in volumes. The model uses daily motor vehicle crossings as one of the variables; however, volumes of vehicles, pedestrians, and bicycle riders were combined for purposes of evaluating the Project because the ballpark generates substantially more pedestrian and bicycle traffic compared to vehicles crossing the railroad tracks. Six scenarios were evaluated:

- Existing Conditions
- Existing Plus Full Buildout Non-Ballpark Development

[31] Federal Railroad Administration, 2020. *A New Model for Highway-Rail Grade Crossing Accident Prediction and Severity.* Final Report. DOT/FRA/ORD-20/40. Office of Research, Development, and Technology, Washington, DC. October 2020. Available at: https://railroads.dot.gov/sites/fra.dot.gov/files/2020-10/GX%20APS-A.pdf, accessed July 26, 2021.

[32] A mathematical relationship describing the collision frequency, and explanatory variables are used to estimate the expected number of collisions per year for a given location.

- Existing Plus Full Buildout Non-Ballpark Development with At-Grade Safety Improvements (Mitigation Measure TRANS-3a)
- Existing Plus Full Buildout Non-Ballpark Development Plus Game Day
- Existing Plus Full Buildout Non-Ballpark Development Plus Game Day with At-Grade Safety Improvements (Mitigation Measure TRANS-3a)
- Existing Plus Full Buildout Non-Ballpark Development Plus Game Day with At-Grade Safety Improvements (Mitigation Measure TRANS-3a) and with grade separation at Market Street (Alternative 3)

Table 4.6-3 summarizes the numbers of vehicular, pedestrian, and bicycle crossings.

The model includes safety measures present at the crossings, such as lighting warning devices or gates. However, it bundles dual and quad gates into a single variable. The model does not distinguish between intersections with dual gates and quad gates, although crossings with quad gates are expected to reduce collisions further compared to crossings with dual gates. Additionally, the model's focus on vehicular collisions excludes pedestrian gates from the gates as a warning device variable.

TABLE 4.6-3
TOTAL DAILY CROSSINGS FOR ALL MODES (VEHICLES, PEDESTRIANS, AND BICYCLES)

Railroad Crossing	Existing	Existing Plus Project	Existing Plus Project Plus Ballpark Event
Embarcadero West/Market Street	1,200	28,772	36,949
Embarcadero West/MLK Jr. Way	2,030	9,592	28,484
Embarcadero West/Clay Street	1,530	3,385	5,338
Embarcadero West/Washington Street	1,024	6,638	25,174
Embarcadero West/Broadway	2,587	5,573	16,815
Embarcadero West/Franklin Street	791	791	791
Embarcadero West/Webster Street	3,173	3,173	3,173
Embarcadero West/Oak Street	6,894	6,894	6,894
Total Crossings	19,229	64,818	123,618

NOTE: Volumes at Franklin, Webster, and Oak Streets obtained from the Quiet Zone Study. Draft EIR concluded that all Project railroad track crossings would occur at the Market Street, Martin Luther King Jr Way, Clay and Washington Streets, and Broadway.

The safety measure variables in the model are cumulative, which implies that each subsequent improvement encompasses the lower-level interventions. Therefore, the modeled scenarios with safety improvements consider lighting warning devices, quad gates, pedestrian gates, and fencing, all of which would be present at the crossings with the implementation of Mitigation Measure TRANS-3a. Given that neither a distinction between dual and quad gates nor pedestrian safety measures were considered in the development of the model, the model does not accurately provide a quantitative measure for how much further collisions would be reduced if Mitigation Measure TRANS-3a were fully deployed. To account for the extent of the impact that Mitigation

Measure TRANS-3a (Draft EIR p. 4.15-236) would have in the safety of the crossings, an additional safety variable was included in the model to incorporate pedestrian safety enhancements and differentiate between dual and quad gates.

Based on observed data from the model development, the inclusion of gates reduces the risk of collisions three-fold, when compared to lighting warning devices. Similarly, crossings with quad gates have about half the rate of accidents per 100 million exposure[33] than crossings with dual gates, according to the FRA report. The *Evaluation of the School Street Four-Quadrant Gate/In-Cab Signaling Grade Crossing System*,[34] a study developed by FRA, reported that railroad crossings with quad gates had a higher effectiveness at reducing the probability of a collision than crossings equipped with flashing lights, bells, and dual gates. The probability of collisions is reduced around 80 percent with quad gates. For the observed railroad crossings, the study found that quad gates eliminated the risk of vehicles traversing the grade crossing after the gates were fully deployed, as compared with dual gates.

The number of vehicles that opted to cross after the warning lights had begun flashing was significantly reduced. A collision reduction factor of 1.5 was used in the model as a conservative factor to account for both the implementation of quad gates and the full range of pedestrian safety enhancements outlined in Mitigation Measure TRANS-3a.

Additionally, to account for the increase in pedestrian volumes generated by the Project, during both game days and non–game days, volumes of pedestrians crossing the tracks and bicycle volumes were incorporated into the model. These values refer to average daily crossings for all modes of travel combined.

Table 4.6-4 shows the results of the model for the evaluated scenarios and considers vehicles, pedestrians, and bicycles crossing the railroad tracks. While the additional volume generated by the Project would increase the collision risk slightly for the corridor between Market and Oak Streets, the implementation of pedestrian, bicycle, and vehicle improvements at the crossings would simultaneously reduce the risk of collisions. The risk is expected to remain practically unchanged, even with additional crossing volumes, because the improvements would counteract the increased crossing demands.

The results in Table 4.6-4 track with the findings outlined in the model report.[35] The report states that "in general, accidents are rare and the (annualized) expected value of accidents at a crossing will be a real value between 0 and 1. A non-zero accident count will be larger in most cases than the expected value of accidents at a crossing, which reflects the fact that the observed count in a previous year is not expected to repeat frequently in subsequent years."

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33 Average annual daily traffic times average annual daily trains.

34 Federal Railroad Administration, 2007. *Evaluation of the School Street Four-Quadrant Gate/In-Cab Signaling Grade Crossing System.* DOT/FRA/ORD-07/09. Office of Research and Development, Washington, DC. Available at: https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/407/ord0709.pdf. Accessed July 26, 2021.

35 Federal Railroad Administration, 2020. *A New Model for Highway-Rail Grade Crossing Accident Prediction and Severity.* Final Report. DOT/FRA/ORD-20/40. Office of Research, Development, and Technology, Washington, DC. October 2020. Available at: https://railroads.dot.gov/sites/fra.dot.gov/files/2020-10/GX%20APS-A.pdf, accessed July 26, 2021.

TABLE 4.6-4
ANNUAL ESTIMATED EXPECTED COLLISIONS
BASED ON THE FEDERAL RAILROAD ADMINISTRATION'S
HIGHWAY RAIL CROSSING ACCIDENT PREDICTION AND SEVERITY MODEL

Scenario	Expected Annual Collisions at the Corridor Level
Existing Conditions (observed)	0.800
Existing Plus Full Buildout Non-Ballpark Development	0.832
Existing Plus Full Buildout Non-Ballpark Development with At-Grade Safety Improvements (Mitigation Measure TRANS-3a)	0.795
Existing Plus Full Buildout Non-Ballpark Development Plus Game Day	0.853
Existing Plus Full Buildout Non-Ballpark Development Plus Game Day with At-Grade Safety Improvements (Mitigation Measure TRANS-3a)	0.810
Existing Plus Full Buildout Non-Ballpark Development Plus Game Day with At-Grade Safety Improvements (Mitigation Measure TRANS-3a) with grade separation at Market Street (Alternative 3)	0.796

NOTES: "Corridor" refers to crossings along Embarcadero West from Market Street to Oak Street. "Expected Annual Collisions" includes all collisions including those involving vehicles, pedestrians, and bicyclists. Expected annual collisions are normalized to observed existing collisions.

This is also supported by the observed data. For crossings where accidents were reported (Martin Luther King Jr. Way, Washington Street, Broadway, and Franklin Street), there was only one observed count each over a five-year period and the annualized collisions in Table 4.6-4 were normalized to reflect the existing observations. If the observation period were extended for 10 years (2009–2019), which the model does not allow, only one additional collision on Webster Street would need to be added to the model inputs which translates to a decrease in the existing annual collisions for the corridor from 0.80 to 0.50.

The largest identified limitation of the model is that it is not highly sensitive to volume increases. Therefore, great increases in volumes, especially as the volume becomes larger, do not have a significant impact on the expected number of collisions. This can be explained as follows:

- Given that risk increases with exposure, the greater the exposure, the more likely it is that the crossing has an upgraded warning device. "Consequently, nearly all very low-exposure crossings have passive devices and nearly all very high-exposure crossings have gates."[36] All crossings near the Project site have been upgraded with gates as warning devices, the highest safety measure determined for the model. Therefore, the model becomes less sensitive to volume increases, given the presence of gates as warning devices, as observed in Figure 2-3.[37]

- The model was calibrated based on data for existing public at-grade crossings in the United States. The largest observed exposure value for existing crossings was slightly under 140,000. However, the analyzed scenarios that consider the volumes generated by the Project have exposures that range from 48,000 to 2.4 million when considering all travel modes. Models are typically not very good at predicting values outside the ranges of observed data; therefore, collision prediction rates at these levels of exposure should be considered less reliable.

36 Ibid.
37 Ibid.

Even with these limitations, FRA's 2020 updated APS model is the most updated and accurate tool to date to evaluate collisions at at-grade railroad crossings, and it fared better than its previous 1986 iteration when validated against observed data. Based on the results obtained from assessing the at-grade railroad crossings in the Project vicinity, when considering the combination of the Project's additional vehicular, pedestrian, and bicycle demand with the enhanced pedestrian and bicycle safety measures outlined in Mitigation Measure TRANS-3a, the risk of collisions at the assessed crossings is expected to remain similar to existing conditions at 0.810 versus 0.800, respectively.

An additional concern raised by commenters is that "a hypothetical incident in the railroad right-of-way in Jack London Square can cause hours-long delays to both passenger and freight trains, who share the use of the tracks, and the delays cascade across the greater railroad network area" (Comment A-8-17). However, based on the results yielded by the updated APS model, even considering the increase in crossing volumes, the enhanced safety measures outlined in Mitigation Measure TRANS-3a would offset the risk generated by the additional volume. Therefore, there would be no expected additional delays to freight and passenger railroad operations because of additional collisions.

4.6.5 Comparisons to Petco Park At-Grade Railroad Crossing

Several comments express concerns about the at-grade railroad crossing in the vicinity of Petco Park and its similarities with Howard Terminal's proposed ballpark. Petco Park is the ballpark for the San Diego Padres, located in San Diego, California. Comments underscore how patrons of Petco Park engage in risky behavior to get across the at-grade rail crossing train tracks, including climbing over or going under stopped train cars that temporarily block pedestrian access, and outrunning an approaching train to get across the crossing before the train blocks the intersection. Commenters have provided video evidence of pedestrians engaging in risky behavior, specifically along 5th Avenue at Petco Park. One commenter offers that "patrons of the San Diego's Petco Park can regularly be seen climbing over and under parked train cars that temporarily block pedestrian crossings in the vicinity of the downtown stadium" (Comment O-29-71). Another commenter notes that patrons "access the adjacent Petco Park by crawling underneath, between, and over a freight train that temporarily blocked the at-grade crossing" (Comment A-8-1). Many are concerned that this same scenario "could play out at any of the at-grade crossings adjacent to the Waterfront Ballpark if the Project is developed as presented in the DEIR" (Comment A-8-1).

Another commenter notes that the "DEIR does not adequately describe how the at-grade crossing improvements (quad gates with pedestrian and bicycle waiting areas, signal preemption systems and queue jumping system) will work effectively, especially for preventing pedestrian and bicycle incidents in a context of large volumes of crossings in a span of several hours" (Comment A-8-12).

The following discussion outlines the differences between Petco Park and Howard Terminal and describes how the elements listed in Mitigation Measure TRANS-3a would further enhance pedestrian safety along the crossings.

The railroad crossing in the vicinity of Petco Park is not comparable with the safety improvements outlined in the Draft EIR under Mitigation Measure TRANS-3a. While Petco Park and the Howard Terminal Project share some common characteristics, there are some fundamental differences in their design that set Howard Terminal apart, as summarized below:

- Petco Park's rail crossings do not currently have pedestrian gates that would prevent pedestrians from walking onto the tracks when a train is approaching. Howard Terminal's proposed railroad crossing would include pedestrian gates (see **Figure 4.6-1**, Image of Typical Pedestrian Gate with Fencing) that would close when a train is approaching and would remain closed until the train departs. This would prevent pedestrians from crossing the tracks at times when doing so would be deemed unsafe.

- Petco Park's fencing along the tracks does not extend all the way up to the vehicular gates. Therefore, when a train is approaching, there is an available gap between the fencing and the vehicular gates that allows pedestrians to cross the tracks. Howard Terminal's proposed railroad crossing would provide fencing that would extend to the pedestrian gates and would not leave a barrier gap through which pedestrians could walk when a train is approaching the crossing.

- Mitigation Measure TRANS-1b would implement a Transportation Management Plan. A draft TMP is provided in Draft EIR Appendix TRA.1. The draft TMP includes management strategies, including crowd control approaching the at-grade railroad crossings to ensure that adequate queue space would be available for pedestrians to wait during gate downtimes. Petco Park does not appear to have similar requirements based on the video submitted with the comment letters.

Petco Park has pedestrian fencing along the tracks that serves as a physical barrier to discourage pedestrians from climbing over the fence and crossing the tracks at locations other than the designated pedestrian crossings. However, several comments were raised about the efficacy of fencing:

- "Fencing is an imperfect barrier to prevent trespassing along the railroad right-of-way and will not prevent determined, disoriented, or distracted pedestrians and bicyclists from entering the railroad right-of-way from an at-grade crossing to attempt alternative routes for crossing the railroad tracks." (Comment A-8-10)

- "Fencing did not prevent those who were determined to get across the at-grade crossing from entering the railroad right-of-way and navigate around an active freight train that could move at any moment." (Comment A-8-1)

The submitted video documentation does not show people climbing over the fence but shows many people walking around the end of the fence, thereby demonstrating that the fencing serves its purpose of preventing pedestrians from crossing at non-designated crossing areas. Howard Terminal's proposed at-grade crossing would include similar fencing to guide pedestrians to cross at the designated pedestrian crossings.

SFO\170XXX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: FHWA Highway-Rail Crossing Handbook, Third Edition.
Image by Brian Gilleran, Federal Railroad Administration.

Oakland Waterfront Ballpark District Project

Figure 4.6-1
Image of Typical Pedestrian Gate and Fencing

ESA

Finally, Petco Park has been open since 2004. Even assuming it has operated under similar (or worse) design characteristics since opening day, only two train collisions have occurred at the 5th Avenue crossing depicted in the referenced video in the 17 years since Petco Park opened. Neither of these collisions involved pedestrians although one involved a pedi-cab. Given that Petco Park has fewer safety improvements than the Howard Terminal Project is proposing and that zero pedestrian collisions have occurred, even if, as commenters noted, "there is observed risky human behavior at the at-grade crossing," the commenters do not provide substantial evidence that the Project, with design elements to safeguard pedestrian crossings, presents an increased risk to pedestrian safety with its proposed designs.

4.6.6 Union Pacific Railroad Third Track Activation

Union Pacific Railroad comments that it has a future plan to reconnect the third track along Embarcadero West. Another comment notes that "Use of this third track by trains will completely prevent use of Embarcadero by vehicles. Activation of the third track will greatly hinder access to and from the proposed ballpark" (Comment A-6-2). This section describes the implications for the Project with third track considerations.

Currently, Union Pacific Railroad is not operating the third track, which is not currently connected. If the UPRR's third rail is activated, it would affect existing access and businesses operations along Embarcadero West, with or without the proposed Project. The final design for the UPRR tracks will likely be determined by California Public Utilities Commission through General Order 88B, a regulation that establishes criteria for alteration of existing public highway-rail crossings The description on Draft EIR p. 4.15-85 of proposed uses along Embarcadero West describes the scenario in which UPRR's third rail is not activated (the current status of the UPRR tracks), as well as provides information on conditions if the third track is activated. It notes that the portion of Embarcadero West located south of the currently active UPRR tracks and extending from Martin Luther King Jr. Way to Washington Street (and potentially to Broadway) would be physically separated from the railroad tracks by a fence to accommodate a multi-use path. The multi-use path would replace the vehicle street that exists today (emergency vehicles would be accommodated to the extent feasible). The fence line separating the railroad tracks and Embarcadero West would be offset from the active track or third track by approximately 10 feet, or the minimum allowable by UPRR and/or CPUC. The multi-use path would be up to 30 feet wide between the fence and the existing buildings if the fence is offset from the active track. The portion of Embarcadero West between Washington Street and Broadway could also accommodate a multi-use path between the fence and the existing buildings, to the extent feasible, if the existing 12-foot-wide vehicle lane were combined with the 8-foot-wide sidewalk. The railroad corridor fencing along Embarcadero West that is described in Mitigation Measure TRANS-3a would allow building and property access along Embarcadero West to remain.

UPRR's Comment O-48-7 states that any fencing constructed for the Project must be placed entirely outside UPRR's right-of-way because UPRR will not allow fencing or pathways on its right-of-way. Under a scenario where the fence line generally follows the easement on both sides of Embarcadero West, provision of a fence line to separate the railroad from all other uses could not be accommodated without affecting access to existing land uses along the railroad corridor.

Pedestrian access through Water Street and across all crossings along Embarcadero West would still be maintained for the Project and Jack London Square. This requirement would preclude the multi-use path described in the Draft EIR. UPRR's request would also:

- Preclude all vehicle and emergency vehicle access in both directions on Embarcadero West between Martin Luther King Jr. Way and Webster Street.
- Preclude existing building access (i.e., for doorways, driveways, loading areas, and refuse pickup) to most buildings lining the railroad corridor including:
  - World Market roll up door on the north side of Embarcadero West between Jefferson and Clay Streets and the sidewalk would be removed so the fence could be located at the face of the building
  - BevMo pedestrian access, pedestrian bridge elevators, and an empty commercial space on the south side of Embarcadero West between Clay and Washington Streets and the sidewalk would be removed so the fence could be located at the face of the building
  - Yoshi's pedestrian access on the north side of Embarcadero West between Clay and Washington Streets (note there is an approved 14-foot sidewalk encroachment on this block)
  - Commercial space (back door) and 495 Embarcadero West pedestrian access on the south side of Embarcadero West between Washington Street and Broadway (note there is an approved 8-foot sidewalk encroachment on this block)
  - Theater pedestrian exits (3), ally access between buildings, and an empty commercial space on north side of Embarcadero West between Washington Street and Broadway and the sidewalk would be removed so the fence could be located at the face of the building
  - Plank roll up doors (2) and back door pedestrian access on south side of Embarcadero West between Broadway and Franklin Street and the sidewalk would be removed so the fence could be located at the face of the building
  - Jack London Inn pedestrian and vehicle access and Home of Chicken and Waffle restaurant access on the north side of Embarcadero West between Broadway and Franklin Street and the sidewalk would be removed so the fence could be located at the face of the building
  - Multiple restaurant / tenant service access and trash container pick-up on the south side of Embarcadero West between Franklin Street and Webster Street
  - Empty commercial space, Modera residential complex access, 384 Embarcadero West access, and Concentra Urgent Care access on the north side of Embarcadero West between Franklin and Webster Streets and the sidewalk would be removed so the fence could be located at the face of the building

Thus, the possible scenarios for the activation of UPRR's third rail have been described and disclosed.

The location of the fence line along Embarcadero West would not preclude the at-grade railroad crossing improvements per Mitigation Measure TRANS-3a or the pedestrian and bicycle bridge

per Mitigation Measure TRANS-3b, but the implementation of the fence along the railroad would have the impact on access to existing land uses along the railroad corridor described above.

4.7 Parking

Comments Addressed: A-1-1, A-3-2, A-7-52, A-10-2, A-14-16, O-11-17, O-11-19, O-11-20, O-20-3, O-25-4, O-29-63, O-29-97, O29-2-9, O29-2-10, O29-2-11, O29-2-12, O29-2-21, O29-2-31, O29-2-49, O-30-4, O-31-3, O-31-11, O-39-19, O-39-20, O-39-21, O-43-8, O-44-5, O-45-22, O-46-10, O-46-11, O-47-23, O-48-4, O-48-6, O-48-8, O-50-3, O-57-28, O-63-11, O-63-17, O-63-18, O-63-53, O-63-80, O-63-81, O-63-82, O-63-83, O-65-4, I-32-1, I-42-2, I-91-2, I-97-5, I-145-3, I-175-2, I-176-6, I-185-1, I-215-3, I-216-1, I-225-3, I-225-8, I-229-1, I-232-1, I-243-2, I-243-11, I-260-5, I-268-5, I-273-4, I-276-1, I-285-1, I-307-1, I-307-17, I307-1-4, I307-1-18, I307-1-24, I311-2-25, I311-5-5, I311-6-3, I311-7-8, I311-7-16, I-335-3, I-336-1, H2-2-4, H2-2-40, H2-2-51, H2-3-32, and H2-3-55.

Several comments were made regarding parking, asserting that the Project may exacerbate parking demand in the surrounding areas and that a lack of parking would lead to traffic congestion as drivers recirculate through the neighborhoods looking for a parking space. For example, Comment I-42-2 states, "A stadium with only 2,000 parking spaces for attendees will not be sufficient to mitigate parking if a Ballpark is developed," and Comment O-34-3 states, "The DEIR's dismissal of the consequences that would result from the loss of parking and increased traffic congestion is one example of the report's failure to provide a comprehensive analysis of the Project's environmental impact."

Traffic congestion or measures of vehicular delay is not a significant environmental impact under CEQA and therefore, cannot be used as a significance criterion in CEQA documents, according to State CEQA Guidelines Section 15064.3. In addition, parking is not a significance criterion in the *City of Oakland Transportation Impact Review Guidelines,* as stated in Chapter 5, *CEQA Analysis*. Also, CEQA Section 21099(d) states that parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment. The commenters do not raise a new environmental issue.[38] The comments are acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project. This response is provided here for informational purposes.

4.7.1 Project Parking Characteristics

The commenters are directed to Draft EIR page 4.15-80, which notes that at buildout, the Project would provide 2,000 parking spaces (3,500 spaces at opening day) for the ballpark, compared to 9,100 parking spaces at the Coliseum. With substantially less parking for the Project's ballpark, attendees would be more likely to use other transportation modes than vehicles to access the site including one of the three BART stations, each located within about 1 mile of the Project site, as well as AC Transit, Ferry, Amtrak, walking and bicycling. See Draft EIR p. 4.15-161 (Table 4.14-

[38] To the extent that commenters are suggesting that secondary or indirect pedestrian or bicycle safety impacts will arise due to parking or traffic congestion, this is inaccurate. As discussed herein, no significant parking or gridlock conditions will result from the Project.

28) and p. 4.15-168 (Table 4.15-31) which illustrate the trip generation by travel mode for the non-ballpark development and the ballpark, respectively.

Providing less ballpark parking at the Project site is an intentional approach intended to disperse automobile traffic through a parking reservation system to the many underused parking garages within 1 to 1.5 miles of the site. This approach would minimize the impact of traffic congestion contributed by the Project by dispersing it throughout Downtown Oakland, rather than concentrating traffic in a single parking lot as at the Coliseum site. The 6,800 parking spaces provided for the non-ballpark development at buildout would be provided in similar ratios of parking to existing development in Chinatown, Downtown Oakland, and West Oakland. Thus, the Project's non-ballpark development is expected to result in a similar burden to Oakland's streets and nearby freeways as the equivalent amount of development elsewhere in those areas.

4.7.2 Parking Management

Mitigation Measure TRANS-1b would implement a Transportation Management Plan (TMP) to manage transportation before, during, and after events. A draft TMP is provided in Appendix TRA.1. A key component of the TMP is the required Parking Management Plan (PMP), a draft of which is provided in the Draft EIR Additional Transportation Reference Materials (*Toward a High-Performance Parking Management System for a Thriving Oakland: A Plan*).[39] The PMP would implement an advanced parking reservation system that ballpark attendees would use to reserve a parking space before an event like the SacPark program used for Golden 1 Center in Sacramento, California. In this way, attendees would drive directly to their reserved spaces, rather than driving and circulating in neighborhoods looking for an available space. Drivers would use the freeway access nearest their reserved parking space including the Interstate 980 (I-980) interchanges at 17th/18th, 11th/12th, and Jackson Streets; and the I-880 interchanges at Union, Adeline, and Market Streets; Broadway; and Jackson and Oak Streets. As noted above, the Project would provide limited on-site parking for the ballpark; the automobile traffic generated by these spaces would access I-880 via 5th and 6th Streets, while traffic destined to I-980 would access the freeway via Brush and Castro Streets.

The PMP recommends new on-street parking meters for all block faces that do not have Residential Parking Permits, as well as potential new and redefined Residential Parking Permit areas to protect on-street parking for Oakland residents. This permitting system ensures that on-street parking is available to residents with permits. The Residential Parking Permit system also eliminates the incentive for ballpark attendees to recirculate through neighborhoods in search of available on-street parking spaces.

The Draft PMP was prepared by the City of Oakland and will be implemented, operated, and enforced by the City.

[39] Primus Consulting, 2020. Toward a High-Performance Parking Management System for a Thriving Oakland: a Plan, January 2020.

4.7.3 Off-Street Parking Availability

The City of Oakland completed a comprehensive downtown parking study.[40] Draft EIR p. 4.15-36 summarizes the available parking within 1.0 mile of the Project site, excluding parking in West Oakland, where parking management strategies would limit the parking spaces available to ballpark attendees through Residential Permit Parking. In addition to the Project's 3,500 initial event parking spaces on-site, an estimated 4,200 off-site spaces (both on- and off-street parking spaces) would be available within 1 mile of the Project during the day for the 14 weekday daytime games each year, and about 7,600 parking spaces would be available for the 50 weekday evening events (41 baseball games, nine concerts) and 27 weekend events to serve roughly 7,600 cars driven by ballpark attendees for weekday daytime and evening events (8,200 cars for weekend events). This summary of available parking from the Draft EIR incorporates the approximately 1,310 available on-street spaces during the daytime and approximately 2,270 parking spaces available during the evening and excludes the surface lots used for BART overflow parking, and illustrates that there is sufficient available parking to accommodate the ballpark attendees who drive.

Within 1.0 mile of the Project site the off-street parking lots and garages that could be available by reservation were disaggregated by neighborhood. **Table 4.7-1** summarizes the available off-street parking located within 1 mile that could potentially be reserved for ballpark parking. The available parking includes the surface parking lots that are used by BART patrons as overflow parking for the BART station, which would be available only for weekday evening and weekend events.

Showing the available off-street parking by area illustrates how ballpark attendees who drive would disperse throughout West Oakland, Downtown, Chinatown, and the Jack London District (see **Table 4.7-2**). Even with limited parking for ballpark events, the Project site would generate the greatest concentration of drivers to and from an event. These drivers would primarily use 5th and 6th Streets to access the I-880 freeway and Brush and Castro Streets via 7th Street to access the I-980 freeway. Chinatown and West Oakland would be the least affected by drivers to and from an event because there are fewer available off-street parking spaces in these neighborhoods than at the Project site and in Downtown Oakland west of Broadway. (See Consolidated Response 4.6, *Chinatown*, which addresses parking specifically in Chinatown.)

Several comments express preferences for localized parking policies that encourage Howard Terminal visitors to park in or away from certain neighborhoods. For example, Comment O-63-23 states, "The ballpark should encourage foot traffic and shopping in Chinatown before and after ballpark events" and Comment O-44-2 requests that "Parking at the garages in the Chinatown area would be discounted if validation is given at a local restaurant." Similarly, comments are concerned that on-street parking adjacent to the Project site be prioritized for local businesses, which can be accomplished by adjusting meter time limits.

As noted previously, the required Parking Management Plan will be implemented, operated, and enforced by the City. The PMP would provide flexibility in both pricing and availability of on- and off-street parking for ballpark attendees, depending on collaboration between the City and neighborhoods. Table 4.7-1 summarizes the likely maximum number of off-street parking spaces

[40] City of Oakland, 2016, *Downtown Oakland Final Parking Management Plan*, June 2016.

that would be available in each neighborhood for ballpark event parking. For example, up to 981 off-street parking spaces are available in Chinatown (within 1.0 miles of the Project) that could be used by ballpark attendees who reserve parking without adversely impacting existing users of on- and off-street parking in Chinatown. Through the reservation system for off-street parking and dynamic on-street parking meters, the PMP would allow the number of parking spaces available to ballpark attendees to be adjusted based on individual neighborhood needs and desires so long as overall there is sufficient parking to accommodate ballpark event parking.

TABLE 4.7-1
OFF-STREET PARKING CHARACTERISTICS WITHIN 1 MILE OF THE PROJECT SITE

	Weekday Day Game			Weekday Evening Game		
	Off-Street Parking Supply	Off-Street Parking Demand	Off-Street Parking Available	Off-Street Parking Supply	Off-Street Parking Demand	Off-Street Parking Available
Project Site	3,500	–	3,500	3,500	–	3,500
West Oakland (overflow BART parking lots)	1,312	1,312	–	1,312	349	963
Downtown (west of Broadway)	3,904	2,755	1,149	3,904	1,356	2,548
Chinatown (east of Broadway)	1,373	847	526	1,373	392	981
Jack London District (west of Broadway)	1,278	1,082	196	1,278	950	328
Jack London District (east of Broadway)	1,771	739	1,032	1,771	296	1,475
Total Available Off-Street Parking	13,138	6,735	6,403	13,138	3,343	9,795

SOURCES: City of Oakland, *Downtown Oakland Final Parking Management Report,* June 2016, and subsequent parking observations in 2019 conducted for the Draft EIR

TABLE 4.7-2
BALLPARK ATTENDEES WHO DRIVE—PARKING DISTRIBUTION

	Weekday Day Ballpark Event (14 events per year)	Weekday Evening Ballpark Event (up to 50 events per year)
Project Site	55%	36%
West Oakland (Overflow BART parking lots)	0%	10%
Downtown (west of Broadway)	18%	26%
Chinatown (East of Broadway)	8%	10%
Jack London District (West of Broadway)	3%	3%
Jack London District (East of Broadway)	16%	15%
Total	100%	100%

Percentages calculated from data in Table 4.7-1

By way of example, say that the weekday evening ballpark event expects 7,600 cars driven and parked by attendees with 3,500 of those cars parked at the ballpark which leaves 4,100 cars to be parked in the surrounding neighborhoods in off-street parking garages and lots. If the cars were

distributed to the surrounding neighborhoods based on available off-street parking (see Table 4.7-2) about 640 cars would be parked in Chinatown substantially lower than the available off-street parking spaces in Chinatown. The City, through the PMP, would coordinate with Chinatown representatives and adjust the parking reservation system to be equivalent to 640 spaces or a higher number if Chinatown representatives wanted to encourage foot traffic in the neighborhood. A similar process would occur in the other neighborhoods.

4.7.4 Measures to Reduce Automobile Trips

Although sufficient parking is available to accommodate ballpark events, several mitigation measures in the Draft EIR prioritize non-automobile travel, either through programs to reduce automobile trips or through infrastructure improvements that prioritize transit, walking, and bicycling, which would help to minimize Project vehicle traffic. These mitigation measures are summarized below.

- Mitigation Measure TRANS-1a (Draft EIR pp. 4.15-183 through 4.15-189) includes a Transportation Demand Management Plan for the non-ballpark development, with a performance metric to reduce vehicle trips 20 percent from a baseline condition without a TDM program.
- Mitigation Measure TRANS-1b (Draft EIR pp. 4.15-193 through 4.15-197) includes a Transportation Management Plan for the ballpark events, with a performance metric to reduce vehicle trips 20 percent from a baseline condition without a TMP. A draft TMP is provided in Appendix TRA.1. The plan includes the nearby transit providers, i.e., AC Transit, BART, Capitol Corridor, and WETA, as key stakeholders in coordinating ballpark events.
- Mitigation Measure TRANS-1c (Draft EIR p. 4.15-197) would construct a transportation hub adjacent to the Project site that would serve at least three bus routes (12 AC Transit buses per hour) to support non-automobile travel to and from the Project site, with the ability to expand the hub on ballpark event days to handle up to six shuttle bus stops and each shuttle stop handling up to 12 shuttles per hour.
- Mitigation Measure TRANS-1d would implement bus-only lanes on Broadway between Embarcadero West and 11th Street by converting one motor vehicle lane in each direction to a bus-only lane. There are existing bus-only Lanes on Broadway from north of 11th Street to 20th Street.
- Mitigation Measure TRANS-1e would implement pedestrian improvements such as sidewalk widening and repair, pedestrian lighting, and intersection and driveway safety measures to promote first- and last-mile connections to BART and AC Transit bus stops, as well as walking connections serving the adjacent neighborhoods.
- Mitigation Measures TRANS-2a, TRANS-2b, and TRANS-2c would implement bicycle improvements consistent with Oakland's Bike Plan that connect the Project to Oakland's bike network.
- Mitigation Measures TRANS-3a and TRANS-3b would implement railroad corridor improvements including corridor fencing, at-grade railroad crossing improvements, and a pedestrian and bicycle bridge over the railroad tracks connecting the transportation hub with the Project site via the Jefferson Street alignment.

4.8 Chinatown

Comments Addressed: A-10-1, O-11-17, O-11-19, O-12-2, O-20-2, O-20-3, O-20-4, O-20-5, O-31-3, O-44-1, O-44-2, O-44-6, O-62-57, O-63-1, O-63-3, O-63-7, O-63-11, O-63-15, O-63-17, O-63-18, O-63-21, O-63-23, O-63-52, O-63-53, O-63-54, O-63-55, O-63-80, O-63-81, O-63-82, O-63-88, O-63-89, O-63-92, O-63-97, I-268-1, H2-2-39, H2-2-40, H2-3-32, and H2-3-78.

Many comments address the issue of traffic and parking impacts on Chinatown, suggesting that the current analysis does not adequately capture the impacts of the Project on Chinatown and that the traffic impacts on Chinatown should have been analyzed differently in the Draft EIR and/or would have various significant impacts that have not been accounted for and should be mitigated. Potential impacts referred to by commenters include increased congestion, air pollutant emissions, pedestrian safety, parking and curb management, economic impacts on Chinatown businesses, cultural impacts, and disruption to community activities. For example, Comment H2-3-32 states: "One of the most glaring problems that needs to be addressed is…the impacts to Chinatown in the DEIR. There's barely a mention of Chinatown within 6,000 pages. An egregious point of neglect given Chinatown's location within one mile of the site…. Because 2,000 parking spaces wouldn't even be enough at the coliseum so this will bring further congestion to a neighborhood already suffering from poor air quality and a disproportionate number of traffic-related injuries and deaths."

Of concern to many commenters is the potential that limited ballpark parking at the Howard Terminal site could force people who drive to the game into surrounding neighborhoods to find parking. Commenters are concerned that this could lead to an increase in traffic congestion in Chinatown and reduce the availability of on- and off-street parking, which would discourage residents and tourists from visiting local Chinatown businesses.

As discussed in more detail below, these comments raise both CEQA and non-CEQA issues. Consistent with CEQA requirements, the Draft EIR describes existing conditions and fully analyzes the potential traffic and cultural and historic resource impacts of the proposed Project. With respect to parking and congestion, pursuant to Senate Bill (SB) 743, automobile delay, as described solely by LOS or similar measures of traffic congestion, is no longer considered a significant impact under CEQA (Public Resources Code Section 21099(b)(2)). With respect to concerns about economic issues (e.g., difficulty in accessing local businesses and restaurants), these are non-CEQA issues to be considered by decisionmakers as part of the Project entitlement process outside the CEQA process.

4.8.1 Request for Additional Analysis of Traffic Impacts on Chinatown Streets and Intersections

Several commenters suggest that the transportation impact area is too limited, given the nature of the Project and the proposed limited on-site ballpark parking. These commenters note that the "Impact Area must be expanded beyond the ½ mile radius because of the unique nature of the proposed project, which heavily depends on off-street and on-street parking in the adjacent neighborhoods and surrounding areas." Commenters also state that there was "no analysis of the

impact of traffic on Chinatown" (Comment I-338-2), despite the inclusion of several Chinatown intersections in the transportation impact area.

Commenters request that the transportation impact area specifically be expanded to include Chinatown because the Project site "is in close vicinity of Chinatown," and the Project "heavily depends on off-street and on-street parking in the adjacent neighborhoods and surrounding areas, including in Chinatown and the Pacific Renaissance parking garage" (Comments O-63-89 and O-63-21). As a result, commenters request that the Transportation Impact Area be expanded to cover the following locations:

- Chinatown Area from Broadway to Oak Street between 6th Street and 11th Street
- Jackson and 6th Streets on-ramp
- Oak and 5th Streets on-ramp
- Oak and 6th Streets off-ramp
- Broadway and 5th Street
- Webster and 6th Street entry to the Webster Tube

The City notes that the transportation impact area for motor vehicle traffic is already larger than a one-half-mile radius from the Project site and covers the Chinatown area from Broadway to Harrison Street between 7th and 8th Streets, as well as the I-880 northbound off-ramp to 6th Street/Broadway. **Table 4.8-1** lists all the study locations in Chinatown including intersections and road segments that were analyzed in the DEIR and which technical memorandums contain the information.

The transportation analysis in the Draft EIR was conducted in compliance with the *City of Oakland Transportation Impact Review Guidelines*.[41] The guidelines indicate that transportation analyses should generally include a study area 500 feet to one-half mile or more surrounding a project site, depending on the size and nature of the Project and the travel mode. The determination of the study area for each mode of travel—motor vehicles, transit, bicycles, and pedestrians—is described in the Draft EIR (pp. 4.15-1 through 4.15-7). To determine the study area for each mode, the Project trips were generated, distributed, and assigned to the existing transportation network. The Project's non-ballpark development trips for automobiles are shown in Draft EIR Figure 4.15-41, and the ballpark trips are shown in Draft EIR Figure 4.15-44.

The motor vehicle transportation impact area includes all intersections immediately adjacent to the Project site; all signalized and all-way stop-controlled intersections where the Project would add 100 or more weekday a.m. or p.m. commute peak-hour motor vehicle trips daily; all signalized intersections operating at LOS D, E, or F with 50 or more added Project peak-hour trips; and side-street stop controlled intersections where the Project would add 50 or more peak-hour trips to any individual movement other than the major-street through movement.

41 City of Oakland, 2017. City of Oakland Transportation Impact Review Guidelines, April 14, 2017. Available at: https://cao-94612.s3.amazonaws.com/documents/oak063581.pdf.

TABLE 4.8-1
TRANSPORTATION ANALYSIS STUDY LOCATIONS

Appendix TRA.3 – Howard Terminal – Operations Analysis
Broadway at 5th Street
Broadway at 6th Street
Broadway at 7th Street
Broadway at 8th Street
Franklin Street at 7th Street
Franklin Street at 8th Street
Webster Street at 7th Street
Webster Street at 8th Street
Harrison Street at 7th Street
Harrison Street at 8th Street
Additional Transportation Reference Material – Howard Terminal – CMP and MTS Analysis
Harrison Street northbound between 7th Street and 12th Street
Webster Street southbound between 12th Street and 7th Street
Webster Tube southbound
Posey Tube northbound
12th Street westbound between Lakeside Drive and Harrison Street
12th Street westbound between Harrison Street and Broadway
11th Street eastbound between Broadway and Harrison Street
11th Street eastbound between Harrison Street and Oak Street
8th Street westbound between Oak Street to Harrison Street
8th Street westbound between Harrison Street and Broadway
7th Street eastbound between Broadway and Harrison Street
7th Street eastbound between Harrison Street and Oak Street

SOURCE: Fehr & Peers, 2021. Howard Terminal – Operations Analysis, December 1, 2020 (Draft EIR Appendix TRA.3).
Fehr & Peers, 2020. Howard Terminal – CMP and MTS Analysis, December 1, 2020 (Draft EIR Additional Transportation Reference Material).

Furthermore, the City emphasizes that although the motor vehicle transportation impact area does not encompass Chinatown in its entirety, forecasts were created and traffic volume—to capacity ratios were calculated for many streets in Chinatown as required by the Alameda County Congestion Management Program (CMP). The forecasts used for the air and noise analyses are documented in Draft EIR Appendix TRA.4, and the freeway and road segment volume to capacity ratios are documented in the Additional Transportation Reference Material (memorandum titled *CMP and MTS Analysis*).[42] Road segment forecasts, volume-to capacity and associated LOS were generated for the road segments under 2020 and 2040 No Project and Plus Project.

There are two on-going studies that are also evaluating transportation conditions in Chinatown. The Oakland Alameda Access Project proposes to remove and/or modify the existing freeway ramps between Oak Street and Broadway and modify the Webster Tube and Posey Tube access in Oakland. This Project would also construct Class IV bicycle paths and implement various bicycle and pedestrian improvements. As part of this project the intersections between Broadway and

[42] Fehr & Peers, 2020. Howard Terminal – CMP and MTS Analysis, December 1, 2020 (Draft EIR Additional Transportation Reference Material)

Oak Street were evaluated on 5th, 6th, 7th, and 8th Streets and multimodal improvements were identified. In addition, the City of Oakland was recently awarded grant funding (Caltrans Sustainable Transportation Planning Grant Program) to complete the Chinatown Complete Streets Project which will establish community consensus on improvements to safety and access for people taking the bus, walking, and biking in Oakland's Chinatown. Most importantly, this effort will engage community-based organizations and a consultant team to create the conceptual designs necessary to move capital projects forward to implementation. The Project expected to start in Spring 2022 will include a re-examination of past planning-level recommendations and identifying a set of key corridors and multi-modal improvements for project development and design.

One comment states the Draft EIR "relies upon the Lake Merritt BART station to transport patrons to Howard Terminal, which will increase rideshare traffic." The Draft EIR does identify rideshare or "ride sourcing" trip generation on p. 4.15-168 (Table 4.15-31). These trips will be managed through the Transportation Management Plan (TMP) which is identified as Mitigation Measure TRANS-1b in the Draft EIR. Specific to ride sourcing the City identified two requirements for the TMP including:

- Enforcement of local access restrictions to limit circulation of vehicles other than local traffic within the neighborhoods adjacent to the Project site before, during, and after ballgames.
- Agreements between the A's and TNC operators (such as Lyft and Uber) to use geofencing or similar methods to restrict pick-up and drop-off zones to designated locations significantly farther from the ballpark than bus transit and shared micromobility options.

The first measure "Enforcement of local access . . ." includes a perimeter in the neighborhood adjacent to the Project that will be managed for local traffic only. Draft EIR p. 4.15-89 (Figure 4.15-16) illustrates the potential extents of a perimeter. With a perimeter, the ride source trip length from the Lake Merritt BART station will be between 0.5 and 0.75 mile. This short trip is unlikely to be prioritized because there will be demand for up to 3,000 ride source users 2 to 4 miles from the Project and short trips such as less than one mile are not profitable for drivers. The local access restrictions will be enforced, in part, through geofencing or a similar method to designate ride sourcing pick-up and drop-off zones, and these zones will be designed to minimize the attractiveness of using TNCs for last-mile transit and micromobility options. Pricing strategies for ride sourcing are another potential tool to deemphasize short ride source trips between the BART stations and the Project.

4.8.2 Concerns about Chinatown Congestion and Gridlock

Commenters express concern that the increase in ballpark-related traffic will create gridlock that will block access to Chinatown businesses. One commenter notes that this could lead to failed businesses and "insecurity for the people who live and work in Chinatown" (Comment O-20-5). The Draft EIR appropriately considers the possibility that driver recirculation to find a parking space may cause congestion and concludes that the public management of parking spaces through a reservation system can minimize this risk (see p. 4.15-139). Furthermore, the Draft EIR also shows that parking garages each with at least 100 spaces are distributed across many streets and intersections in the Jack London District, Downtown, Old Oakland, and Chinatown

neighborhoods (see Figure 4.15-11), and that as a result, drivers would be dispersed across many roads rather than concentrated in one area, further reducing the risks of gridlock (pp. 4.15-87 through 4.15-88).

One comment claims that the "Draft EIR does not address the gridlock on local roadways created by the traffic plan that provides only 2,000 parking spaces for a 35,000 capacity ballpark and the expected 32,000 vehicle trips created by the ballpark" (Comment O-20-3). See Consolidated Response 4.7, *Parking*, which addresses how implementing the Parking Management Plan required as part of Mitigation Measure TRANS-1b would disperse ballpark attendee traffic to adjacent neighborhoods, minimizing the Project's impact on traffic congestion.

Table 4.8-2 and **Table 4.8-3** (copied from Consolidated Response 4.7, Parking) illustrate the available off-street parking within 1 mile of the ballpark (Table 4.8-2) and the expected distribution of ballpark attendees who drive to an event and park (Table 4.8-3). Based on available off-street parking in Chinatown there would be about 526 parking spaces available to ballpark attendees for a weekday day game and about 981 spaces available for a weekday evening game. Relative to the distribution of available off-street parking within 1 mile of the Project site about 10 percent of the available off-street parking spaces are located in Chinatown, while the Project site and Downtown Oakland (west of Broadway) provide about 73 percent of the off-street supply for a daytime event and 62 percent for an evening event.

TABLE 4.8-2
OFF-STREET PARKING CHARACTERISTICS WITHIN 1 MILE OF THE PROJECT SITE

	Weekday Day Game			Weekday Evening Game		
	Off-Street Parking Supply	Off-Street Parking Demand	Off-Street Parking Available	Off-Street Parking Supply	Off-Street Parking Demand	Off-Street Parking Available
Project Site	3,500	–	3,500	3,500	–	3,500
West Oakland (overflow BART parking lots)	1,312	1,312	–	1,312	349	963
Downtown (west of Broadway)	3,904	2,755	1,149	3,904	1,356	2,548
Chinatown (east of Broadway)	1,373	847	526	1,373	392	981
Jack London District (west of Broadway)	1,278	1,082	196	1,278	950	328
Jack London District (east of Broadway)	1,771	739	1,032	1,771	296	1,475
Total Available Off-Street Parking	13,138	6,735	6,403	13,138	3,343	9,795

SOURCES: City of Oakland, *Downtown Oakland Final Parking Management Report,* June 2016, and subsequent parking observations in 2019 conducted for the Draft EIR

TABLE 4.8-2
PARKING LOCATIONS FOR BALLPARK ATTENDEES WHO DRIVE

	Weekday Day Ballpark Event (14 events per year)	Weekday Evening Ballpark Event (up to 50 events per year)
Project Site	55%	36%
West Oakland (Overflow BART parking lots)	0%	10%
Downtown (west of Broadway)	18%	26%
Chinatown (East of Broadway)	8%	10%
Jack London District (West of Broadway)	3%	3%
Jack London District (East of Broadway)	16%	15%
Total	100%	100%

SOURCE: Percentages calculated from data in Table 4.8-1by Fehr & Peers in 2021

The analysis used to determine the volume-to-capacity degradation on the road segments in Chinatown is documented in the Additional Transportation Reference Material (memorandum titled *CMP and MTS Analysis*) and was completed using the Alameda County Transportation Commission's travel demand model. The model includes formulas for estimating travel time on road segments. To provide additional context the formula was used to establish the expected change in travel time for the volume-to-capacity results for the streets in Chinatown, thereby establishing the change in travel time with a ballpark event. The additional information reflects a weekday evening ballpark event with 35,000 attendees which would occur up to 50 times each year (41 regular season ball games, 9 concerts). **Table 4.8-4** shows the primary road segments in Chinatown as well as the road segment traffic volumes without and with an evening ballpark event. The road segment traffic volumes would increase up to 34% through Chinatown between 5 and 6 pm but, because the streets are generally one-way with multiple lanes, changes in travel time through Chinatown would be less. The corridors in Chinatown with the greatest impact from a weekday evening ballpark event would be 12th Street and Oak Street. These two streets would realize a 10% to 12% increase in travel time because they each have two lanes. A 6-minute trip through Chinatown between Oak Street and Broadway on these streets would increase to almost 7 minutes prior to a ballpark event. Webster Street, Harrison Street and 8th Street would all realize up to 6% increase in travel time because they each have three lanes and so a similar 6-minute trip would take about 6.5 minutes. The 7th Street and 11th Street corridors would realize little change in travel time prior to one of the 50 weekday evening ballpark events because the corridors are one-way eastbound i.e., traveling away from the Project.

TABLE 4.8-4
TRAFFIC VOLUME CHANGES FOR STREETS IN CHINATOWN
(WEEKDAY EVENING BALLPARK EVENT)

	Existing Count Year	Existing (5 to 6 PM)	Ballpark (5 to 6 PM)	Total Traffic (5 to 6 PM)	Percent of Total Traffic	# of Lanes
12th Street, East of Webster Street	2016	730	320	1,050	30%	2
12th Street, East of Broadway	2016	680	310	990	31%	2
11th Street, East of Broadway	2012	620	80	700	11%	2
8th Street, West of Oak Street	2012	620	230	850	27%	3
8th Street, West of Harrison Street	2019	750	390	1,140	34%	3
8th Street, East of Broadway	2019	490	200	690	29%	3
7th Street, East of Broadway	2019	1,940	40	1,980	2%	3
Webster Street, North of 12th Street	2016	640	60	700	9%	3
Webster Street, South of 11th Street	2019	920	150	1,070	14%	3
Harrison Street, South of 8th Street	2019	1,000	260	1,260	21%	3
Oak Street, South of 8th Street	2016	1,070	140	1,210	12%	2

SOURCE: Fehr & Peers, 2021

4.8.3 Impacts of Limited Parking on Chinatown businesses

In addition to concerns about gridlock, many commenters assert that Chinatown will be treated as a "satellite parking lot for the ballpark" (Comment O-63-23). Commenters express concern that because of people parking in Chinatown to access events at the ballpark, Chinatown residents and people visiting Chinatown businesses will have difficulty parking which will lead to a loss of business for Chinatown establishments.

The City understands the interest in assessing parking demand and capacity in Chinatown in a comprehensive way. The City completed the *Downtown Oakland Final Parking Management Plan* in 2016 that included Chinatown. The report concluded that the City's downtown publicly available parking facilities, when considered as a whole, had a parking surplus. The report also noted that in core business areas such as Chinatown, finding available curb parking spaces can be difficult. This finding is consistent with findings in the City of Oakland's *Lake Merritt Station Area Plan* published in 2014. In response to the studies, demand-responsive parking pricing was deployed in Chinatown. Assessing parking demand and capacity is not required under CEQA. First, parking impacts of the proposed Project are exempt from environmental review in accordance with Public Resources Code Section 21099 because Howard Terminal is within a Transit Priority Area. Additionally, under CEQA (State CEQA Guidelines Section 15131), there is no obligation to mitigate economic impacts except to the extent they result in physical effects on the environment. Commenters have expressed concerns about economic issues, but there is no substantial evidence that significant environmental impacts would occur because of economic issues.

See Consolidated Response 4.7, *Parking*, which expands on how parking would be managed through the Parking Management Plan. See also the Draft EIR Additional Transportation

Resource Material, which includes a memorandum titled *Toward a High-Performance Parking Management System for a Thriving Oakland: A Plan*, which describes the PMP components in detail. The PMP would disperse ballpark attendee parking to under-utilized off-street parking within at least 1 mile of the Project site, incorporate parking strategies to handle multiple events with demands for parking, and may be beneficial for local businesses as they will have a new customer base to complement rather than compete with existing customers. Overall, the PMP will be implemented, operated, and enforced by the City. The plan would provide flexibility by neighborhood in both pricing and availability of on- and off-street parking for ballpark attendees based on collaboration between the City and Chinatown as well as other neighborhoods where ballpark attendees might park. Through the reservation system for off-street parking and dynamic on-street parking meters, the PMP would allow the number of parking spaces available to ballpark attendees to be adjusted based on individual neighborhood needs and desires. For example, some comments request that off-street parking in Chinatown be made available to ballpark attendees so that people would walk by businesses between parking and the ballpark, while other comments request that off-street parking be managed to reduce the number of off-street parking spaces in Chinatown that are available to ballpark attendees. Through collaboration with various Chinatown interests, the City of Oakland would implement the PMP.

Several commenters suggest that the economic impact on Chinatown businesses could be mitigated through programs that encourage "foot traffic and shopping in Chinatown before and after ballpark events" (Comment O-63-23). Commenters suggest the following to encourage ballpark attendees to patronize Chinatown establishments:

- Offer discounted parking at Chinatown garages if validation is given at local restaurants. (Comment O-44-2.)
- Work with Chinatown merchants and community-based organizations to develop pedestrian and bike paths that direct foot traffic toward Chinatown. (Comment O-63-23.)
- Include wayfinding elements along key areas in Chinatown that direct foot traffic to key destinations including Pacific Renaissance Plaza, Lincoln Square Park, and Madison Square Park. (Comment O-63-34.)
- Offer wayfinding signage in multiple languages. (Comment O-63-34.)

The Transportation Management Plan required as part of Mitigation Measure TRANS-1b does include travel management strategies that align with those raised by the commenters. In addition, Chinatown is identified as a key stakeholder in the draft TMP provided in Draft EIR Appendix TRA.1, and thus would be consulted during the TMP process including implementation and monitoring. The following relevant travel management strategies align with the commenters' suggestions:

- Create partnerships with local restaurant and entertainment venues to encourage attendees to arrive early or stay late for dining and entertainment to support local businesses and spread out arrivals and departures from the ballpark. (Draft TMP Section 4.2.5, Additional Attendee Strategies.)

- Permanent intuitive wayfinding network that highlights local transit hubs and major destinations. (Draft TMP Section 15.2.1, Pre- and Post-Event Wayfinding.)

Some commenters suggest that the City of Oakland does not have the capacity to implement the Parking Management Plan that is outlined in the Additional Transportation Reference Material.[43] One commenter asserts that the "parking plan relies unrealistically on the City being staffed and funded adequately to jointly manage on and off-street parking in the affected area" (Comment O-44-5).

Since preparing the PMP, the City of Oakland has been working toward an implementation plan that includes operating costs, staffing requirements, and a detailed implementation timeline. Financing for implementation of the PMP and ongoing operations will be determined through this effort, and the timing and responsibility for implementation will be included in the MMRP. Because parking is a revenue generating activity, in the past, the City has financed the capital costs associated with parking initiatives and designed programs such that parking revenues can service the debt, cover the cost of ongoing operations, and contribute to the General Fund.[44]

4.8.4 Oakland-Alameda Congestion and Pedestrian Impacts, Including Impacts on Chinatown

Commenters also express concerns that the Draft EIR does not adequately propose mitigation that will address the congestion around the Webster and Posey Tubes during peak commuting hours. One commenter states that the "EIR documents that traffic congestion at/near the Webster and Posey Tubes will be seriously degraded in the near term (TRANS-6), yet does not propose any mitigations in the Chinatown area, despite an abundance of potential measures having been identified in past studies/plans, e.g. City's Pedestrian Plan, Revive Chinatown (not listed), Lake Merritt Area Specific Plan and others." (Comment O-44-6.)

It is true that the Draft EIR found significant and unavoidable impacts on the area (Impact TRANS-6 and TRANS-6.CU), and that there are no feasible measures to mitigate traffic and congestion impacts at the Webster and Posey Tubes outside of the Transportation Management Plan.

The level of Project impact is documented in the Draft EIR's Additional Transportation Reference Material.[45] The analysis was completed using the Alameda County Transportation Commission's travel demand model. The Project, excluding the ballpark, would cause day-to-day a.m. and p.m. peak-hour traffic through the Webster and Posey Tubes to increase by 2.2 percent in Year 2020 and 1.8 percent in Year 2040. The additional traffic each day represents more than 0.03 change in volume-to-capacity on a facility that operates at Level of Service F and is deemed significant in the CEQA document. This level of change in traffic volume is within the day-to-day variation in

[43] Primus Consulting, *Toward a High-Performance Parking Management System for a Thriving Oakland: a Plan. January 2020, draft as of 2/6/20. Memorandum included in Additional Transportation Resource Material for the Draft EIR.*

[44] Examples include the Scheidt & Bachmann Parking Access and Revenue Control System (PARCS) in 2010 and the IPS Smart Parking Meter modernization in 2013.

[45] Fehr & Peers, *Howard Terminal—CMP and MTS Analysis. Memorandum to Pete Vollmann and Nicole Ferrara, City of Oakland, from Lee Reis and Rob Rees, Fehr & Peers, December 1, 2020. Memorandum included in Additional Transportation Resource Material for the Draft EIR.*

traffic volumes on many freeways in the Bay Area and thus would not be noticeable to the average driver; however, when combined with traffic from other development planned to occur in Oakland and Alameda, it would result in noticeable traffic degradation.

While not required by CEQA, additional information is provided here regarding travel through the Webster and Posey Tubes, using travel time equations from the travel demand model. The equations were used to compute the travel time each way through the tubes during the weekday p.m. peak hour with and without the Project, as well as with either an afternoon or evening ballpark event. The results include:

- Travel time in the Webster Tube would increase from 5.1 minutes to 5.4 minutes with the Project, and to 7.6 minutes after an afternoon ballpark event. An afternoon ballpark event is expected to occur 14 times per year.
- Travel time in the Posey Tube would increase from 2.4 minutes to 2.5 minutes with the Project, and to 3.5 minutes before an evening ballpark event. An evening ballpark event is expected to occur 50 times per year (41 ballgames and nine concerts).

The City of Oakland no longer evaluates intersection traffic operations for CEQA impact assessment per Senate Bill 743. However, the City's *Transportation Impact Review Guidelines* (April 14, 2017) state that an intersection operations analysis may be recommended at the City's discretion.[46] The analysis is typically undertaken to ensure that local streets can reasonably accommodate day-to-day traffic loads from the project being studied. Upon City direction, an intersection analysis was completed for 76 intersections during the a.m. and p.m. commute periods, including intersections on 7th Street at Webster Street and at Harrison Street near the Webster and Posey Tubes. The intersection analysis results show that these intersections are projected to operate at acceptable LOS D or better (see Draft EIR Appendix TRA.3, Intersection Operation Technical Draft Memorandum). This is an indication that the degradation of traffic operations in the Webster and Posey Tubes is associated with the tubes themselves, and not the intersections near the tubes.

It is not feasible to add additional automobile lanes through the Webster and Posey Tubes, and therefore, the Draft EIR finds a significant and unavoidable impact for Impacts TRANS-6 and TRANS-6.CU. However, several mitigation measures in the Draft EIR prioritize non-automobile travel, through either programs to reduce automobile trips or infrastructure improvements that prioritize transit, walking, and bicycling:

1. Draft EIR Mitigation Measure TRANS-1a (pp. 4.15-183 through 4.15-189) includes a Transportation Demand Management Plan for the non-ballpark development with a performance metric to reduce vehicle trips 20 percent from a baseline condition without a TDM program.
2. Draft EIR Mitigation Measure TRANS-1b (pp. 4.15-193 through 4.15-197) includes a Transportation Management Plan for the ballpark events with a performance metric to reduce vehicle trips 20 percent from a baseline condition without a TMP. A draft TMP is provided in Draft EIR Appendix TRA-1 and includes the nearby transit providers—i.e., Alameda–Contra

[46] City of Oakland, *Transportation Impact Review Guidelines, April 14, 2017, Section 3.1.5.*

Costa Transit District (AC Transit), BART, Capitol Corridor, and WETA—as key stakeholders in coordinating ballpark events, along with community groups such as those representing Chinatown.

3. Mitigation Measure TRANS-1c (p. 4.15-197) would construct a transportation hub adjacent to the Project that would serve at least three bus routes (12 AC Transit buses per hour) to support non-automobile travel to and from Project site. The hub could be expanded on ballpark event days to accommodate up to six shuttle bus stops, each handling up to 12 shuttles per hour.

4. Mitigation Measure TRANS-1d (p. 4.15-198) would implement bus-only lanes on Broadway between Embarcadero West and 11th Street by converting one motor vehicle lane in each direction to a bus-only lane. There are existing bus-only lanes on Broadway from north of 11th Street to 20th Street.

5. Mitigation Measure TRANS-1e (pp. 4.15-198 through 4.15-200) would implement pedestrian improvements such as sidewalk widening and repair, pedestrian lighting, and intersection and driveway safety measures to promote first- and last-mile connections to BART and AC Transit bus stops as well as walking connections serving neighborhoods in Downtown via Martin Luther King Jr. Way, Washington Street, and Broadway; Chinatown via 8th Street; and West Oakland via 7th and Market Streets.

6. Mitigation Measures TRANS-2a, TRANS-2b, and TRANS-2c (p. 4.15-230) would implement bicycle improvements consistent with Oakland's Bike Plan that would connect the Project to Oakland's bike network.

7. Mitigation Measures TRANS-3a and TRANS-3b (pp. 4.15-235 through 4.15-239) would implement railroad corridor improvements such as corridor fencing and at-grade crossing improvements as well as a pedestrian and bicycle bridge to facilitate people driving, walking, and bicycling across the railroad tracks.

Specific additional measures are being taken to implement pedestrian safety improvements in Chinatown to facilitate walking along 8th Street between the Lake Merritt BART station and the Project site (Draft EIR p. 4.15-133). The Draft EIR also details measures to improve pedestrian safety at the following Chinatown intersections along Broadway at 5th, 6th, and 7th Streets:

- Implement a southbound signal-protected left-turn lane at 7th Street serving the Chinatown District and prohibit northbound left-turn traffic at 8th Street (toward Old Oakland) to facilitate vehicle movements and separate left-turning traffic from pedestrian crossings at both intersections. This improvement is incorporated into Mitigation Measure TRANS-1d and 1e.

- Remove the separate westbound right-turn lane on 6th Street at Broadway, bringing the movement under signalized control at the intersection. This improvement is incorporated into Mitigation Measure TRANS-1d and 1e.

- Remove the public art at the back of the sidewalks between 5th and 6th Street, expand the available sidewalk space for patrons walking to and from the ballpark, and enhance the freeway underpass with improved lighting, aesthetics, "placemaking," and wayfinding improvements. This improvement is incorporated into Mitigation Measure TRANS-1d and 1e.

As observed by some commenters, several important measures to improve pedestrian safety are components of the Oakland Alameda Access Project. One commenter notes, "The Oakland Alameda Access Project is not fully funded, and is a mitigation for the impacts of this project. This project should contribute funds for its construction as mitigation" (Comment O-63-82). The Draft EIR makes note of the improvements that are planned as part of the Oakland Alameda Access Project including enhanced pedestrian safety at 7th Street and Harrison Street, 7th Street and Alice Street, and 7th Street and Jackson Street, as well as bike and pedestrian facilities on 4th, 5th, and 6th Streets (Draft EIR p. 4.1-228). However, the Draft EIR does not find the Oakland Alameda Access Project was mitigation for the Project impacts. As determined in the Draft EIR, the Project would add pedestrian traffic along 8th Street between the Lake Merritt BART station and the Project via Broadway or Washington Street, and the mitigation measures are oriented toward the 8th Street corridor through Chinatown. The comment regarding funding of the Oakland Alameda Access Project is acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project. For additional information on funding issues generally please see Consolidated Response 4.22, *General Non-CEQA*.

Also note that since publishing the Draft EIR the City of Oakland was awarded grant funding (Caltrans Sustainable Transportation Planning Grant Program) to complete the Chinatown Complete Streets Project which will establish community consensus on improvements to safety and access for people taking the bus, walking, and biking in Oakland's Chinatown. Most importantly, this effort will engage community-based organizations and a consultant team to create the conceptual designs necessary to move capital projects forward to implementation. The Project, expected to start in Spring 2022, will include a re-examination of past planning-level recommendations and identifying a set of key corridors and multi-modal improvements for project development and design.

4.8.5 Concerns about Chinatown as a Historic Resource

Several comments note that Chinatown is not included in the list of historic resources analyzed in the Draft EIR. The commenters are concerned that direct and indirect impacts on Chinatown that may result from implementation of the project or its variants are not presented. They emphasize that Chinatown is approximately a mile from the project site, and that the Aerial Gondola variant is less than a mile from the northern boundary of the Chinatown neighborhood.

Specifically, Comment O-63-15 notes that Chinatown is not included in Table 2.1, pp. 2-35 through 2-39 and Comment O-63-52 notes that it is not included in Section 4.4.4, pp. 4.4-22 through 4.4-31. Both referenced sections are where impacts and mitigations for cultural resources are summarized. The comments also note that Chinatown is not included in the analysis for impacts and no mitigations are identified for Project-related cultural impacts on Chinatown.

These comments suggest that the Draft EIR is deficient because it does not classify Chinatown as a "historically significant area and cultural resource under CEQA that will be directly and indirectly impacted by the Project," (Comment O-63-15) and that "the study area boundary an impacted historic resources is vague." (Comment O-63-89)

With regards to the suggestion in Comment O-63-52 that the City of Oakland does not consider Chinatown to be a historic resource under CEQA Guidelines, section 15054.5, the historic resources located in and around Chinatown are presented and analyzed by the City in the Lake Merritt Station Area Plan (LMSAP, 2014), the LMSAP EIR (2014), the Downtown Oakland Specific Plan (DOSP, 2019), and the DOSP Draft EIR (2020). These resources include the Chinatown Commercial District API, the 7th Street / Harrison Square Residential District API, The Real Estate Union Houses API, the Lake Merritt District API, as well as numerous individual buildings listed on the national, California, or City of Oakland historic resource registers. Please see page 3.8-9 and Table 3.8-1 of the LMSAP EIR for a complete listing of known historic resources in the Chinatown area.

For the purposes of project-related CEQA analysis, the historic resource must meet the criteria of the definition under CEQA Guidelines, section 15054.5 *and* be located in such proximity to the project that direct and indirect impacts can be attributed to the changes in the environment caused by the project. With regards to selection of the boundaries for consideration of impacts to historic resources, the Draft EIR considers buildings within one-parcel of project features to identify those historic resources that could experience both direct and indirect impacts resulting from construction or operation of the Project, and the Project variants. Where only a portion of a historic district is within the one-parcel boundary, the entire historic district is included in the analysis. This approach is consistent with current environmental review procedures within the City of Oakland. The boundary is based on CEQA requirements that the impacts analysis must determine whether the impacts of the project would "cause a substantial adverse change in the significance" of the resource (CEQA Guidelines Section 15062.5[b]). A substantial adverse change in the significance of an historical resource means "physical demolition, destruction, relocation, or alteration of the resource or *its immediate surroundings* such that the significance of the historical resource would be materially impaired" (CEQA Guidelines Section 15064[b][1]). An historical resource is considered materially impaired through the demolition or alteration of the resource's physical characteristics that convey its historical significance and that justify its inclusion in the California Register (CEQA Guidelines Section 15064.5[b][2][A]). Such detrimental outcomes are generally associated with development in close proximity to historic resources, typically measured within one-quarter mile, or one-block from the project site. In those locations where individual parcels are large, or the city-block configurations atypical, one-parcel is often used instead. Comment O-63-89 disagrees with this boundary, further advocating for consideration of Chinatown and the Pacific Renaissance Plaza as historic resources that could be directly and indirectly impacted by Aerial Gondola. However, the Chinatown neighborhood, the Pacific Renaissance Plaza, and any individual historic resources in the Chinatown neighborhood are located at a distance from the Project and its variants. For this reason, Project features would not encroach into Chinatown, would not shade Chinatown resources, or otherwise alter their immediate setting, or affect features of the physical environment that contribute to the area's significance. Thus, substantial adverse changes to the significance of the historical resource would not occur. This is why no further analysis of impacts of the Project to these historic resources is included in the Draft EIR.

Nonetheless, both the DOSP Draft EIR (2019) and the LMSAP EIR (2014) conclude that this development could result in significant and unavoidable impacts on historic resources within their respective plan areas, which include the Chinatown neighborhood. A variety of mitigation measures are presented in both plans to limit impacts to the greatest extent possible; however, the potential remains for significant and unavoidable impacts to result from demolition of historic

resources. For a fuller discussion of impacts that could result from development of the broader Downtown Oakland area, including Chinatown, see the DOSP (2019) and DOSP Draft EIR (2020) and the LMSAP (2014) and LMSAP EIR (2014).

4.9 Alternative 3: The Proposed Project with Grade Separation Alternative

Comments Addressed: A-6-4, A-6-14, A-8-2, A-8-3, A-8-4, A-8-5, A-8-6, A-8-9, A-8-12, A-8-14, A-8-15, A-8-17, A-8-18, A-14-14, O-27-35, O-29-90, O-41-10, O-43-2, O-43-3, O-43-9, O-47-26, O-48-9, O-48-10, O-48-21, O-48-23, O-48-28, O-48-35, O-48-37, O-48-38, O-48-40, O-48-50, O-57-35, O-57-80, O-62-52, O-62-72, O-62-74, O-62-75, O-63-26, O-63-94, I-148-3, I-148-4, I-148-5, I-243-18, I-243-39, I311-7-5, I311-7-9, I311-7-14, I311-7-23, I311-7-27, I311-8-19, I311-8-20, I311-8-21, I311-9-1, I-332-20, I-332-25, I-332-26, I-332-27, I-332-31, I332-1-1, I-334-11, I-334-17, I-334-21, I-334-23, I-334-24, H2-1-27, and H2-2-49.

Multiple commenters addressed the analysis of Alternative 3: Proposed Project with Grade Separation Alternative, which would construct one grade-separated vehicular crossing that would not accommodate pedestrians and bicyclists. Some comments raised the need for grade-separated crossings of the railroad corridor and took issue with the rejection of alternatives to include multiple grade-separated crossings. Some of the commenters suggested other alternatives that should be considered, such as undergrounding the railroad tracks in the area, expressing the opinion that "fully grade-separating access to the site" is necessary to ensure rail safety generally, and for the safety of pedestrians, bicyclers, and drivers who will use the Project site.

Some commenters suggested that grade separation should be a mitigation measure rather than an alternative. Specific comments regarding the analysis of Alternative 3 presented in Section 6.2.3 in the Draft EIR were also offered.

The Draft EIR acknowledges the access constraints and safety issues associated with the Project's location in an area with multiple at-grade railroad crossings, and includes mitigation measures in the form of safety improvements along the corridor (Mitigation Measure TRANS-3a) and a grade-separated access for pedestrians and bicyclists (Mitigation Measure TRANS-3b). The Draft EIR then concludes that the exposure to a permanent or substantial transportation hazard (Impact TRANS-3) would be significant and unavoidable, and includes an alternative intended to lessen the severity this significant impact. Contrary to "equating" at-grade improvements with grade separation, as suggested by one commenter (Comment I-334-21), this approach distinguishes between them, providing a discussion and analysis of at-grade improvements and a grade-separated pedestrian and bicycle crossing as mitigation, and a discussion of vehicular grade separation as an alternative.

This Consolidated Response 4.9, *Alternative 3: The Proposed Project with Grade Separation Alternative,* responds to these comments, beginning with an explanation of CEQA requirements that an EIR include a reasonable range of alternatives. It also discusses how alternatives are considered and/or rejected, and includes responses to other specific comments noted above.

4.9.1 Consideration of Reasonable Range of Alternatives

As noted on p. 6-1 of the Draft EIR, the State CEQA Guidelines require that an EIR include "a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." Section 15126.6(a) states that "an EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." Section 15126.6(f) describes a "rule of reason," stating that an EIR "set forth only those alternatives necessary to permit a reasoned choice," and "the EIR need examine in detail only the ones that the Lead Agency determines could feasibly attain most of the basic objectives of the project." An EIR is not required to consider alternatives to a component of a project, but only alternatives to the project *as a whole*. (See State CEQA Guidelines Section 15126.6(a); *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 993.) Variations of the same alternative are also not required; "what is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." (*Residents Ad Hoc Stadium Comm. v. Board of Trustees* (1979) 89 Cal.App.3d 274, 286; see also *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 355-56 [rejecting need to analyze every variation on the alternative continuum for housing project].)

The Lead Agency is charged with selecting a range of project alternatives for analysis and publicly disclosing its "reasoning for selecting those alternatives." (CEQA Guidelines, Section 15126.6, subd. (a)) Selecting a range of alternatives is a two-step process. First, the Lead Agency identifies potential project alternatives and assesses them for consistency with the fundamental purpose of the project, satisfying most of the basic project objectives, the ability to avoid significant environmental impacts, and feasibility and practicability (CEQA Guidelines, Section 15126.6(c)). Alternatives that do not meet these threshold requirements are not included in the EIR. In the second step, the Lead Agency evaluates the alternatives remaining, assessing them against the proposed project.

In this instance, the City as the Lead Agency selected four alternatives for in depth analysis in the Draft EIR, including the required "No Project" alternative, an off-site alternative, a reduced project alternative, and a grade separation alternative that would construct the Project as proposed by the Project sponsor with the addition of a vehicular grade separation. These four alternatives constitute the required "reasonable range" and are intended to inform a decision by the City Council whether to approve or disapprove the Project as proposed, or alternately whether to pursue a project at the Coliseum site, or approve an alternate project that is smaller, or one that includes a vehicular grade separation.

In identifying this range of alternatives, the EIR preparers considered comments submitted in response to the Notice of (EIR) Preparation (see letters received in Draft EIR Appendix NOP), and, through the scoping process for determining alternatives, identified an alternative that would provide grade-separated access to the new ballpark and other uses proposed on the Project site, thereby lessening the severity of Impact TRANS-3, a significant and unavoidable impact. The resulting inclusion of Alternative 3: The Proposed Project with Grade Separation Alternative (see

Draft EIR Chapter 6, *Alternatives*) would provide a grade-separated vehicular crossing at one of two locations (the Market Street or Brush Street alignment).

The characteristics of Alternative 3, as described in Draft EIR Section 6.3.2, were informed by a consideration of what would be "potentially feasible" as required in State CEQA Guidelines Section 15126.6(a), and as defined in State CEQA Guidelines Section 15126.6(f)(1). As noted in this section of the State CEQA Guidelines, while "no one factor establishes a fixed limit on the scope of reasonable alternatives," any number of factors may be taken into account when considering the feasibility of potential alternatives, including such things as site suitability, economic viability, and whether the proponent can reasonably acquire or control the site. What is "reasonable" or practical factors into the definition of alternatives, as does the CEQA requirement that alternatives "feasibly attain most of the basic project objectives."

In defining the grade separation alternative, the Project sponsor and the City considered a variety of possible approaches to grade separation, as shown in **Figure 4.9-1**. These approaches looked at providing site access via the existing Adeline overcrossing, via constructing new over- or under-crossings at various locations along the northern perimeter of the site, and providing two grade separations – one at Market and one at MLK Jr. Way. Providing two grade separations as shown in **Figure 4.9-2** was considered infeasible because of the need for extensive property acquisitions (multiple properties along both streets would lose access and need to be acquired), associated costs, and because a meaningful percentage of the Project site would become less accessible/useable due to the elevated or depressed roadway connections needed to access the grade separations. The possibility of closing both the Market Street and MLK Jr. Way crossings was also considered and rejected because of the need to maintain them for access to the Schnitzer Steel site (via Market Street) and the Vistra Peaker Plant (via MLK Jr. Way), as well as the desire to connect the Project's streets to the City street grid and provide associated pedestrian, bicycle, and vehicular access to the site.[47]

The idea of depressing the railroad tracks below grade along the northern site boundary was not considered because of the disruption that would occur to rail operations during construction. In addition, such an approach would require sloping the tracks over a long distance on either side of the site to get the tracks below grade and would involve extensive construction in a right-of-way that is not controlled by the City or the applicant.[48]

The Capital Corridor's Draft Rail Vision Plan prepared in 2014 identified one design option that would accommodate freight rail as well as passenger rail in a shallow trench capped by a raised berm.[49] This "partially depressed" alternative was later refined to include cross streets partially elevated (10 feet) above existing street level and rejected in the 2016 Final Plan because it "does not address community concerns relating to safety, noise/vibration, and access to the waterfront" and because it would impact a 106-inch EBMUD sanitary sewer line, and create "significant traffic and property impacts by raising the cross streets." A "fully depressed" option below the

47 BKF Technical Memorandum: Howard Terminal Grade Separation Alternatives Feasibility Study, July 9, 2021.

48 The total distance needed for the railroad tracks to be placed in a trench below grade along the northern boundary of the site, including the distance needed for the tracks to descend into the trench on either side of the site, is estimated to be a total of approximately 7,500 feet or 1.45 miles.

49 Capitol Corridor, 2014. *Capitol Corridor 2014 Vision Plan Update Final Report*, adopted November 19, 2014.

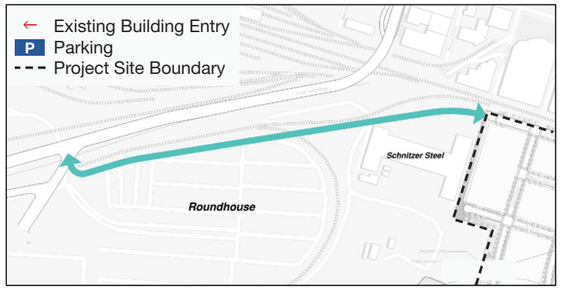
Embarcadero was also rejected because of impacts to the Webster and Posey Tubes, utilities conflicts, constructability issues, and high capital costs.[50]

The Final Rail Vision Plan in 2016 noted that if modifications were made to the Posey and Webster Tubes, a cut/cover tunnel completely below grade would be feasible except for a two block segment that would have to be raised "a few feet." The Plan's ultimate recommendation was for a half-mile passenger rail tunnel below 2nd Street, accompanied by a cut/cover freight rail tunnel running below the Embarcadero. An alternative design would construct one cut/cover tunnel for passenger and freight rail in the block between Embarcadero and 2nd Street, requiring "significant property acquisitions." The order of magnitude capital costs (in 2016 dollars) for the option with separate passenger and freight tunnels were estimated at $1.2 billion and the segment was identified as "Phase 4" after improvements to the Capitol Corridor between San Jose/Oakland and Oakland/Richmond.[51]

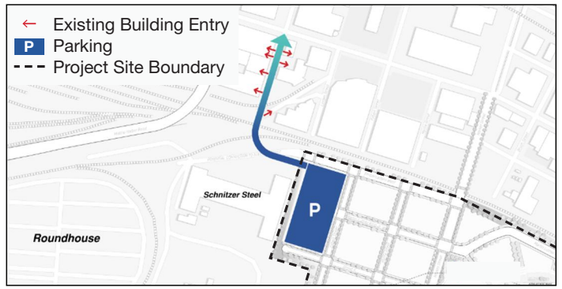
Incorporating portions of the Final Rail Vision Plan, its recommendation for region-wide issues, or another, similar grand solution as a project alternative would be inconsistent with CEQA's directive that "the range of alternatives that an EIR must study in detail is defined in relation to the adverse environmental impacts *of the proposed project.*" (*In re Bay-Delta Programmatic Envtl. Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1167.) The problems that were the focus of the Rail Vision Plan continue to exist with or without the proposed Project and are part of the baseline conditions, and the range of alternatives is not required to address a pre-existing issue and impacts beyond the impacts of a project. (*Id.*, at 1168.) Furthermore, incorporating regional rail improvements on the scale recommended by the Rail Vision Plan into the proposed Project would not be "reasonable" or feasible as an alternative to the Project analyzed in the Draft EIR because its cost would more than double the cost of the proposed ballpark (and could be substantially more), and because of potential impacts to the surrounding community such as potential impacts to existing homes and businesses (including possible property acquisition), and dramatic increases to the area affected by construction impacts, including construction-related air pollutant emissions and noise. Construction of the Vision Plan would also involve extensive construction in a right-of-way that is not controlled by the applicant and is not wholly within the City's jurisdiction. Nonetheless, the proposed Project would not preclude the agencies with jurisdiction from pursuing the Vision Plan or a similar strategy for grade separating railroad tracks by constructing a trench or tunnel within or under the railroad right of way in the future. In doing so, the agencies would need to modify circulation and rail safety improvements constructed as part of the proposed Project.

Chapter 6 of the Draft EIR describes alternatives that were considered for inclusion in the document and were rejected for in depth analysis for specific reasons as discussed further below. These include an alternative with no at-grade crossings, as well as various alignments for potential grade-separated crossings, and construction of a grade-separated crossing prior to the start of construction (Draft EIR Section 6.4.2).

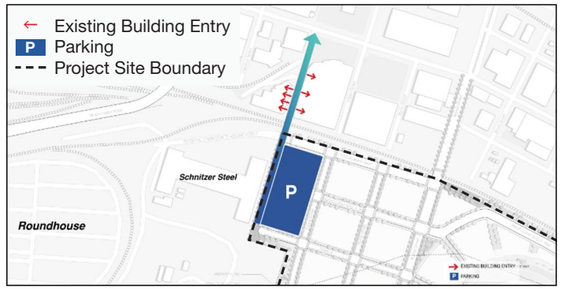
[50] Capitol Corridor, 2016. *Capitol Corridor Vision Implementation Plan*, Appendices, November 2016.
[51] Capitol Corridor, 2016. *Capitol Corridor Vision Implementation Plan*, November 2016.



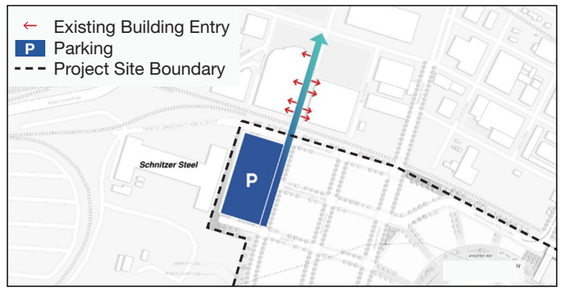
Option 1 - Adeline Street Flyover



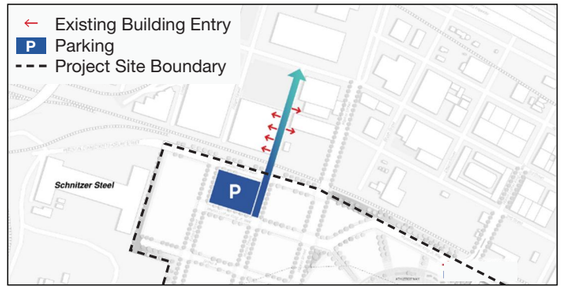
Option 2 - Chestnut Street Flyover



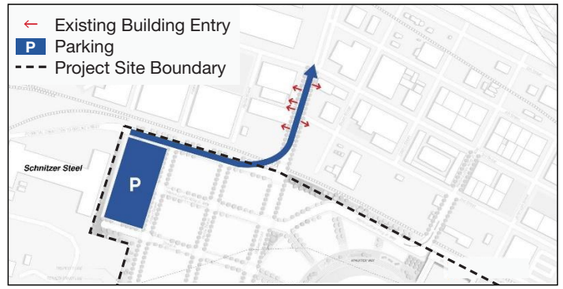
Option 3 - Linden Street Flyover



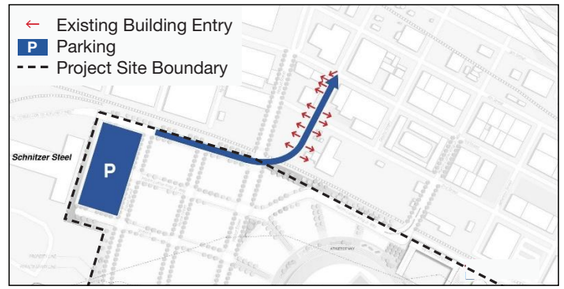
Option 4 - Filbert Street Flyover



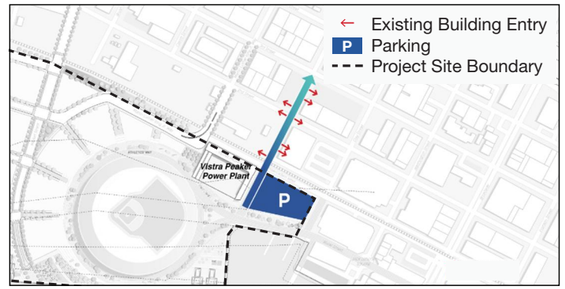
Option 4 - Myrtle Street Flyover



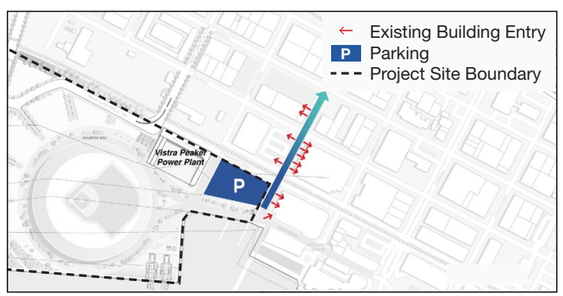
Option 6 - Market Street Alignment



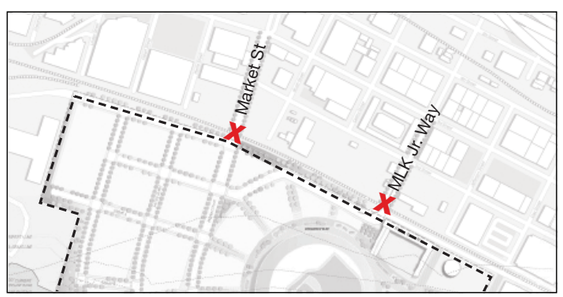
Option 7 - Brush Street Alignment



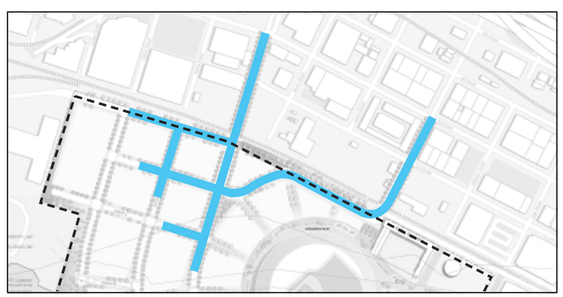
Option 8 - Jefferson Street Flyover



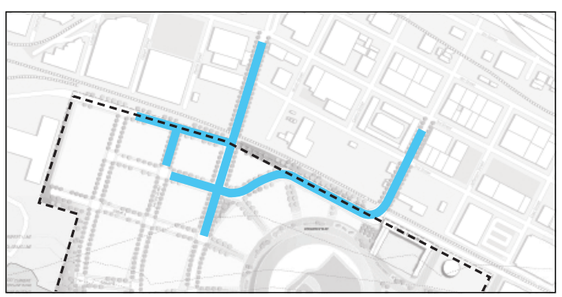
Option 9 - Clay Street Flyover



Option 10 - Closure Option



Option 11 - Two Grade-Separated Overpasses



Option 12 - Two Grade-Separated Underpasses

SOURCE: BKF, 2021

Oakland Waterfront Ballpark District Project

Figure 4.9-1
Grade Separated Site Access Options Considered

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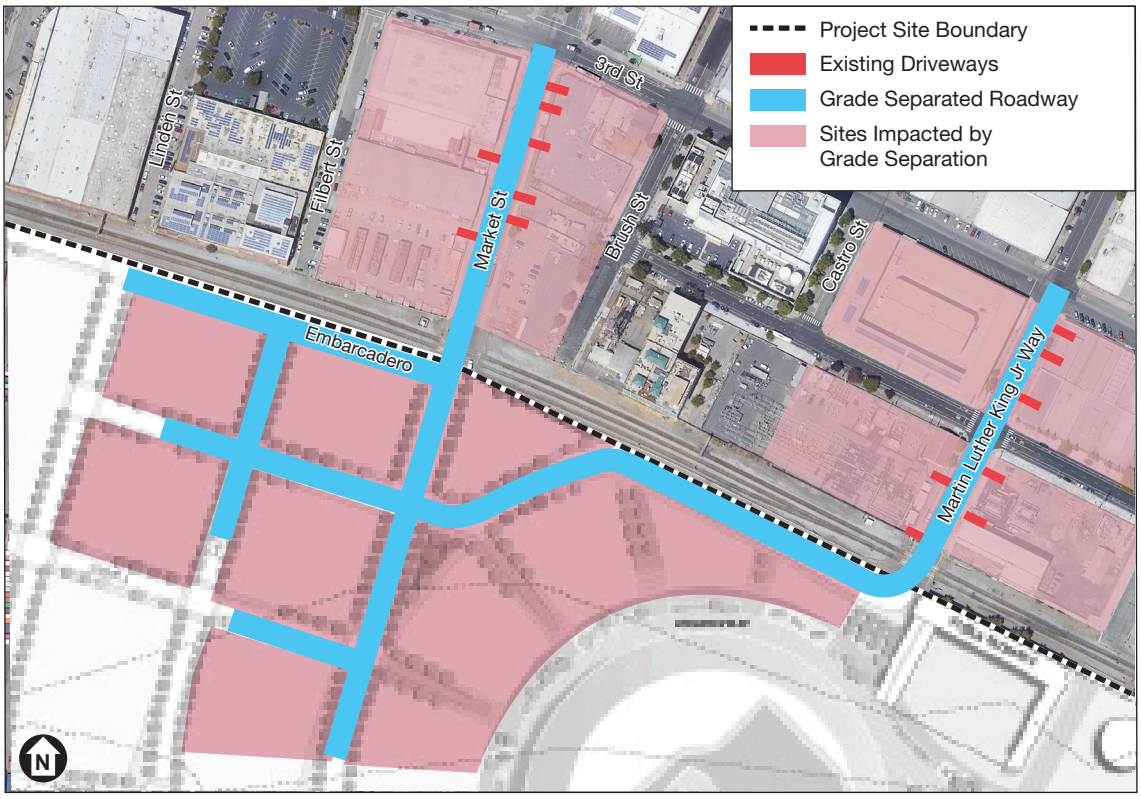
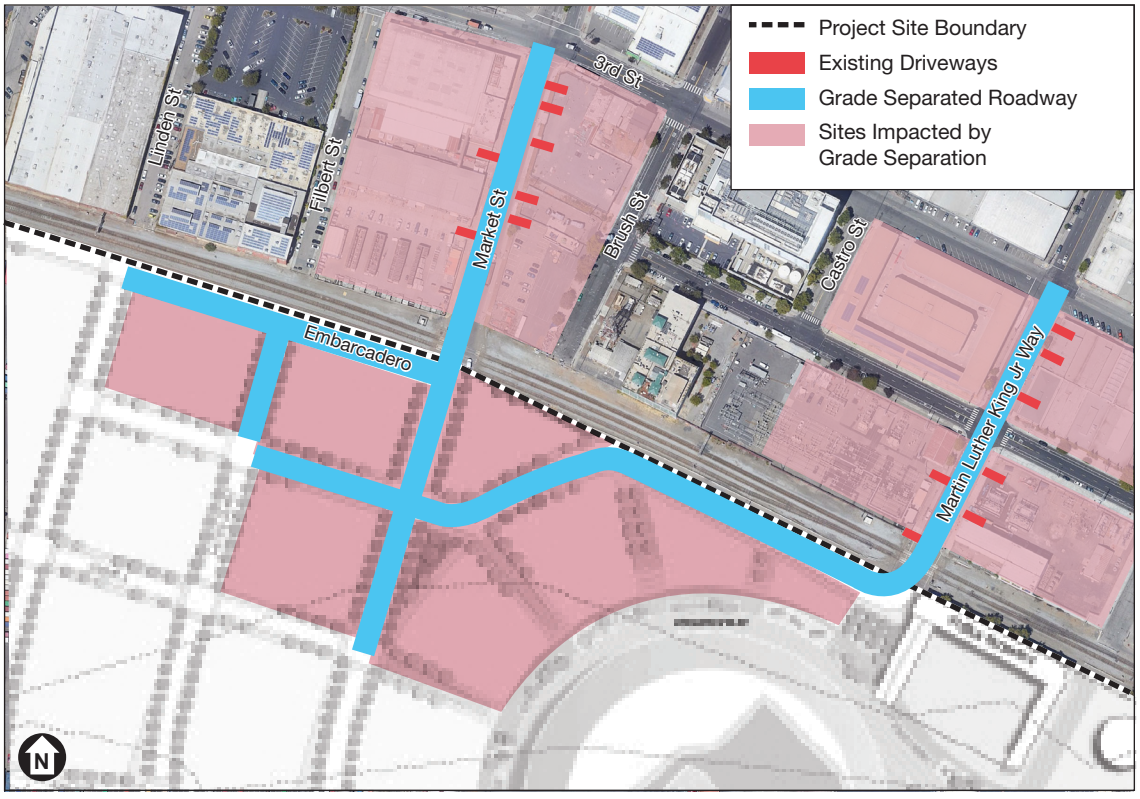


Overpasses



Underpasses

SFO\170XXX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: BKF Engineers, 2020

Oakland Waterfront Ballpark District Project

Figure 4.9-2
Extent of Construction and Access Constraints with Two Grade Separations

ESA

4.9.2 Rejection of Alternatives

A number of commenters objected to the rejection of alternatives in Draft EIR Section 6.4.2, either disputing the reasons that are given for not analyzing these alternatives in detail, saying that substantial evidence was not provided, or that the Final EIR must demonstrate how additional grade-separated crossings would render the Project impractical due to economic unviability (Comment A-8-14). Other commenters requested an extensive analysis of grade separation options.

The State CEQA Guidelines are clear that the Draft EIR should identify alternatives that were considered for inclusion in the Draft EIR's "reasonable range of alternatives" but were rejected as infeasible, and should "briefly explain the reasons" behind this decision (State CEQA Guidelines Section 15126.6(c)). CEQA does not require the Lead Agency to conduct a detailed feasibility analysis. Instead, CEQA requires substantial evidence to support a finding that "specific economic, legal, social, technological, or other considerations… make infeasible… the project alternatives identified in the final EIR" at the time the local agency approves the project (State CEQA Guidelines Sections 15091(a)(3) and 15091(b)). Thus, the Final EIR will provide some but not all of the evidence presented to decision makers at the time they are asked to decide whether to approve the proposed Project, and need not contain a detailed analysis of infeasibility or substantial evidence to support the selection of alternatives for analysis in the EIR.

The Draft EIR describes the various options for grade-separated crossings that were considered when crafting Alternative 3 (Draft EIR p. 6-58), explaining why various other locations were deemed less desirable, and also identifying various physical constraints that contributed to the decision not to analyze a grade-separated crossing at Martin Luther King Jr. Way in conjunction with the grade separation envisioned in Alternative 3 (Draft EIR p. 6-59). While these discussions address whether a fully grade-separated option would be infeasible, the following text has been added on p. 6-59 of the Draft EIR to address comments (new text is <u>underlined</u>):

> This Draft EIR does not analyze an alternative that eliminates both existing at-grade crossings serving the site at MLK Jr. Way and at Market Street, or an alternative that would provide a grade-separated crossing to the site for construction. The elimination of both existing at-grade crossings serving the site was deemed infeasible, given the need to accommodate access to the site and the constraints associated with constructing grade separations at both Market (or Brush) Street *and* MLK Jr. Way. Specifically:
>
> - Adding a grade separation at MLK Jr. Way in addition to Market (or Brush) Street would impact access to additional parcels north of the railroad tracks, affecting eight additional driveways, and would eliminate access to MLK Jr. Way from 2nd Street.
>
> - Adding a grade separation at MLK Jr. Way in addition to Market (or Brush) Street would impact proposed utility service to the site because both Market Street and MLK Jr. Way are utility corridors, providing sanitary sewer, domestic water, and other utility service to the site, and grade separations would limit the capacity of the right-of-way to accommodate utilities. These streets also accommodate significant City storm drain infrastructure.

- MLK Jr. Way is planned as one of the primary entrances to the site, and construction of a grade-separated crossing could eliminate pedestrian/bicycle access at that location and affect the proposed Bay Trail extension.

- Adding a grade separation at MLK Jr. Way in addition to Market (or Brush) Street would require changing the grades of on-site streets and the ramps required to get both grade separations back to grade would limit the developable acreage of the Project site, reducing the economic viability of the Project. Specifically, connections to elevated or underground grade separations would require portions of the streets on the Project site to be depressed or elevated, such that access to all or a portion of Blocks 4, 5, 9, 10, 11, and 13 would be significantly constrained.[52]

- Depressing the railroad corridor along the north end of the site in an open-trench so that Market Street and MLK Jr. Way could continue to access the site at grade could result in significant disruptions to existing rail traffic during construction and would affect approximately 1.45 miles of the rail corridor, including the segment adjacent to the site and segments on either side of the site where the railroad tracks would descend into the trench. Thus construction impacts could be severe, and would extend over a large geographic area. In addition, such an extensive construction project would be cost prohibitive, reducing the economic viability of the project, and neither the City or the applicant has site control of the rail corridor.

Even if it were possible to provide two grade-separated crossings to serve the site (one at Market Street and one at MLK Jr. Way), many pedestrians would continue to use the Water Street pedestrian access to the Project site, resulting in increased pedestrian and bicycle traffic at existing off-site at-grade crossings at Washington and Clay Streets as well as Broadway. Thus, any alternative with two grade-separated crossings serving the site, even if feasible, would have to maintain one or more existing at-grade crossings in the surrounding neighborhood. This means that such an alternative, if feasible, would reduce but would not eliminate the associated significant and unavoidable impact of the Project.

A broad solution of placing the entire corridor adjacent to the site and through Jack London Square underground, as described in the Capitol Corridor's Rail Vision Plan (Capitol Corridor, 2016),could address this issue by eliminating all existing off-site at-grade crossings in the area. However, this would be a region-wide improvement project to address baseline conditions and impacts beyond this Project and thus would be outside of the scope and nexus of the Project. The scale of such improvements would also be infeasible as an alternative to the Project given its broad scope, substantial cost (estimated at $1.2 billion in 2016), its potential impacts on existing businesses and residents in the area (including property acquisitions), the greatly extended geographic area that would be exposed to increased construction-related air pollutant emissions and noise, and the lack of site control by the City or the applicant. Therefore, this alternative is rejected for detailed consideration in the EIR as infeasible and lacking a nexus to the Project impacts.~~Thus, any alternative with grade-separated crossings serving the site, even if feasible, would have to maintain one or more existing at-grade crossings. This means that such an~~

[52] BKF, 2021. *Howard Terminal Grade Separation Alternatives Feasibility Study*, July 9, 2021.

~~alternative, if feasible, would substantially reduce but would not eliminate the associated significant and unavoidable impact of the Project.~~

Contrary to a suggestion by a commenter (Comment O-41-10), the existing text in the Draft EIR and the text as modified above provide multiple reasons why an alternative with multiple (or total) grade separations was deemed infeasible and were not carried forward for in-depth analysis. These reasons include physical constraints as well as cost, which are appropriate considerations under State CEQA Guidelines Section 15126.6(c) despite comments to the contrary (Comment I-332-31) and sufficient detail on the cost, the nature of utilities conflicts, property takings or access constraints was provided to inform a decision regarding the "reasonable range" of alternatives and no further detail on these issues is required under CEQA standards for consideration of alternatives. The time involved to construct a grade-separated crossing is also mentioned as a reason that an alternative that would construct grade separation(s) prior to construction of the Project was not carried forward for analysis. The Draft EIR need not explain precisely how long the construction of the grade separation would take since constructing the Project and the grade separation sequentially (rather than in parallel) would clearly extend the construction schedule in a material way, and reference to one of the Project objectives is germane to the discussion.

Overall, the reasons provided for not analyzing other grade separation alternatives in the Draft EIR are consistent with the requirement in the State CEQA Guidelines (Section 15126.6(c)) that the EIR "briefly explain the reasons" behind the decision to reject alternatives.

It should also be noted that at-grade railroad crossings are an existing feature of the Jack London Square neighborhood and the Draft EIR appropriately considers whether the Project, by bringing more people to the vicinity, would increase the potential for accidents. The EIR does not provide "a wholesale rejection of safety concerns;" instead it analyzes a grade separation alternative and includes mitigation measures that would reduce project-related safety issues along the rail corridor as well as improve existing conditions (see Mitigation Measure TRANS-3a). This is an appropriate approach for a project-specific EIR (rather than a community-wide planning effort) and is consistent with the City's General Plan Land Use and Transportation Element (LUTE) Policy W2.5. *Improved Railroad Crossings*, which states "To create safe access to the water, pedestrian, bicycle, and automobile railroad crossings should be provided where feasible. Crossings could include grade separations, at-grade crossings, skyway bridges, or connections between buildings."

Mitigation Measure TRANS-3b, which would require a pedestrian and bicycle overcrossing in the area between the ballpark and the proposed Transportation Hub (on Clay or Jefferson Street), would also address safety concerns by providing an alternative to at-grade crossings for pedestrians and bicyclists to access the site on both event and non-event days. A design option that would provide pedestrian and bicycle access on the vehicular grade separation included in Alternative 3 (as suggested by Comment I-332-25 and others) was considered in development of the alternative, but was rejected for several reasons. First, while multimodal access is supported by City plans and policies, it would require the overpass to slope more gradually than shown in Alternative 3 and therefore the overpass' touchdown point would extend into Third Street, requiring reconfiguration of an intersection and corridor that provides access to and through the area. In

addition, the overcrossing's location (and its touchdown location on the Project site) would make it less attractive for pedestrians and bicyclists than the pedestrian and bicycle overcrossing required by Mitigation Measure TRANS-3b.[53]

As discussed in Section 4.10.5 below, State CEQA Guidelines Sections 15091(a)(3) and 15091(b) require that a local agency seeking to approve a project that was subject to an EIR, must make a finding that "specific economic, legal, social, technological, or other considerations… make infeasible… the project alternatives identified in the final EIR." In order to adopt a statement of overriding considerations to approve a project with significant and unavoidable impacts, an agency must find that alternatives that would substantially reduce these adverse impacts are infeasible. This means that each alternative which will substantially reduce significant and unavoidable impacts of the Project will be considered, and if rejected, the City will have to base that decision on evidence of infeasibility specific to the alternative. This evidence will include but will not be limited to the Final EIR, with all of its information and analyses as well as the comments and responses, and the record as a whole.

4.9.3 Alternative Instead of Mitigation

A number of commenters suggested that a grade separation(s) should be included as part of the Project or imposed as mitigation, rather than being considered as an alternative "buried in Chapter 6" of the Draft EIR. These commenters not only objected to the Draft EIR's discussion of grade separation as an alternative (rather than as part of the Project), but to the resulting absence of discussions regarding impacts of grade separation in the public services, transportation, utilities, recreation, and land use sections of Chapter 4 of the Draft EIR (Comment I-334-17).

A vehicular grade separation was not part of the Project proposed by the Project sponsor. The decision to include it as an alternative in the Draft EIR, rather than as a mitigation measure, was based on the scale (size and cost) of the undertaking and how it would modify the proposed site plan. This is consistent with case law that holds that mitigation measures target specific methods for carrying out the project, whereas alternatives generally focus on the proposed activity or project as a whole and responds to the major environmental issues identified during the planning process. (See *Friends of the Old Trees v. Department of Forestry & Fire Protection* (1997) 52 Cal.App.4th 1383.)

Presenting the vehicular grade separation as an alternative was also seen as the best way to provide decisionmakers with an opportunity to weigh the impacts and benefits of adding a vehicular grade separation to the Project and sufficient engineering/design work was completed to identify two potential locations (see Draft EIR Figures 6-2 and 6-3). On one hand, as explained on Draft EIR p. 6-34, the alternative with a vehicular grade separation would reduce traffic congestion when a freight train passes through and would reduce (although not eliminate) unavoidable impacts associated with the safety hazards of at-grade railroad crossings. On the other hand, as explained on Draft EIR pp. 6-27 and 6-28, the alternative with a vehicular grade separation would increase certain Project impacts such as air pollutant emissions and result in a significant and unavoidable

[53] BKF Technical Memorandum: Howard Terminal Grade Separation Alternatives Feasibility Study, July 9, 2021, pp. 12-13.

health risk from TAC emissions (Impact AIR-4) and historic resources which would not occur with the Project or any other alternative.

The alternative with a vehicular grade separation would result in a significant and unavoidable impact on the Southern Pacific Railroad API, and historic resource, that would not occur with the Project or other alternatives. While one commenter (Comments I-332-26 and I-332-27) objects to the conclusion that the proposed Project would *not* have this impact to the Southern Pacific Railroad API but the alternative would, this conclusion is explained on p. 4.4-24 of the Draft EIR:

> While the loss of open areas around the API and the increase in scale on the Project site have the potential to adversely impact the Southern Pacific Railroad Industrial Landscape District API, the Southern Pacific Railroad Industrial Landscape District API has its primary significance under Criterion C – Architecture for its "unity of architectural style" and as a representation of "trackside industrial development in Oakland through the late 19th and early 20th centuries." The proposed Project would not impact the architectural design of the grouping, nor would it alter the relationship of the contributing structures to each other or the railroad tracks. The scale and design of landscaping at intersections within the district (Market Street and the terminus of Brush Street) would allow views along the railroad tracks, maintaining the visual unity and character-defining perspectives within the district (see Figure 3-23, Landscape Plan and Amenities). Therefore, the impact to setting resulting from an increase in mass, bulk, and density of the surrounding built environment would not "demolish or materially alter in an adverse manner those physical characteristics… that convey its historical significance and that justify inclusions in the or eligibility for, inclusion in" the California register," (CEQA Section 15064.5(b)(2)(A)) Therefore, the impact resulting from alteration of the setting is less than significant and no mitigation is required.

By comparison, Alternative 3 with either grade separation option (Brush or Market Street) would construct a bridge structure bisecting the API, which "could no longer be easily appreciated as a grouping." The overcrossing would also impede the line of sight along the railroad tracks adjacent to the API (Draft EIR p. 6-29).

The analysis of the Proposed Project with Grade Separation Alternative conform with requirements of State CEQA Guidelines Section 15126.6(d) for alternatives, by providing "sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project" and describing significant impacts in "less detail than the significant effects of the project." All topics covered in Chapter 4 of the EIR are briefly discussed, including public services, transportation/traffic, utilities, recreation, and land use, and impacts of the alternative are compared to those of the Project (see Draft EIR pp. 6-25 through 6-34). As suggested by the Guidelines, the Draft EIR also provides a matrix (Table 6-4), allowing comparison of the effects of each alternative and the Project. This matrix is supplemented by another (Table 6-5) providing more detail about air quality and GHG emissions/impacts. The end result is an analysis of potential alternatives that provides sufficient detail to compare impacts of the alternatives to those of the Project and would allow decision makers to select one of the alternatives for adoption in lieu of the Project if the decision makers find that the alternative is feasible and would avoid or lessen significant impacts. In other words, the impacts (and benefits) of the alternative have been analyzed in sufficient

detail to inform findings pursuant to CEQA Guidelines Section 15091 (Findings) and 15093 (Statement of Overriding Considerations), enabling decision makers to consider adoption of an alternative in lieu of the Project if findings can be made.

4.10 Alternative 2: The Off-Site (Coliseum Area) Alternative

Comments Addressed: O-15-6, O-25-4, O-27-9, O-27-16, O-27-34, O-27-35, O-27-78, O-27-79, O-27-80, O-27-81, O-27-82, O-27-83, O-27-84, O-27-85, O-29-75, O-29-89, O-29-90, O-29-91, O-29-92, O-29-93, O-29-94, O-29-95, O-29-100, O-29-101, O-29-103, O29-1-45, O29-1-80, O-32-6, O-32-11, O-33-3, O-34-8, O-36-2, O-41-2, O-41-4, O-41-5, O-46-2, O-46-6, O-46-10, O-47-2, O-47-12, O-47-15, O-47-16, O-47-18, O-47-26, O-51-22, O-51-24, O-58-2, O-61-5, O-62-72, O-62-73, O-62-74, O-62-75, O-63-26, O-64-1, I-69-3, I-91-5, I-141-1, I-148-5, I-156-7, I-175-1, I-179-2, I-179-8, I-179-10, I-179-11, I-179-13, I-215-3, I-216-1, I-225-5, I-230-1, I-243-22, I-243-40, I-268-6, I-270-2, I-282-4, I-282-9, I-292-7, I-298-1, I-299-1, I-312-2, I-313-1, I-313-3, I-313-6, I-316-5, I-317-3, I-327-5, I-331-6, I-335-1, I-339-4, I-340-1, H-1-9, H2-1-19, H2-2-20, H2-2-35, H2-3-3, H2-3-12, H2-3-26, and H2-3-68.

Multiple comments addressed the analysis of Alternative 2, the Off-Site (Coliseum Area) Alternative, in Chapter 6 of the Draft EIR. Some of these comments pointed out the merits of the alternative and criticized the Draft EIR for insufficiently identifying the impacts of the proposed Project at Howard Terminal that would be reduced or eliminated if the Oakland A's were to build their proposed Project at the Coliseum site. Others questioned the Draft EIR's identification of the Reduced Development Alternative as the sole "environmentally superior" alternative, arguing that the off-site alternative would be superior because it would avoid impacts at and near the Howard Terminal site. These and other related comments are responded to in five subsections below, starting with the purpose and requirements for an alternatives analysis pursuant to CEQA.

4.10.1 Alternatives Analysis—Purpose and Requirements

As noted on p. 6-1 of the Draft EIR and discussed in Consolidated Response 4.9, *Alternative 3: The Proposed Project with Grade Separation Alternative*, the State CEQA Guidelines require that an EIR include "a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project" (State CEQA Guidelines Section 15126.6(a)). In keeping with this requirement, and consistent with State CEQA Guidelines Section 15126.6(f)(2)(C), the EIR preparers reviewed the Coliseum Area Specific Plan EIR, which analyzed multiple alternatives, including one that is similar (but not identical) to the Project proposed at Howard Terminal, and considered the "key question" in State CEQA Guidelines Section 15126.6(f)(2), which asks whether the alternative location would substantially lessen any of the significant effects of the Project.

As a result, the Draft EIR includes Alternative 2, the Off-Site (Coliseum Area) Alternative, which would avoid nine significant and unavoidable (SU) impacts of the Project, as noted in Draft EIR Table 6-4:

- Impact AES-3 (Non-CEQA Light and Glare)
- Impact AES-5 (wind hazards)
- Impact AES-1.CU (cumulative wind hazards)
- Impact CUL-4 (Crane X-422 removal)
- Impact NOI-1 (Construction Noise)
- Impact NOI-2 (Construction Vibration)
- Impact NOI-1.CU (Cumulative Construction Noise)
- Impact NOI-2.CU (Cumulative Operational Noise)

Because of its location and based in part on findings of the CASP EIR, Alternative 2 would also avoid potentially significant impacts of the Project requiring mitigation, and have "no impact" associated with the following:

- Impact CUL-1 (Maritime Resources)
- Impact CUL-3 (Historic Resources Vibration)
- Impact ENE-1.CU (Cumulative Energy)
- Impact LUP-5 (Consistency with Land Use Plans and Policies/Plan Bay Area)
- Impact NOI-3.CU (Cumulative Construction Noise)
- Impact TRANS-1A (VMT-Non Ballpark)
- Impact TRANS-1.CU (Cumulative VMT)

In addition, in many instances, the Draft EIR assumes in its analysis of Alternative 2 that the City's Standard Conditions of Approval (SCAs) would be applicable at the Coliseum site as anticipated in the CASP EIR, and would serve to mitigate environmental effects that would otherwise require mitigation measures to reduce or eliminate potentially significant impacts. The SCAs are not applicable to the Project site for the reasons explained on p. 4.0-4 of the Draft EIR, although components of the SCAs are incorporated into mitigation measures as applicable. The SCAs are assumed to apply to Alternative 2 to provide an "apples to apples" comparison of the impacts of Alternative 2, with the SCAs, to the Project, as mitigated. As shown in Table 6-4, Alternative 2 would also have one significant and unavoidable impact that would not occur as part of the Project (demolition of the Coliseum, an historic resource), and would affect more CMP Roadway segments (TRANS-6 and TRANS-6.CU) than the Project. Where commenters have suggested that additional impacts would be avoided with Alternative 2, these are discussed further below.

In its evaluation of alternatives, the Draft EIR relies on the guidance in State CEQA Guidelines Section 15126.6(d), which requires that the EIR "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project," suggesting a matrix "may be used to summarize the comparison" of the characteristics and significant environmental impacts of the Project. In this instance, the Draft EIR includes a multi-page description and analysis of Alternative 2 starting on p. 6-13, and multiple "matrices" in the form of Table 6-4, Comparison of Impacts, Table 6-5, Comparison of Key Air Quality and

Greenhouse Gas Impacts, and Table 6-1, which compares characteristics of Alternative 2 to that of the similar (but not identical) alternative analyzed in the CASP EIR. The level of detail is less than that associated with the analysis of the proposed Project and the Variants in Chapter 4 and 5 of the Draft EIR, in accordance with the State CEQA Guidelines section cited above.

Some comments (such as Comment O-27-78) object to the level of analysis provided for Alternative 2, calling it "cursory and misleading," objecting to its reliance on "outdated analysis" of Alternative 2C from the CASP EIR, and referring to "conclusory analysis" that "precludes meaningful evaluation" and prevents decision makers and the public from meaningfully comparing impacts of Alternative 2 to those of the Project. The CASP EIR provides a greater level of information and analysis than required for alternatives under CEQA, and the CASP analyzed in the EIR is the current specific plan for the Coliseum area.

Where the comments point to specific disagreements with aspects of the Draft EIR's analysis, these are addressed below. In other instances, where the comments provide broad generalizations, specific responses are not possible, and the comments appear to object mostly to the Draft EIR's failure to portray the Coliseum site "as a better alternative" than Howard Terminal (Comment O-34-8) and one that in the commenter's eyes would "avoid or lessen almost all environmental impacts and improve environmental justice for Oakland residents" (Comment O-47-2), an assertion that is not supported by substantial evidence in the record. Issues relating to whether the Coliseum Alternative is a "better option" and should be built rather than the proposed Project is an issue for the decision makers to consider and is not an issue that requires analysis in CEQA. As shown in Table 6-4 of the Draft EIR, Alternative 2 would avoid significant and unavoidable wind and construction noise impacts as well as the significant impact associated with removal of Crane X-422. These constitute seven out of 17 total significant and unavoidable impacts associated with the proposed Project (excluding the non-CEQA light and glare impact), and the alternative would not eliminate the ten significant unavoidable impacts related to air quality, cumulative historic resources, operational noise, and transportation. (Also see Consolidated Response 4.14 regarding environmental justice.).

Some of these comments (for example, Comment O-46-2) confuse the purpose and scope of an alternatives analysis under CEQA with a broader cost-benefit analysis, suggesting that the Draft EIR "misinforms and misleads the public by not accurately presenting the significant environmental benefits, lesser impacts, lower costs, and greater feasibility of developing the project at the Coliseum site." As noted earlier, CEQA's focus is on alternatives that would reduce or avoid significant impacts of the Project, which is done in Draft EIR Chapter 6. CEQA does not require an assessment of environmental benefits, a comparison of costs, or a comparison of the relative feasibility of various alternatives. Nor does it require an evaluation of a particular site (rather than an alternative). The commenter's observations regarding the Coliseum site, for example, it has a certified EIR and has freeway and transit access, are relevant only to the extent that they affect Alternative 2's ability to reduce or eliminate significant impacts of the Project. The Draft EIR contains—as illustrated above—sufficient information for the reader to understand which significant environmental impacts of the Project would be reduced or eliminated with Alternative 2, the Off-Site (Coliseum Area) Alternative.

4.10.2 Definition of the Coliseum Alternative and Use of the Coliseum Area Specific Plan EIR

While many commenters note the existence of the CASP EIR as one reason they believe the Coliseum site to be preferable to the Howard Terminal site, some also criticized the Draft EIR's use of the CASP EIR as a source of information regarding potential impacts of Alternative 2, noting the differences between the alternative and CASP EIR Alternative 2C (Comment O-27-78). Table 6-1 was included in the Draft EIR and the text on p. 6-13 of the Draft EIR to appropriately note the differences and states, "As a result, the analysis in this section estimates impacts that vary somewhat from those identified in the CASP EIR."

One commenter (Comment O-62-74) also suggests that reliance on relevant information in the CASP EIR somehow precluded or minimized the analysis of Alternative 2 in the Draft EIR, suggesting that by relying on impacts from the CASP EIR Alternative 2C, the Draft EIR "foregoes new analysis" of Alternative 2's distinct features, which are sufficiently different from Alternative 2C to require an amendment to the plan. Contrary to the commenter's assertion, the Draft EIR explains the differences between the CASP EIR alternative and Alternative 2 throughout the analysis. For example, on p. 6-15, the Draft EIR explains:

> "Alternative 2, the Off-Site Alternative, would affect a smaller geographic area than CASP EIR Alternative 2C, although it would include somewhat more development on the 120-acre portion of the site between I-80 and the railroad tracks… with a similar amount of development as proposed on the Project site, Alternative 2 would have similar impacts to birds and bats as the Project, and these impacts would be addressed via the implementation of SCA's identified in the CASP EIR."

In this case, it is the amount of development in Alternative 2—which is the same as the proposed Project in almost every way—that informs the conclusion that many impacts would be similar to those of the Project, and the CASP EIR supplies some information and analysis that informs this conclusion, including its use of SCAs rather than mitigation as the reason for certain impacts to be considered Less than Significant. Therefore, the analysis uses information from the CASP EIR to explain how impacts of Alternative 2 would vary from those of the proposed Project at Howard Terminal. The analysis focuses on the ability of Alternative 2 to reduce or eliminate significant environmental impacts of the Project—which it does and is disclosed —and contains sufficient information to reach reasoned conclusions that will be available to the public and decision makers, meeting the requirements of CEQA.

4.10.3 Impacts of the Coliseum Alternative When Compared to the Proposed Project

As noted earlier, many commenters assert that Alternative 2, the Off-Site (Coliseum Area) Alternative would avoid some or even all of the significant environmental impacts of the proposed Project and that the Draft EIR fails to correctly assess and explain this. Where the comments address specific impacts, those are discussed under topic headings below. As noted in Comment H-1-9, Alternative 2 would avoid impacts of the Project that would be experienced at the Howard

Terminal location, however that does not mean that the Alternative would have no impacts, only that the impacts would be different and in many cases similar but affecting a different location or population.

- *Air Quality*. Comment O-29-92 suggests that the Draft EIR fails to provide the analysis to support the claim that criteria pollutant emissions associated with Alternative 2 would be similar to those with the Project. Criteria pollutants from construction are directly related to the amount of construction activities proposed and Alternative 2 would construct a similar mix of land uses as the proposed Project. While there could be less grading associated with remediation at the Coliseum site than at Howard Terminal, there would also be more site preparation work related to demolition of the Coliseum and landscaping/utilities across a 120-acre site (as opposed to 55 acres at Howard Terminal). These differences were assumed to net out, and construction emissions are characterized as "similar" to those of the Project for these reasons. Operational emissions associated with Alternative 2 would also be "similar" to those from the proposed Project because the proposed land uses and intensities would be the same. Alternative 2 does not include activities associated with the existing Arena at the Coliseum site. To clarify this topic, the first paragraph about Air Quality impacts on p. 6-14 of the Draft EIR has been modified as follows (additions are underlined and deletions are ~~crossed out~~):

  > The new ballpark and new development that would occur at the Coliseum site under Alternative 2 would be the same as that proposed under the proposed Project and similar to Alternative 2C analyzed in the CASP EIR, except that there would be fewer parking spaces provided, and thus more emphasis on modes of travel other than the private automobile than with CASP Alternative 2C. The CASP EIR found that there would be significant and unavoidable impacts associated with criteria pollutant emissions during construction and operation of development in the Coliseum District under the CASP, and that these impacts could be reduced during construction via implementation of SCAs and mitigation measures designed to reduce toxic air contaminant (TAC) emissions from construction equipment, but not to a level that is less than significant. While criteria pollutant emissions associated with site remediation activities could be less with Alternative 2, this would likely be off-set by the grading and landscaping/utilities work required due to the larger site size (120 as opposed to 55 acres). More importantly, t~~T~~he long term criteria pollutant emissions ~~and mitigation~~ associated with ongoing operations in Alternative 2 would be similar to those with the Project at Howard Terminal given the same development program, even though ~~and~~ emissions are likely to be less than with Alternative 2C in the CASP EIR because of the lower parking numbers, dwelling units, and hotel rooms associated with Alternative 2 (see Table 6-5, Comparison of Key Air Quality and Greenhouse Gas Emissions). While TAC emissions for Alternative 2 would likely be less than was analyzed in the CASP EIR for the same reason (lower parking numbers, dwelling units, and hotel rooms with Alternative 2), health risks are informed by site-specific conditions, including the proximity of sensitive receptors to TAC emissions sources (such as construction equipment, emergency generators, and operational vehicle traffic). For this reason, off-site health risks of Alternative 2 would be similar to but less than those reported in the CASP EIR and generally less

than those with the Project at Howard Terminal, where Project-specific health risks would be Less than Significant with mitigation (Impact AIR-4).

- *Cultural Resources*. Comment O-27-81 suggests that the proposed Project would include demolition of the Coliseum, a historic resource, pointing at the discussion of the CASP EIR on p. 7-11 of the Draft EIR, and stating that the related impact of Alternative 2 would therefore be the same. However, as explained on Draft EIR p. 4.0-11, the proposed Project would not include any physical changes to the Coliseum site. The Draft EIR only considers demolition of the Coliseum with development under the CASP as a separate cumulative project (Draft EIR p. 4-4.32) and as a necessary component of Alternative 2, the Off-Site (Coliseum Area) Alternative. Comment O-29-93 suggests that impacts to historic resources would be greater under the proposed Project than under Alternative 2 by assuming implementation of at least one of the Variants, and by referencing "the visual character of the historic seaport area in general," which is not identified as an historic resource under CEQA. Even without the Variants, as shown in Draft EIR Table 6-4, historic resources impacts associated with the proposed Project (both less than significant and significant and unavoidable impacts) would be avoided with Alternative 2, except that Alternative 2 would include demolition of the Coliseum, and both the Project and the Alternative would contribute to a citywide cumulatively significant impact.

- *Energy.* Comment O-29-94 suggests that the Energy discussion on p. 6-16 of the Draft EIR is misleading because energy associated with the arena and additional parking should not be part of the comparison: "It is only the incremental development, driven by a larger parcel, and of course, demand that would lead to greater energy usage." The commenter is correct that energy use associated with the Arena would not be attributable to Alternative 2. Nonetheless because the additional parking associated with the Arena would be available to ballpark patrons, vehicle trips associated with the site would be slightly higher (Draft EIR p. 6-20), resulting in somewhat greater energy use than with the proposed Project.

  To clarify this section, the paragraph about Energy impacts on p. 6-16 of the Draft EIR has been modified as follows (additions are underlined and deletions are ~~crossed out~~):

  > The new ballpark and new development that would occur at the Oakland Coliseum site under Alternative 2 would be similar to the proposed Project, although ~~given~~ the number of parking spaces available to ballpark patrons would be greater because the parking that Alternative 2 describes as being associated with the Arena would also be available to ballpark patrons. This additional parking would result in somewhat more vehicle trips ~~intensity of other site uses (i.e., the existing arena and its associated parking)~~, and therefore, the amount of energy used at the site would be somewhat greater. The development would be subject to SCAs, which would result in less-than-significant impacts similar to the Project.

- *Hazards and Hazardous Materials*. Multiple commenters pointed out that the level of soil contamination at Howard Terminal exceeds that at the Coliseum site. The commenters claim the Draft EIR presents a false equivalency and suggest that the sites are not equal or comparable even if related impacts at both sites can be mitigated to a less than significant (Comments H2-3-3, O-27-79, and O-29-101). Other commenters detailed what is known about the extent of contamination at both sites in order to emphasize this point (e.g. Comments O-29-101 and O29-1-80). To clarify that the underlying contamination on each site is different, the last

sentence in the first (partial) paragraph on p. 6-18 of the Draft EIR has been modified as follows (additions are underlined and deletions are ~~crossed out~~):

> With these requirements in place, impacts related to hazards and hazardous materials under Alternative 2 would be less than significant. Thus, the impact would be similar to the proposed Project (i.e. less than significant) with mitigation, although the amount of contamination at the Coliseum site is believed to be substantially less than at the Howard Terminal site, and therefore the extent of the environmental response needed to address the issue would be less than with the proposed Project.

- *Land Use, Plans, and Policies.* A couple of comments suggested that Alternative 2 would avoid land use impacts of the Project, referring to "impacts on the Bay and shoreline and Public Trust lands" as well as "issues including urban decay and growth inducement" (Comment O-41-2), and "possible interference with marine improvements such as the turning basin expansion" (Comment O-27-80). Another comment pointed to the need for amendments to the regional Seaport Plan and Bay Plan to accommodate the Project (Comment O-46-6), saying that the alternatives analysis should "disclose the absence of such regulatory barriers" as an advantage of the Coliseum site.

  The discussion of land use impacts associated with Alternative 2, the Off-Site (Coliseum Area) Alternative, appropriately indicates that the Alternative would avoid potential impacts of the Project related to land use compatibility because the Coliseum site is not adjacent to maritime uses (Draft EIR p. 6-18). To acknowledge the commenters' observation that amendments to the regional plans would not be needed, the final sentence on p. 6-18 of the Draft EIR has been amended as follows (additions are underlined and deletions are ~~crossed out~~):

  > ~~In addition, p~~Potential impacts of the ~~P~~proposed ~~p~~Project related to land use compatibility under CEQA would not occur at the Coliseum site, because the Coliseum site is not adjacent to maritime uses like the proposed Project at Howard Terminal, and no mitigation would be required. In addition, amendments to the Seaport Plan and the Bay Plan would not be required.

  In response to the cited comments, it should also be noted that the Port has not proposed, designed, approved, or secured permits to expand the turning basin in the Inner Harbor (see Draft EIR p. 3-37), and the feasibility study that is currently underway has not been concluded. In addition, the Draft EIR analyzes a Maritime Reservation Scenario under which the proposed Project would avoid use of lands required for expansion of the turning basin, should it be determined necessary and feasible. Also, the proposed Project would not result in urban decay or growth inducement, issues which are discussed further in Consolidated Response 4.15, *Urban Decay*, and individual responses to comments such as Comment O-29-111.

- *Noise and Vibration*. Comments O-27-83 and O-29-103 suggest that Alternative 2, the Off-Site (Coliseum Area) Alternative, would avoid exposing noise sensitive land uses to train horn activity and 24-hour noise sources that cannot limit hours of operation, and would not remove a buffer area between industrial and residential land uses, while also pointing out that Alternative 2 would not violate the City of Oakland's SCAs per the CASP. The observation that noise-related impacts associated with Alternative 2 would be less than those of the Project is generally correct, and the Alternative would avoid four significant and unavoidable impacts of the Project as discussed on p. 6-19 and shown in Table 6-4 of the Draft EIR. However, new residents at the Coliseum site would be exposed to a surrounding environment

that does include noise sources, such as the adjacent train service, the freeway, and the airport as discussed in Section 4.10 of the CASP EIR. (City of Oakland, 2014.)

- *Transportation and Circulation*. While one comment noted that from a smart growth perspective, Howard Terminal "has a great deal to commend it" and is superior in terms of VMT and "low carbon development" (Comment O-58-2), the vast majority of commenters (for example, Comment O-27-80) pointed out that the Coliseum site is more accessible to the freeway than the Howard Terminal site, and is closer to BART, AC Transit service and Amtrak, suggesting that these characteristics make it a better site for a ballpark, that would not require "consideration of overly expensive and unlikely improvements such as an aerial gondola" or vehicular grade separation. Some of the same commenters suggested that Alternative 2, the Off-Site (Coliseum Area) Alternative would avoid significant impacts of the Project related to safety because it would not require pedestrians to cross busy railroad and trucking corridors (Comments H2-2-35 and I-179-8) and avoid putting "hundreds of thousands of new cars into the existing complex of trucks and trains serving the Port of Oakland's customers" (Comment O-41-4).

  To the extent these comments address potential impacts of Alternative 2 (rather than the merits of the Coliseum site), they do not acknowledge the facts regarding transportation impacts presented on pp. 6-20 and 6-21 of the Draft EIR. Namely that Alternative 2, by virtue of having more parking spaces available for ballpark patrons, would likely have a slightly higher VMT, and despite the absence of substantial Port-related truck and rail traffic, there would still be a significant an unavoidable impact related to at-grade railroad crossings in the vicinity of the site (CASP EIR Impact Trans-85). Nonetheless, it should be noted that the number of at-grade crossings in the vicinity is less, and the number of pedestrians likely to cross the railroad tracks at grade would also be less because of the pedestrian bridge crossing to BART, Amtrak, and AC Transit described in the comments.

- *Other Impacts*. Other comments refer to the benefits of Alternative 2 by describing perceived impacts of the Project that would be avoided such as the "threat of disruption to Port business," the introduction of "numerous safety of navigation variables," and displacement of "thousands of transactions currently occurring at Howard Terminal" (Comment O-41-4). Comments also refer to impacts of "abandoning the resources put into the existing" sports complex at the Coliseum (Comment I-335-1). Some of these suggested impacts are ill-defined (e.g., "safety of navigation variables"), making a specific response impossible. Some of these impacts are economic and business impacts which are not environmental impacts under CEQA. Note issues such as business displacement and impacts on Port operations, are addressed in Consolidated Response 4.5, *Truck Relocation*. Also see Consolidated Response 4.4, *Port Operations and Land Use Compatibility*, and Consolidated Response 4.22, *General Non-CEQA*.

4.10.4 The Environmentally Superior Alternative

As noted earlier, some commenters objected to the Draft EIR's identification of the environmentally superior alternative (Draft EIR p. 6-60), arguing that Alternative 2 "is clearly environmentally superior to the Howard Terminal project" (Comment O-41-2), and should at a minimum be discussed in Draft EIR Section 6.5, alleging that the omission is somehow related to the A's project objectives (Comment O-41-5).

As described on p. 6-60 of the Draft EIR, State CEQA Guidelines Section 15126.6(e)(2) requires EIRs to identify an environmentally superior alternative, and if the No Project Alternative is superior,

to identify an environmentally superior alternative from the remaining alternatives. In this case, the designation of an "environmentally superior" alternative is complicated because the proposed Project and some alternatives would result in both adverse environmental impacts and environmental benefits. Based on a review of the project alternatives identified in the Draft EIR Section 6.5, no alternative would be effective in eliminating the Project's significant and unavoidable impacts. In accordance with CEQA requirements, Draft EIR Section 6.5 explains that the No Project Alternative would be superior, and identifies Alternative 4, the Reduced Project Alternative, as the most environmentally superior from the remaining alternatives because it would reduce air pollutant emissions associated with the proposed Project and all of the other alternatives. While Alternative 2, the Off-Site (Coliseum Area) Alternative would have fewer overall significant and unavoidable impacts in number than Alternative 4, the Reduced Project Alternative there is no requirement that this alternative must be identified qualitatively based only on number of significant impacts. The type and intensity of the impacts are appropriate for the lead agency to consider.

The significant impacts avoided by the Off-Site (Coliseum Area) Alternative would be related to removal of Crane X-422, construction noise, cumulative operational noise, and on-site wind hazards. However, the Off-Site (Coliseum Area) Alternative would result in two new significant impacts (related to removal of the Coliseum building and odors) that the Project and the Reduced Project Alternative would not, and would increase the number of intersections in the Alameda County CMP that would be affected (nine instead of two locations for Impact TRANS-6 and 13 instead of six locations for Impact TRANS-6.CU).

In addition, the Off-Site (Coliseum Area) Alternative would involve more construction and a greater intensity of development than the Reduced Project Alternative, resulting in more short term (construction-related) and long term (operational) air pollutant emissions than the Reduced Project Alternative. The Off-Site (Coliseum Area) Alternative would also not be subject to AB 734 and would therefore result in ongoing annual emissions of GHG, which contribute to climate change. In contrast, the Reduced Project Alternative would meet the requirements of AB 734 and Mitigation Measure GHG-1, resulting in no-net new GHG emissions. As shown in Table 6-5, criteria pollutant emissions associated with Alternative 4 would be less than the Project, Alternative 2, and Alternative 3 for construction (Impact AIR-1) and overlapping construction and operation (Impact AIR-2). In addition, while not quantified, on- and off-site health risks stemming from TAC emissions (Impacts AIR-4 and AIR-5) would be less than with the Project. GHG emissions of Alternative 4 would be zero following implementation of Mitigation Measure GHG-1. GHG emissions associated with Alternative 2 would not be zero, and would instead be reduced via implementation of an SCA calling for project-specific GHG reduction plans to achieve a standard of 36% below an adjusted "business as usual" scenario and a variety of other SCAs, the effectiveness of which was not specified. (See CASP Draft EIR p. 4.6-41 and -42)

To further clarify the grounds for identifying Alternative 4, the Reduced Development Alternative, as the environmentally superior alternative, the text of the Draft EIR on p. 6-60 has been modified as follows (deletions are ~~crossed-out~~ and additions are <u>underlined</u>):

> CEQA Guidelines Section 15126.6(e)(2) requires EIRs to identify an environmentally superior alternative, and if the No Project Alternative is superior, to identify an~~the second~~

~~most~~ environmentally superior alternative from the remaining alternatives. Based on the analysis provided above, Alternative 1: The No Project Alternative would be environmentally superior because it would avoid all of the impacts of the proposed Project. Based on a review of the project alternatives identified in this EIR, none of the other alternatives would be effective in eliminating the Project's significant and unavoidable impacts. The Reduced Project Alternative is identified as ~~would be~~ the ~~second~~ most environmentally superior alternative from the remaining alternatives because it would reduce the air pollutant emissions and health-related consequences of the proposed Project and all of the other alternatives.

The Reduced Project Alternative would involve less construction and less intense development than other build alternatives, and would therefore result in fewer air pollutant emissions, ~~it would~~ reduc~~e~~ing the significant and unavoidable air quality impacts of the proposed Project and all other build alternatives. Specifically, operational-related criteria pollutant emissions under the Reduced Project Alternative would be less than the significance thresholds. However, because Impact AIR-2 assesses operation plus construction-related emissions, and construction emissions of NO_X would still remain above the thresholds of significance, the overall impact would not be reduced to less than significant. Also, the Reduced Project Alternative would be subject to requirements of AB 734 and thus would achieve the "no net additional" standard for GHG emissions that would apply to the Project.

Although Alternative 2, the Off-Site (Coliseum Area) Alternative would have fewer significant and unavoidable impacts than the Reduced Project Alternative, most of the significant and unavoidable impacts that would be avoided would relate to construction noise and on-site wind hazards, whereas its significant and unavoidable air pollutant emissions would be higher, and it would not achieve no net additional GHG emissions. Nonetheless, as shown in Table 6-4, Alternative 2 would avoid impacts specific to the Project site at Howard Terminal, and would in many cases lessen the severity of potentially significant impacts without the use of mitigation measures because the Standard Conditions of Approval (SCAs) adopted as part of the CASP would apply.

Ultimately, CEQA requires decision makers to use the Final EIR as well as other evidence in the record to consider whether to adopt or reject the proposed Project or select an alternative instead, and all alternatives require the same consideration and findings, regardless which the EIR identifies as environmentally superior. (See below for a discussion of the required findings.)

4.10.5 Merits of the Coliseum Alternative and Consideration of Alternatives by Decision Makers

Many commenters express support for the Coliseum site, noting that its redevelopment has long been planned, and suggesting that its redevelopment would revitalize this area of East Oakland (Comment O-27-16). These comments talk about the Coliseum site as an "obvious choice" (Comment I-91-5) and "better fit" (Comment I-175-1), while mentioning the site's size, transit and freeway accessibility, "decades of public investment in infrastructure," the opportunity to bring jobs to the area, and the avoidance of potential conflicts with Port operations at Howard

Terminal: "instead of wrecking the port… use the Coliseum property, which would enhance the health of Oakland as a community" (Comments I-91-5 and I-179-2).

Some also suggest that building at the Coliseum site would be faster (Comment I-282-9) and cheaper (Comment I-292-7), and would "serve as an economic engine for the surrounding East Oakland neighborhoods" (Comment O-15-6) revitalizing "this area of East Oakland" (Comment O-27-16) and creating a "new go--to neighborhood, lifting the fortunes of a great swath of East Oakland" (Comment I-317-3). One commenter states that "our community has made sacrifices and investments over the years to create [the] infrastructure – including having our streets widened through eminent domain to provide better access – with the expectation of community and economic benefits for East Oakland" (Comment I-313-3). Another states that "East Oakland residents have been good neighbors to the A's for decades. It's time for the A's to be good neighbors in return and develop a project that will truly benefit Oakland." (Comment O-47-18) And another advocates for a new ballpark at the Coliseum site because of fears that if this doesn't happen, the site will be reused for "luxury condos and a tech campus" (Comment I-179-10).

There are a few dissenting comments suggesting that a new ballpark is not needed (Comment H2-3-12) or that it would be a detriment to the Coliseum area. For example: "That existing ballpark never lifted up the neighborhood, and there is no reason to believe starting from scratch with a new one in the same location would do so now." Also, demolition and replacement would have impacts on "a neighborhood already suffering environmental injustices, and no benefit from a ballpark many residents cannot even afford to visit." (Comment I-331-6.)

Regardless of the views expressed, where the comments concern CEQA issues and provide specific comment on the Draft EIR and its evaluation of impacts or alternatives, these have been responded to in this Consolidated Response and other responses. See, for example, Consolidated Response 4.4, *Port Operations and Land Use Compatibility*; Consolidated Response 4.5, *Truck Relocation*; and Consolidated Response 4.9, *Alternative 3: The Proposed Project with Grade Separation Alternative*. Where the comments express opinions on the merits of the Project and whether it should be approved or not, or on whether an alternative should be approved, they nonetheless constitute part of the public record that will be available to decision makers when they consider whether to approve or disapprove the Project and whether to adopt an alternative instead.

State CEQA Guidelines Sections 15091(a)(3) and 15091(b) require that a local agency seeking to approve a project that was subject to an EIR, must make a finding that "specific economic, legal, social, technological, or other considerations… make infeasible… the project alternatives identified in the final EIR." In order to adopt a statement of overriding considerations to approve a project with significant and unavoidable impacts, an agency must find that alternatives that would substantially reduce these adverse impacts are infeasible. This means that each alternative which will substantially reduce significant and unavoidable impacts of the Project will be considered, and if rejected, the City will have to base that decision on evidence of infeasibility specific to the alternative. This evidence will include but will not be limited to the Final EIR, with all of its information and analyses as well as the comments and responses, and the record as a whole.

4.11 Quiet Zone

Comments Addressed: A-6-18, O-57-33, O-57-35, I-98-2, I-100-2, I-103-1, I-104-2, I-105-2, I-107-2, I-109-1, I-110-2, I-111-3, I-112-2, I-114-2, I-116-1, I-117-3, I-118-3, I-118-5, I-120-2, I-123-1, I-125-1, I-125-2, I-129-1, I-131-1, I-136-2, I-140-1, I-140-2, I-140-3, I-150-2, I-177-2, I-188-1, I-194-2, I-197-1, I-211-2, I-217-1, I-220-1, I332-1-1, I332-1-34, I332-1-39, I-334-9, and I-334-11.

Several comments voice support for updated railway safety at intersections, requesting additional intersections be included (e.g., Franklin, Webster, and Oak Streets), and for the Jack London neighborhood to be eligible to be a Train Quiet Zone to alleviate existing noise from train horns in the area. See Consolidated Response 4.6 *Rail Safety, Grade Crossing, and Grade Separation* for issues relating to railway safety and modification on Mitigation Measure TRANS-3a to include safety improvements at Franklin, Webster, and Oak Streets and extend the fencing to Oak Street.

To the extent that these comments address existing conditions, such as train noise in the vicinity of existing residences and safety concerns at intersections that would experience little or no increased pedestrian, bicycle, or automobile traffic as a result of the Project, they do not concern impacts of the proposed Project or the adequacy of the Draft EIR. The Draft EIR describes existing conditions in the site vicinity (for example, see Draft EIR pp. 4.15-234 and 4.11-*7 et seq.*), and these conditions serve as the baseline for the Draft EIR's analysis of potential impacts from the proposed Project. As described in the Draft EIR, there are significant noise impacts under existing conditions in the area surrounding the proposed Project and the Project site itself. The existing rail crossing are unprotected and present safety issues. Appropriately, the Draft EIR's impact analysis focuses on whether the proposed Project itself would result in new and significant noise impacts or whether it would exacerbate existing safety concerns. The focus of mitigation measures included in the Draft EIR is similar—they are intended to address new and significant impacts and not to remedy existing problems except to the extent that the proposed Project would somehow exacerbate those problems. In those situations, the mitigation needs to focus on addressing the Project impacts under the nexus principles that apply to CEQA mitigation – the mitigation must be reasonably related and limited to the project's impact.

As shown in Table 4.11-2 on Draft EIR p. 4.11-8, rail noise is part of the existing environment in the vicinity of Howard Terminal and throughout the surrounding area. Nonetheless, the Draft EIR provides an analysis of existing noise effects on the project for informational purposes and to inform the analysis of Project noise impacts and their potential to exacerbate existing noise conditions (see Draft EIR p. 4.11-60 and the pages that follow). As a result, Mitigation Measure NOI-3 is proposed for adoption to ensure that new buildings on the Project site contain noise reduction measures such as sound-rated windows, wall, and door assemblies.

As stated on p. 4.15-53 of the Transportation section of the Draft EIR, the proposed Draft *Downtown Oakland Specific Plan* (DOSP) includes, for Embarcadero West between Oak Street and Market Street, a Rail Safety Project to facilitate an application for a "Quiet Zone" and provide pedestrian safety improvements, including quad gates at each crossing and fencing on both sides of the railroad tracks between each intersection. Under this proposed plan, Embarcadero West would become

a pedestrian corridor through much of its length except where property access is needed. This is described further on p. 4.15-76 of the Draft EIR, which describes Plan Measure M-2.11 (R) that directs the City to continue to implement the recommendations of the 2011 Train Quiet Zone Study that details the specific safety measures for each intersection and provides a blueprint of the Jack London Train Quiet Zone and recommends extension of the study area east of Oak Street. The 2011 Train Quiet Zone Study examined six roadway crossing along Embarcadero West: Oak Street, Webster Street, Franklin Street, Broadway, Washington Street, and Clay Street. The Quiet Zone proposed as part of the Draft DOSP therefore includes the additional crossings requested by many of the commenters which are also addressed in the revised Mitigation Measure TRANS-3a (See Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation*).

A railroad Quiet Zone is an area where locomotive engineers are not required to sound train warning horns as they approach an at-grade crossing. The purpose of the Oakland Railroad Quiet Zone Study is to explore the potential for implementation of a Quiet Zone on the UPRR corridor through the Jack London Square area of the City of Oakland.

A Quiet Zone may be established by the local authority (city, county, or state) having jurisdiction over traffic enforcement; however, the City of Oakland has not initiated establishing a Quiet Zone related to the proposed Project area or surroundings. To qualify for a Quiet Zone, the City of Oakland, in this case, must comply with the regulations established by the Federal Railroad Administration (FRA) on grade crossing safety devices and periodic reporting. In addition, a Quiet Zone requires the concurrence of the California Public Utilities Commission (CPUC), which shares railroad crossing safety oversight in California with the FRA. Ultimately, the train operators, in this case UPRR, BNSF, and Amtrak, must agree to comply with the Quiet Zone. Although a Quiet Zone allows train operators not to sound the horns at designated crossings, they continue to be responsible to sound the horns when, in their judgment, they encounter situations where it is necessary. For example, a train operator will blow the train's horns to warn if pedestrians for whatever reason cross tracks in front of the train as it approaches them. See response to comment A-6-18 from CPUC, which addresses the potential for train horn noise to increase during events due to the increase in the volume of pedestrians along the tracks.

Page 4.15-153 of the Draft EIR explains that the proposed Project includes a series of at-grade and grade-separated crossing improvements identified for the railroad corridor under Mitigation Measure TRANS-3a which has been revised to include safety improvements at Franklin, Webster, and Oak Streets and extend the fencing to Oak Street (See Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation*). The improvements are consistent with solutions identified in the Alameda County Transportation Commission Grade Crossing Toolkit and their railroad prioritization study; are consistent with Quiet Zone features, which are defined as areas with reduced levels of train horn sound; and consider the *Final Report Oakland Railroad Quiet Zone Study* prepared for the City of Oakland in June 2011. These railroad crossing improvements are required in Mitigation Measure TRANS-3a, as revised (See Consolidated Response 4.6 Rail Safety, Grade Crossing, and Grade Separation).

In addition, Mitigation Measure TRANS-3b would require a pedestrian and bicycle overcrossing located at Clay Street or Jefferson Street, or a comparable nearby location, to create a safer and more accessible route for pedestrians and bicyclists traveling to the Project site on both event days and non-event days. The overcrossing would connect the Transportation Hub at 2nd Street, which is north of the railroad tracks, to Athletics' Way south of the railroad tracks.

4.12 Affordable Housing

Comments Addressed: O-17-2, O-18-2, O-24-2, O-27-36, O-29-111, O-30-1, O-32-4, O-39-24, O-43-10, O-46-13, O-50-5, O-52-2, O-52-3, O-53-2, O-56-2, O-58-4, O-59-2, O-62-2, O-62-3, O-62-4, O-62-5, O-62-6, O-62-7, O-62-8, O-62-9, O-62-10, O-62-14, O-62-15, O-62-39, O-62-58, O-63-27, O-63-74, O-63-93, O-65-6, I-97-7, I-145-5, I-153-2, I-159-2, I-163-2, I-165-2, I-178-3, I-182-1, I-185-3, I-215-2, I-216-1, I-216-2, I-258-3, I-260-2, I-269-2, I-269-7, I-271-4, I-274-2, I-279-5, I-283-4, I-288-5, I-314-4, I-331-7, I-333-2, I-333-3, I-338-4, I-340-3, H2-1-10, H2-1-11, H2-1-34, H2-2-13, H2-2-34, H2-2-38, H2-2-65, H2-2-79, H2-2-94, H2-3-13, H2-3-18, H2-3-28, H2-3-33, and H2-3-77.

A number of comments address issues related to affordable housing. In most cases, the comments assert that the Draft EIR did not, or did not sufficiently, describe the affordability of residential units that would be developed as part of the proposed Project (the affordable housing plan). Several of the comments address concerns that the lack of information about the affordability of the proposed residential units limit the ability of the public to understand the implications of the proposed Project in the neighborhoods and community near the Project site. Although CEQA does not require the discussion or analysis of housing affordability, per se, the comments regarding housing costs and affordability, and the relationship of this important social and economic issue are addressed below. In particular, this consolidated response addresses the role of social and economic issues under CEQA, the City of Oakland's affordable housing requirements, and the proposed Project affordable housing program. From a CEQA perspective, as described in detail below, the environmental impacts resulting for the development of housing as described in the Draft EIR would not change based on the affordability of the housing units.

4.12.1 Role of Social and Economic Effects under CEQA

The issue of housing affordability is an important local, regional, and statewide policy issue, but is not required to be analyzed under CEQA, where potential social and economic effects have a circumscribed role. State CEQA Guidelines Section 15131 allows the approving agency to include or present economic or social information in an EIR, but State CEQA Guidelines Section 15131(a) limits the consideration of such factors in the assessment of significant impacts, stating:

> *Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.*

An explanation of this circumscribed consideration of social and economic effects, including community character,[54] is presented on p. 4.12-13 of the Draft EIR, which states:

> State CEQA Guidelines Section 15064(e) notes that an economic or social change by itself would not be considered a significant effect on the environment. Economic and social changes are only considered under CEQA to the extent that they may lead to adverse physical impacts on the environment, such as the construction of replacement housing necessitated by the displacement of substantial numbers of people.

The issue of housing affordability and related issues are largely social and economic in nature. As explained in Consolidated Response 4.13, *Gentrification and Indirect Housing Displacement,* under CEQA, issues related to housing focus on the potential for direct or indirect displacement of housing units or population and the potential for significant adverse physical environmental effects that could be created by the need to construct housing elsewhere to replace any units from which people are displaced. To reflect this, Appendix G of the State CEQA Guidelines poses the following question to be considered in determining the proper level of CEQA analysis: Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?[55] As such, the question of affordability of housing units developed in the proposed Project, or effects of the proposed Project on the affordability of housing in West Oakland, Old Oakland, Chinatown, or other nearby neighborhoods, would only be relevant under CEQA if the secondary physical effects of construction and operation of replacement housing that could require disclosure in an EIR. See Consolidated Response 4.13, *Gentrification and Indirect Housing Displacement,* for a discussion of the potential for the proposed Project to result in gentrification and/or indirect displacement of housing units or population. As discussed further below, impacts of on-site housing proposed as part of the Project are addressed throughout the EIR and the impacts associated with housing units would not differ based on their proposed level affordability.

4.12.2 City Affordable Housing Requirements

Several comments expressed an opinion that rather than payment of affordable housing impact fees pursuant to the City's Affordable Housing Impact Fee program, the City should require the proposed Project to include affordable housing, including off-site affordable housing, and that such housing should be added to the Project Description and evaluated in the Draft EIR. As described below, the basic requirement of the City's Affordable Housing Impact Fee program is payment of the fee for any projects that include the construction of housing, and that on-site or off-site affordable units may under some circumstances, result in the waiver of such fees. All of the fees collected

[54] The consideration of community character as an impact is not overtly addressed in the State CEQA Guidelines, but was the focus of the case of *Preserve Poway v. City of Poway* (March 9, 2016) 245 Cal. App.4th 560, in which the California Court of Appeal, Fourth Appellate District, concluded that "the superior court erred in determining an EIR was required to study the psychological and social impacts discussed at the public hearings and related e-mails by project opponents in this case. CEQA requires decisions be informed and balanced, but it 'must not be subverted into an instrument for the oppression and delay of social, economic . . . development or advancement.' (Guidelines, § 15003, subd. (j).)"

[55] California Code of Regulations, Title 14, Natural Resources, Division 6, Resources Agency, Chapter 3: Guidelines for Implementation of the California Environmental Quality Act, Appendix G: Environmental Checklist Form, Section XIV(b), Population and Housing. As Amended December 28, 2018.

under the Affordable Housing Impact Fee, along with all interest and investment earnings accrued thereon, are deposited in the City's Affordable Housing Trust Fund and are required to be used to increase, improve, and preserve the supply of affordable housing in the City with priority given to housing for very low-income households.[56]

Specifically, the Oakland Municipal Code, Chapter 15.72, establishes the City's Affordable Housing Impact Fee program, which requires the payment of affordable housing impact fees by all development projects that include the addition of housing units, except those which opt to provide on-site or qualifying off-site affordable units. The program applies to all development projects in the City with applications after September 1, 2016, and which are not affordable housing projects or second units. The program imposes housing impact fees on a per-housing unit basis. The Project site is located in Impact Fee Zone 1, with fees set for the 2020-2021 year at $22,000 per multi-family unit.[57] The fee amounts are automatically be adjusted upward annually for inflation beginning on July 1, 2021.

Pursuant to Chapter 15.72, Article 3, a project is not subject to the fee if the applicant provides affordable housing units within the development project. The required number of onsite units is equal to 10 percent of total residential units in the project for units affordable to moderate or low income families, and equal to 5 percent of residential units in the project for units affordable to very low income families. Affordable units are required to remain affordable for 55 years or for the life of the development project, whichever is greater.

Section 15.72.110 provides that affordable units may be provided off-site if approved by the City Council. Unless specifically approved by the City Council, any off-site units must be located within one-half mile of the project site, and site control and necessary planning and zoning permits must be issued prior to the first building permit for the development project. Building permits for the off-site affordable housing must be secured before the granting of a certificate of occupancy for the development project, and a certificate of occupancy for the off-site affordable units must be attained within 18 months of the certificate of occupancy for the development project.

The City's Affordable Housing Impact Fee program has directly resulted in the development of affordable housing units and the City reports annually on the collection and use of fees, including those from the Affordable Housing Impact Fee. In the most recent annual report from the City, the program was noted to have created 624 affordable units, with 493 of the units generated by the fee program, and 131 produced by developers as part of their obligations under the program.[58] More specifically, in the period between 2016 and 2020, the City collected approximately $13.2 million in Affordable Housing Impact Fees, including $5.6 million during the 2019-2020 fiscal year.[59] During the 2019-2020 fiscal year, approximately $5.5 million in Affordable Housing

56 City of Oakland, *Impact Fee Annual Report For: Affordable Housing, Jobs/Housing, Transportation, & Capital Improvements Impact Fees Fiscal Year Ended June 30, 2020,* December 27, 2020, updated February 2, 2021, p. 2.

57 City of Oakland, Fiscal Year 20-21 Master Fee Schedule, page N-22.

58 City of Oakland, *Oakland Produces Most Affordable Housing in a Single Year, Impact Fees Create Affordable Units Within Market-Rate Projects,* City of Oakland | Oakland Produces Most Affordable Housing in Single… (oaklandca.gov), accessed July 14, 2021.

59 City of Oakland, *Impact Fee Annual Report For: Affordable Housing, Jobs/Housing, Transportation, & Capital Improvements Impact Fees Fiscal Year Ended June 30, 2020,* December 27, 2020, updated February 2, 2021, p. 6.

Impact Fee funds were allocated to three projects that would generate approximately 212 units of extremely low to low income housing, with approximately 100 units set aside for homeless households.[60] Thus, it is clear that the payment of Affordable Housing Impact Fees by project developers is directly resulting in the construction of housing affordable to extremely low to low income households, including homeless households, in the City of Oakland.

4.12.3 The Proposed Project's Affordable Housing Program

4.12.3.1 Adequacy of Project Description

Several comments assert that the Draft EIR Project Description is inadequate because it does not describe precisely how the proposed Project would meet its obligations under the City's Affordable Housing Impact Fee program. The comments request information on the unit size, type, number, tenure (rental or ownership), income level, and location of affordable housing that would be constructed, including any units to be built at the Coliseum site, and if impact fees are paid, when would the units be built. The comments assert that the lack of information means that the Draft EIR does not include analysis of impacts associated with future housing units, including consistency with the Housing Element and the City's Regional Housing Needs Allocation (RHNA), public health and safety issues, the relationship of affordable housing to GHG emissions, and the effects on the City's ability to pursue grants. Comments also include opinions about how the proposed Project should meet its affordable housing obligations, including suggestions that amounts ranging from 7 percent to 35 percent of on-site housing should be affordable, and that any off-site affordable housing should be constructed within 3 miles of the Project site. These opinions on the amount of affordable housing the Project should provide and how are noted and will be conveyed to the City Council for its consideration because they present policy issues, but not environmental issues required to be analyzed under CEQA.

The EIR Project description is complete and accurate, and sufficient under CEQA. Pursuant to State CEQA Guidelines Section 15125, the description of the project must include "[a] general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities, but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact." Chapter 3 of the Draft EIR has met this requirement by describing development of 3,000 dwelling units as part of the project, and serves as the appropriate basis for analysis of the proposed Project. Describing the level of affordability associated with the 3,000 units is not required to assess their environmental impacts for reasons provided below.

The proposed Project's compliance with the City's Affordable Housing Impact Fee program is described in the Draft EIR on p. 3-26, footnote 10, which states:

> The Project will have an affordable housing program, which may include on-site or off-site affordable housing units and/or the payment of impact fees. Should the Project satisfy its affordable housing component via off-site development at as-yet unidentified sites,

[60] City of Oakland, *Impact Fee Annual Report For: Affordable Housing, Jobs/Housing, Transportation, & Capital Improvements Impact Fees Fiscal Year Ended June 30, 2020,* December 27, 2020, updated February 2, 2021, p. 8.

> that development would require separate environmental review and entitlement; these units would fall within the overall cumulative growth forecast used in the analyses contained in this EIR.

To the extent that the Project provides affordable housing on site, that housing would comprise a portion of the 3,000 units analyzed in the Draft EIR. Also, as discussed in Section 4.12.3.2 below, the affordability of housing units would not affect the level of impacts, and thus further analysis is not required. To the extent that the Project seeks to provide affordable housing off-site, the specific housing proposals would require separate review and entitlement. Some comments assert that this uncertainty means that the Project Description does not meet the CEQA requirement to be "accurate, stable and finite," citing a range of court cases, including *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 192–193 (1977), *Citizens for a Sustainable Treasure Island v. City & County of San Francisco*, 227 Cal. App. 4th 1036, and *Washoe Meadows Community v. Department of Parks & Recreation*, 17 Cal. App. 5th 277, 287 (2017). None of these cases support the proposition suggested in the comments that the Draft EIR Project Description is inadequate by not including specific details of how a project will meet the requirements of a City's Affordable Housing Impact Fee Program. In any event, the Draft EIR Project Description provides that the proposed Project would have an affordable housing program in compliance with City requirements which may include on-site or off-site affordable housing units and/or the payment of impact fees.

At the time the Draft EIR was prepared, the Project sponsor anticipated payment of applicable fees as provided for under the Affordable Housing Impact Fee program, and had not proposed on-site affordable housing units or the development of off-site housing at any particular site. Subsequently, the City expressed its desire that the proposed Project include a mix of on- and off-site affordable housing rather than payment of an impact fee. On-site affordable housing has been analyzed in the EIR because it would represent a percentage of the 3,000 units included in the development program (see Draft EIR Table 3-1) and as discussed in Section 4.12.3.2 below, the affordability of housing units would not affect the level of impacts.

On July 20, 2021, the City Council adopted a term sheet for the Project which includes a requirement that 15 percent of the 3,000 units provided on site be affordable, and that the A's contribute $50 Million to support a combination of new (off-site) units, preservation and/or renovation of existing units, and down payment assistance. The Project would also provide anti-displacement tenant services. As a result, footnote 10 on p. 3-26 of the Draft EIR and the paragraph at the top of p. 4-12-14 are modified as follows (additions are underlined and deletions are ~~crossed out~~):

Footnote 10 on Draft EIR p. 3-26 is modified as follows:

> The Project will have an affordable housing program~~,~~ which, based upon the July 2021 Development Agreement Term Sheet approved by the City Council, would ~~may~~ include 450 on-site ~~or off-site~~ affordable housing units and~~/or the payment of impact fees~~ a financial commitment of 50 million dollars to support a combination of new (off-site) units, preservation and/or renovation of existing units, and/or down payment assistance. The Project would also provide antI-displacement tenant services. ~~Should the Project~~

~~satisfy its affordable housing component via~~ The location of any off-site development resulting from this commitment is currently unknown and ~~at as-yet unidentified sites~~, that development would require separate environmental review and entitlement.~~;~~ ~~these~~ Also, any off-site units that are constructed would fall within the overall cumulative growth forecast used in the analyses contained in this EIR.

The top paragraph on Draft EIR p. 4.12-14 is modified as follows:

Due to comments raised during the scoping period for this Draft EIR, the jobs-housing balance (expressed as a ratio of jobs to employed residents) is discussed following the cumulative impacts analysis for informational purposes. It should also be noted that the Project sponsor may ~~seek to~~ meet a portion of the Project's affordable housing obligation by providing funds to support off-site affordable~~constructing~~ housing ~~on-site, off-site,~~ via construction of new units, preservation and/or renovation of existing units, and/or down payment assistance ~~via the payment of fee~~. If one or more off-site housing developments is developed to meet the Project's affordable housing obligation, each would be separately entitled following environmental review. This analysis does not speculate regarding the location or impacts of any~~the~~ off-site units~~option~~, which would comply with City zoning, be consistent with the City's General Plan, and therefore fall within the forecast of cumulative growth.

Several comments assert that the Draft EIR improperly excludes affordable housing units from the description of the proposed Project, and, thus, improperly "segments" the environmental analysis of the proposed Project. The comments cite several court cases that are implied to support the assertion of improper segmentation, and there is no specific explanation of the applicability of the cases to the current situation, or citation to a specific direction from the courts that would be applicable to this EIR. In this instance, the Draft EIR analyzes housing that is proposed on site (whether it is affordable or market rate), and does not speculate as to the location(s) of affordable housing that may be built off-site to comply with the City's Affordable Housing Impact Fee Program. If the location(s) of such housing were known, they would be included in the Project and analyzed in the EIR. However, the off-site locations are not known, and the City cannot speculate as to where they will be, and appropriately indicates that such sites, when identified, must comply with the City's General Plan and zoning ordinance, and will require separate environmental review and entitlement.

4.12.3.2 CEQA Evaluation of Affordable Housing Created by the Project

Any affordable units included on site have been addressed within the Draft EIR evaluation of the proposed Project because they would represent a percentage of the 3,000 units proposed and analyzed. There is no substantial evidence that impacts of affordable dwelling units would be any different from impacts of market rate units. The methodology for analyzing the impacts from housing are the same for market-rate and affordable units under CEQA. For example, the City's Transportation Impact Review Guidelines (TIRG) Section 2.1, Project Description, requires projects to be described and analyzed based on the number of residential units, and does not differentiate between market rate and affordable units. This is because both market rate and

affordable units are residential uses, comprised of individuals or families who would access jobs, schools, and public services, generating traffic, air pollutant emissions, noise, and other impacts that have been fully considered in the Draft EIR. Similarly, the analysis of Public Services (Draft EIR Section 4.13.4) and Recreation (Draft EIR Section 4.14.4), rely on the projected increase in the population -- including in some instances the daytime population and the school age population -- at the site, and do not differentiate by income level. Even if there were differences in the impacts attributable to affordable and market rate units, the Draft EIR's use of average household sizes ensures that differences are accounted for because the use of average household sizes recognizes that some households will be larger and some will be smaller than the average. Also, the use of regional projections inherent in the transportation model means that vehicle trips, trip lengths, and the analyses that rely on these as inputs (e.g. air quality, noise, GHG emissions, and energy) inherently recognize the diversity of households and housing types in the Bay Area.

Any off-site affordable housing units that the Project sponsor is required to provide would require separate entitlement following review under CEQA. However, at the time of completion of the EIR, there is no proposal by the Project sponsor or City under the Development Agreement Term Sheet for the Project sponsor to build off-site units. Under the City Term Sheet, the Project sponsor is to contribute to a fund to support a combination of new (off-site) units, preservation and/or renovation of existing units, and down payment assistance. As discussed above, under CEQA it would be improper for this EIR to speculate regarding the site or sites that would be selected, the size or design of future affordable housing projects, or the impacts that would result The CEQA evaluation of any such future potential off-site affordable housing projects would depend on their size, design, and location, as well as any prior entitlements and associated CEQA review. In fact, there are many provisions of CEQA that provide for the streamlined review or exemption of housing projects, especially affordable housing.

Some comments suggest that the payment of fees could result in the construction of new affordable housing projects, and that the Draft EIR has the responsibility to disclose the impacts of such projects. As described above, the payment of fees may be used in a number of ways to produce, improve, or preserve affordable housing. The California courts have clearly established that the creation of a funding mechanism is not, in and of itself, a project under CEQA unless such funding is explicitly tied to a specific project. In *Kaufman & Broad-South Bay Inc. v. Morgan Hill Unified School District* (1992) 9 Cal. App. 4th 464, the court stated that "[i]n cases such as this where funding issues alone are involved, courts should look for a binding commitment to spend in a particular manner before requiring environmental review." The same reasoning was reiterated in 2002 in *Not About Water Committee v. Board of Supervisors* (95 Cal. App. 4th 982), and again in 2009 in *Sustainable Transportation Advocates of Santa Barbara v. Santa Barbara County Assn. of Governments* (179 Cal. App. 4th 113) in which the court found that the creation of a funding mechanism like an impact fee (or in that case the formation of a Mello-Roos financing district) "does not qualify as a project within the meaning of CEQA because it is a mechanism for funding proposed projects that may be modified or not implemented depending upon a number of factors, including CEQA environmental review." Thus, the provision of funding by the proposed Project could be used in a variety of ways to support and improve existing affordable housing projects, or as a contribution to conversion of existing units to affordable units, or to support the construction of new affordable housing units, and does not

create a need for the Draft EIR to evaluate and disclose the environmental effects of currently unknowable and uncertain new housing projects that may receive funds.

4.13 Gentrification and Indirect Housing Displacement

Comments Addressed: A-3-13, O-17-2, O-18-2, O-24-2, O-27-6, O-29-81, O-30-1, O-45-2, O-45-3, O-45-14, O-45-16, O-45-26, O-46-9, O-50-5, O-50-7, O-51-31, O-53-2, O-56-2, O-59-2, O-61-7, O-61-8, O-62-13, O-62-14, O-62-15, O-62-16, O-62-17, O-63-27, O-63-74, O-63-75, O-63-93, O-65-6, O-65-8, I-60-3, I-97-7, I-145-5, I-152-3, I-159-3, I-163-3, I-165-2, I-165-3, I-178-3, I-179-7, I-182-1, I-185-3, I-213-1, I-243-24, I-243-48, I-258-3, I-260-2, I-263-1, I-269-5, I-271-4, I-271-5, I-274-2, I-274-3, I-279-5, I-279-6, I-282-5, I-288-5, I-288-6, I-331-4, I-333-2, I-333-3, I-338-4, I-339-3, I-340-3, H2-1-34, H2-2-65, H2-3-18, H2-3-35, and H2-3-75.

A number of comments address the related issues of indirect housing displacement, including the social and economic process typically known as gentrification. In most cases, the comments assert that the Draft EIR did not, or did not sufficiently, address the potential effects of the proposed Project. Most of the comments addressed concerns about effects in the West Oakland neighborhood, in proximity to the Project site, and several comments also addressed potential effects in the East Oakland neighborhood in the vicinity of the Oakland Coliseum complex. Although CEQA does not require the discussion or analysis of the economic and social effects associated with the process of gentrification, per se, the comments regarding this important social and economic issue are addressed below. In particular, the response describes the process referred to as gentrification, how issues associated with gentrification and indirect housing displacement are addressed in the Draft EIR, as well as a range of other issues including housing costs and public health and safety issues in West Oakland, the potential for gentrification near the Coliseum Complex, and gentrification effects of the Alternatives.

4.13.1 Background

As is explained in the Draft EIR, p. 4.12-18, gentrification is a "particular kind of neighborhood revitalization, distinct because of its possible displacement effects." There are many definitions and explanations of gentrification, most of which focus on neighborhood change, including consideration of spatial, physical, demographic, and economic characteristics. One representative definition of gentrification is:

> "a process of neighborhood change that includes economic change in a historically disinvested neighborhood—by means of real estate investment and new higher-income residents moving in—as well as demographic change—not only in terms of income level, but also in terms of changes in the education level or racial make-up of residents."[61]

The Draft EIR, Consolidated Response 4.13, *Gentrification and Indirect Housing Displacement,* and Consolidated Response 4.14, *Environmental Justice,* provide a thorough explanation of State CEQA Guidelines Section 15131, which provides that a lead agency may include or present

61 Urban Displacement Project, *Gentrification Explained. Available at:* https://www.urbandisplacement.org/gentrification-explained. Accessed July 2, 2021.

economic or social information in an EIR, in any form it desires, but that "[e]conomic or social effects of a project shall not be treated as significant effects on the environment." The State CEQA Guidelines prescribe that social and economic information may be used in a CEQA document to "trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused the economic or social changes," "to determine the significance of physical changes caused by the project," and "together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR." State CEQA Guidelines Section 15131(a) provides that "[t]he intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes."

The issue of indirect housing displacement, can be tied to causes and effects that are largely social and economic in nature. As described below, the potential for indirect displacement due to gentrification is addressed in the Draft EIR within the context prescribed in CEQA. That context is focused on the significant adverse physical environmental effects that could be created by the need to construct housing elsewhere to replace any units from which people are displaced. To reflect this, Appendix G of the State CEQA Guidelines poses the following question to be considered in determining the proper level of CEQA analysis: Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?[62] As such, it is not the economic and/or social effects of housing displacement that are a focus of consideration under CEQA, but rather the secondary physical effects of construction and operation of replacement housing that could require disclosure in an EIR.

As discussed above, it is clear that in general CEQA does not require analysis of socioeconomic issues such as gentrification, displacement, environmental justice, or effects on "community character."[63] Thus, several issues raised in comments are not appropriately addressed in the Draft EIR, including assertions that union jobs would be lost, small businesses would be displaced, West Oakland residents would be "disenfranchised," or that people of color are being pushed out of Oakland. These are assertions related social and/or economic considerations that the City may evaluate as part of its consideration of the merits of the proposed Project, but which are not properly addressed under CEQA.

62 California Code of Regulations, Title 14, Natural Resources, Division 6, Resources Agency, Chapter 3: Guidelines for Implementation of the California Environmental Quality Act, Appendix G: Environmental Checklist Form, Section XIV(b), Population and Housing. As Amended December 28, 2018.

63 The consideration of community character as an impact is not overtly addressed in the State CEQA Guidelines, but was the focus of the case of *Preserve Poway v. City of Poway* (March 9, 2016) 245 Cal. App.4th 560, in which the California Court of Appeal, Fourth Appellate District, concluded that "the superior court erred in determining an EIR was required to study the psychological and social impacts discussed at the public hearings and related e-mails by project opponents in this case. CEQA requires decisions be informed and balanced, but it 'must not be subverted into an instrument for the oppression and delay of social, economic . . . development or advancement.' (Guidelines, § 15003, subd. (j).)"

4.13.2 Housing Displacement and Gentrification in the Draft EIR

Consistent with the requirements of Appendix G, discussed above, Impact POP-4, on pp. 4.12-18 through 4.12-19 of the Draft EIR, provides a project-specific analysis of the potential for the proposed Project to directly or indirectly displace a substantial number of existing people or housing units necessitating the construction of replacement housing elsewhere. Impact POP-2.CU, on p. 4.12-21 provides an analysis of these potential impacts in the context of cumulative conditions. The impact analysis on p. 4.12-18 includes a discussion of indirect displacement, identifying the City's efforts to determine if there is evidence to suggest that gentrification and indirect housing displacement are foreseeable socioeconomic effects resulting from development of the proposed Project.

Page 4.12-18 explains the conclusion of the City, that while development at the Project site could contribute to socioeconomic changes associated with gentrification, "because displacement is such a widespread phenomenon, it would be speculative to identify a singular causal relationship or contribution of increased land or housing costs attributable to the Project to indirect displacement."

The conclusions of the Draft EIR are consistent with the findings of a study undertaken as part of the Downtown Oakland Specific Plan and EIR. That document examined the issue in 2018 and acknowledge that "[h]housing prices increased throughout the region in recent years as the booming economy attracted new residents to the Bay Area and drove population growth."[64] The document also states:

> "Within Alameda County alone, rents rose in almost every neighborhood between 2000 and 2015. Many tracks in the flatlands of Oakland and Berkeley saw increases of over 30 percent in median rent paid, while West Berkeley, Downtown Oakland, and the neighborhoods around the Coliseum and Mills College in East Oakland saw increases of over 50 percent. Many of the neighborhoods that experienced the largest increase in rental housing costs also saw significant losses of low-income households of color. Across the Bay Area overall, a 30 percent census tract-level increase in median rent (inflation-adjusted) was associated with a 28 percent decrease in low-income households of color. However, because displacement is a regional phenomenon resulting partially from job growth and insufficient housing construction throughout the Bay Area, it would be speculative to identify a singular cause or contribution for increased land or housing costs that is directly attributable to the adoption of and development under the Plan as it relates to indirect displacement."[65]

The document further acknowledged that the City's efforts to promote housing and other economic development in downtown, combined with Downtown Oakland's function as a transportation and employment hub, have "positioned Downtown Oakland as a highly-desirable

64 Strategic Economics, *Draft Affordable Housing and AntI-Displacement Background and Strategies,* June 13, 2018, page 8.

65 City of Oakland, *Downtown Oakland Specific Plan – Public Review Draft Plan*, August 16, 2019, page 88.

location for residential growth." In response, the Downtown Oakland Specific Plan included a range of strategies that focused on promotion of the development of new affordable and accessible housing; the production of diverse housing types, including ownership housing; protection of existing rental housing stock; and encouragement of infill development.[66] Noticeably absent are any policies discouraging development such as the proposed Project.

The analysis presented in the Draft EIR was sufficient. Significant new information related housing displacement, including the process of gentrification, and substantial evidence showing that the proposed Project will indirectly result in physical impacts relating to displacement or gentrification is not contained in the comment letters or elsewhere in the record. The assertions that the Draft EIR did not address displacement or gentrification are incorrect and there is no substantial evidence of physical impacts relating to this issue attributable to the Project. Therefore, there is no need for further discussion or for recirculation of the Draft EIR as requested in several comments. See also Consolidated Response 4.3, *Recirculation of the Draft EIR,* for a discussion regarding the circumstances under which recirculation of a Draft EIR is required.

4.13.3 Other Issues Related to Gentrification and Housing Displacement

4.13.3.1 Housing Issues in West Oakland

Several comments noted that West Oakland is already experiencing gentrification and the effects of gentrification, including displacement. Challenges related to housing affordability and gentrification are well known and documented phenomena in the Bay Area, including Oakland. In 2019, the Plan Bay Area 2040 Final Plan noted that "there are hundreds of thousands of lower-income households at risk of displacement in the Bay Area, with the majority of them living in San Francisco, Santa Clara and Alameda counties." The report noted that the lack of adequate tenant protections, or the availability of affordable housing, "has accelerated the displacement of lower-income residents and even many businesses from the region's core areas." Specific to the area near the Project site, Map 1.1, Bay Area Displacement Trends, from the Plan Bay Area 2040 identifies the neighborhoods of West Oakland as "At risk of gentrification or displacement." [67] As such, the processes of limited housing affordability, gentrification and indirect displacement are current and ongoing, part of the existing conditions, and are not associated with the proposed Project since it has not yet been approved or built. (See City of Oakland, *Downtown Oakland Specific Plan – Public Review Draft Plan*, August 16, 2019, page 88 quoted above.)

Several comments express concern about the affordability of housing in the Project, and/or the effects of the proposed Project on the affordability of housing in West Oakland and other nearby neighborhoods. Housing costs have been increasing rapidly throughout the City of Oakland, including the neighborhoods in the vicinity of the Project site. In 2019, the Downtown Oakland Specific Plan Draft EIR reported that rents in the Downtown Oakland neighborhood had

66 City of Oakland, *Downtown Oakland Specific Plan – Public Review Draft Plan*, August 16, 2019, pages 90 – 91.

67 Metropolitan Transportation Commission and Association of Bay Area Governments, *Plan Bay Area 2040 Final Plan, The Bay Area Today. Available at:* http://2040.planbayarea.org/the-bay-area-today. Accessed July 2, 2021.

increased by 51% between 2000 and 2018, compared to a 54% increase during the same time period citywide. In West Oakland, housing prices were reported to have increased approximately 90% between 2012 and September 2019 (an increase in the median mortgage from $1,300 to $2,470 per month).[68] In July 2021, real estate company Redfin reported that for sale home prices in West Oakland were up 23% compared to the same time in 2020, representing an increase in median sales prices from $691,000 to $850,000 in one year.[69]

When looking at housing price data since the end of the Great Recession, both median rents and sales prices have been increasing throughout the City of Oakland, including neighborhoods like West Oakland and Downtown. These increases coincide with the strengthening economy in the City of Oakland and the Bay Area region as a whole, and increasing housing demand resulting from the inability of regional housing supply to keep pace with demand. However, there is no evidence in the record to support a conclusion that the proposed Project would result in or accelerate the process of gentrification such that housing would become less affordable to the extent that residents would be displaced and replacement housing would be required to be constructed. For a focused discussion of these issues, see Consolidated Response 4.12, *Affordable Housing*.

4.13.3.2 Potential Gentrification Effects near Coliseum Complex

A few comments include unsupported assertions that the proposed Project would cause or contribute to gentrification and related indirect housing displacement in the East Oakland neighborhood around the Coliseum complex where the Oakland A's currently play their home games. The assertions appear to be based on assumptions about future redevelopment of the Coliseum complex. As noted in Consolidated Response 4.1 *Project Description*, future uses and development of the Coliseum complex are not part of the proposed Project. The City has adopted a Coliseum Area Specific Plan (CASP), which provides a vision and planning guidance for future redevelopment activity in and around the Coliseum complex under a variety of scenarios. However, at this time, no applications have been submitted to the City of Oakland for specific projects pursuant to the CASP. Thus, the timing and/or nature of any such future proposals is speculative. Pursuant to State CEQA Guidelines Section 15145, if a lead agency finds an impact to be speculative, it is directed to note its conclusion and terminate the discussion of the impact. Thus, any further consideration of gentrification-related housing displacement as a result of redevelopment activity under the CASP would be inappropriate as part of this EIR.

It is noted, however, that the CASP EIR, which is cited in the Draft EIR and included in the administrative record, includes an analysis of direct and induced population growth as a result of the CASP, and anticipated that while older, industrial and auto-related facilities along San Leandro Street and existing commercial uses on the site along Hegenberger Road would be replaced by new development, the site would see a sizeable increase in employment and households, facilitating growth that is contemplated in the General Plan, resulting in less than significant impacts. (See

[68] Julia Prodis Sulek and Kaitlyn Bartley, San Jose Mercury News/East Bay Times, *How price hikes hurt the most vulnerable,* December 8, 2019. http://extras.mercurynews.com/pricewepay/part2/ accessed August 21, 2021.

[69] https://www.redfin.com/neighborhood/14233/CA/Oakland/West-Oakland/housing-market. Accessed August 21, 2021.

CASP Draft EIR Section 4.11, *Population and Housing*, p. 4.11-23 thru -27.) Section 6.1, *CEQA Required Assessment Conclusions*, of the CASP EIR, also concludes that the additional growth in economic activity, mobs, and housing is fully accounted for and consistent with goals, plans and policies of the General Plan (CASP Draft EIR p. 6-3).

4.13.3.3 Public Health and Safety Issues in West Oakland

Several comments asserted that the Draft EIR did not sufficiently address public health and safety risks posed by the proposed Project, and that health and safety protections are needed for West Oakland. This assertion is incorrect. The Draft EIR thoroughly considered the physical environmental health and safety effects of the proposed Project. More specifically, the Draft EIR includes discussions of health and safety issues in the following places:

- Draft EIR Section 4.2, *Air Quality*, particularly Impacts AIR-2 (Draft EIR pp. 4.2-70 to 4.2-96), AIR-4 (Draft EIR pp. 4.2-97 to 4.2-104), and AIR-2.CU (Draft EIR pp. 4.2-140 to 4.2-159), provides analysis of the potential for the proposed Project, itself or in the context of cumulative conditions, to result in localized air pollutant emissions or odor emissions that could affect surrounding populations. Each are discussed below:
  - The Draft EIR includes a Health Impact Assessment (HIA) which analyzes the health effects of emissions of ozone precursors (see Draft EIR pp. 4.2-86 through. 4.2-95). The analysis concludes that "the Project would have a very small impact on specific health effects," and goes on to state that "the estimated health effects from the Project are low relative to existing health risks and represent only a very small fraction of the total background health incidence."
  - Impact AIR-4 addresses the effects of toxic air contaminants that would result from construction and operation of the proposed Project. The conclusions of this impact are based on a health risk assessment that analyzes cancer and non-cancer health risks to existing off-site receptors in the vicinity of West Oakland. More specifically, as stated on Draft EIR p. 4.2-98, "the HRA conservatively assessed health risks from Project construction and operation on existing and new sensitive receptors within 2,000 feet of the proposed Project boundary and other parts of West Oakland in the vicinity of nearby freeways." The analysis of health risk impacts utilized the modeling files generated by the Bay Area Air Quality Management District (BAAQMD) for the West Oakland Community Action Plan (WOCAP). As discussed on p. 4.2-60,

    Based on the location of the Project in proximity to West Oakland, which has been designated by the BAAQMD as a priority community through the agency's Community Health Protection Program, BAAQMD's 1,000 foot "zone of influence" was conservatively extended to 2,000 feet. In response to a request from BAAQMD, the zone was further increased to include other parts of West Oakland in the vicinity of nearby freeways.

    The conclusion of the analysis in Impact AIR-4 is that both cancer and non-cancer health impacts would be less than significant with implementation of Mitigation Measures AIR-1c, and AIR-2c, identified in the Draft EIR.
  - Impact AIR-2.CU addresses cumulative health risks to sensitive receptors in the vicinity of the Project site, and uses the same methodological framework as described above for Impact AIR-4, which extends to 2,000 feet from the site. Similar to the description above, the modeling files generated by the BAAQMD for the WOCAP were utilized. When

considering the proposed Project emissions in conjunction with cumulative development, including additional emissions at the Port of Oakland, from railyards and locomotives in the vicinity, other on-road mobile source emissions, and other regional emission sources, the cumulative effects would be considered significant. The Draft EIR describes all feasible mitigation measures, including Mitigation Measures AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, and AIR-2.CU, as well as Mitigation Measures TRANS-1a, TRANS-1b, TRANS-1c, TRANS-1d, TRANS-1e, TRANS-2a, TRANS-2b, TRANS-2c, TRANS-3a, and TRANS-3b. These include measures derived from the WOCAP. Because some of the specific feasible emission reduction measures have not yet been identified or quantified, and because implementation of offsite community emission reduction projects may be undertaken by the BAAQMD or other governmental entities outside the jurisdiction and control of the City and not fully within the control of the Project sponsor, this cumulative impact is considered significant and unavoidable.

Thus, as described above, the analysis of health risk impacts in the vicinity of West Oakland is reported in the Draft EIR in Impact AIR-2, Impact AIR-4, and Impact AIR-2.CU.

- Draft EIR Section 4.6, *Geology, Soils, and Paleontological Resources*, particularly Impacts GEO-1, GEO-2, GEO-3, GEO-5, and GEO-1.CU, includes analysis of the potential for the Project, individually or in the context of cumulative development, to expose people or structures to geologic, soils, or seismic hazards.

- Draft EIR Section 4.8, *Hazards and Hazardous Materials*, particularly Impacts HAZ-1, HAZ-2, HAZ-3, and HAZ-1.CU, analyzes the potential for the proposed Project itself, or in the context of cumulative conditions, to result in exposure of nearby people to a significant hazard through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, or for the proposed Project to interfere with or impair the City's implementation of established emergency response or evacuation plans around the Project site or in nearby neighborhoods. The Draft EIR presents information on hazardous materials conditions on and near the Project site, including in nearby portions of West Oakland (see Draft EIR, pp. 4.8-17 through 4.8-23). An analysis of the potential for the accidental spill of hazardous materials being transported to and/or from the Project site, including through nearby neighborhoods like West Oakland, is included under Impact HAZ-1 (see Draft EIR, pp. 4.8-46 through 4.8-48). A discussion of effects of the proposed Project on emergency access and evacuation on major streets serving the Project site and the West Oakland neighborhood (see Draft EIR, pp. 4.8-54 through 4.8-55).

- Draft EIR Section 4.9, *Hydrology and Water Quality*, particularly Impacts HYD-4 and HYD-5, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to expose people or structures near the Project site or in nearby communities, to risk of loss, injury, or death from flooding caused by local flood flows, tsunami, or sea level rise. Impact HYD-4 addresses the potential for the proposed Project to redirect hazardous flood waters to adjacent properties (see Draft EIR, p. 4.9-29), and Impact HYD-5 addresses the potential for a similar redirection of flood waters associated with tsunami and anticipated sea level rise (see Draft EIR, pp. 4.9-29 to 4.9-36).

- Draft EIR Section 4.11, *Noise and Vibration*, particularly Impacts NOI-1, NOI-2, NOI-3, NOI-5, NOI-1.CU, and NOI-2.CU, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to generate construction or operational noise or vibration that would result in noise or vibration levels that would adversely affect the health of nearby sensitive receptors. The Draft EIR included a thorough analysis of potential effects of noise emanating from project construction, as well as from

baseball game and music concert activities at the proposed ballpark. As described on Draft EIR p. 4.11-27, the study area included receptors as much as one-half mile away from the project site, including areas in the south eastern part of West Oakland. As noted on Figures 4.11-3 (Draft EIR, p. 4.11-46) and 4.11-4 (Draft EIR, p. 4.11-49), receiver R2, a residential development on 7th Street, between Filbert and Market Streets, was evaluated as the most exposed residential location in West Oakland. A discussion of crowd noise impacts outside of the proposed ballpark, including on key pedestrian routes such as 7th Street in West Oakland, is presented in the Draft EIR on pp. 4.11-58 to 4.11-59.

- Draft EIR Section 4.15, *Transportation and Circulation*, particularly Impacts TRANS-3, TRANS-4, TRANS-3.CU, and TRANS-4.CU, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to expose motorists, pedestrians, bus riders, and bicyclists to transportation hazards. The analysis in the Draft EIR considered effects on a broad transportation and circulation network, including key corridors serving West Oakland such as Adeline Street, Market Street, 7th Street, and 8th Street (see Draft EIR, pp. 4.15-8 through 4.15-10). In particular, the potential for safety hazards to be created at at-grade railroad crossings is presented in Table 4.15-42, Draft EIR p. 4.15-233, discussed on Draft EIR p. 4.15-234, and mitigation measures proposed in Mitigation Measure TRANS-3a, Draft EIR pp. 4.15-235 to 4.15-236. The impacts of construction truck traffic on streets that serve West Oakland, including Market, 5th, and 6th Streets, is addressed in Impact TRANS-4 and Mitigation Measure TRANS-4, Draft EIR pp. 4.15-240 to 4.15-241.

Each of these analyses in the Draft EIR evaluated the impacts of the proposed Project and identified potentially significant impacts, including any such impacts that would occur in West Oakland or other neighborhoods that could be affected, and includes mitigation measures to reduce significant impacts.

4.13.3.4 Gentrification Effects of Alternatives

Finally, one comment suggested that Alternative 4, the Reduced Project Alternative, would be less likely than the proposed Project to cause or exacerbate the process of gentrification in West Oakland, and recommended approval of Alternative 4 rather than the proposed Project. Chapter 6, Table 6-4, notes that with Alternative 4, housing displacement Impacts POP-4 and POP-2.CU would be less than significant and similar in magnitude to the impacts of the proposed Project. The recommendation that Alternative 4 be approved rather than the proposed Project is acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project.

4.14 Environmental Justice

Comments Addressed: A-7-50, A-7-51, A-7-55, A-12-10, A-12-21, A-12-43, A-12-59, A-12-63, A-14-11, O-17-4, O-18-5, O-24-5, O-32-4, O-32-11, O-46-9, O-46-13, O-47-2, O-58-4, O-62-41, O-62-42, O-62-43, O-62-44, O-62-47, O-63-51, I-96-7, I-164-2, I-282-6, I311-1-23, I311-4-27, I-314-1, I332-1-4, I332-1-6, I332-1-7, I332-1-15, I332-1-20, I332-1-23, I-334-16, I-339-1, I-339-3, H2-1-20, H2-2-4, H2-2-27, H2-2-30, and H2-2-78.

Several comments raise questions about a range of issues related to environmental justice, and the consistency of the Draft EIR with a July 2012 document prepared by the California Department of

Justice that explains legal background and responsibilities for the consideration of environmental justice in CEQA documents. Many of the comments raise the issues of environmental justice in the context of specific technical issues related to the environmental impact analysis associated with specific environmental resource topics, and those specific technical issues are addressed in other responses. Although CEQA does not require the discussion or analysis of environmental justice unrelated to environmental impacts, the comments regarding environmental justice and the relationship of this important social and economic justice issue are addressed below.

4.14.1 Environmental Justice

Environmental justice relates to the fair treatment of all people with respect to environmental laws, regulations, and policies. One key aspect of environmental justice involves everyone having the same level of protection from environmental hazards. In many communities, there are areas which have a clean environment and high quality of life compared to other areas that may face environmental pollution and lack beneficial resources, such as parks and sidewalks.

The United States Environmental Protection Agency (USEPA) defines environmental justice to be:

> [t]he fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

USEPA defines "fair treatment" to be that "no group should bear a disproportionate share of the negative consequences resulting from industrial, governmental and commercial operations or policies."[70]

4.14.1.1 City of Oakland Environmental Justice Policies and Principles

The City of Oakland has embodied principles of environmental justice in its Municipal Code. Section 2.29.170.1 of the Oakland Municipal Code establishes the City's commitment to "integrate, on a Citywide basis, the principle of 'fair and just' in all the City does in order to achieve equitable opportunities for all people and communities." It goes on to establish that one of the "determinants of equity" is "[h]ealthy built and natural environments for all people that include mixes of land use that support: jobs, housing, amenities and services; trees and forest canopy; and clean air, water, soil and sediment."[71] The Oakland Municipal Code further defines that the City's "equity and social justice foundational practices" include consideration of "equity and social justice impacts in all decision-making so that decisions increase fairness and opportunity for all people, particularly for people of color, low-income communities and people with limited English proficiency or, when decisions that have a negative impact on fairness and opportunity are unavoidable, steps are implemented that mitigate the negative impacts."[72]

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70 United States Environmental Protection Agency, *Learn About Environmental Justice,* https://www.epa.gov/environmentaljustice/learn-about-environmental-justice, accessed August 24, 2021.

71 City of Oakland, Municipal Code Section 2.29.170.2(B)(9).

72 City of Oakland, Municipal Code Section 2.29.170.2(D)(3).

The City is incorporating these principles into its current efforts to update the City of Oakland General Plan. According to the City of Oakland's General Plan General Plan Update Guiding Principles, "[a] central guiding principle of the General Plan Update is to advance the City's codified mission to 'intentionally integrate, on a Citywide basis, the principle of 'fair and just' in all the City does in order to achieve equitable opportunities for all people and communities'. This means working to eliminate the root causes of inequity, including communities in understanding their barriers and strengths, and working with these communities in developing solutions for long-term and systemic changes."[73]

4.14.1.2 Environmental Justice under CEQA

Environmental justice has also been described as the right for people to live, work and play in a community free of environmental hazards. The issue of environmental justice, as it is defined in California law, is not a required analysis under CEQA, where potential social and economic effects have a circumscribed role. State CEQA Guidelines Section 15131 allows the approving agency to include or present economic or social information in an EIR, but Section 15131(a) limits the consideration of such factors in the assessment of significant impacts, stating:

> *Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.*

An explanation of this circumscribed consideration of social and economic effects, including community character,[74] is presented on p. 4.12-13 of the Draft EIR, which states:

> State CEQA Guidelines Section 15064(e) notes that an economic or social change by itself would not be considered a significant effect on the environment. Economic and social changes are only considered under CEQA to the extent that they may lead to adverse physical impacts on the environment, such as the construction of replacement housing necessitated by the displacement of substantial numbers of people.

4.14.1.3 Consideration of Environmental Justice Issues in the Draft EIR

There are, however, a number of environmental impact issues under CEQA that may be related to the environmental justice issue that are considered in the Draft EIR, including discussions in the

[73] City of Oakland, General Plan Update Guiding Principles: Equity and Environmental Justice. Available at: https://www.oaklandca.gov/topics/general-plan-update-guiding-principles#equity-and-environmental-justice, accessed on June 23, 2021.

[74] The consideration of community character as an impact is not overtly addressed in the State CEQA Guidelines, but was the focus of the case of *Preserve Poway v. City of Poway* (March 9, 2016) 245 Cal. App.4th 560, in which the California Court of Appeal, Fourth Appellate District, concluded that "the superior court erred in determining an EIR was required to study the psychological and social impacts discussed at the public hearings and related e-mails by project opponents in this case. CEQA requires decisions be informed and balanced, but it 'must not be subverted into an instrument for the oppression and delay of social, economic . . . development or advancement.' (Guidelines, § 15003, subd. (j).)"

following technical sections: Air Quality; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use, Plans, and Policies; Noise and Vibration; Population and Housing; Transportation and Circulation; and Growth-Inducing Impacts and Urban Decay. More specifically, the Draft EIR includes discussion of these environmental impacts related to environmental justice in the following places:

- Draft EIR Section 4.2, *Air Quality,* includes analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to result in localized air pollutant emissions or odor emissions that could affect surrounding populations, and discusses health effects of air pollutant emissions as well as health disparities in the West Oakland community.
- Draft EIR Section 4.8, Hazards and Hazardous Materials, analyzes the potential for the proposed Project itself, or in the context of cumulative conditions, to result in exposure of nearby people to a significant hazard through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Draft EIR Section 4.9, Hydrology and Water Quality, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to affect water quality and the local drainage infrastructure, which also serves surrounding communities.
- Draft EIR Section 4.10, Land Use, Plans, and Policies, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to divide established communities and conflict with existing land use plans.
- Draft EIR Section 4.11, Noise and Vibration, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to generate construction or operational noise or vibration that would result in the most intense affects occurring to nearby sensitive receptors.
- Draft EIR Section 4.12, Population and Housing, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to result in direct or indirect displacement of a substantial number of people or housing from the areas surrounding the Project site.
- Draft EIR Section 4.14, Recreation, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to adversely affect existing recreation facilities, including effects on access to recreation facilities or open spaces, or to create the need for construction or expansion of recreation facilities.
- Draft EIR Section 4.15, Transportation and Circulation, includes an analysis of the potential for the proposed Project itself, or in the context of cumulative conditions, to affect local roadways and intersections, access to transit, and pedestrian and bicycle mobility, which would have the greatest effect on nearby residences and businesses.
- Draft EIR Section 7.3.1, Growth Inducement, provides an analysis of growth-inducing effects, including the potential for the proposed Project to cause increased activity in the local or regional economy.
- Draft EIR Section 7.3.2, Urban Decay, provides an analysis of the potential for proposed Project itself, or in the context of cumulative conditions, to result in economic impacts of such severity that they would lead to significant business closures and subsequent urban decay effects.

4.14.2 Senate Bill 1000

In 2016, the State of California passed SB 1000, which established California Government Code Section 65040.12.e requiring cities and counties to address environmental justice in their general plans. Cities and counties may choose to adopt a separate standalone Environmental Justice Element (i.e., chapter) or address environmental policies throughout the General Plan. As referenced above, the City of Oakland is in the process of initiating a comprehensive update to the City's General Plan. Selection of a General Plan Update Consultant is currently underway, with anticipated formal kickoff of the General Plan Update process to occur in fall 2021. The City's Request for Proposals has established key tasks to be undertaken during Phase 1 of the Update process to include, among a number of tasks, the development of an Environmental and Racial Equity Baseline, a Vision and Equity Statement, and an Environmental Justice Element compliant with SB 1000. City staff anticipates that the City Council will consider adoption of the Environmental Justice Element no later than January 2023.

The development of the Environmental Justice Element is anticipated to include an initial task of mapping of existing conditions that will develop maps needed to identify disadvantaged and sensitive communities in Oakland, and to develop environmental justice policies required under SB 1000. The mapping will likely include CalEnviroScreen indicators and additional pollution burden and health risk factors, median income by census tract, and other issues such as food access, safe and sanitary homes, physical activity, access to employment, services and transit that can lead to negative health effects or environmental degradation. The City's prior and extensive effort to identify equity indicators and establish a baseline quantitative framework to better understand the impacts of race and measure inequities will also underpin this work.[75] The Environmental Justice Element will be compliant with statutory and other state requirements, and will reflect input received during the General Plan Update engagement program and build on other recently completed work within the City of Oakland. The City intends that the policies identified in the Environmental Justice Elements will then be integrated throughout the policy framework of the entirety of the updated General Plan.[76]

4.14.3 California Department of Justice Legal Background on Environmental Justice in CEQA

Several comments refer to the 2012 California Department of Justice document entitled *Environmental Justice at the Local and Regional Level (Legal Background)*.[77] The document explains two sources of environmental justice-related responsibilities for local governments which are contained in the Government Code and in CEQA. The Legal Background describes how local governments can further environmental justice by following well-established CEQA principles. In defining the purpose of CEQA, the Legal Background states that specific provisions of CEQA and the State CEQA Guidelines require that local lead agencies consider how the environmental and public health burdens of a project might specially affect certain communities,

75 City of Oakland, *2018 Oakland Equity Indicators Report*.

76 City of Oakland, *General Plan Update Request for Proposals*, April 30, 2021, page 17.

77 California Department of Justice, Kamala Harris, Attorney General, *Environmental Justice at the Local and Regional Level Legal Background,* July 10, 2012.

citing examples including: (1) Environmental Setting and Cumulative Impacts, (2) The Role of Social and Economic Impacts Under CEQA, (3) Alternatives and Mitigation, and (4) Transparency in Statements of Overriding Considerations. Each of these discussions are addressed below, along with an explanation of how the issue was addressed in the Draft EIR.

4.14.3.1 Environmental Setting and Cumulative Impacts

The State's 2012 Legal Background document identifies relevant case law and the State CEQA Guidelines (as applied in 2012) to direct lead agencies to take special care to determine whether a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive setting be significant. The Legal Background also identifies that lead agencies are required under CEQA to consider whether a project's effects, while they might appear limited on their own, are "cumulatively considerable" and therefore significant. The Legal Background cites PRC Section 21083(b)(3) as:

> *[requiring] a local lead agency to determine whether pollution from a proposed project will have significant effects on any nearby communities, when considered together with any pollution burdens those communities already are bearing, or may bear from probable future projects. Accordingly, the fact that an area already is polluted makes it more likely that any additional, unmitigated pollution will be significant. Where there already is a high pollution burden on a community, the "relevant question" is "whether any additional amount" of pollution "should be considered significant in light of the serious nature" of the existing problem.*

The Draft EIR takes this approach and analyzed the localized effects of construction and operations of the proposed Project, related to NO_X, CO, PM_{10}, and $PM_{2.5}$ emissions and toxic air contaminant concentrations, to determine if the proposed Project, individually or cumulatively, would generate significant localized air quality impacts that could substantially affect air quality sensitive receptors in the vicinity of the Project site. Page 4.2-48 of the Draft EIR describes the approach to the analysis for identifying the study area for localized impacts:

> The HRA examined all existing sensitive receptors within 2,000 feet of the Project boundary and parts of West Oakland in the vicinity of nearby freeways. The Project would locate new sensitive receptors, primarily residential land uses and daycare facilities, on-site and these were also considered. For each exposure scenario (as described below) and health risk type (excess lifetime cancer risk, chronic health impacts, and annual average $PM_{2.5}$ concentrations), the HRA identified the Maximally Exposed Individual Receptor (MEIR) for determining the impacts of the Project. The MEIR represents the receptor location with the greatest health risk.

As explained in the discussion of Impact AIR-4, on Draft EIR pp. 4.2-97 through 4.2-108, the health risks associated with project-specific emissions of toxic air contaminants can be mitigated to a less-than-significant level through the imposition of Mitigation Measures AIR-1c, AIR-2c, AIR-2d, AIR-2e, and AIR-3. However, when viewed in the cumulative context and accounting for existing levels of emissions and health disparities in West Oakland, Impact AIR-2.CU determined that cumulative health risk impacts on sensitive receptors would be significant and unavoidable (see discussion on Draft EIR pp. 4.2-140 through 4.2-159).

The Draft EIR also includes an analysis of health effects of criteria pollutants and the potential secondarily formed ozone in keeping with the Friant Ranch decision (*Sierra Club v. County of Fresno (2018) 6 Cal. 5th 502, 517-522*) on Draft EIR, p. 4.2-86-4.2-95. This analysis acknowledges the high health burden of the City of Oakland and West Oakland (Draft EIR, p. 4.2-94-4.2-96). The HIA does not reach any significance conclusion on the health effects of criteria pollutants because there is no established significance threshold. However, the air quality analysis states that the average daily and total annual operational criteria air pollutants emissions associated with the Project represent a significant and unavoidable impact to regional air quality, because they exceed the BAAQMD's mass emission thresholds (Draft EIR, p. 4.2-94-4.2-96).

Section 4.15, *Transportation and Circulation*, of the Draft EIR describes the proposed Project's anticipated travel characteristics and presented the impacts of the proposed Project on the roadway, bicycle, pedestrian and transit systems in a study area based on the unique nature of the proposed Project, its potential to generate traffic before and after events at the ballpark, and the location and extent to which public transit is expected to be relied upon to serve the ballpark. The study area includes all intersections immediately adjacent to the Project site; all signalized (and all-way stop-controlled) intersections where the Project would add 100 or more weekday a.m. or p.m. commute peak-hour motor vehicle trips; all signalized intersections operating at LOS D, E, or F with 50 or more peak-hour trips; and side-street stop-controlled intersections where the Project would add 50 or more peak-hour trips to any individual movement other than the major-street through movement. These intersections are located in the surrounding community including West Oakland.

The study area for transit impacts includes bus transit within one-half mile of the Project site; BART, including stations at West Oakland, Lake Merritt, and 12th Street because of their similar proximity to Project site; regional rail service, including the Oakland Jack London Square Amtrak Station; and the Oakland Jack London Square Ferry Terminal. In addition, several transit corridors were identified for study, as shown in Draft EIR Figure 4.15-2, because they provide local bus service near the site and to the BART, Amtrak, and ferry services. The study areas include all bike corridors within one-half mile of the Project site (Draft EIR Figure 4.15-3). The study area for impacts to the pedestrian system includes all pedestrian corridors within one-half mile of the Project site, as well as corridors beyond that distance that are expected to be used for pedestrian travel between the Project site and downtown Oakland and other proximate transit stations (Figure 4.15-4). These transit, bicycle, and pedestrian study areas are located in the surrounding community including West Oakland.

The above are examples of the City's substantial efforts to appropriately disclose potential impacts to nearby sensitive receptors, including disadvantaged communities in proximity to the Project site. The technical sections in Chapter 4 of the Draft EIR included analyses that addressed the impact of the proposed Project in combination with existing and cumulative conditions on sensitive environmental receptors. For these reasons, the Draft EIR is consistent with the direction of the Legal Background as it relates to environmental setting and cumulative impacts.

4.14.3.2 The Role of Social and Economic Impacts under CEQA

The Legal Background explains that economic and social effects may be relevant in determining significance of adverse physical environmental effects under CEQA in two ways:

- Social or economic impacts may lead to physical changes to the environment that are significant; and
- The economic and social effects of a physical change to the environment may be considered in determining whether that physical change is significant.

As an example of the ways in which social or economic impacts may lead to physical changes to the environment, the Legal Background identifies physical deterioration at closed businesses resulting from economic harm caused by a proposed development (i.e., urban decay), as an example of such an impact.

Draft EIR, Chapter 7, *Impact Overview and Growth Inducement*, pp. 7-9 to 7-11, analyzes the potential for the proposed Project to result in urban decay effects related to the relocation of the Oakland A's from the Oakland Coliseum to Howard Terminal. See Consolidated Response 4.14, *Environmental Justice,* for more on this subject. In addition, issues relating to displacement and gentrification are discussed in the Draft EIR. See Consolidated Response 4.13, *Gentrification and Indirect Housing Displacement*.

Several comments request that the EIR address the question of whether impacts of the proposed Project would "disproportionately" affect West Oakland or other neighborhoods that have been historically affected by environmental impacts of projects. Some of the CEQA significance thresholds address this concern by focusing on impacts on adjacent communities and proximate populations such as those topics described in Section 4.13.3.3 above. However, other thresholds do not. In addition, the air quality analysis in the EIR discusses and considers the designation of West Oakland under the Community Air Protection Program (AB 617) and adoption of the West Oakland Community Action Plan (WOCAP) to address impacts on West Oakland (see discussions and analysis on Draft EIR pp. 4.2-10 through -11, -18, -30 thru -33, -43, -48, -52, -59 through -60, -94, -140 through -145, -147 through -150, -151, and -153 through -155). The WOCAP was a joint effort of the Bay Area Air Quality Management District (BAAQMD) and the West Oakland Environmental Indicators Project and complies with Assembly Bill (AB) 617 which directs communities and air districts to collaborate in ways to address air pollution and related health effects in overburdened communities. The WOCAP addresses the disproportionate air pollution burden faced by the West Oakland community, and includes strategies to reduce air pollution and exposure to air pollution by people who live, work, and play in West Oakland.[78] In particular, the WOCAP includes specific goals and sets targets for improving community health and eliminating disparities in exposure to air pollution in West Oakland, including the target that by 2030, all neighborhoods in West Oakland experience conditions comparable to the least impacted residential neighborhoods.[79] WOCAP programs are included in the mitigation measures for air quality impacts

[78] Bay Area Air Quality Management District and West Oakland Environmental Indicators Project, *Owning Our Air, The West Oakland Community Action Plan – Volume 1: The Plan,* October 2019, page 1-2.

[79] Bay Area Air Quality Management District and West Oakland Environmental Indicators Project, *Owning Our Air, The West Oakland Community Action Plan – Volume 1: The Plan,* October 2019, page 4-4.

due to criteria air pollutant emissions and TACs – Mitigation Measure AIR 2-e and Mitigation Measure AIR 2.CU.

The Draft EIR includes a cumulative health risk analysis that incorporates information about TAC sources including in BAAQMD's health risk modelling for the WOCAP (Draft EIR p. 4.2-140 et seq.). In this way, the EIR, as required pursuant to CEQA Guideline 15125, evaluates the impacts of the proposed Project in the context of the existing environmental conditions, which may reflect the effects of past projects and other decisions that create todays existing environmental conditions. Further, the EIR accounts for the effects of all past, present and future projects through a cumulative analysis, as required pursuant to CEQA Guideline 15130. The accurate and objective information provided in the EIR, including information on issues that are central to the issues of environmental justice, will inform the decision makers when they consider the effects and the merits of the proposed Project.

4.14.4 San Francisco Bay Conservation and Development Commission, San Francisco Bay Plan

The San Francisco Bay Conservation and Development Commission (BCDC) commented that it has adopted more recent policies related to environmental justice and social equity than discussed in the Draft EIR. The BCDC San Francisco Bay Plan, adopted in May 2020, includes a set of Environmental Justice and Social Equity findings and policies that were originally adopted by BCDC in October 2019. The Findings reflect a range of historic and current conditions that have resulted in "disproportionate environmental burdens and adverse health issues for many low-income communities of color," the past role of BCDC in taking actions that have contributed to these conditions, and a wide range of local, State, and federal statutory and regulatory acknowledgements of the existence of such conditions and the need to positively address these conditions to promote environmental justice. The BCDC policies and findings relate to their own approval process for the Project and do not relate to environmental impact issues that are required to be analyzed under CEQA. However, the applicable policies are discussed briefly below for informational purposes.

The Environmental Justice and Social Equity policies adopted by BCDC are stated as follows:

1. The Commission's guiding principles on environmental justice and social equity should shape all of its actions and activities.

2. Since addressing issues of environmental justice and social equity should begin as early as possible in the project planning process, the Commission should support, encourage, and request local governments to include environmental justice and social equity in their general plans, zoning ordinances, and in their discretionary approval processes. Additionally, the Commission should provide leadership in collaborating transparently with other agencies on issues related to environmental justice and social equity that may affect the Commission's authority or jurisdiction.

3. Equitable, culturally-relevant community outreach and engagement should be conducted by local governments and project applicants to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement

should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.

4. If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed.

Pursuant to the McAteer-Petris Act, the BCDC is required to guide the development of the Bay and shoreline, including any actions related to the proposed Project, in accordance with the Bay Plan policies and Bay Plan maps. The BCDC will have an opportunity to evaluate the Project's consistency with its policies as part of its decision whether to grant approvals.

4.14.5 Community Outreach and Engagement

The City has facilitated extensive community outreach throughout the process of evaluating the proposed Project, preparing the EIR, and developing a Community Benefits Program that could accompany the proposed Project. In addition, the Oakland A's have conducted numerous community engagement meetings, as have other stakeholders such as the Port of Oakland. The range of community outreach and engagement activities are summarized below.

CEQA Process. Extensive public outreach and engagement has been undertaken as part of the City's process to develop this EIR, in most cases extending well beyond the minimums established under CEQA. The City of Oakland published a Notice of Preparation on November 30, 2018, pursuant to State CEQA Guidelines Section 15082, indicating that an EIR would be prepared for the Oakland Waterfront Ballpark District Project and inviting comments on the scope of the Draft EIR's analysis. The public comment period regarding the scope of the Draft EIR began on November 30, 2018. The period is required under CEQA to be 30 days in length. The City initially scheduled the comment period to end on January 7, 2019, and extended the date to January 14, 2019, resulting in a 45-day comment period. The NOP was sent to property owners within 300 feet of the Project site, responsible and trustee agencies, organizations, and other interested parties. A notice was published in the newspaper, and a copy of the NOP was sent to the State Clearinghouse, to solicit statewide agency participation in determining the scope of the EIR, and to the County Clerk, who posted the NOP for 30 days.

For projects of the scale of the proposed Project, a public scoping meeting is required to be conducted during the NOP comment period. During the comment period, two public scoping sessions were conducted, one by the Oakland Landmarks Preservation Advisory Board on Monday, December 17, 2018, and the other by the Oakland Planning Commission on Wednesday, December 19, 2018. The scoping sessions provided a forum for public agencies and interested persons or groups to offer comments regarding the scope of the EIR, including topics to be analyzed in the EIR. Oral and written comments received during the comment period

addressed a range of topics including historic resources, displacement of existing tenants on the Howard Terminal site, potential conflicts with maritime uses and maritime navigation, the potential for traffic and air quality impacts, and more.

The Draft EIR for the proposed Project was published and made available for public review on February 26, 2021. Although the required review period for an EIR on a project such as the proposed Project is 45 days, the public review period was extended from the original closure date of April 12, 2021 an additional two weeks to April 27, 2021, for a total review period of 61 days. Consistent with Alameda County's Shelter in Place Orders and guidance from the Governor's Office of Planning and Research, the Draft EIR was made available in digital form and public meetings were held remotely. The Draft EIR and all supporting technical documents under Case ER#18-016, and all of the documents submitted to or relied on by the City in preparation of the Draft EIR (i.e., Record of Proceedings), were made available at https://www.waterfrontballparkdistrict.com, consistent with the requirements of AB 734. Project-related documents were also made available to view at the City of Oakland's website: https://www.oaklandca.gov/topics/oakland-waterfrontballpark-district and https://www.oaklandca.gov/documents/oakland-as-waterfrontballpark-district-at-howard-terminal-environmental-impact-report-documents-case-filenumber-er18-016.

Although not formally required to comply with CEQA, public meetings were conducted during the Draft EIR public review period. The City conducted an informational workshop pursuant to AB 734 on Saturday, March 6, 2021; a public meeting of the Oakland Landmarks Preservation Advisory Board (LPAB) on Monday, March 22, 2021; and a public hearing at the Oakland City Planning Commission on Wednesday, April 21, 2021. Oral comments on the Draft EIR were taken and recorded at both the LPAB public meeting and the City Planning Commission public hearing. While conducted in English, interpreters in American Sign Language, Cantonese, Mandarin, Vietnamese, or Spanish were made available upon request.

The City encouraged agencies and interested parties to submit written comments on the Draft EIR electronically via the following link: https://comment-tracker.esassoc.com/oaklandsportseir/index.html. Written comments were also accepted when submitted directly to the City of Oakland Planning and Building Department, by email to PVollmann@oaklandca.gov, or by fax to (510) 238-4730. As required pursuant to Section 21168.6.7 of the Oakland Municipal Code, all written comments were made available to the public at the Project website.

Other Community Outreach and Engagement. Beyond the legally required CEQA process, the City has engaged in extensive outreach to the community. During November 2019, the City conducted a series of five community meetings to provide information and seek input on the proposed Project. The meetings included a meeting at the Port of Oakland on November 12, 2019; a meeting of the Prescott Neighborhood Crime Prevention Council (NCPC) on November 14, 2019; a meeting at the West Oakland Senior Center on November 16, 2019; a meeting of the Chinatown NCPC on November 20, 2019; and a meeting of the Old Oakland Neighbors NCPC on November 20, 2019.

Howard Terminal Community Benefits Steering Committee Meetings. Starting in 2019, the City established an equity-centered process to help guide the development of a proposed set of Howard Terminal Community Benefits. It was intended to use existing conditions of racial disparities data from the Oakland Race and Equity Baseline Indicators Report that was published in 2019 to establish race and equity baselines from which community benefits recommendations would be developed.[80] It was intended to be led by a collaborative multimulti-stakeholder Steering Committee and developed from a grassroots level through seven working groups that were identified as Topic Cohorts: Community Health & Safety, Culture Keeping & History, Economic Development & Jobs, Education, Environment, Housing, and Transportation.

The Steering Committee was established as a broad-based group, including participation from representatives of such diverse groups as the Black Arts Movement District, Communities for a Better Environment, the East Bay Alliance for a Sustainable Economy, the Civic Corps and West Oakland Community Collaborative, the Asian Pacific Environmental Network, Asian Health Services, the Jack London Square Improvement District, the Port of Oakland, the City of Oakland, the Oakland A's, as well as residents of the West Oakland, Chinatown, Jack London, and Old Oakland neighborhoods.

Starting in March 2020, the Steering Committee has met 13 times. Each of the meetings was recorded and the records of the meetings, as well as all other materials developed as part of the Community Benefits development process can be accessed at: https://www.oaklandca.gov/topics/community-benefits-agreement-cba-for-the-oakland-as-waterfront-ballpark-district-at-howard-terminal#meetings

4.14.6 Measures for Addressing Environmental Justice Issues

Several comments request the EIR to consider "more mitigation," beyond that required for compliance with CEQA to address environmental justice issues. As noted above, this would go beyond the scope of CEQA because the focus of CEQA is environmental impacts and mitigation measures must relate to significant environmental impacts of the proposed Project. As discussed above, environmental justice issues are not environmental impacts required to be analyzed or mitigated under CEQA.

The City may, however, consider imposing other conditions of approval or requirements to address non-CEQA issues, including those related to environmental justice, as part of the entitlement process, the Community Benefits Agreement, or Development Agreement.

4.15 Urban Decay

Comments Addressed: O-29-104, O-29-105, O-29-106, O-29-107, O-29-108, O-29-109, O-29-110, O29-2-60, O29-2-61, O29-2-62, O29-2-63, O29-2-64, O29-2-65, O-29-2-66, O29-2-67, O29-2-68, O29-2-69, O29-2-70, O29-2-71, O29-2-72, O29-2-73, O29-2-74,

[80] City of Oakland, Race & Equity Department, *Oakland Race and Equity Baseline Indicators Report: An Overview of Existing Conditions for East and West Oakland Compared to the City of Oakland to Inform the Howard Terminal Community Benefits Agreement,* October 14, 2019.

O29-2-75, O29-2-76, O29-2-77, O-45-26, O-57-29, I-179-7, I-179-9, I-218-1, I-259-1, I-265-3, I-282-6, I-313-1, I-313-2, I-335-1, I-339-1, I-340-1, H2-3-23, and H2-3-64.

A number of comments address the issue of urban decay, primarily related to the potential secondary economic effects associated with the proposed move of the Oakland A's from the Coliseum complex to the Project site. In most cases, the comments assert that the Draft EIR did not, or did not sufficiently, address the potential effects of the proposed Project, including some specific comments related to the methodology and sources of data used in the analysis. The response describes the concept of urban decay as an issue pursuant to CEQA, explains the relevance of the Coliseum Area Specific Plan and specific sections of the Oakland Municipal Code in assessing the potential for urban decay in the future, clarifies the analytical methodology undertaken in the Draft EIR, clarifies the sources of data about the potential effects of the proposed Project on businesses in the vicinity of the Coliseum, and addresses assertions about assumptions made in the analysis.

4.15.1 CEQA Definition of Urban Decay

Under CEQA, economic or social effects are not considered significant effects on the environment. Rather, these effects are considered as potential linkages or indirect connections between the proposed Project and physical environmental effects. More specifically, the direction for treatment of economic and social effects is stated in State CEQA Guidelines Section 15131(a):

> Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on physical changes.

Anticipated economic or social effects of a project may be used in the determination of the significance of physical changes caused by the proposed Project.[81] As required by CEQA, the focus of the analysis in the Draft EIR is on the physical changes that would result from the approval and implementation of the proposed Project. Consistent with the requirements of CEQA, the Draft EIR includes consideration of potential adverse physical environmental effects that could be the result of socioeconomic and/or economic changes that could be triggered by the proposed Project, and as appropriate considers social and economic factors that may affect the significance of a physical effect. The discussion in Section 7.3.2 focuses on the socioeconomic issue of urban decay.

As used in CEQA, the term "urban decay" was introduced by the California Court of Appeal in the case entitled *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 (*Bakersfield Citizens*). In that decision, the court required the City of Bakersfield to revise and recirculate two EIRs for two proposed Wal-Mart stores because the documents both failed to address the possible indirect physical effects flowing from the direct economic effects of the two

[81] State CEQA Guidelines Sections 15064(e) and 15131(b).

projects. Though the court did not expressly define "urban decay," the court seemed to equate the concept with a "chain reaction of store closures and long-term vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake."[82]

Consistent with the above described court decision, and as described on p. 7-9 of the Draft EIR, "urban decay" is not simply a condition in which buildings become vacant in the normal course of the market-based economy, nor is it a condition where a building may be vacated by one business or use and reused by a different business or for alternative purposes. Rather, under CEQA, *urban decay* is defined as physical deterioration of properties or structures that is so prevalent, substantial, and lasting a significant period of time that it impairs the proper utilization of the properties and structures, and the health, safety, and welfare of the surrounding community. As explained in the Draft EIR, physical "manifestations of urban decay can include such physically visible conditions as plywood-boarded doors and windows, long-term unauthorized use of the properties and parking lots, extensive graffiti painted on buildings, dumping of refuse on-site, overturned dumpsters, broken parking barriers, broken glass littering the site, dead trees and shrubbery together with weeds, lack of building maintenance, and unsightly and dilapidated fencing."

Prolonged business vacancies which could result in urban decay generally result from a lack of sufficient demand for commercial goods or services within a market area. Under these conditions, there is not sufficient demand for the provision of goods or services to support the existing inventory of developed commercial space within a market area. Within any market area, a small percentage of commercial vacancy is common and is considered a natural part of the market economy. In most market areas, the vacant or partially occupied commercial spaces are regularly maintained, as vacancies are assumed to be temporary and building owners have an economic incentive to maintain their property in order to make it more attractive for future tenants. Urban decay conditions can potentially occur in market areas where a large, persistent deficit in the demand for commercial services exists relative to the available inventory of commercial space.

4.15.2 Urban Decay Analysis and Conclusions in the Draft EIR

The analysis in the Draft EIR examines whether a downward spiral of numerous business closures and long-term vacancies resulting in pervasive physical deterioration or "urban decay" could result from the departure of the Oakland A's from the Oakland Coliseum. In addition, the Draft EIR considered the potential for urban decay effects to occur in the cumulative context, considering the effects of the potential departure of the Oakland A's from the Coliseum, along with the departure in 2020 of the Oakland Raiders from the Coliseum and the 2019 departure of the Golden State Warriors from Oracle Arena. The Draft EIR concluded that urban decay was unlikely to occur as a result of "the departure of the A's alone, or in combination with the Raiders and Warriors under cumulative conditions." As explained on Draft EIR p. 7-10, "[w]ith few if any business closures expected as a result of relocating the A's from the Coliseum, pervasive negative physical impacts on the properties in the vicinity are unlikely, and hence, there would be no negative impact on the environment resulting in urban decay."

82 *Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184,* p. 1204.

4.15.2.1 Coliseum Area Specific Plan

The Draft EIR explains that the potential for urban decay is further reduced due to the planned redevelopment of the Coliseum complex as provided for in the City of Oakland's adopted Coliseum Area Specific Plan (CASP), which contemplated a future scenario that included the relocation of all three professional sports teams and the redevelopment of the plan area with a mix of uses. For example, one scenario included 4,000 residential units, 850 hotel rooms, 1.5 million square feet of science and tech space, 190,000 square feet of neighborhood retail, and 225,000 square feet of regional retail. The consideration of the CASP is discussed further below in this response.

4.15.2.2 Oakland Municipal Code

Finally, the Draft EIR acknowledges the City's authority to avoid the type of physical manifestation of urban decay of concern under CEQA. More specifically, Oakland Municipal Code, Title 8, Health and Safety, Chapter 8.24, Property Blight, requires "a level of maintenance of residential, commercial, and industrial property which will protect and preserve the livability, appearance, and social and economic stability of the city and which will also protect the public from the health and safety hazards and the impairment of property values which results from the neglect and deterioration of property." This part of the Oakland Municipal Code is described further below.[83]

Section 8.24.020 defines *blighted property* as property which is blighted is defined to include buildings or structures in a state of disrepair, inadequately maintained, or otherwise meet the criteria for urban decay, discussed above. Section 8.24.040 establishes a general obligation that "[n]o person, firm, group, or corporation whether as owner, owner's agent or manager of the subject property, or as lessee, sublessee, or occupant in possession of the property shall maintain any property in a blighted condition or shall cause or permit the property to be blighted." Sections 8.24.050 and 8.24.060 delegate and empower the City's Building Official to take actions necessary to enforce the general obligation, including "assessment of fees, charges, penalties, and interest; and/or repair or removal of the condition; and/or installation and maintenance of physical barriers to deter the recurrence of or illegal access to the condition; and/or any other abatement action determined by the Building Official, or his or her designee, to be necessary."

Thus, although the analysis undertaken by the City did not indicate the likelihood of the types of business closures that could result in urban decay, even if some limited business closures were to occur, the Oakland Municipal Code establishes the legal framework for the City to take actions to avoid physical urban decay.

4.15.3 Draft EIR Urban Decay Analysis

Several comments addressed the approach taken to the analysis of urban decay effects of the proposed Project, suggesting that the analysis is "almost entirely" reliant on a survey, that the survey is incomplete and its conclusions are not reliable. The comments further suggest that there

[83] City of Oakland Municipal Code, codified through Ordinance No. 13634, passed December 23, 2020. *Chapter 8.24, Property Blight*. Online content updated on March 22, 2021. Accessed on June 21, 2021.

is an "industry standard" method of analysis of urban decay associated with the departure of a business such as the Oakland A's. These suggestions are incorrect, as discussed further below.

4.15.3.1 Analytical Approach

The analysis of urban decay impacts that may result from the relocation of a sports team, such as the Oakland A's, is different in nature to the traditional urban decay analysis that originally emerged in the aftermath of the *Bakersfield Citizens* case. In situations where the potential for urban decay is associated with an increase in the supply of retail space, the method of analysis is to conduct a retail demand and supply analysis in order to understand whether a project could create an excess supply of retail space, and could result in an oversaturation that could result in extended vacancies and eventual property abandonment. The analysis of the relocation of a major league sporting team is different in nature because the economic effect of the sporting team is to attract people to a geographic area in the vicinity of the event venue (e.g., stadium or arena), with associated spending occurring at businesses near the venue.

As such, the analysis is first based on the location and design of the Coliseum, as well as the nature of businesses in the vicinity of the Coliseum complex. The analysis describes the uses of the venues in the Coliseum complex (the Oakland Coliseum and Oracle Arena), with an acknowledgement that between Oakland A's baseball games, Oakland Raiders football games, and Golden State Warriors basketball games, the Coliseum complex has been in use approximately 130 to 150 days per year, with additional user days for non-major league sports uses such as concerts and other sports uses. Most concerts and non-major league sports uses occurred at the Oracle Arena, which remains in operation for these non-NBA events. Thus, the relocation of the major league sports teams from the Coliseum complex could cumulatively reduce the number of days that Coliseum complex is in use by at most 130 to 150 days per year. Thus, as stated on Draft EIR p. 7-10, "the Coliseum complex has not been in use many days of the year, and the complex is fenced off from the public. This existing condition is an accepted characteristic of the vicinity and compatible with the area's industrial character, and thus does not constitute urban decay."

Analysis of the design and location of the sports venue is important because it can have a material effect on the interaction between the venue and the surrounding community and businesses. As an example, a venue that is built in a downtown area, with limited on-site parking, has a tendency to create large numbers of opportunities for event attendees to patronize nearby businesses as a result of walking to and from the venue. Such venues in the region include Oracle Park in San Francisco and the Golden 1 Center in Sacramento. Conversely, venues that are built in more suburban locations, are typically largely surrounded by parking lots, and through location and design tend to limit the potential patronage of event attendees at nearby businesses. Essentially, event attendees arrive to the venue via automobile or transit, and walk directly into the venue where they spend money at the venue, not at surrounding businesses. The Oakland Coliseum complex, Levi's Stadium, and the former Arco/Sleep Train Arena in Sacramento fall into this category.

Thus, it is essential as part of the analysis of the effects of relocation and venue closure to understand the design and operational interaction between the venue and the surrounding neighborhood. The analysis in the ESA Memorandum cited in the Draft EIR and the Draft EIR

itself appropriately addressed the physical design of the Coliseum complex and the business makeup of the surrounding neighborhood. The location of the Coliseum complex, bounded by I-880 on the west, Hegenberger Road on the south, the UPRR tracks on the east, and Damon Slough (Leon Creek and Arroyo Viejo Creek) on the north and east, limits the potential interaction of event attendees with nearby businesses. The presence of a BART station immediately east of the Coliseum, and connected to the Coliseum via a separated pedestrian bridge, again essentially eliminates the potential that event attendees taking transit to the event would patronize a nearby business. There are a few fast food restaurants on Hegenberger Road, near the south vehicular entry to the Coliseum via Coliseum Way; these restaurants were surveyed in the sample outreach.

The fact that the majority of business activity in the vicinity of the Coliseum is industrial and service commercial in nature is reflective of the fact that these businesses are not dependent on users of the Coliseum complex and there has been limited business spending in the immediate vicinity of the venues in the past. This fact is also relevant to understanding future effects of eliminating major league sporting events at the Coliseum complex as a result of the departure of the Warriors and the Raiders, and the potential move of the A's to the Project site.

To validate the reasonable conclusions drawn by the assessment of the relationship of the Coliseum complex to the surrounding community, the ESA Memorandum reports on the results of outreach to a number of businesses located in the area surrounding the Coliseum. The focus of the outreach was on businesses that may be used by attendees of events at the Coliseum complex or the operation of the venues in the Coliseum complex. The outreach to businesses was described as "a sampling of hotels, restaurants, retailers, industrial businesses, and private parking lots," and was undertaken for ESA by ALH Urban and Regional Economics (ALH), an urban economics and real estate consultancy with nearly 40 years of experience in land use economics. ALH provided information to ESA from its outreach to 19 businesses in the vicinity of the Coliseum, including hotels, restaurants, retail-type establishments, and industrial businesses. A copy of the results of the survey is included in the online Administrative Record for the Project[84]. The list of businesses contacted represents a mix that is reflective of the types of businesses in the vicinity of the Coliseum and Coliseum complex. The inclusion of just a few retail businesses in the outreach is reflective of the nature of the effort to sample existing businesses, and reflective of the relatively rarity of retail businesses in the area. The ESA Memorandum and the Draft EIR analysis of urban decay did not report the specific names of businesses or individuals contacted as such information was not necessary or relevant to the results. As reported in the Draft EIR, while some businesses were non-responsive, those that did respond suggested that "they anticipate limited to somewhat noticeable negative sales impacts following the move of the A's." The results also included feedback from some businesses that indicated that their operations would benefit from the reductions in traffic due to events at the Coliseum complex.

Thus, contrary to the comments that suggested that the analysis of urban decay included in the Draft EIR was "almost entirely" reliant on a survey, the business outreach conducted simply validated the results of the analysis that was primarily based on the physical conditions and business makeup that are present around the Coliseum complex. The comments that there was a

84 ALH Urban and Regional Economics, *ALH Notes on Coliseum Area Business Effects,* March 2019.

survey conducted which was "incomplete," "cosmetic," and "superficial" seem to suggest that the purpose of the survey was to provide a statistically significant source of data upon which to base the analysis. These comments represent a misunderstanding of the purpose of the business outreach conducted and reported in the Draft EIR. Further, despite the questions raised in the comments which question the veracity of the feedback received from the business outreach, the comments include no contravening substantial evidence that would support an argument that there would be, in fact, a material effect on nearby businesses which could result in the type of long-term vacancies and building abandonments that could result in physical symptoms of urban decay. As such, the analysis supported by business outreach conducted for and reported in the Draft EIR represent substantial evidence in the record related to the potential for urban decay effects of the proposed Project.

The approach taken in the urban decay analysis and approach is also proper to consider the potential urban decay effects of the cumulative impacts of the departure from the Coliseum complex of the NBA Golden State Warriors and the NFL Oakland Raiders. The same locational, physical, and business mix parameters that affect the potential for baseball game attendees to patronize nearby businesses are relevant in considering the potential for football or basketball game event attendees to patronize nearby businesses. In fact, some of the hotels and restaurants that gave feedback indicated that the departure of the Raiders would have a more material effect than the loss of the A's or Warriors. This may be because the character of travel to and from sporting events varies between types and number of events. For example, basketball games are largely evening events from late fall, through winter, and into the spring, with largely local attendees. Baseball also tends to be evening events, other than infrequent weekday and Sunday day games, and tend to attract audiences that are largely local attendees. Conversely, football games are largely midday Sunday events, only ten (10) times per year, and often involve substantial amounts of attendees who travel inter-regionally to games; this is especially true for the NFL Raiders, a team with a well-known national fan base with especially high levels of travel due to their 12 years of residence in Los Angeles (from 1982 to 1994). Travel for football games generates substantial hotel, restaurant, and other economic activity not normally associated with local attendance at more numerous baseball and basketball games. Nonetheless, none of the businesses cited the potential loss of revenue due to the cumulative loss of major league sports from the Coliseum complex as the basis for the closure of their business, let alone long-term vacancies that could result in abandonment of buildings resulting in physical blight or urban decay.

4.15.3.2 "Industry Standard" for Urban Decay Analysis

Several comments assert that the analysis of urban decay in the Draft EIR failed to comply with an "industry standard" approach to urban decay analysis. This is incorrect. As explained above, the analysis of the potential urban decay effects associated with the closure of a major sports or entertainment venue is demonstrably different than the type of demand and supply analysis undertaken to consider the potential of market saturation-caused effects resulting from the proposal of a new commercial development. In fact, as discussed below, there have been very few EIRs prepared for the complete closure of a major sports and entertainment venue.

In several cases, major league sports teams have moved from a venue that is anticipated to continue in operations, albeit without the relocating team. Examples include the move of the NBA Golden State Warriors from Oracle Arena to the new Chase Center in San Francisco (wherein Oracle Arena has continued to operate as a major entertainment venue), the move of the NBA Los Angeles Lakers and NHL Los Angeles Kings from The Forum in Inglewood to Staples Center in downtown Los Angeles (where The Forum remains to be a successful concert venue today, 20 years later), the anticipated relocation of the NBA LA Clippers from Staples Center in Los Angeles to a new arena in Inglewood, the relocation of the MLB San Diego Padres from Jack Murphy Stadium (which was anticipated at the time to continue to be the home of the NFL San Diego Chargers) to Petco Park in San Diego, and the MLB San Francisco Giants move from Candlestick Park (which was anticipated at the time to continue to be the home of the NFL San Francisco 49ers) to Pac-Bell (now Oracle) Park in San Francisco.

In fact, aside from the proposed Project, the only cases in recent years where a major league team has relocated from a venue that would then be closed include the relocation of the San Francisco 49ers from Candlestick Park to Levi's Stadium in Santa Clara, and the relocation of the NBA Sacramento Kings from Sleep Train Arena to Golden 1 Center in Sacramento.

In the case of the EIR for Levi's Stadium,[85] there is no consideration of the issue of urban decay related to the closure of Candlestick Park or effects on businesses in the nearby Hunters Point neighborhood. As such, there is no precedence or methodological approach present in the EIR. As cited in the comments, there was an EIR addressing the redevelopment of the Candlestick Park site, but this was a separate document undertaken by the City of San Francisco (not the City of Santa Clara as part of the Levi's Stadium EIR). The comments acknowledge that the Candlestick Point–Hunters Point Shipyard Phase II EIR was certified by the City of San Francisco in summer 2010, clearly recognizing that consideration of the future effects of the relocation of the San Francisco 49ers to Santa Clara was expressly not part of the EIR on the new 49ers stadium in Santa Clara.

In the case of the analysis of the urban decay effects of closure of Sleep Train Arena, the EIR prepared on the Sacramento Entertainment and Sports Center (ESC) (now Golden 1 Center) included consideration of the larger economic trends going on in the vicinity, as well as "[i]nterviews with several commercial real estate brokers active in" the area around the arena. Based on the results of an examination of the larger economic and land use trends in the vicinity, combined with the interviews, resulted in a conclusion that "Sleep Train Arena event attendee sales are not a significant portion of the sales base in Natomas," and that "full closure of Sleep Train Arena would not result in undue economic hardship on the Natomas area's retail base."[86] Further, the future redevelopment of the Sleep Train Arena site was not considered as part of the Sacramento ESC EIR. Chapter 2 of the EIR stated that "any reuse of the Sleep Train Arena building and practice facility, including possible conversion to non-arena uses, would require a discretionary approval process that would be subject to appropriate CEQA documentation and

85 City of Santa Clara, *49ers Santa Clara Stadium Project Environmental Impact Report,* State Clearinghouse No. 2008082084.

86 City of Sacramento, *Sacramento Entertainment and Sports Center & Related Development Draft Environmental Impact Report,* December 2013, pp. 5-19 to 5-20.

public review."[87] Consistent with the process anticipated at the time that the Sacramento ESC EIR was certified, on March 1, 2019 the City of Sacramento published a Notice of Preparation of an EIR on the Natomas Arena Reuse Planned Unit Development Project addressing the reuse of the Sleep Train Arena site.[88]

As is demonstrated in the discussion above, the issues associated with the economic effects, including potential urban decay effects, of closure of a major sports and/or entertainment venue, are unique and not relevant to the standard "supply and demand" analysis that is considered in the examination of potential effects due to over-saturation of retail uses in the "traditional" urban decay analysis such as that required in the *Bakersfield Citizens* case. There have been very few situations addressed in a CEQA document that are similar to the facts of the proposed Project, which would result in the elimination of any major league sports in the Oakland Coliseum. As such, it is incorrect to assert that there is an "industry standard" approach to analysis of potential urban decay effects in this type of situation, and where it has been studied, the methodology has been similar to that presented in the Draft EIR.

4.15.3.3 Assumptions

Several comments assert that the analysis of urban decay effects of the proposed Project is based on incorrect or otherwise faulty assumptions. Each assertion is discussed further below.

Peak Business Days. One comment asserts that the analysis was based on an assumption that "[t]he decrease in business would not be severe enough for business closure." The comment further states that analysis "does not consider peak business days" and that without peak days, businesses "could fail." The Draft EIR analysis of urban decay and the ESA Memorandum that includes supporting evidence do not attempt to look at peaking characteristics because the analysis of urban decay is not based on any sort of analysis of daily activity; rather, the effects of economic changes that could be affected by the proposed Project are cumulative in nature, with peak days, regular days, and dark days amalgamated into the creation of economic activity. The analysis reflects this by explaining the number of days per year for Oakland A's baseball games, as well as NFL and NBA events that occurred at the Coliseum complex prior to the departures of the Oakland Raiders and Golden State Warriors. As explained above, the analysis is not based on a supply and demand-type market analysis, and instead is based on an analysis of land use patterns, physical relationships, and supplemented by first-hand information from outreach to local businesses specific to the events-related use at the Coliseum complex. As such, the claim that the analysis failed to take account of peak business days is irrelevant to the analysis in the EIR, and the comment provides no substantial evidence to support the assertion that consideration of "peak business days" would lead to a different conclusion than provided in the Draft EIR.

Relationship of Surrounding Development to the Coliseum. The comment asserts that the analysis of urban decay in the Draft EIR is based on an assumption that development around the

87 City of Sacramento, *Sacramento Entertainment and Sports Center & Related Development Draft Environmental Impact Report,* December 2013, p. 2-82.

88 City of Sacramento, *Notice of Preparation of an Environmental Impact Report and Scoping Meeting for the Natomas Arena Reuse Planned Unit Development,* March 1, 2019.

Coliseum is "not dependent" on the use of the Coliseum. This comment is incorrect. As described above, the analysis in the EIR is based on an understanding of the types of land uses and physical relationships in the neighborhoods around the Coliseum complex. That analysis was then supplemented by outreach to businesses, which provided validation to support the conclusion that most of the businesses in the vicinity would not be materially adversely affected by the relocation of the Oakland A's, as well as the loss of other major league sports teams that formerly occupied the Coliseum complex.

The comment states that there is a Coliseum Area Specific Plan "which does, in fact, integrate the surrounding areas" is reason to conclude that the Coliseum is connected to the surrounding industrial uses. This is not correct because the CASP is a plan for the future of the Coliseum area and has not yet been fully implemented, and therefore cannot have already integrated the surrounding areas with the Coliseum complex. Some elements of the CASP are being implemented. Most noticeably, Bay Area Rapid Transit (BART) has been moving forward with its Coliseum Connections project, in collaboration with UrbanCore Development and the Oakland Economic Development Corporation, which includes 110 apartments, including 50% affordable to those making 50-60% of the average median income in Oakland. Through projects like this, the CASP is moving forward independent of the final determinations of the future of the A's and the Coliseum complex. Nevertheless, the lack of integration of the Coliseum complex from surrounding land uses remains today.

The ESA Memorandum explains that under existing conditions "[t]he nature of the development around the Coliseum complex, which includes very large parking lots, with I-880 forming a strong southwestern border, and Damon Slough to the north and northeast, does not facilitate the Coliseum's integration into the adjacent area. Therefore, development in the area surrounding the Coliseum complex primarily has little relation to Coliseum activities." The comment asserts that this represents an incorrect assumption because the CASP "does, in fact, integrate the surrounding areas." The comment confuses the aspirations of the CASP with the current conditions. The CASP, in Chapter 1, states that "[t] The Specific Plan establishes an appropriate mix, density and orientation of development uses to improve the business environment and provide opportunities to live, work and play in the Coliseum Plan Area. It outlines land use and urban design policies to cultivate a physically attractive, economically healthy and socially animated district, where one does not currently exist."[89]

The CASP itself recognizes the long-term nature of the planned future of the Coliseum area, stating that "[t]he Coliseum Area Specific Plan supports comprehensive redevelopment of the Plan Area over the next 20-25 years." The CASP was designed to accommodate range of development scenarios, particularly to reflect future changes in market conditions and as well as the locational decisions of the, at that time, three professional sports franchises that played games at the Coliseum complex facilities. From the point of view of sports facilities, the scenarios ranged from a full program that would have accommodated a new NFL stadium and events center, a new MLB ballpark, and a new NBA arena and multipurpose events center, to alternative programs that would accommodate two new venues, one new venue, or retention of the existing

89 City of Oakland, *Coliseum Area Specific Plan, Final Adopted Plan*, April 21, 2015, p. 11.

arena and no new venues.[90] As such, the assertion that the CASP "does, in fact, integrate" the Coliseum complex with its surrounding neighborhoods and business districts is incorrect in suggesting that the plan has been implemented and the integration of uses in the area already accomplished. Further, the assertion also fails to recognize the ways in which the CASP itself validates the statement in the ESA Memorandum which describes the existing lack of integration in the vicinity of the Coliseum complex under existing conditions.

Thus the fact that existing businesses in the vicinity of the Coliseum are not highly connected with the use of the Coliseum and the Coliseum complex was based on analysis of existing conditions and verification through outreach, rather than an unsupported assumption as asserted in the comment.

Deterioration of the Coliseum. The ESA Memorandum explains the frequency of major league sports events at the Coliseum complex and explains how the property is secured and maintained on the majority of days per year when no event occurs. This is an important element of the analysis because it establishes the facts that businesses in the vicinity of the Coliseum complex have always operated in an environment where the event activity was periodic and not an everyday aspect of operations. Further, it is important because urban decay and blight can be contributed to by the failure to secure and maintain a large property. Thus, the fact is established in the ESA Memorandum and the urban decay analysis in the Draft EIR that the property would be maintained and secured, similar to how it has been managed over the entire useful life of the facilities. Additionally, the reasonableness of this assumption is accentuated because of the City's 50% ownership in the Coliseum complex, discussed further below. As noted in the CASP Draft EIR, the Coliseum complex as a whole, including the Coliseum and Arena, are on the City's Local Register of Historical Resources and are considered historical resources under CEQA.[91] Pursuant to City of Oakland General Plan Policy 3.2, "the City will ensure that all City-owned or controlled properties warranting preservation will, in fact, be preserved." Thus, maintenance of the property is supported by the General Plan.

The comment states that the statement that the Coliseum is "seldom used, fenced, and patrolled" is speculative; this is incorrect. The statement is not an assumption, but a statement of fact about how the property has been and would be managed. Please see Section 4.15.2.2 above for the discussion of City Code requirements.

Cumulative Consideration of Coliseum Complex Tenants. The commenters (e.g. Comment O29-2-69) asserts that the analysis contained in the ESA Memorandum and the urban decay analysis in Chapter 7 of the Draft EIR fails to "substantively analyze" the cumulative effects of the relocation of NBA Golden State Warriors and the NFL Raiders, along with the proposed relocation of the Oakland A's as part of the proposed Project. Survey data does not reflect the Warriors and Raiders departures. The evidence provided in the comment is limited to a calculation of the number of times the words "A's,": "Raiders," and "Warriors" appear in the ESA Memorandum, and that the subject line of the memorandum states "A's Urban Decay

90 City of Oakland, *Coliseum Area Specific Plan, Final Adopted Plan*, April 21, 2015, p. 48.

91 City of Oakland, *Coliseum Area Specific Plan, Draft Environmental Impact Report, Volume 1*, August 2014, page 4.4-9.

Consideration." The assertion that the cumulative effects of the proposed Project along with the effects of the relocation of Raiders and Warriors were not analyzed is not correct, and the evidence cited in the comment is does not support its conclusion.

First and foremost, the physical conditions of the Coliseum complex serve to limit the extent to which event attendees patronize businesses in the vicinity, and affect the attendees to all events at the Coliseum complex, irrespective of major league team or the nature of the event (e.g., concerts and other non-major league sporting events). Further, in the local business outreach conducted and reported in the ESA Memorandum, "[a] number of businesses located in the area surrounding the Coliseum were contacted by phone or in person to identify any potential impacts on their businesses associated with the move of the A's from the Coliseum to Howard Terminal, as well as any cumulative effects associated with the departure of all three sports teams from the Coliseum complex."[92] The specific question that was asked was: "Once the Raiders and Warriors have relocated, and if the A's do the same, so that there are no major league teams playing at the Coliseum, what would be the impact on your business?" The feedback received was reported in the ESA Memorandum, generally reflecting across businesses that where there was business associated with the sports teams, the Raiders had the most effect on both hotel use and restaurant patronage. As such, it is clear that the cumulative effects of the relocation of all three major league sports teams was a substantive part of the consideration in the urban decay analysis, and is reflected in the substantial evidence in the record to support the conclusions drawn in the Draft EIR. Conversely, the comment's calculation of the number of times the sports teams were mentioned by name is not evidence of the type of analysis conducted, does not represent substantial evidence of a physical effect on the environment due to urban decay, and does not contravene the conclusions of the Draft EIR.

ALH Economics. The comment asserts that the ESA Memorandum of October 11, 2019 cites a report authored by ALH Economics, and that said report should be provided for review. The citation to ALH Economics in the ESA Memorandum, is a footnote which states that ALH communicated information about area businesses reported in the memorandum. During the preparation of the EIR, ALH Economics staff conducted telephone interviews with a sampling of businesses in the vicinity of the Coliseum. The raw notes from these telephone interviews are part of the Administrative Record, and were consolidated into the information provided in the ESA Memorandum of October 11, 2019.[93]

4.15.3.4 Coliseum Area Specific Plan

The comments assert that the ESA Memorandum identifies and relies on the CASP to "remedy" the potential urban decay impacts of the proposed Project, individually and/or cumulatively. This is incorrect. The ESA Memorandum affirmatively concludes that the proposed Project and other cumulative changes in the tenancy of major league sports teams at the Coliseum complex would not be "anticipated to significantly impact any Coliseum complex area businesses to the extent

[92] Environmental Science Associates, with assistance from ALH Economics, *Memorandum: A's Urban Decay Considerations,* October 11, 2019, p. 6.

[93] ALH Urban and Regional Economics, *ALH Notes on Coliseum Area Business Effects,* March 2019.

that the area businesses are deemed likely to close."[94] While acknowledging that there may be some loss of business for some businesses, "none are anticipated to experience a severe enough drop in business to trigger business closure, and there is no indication that business closures would be substantial enough to result in the characteristics of urban decay."[95] As such, there is no need for such a "remedy" as asserted in the comments.

Information on the CASP is presented in the Draft EIR and the ESA Memorandum in order to inform readers on the planning and environmental review that has already been conducted by the City on the future of the Coliseum complex. This information demonstrates the City's commitment to dynamic, planned development in the vicinity of the Coliseum complex or redevelopment of the Coliseum complex itself in the event of departures of the three major league sports teams. The CASP presents alternative scenarios for future development, including a scenario (#3) that envisions a future in which the Coliseum complex is redeveloped with non-sports uses.

The presence of the CASP establishes the commitment of the City of Oakland and puts a plan in place to create a vibrant economic future for the Coliseum area, even in the event that all major league sports teams relocate from the site, as would occur as a result of the proposed Project in conjunction with other cumulative projects that have resulted in the relocation of the Warriors and the Raiders, and would also occur if the A's were to relocate to a site outside of the City of Oakland. The City's commitment to redevelopment of the site is further reinforced by the recognition that it is a 50% owner in the Coliseum complex, as well as owner of additional land within the Sub-Area A identified in the CASP. Thus, the CASP is referred to and described in the Draft EIR and ESA Memorandum to establish that it is highly unlikely that the Coliseum complex itself becomes subject to the physical symptoms of urban decay because planning for redevelopment of the area has already been undertaken.

The fact that future decay and/or abandonment of the Coliseum complex and site is unlikely to occur after the departure of the A's or all three sports teams is further demonstrated to be remote by virtue of the continued interest in future redevelopment of the site by private parties. Over recent years, there have been proposals for private purchase and redevelopment of the City's portion of the Coliseum complex. Recently, in June 2021, it was reported that the African American Sports and Entertainment Group (AASEG) submitted a proposed term sheet offering to purchase the City's 50% interest in the Coliseum site.[96] In July 2021, it was further reported that

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94 This conclusion relates to the specific potential cause of business closures as a result of relocation of the Oakland A's, Oakland Raiders, and/or Golden State Warriors from the Coliseum complex. It is recognized that there are a variety of factors that affect the economic success or failure of businesses. Depending on the nature of the business those factors can include changes in local conditions, but are often tied to changes in regional, statewide, national, or international economic conditions, policies or laws. As an example, the recent COVID pandemic has had effects that have disproportionately adversely affected public-serving businesses, and the ability of some of those affected businesses to avail themselves of local, statewide, or federal economic relief measures has seen some of those businesses fail while others have survived or even thrived. Thus, while some businesses in the vicinity of the Coliseum complex have closed over the last few years, it is difficult to impossible to attribute such closures to changes in the activity levels at the Coliseum complex independently from larger economic challenges, including those presented by the COVID pandemic and concomitant changes in social and economic patterns.

95 Environmental Science Associates, with assistance from ALH Economics, *Memorandum: A's Urban Decay Considerations,* October 11, 2019, p. 8.

96 San Francisco Chronicle, *A's 'surprised' that Oakland may consider proposal from new group to buy half of Coliseum,* by Sarah Ravani, June 12, 2021.

as many as five different groups, including the Oakland A's, who have been identified as potential bidders for the City's interest in the site. In addition to the A's, identified potential bidders include the AASEG group, a group headed by Tripp Development, and a group headed by Floyd Kephart.[97] As such, there is clear evidence of a high level of economic interest in redevelopment of the Coliseum complex, reinforcing the idea that long-term abandonment and associated urban decay of the site is highly unlikely.

4.16 Remediation Plans, Land Use Covenants, and Human Health and Ecological Risk Assessment

Comments Addressed: A-7-31, O-3-2, O-17-3, O-18-3, O-24-3, O-27-19, O-27-20, O-27-22, O-27-45, O-27-46, O-27-47, O-27-48, O-27-49, O-27-50, O-27-51, O-27-52, O-27-53, O-27-54, O-27-57, O-29-28, O-29-33, O-29-34, O-29-35, O-29-38, O-29-39, O-29-40, O-29-43, O-29-88, O29-1-45, O29-1-52, O29-1-53, O29-1-54, O29-1-55, O29-1-56, O29-1-57, O29-1-58, O29-1-59, O29-1-60, O29-1-61, O29-1-62, O29-1-63, O29-1-64, O29-1-65, O29-1-66, O29-1-67, O-45-12, O-46-4, O-50-6, O-53-3, O-55-2, O-55-19, O-56-3, O-57-73, O-58-4, O-62-48, O-62-49, O-62-51, O-62-52, O-62-53, O-63-38, O-65-7, I-97-8, I-145-6, I-153-1, I-163-1, I-175-3, I-178-2, I-225-2, I-243-4, I-253-3, I-258-4, I-260-3, I-267-1, I-271-3, I-275-1, I-288-4, I-289-2, I-292-4, I-308-1, I-310-1, I311-3-15, I311-3-16, I311-3-19, I311-7-32, I-332-21, I-333-4, I-333-6, I-334-14, I-340-4, H2-1-14, H2-1-33, H2-1-36, H2-1-37, H2-2-5, H2-2-57, H2-2-63, H2-2-68, H2-3-1, H2-3-2, and H2-3-30.

A number of comments expressed concern or posed questions regarding the investigation work completed to date, remediation plans to be prepared later, requirements of Land Use Covenants, and the Human Health and Ecological Risk Assessment (HHERA). These comments are addressed in this Consolidated Response 4.16, which is organized into the subsections presented below.

To assist in responding to comments, the documents listed below were prepared or acquired subsequent to the publication of the Draft EIR. These documents provide clarification and explanatory information but do not change the impact analyses in the Draft EIR. These new documents have been added to the Administrative Record.

- Department of Toxic Substances Control (DTSC), 2001. *Public Participation Manual*. October.
- ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.
- ENGEO, 2021. *Key Elements of Anticipated Remediation Plan Approach*. July 9, 2021.
- Oakland Athletics, 2021. Letter explaining RAP versus RAW distinction. August 18, 2021.

[97] East Bay Times (Bay Area News Group), *Five groups jockey for the chance to buy, redevelop half of Oakland Coliseum site,* by Annie Sciacca, July 7, 2021.

4.16.1 Overall Sequential Remediation Process

Several comments requested clarification regarding the overall sequence of activities starting with investigations conducted prior to the proposal to redevelop this Project site through to the preparation of work plans that would describe the remediation activities. Draft EIR Section 4.8, *Hazards and Hazardous Materials*, summarizes the investigations conducted to date and the results of the HHERA based on the results of those investigations in Section 4.8.1, *Environmental Setting*, and the approach to remediation in Section 4.8.3, *Significance Criteria, Remediation and Mitigation of Contaminated Materials*. To clarify the process further, the sequential steps are listed below.

1. **Site Investigations Pre-Dating the Project**: These are the investigations of existing site conditions that were prepared prior to initiation of the proposed Project. The reports for these investigations are listed and summarized in Draft EIR Section 4.8, *Hazardous and Hazardous Materials, Environmental Setting*, pp. 4.8-3 through 4.8-9.

2. **Identification of Potential Remediation Methods**: ENGEO prepared a *Considerations of Remediation and Mitigation Alternatives* report that identified and summarized preliminary remediation (cleanup) approaches that could be used to remediate the types of contamination at the Project site in a manner that would be protective of people and the environment.[98] Draft EIR Section 4.8, *Hazardous and Hazardous Materials*, summarizes the types of remediation methods that could be implemented to facilitate redevelopment of the Project site in Section 4.8.3, *Significance Criteria, Remediation and Mitigation of Contaminated Materials*, pp. 4.8-40 through 4.8-45. The identification of potential remediation approaches assisted in further developing the project design and developing the approach for conducting the human health risk assessment, listed further below.

3. **Site Investigation Report**: ENGEO conducted sampling activities and prepared a Site Investigation Report that described all of the data collected through 2019, described the nature and extent of contamination in soil, soil gas, and groundwater at the Project site, and identified data gaps to be filled to support preparing the human health risk assessment.[99] Draft EIR Section 4.8, *Hazardous and Hazardous Materials*, uses this report to describe the nature and extent of contamination at the Project site on pp. 4.8-9 through 4.8-15.

4. **HHERA**: Draft EIR Section 4.8, *Hazardous and Hazardous Materials*, summarizes the HHERA in Section 4.8.1, *Environmental Setting, Human Health and Ecological Risk Assessment*, on pp. 4.8-15 through 4.8-17. Using the consolidated data collected to date and analyzing additional samples to fill in data gaps, ENGEO conducted a human health risk assessment to develop Target Cleanup Levels (TCLs) that would enable the development of the Project site to include residential land uses.[100] TCLs are numeric concentrations of contaminants in soil and soil gas that are protective of human health during construction and operation of the Project. Site remediation would consist of removing materials with contaminant concentrations above TCLs from the site or encapsulating those materials to prevent exposure to people and the environment. Note that an ecological risk assessment had

98 ENGEO, 2019. *Oakland Athletics Ballpark Development, Oakland, California, Considerations of Remediation and Mitigation Alternatives*, revised July 31, 2019.

99 ENGEO, 2020a. *Athletics Ballpark Development, Howard Terminal Site, Oakland, California, Site Investigation Report*, revised April 22, 2020.

100 ENGEO 2020b. *Athletics Ballpark Development Howard Terminal Site, Oakland, California Human Health and Ecological Risk Assessment,* revised August 24, 2020

been previously prepared in 2002 and the results were incorporated in the 2020 HHERA. The HHERA was approved by the DTSC in the letter dated October 22, 2020.[101]

5. **Environmental Impact Report (EIR)**: Draft EIR Section 4.8, *Hazardous and Hazardous Materials*, is based on the above-summarized sources of information, as well as other sources of information, all cited in the section. The Draft EIR has been circulated to the public to solicit comments. This Final EIR responds to the comments and will be considered for certification by the City as the CEQA lead agency. As a Responsible Agency, DTSC will follow the process outlined in Section 15096 of the State CEQA Guidelines and will consider the environmental effects of the Project as shown in the EIR prior to reaching a decision on the steps listed below. In doing so, DTSC will consider whether potential secondary impacts of site remediation have been adequately addressed in the EIR. These secondary impacts, such as air pollutant emissions and noise associated with remediation activities, have been addressed in the EIR by, for example, estimating the extent of grading and haul trips associated with removing contaminated materials and with bringing in clean fill. (See Draft EIR p. 3-57.)

6. **Remediation Plans to be Approved by DTSC**: As discussed in Section 4.16.4 below, the Project sponsor is preparing a Remedial Action Plan (RAP), which will be reviewed by DTSC and considered for approval following certification of the EIR. The Project sponsor cannot proceed with development of the site until this occurs. Since the Draft EIR was published, and as discussed further below, the Project sponsor has elected to prepare a RAP rather than a Removal Action Workplan (RAW). The RAP will specify measures that would be used to remediate the contaminated materials at the site and ensure protection of people and the environment. The use of a RAP rather than a RAW (as described in the Draft EIR), does not alter the contents or role of the document, which will utilize remediation strategies identified in step 2 above, and address risks identified in the HHERA approved in step 4. Among other things, the RAP will specify the remediation actions needed for overall site preparation/grading and installation of horizontal infrastructure, and will require preparation of separate Remedial Design and Implementation Plans (RDIPs) for each individual subarea or parcel at the time of vertical development. The RDIPs would provide more detail regarding measures that will be applied to that specific subarea or parcel, tailored for the specific subarea's or parcel's proposed development and uses. Section 4.16.4 for more explanation of the work plans and the DTSC public comment process for such work plans.

7. **Land Use Covenants and O&M Agreements to be Approved by DTSC:** As discussed in Draft EIR Section 4.8, *Hazardous and Hazardous Materials*, Section 4.8.2, *Regulatory Setting, Existing and Future Site-Specific Regulatory Framework and Governing Documents*, and Section 4.8.3, *Significance Criteria, Implementation of Institutional Controls*, in addition to the remediation of contaminated materials at the project site, the existing Land Use Covenants and Operations and Maintenance Agreements would be updated or replaced to ensure that the Project site is operated and maintained such that people and the environment are not exposed to any encapsulated contaminated materials. Additional explanation is provided below in Section 4.16.5.

4.16.2 Investigation Work Completed to Date

Several comments state that the HHERA Report does not provide a discussion regarding the adequacy of site characterization sampling to support either a human health or ecological risk assessment. The comments express concern that adequate sampling has not been performed to

[101] DTSC, 2020. Letter Approving Human Health and Ecological Risk Assessment dated August 26, 2020. October 22.

support a risk assessment. One comment provides an example regarding the potential for available cyanide in groundwater to migrate to the Inner Harbor, but the HHERA concluded there are no unacceptable risks to ecological receptors. The comments request a discussion of the adequacy of the sampling that has been performed to support a risk assessment and risk management decision-making to ensure no unacceptable risk to human health or the environment during or after site redevelopment.

As previously discussed above, Draft EIR Section 4.8, *Hazardous and Hazardous Materials, Environmental Setting*, pp. 4.8-3 through 4.8-9 summarize the numerous investigations conducted to date. Section 4.0 of the HHERA itself summarizes the numerous investigations and cleanup actions conducted at the Project site.[102] These investigations have included the sampling and analysis of numerous soil, soil gas, and groundwater samples throughout the Project site. Further details regarding previous investigation results are detailed in the Site Investigation Report, which includes an appendix that tabulates all of the sample results collected through April 2020, numbering in the hundreds.[103] ENGEO conducted a data gaps analysis that identified certain data gaps, discussed in Section 4.0 of the 2020 Site Investigation Report. Based on that data gaps analysis, ENGEO then collected and analyzed additional soil, soil gas, and groundwater samples to fill those data gaps, as documented in the HHERA, and resulting in a data set that is adequate to support the HHERA, which was approved by DTSC in their letter dated October 22, 2020.

4.16.3 Human Health and Ecological Risk Assessment

A number of comments express concern that the HHERA underestimates human-health risks, pointing to various items that the commenters feel make the HHERA inadequate. For example, Comment O29-1-57 notes that the toxicity values for certain compounds were not provided and suggests that the omission affects the adequacy of the HHERA. These comments are addressed in the subsections below and explains how the HHERA addressed each concern.

- Overall risk assessment approach and methodology
- Missing cancer and non-cancer toxicity values
- Risk assessment missing adequate risk characterization
- No risk characterization for potential exposure to non-aqueous phase liquid (NAPL)
- No ecological risk assessment or characterization
- No justification for proposed attenuation factors used to model future vapor intrusion exposure
- Missing lead exposure assessment
- No risk characterization of hydrocarbon oxidation products (HOPs)

[102] ENGEO 2020b. *Athletics Ballpark Development Howard Terminal Site, Oakland, California Human Health and Ecological Risk Assessment,* revised August 24, 2020.

[103] ENGEO, 2020a. *Athletics Ballpark Development, Howard Terminal Site, Oakland, California, Site Investigation Report*, revised April 22, 2020.

The following sections discuss each of the above-listed concerns. Information used in the responses to comments regarding the HHERA are largely drawn from the following risk assessment documents:

- ENGEO, *Human Health and Ecological Risk Assessment, Oakland Athletics Ballpark Development, Howard Terminal Site, Oakland, California, Project 14682.000.000*, revised August 24, 2020.
- California Department of Toxic Substances Control (DTSC)*, Human Health and Ecologic Risk Assessment (Risk Assessment) Approval, Howard Terminal Site, Oakland, California*, October 22, 2020.
- ENGEO, *Human Health and Ecological Risk Assessment Information, Oakland Athletics Ballpark Development, Howard Terminal Site, Oakland, California*, July 9, 2021.

Other comments regarding hazardous materials mitigation measures included in the Draft EIR are addressed in Consolidated Response 4.2, *Formulation, Effectiveness, and Enforceability of Mitigation Measures*. Also note that the citation for the HHERA listed above has been added to Draft EIR, Section 4.8, *Hazards and Hazardous Materials*, p. 4.8-1.

4.16.3.1 Overall Risk Assessment Approach and Methodology

Several commenters express general concern regarding whether the approach and methodology used to prepare the HHERA is in accordance with current risk assessment practice. As cited in the HHERA, the documents listed below were used for preparing the risk assessment.[104] These documents were all prepared by regulatory agencies that review and approve risk assessments, including the DTSC, the regulatory agency with jurisdiction over the investigation and cleanup of the Project site.

- California Environmental Protection Agency (CalEPA). 1996. *Supplemental Guidance for Human Health Multimedia Risk Assessments of Hazardous Waste Sites and Permitted Facilities*. California Department of Toxic Substances Control.
- CalEPA. 2013. *Preliminary Endangerment Assessment Guidance Manual*. Department of Toxic Substances Control. January 1994 (Interim Final, Revised October 2013).
- CalEPA. 2019a. *Human Health Risk Assessment (HHRA) Note Number 3. DTSC-Modified Screening Levels (DTSC-SLs)*. April.
- CalEPA. 2019b. *Human Health Risk Assessment (HHRA) Note 1. Recommended DTSC Default Exposure Factors for Use in Risk Assessment at California Hazardous Waste Sites and Permitted Facilities.* California Department of Toxic Substances Control. April 9.
- CalEPA. 2019c. *Human Health Risk Assessment Note 10. Human Health Risk Assessment Note 10—Toxicity Criteria Required By Rule and DTSC-Recommended Toxicity Criteria*. February.

[104] ENGEO 2020b. *Athletics Ballpark Development Howard Terminal Site, Oakland, California Human Health and Ecological Risk Assessment,* revised August 24, 2020.

- CalEPA. 2019d. *Environmental Screening Levels (ESLs).* Region 2 Regional Water Quality Control Board. January.
- California Department of Toxic Substances Control (DTSC). 2019. *Human and Ecological Risk Office, Modified Screening Levels.* April.
- DTSC. 2011. *Final Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air.* October.
- San Francisco Bay Regional Water Quality Control Board. 2012. *Low-Threat Underground Storage Tank Case Closure Policy*. November.
- U.S. Environmental Protection Agency (U.S. EPA). 1989. *Risk Assessment Guidance for Superfund, Volume 1, Human Health Evaluation Manual (Part A), Interim Final.* Office of Emergency and Remedial Response, Washington, D.C. EPA/540/1-89/002. July.
- U.S. EPA. 1991. *Role of the Baseline Risk Assessment in Superfund Remedy Selection Decisions*. Don R. Clay, Office of Solid Waste and Emergency Response. April 22.
- U.S. EPA. 1992. *Guidance on Risk Characterization for Risk Managers and Risk Assessors*. H. Habicht, Office of the Administrator. February 26.
- U.S. EPA. 2004. *Risk Assessment Guidance for Superfund; Volume I: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Assessment*). Final. July.
- U.S. EPA. 2019. *Regional Screening Levels.* May.
- U.S. EPA. 2019. *Regional Screening Levels User's Guide*. May. https://www.epa.gov/risk/regional-screening-levels-rsls-users-guide

The DTSC-approved HHERA Report uses conventional and conservative risk assessment methods that typically overestimate human health risks associated with exposures to soil, soil gas, and groundwater. The HHERA developed site-specific risk-based TCLs for constituents of potential concern (COPCs) in various environmental media for each future receptor (i.e., site users and occupants) and each potentially complete and significant exposure pathway identified in the site conceptual site model. The risk-based TCLs represent the concentration of a chemical that is protective of human health. As previously noted, the DTSC, the regulatory agency with jurisdiction for the investigation and cleanup of the Project site, approved of the HHERA in its letter dated October 22, 2020. The Draft EIR provides a summary of the HHERA starting on p. 4.8-15 and DTSC's approval is included in the Administrative Record.[105]

4.16.3.2 Cancer and Non-Cancer Toxicity Values

Several comments note that the HHERA does not consider several chemicals because it does not include their toxicity values. Specifically, oral cancer slope factors for nine COPCs, inhalation unit risks for three COPCs, non-cancer chronic oral reference doses for 12 COPCs, and non-

[105] DTSC, 2020. *Human Health and Ecologic Risk Assessment [Risk Assessment] Approval, Howard Terminal Site, Oakland, California*, October 22, 2020.

cancer inhalation reference concentrations for eight COPCs were missing a cancer toxicity value, a non-cancer toxicity value, or both. This is out of a total of 51 COPCs considered in the HHERA.

As explained in the HHERA in the footnotes to Tables 8 and 9, "—" indicates a chemical for which either the toxicity data is not available or not applicable.[106] Relevant toxicity data for those chemicals with a complete and significant exposure scenario were incorporated for the analyses (for complete exposure pathways by chemical, see Table 7). A complete and significant exposure scenario requires a source (i.e., the contaminated material), a receptor (i.e., a person), and a complete exposure pathway (i.e., a way for the contaminated material to reach and expose a person to hazardous levels of the contamination).

As further explained in the previously cited HHERA information technical memorandum (ENGEO 2021), Tables 8 and 9 of the HHERA show toxicity data used to evaluate risks for exposure scenarios considered to be complete and significant.[107] Toxicity data that were not needed for the HHERA have not been included in Tables 8 and 9. For example, barium is a chemical of potential concern (COPC) for groundwater, but is not a COPC for soil or soil gas. It is assumed that construction/utility workers may have dermal contact with barium in groundwater in an excavation, and oral toxicity data relevant for estimating risk associated with this exposure pathway are included in Table 8. Barium is not a volatile chemical and construction/utility workers are unlikely to have inhalation exposures to barium in groundwater. Therefore, the inhalation toxicity value, such as the chronic inhalation reference concentration, is not needed for barium and was not included in Table 8. Similarly, carbon tetrachloride is a COPC for soil gas, but not soil or groundwater. Because people have inhalation exposures to vapors in soil gas, but not oral exposures (i.e., ingestion), only inhalation toxicity data are relevant for estimating potential risks posed by carbon tetrachloride in soil gas. In summary, Tables 8 and 9 include toxicity values needed and used in the HHERA.

4.16.3.3 Risk Assessment and Risk Characterization

Several comments note that the HHERA is missing the calculation and presentation of cumulative cancer risk and noncancer hazard indices for each receptor/exposure scenario, and a comparison of these quantitative estimates of risk to the regulatory risk management thresholds (e.g., incremental cumulative cancer risk and noncancer hazard index) that would warrant action. This issue was considered in the DTSC review and approval process as demonstrated in its September 18, 2019, comments on the draft HHERA. Subsequently, ENGEO submitted a revised risk assessment with a response to this and other DTSC comments. DTSC approval letter confirmed that all of their prior comments had been addressed.[108]

The commenter acknowledges that DTSC approved the HHERA, as documented in the October 22, 2020, DTSC approval letter, which verifies that the DTSC is satisfied that cumulative risk has been adequately addressed. The HHERA information technical memorandum (ENGEO

[106] ENGEO 2020b. *Athletics Ballpark Development Howard Terminal Site, Oakland, California Human Health and Ecological Risk Assessment,* revised August 24, 2020.

[107] ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.

[108] DTSC, Human Health and Ecologic Risk Assessment (Risk Assessment) Approval, Howard Terminal Site, Oakland, California, Page 2. October 22, 2020

2021) prepared subsequent to receipt of comments on the Draft EIR provides further discussion regarding cumulative risk, paraphrased as follows.[109]

Isolated outlier concentrations were detected for several individual constituents, such as antimony, mercury, and nickel; however, these concentrations did not exceed respective residential screening levels, which indicates that these outlier detections would not contribute to cumulative risk. Dermal contact with groundwater is a potential complete exposure pathway, which contains certain COPCs above respective screening levels. However, the calculation of a cumulative risk using constituents based on the maximum value noted from infrequent, isolated concentrations is not considered representative of site conditions. The HHERA accounts for over 95 percent of site risk based on maximum risk of COPCs. In addition, and as discussed in Impact HAZ-2, *Location on a Hazardous Materials Site*, the consolidated remediation plans, Land Use Covenants (LUCs), and associated plans required by Mitigation Measures HAZ-1a: *Preparation and Approval of Consolidated RAW, LUCs and Associated Plans*; and HAZ-1b: *Compliance with Approved RAW, LUCs and Associated Plans*, all of which shall be submitted to the DTSC for review and approval, will further refine remedial and management solutions. See Sections 4.16.4 and 4.16.5 below for a discussion of the remediation plans and LUCs, respectively.

4.16.3.4 No Risk Characterization for Potential Exposure to Non-Aqueous Phase Liquid

Several comments note that the HHERA does not include characterization of potential risks from exposure to non-aqueous phase liquid (NAPL).

As explained in the HHERA information technical memorandum (ENGEO 2021), standard practice and regulatory guidelines consider the presence of non-aqueous phase liquids (NAPL) floating on groundwater to be an unacceptable condition that warrants risk management. Currently, the DTSC requires that the cap that overlies the Project site, including areas with known NAPLs, be maintained to prevent exposure to the underlying contaminants.[110] Section 4.8.2, *Regulatory Setting, Land Use Covenants*, in the Draft EIR describes the land use covenants and the prohibited uses and activities that include disturbing the cap that isolates the underlying contaminants.

Because of this practice, human health risks associated with potential exposure to NAPL are rarely quantified in a risk assessment.[111] The only complete pathway to the NAPLs floating on groundwater is dermal contact during construction. Exposure during construction would be mitigated by the implementation of the following mitigation measures provided in Section 4.8, *Hazards and Hazardous Materials*, in the Draft EIR: Mitigation Measure HAZ-1a: *Preparation and Approval of Consolidated RAW, LUCs and Associated Plans*; Mitigation Measure HAZ-1b: *Compliance with Approved RAW, LUCs and Associated Plans*; and Mitigation Measure HAZ-1c, *Health and Safety Plan*. Collectively, these mitigation measures would provide procedures and training for the management of contaminated materials, including the use of personal protective

[109] ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.
[110] ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.
[111] ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.

equipment. Human health risk estimates for NAPL are not needed for making risk assessment decisions nor are they used in decision-making.

4.16.3.5 No Ecological Risk Assessment or Characterization

Several comments note that the HHERA does not include an ecological risk assessment. The commenter does acknowledge that an ecological risk assessment was conducted in 2002 and that DTSC, the regulatory agency with jurisdiction over site investigation and cleanup at the Project site, approved of the ecological risk assessment. The commenter states that the 2002 Ecological Risk Assessment is outdated and inadequate. However, the commenter does not identify any particular inadequacies to support their conclusion. Given that the existing site uses and conditions at Howard Terminal have not changed since the ecological risk assessment was conducted, there is no information to suggest that the level of ecological risk has changed.

In addition, and as explained in the HHERA information technical memorandum (ENGEO 2021), Pacific Gas and Electric Company (PG&E) more recently conducted a removal action for a former gas plant within Howard Terminal and remediation of the Peaker Power Plant operated by Dynergy adjacent to the southern edge of Howard Terminal.[112,113,114] The testing results indicated that neither parcel had unacceptable risks to ecological receptors. Therefore, groundwater target levels were not calculated for ecological receptors at the Project site because they are not needed to guide risk management decisions.

4.16.3.6 No Justification for Proposed Attenuation Factors Used to Model Future Vapor Intrusion Exposure

The HHERA uses soil gas-to-indoor air attenuation factors of 0.001 for new residential construction and 0.0005 for new commercial construction. Several comments noted that both attenuation factors are less conservative than the generic attenuation factor currently recommended by DTSC and the RWQCB for screening level assessments, and that the HHERA does not provide justification or support for these proposed attenuation factors.

As noted in the HHERA on p. 27, the default indoor air attenuation factor recommended by DTSC is 0.03, which is calculated as a generic upper-bound estimate across all sites based on the EPA vapor intrusion database.[115] This is consistent with DTSC's recommended step-wise approach for evaluation of vapor intrusion, which recommends performing an evaluation using site-specific physical parameters and building parameters as appropriate if a screening evaluation using the provided default vapor attenuation shows a potential risk exists.[116] As explained in the HHERA in Sections 7.3 and 11.3, site-specific attenuation factors were developed in conjunction

112 ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.

113 AMEC, 2011. *Removal Action Workplan, Former Oakland-1 Manufactured Gas Plant Substation C, 101 Jefferson Street, Oakland, California*.

114 AMEC, 2011. *Feasibility Study and Remedial Action Plan, Oakland Power Plant, Oakland, California*

115 ENGEO 2020b. *Athletics Ballpark Development Howard Terminal Site, Oakland, California Human Health and Ecological Risk Assessment,* revised August 24, 2020.

116 DTSC, 2011. Final Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air (pp. 16 and Figure 1).

with DTSC, taking into account the proposed project component that include the addition of fill on top of the existing fill and the addition of foundations for buildings. These site-specific considerations were approved by DTSC, the regulatory agency with jurisdiction over investigation and cleanup at the Project site. The DTSC concurred that it is appropriate to generate site-specific attenuation factors for the following reasons:

- There would not be any single-family residences at the Project site.
- Several feet of approved soil fill would be brought onto the Project site to cover much of the site, increasing the thickness of soil in the vadose zone over soil with residual low-concentrations of COPCs in soil.
- The soil material would be re-worked and placed as engineered fill to mitigate geotechnical conditions present at the Project site. The soil would be moisture-conditioned and compacted in general conformance with the recommendations made by the Project's geotechnical engineer. This reworking of the soil and fill would also reduce the permeability of the material to vapor intrusion.
- Many of the new structure foundations would consist of spread footings or structural mat foundations designed to have a sufficient thickness to minimize cracking or other structural distress. Other structures would be designed with deep foundations and at-grade slabs designed to minimize cracking potential. The addition of hardscape would further reduce the potential for vapor intrusion.
- The presence of oxygen concentrations greater than 4 percent within the vadose zone would provide an aerobic environment that promotes bioattenuation, further reducing the concentrations of residual chemicals in soil.
- Elevated concentrations of COPCs would be reduced in areas where bioattenuation is assumed.

As referenced above, DTSC approved of the HHERA in its approval letter dated October 22, 2020.[117]

4.16.3.7 Missing Lead Exposure Assessment

Several comments state that lead should be evaluated separately from the assessment for other contaminants because U.S. EPA and DTSC evaluate the significance of lead exposures using blood-lead level as an index of exposure, rather than in terms of cancer risk or noncancer hazard quotient.

The commenter acknowledges that the HHERA utilizes generic screening levels used by DTSC and U.S. EPA for initially assessing potential human exposure to lead in soil at sites. As explained in the HHERA information technical memorandum (ENGEO 2021), conservative DTSC risk-based screening levels were applied to evaluate potential exposure. Screening-level risk evaluations are often used to guide risk management because they are conservative (over-estimate risks) and typically require fewer resources than more complicated risk assessments.

[117] DTSC, 2020. *Human Health and Ecologic Risk Assessment [Risk Assessment] Approval, Howard Terminal Site, Oakland, California*, October 22, 2020.

Consequently, additional characterization of human health risks associated with potential exposure to lead in soil is not necessary.

4.16.3.8 No Risk Characterization of Hydrocarbon Oxidation Products

As explained in the HHERA information technical memorandum (ENGEO 2021), potential exposure from hydrocarbon oxidation products is evaluated by the inclusion of TPH in the gasoline, diesel, and motor oil ranges, along with constituents of these mixtures (e.g., benzene and naphthalene) in the HHERA.[118] Therefore, no significant COPCs have been omitted from the HHERA.

4.16.4 Remediation Plans

Several comments inquire whether the DTSC will require a Removal Action Workplan (RAW) or Remedial Action Plan (RAP) or Feasibility Study or some combination of these and/or other documents. At the time of the Draft EIR, it was assumed that a RAW would be prepared (Draft EIR p. 4.8-40).

Additional explanation on the nature of RAWs versus RAPs was provided in an August 18, 2021, letter from the Project sponsor (2021).[119] RAWs are prepared for remediation projects estimated to cost less than $2 million; RAPs are prepared for remediation projects estimated to cost more than $2 million and are more robust (California Health & Safety Code, Section 25356.1(h)(1)), including a more detailed evaluation and comparison of remedial alternative, and requiring public meetings. Although the estimated cost of remediation is uncertain at this time, the Project sponsor has conservatively elected to prepare a RAP. The Draft RAP is anticipated to be submitted to the DTSC in early 2022. As previously noted, the Draft EIR assumed that a RAW would be prepared. To reflect the change from a RAW to a RAP, the text within Section 4.8, *Hazards and Hazardous Materials*, on the pages listed below, the text has been modified from RAW to RAP:

- Page 4.8-38, Future Governing Documents, first and second paragraphs
- Page 4.8-40, last paragraph on page
- Page 4.8-41 first, third, and fourth paragraphs
- Page 4.8-42, last full paragraph
- Page 4.8-44, Implementation of Institutional Controls, first paragraph
- Page 4.8-45, first paragraph
- Page 4.8-50, fourth paragraph
- Page 4.8-51, first, second, and third paragraphs
- Page 4.8-52, Item 3 and Mitigation Measure HAZ-1b
- Page 4.8-59, Mitigation Measures HAZ-1a and HAZ-1b

[118] ENGEO, 2021. *Human Health and Ecological Risk Assessment Information*. July 9, 2021.
[119] Oakland Athletics, 2021. Letter explaining RAP versus RAW distinction. August 18, 2021.

Similar text changes have been made to other sections of the Draft EIR as needed. See Chapter 7, *City-Initiated Updates and Errata to the Draft EIR*. In addition, the following paragraph has been added to the end of Section 4.8.3, *Significance Criteria, Approach to Analysis, Remediation and Mitigation of Contaminated Materials*:

> Note that at the time of the publication of the Draft EIR, it was assumed that a RAW would be prepared. Subsequent to the publication of the Draft EIR, the Project sponsor conservatively elected to prepare a RAP. The Draft RAP is anticipated to be submitted to the DTSC in early 2022. Regardless of the title and nature of the remediation plan, the DTSC will ultimately require that the remedial action be protective of construction workers, the public, and the environment.

Even without a published RAP at this time, the Draft EIR provides substantial evidence regarding potential impacts and effectiveness of the proposed types of remediation methods because the investigation of the nature and extent of contamination is complete (see Section 4.16.2 above), TCLs have been developed and approved by the DTSC (see Section 4.16.3 above) and all remediation plans will be prepared to the satisfaction of the DTSC or the project will not proceed (see Draft EIR, Section 4.8, *Hazards and Hazardous Materials, Mitigation Measure HAZ-1b*).

As previously cited, further explanation of the remediation plan has been provided in *Key Elements of Anticipated Remediation Plan Approach* (ENGEO 2021).[120] One RAP would be prepared for the entire Project site. This RAP would describe the remedial approach for the entire property, and would require the subsequent recordation of two LUCs and O&M Agreements (i.e., one for Port-owned property and one for property owned by the Project sponsor), and the preparation of Remedial Design and Implementation Plans (RDIPs). The RAP will require that RDIPs be prepared for each subarea or parcel to provide more detail regarding how remedial measures (the types of which are identified in the Draft EIR) will be applied to that specific subarea or parcel, tailored for the specific subarea's or parcel's proposed development and uses. The measures described in the RDIPs will ensure protectiveness of human health consistent with the TCLs derived in the HHERA (see Section 4.16.3 above) during construction activities. While providing additional detail about specific remediation details, the RDIPs are part of and would be consistent with the RAP. This additional description of the RAP and RDIPs is consistent with and amplifies the description of remediation work plans in the Draft EIR. The additional explanatory information will be added to Draft EIR Section 4.8.2, Regulatory Setting, Future Governing Documents, page 4.8-38 as follows:

> **Future Governing Documents**
>
> Moving forward, the Oakland A's are engaged in a process with DTSC to consolidate the existing cleanup decision documents for the different portions of the Project site into a single set for the entire site. The new, consolidated decision documents are proposed to address all three current DTSC sites within the Project site, including the previously described Embarcadero/Clay parking lot (BevMo parking lot) and the public rights of way. The objective is for DTSC to approve a new consolidated ~~RAW~~ remediation plan for the entire Project area, requiring the preparation of a remediation ~~site management~~

[120] ENGEO, 2021. *Key Elements of Anticipated Remediation Plan Approach*. July 9, 2021.

plan and an O&M plan and agreement, as well as recordation of two LUCs, one for all the Port-owned portions of the Project area, and one for the portions to be owned by the Oakland A's. The objective is also for DTSC to rely on this Project EIR for CEQA compliance for its decision to approve the new remediation plan~~RAW~~, which means the remediation plan~~RAW~~ could not be approved until after the Project EIR is certified by the City. DTSC approval will be required before any grading or construction commences.

The substantive requirements of these replacement documents would be similar to those in the existing governing documents described above, but would be specifically tailored to ensure protections appropriate for the Project's anticipated construction activity and anticipated land uses, including allowing residential use under specified conditions. These substantive requirements would be based on the Human Health and Ecological Risk assessment that has been prepared in compliance with established US EPA and DTSC guidelines and approved by DTSC. The risk assessment proposes, and the remediation plan ~~RAW~~would establish, numeric target cleanup levels for each COC, with residential and commercial/industrial tiers that would be consistent with the TCLs established in the HHERA. These numeric target levels are designed to achieve a theoretical lifetime excess cancer risk of no more than 1 in a million, and non-cancer hazard index utilizing standard Cal EPA and US EPA methodology of less than or equal to 1. The future consolidated governing documents are further described below in Impact HAZ-2.

Note that at the time of the publication of the Draft EIR, it was assumed that a Removal Action Workplan (RAW) would be prepared as the remediation plan. Subsequent to the publication of the Draft EIR, the Project sponsor conservatively elected to prepare a Remedial Action Plan (RAP). The Draft RAP is anticipated to be submitted to the DTSC in early 2022. Regardless of the title and nature of the remediation plan, the DTSC will ultimately require that the remedial action be protective of construction workers, the public, and the environment.

One RAP would be prepared for the entire Project site. This RAP would describe the remedial approach for the entire property, and would require the subsequent recordation of two LUCs and O&M Agreements (i.e., one for Port-owned property and one for property owned by the Project sponsor), and the preparation of Remedial Design and Implementation Plans (RDIPs). The RAP will require that RDIPs be prepared for each subarea or parcel to provide more detail regarding how remedial measures will be applied to that specific subarea or parcel, tailored for the specific subarea's or parcel's proposed development and uses. The measures described in the RDIPs will ensure protectiveness of human health consistent with the TCLs derived in the HHERA. While providing additional detail about specific remediation details, the RDIPs are part of and would be consistent with the RAP.

Several comments inquired whether the public would be allowed to comment on the remediation plans (i.e., the RAP and RDIPs). The DTSC has an established public participation process that facilitates and encourages public participation. The DTSC Public Participation Manual is available at: https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/07/DTSC-PublicParticipationManual.pdf. This manual states that remediation documents shall be posted on the publicly accessible DTSC

website EnviroStor. The website address for the project site is https://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=01440006. The final draft RAP issued by DTSC for public comment will be posted to EnviroStor. In addition, the DTSC provides paper copies of documents for public review at designated repositories in the local community, including at the DTSC office at 700 Heinz Avenue in Berkeley, California. The public will be able to access the documents and provide comments to the DTSC by submitting comments to the Public Participation Specialist, whose email address is provided on EnviroStor. The public can also submit comments by mail to the DTSC. The public comment period would be a minimum of 30 days, as required by California Health and Safety Code 25356.1. The DTSC will take the comments into consideration and then direct the project sponsor to make changes, as appropriate, and submit final documents.

Some of the comments express concern that the choice of document (i.e., RAW versus RAP) would be based on the cost of remediation. As explained in Consolidated Response 4.22, financial considerations of a proposed project are outside to the purview of CEQA. As discussed above, the Project sponsor has elected to prepare a RAP. Nonetheless, regardless of the title and nature of the documents, the DTSC will ultimately require that the remedial action be protective of construction workers, the public, and the environment.

4.16.5 Land Use Covenants and O&M Agreements

As discussed in Draft EIR Section 4.8.2, *Regulatory Setting, Land Use Covenants*, the Project site is subject to existing Land Use Covenants (LUCs), Operations and Maintenance (O&M) Agreements, Soil and Groundwater Management Plans, and Risk Management Plans, all enforced by the DTSC, the regulatory agency with jurisdiction. The content and requirements of the LUCs are described in Draft EIR Section 4.8, *Hazards and Hazardous Materials*, Pages 4.8-32 through 4.8-38. These LUCs would be replaced, updated, and consolidated to account for the changes to the Project site. There will be two LUCs and two O&M Agreements: one for Port-owned property and one for property owned by the Project sponsor.

The substantive requirements of these replacement documents would be similar to those in the existing documents, but would be specifically tailored to ensure protections appropriate for the type of anticipated construction activity and the type of anticipated uses, including allowing residential use (which is currently prohibited) under specified conditions. The updated LUCs and O&M Agreements would require that operations at the Project site maintain site conditions that are protective of human health and the environment.

While the draft RAP addressing findings of the approved risk assessment is expected to be submitted to DTSC for review in early 2022, a final RAP cannot be approved until after the EIR is certified. As explained in Consolidated Response 4.2, *Formulation, Effectiveness, and Enforceability of Mitigation Measures*, the mitigation measures provided in the Draft EIR would ensure that the Project sponsor has complied with regulatory requirements before grading, building, or construction permits, and certificates of occupancy for new buildings and uses are issued. While there is no evidentiary basis to question the effectiveness of regulatory requirements as they would be implemented at the Project site, actions of public agencies are subject to public scrutiny and judicial review as provided by law.

4.17 Bird Impacts from Fireworks Displays

Comments Addressed: A-2-7, A-7-16, A-7-18, A-7-19, A-7-20, A-7-24, A-7-25, A-7-26, A-7-27, A-7-29, A-12-60, O-36-6, O-36-8, O-62-68, I-243-42, I-243-43, and I311-5-16.

Several comments address the issue of operational noise and light disturbance to nesting birds from fireworks displays, suggesting that the analysis is inadequate and should be expanded to consider other nesting or foraging birds that might be adversely affected by the firework displays in addition to peregrine falcon, and that mitigation measure BIO-1c is insufficient in reducing the potential impact from firework displays on peregrine falcon to a less-than-significant level.

Potential impacts referred to by the commenters include concern for other nesting and foraging bird species within the Project site or vicinity (Comment O-36-8), including the least tern colony on Alameda Island (Comments A-2-7 and A-7-26), adequacy of the 500-foot spatial buffer specified in Mitigation Measure BIO-1c between the fireworks detonation site and peregrine falcon nest sites to mitigate adverse effects and avoid "take" of the nest, eggs, or young (Comments A-2-7, A-7-26, and O-36-8), pre-event nesting survey timing, frequency and scope ahead of firework displays (Comment A-7-25), and whether ending such pre-event surveys after three consecutive seasons of negative survey results for nesting peregrine falcons on the container cranes of the Project site is appropriate (Comments A-7-25 and O-36-8).

These comments are addressed in this Consolidated Response in the following three subsections.

4.17.1 Possible Impacts from Fireworks on Other Bird Species in the Project Vicinity

As documented in Draft EIR Section 4.3.1, *Biological Resources, Environmental Setting*, the City acknowledges the diversity of bird species that inhabit or use the Oakland Estuary adjacent to the Project site, and birds that occupy the urban area surrounding the Project site, as well as the presence of important or unique nesting areas for protected bird species in the Project vicinity (i.e., the least tern colony on Alameda Island). Birds known to the developed/landscaped/ruderal communities of the Project site or surrounding vicinity are described on Draft EIR p. 4.3-6 as follows: "…house sparrow (*Passer domesticus*), rock pigeon (*Columba livia*), and European starling (*Sturnus vulgaris*). Native bird species found in such an environment include house finch (*Haemorhous mexicanus*), American goldfinch (*Spinus tristis*), white-crowned sparrow (*Zonotrichia leucophrys*), Brewer's blackbird (*Euphagus cyanocephalus*), and mourning dove (*Zenaida macroura*)." Other species described as using the Estuary include loafing "…ring-billed, California, and western gulls…"

Following Project development, the bird species expected to continue to use the Project site for nesting during operations, are common species generally more tolerant to disturbance because of the pervasive human or vehicle noise that exists as a part of the baseline ambient noise environment where they choose to occupy, "…such as house sparrow, rock pigeon, European starling, house finch, and mourning dove" (Draft EIR p. 4.3-40). Native bird species are protected under the Migratory Bird Treaty Act from intentional destruction of nests, eggs, or young (which

would exclude non-native species' nests supporting house sparrow, rock pigeon, and European starling).[121] None of these common urban species are listed or proposed for listing as threatened or endangered under state or federal Endangered Species Acts. Although firework displays may cause temporary disturbance to these urban species should they nest within the Project site, such as flushing response to firework noise or visual components, this incidental disturbance would not substantially disrupt nesting efforts to an extent that would jeopardize the continuance of any individual species population as a result. Based on past practices and data provided by the Project sponsor, fireworks displays would occur approximately seven times per year and would last approximately 15 minutes.[122] References to 30-45 minute displays in the Draft EIR are incorrect, and have been revised as shown in Chapter 7, *City-Initiated Updates and Errata to the Draft EIR*.

Comment O-36-6 expresses concern that there is no evidence that disturbance-tolerant birds can tolerate fireworks. The conclusion in the Draft EIR that firework displays would have a less-than-significant impact on these other nesting birds within the Project site or immediate vicinity is not to say that the noise associated with firework displays has no effect on disturbance-tolerant species, or that all birds have become habituated to all forms of human disturbance from living in an urban environment—the degree of disturbance to which animals can habituate is probably limited. The Draft EIR's conclusion as to the degree of impact is based on a biologist's assessment that species with high levels of noise sensitivity are not present (i.e., the effect of disturbance has already happened as a result of the historical and ongoing activities in the Project vicinity), and that occasional more severe disturbance from firework displays would not result in substantially adverse effects on such common urban species. Architectural obstructions between the fireworks displays and nesting locations among structures or within landscaping of the Project site would also somewhat diminish the visual impact of the firework displays and dampen the auditory impact at potential nest sites, contributing to the less-than-significant conclusion for the impact of Project firework displays on common urban bird species (Draft EIR p. 4.3-41).

Comment A-7-26 requests further analysis of noise levels expected to occur at the least tern colony during fireworks displays, asserting that the existing comparison of Project conditions with other published scenarios which analyze the impact of firework displays on wildlife is insufficient analysis. The Draft EIR discusses whether fireworks displays are likely to have an adverse effect on the Alameda Island least tern nesting colony and concludes that the 1.5-mile distance (to the southwest) between the detonation sites (within the ballpark and Estuary) and the colony are sufficient to avoid adverse effects on foraging, breeding, or nesting behavior, or cause flushing or nest abandonment (Draft EIR p. 4.3-41). Specifically, the Draft EIR references analysis of commercial Independence Day firework displays in Monterey Bay, conducted by the Monterey Bay National Marine Sanctuary (MBNMS) and the U.S. Fish and Wildlife Service (USFWS) in 2001 and 2007, where the highest sound pressure level reading during the fireworks

[121] Regulations Governing Take of Migratory Birds; Final Rule; Fish and Wildlife Service, Department of the Interior, *Federal Register Volume* 86, Number 1134 (January 7, 2021), pp. 1134–1165. Available at: https://www.federalregister.gov/documents/2021/01/07/2021-00054/regulations-governing-take-of-migratory-birds, accessed July 20, 2021.

[122] Noah Rosen, email to Environmental Science Associates dated Monday, December 9, 2019.

display recorded at 0.5 mile from the detonation site was 82 decibels (dB), but typical levels documented during the display ranged from 70 dB to 78 dB.[123]

The Draft EIR presents this data inaccurately in the second paragraph of Draft EIR p. 4.3-41, and has been amended as follows (additions are underlined and deletions are ~~crossed out~~):

> "Sound levels associated with a commercial firework display over Monterey Bay in 2001 were documented to peak at 82 dB and average 70-78 dB at a 0.5-mile ~~5-mile~~ distance from the detonation site (NOAA, 2011); similar sound levels would be expected as a result of Project firework displays over the Oakland-Alameda Estuary."

The MBNMS and USFWS analysis identified the acute impact area[124] for sound effects and light flashes from low-level fireworks reaching a maximum altitude of 200 feet to be one mile from the center of the ignition point, and the high-level fireworks (large commercial shells measuring 10-12 inches in diameter) reaching a maximum altitude of 1,000 feet to have an acute impact area of between one and two miles, depending on the size, flight pattern of the projectiles, maximum altitude, the type of special effects, wind direction and atmospheric conditions, and local structures and topography (NOAA, 2011). The analysis focused on the observed response from marine mammals, but because of the limited published information of the effects of fireworks displays on birds in a similar setting as the Project, these findings, among others, have been considered in the Project analysis of potential impacts from fireworks on birds.

The Draft EIR describes typical fireworks displays anticipated under Project operations as reaching between 300 to 600 feet altitude when launched from a barge within the Estuary, and smaller scale fireworks launched from within the ballpark reaching a maximum height of 300 feet altitude (Draft EIR p. 4.10-43). The displays would be conducted approximately seven times per year from barges in the Estuary, each lasting approximately 15 minutes in duration, with additional smaller displays launched from the ballpark (Draft EIR p. 4.10-43). Applying the findings of the MBNMS and USFWS analysis, and considering the physical obstructions of existing development in the Project vicinity and anticipated additional architecture under the Project, the acute impact area where disturbance response from nesting birds would be expected from fireworks launched from within the ballpark is expected to be rather confined and less than 1 mile from the detonation site. Fireworks launched from a barge in the Estuary would be expected to have a larger acute impact area where some disturbance response behavior may be observed up to 2 miles from the detonation site, where some response behavior may be observed at the least tern colony on Alameda Island. Of course, the magnitude of the response from least terns within the nesting colony would also depend on the specific location of the detonation barge, size, flight pattern of the projectiles, maximum altitude, the type of special effects, wind direction and atmospheric conditions, and local structures and topography. If pyrotechnics reached maximum altitude of 500

[123] National Oceanic and Atmospheric Administration (NOAA), 2011. Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA. *Federal Register* Volume 76, Number 98 (Friday, May 20, 2011), pp. 29196–29209.

[124] As defined in NOAA 2011, "Acute impact area is defined as the area where sound, light, and debris effects may have direct impacts on marine organisms and habitats. Direct impacts include, but are not limited to, immediate physical and physiological impacts such as abrupt changes in behavior, flight response, diving, evading, flushing, cessation of feeding, and physical impairment or mortality."

feet, the acute impact area still might not reach the colony given the numerous variables which influence the extent of the acute impact area where a disturbance response is expected. Because the MBNMS and USFWS analysis, which informed this discussion, focused on marine mammal response to fireworks, other examples documenting seabird responses to fireworks displays are also considered.

A 2016 report to the Golden Gate National Recreation Area documented the response of Brandt's cormorant and western gull nesting colonies on Alcatraz Island to the City of San Francisco's 2016 Independence Day celebration fireworks display.[125] Two barges located approximately one (1) mile from Alcatraz Island were used as the detonation sites and the display lasted 23 minutes. Monitors observed nesting colonies throughout the fireworks display and documented western gulls sounding alarm calls and flushing at the onset of the fireworks, but quickly returning to nest sites where they remained agitated through the remainder of the display. Fewer gulls were observed flushing in response to the grand finale than the start of the display. Brandt's cormorants exhibited startle responses at the start of the display, such as erect postures, looking in the direction of the display, standing from roosting sites, flushing, and running throughout the colonies. Similar startle responses by Brandt's cormorant were observed during the grand finale. No egg or chick losses attributable to the fireworks display were observed in monitoring conducted after the July 4, 2016, event. Considering these observations, similar responses to fireworks launched from the Project detonation sites would be expected at seabird nesting colonies within one mile.

USFWS published guidelines in 1997 for spatial buffers of at least 0.75 mile between least tern and piping plover nesting areas and firework detonation sites in Florida.[126] The guidelines make reference to examples of permanent abandonment of a least tern colony located more than 250 meters from a fireworks display in New Jersey, and temporary abandonment and displays of distress by terns within a colony located more than 0.75 mile away, which informed the recommended spatial distance in the guidelines to avoid take.

For the following reasons, it is reasonable to conclude that a less severe response behavior would be expected by least terns at the Alameda Island colony than as displayed by the nesting seabirds on Alcatraz, and would likely not result in abandonment of the colony or take of eggs:

(1) The Alameda Island least tern colony is located twice the USFWS-recommended spatial distance from possible detonation sites.

(2) The Alameda Island least terns are located 0.5 mile farther from the detonation sites than the San Francisco/Alcatraz Island scenario.

(3) Existing development is present between these two locations to obstruct the noise and light flash effects of the display.

[125] Robinson, H., J. Thayer, W. Merkle, and V. Seher. 2016. *Breeding Ecology of Brandt's Cormorants and Western Gulls on Alcatraz Island, 2016*. Final report to the Golden Gate National Recreation Area (GGNRA) National Park Service (NPS).

[126] U.S. Fish and Wildlife Service. 1997. *Guidelines for Managing Fireworks in the Vicinity of Piping Plovers and Seabeach Amaranth on the U.S. Atlantic Coast.* February 4, 1997.

Comment O-36-8 suggests that Mitigation Measure BIO-1c should not be limited to peregrine falcon, but also include double-crested cormorant and osprey who could also establish nests on Project site cranes. The Draft EIR discusses habitat and previous documented nesting locations for osprey and double-crested cormorant in the Project vicinity (pp. 4.3-15 through 4.3-16 and p. 4.3-17, respectively). While potentially suitable habitat exists for both of these species to nest on the Project site cranes and other similar, inactive structures in the vicinity, there are no records for such nesting beyond what is described in the Draft EIR. The Draft EIR analysis does not intentionally exclude osprey or double-crested cormorant from the possibility of nesting on the Project site, but considers it unlikely that these species would establish a nest at the location in competition with peregrine falcon when other previous or established nesting locations are available to each species in the greater vicinity. That does not mean that it is impossible that these species could nest on Project site structures in the future; however, their potential future presence is speculative and does not constitute a foreseeable impact of the Project to require mitigation. Because the Project site cranes are known to host nesting peregrine falcon in the recent past, the Draft EIR analysis focuses on avoiding or minimizing potential impacts on this species. As with all native bird species, osprey or double-crested cormorant nests are protected by the Migratory Bird Treaty Act and Fish and Game Code. Should any native bird species choose to nest in the local Project vicinity, they would be afforded the full protections that these regulations provide. However, given baseline conditions at the site, nesting by the double-crested cormorant and osprey is speculative and is therefore not considered a potential Project impact that would require mitigation.

4.17.2 500-Foot Spatial Buffer between Firework Detonation Site and Active Peregrine Falcon Nests

Some comments suggest that the 500-foot spatial buffer specified in Mitigation Measure BIO-1c is inadequate and request an additional analysis that supports this distance (Comments A-2-7, A-7-27, and O-36-8). To clarify, requirement four in Mitigation Measure BIO-1c specifies 500 feet as the initial buffer distance between the detonation site and nest site, which can be adjusted (to a greater or smaller distance) as necessary based on the monitoring biologist's observations of response behavior to the firework displays from the nest occupants prior to, during, and after the display. Requirement two requires concurrence from CDFW for any reductions to this initial 500-foot spatial buffer distance. By including these requirements, there is flexibility in the size of the spatial buffer to adequately protect an active nest from firework display disturbance.

As cited in the Draft EIR, the analysis is based in part on the H.T. Harvey memorandum analyzing the stadium fireworks and potential for peregrine falcon disturbance should they be nesting on the Project site cranes when firework displays occur.[127] Comment A-7-27 requests this document be included in the Appendix BIO which has been amended as such (although the document was included in the Administrative Record available online during the comment

[127] H. T. Harvey and Associates, 2019. "Oakland A's Stadium Fireworks and Potential for Peregrine Falcon Disturbance." Memorandum from Jeff Smith, Ph.D., Senior Raptor Ecologist, and Scott Terrill, Ph.D., Senior Ornithologist, to Crescentia Brown, Environmental Science Associates. Project #4294-01, October 10, 2019.

period). To further detail the conclusions of the H.T. Harvey analysis and justify the 500-foot spatial buffer, the following discussion has been extracted from the report:

> "…Research evaluating the effects on nesting falcons of loud noises similar to fireworks detonations generally is limited to assessing the effects of military explosions, aircraft sonic booms, and experimental surface blasts on nesting prairie falcons (*Falco mexicanus*), and it is generally thought that peregrine falcons respond similarly in common circumstances (White et al. 2002). In Idaho, nesting prairie falcons showed no detectable adverse responses when heavy equipment was operated and blasting occurred more than 50 meters (m) [164 feet] below and at distances of 550-1,000 m [1804-3281feet] from eyries. Conversely, although nesting falcons showed behavioral reactions to experimental surface blasts 120–140 m [394–459 feet] from their eyries conducted three times per day every other day during incubation and brood-rearing, reproduction and territory reoccupancy were not affected by these 135-decibel blasts (Holthuijzen et al. 1990).
>
> … Although fireworks may represent a relatively novel combination of explosive noises and bright lights, several considerations suggest that the peregrine falcons that nest on one of the decommissioned cranes on the Project site are unlikely to be adversely affected by such activities, as long as a reasonable buffer distance is maintained between the fireworks aerial detonation areas and the falcon eyrie. First, the male peregrine originated from an eyrie on the Fruitvale Railroad Bridge and therefore has been exposed to high levels of human activity in the Brooklyn Basin/Oakland Inner Harbor area since it hatched. More generally, these breeding birds are already habituated to nesting in an area of intense human activity, including heavy truck and equipment traffic, management of large shipping containers, railroad activity and associated train horn blasts known to exceed 110 decibels, and other nearby warehousing activity. In addition, the fireworks will occur exclusively at night, which means: (1) the activity will not affect the falcon's daytime foraging and provisioning efforts, and (2) although lesser agitation stress responses could occur, it is improbable that the fireworks would cause the adult peregrines to flush from their eyrie unless ambient lighting is sufficient for them to see well enough to fly at night. Lastly, although the nesting peregrines may initially respond with some agitation to the onset of fireworks displays, given the existing circumstances they are likely to quickly habituate to the periodic events and not suffer adverse consequences for their breeding attempts, again as long as a reasonable spatial buffer is maintained between the eyrie and fireworks detonations.
>
> Published recommendations for spatial buffers to guard against human activity disturbing nesting raptors vary depending on the species, nesting circumstance, and nature of disturbance (Call 1979, Suter and Joness 1981, Richardson and Miller 1997, Romin and Muck 2002). Most promulgated recommendations advocate for restricting human activities and landscape disturbances within 0.5 miles of an occupied peregrine falcon eyrie; however, such recommendations are not well-tailored to urban settings with generally high human activity, where peregrine falcons now commonly nest. The California Department of Fish and Wildlife typically recommends maintaining 300- to 500-foot buffers between development activities and most nesting raptors. In this case, maintaining a 500-foot buffer between the expected fireworks aerial detonation areas and

the four cranes on which the peregrine falcons have nested, or could nest in the future, should be adequate to protect these nesting birds from adverse disturbance…"

4.17.3 Mitigation Measure BIO-1c, Requirement Five

Some comments express concern for Mitigation Measure BIO-1c, requirement five, which allows pre-event nesting bird surveys of the Project site cranes to cease after three consecutive seasons with negative survey results (Comments O-36-8 and O-62-68). This requirement as written in the Draft EIR recognizes that the Project site cranes have been used by nesting peregrine falcon and that while an individual has found this location to be a suitable nest site in the past, it may not choose to continue to nest on the Project site crane following development. There are no guidelines or standardized practice for conducting seasonal monitoring of nest sites during project operations to apply to this site in part because each project and bird species' disturbance tolerance and response behavior are unique. The H.T. Harvey memorandum analyzing the stadium fireworks and potential for peregrine falcon disturbance concluded that Project fireworks would have a less-than-significant impact on nesting peregrine falcons with application of a 500-foot buffer, which would be monitored for effectiveness in the first-year fireworks displays are scheduled. Observations of the 500-foot buffer's effectiveness during that time would inform future modifications to the spatial buffer as warranted. Out of an abundance of caution, the EIR preparers identified three consecutive seasons of pre-event surveys (rather than one) as an adequate time period to document whether the location continues to appeal to peregrine falcon for nesting under the Project's new operational land use. Should peregrine falcon choose to nest on the Project site cranes after three consecutive seasons of no nest attempts, it is reasonable to conclude that the individual has habituated to the operational use of the site, including occasional firework displays, and further monitoring efforts are not necessary. Adequate measures to avoid take of an active nest on the Project site cranes after the required monitoring period (such as maintaining a 500-foot spatial buffer between the nest site and detonation site) would be implemented by the Project proponent to comply with federal and state regulations.

4.18 Effects of Light and Glare on Maritime Operations and Safety

Comments Addressed: A-7-29, A-12-14, A-12-15, A-12-16, A-15-7, A-15-8, A-15-9, O-25-2, O-37-1, O-37-2, O-51-17, O-51-18, O-63-12, I-23-5, I-243-42, I311-5-14, I311-5-15, I311-5-16, and I-316-2.

A number of comments suggest that the Draft EIR did not adequately analyze or characterize the Project's potential effects on maritime operations and safety in the Estuary, and especially in the Inner Harbor Turning Basin that is adjacent to the southwest corner of the Project site. While acknowledging the Technical Lighting Study that was prepared and included as an appendix to the Draft EIR, the comments question the adequacy of the study's analysis of a single location within the turning basin and the Draft EIR's conclusion that ballpark lighting would not exceed applicable standards for nighttime glare. Several comments (Comments A-12-15 and A-15-7) state that other locations in the turning basin should be evaluated for potential light and glare impacts, and one comment (Comment A-15-7) recommends additional analysis that travel beyond

the turning basin "to accommodate periods where multiple vessels are arriving or departing berths at the Oakland Inner Harbor Terminal." Comment A-15-7 also alleges that the Draft EIR's analysis was based entirely on a single point in space—the elevation of the bridge of a ship—although, as clarified below, this is not correct. Another comment (Comment O-25-2) raises concern about lighting interfering with operation of the Oakland ferry landing at Jack London Square, located just east of the Project site.

One comment (Comment A-12-15) asks for clarification as to the applicability of the Draft EIR's use of threshold for nighttime glare that is based on a standard developed for roadways, asks about the differences in lighting types for the existing outdoor lighting on the Project site versus stadium lighting, seeks clarification about the referenced European definition of "obtrusive light," and requests justification for the use of a standard from the Illumination Engineering Society and an explanation for the development of this 25,000-candela standard.

Some comments (Comments A-12-14 and A-15-8) question whether implementation of Mitigation Measure BIO-1b (Bird Collision Reduction Measures) would adequately minimize potential daytime glare from new project buildings other than the proposed ballpark.

Finally, several comments (Comments A-12-16, A-15-9, and O-51-18) raise concerns regarding the safety impacts on maritime activity from pyrotechnic displays (fireworks shows) and question the Draft EIR's conclusion that such events would have less-than-significant impacts.

These comments are addressed in this Consolidated Response 4.18, which is organized into five subsections and amplifies and clarifies the Draft EIR's analysis of potential light and glare impacts on maritime navigation.

The lighting analysis is based substantially on a Technical Lighting Study prepared by qualified lighting design professionals at Horton Lees Brogden (HLB) Lighting Design; this document is cited on Draft EIR p. 4.1-84 and p. 4.10-72, and is provided in its entirety in Draft EIR Appendix C.1.[128] As stated on Draft EIR p. 4.1-1, this technical report was reviewed by a separate qualified lighting design consultant, Lighting Design Alliance, as well as by the lead EIR consultant, ESA. This peer-reviewed technical report provides substantial evidence for the Draft EIR's conclusions with respect to lighting. Additional substantial evidence is provided by a supplemental analysis prepared by HLB for this response to comments document.[129]

4.18.1 Lighting within the Turning Basin

Concerning the most common questions with respect to effects on vessel navigation in the Inner Harbor Turning Basin, it must first be clarified that the Draft EIR's analysis appropriately presents a conservative scenario. This is because the locations evaluated include three different elevations (receptors 2, 2B, and 2C) at a point approximately in the center of the turning basin. These receptors represent locations that are approximately perpendicular to the light fixture that would be situated

[128] HLB Lighting Design, 2020. *The Oakland Athletics Howard Terminal Ballpark: Draft Environmental Impact Report Technical Lighting Analysis*, November 19, 2020.

[129] HLB Lighting Design, "Additional Glare Studies in Turning Basin." Memorandum to Noah Rosen, Oakland Athletics, July 1, 2021.

behind the ballpark's left-field wall.[130] As such, these receptors represent a person looking directly along the line of the most intense lighting provided by the fixture at a particular distance from the fixture. This left-field light fixture is anticipated to be the only ballpark light fixture whose light beam would be aimed across the turning basin: the beam from a center-field light fixture would be roughly parallel to the Howard Terminal shoreline, while a right-light fixture would be directed towards the northwest and infield fixtures and those behind home plate would be directed towards the south, southeast, east, and/or northeast—all directions away from the turning basin. As a result, an observer at any location in the turning basin other than receptors 2, 2B, and 2C would experience less light intensity and less glare when at the same distance from the left-field light fixture because the observer would be looking away from the direction of the light beam.

Given the nature of sports lighting, which requires an intense focus on the playing field, the amount of light cast beyond the field of play is substantially less than that shining on the field. As explained in Draft EIR Appendix AES.1, the Technical Lighting Study prepared for the Project, "The beam spread for the sports lighting fixtures is very tight due to the long throw distances and high brightness required on the field of play. As a point of view gets further from the center of the beam, the glare caused by intensity of light drops precipitously."

Nonetheless, to further evaluate glare within the turning basin at locations closer to (and farther from) the shore, the Project lighting consultant conducted a supplemental evaluation of glare in the turning basin.[131] This supplemental glare memorandum explains, "Generally speaking, glare experienced from sports light fixtures is greatest when one is in line with the center beam of the fixture and rapidly falls off as one moves away from the center of the beam." The supplemental evaluation examined two additional points northeast and southwest of receptors 2, 2B, and 2C, on a line drawn across the estuary through these three existing receptors and approximately perpendicular to the left-field light fixture (see **Figure 4.18-1**). That is, observers at these northeast and southeast receptors would be looking directly toward the light fixture, just as would an observer at the three receptors analyzed in the Draft EIR. The results of the supplemental glare analysis are presented in **Table 4.18-1**, which also includes the results for receptors 2, 2B, and 2C that were presented in the Draft EIR. Table 4.18-1 also includes receptor 2A, located in Alameda at a very similar angle to the four other receptors.

As shown in Table 4.18-1, the maximum brightness (luminance) of the sports lighting at locations in the turning basin nearest the water level would range from 4,054 candela (cd) at the southwest receptor (about 3,250 feet [0.6 mile] from the left-field light standard [pole]) to 7,103 cd at the northeast receptor (about 1,050 feet [0.2 mile]) from the light standard). As reported in the Draft EIR, near the center of the turning basin (receptor 2C, about 2,400 feet [0.45 mile] from the light

[130] As shown in Draft EIR Figure 4.10-7, P. 4.10-41, Receptors 2, 2B, and 2C are at elevations of 100 feet, 64 feet, and 25 feet, respectively. These receptors were selected to approximate the elevation of a pilot operating, respectively, a large container ship, a small container ship, and a tugboat, as explained on p. 73 of the Technical Lighting Study for the Project (Draft EIR Appendix AES.1).

[131] HLB Lighting Design, "Additional Glare Studies in Turning Basin." Memorandum to Noah Rosen, Oakland Athletics, July 1, 2021.

standard), the luminance would be 4,186 cd.[132] All of these values are well below the significance threshold of 25,000 cd.

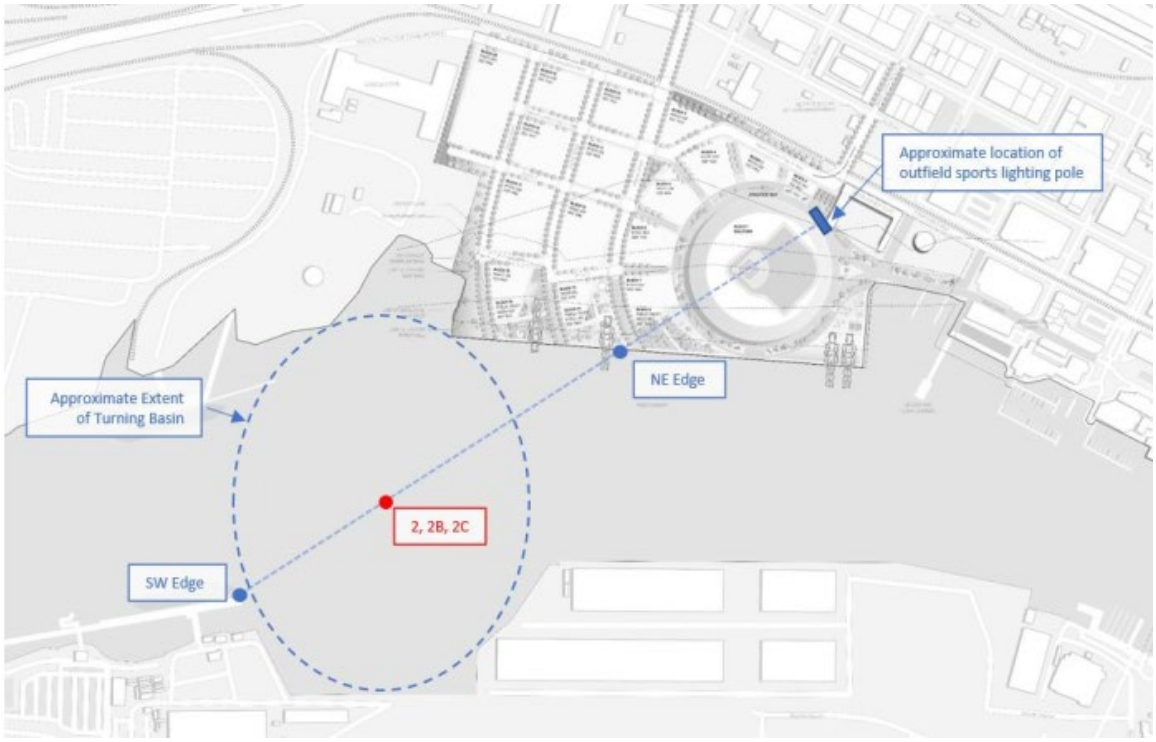


Figure 4.18-1
Lighting Receptors within the Turning Basin

TABLE 4.18-1
MAXIMUM NIGHT GAME SPORTS LIGHTING LUMINANCE (BRIGHTNESS) IN THE DIRECTION OF THE TURNING BASIN

Receptor	Brightness (cd)
Northeast Receptor (at grade) [a]	7,103
2 – Inner Harbor Turning Basin (elevation 190 feet above water)	2,551
2B– Inner Harbor Turning Basin (elevation 64 feet above water)	3,800
2C – Inner Harbor Turning Basin (elevation 25 feet above water)	4,186
Southwest Receptor (at grade)[a]	4,054
2A – Turning Basin Line-of-Sight (at grade)[a]	3,761

NOTE: cd = candela

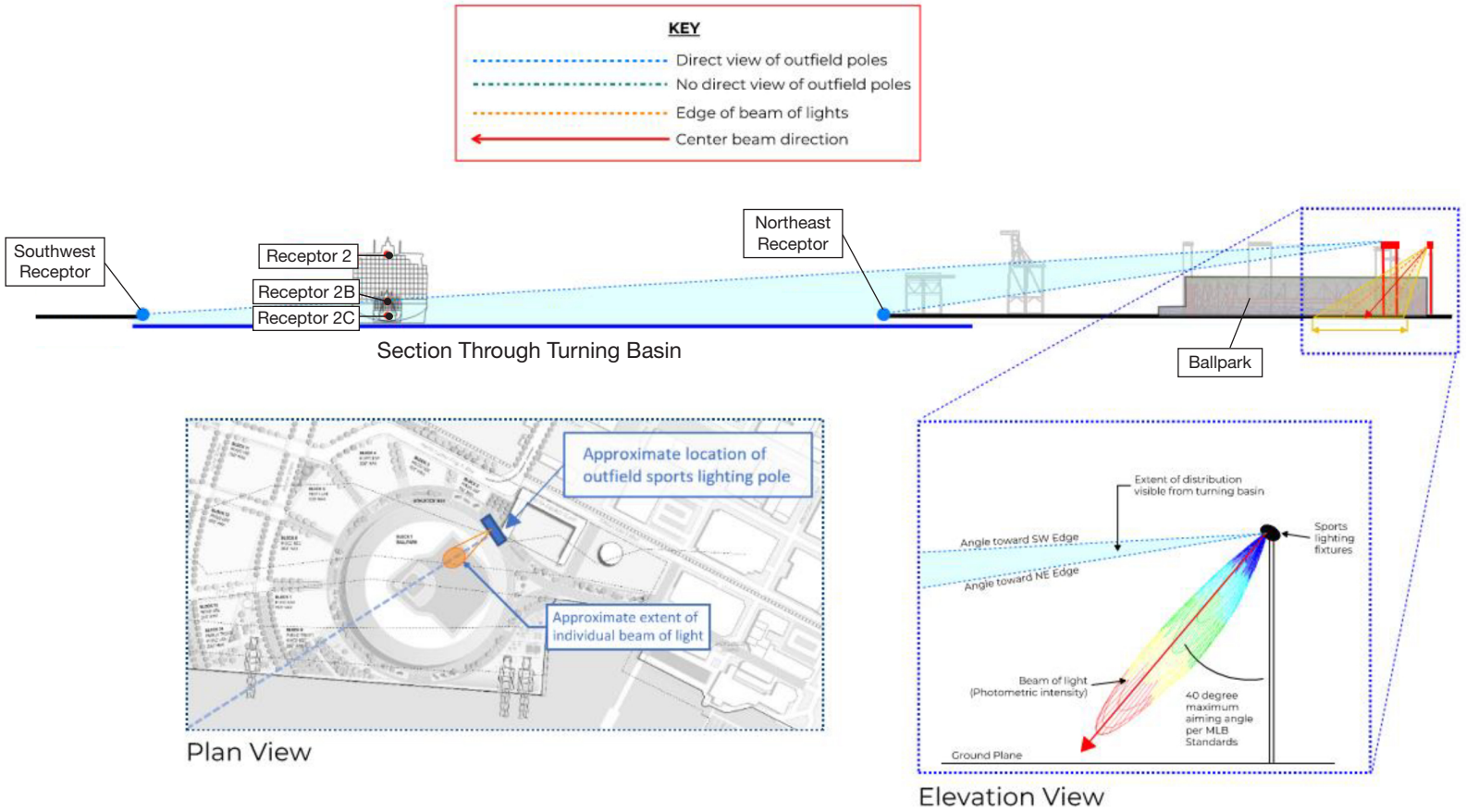
[a] Grade elevation is approximately 5 feet above water level.

SOURCE: HLB Lighting Design, 2021

[132] Receptor 2C (25 feet above water level) was selected to represent the approximate height of the wheelhouse of a tugboat. Although the northeast and southwest receptors are at ground level and thus somewhat below the height of receptor 2C, they are close enough in height for this comparison of lighting intensity across the turning basin.

As shown in Table 4.18-1, brightness at a given location diminishes with increasing elevation. This is because the downward angle of the light fixture remains the same and, therefore, the higher the receptor, the more oblique the angle at which an observer sees the light fixture. Since looking directly at a light fixture (i.e., perpendicular along both vertical and horizontal axes) means that an observer sees the brightest light, the more the angle of observation decreases from 90 degrees, the less bright the light. As stated in Appendix AES.1, the vertical orientation, at an assumed angle of 40 degrees above nadir (downward facing), is the maximum aiming angle permitted under MLB lighting standards. This concentrates the vast majority of light on the playing field and means that the analysis of lighting impacts is conservative, since the actual aiming angle could be lower to achieve even greater concentration of light on the playing surface, and a lower angle would reduce both glare and spill light at off-site locations. For the reason explained in the foregoing paragraph with respect to the vertical angle of the light beam, an observer offset from perpendicular to the northwest or southeast of the beam of light shown in Figure 4.18-1 would experience lighting of lesser intensity than along the beam line at any given distance. Accordingly, lighting intensity (brightness) from the left-field light fixture at all locations within the turning basin would be less than the 7,103 cd shown in Table 4.18-1. Moreover, none of the other light fixtures would be aimed towards the turning basin. **Figure 4.18-2** depicts how the intensity (brightness) of light is greatest within and very close to the direction of the light beam and diminishes as an observer moves vertically or horizontally away from the direction of the beam. This phenomenon is particularly true for sports facility lighting, for which the intent of the lighting designer is to concentrate high-intensity light on the playing field.

Regarding the glare effect of light from the playing field cast on the water in the Turning Basin, in addition to the previously discussed fact that the amount of light cast beyond the field of play is substantially less than that shining on the field, the surface of the water can essentially act like a mirror, so when the water is completely still there will be visible reflections of stadium lighting at a perfect mirror angle. Any movement in the water that causes the surface to have any imperfection will diffuse the mirror effect, reducing the brightness of the reflection.



SFO\170XX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: HLB Lighting Design

Oakland Waterfront Ballpark District Project

Figure 4.18-2
Sports Lighting in Turning Basin

ESA

4.18.2 Lighting Elsewhere in the Estuary

Concerning the effects of lighting elsewhere in the Estuary, as explained above, glare from sports lighting is greatest in line with the center of the beam of light and decreases rapidly as an observer moves away from the center of the beam. As described above, the left-field light fixture would generally be oriented with the center of the light beam on a line roughly through the center of the turning basin, although the vertical orientation, at an assumed maximum of 40 degrees above nadir, would concentrate the vast majority of light on the playing field.

Assuming the preliminary locations of proposed sports lighting, the other two light standards that could potentially generate glare in the Estuary would be those along the third-base line—between home plate and third base, and between third base and the left-field corner. The former light standard would be aimed generally perpendicular to the third base line and toward the southeastern corner of the Project site and the southern tip of the Jack London Square ferry dock beyond. The light fixture between third base and the left-field corner would be aimed generally perpendicular to the Project site's Estuary frontage and thus generally perpendicular to the Estuary itself. Therefore, assuming the same intensity of lighting emanating from each light fixture,[133] glare adjacent to the proposed ballpark and at the southern tip of the ferry dock would be comparable to that described above—between about 4,050 cd and 7,100 cd at the same distances and heights reported in Table 4.18-1.

In particular, at the ferry terminal, about 1,300 feet from the third base light fixture, the brightness would be 6,127 cd, assuming that a ferry pilot house is at a comparable height to that of a tug.[134] This would be well below the Draft EIR threshold of 25,000 cd. It should also be noted that existing ferry operations at Oracle Park, the San Francisco Giants' ballpark, are likely subject to a comparable level of brightness from a light fixture on that park's third-base line, without reported incidents.

4.18.3 Night Lighting Thresholds

Concerning the applicability of the European Committee for Standardization publication CEN EN 12193:2007, "Light and lighting – Sports lighting," as stated on Draft EIR p. 4.10-42, this standard is used in the Draft EIR in the absence of any comparable U.S. standard. While the European standard exists primarily to ensure sufficient lighting to allow players, athletes, and referees to safely participate in sporting events, spectators to see the action adequately, and high-quality television broadcasts to proceed, the standard also explicitly includes provision to limit obtrusive light; that is, light that could result in annoyance, discomfort, distraction or reduction in the ability to see information that is critical to a given visual task. Unlike most aspects of the European standard, obtrusive light is evaluated outside, rather than inside, a sporting venue, and the thresholds are given as maximums.[135]

[133] According to the Project applicant, all outfield light fixtures would have the same intensity, while the light fixtures behind home plate would have somewhat lesser intensity. Therefore, the conclusions herein are conservative.

[134] HLB Lighting Design. Email correspondence with Noah Rosen, Oakland Athletics, November 9, 2021.

[135] Lighting standards within sports facilities are generally expressed as minimum permissible light levels.

As stated on Draft EIR p. 4.10-42, the European sports lighting standard relied upon is 25,000 cd.[136] As shown in Draft EIR Appendix AES.1 (Technical Lighting Study), this 25,000-cd standard is appropriate for areas of high brightness, such as city centers and other commercial areas. It is worth noting that the maximum calculated lighting intensity at any of the turning basin receptors, 4,186 cd at 25 feet above water level, would be well below the European standard for even areas of low brightness, such as rural areas (for which the standard is 7,500 cd). And, as stated on Draft EIR p. 4.10-42 and in Appendix AES.1, this lighting level is virtually identical to the existing intensity of light at the same elevation (4,235 cd).

As to the lighting standard for aircraft pilots reported in the Draft EIR, while aircraft operation differs from marine vessel operation, the standard of a maximum lighting intensity in the direction of an aircraft pilot was used in the absence of a comparable standard for marine pilots, as it was felt that there was sufficient similarity in the operations of the two types of pilots to warrant reliance on this standard, in addition to the European sports lighting standard discussed above. Moreover, this standard, which is from the Illuminating Engineering Society publication RP-37-15, "Outdoor Lighting for Airport Environments," is equivalent in lighting intensity, at 25,000 cd, to the European sports lighting standard, meaning that each complements the other.[137]

Regarding the use of a lighting standard developed for roadways, this is the third of the three standards employed in the Draft EIR to evaluate Project lighting. The Draft EIR used the threshold of 24 cd/square meter for Veiling Luminance (a measure of Disability Glare), which is the threshold applicable to local streets with high pedestrian activity and applicable to streets in the vicinity of the Project site. While street lighting differs from lighting at and near maritime ports, the fundamental concept of Disability Glare, which is defined in the Draft EIR as a reduction in the ability to see caused by bright light sources, is applicable to both street traffic and maritime traffic. This is because a bright light in the driver's, or pilots, field of view but offset from the primary visual task can reduce the ability of the driver, or pilot, to see with respect to the task at hand, be it driving on a street or piloting a marine vessel.

Based on the foregoing, the Project's potential effects on maritime activity due to sports lighting are properly characterized in the Draft EIR. Moreover, the EIR authors consulted the U.S. Coast Guard in reference to other locations where waterside sports facilities exist proximate to ports and/or shipping lanes. A Coast Guard representative informed the EIR preparers that they had not received reports of complaints or adverse incidents (e.g., collisions, inability to transit) from

[136] The European sports lighting standard was developed by the International Commission on Illumination (CIE, its French acronym), a professional organization that is an authority on the subject matter of light and lighting and is recognized by the International Commission for Weights and Measures, the International Standardization Organization, and the International Electrotechnical Commission as an international standardization body (https://cie.co.at/about-cie). The CIE, based in Vienna, Austria, includes 40 member bodies, including a United States committee; however, its standards are expressly applicable to members of the European Committee for Standardization, which has 34 member states (https://standards.cen.eu/dyn/www/f?p=CENWEB:5).

[137] The Illuminating Engineering Society (IES) is a 115-year-old organization comprising engineers, architects, designers, educators, students, contractors, distributors, utility personnel, manufacturers, and scientists with the mission of improving the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public. IES is accredited for standards development under the American National Standards Institute procedures (https://www.ies.org/about).

commercial vessels due to stadium lights in Cleveland,[138] primarily because lights are oriented directly toward the playing surface, nor have there been reported incidents in connection with fireworks displays, all of which are scheduled in advance. A Coast Guard representative also was unable to discover any complaints or incidents with respect to the stadium lighting or fireworks shows concerning riverside sports facilities in Pittsburgh or Cincinnati.[139,140]

4.18.4 Daytime Glare

Since publication of the Draft EIR, the Project sponsor has prepared and submitted to the City a set of draft Design Guidelines. Among other things, the draft Design Guidelines state that "Highly reflective or mirrored glass is prohibited." (Façade Materiality Standard 4 in Section 2.3, Façade Articulation)[141] Adherence to this standard will ensure that glare from architectural glass is minimized to the maximum extent feasible. The analysis of daytime glare in the Draft EIR determined that substantial new daytime glare from the Project would be minimized through implementation of Mitigation Measure BIO-1b, Bird Collision Reduction Measures, which would reduce the amount of reflective glass and polished surfaces on proposed buildings. (See Consolidated Response 4.2, *Formulation, Effectiveness and Enforceability of Mitigation Measures*, which presents modifications to Mitigation Measure BIO-1b). Further, information provided in other parts of this Consolidated Response 4.18 demonstrates that any light or glare from the Project would not substantially interfere with maritime traffic on the Estuary. The Design Guidelines' prohibition of highly-reflective or mirrored glass on all buildings would further ensure that glass on the building façades for which a substantial portion of the façade(s) face the Estuary and the Port of Oakland would not substantially interfere with maritime traffic on the Estuary. This would include the south and west facades of buildings on Blocks 6, 7, 8, 12, 15, 16; the south façade of the building on Block 18; and the south-, southeast-, and east-facing portions of the ballpark itself. Also, building designs and façade materials would also be evaluated for acceptable reflectivity as part of the subsequent design review process for all buildings. The subsequent design review processes for all buildings would also evaluate any proposed curved or angled surfaces, inasmuch as "[e]xterior glare occurs mostly from vertically curved or tilted building facades with high specularity and reflectivity."[142]

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138 In Cleveland, FirstEnergy Stadium (Browns football) is about 700 feet from the shore of Lake Erie, while Progressive Field (baseball) is about 1,100 feet from a bend in the Cuyahoga River such that upstream river traffic is oriented directly facing the ballpark while approaching the bend.

139 In Pittsburgh, PNC Park (Pirates baseball) is immediately adjacent to the Allegheny River, while Heinz Field (Steelers football) is within 250 feet of the confluence of the Allegheny, Monongahela, and Ohio Rivers. In Cincinnati, both the Great American Ballpark (Reds baseball) and Paul Brown Stadium (Bengals football) are adjacent to the Ohio River, at distances of 150 feet and 250 feet, respectively, from the river bank.

140 Environmental Science Associates, personal communication with U.S. Coast Guard representatives for Districts 8 and 9, July 20, 2021.

141 Oakland Athletics, *Oakland Waterfront Ballpark District: Howard Terminal Design Guidelines,* September 8, 2021.

142 Suk, J. Y., M. Schiler, and K. Kensek, "Is Exterior Glare Problematic? Investigation on Visual Discomfort Caused by Reflected Sunlight on Specular Building Façades." PLEA 2016 Los Angeles: 36th International Conference on Passive and Low Energy Architecture. *Specularity* refers to the direct reflectivity of glass; that is, with specular reflection, light is reflected from the glass at the same angle at which it approaches the glass and the reflected light is therefore concentrated in a single direction. Specular reflection is distinguished from *diffuse reflection*, in which the light is reflected from the glass at multiple angles, thereby reducing the amount of reflected light in any direction.

4.18.5 Pyrotechnic Displays (Fireworks Shows)

Pyrotechnic displays (fireworks shows) would occur up to seven times per year at the ballpark, and commenters expressed concerns regarding their potential impacts on birds and maritime traffic. See Consolidated Response 4.17, *Bird Impacts from Fireworks Displays*.

Regarding potential effects on maritime traffic, as noted in the Draft EIR (p. 4.1-50), pyrotechnic displays would last up to 15 minutes and would result in potentially significant lighting and glare impacts to nearby receptors who are in the line of sight on a temporary and short-term basis. While some observers could be disturbed, the temporary and intermittent (i.e., infrequent) nature of pyrotechnic events was the basis for the Draft EIR's conclusion that the (non-CEQA) impacts would not be substantial.

While the Draft EIR did not specifically address the potential for pyrotechnic displays to affect maritime operations, similar principles would apply. Specifically, pyrotechnic displays are infrequent and temporary, the dates and approximate times of such events are known well in advance. Waterfront locations are also common settings for fireworks displays, not just in the Bay Area, but across the country and around the world, and the commenters have not provided any evidence that such displays constitute a navigational hazard.

Moreover, as stated above, the EIR authors consulted the U.S. Coast Guard in reference to waterside sports facilities in Cleveland, Pittsburgh, and Cincinnati. Coast Guard representatives were unable to identify complaints or adverse incidents with respect to shipping as a result of fireworks shows. Coast Guard personnel indicated that fireworks shows are scheduled well in advance, giving ship operators and pilots sufficient notice to avoid conflicts. As explained on Draft EIR p. 4.10-44, this advance notice would be applicable for fireworks shows adjacent to the Project site, as would the establishment of security zones to preclude any serious disruption or damage. This is the case under existing conditions for fireworks displays—and other major events that could affect commercial shipping and/or recreational boating—on San Francisco Bay and elsewhere. The U.S. Coast Guard includes general schedule information regarding a year's scheduled fireworks displays and other events in the Code of Federal Regulations and, as a fireworks show or other event approaches, the Coast Guard includes the show or event in its weekly Local Notice to Mariners.[143] As further explained on Draft EIR p. 4.10-44, prior to fireworks shows on the Bay:

> *[T]he U.S. Coast Guard establishes a temporary safety zone during the loading and transit of the fireworks barge, until after completion of the fireworks display to restrict navigation in the vicinity of the fireworks loading, transit, and firing site (typically a 100-foot radius during loading and set-up, and increases to a 560-1,000-foot radius upon commencement of the fireworks display). These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels.*

[143] For San Francisco Bay, annual notification regarding fireworks shows is currently given in 33 Code of Federal Regulations (CFR) 165.1191, while annual notification regarding other on-water events is currently given in 33 CFR 100.1103 and 33 CFR 100.1105 (Fleet Week). Local Notices to Mariners for the 11th Coast Guard District, which covers Northern and Southern California waterways, including San Francisco Bay, are available on the Coast Guard Navigation Center (https://www.navcen.uscg.gov/?pageName=lnmDistrict&region=11).

As noted, the safety zone is generally limited to a 100-foot radius, and the radius expands to as much as 1,000 feet only during the actual launching of fireworks. Inasmuch as a fireworks show generally lasts no longer than about 15 minutes, disruptions to shipping would be limited. Finally, the orientation of the proposed ballpark, with the "opening" in the outfield wall being oriented toward the southeast corner of the Project site (i.e., behind right-center field), means that to maximize visibility of fireworks to ballpark attendees, the most likely location for a pyrotechnic-launching barge would be generally offshore of Jack London Square. This would minimize any potential shipping disruption within the turning basin and to the vast majority of cargo vessels, which generally do not travel up the Estuary beyond Howard Terminal.

Based on the foregoing, while periodic fireworks shows at or adjacent to the Project site could result in some inconvenience to shipping operators, they would not be anticipated to result in significant adverse physical or safety impacts because proper noticing would be provided, applicable safety zones would be enforced, and their occurrence and duration are limited.

4.19 Comment Period Extension

Comments Addressed: O-1-1, O-1-2, O-1-3, O-1-4, O-2-1, O-3-1, O-3-2, O-3-3, O-3-4, O-4-1, O-5-1, O-5-2, O-6-1, O-6-2, O-7-1, O-7-2, O-8-1, O-8-3, O-10-1, O-10-3, O-10-4, O-10-5, O-10-6, O-12-1, O-13-1, O-13-2, O-25-4, O-63-1, I-16-1, I-18-1, I-19-1, I-22-1, I-27-1, I-28-1, I-34-1, I-36-1, I-42-4, I-152-1, I-159-1, I-164-1, I-165-1, I-170-1, I-178-1, I-271-1, I-274-1, I-277-1, I-279-1, and I-288-1; duplicate "form" comments in I-13-1, I-14-1, I-15-1, I-17-1, I-20-1, I-21-1, I-24-1, I-29-1, I-31-1, and I-32-2; and H2-1-30, H2-2-85, H-3-15, and H-3-31.

A number of comments requested an extension of the public review period for the Draft EIR. Comments requested time extensions ranging from 15 to 45 additional days, which would result in a Draft EIR public review period of 60 to 90 days. All commenters express concern that 45 days (or the extended 60-day period) was not enough time to review the Draft EIR given the "magnitude of the project" and because the document is "incredibly long and complicated" and contains "dense technical detail" (Comment O-6-2) that is "unreasonable and unfair to expect members of the community to review and understand" (Comment O-5-1). Some commenters specified particular concern that by not extending the review period would deny our community an equitable opportunity to consider and respond to the EIR, particularly communities "who would feel the negative impacts of this project most."

An EIR that is submitted to State Clearinghouse for review, as the Draft EIR for the Waterfront Ballpark District Project was, is required to undergo a review period of at least 45 days. The State CEQA Guidelines state "[t]he public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances" (State CEQA Guidelines Section 15105(a)). Lead and responsible agencies may use their discretion to extend such time periods to allow for additional public review and comments in accordance with these standards.

The City published the Draft EIR on February 26, 2021, including the Notice of Availability (NOA) that informed the public on how to access the Draft EIR and related materials, provide comments on the Draft EIR, and specified the designated public review period. Within the initial

weeks of the public review and comment period, the City received numerous requests for an extension of the comment period beyond the required 45-day period, which was initially set to expire on April 12, 2021. Pursuant to Planning Code Section 17.158.210, the City's Environmental Review Officer extended the comment period by 15 days to April 27, 2021. The City issued a Notice of Extension of the Comment Period on March 19, 2021, that informed the public of the extended comment period and the rescheduled public hearing date before the City Planning Commission to ensure compliance with AB 734 that requires that a public hearing on the Draft EIR occur within the last 10 days of the comment period.

The City's Environmental Review Officer determined that under the circumstances of this Project, the 45-day period is adequate time for the public to provide meaningful comment on the Draft EIR but that the additional 15 days would be a sufficient extension to accommodate public request for additional review.[144]

The Draft EIR and its referenced appendices were made available to the public in readily accessible electronic format on the City's website on the first day of the public review period. Also, on March 6, 2021, following release of the Draft EIR, the City held an informational workshop pursuant to AB 734 to inform the public of the key analyses and conclusions of the Draft EIR.

In addition to the comments mentioned above, certain commenters mention that other documents, such as "… Planning Commission staff reports and agendas on the Project, responses to the NOP for the DEIR, DEIR references, documents submitted during the AB 734 application process, and voluminous email correspondence regarding the DEIR" that were also made available to the public, add to the "significant volume of documents" that preclude members of the community from offering adequate review, analyze, and respond within the initial 45-day comment period (Comment O-7-1).

As indicated on p. 1-10 of the Draft EIR, the appendices within the Draft EIR contain information relevant to the impact analyses contained in the Draft EIR. Although the additional information (referred to as the "record of proceedings") required by AB 734 (Public Resources Code Section 21168.6.7(g)(2)) include other documents submitted to or relied upon by the Lead Agency in the preparation of the EIR, the main documents that are pertinent to the adequacy of the environmental analysis in the Draft EIR are contained within its appendices.

Also, some commenters state concern that, since the Project is proceeding under AB 734, which provides that the lead agency need not consider written comments submitted after the close of the public comment period, unless comments address specified issues relating to new information, that commenting on the Draft EIR may be the only opportunity for significant public review and comment (Comment O-2-1). Under CEQA, the required public review period for a Draft EIR, regardless of the comment period's duration, is the designated opportunity for the public to review and comment on the adequacy of the environmental analysis in the Draft EIR. As previously stated, the City's Environmental Review Officer determined that an additional 15 days would be a sufficient extension for reviewers to raise concerns with the sufficiency of the impact analysis

[144] City of Oakland, Ed Manasse, Bureau of Planning Environmental Review Officer, *Notice of Extension of the Comment Period for the Waterfront Ballpark District Project Draft Environmental Impact Report (EIR) and Rescheduled Public Hearing*, March 19, 2021.

on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the Project, as specified in the NOA.

Comments acknowledge that there is not case law defining what type of unusual circumstances may justify a longer review period nor any case law limiting the lead agency's exercise of discretion to determine what constitutes "unusual circumstances," but list several characteristics, such as the "…expedited CEQA review under AB734…, extinguishment of public trust protections on the Project property, … general plan and zoning amendments,… permanent physical, economic, and social impacts on communities…" (Comment O-10-1), as well as the sheer "scope and scale of the project and its potential impact…and reviewing, analyzing, and commenting…in the midst of an on-going pandemic...." (Comment O-7-2). The City's Environmental Review Officer determined that the conditions under which the public review period for the Draft EIR on the proposed project occurred are not considered "unusual circumstances" that require a public review period longer than 60 days. Thus, the City determined that the total extended public review period of 60 days was adequate time for the public to provide meaningful comments on the Draft EIR and no further extension was warranted.

4.20 BART Station Capacity

Comments Addressed: A-14-4, A-14-5, A-14-6, A-14-7, A-14-8, A-14-9, A-14-10, A-14-12, O-47-21, and O-47-23.

The BART comment letter (A-14) and another commenter express concerns about the capacity of the three BART stations (12th Street, Lake Merritt, and West Oakland) that would serve the Project. Potential impacts referred to by the commenters include vertical circulation and queueing issues, unsafe conditions for commuters and attendees traveling through the BART stations, and overcrowding on station platforms. Comment A-14-6 broadly states: "The DEIR contains no analysis of other capacity issues at the affected BART stations. There are limited numbers of faregates and vertical circulation elements (stairs, elevators, escalators) at LAKE/WOAK [Lake Merritt/West Oakland]. The Project may result in crowd control and queueing issues… and overcrowding on its station platforms, hampering BART's ability to safely serve commuters and ballpark attendees."

Another concern regarding BART capacity is passenger train load capacity, considering the new ballpark riders. Comment A-14-9 states: "The DEIR contains no analysis of BART's passenger train load capacity… While BART is in the midst of purchasing new rail cars (to replace and expand the fleet) and updating its train control system to increase network capacity, there was no analysis of the Project's impact on BART's train load capacity with or without these capacity enhancements."

Of concern in the comments is the potential capacity issues during the peak commuting hour. Two scenarios are most relevant for these concerns: weekday afternoon post-event ballpark travelers entering the BART system between 4:00 and 5:00 p.m. (up to 14 events annually) and evening weekday pre-event travelers between 5:30 and 6:30 p.m. (up to 50 events annually), both coinciding with BART's evening commute peak hours of 4:00 to 7:00 p.m. Comment A-14-6 suggests that "there may be a need to include platform screen doors at affected stations to manage this condition."

The City is fully cognizant of conditions and concerns related to BART station and line capacity and passenger safety. As discussed in this Consolidated Response 4.20, the Draft EIR describes the mitigation measures to reduce the impact of additional demand generated by the Project and contains an analysis of potential impacts that is consistent with CEQA requirements. Under State CEQA Guidelines Section 15131, there is no obligation to analyze transit capacity issues, except to the extent they would result in effects on safety.

Commenters have expressed concerns about transit capacity (e.g., BART platform capacity, line loading capacity, and fare gate capacity), and about impacts that may result, but there is no substantial evidence (Public Resources Section Code 21080(e)) that significant safety impacts would occur. These issues and the adequacy of the Draft EIR are discussed further in the following six subsections.

4.20.1 BART Capacity Analysis

Transit capacity is not a documented CEQA impact, except to the extent that it may affect safety. Because comments were received expressing concern about BART capacity around the stations, specifically related to platform capacity, vertical circulation capacity, fare gate capacity, and line loads. To address these comments, the Draft EIR analysts conducted a station capacity analysis evaluating each of these concerns for the 12th Street, Lake Merritt, and West Oakland BART stations. The analysis and results related to each comment are described in the subsections to follow.

Each analysis studied the 4:00 to 5:00 p.m. period when attendees depart afternoon events and the 5:30 to 6:30 p.m. when attendees arrive for evening events. Each period compared existing (pre-COVID-19 pandemic) conditions to Existing Plus Project (Full Buildout of Non-Ballpark Development Plus Game Day) conditions.

Draft EIR p. 4.15-182 describes the data sources used to establish the characteristics of ballpark attendee trip generation and distribution. **Table 4.20-1** and **Table 4.20-2** display the expected distribution of all game-day arrivals and departures, respectively, on each BART line, at the three BART stations. These distributions were used to conduct the station analysis for all three stations.

TABLE 4.20-1
WEEKDAY EVENING GAME ARRIVALS—LINE AND STATION ASSUMED DISTRIBUTIONS

Weekday Evening Game Arrivals	Total	Lake Merritt	12th Street	West Oakland
Between Antioch and Rockridge (Yellow)	**17%**	0%	17%	0%
Between Dublin/Pleasanton and Castro Valley (Blue)	**13%**	0%	0%	13%
Between Bay Fair and Fruitvale (Blue/Green/Orange)	**18%**	0%	5%	13%
Between Richmond and Ashby (Red/Orange)	**11%**	0%	11%	0%
MacArthur (Red/Orange/Yellow)	**3%**	0%	3%	0%
Between Daly City and Embarcadero (Red/Yellow/Blue/Green)	**28%**	20%	8%	0%
Between Warm Springs and Hayward (Green/Orange)	**10%**	0%	4%	6%
Total	**100%**	**20%**	**48%**	**32%**

SOURCE: Fehr & Peers, 2021

TABLE 4.20-2
WEEKDAY DAY GAME DEPARTURES—LINE AND STATION ASSUMED DISTRIBUTIONS

Weekday Day Game Departures	Total	Lake Merritt	12th Street	West Oakland
Between Rockridge and Antioch (Yellow)	**15%**	0%	15%	0%
Between Castro Valley and Dublin/Pleasanton (Blue)	**12%**	0%	0%	12%
Between Fruitvale and Bay Fair (Blue/Green/Orange)	**23%**	0%	5%	18%
Between Ashby and Richmond (Red/Orange)	**13%**	0%	13%	0%
MacArthur (Red/Orange/Yellow)	**1%**	0%	1%	0%
Between Embarcadero and Daly City (Red/Yellow/Blue/Green)	**25%**	20%	5%	0%
Between Hayward and Warm Springs (Green/Orange)	**11%**	0%	2%	9%
Total	**100%**	**20%**	**41%**	**39%**

SOURCE: Fehr & Peers, 2021

4.20.2 Platform Analysis

Comment A-14-6 states, "…the Project may lead to overcrowding on its platforms, hampering BART's ability to safely serve commuters and ballpark attendees, and had indicated that there may be a need to include platform screen doors at the affected stations to manage this condition." To address these concerns, platform square footages per person were calculated using the same approach used by BART in similar analyses. BART does not have capacity standards.

Each platform of each station was measured to determine the amount of feet per person for riders boarding and alighting trains during the two study periods:

- *Lake Merritt BART station:* There is a single platform one floor below the mezzanine area that serves two tracks: one track serving passengers going to Antioch, Richmond, and San Francisco and the other serving passengers going to Dublin and Berryessa. The total platform queuing area was measured at 12,830 square feet.
- *12th Street BART station:* There are two platforms below the mezzanine area. The first platform (Platform 1) is one floor below, with two tracks serving passengers going to Richmond and Antioch. The second platform (Platform 2) has one track that serves passengers going to San Francisco, Dublin, and Berryessa. The first platform has a total platform queue area of 11,324 square feet, and the second platform has a total platform queuing area of 6,462 square feet.
- *West Oakland BART station:* There are two platforms above the concourse area. The northern platform (Platform 1) has a total platform queuing area measured at 11,260 square feet and the southern platform (Platform 2) has a total platform queuing area measured at 10,400 square feet. The northern platform serves passengers going to San Francisco, and the southern platform serves passengers going to Antioch, Richmond, Dublin, and Berryessa.

Table 4.20-3 and **Table 4.20-4** show the Existing (Pre-COVID-19) and Project (Full Buildout + Sellout Afternoon Game, Sellout Evening Game) ridership demand for each station and each track. The afternoon game scenario reflects attendees leaving the ballpark event ending at 3:30 p.m. and the evening scenario reflects attendees arriving to an event starting at 7:00 p.m.

TABLE 4.20-3
EXISTING RIDERSHIP DISTRIBUTION

Existing (Pre-COVID-19)

Station	Game Scenario[1]	Ridership Demand (people per hour)		Alighting Distribution (people per hour)		Boarding Distribution (people per hour)	
		Alightings	Boardings	Track 1	Track 2	Track 1	Track 2
Lake Merritt	Afternoon	674	490	342	332	249	241
	Evening	1,091	579	518	573	275	304
12th Street	Afternoon	642	1,898	465	177	1,373	525
	Evening	975	2,610	715	260	1,914	696
West Oakland	Afternoon	818	296	670	148	242	54
	Evening	1,224	378	1,039	185	321	57

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals at the ballpark between 5:30 and 6:30 p.m.

SOURCE: October 2018 Tuesday-Thursday ridership data provided by BART, BART Fehr & Peers, 2021

TABLE 4.20-4
EXISTING PLUS PROJECT RIDERSHIP DISTRIBUTION

Existing (Pre-COVID-19) + Project (Full Buildout Non-Ballpark + Sellout Ballgame)

BART Station	Game Scenario[1]	Ridership Demand (people per hour)		Alighting Distribution (people per hour)		Boarding Distribution (people per hour)	
		Alightings	Boardings	Track 1	Track 2	Track 1	Track 2
Lake Merritt	Afternoon	690	2,176	342	348	249	1,927
	Evening	1,990	691	518	1,472	275	416
12th Street	Afternoon	750	3,456	541	209	2,480	976
	Evening	2,313	2,860	1,585	728	2,077	783
West Oakland	Afternoon	966	1,121	818	148	1,067	54
	Evening	2,047	494	1,862	185	437	57

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals at the ballpark between 5:30 and 6:30 p.m.

Source: Fehr & Peers, 2021

Space reserved for alighting passengers was subtracted from the queuing area of each platform, and based on the remaining available space and existing and expected ridership, the platforms were given a Level of Service rating provided by the *Transit Capacity and Quality of Service Manual*, 3rd Edition. The analysis showed that the platforms would perform well without requiring any additional interventions. Under Plus Project conditions, the two 12th Street station platforms are the most crowded during both study periods. The results are shown in **Table 4.20-5**.

TABLE 4.20-5
BART STATION PLATFORM CAPACITY

Station	Game Scenario[1]	Existing (Pre-COVID-19)		Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)	
		Square Feet per Person	Level of Service	Square Feet per Person	Level of Service
Lake Merritt					
Platform 1	Afternoon	254	A	57	A
	Evening	162	A	136	A
12th Street					
Platform 1	Afternoon	101	A	56	A
	Evening	62	A	57	A
Platform 2	Afternoon	195	A	63	A
	Evening	88	A	78	A
West Oakland					
Platform 1	Afternoon	541	A	141	A
	Evening	383	A	293	A

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals at the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

Note that while the findings indicate that sufficient platform area is available to handle the passenger loads, the analysis does not take into consideration passenger bunching around escalators and other obstacles as the passengers arrive on the platform. Although there is adequate area for passengers to wait for trains, operational strategies may be necessary to direct waiting passengers to less crowded areas of the platform.

With Mitigation Measure TRANS-1b, the Project would implement a Transportation Management Plan for ballpark events. A draft TMP is included in Draft EIR Appendix TRA.1. BART is identified as a key stakeholder to be engaged in the development, implementation, and monitoring of the TMP for ballpark events. Operational strategies included in the TMP may include personnel at the 12th Street BART station after weekday daytime events (about 14 times per year) and potentially before weekday evening events (up to 50 times per year) to manage passenger flows onto the platforms to minimize passenger bunching on the platforms at the escalators. Personnel may also be needed after weekday daytime events at the Lake Merritt BART station. BART personnel or other personnel acceptable to BART are required as part of the TMP to manage pre- and post-event attendees accessing the BART stations. The number of personnel needed, and their deployment locations would be established through observation and monitoring.

4.20.3 Vertical Circulation

Comment A-14-6 states, “There are a limited number of faregates and vertical circulation elements at Lake Merritt and West Oakland BART stations… The Project may result in crowd control and queuing issues at these bottlenecks.” To address these concerns, the capacity of every vertical element (i.e. stairs and escalators) providing service in the game-day direction between the

platform, mezzanine, and street levels were analyzed at each station. Facilities entering the stations were studied for departures from an afternoon game during the 4:00 to 5:00 p.m. period, and facilities leaving the stations were studied for arrivals to an evening game during the 5:30 to 6:30 p.m. period. The Walkway Volume/Capacity ratio was calculated for each vertical element, with walkway capacity variables provided by the *Transit Capacity and Quality of Service Manual*, 3rd Edition.

Table 4.20-6 shows the vertical circulation findings for the Lake Merritt BART station. The analysis shows that the west stairway and escalator system between the mezzanine and the platform would operate at 85 percent capacity between 4:00 and 5:00 p.m. after a weekday daytime ballpark event (14 times each year), suggesting that there might be some crowding at the mezzanine level for people proceeding down to the platform. All other vertical circulation systems at the Lake Merritt BART station would operate well within their carrying capacity. BART personnel or other personnel acceptable to BART are required as part of the TMP to manage pre- and post-event attendees accessing the BART stations. The number of personnel needed and their deployment locations would be established through observation and monitoring.

TABLE 4.20-6
LAKE MERRITT BART STATION—VERTICAL CIRCULATION

Facility	Game Scenario[1]	Existing (Pre-COVID-19)			Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)		
		Capacity ppl/hour	Volume ppl/hour	Volume/ Capacity	Capacity ppl/hour	Volume ppl/hour	Volume/ Capacity
Between Street and Mezzanine							
Entrance B2 Stairway A	Afternoon	2,280	73	2%	2,280	242	11%
	Evening	2,280	218	10%	2,280	218	22%
Entrance B1 Stairway + Escalator	Afternoon	7,380	73	1%	7,380	1,422	19%
	Evening	7,380	218	3%	7,380	812	11%
Entrance A1 Stairway	Afternoon	1,800	73	4%	1,800	438	24%
	Evening	1,800	218	12%	1,800	733	41%
Entrance A2 Stairway + Escalator	Afternoon	2,280	73	3%	2,280	73	3%
	Evening	7,380	218	3%	7,380	218	3%
Between Mezzanine and Platform							
Stairway + Escalator West	Afternoon	1,800	343	19%	1,800	1,523	85%
	Evening	6,900	472	7%	6,900	483	7%
Stairway + Escalator East	Afternoon	6,900	147	2%	6,900	653	9%
	Evening	1,800	202	11%	6,900	207	12%

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals at the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

Table 4.20-7 shows the vertical circulation findings for the 12th Street BART station. The analysis shows that the stairway and escalator to Platform 1 would operate at roughly 50 to 60 percent capacity between 4:00 and 5:00 p.m. after a weekday daytime ballpark event (14 times

each year), suggesting that there might be some crowding at the mezzanine level for people proceeding down to the platforms. All other vertical circulation systems at the 12th Street BART station would operate well within their carrying capacity.

TABLE 4.20-7
12TH STREET BART STATION—VERTICAL CIRCULATION

Facility	Game Scenario[1]	Existing (Pre-COVID-19)			Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)		
		Capacity ppl/hour	Volume ppl/hour	Volume/ Capacity	Capacity ppl/hour	Volume ppl/hour	Volume/ Capacity
Between Street and Mezzanine							
Entrance A1 Stairway	Afternoon	1,800	304	17%	1,800	771	43%
	Evening	1,800	156	9%	1,800	557	31%
Entrance A3 Escalator	Afternoon	5,100	304	6%	5,100	460	9%
	Evening	5,100	156	<5%	5,100	290	6%
Entrance A4 Stairway	Afternoon	1,800	304	17%	1,800	304	17%
	Evening	6,900	156	<5%	6,900	156	<5%
Entrance B1 Escalator	Afternoon	5,100	304	6%	5,100	771	15%
	Evening	5,100	156	<5%	5,100	557	11%
Entrance B2 Stairway & Escalator + B3 Stairway & Escalator	Afternoon	13,800	304	<5%	13,800	847	6%
	Evening	3,600	195	5%	3,600	596	17%
Entrance B4 Stairway	Afternoon	1,800	304	17%	1,800	304	17%
	Evening	1,800	156	9%	1,800	156	9%
Between Mezzanine and Platform 1							
Stairway & Escalator West	Afternoon	1,800	267	15%	1,800	867	48%
	Evening	6,900	269	<5%	6,900	824	12%
Escalator & Stairway Center	Afternoon	1,800	267	15%	1,800	734	41%
	Evening	5,200	302	6%	5,200	655	13%
Escalator East + Stairway East A & B	Afternoon	3,600	267	15%	3,600	341	9%
	Evening	8,700	269	<5%	8,700	231	<5%
Between Mezzanine and Platform 2							
Stairway & Escalator West	Afternoon	6,900	340	<5%	6,900	676	10%
	Evening	12,000	43	<5%	12,000	291	<5%
Escalator & Stairway Center	Afternoon	1,800	340	19%	1,800	572	32%
	Evening	12,000	49	<5%	12,000	231	<5%
Escalator East + Stairway A & B Stairway East A	Afternoon	6,900	340	<5%	6,900	266	<5%
	Evening	1,800	43	<5%	1,800	81	<5%

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals at the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

Table 4.20-8 shows the vertical circulation findings for the West Oakland BART station. The analysis shows that all vertical circulation systems would operate well within their carrying capacity.

TABLE 4.20-8
WEST OAKLAND BART STATION—VERTICAL CIRCULATION

Facility	Game Scenario[1]	Existing (Pre-COVID-19)			Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)		
		Capacity ppl/hour	Volume ppl/hour	Volume/ Capacity	Capacity ppl/hour	Volume ppl/hour	Volume/ Capacity
Northwest Stairway + Northeast Stairway & Escalator	Afternoon	3,600	203	6%	3,600	1,028	29%
	Evening	8,700	91	<5%	8,700	91	<5%
Southwest Stairway + Southeast Stairway & Escalator	Afternoon	3,600	93	<5%	3,600	93	<5%
	Evening	8,700	1,132	13%	8,700	1,955	22%

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals at the ballpark between 5:30 and 6:00 p.m.

SOURCE: Fehr & Peers, 2021

The arrival patterns to the BART stations may vary depending on the last-mile mode of travel between the ballpark and BART, as well as whether attendees linger in the area after a ballpark event, thereby delaying their trip on BART. Through the TMP, the Project sponsor would coordinate with BART to ensure that passenger bunching is minimized at the vertical circulation systems at all three BART stations. BART personnel or other personnel acceptable to BART are required as part of the TMP to manage pre- and post-event attendees accessing the BART stations. The number of personnel needed, and their deployment locations would be established through observation and monitoring.

4.20.4 Fare Gate Capacity

Fare gate capacities were estimated based on each station's available fare gates in the game-day direction for each scenario and headways provided by the *Transit Capacity and Quality of Service Manual*, 3rd Edition. The resulting volume/capacity ratios for each station are shown in **Table 4.20-9**, which shows that fare gates serving the Project direction would perform well, with a maximum volume-to-capacity ratio of 32 percent during the evening ballpark arrival period at the Lake Merritt station. There may be some queueing at the fare gates caused by bunching, such as when multiple trains are stopped at the station at the same time; but even with bunching, the fare gates at all three stations are expected to operate well with the ballpark attendees.

TABLE 4.20-9
FARE GATE CAPACITY

Existing (Pre-COVID-19) + Project (Full Buildout Non-Ballpark + Sellout Ballgame)

BART Station	Game Scenario[1]	Fare Gates in Game-Day Direction	Capacity (ppl per hour)	Volume in the Project Direction (ppl per hour)	Volume/ Capacity
Lake Merritt	Afternoon	5	6,900	2,176	32%
	Evening	5	6,900	1,990	29%
12th Street	Afternoon	15	20,700	3,456	17%
	Evening	15	20,700	2,313	11%
West Oakland	Afternoon	6	8,280	1,121	14%
	Evening	6	8,280	2,047	25%

NOTES:

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals to the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

4.20.5 Line Load Capacity

Comment A-14-9 states, "The DEIR contains no analysis of BART's passenger train load capacity… While BART is in the midst of purchasing new rail cars and updating its train control system to increase network capacity, there was no analysis of the Project's impact on BART's train load capacity with or without these capacity enhancements." To address these concerns, game-day train loads were estimated at each Project-serving station (i.e. West Oakland, 12th Street, and Lake Merritt) for each BART line. As with the other analyses two time periods were studied: post-afternoon-game departures from 4:00 to 5:00 p.m. (up to 14 times per year) and pre-evening-game arrivals from 5:30 to 6:30 p.m. (up to 50 times per year). Analysis for both the afternoon and evening time periods focuses on departing train capacity, as the most relevant concern at these stations in the evening is the ability for riders to board trains leaving the Downtown Oakland area.

The analysis compared median departing train loads for each BART line at each station under existing (pre-pandemic) conditions on a typical weekday, on a weekday with a sellout baseball game at the Coliseum, and on a weekday with a sellout baseball game under Plus Project conditions, including riders generated by the non-ballpark development. Existing line loads on typical weekdays were calculated using BART data from October 2018. Origin and destination distributions for game-days at the Coliseum were estimated using BART origin-destination data from 2018 by comparing ridership at the Coliseum on game-days to non-game-days, and riders were assigned to lines for arriving or departing the Coliseum based on their origin or destination station. For Plus Project conditions, assignments were updated to reflect the new potential lines, as well as the fact that riders would be boarding or alighting at one of the downtown stations instead of traveling through downtown for an event at the Coliseum.

The results are shown in **Tables 4.20-10, 4.20-11, and 4.20-12**. These results reflect a worst-case scenario because they assume that all trips to a ballpark event are new trips to the BART system. Under the worst-case scenario, there are several instances in which a sellout game under Plus Project conditions would result in a line load exceeding 100 percent capacity. However, because all five lines serve two of the three nearby BART stations, riders are generally more dispersed between lines than for games at the Coliseum, where all riders must use one of the three lines serving the single Coliseum station. This effect is especially pronounced on the lines with the highest existing evening line loads—East Bay-bound trains departing San Francisco—where games at the Coliseum result in line loads of 145% and 137% for trains departing West Oakland station for Dublin/Pleasanton and Warm Springs, respectively. Under Plus Project conditions, by contrast, riders coming from San Francisco are dispersed between four lines, with most riders alighting at West Oakland, reducing strain through Downtown Oakland on the most over-capacity lines compared to a Coliseum event. Note that all line loads are well below the crush load of 1.87 so the BART lines can accommodate the additional riders associated with the ballpark events. A Line Load of 1.0 is equivalent to 107 passengers per car on a BART train. BART cars can carry over 200 passengers per car in a crush load representing a 1.87 Line Load.

TABLE 4.20-10
LAKE MERRITT BART STATION—DEPARTURE LINE LOAD CAPACITY

Line	Scenario[1]	Existing (Pre-COVID-19) Typical Weekday	Existing (Pre-COVID-19) with Ballgame (Coliseum)	Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)
Orange – Warm Springs to Richmond	Afternoon	26%	51%	38%
	Evening	29%	29%	52%
Orange – Richmond to Warm Springs	Afternoon	71%	71%	**132%**
	Evening	57%	**104%**	67%
Green – Daly City to Warm Springs	Afternoon	73%	73%	93%
	Evening	**108%**	**130%**	**109%**
Green – Warm Springs to Daly City	Afternoon	10%	21%	11%
	Evening	15%	15%	16%
Blue – Daly City to Dublin/Pleasanton	Afternoon	91%	91%	**126%**
	Evening	**113%**	**146%**	**114%**
Blue – Dublin/Pleasanton to Daly City	Afternoon	11%	21%	11%
	Evening	15%	15%	16%

NOTES:
A Line Load of 1.0 is equivalent to 107 passengers per car on a BART train. BART cars can carry over 200 passengers per car in a crush load representing a Line Load of 1.87.

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals to the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

TABLE 4.20-11
12TH STREET BART STATION—DEPARTURE LINE LOAD CAPACITY

Line	Scenario[1]	Existing (Pre-COVID-19) Typical Weekday	Existing (Pre-COVID-19) with Ballgame (Coliseum)	Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)
Yellow – Antioch to SFO	Afternoon	29%	29%	40%
	Evening	38%	38%	41%
Yellow – SFO to Antioch	Afternoon	86%	86%	**108%**
	Evening	**101%**	**101%**	**105%**
Orange – Warm Springs to Richmond	Afternoon	30%	61%	57%
	Evening	34%	34%	40%
Orange – Richmond to Warm Springs	Afternoon	74%	74%	**103%**
	Evening	66%	**115%**	75%
Red – Richmond to Millbrae	Afternoon	25%	25%	31%
	Evening	31%	31%	34%
Red – Millbrae to Richmond	Afternoon	74%	74%	89%
	Evening	95%	95%	99%

NOTES:
A Line Load of 1.0 is equivalent to 107 passengers per car on a BART train. BART cars can carry over 200 passengers per car in a crush load representing a Line Load of 1.87.

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals to the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

TABLE 4.20-12
WEST OAKLAND BART STATION—DEPARTURE LINE LOAD CAPACITY

Line	Scenario1	Existing (Pre-COVID-19) Typical Weekday	Existing (Pre-COVID-19) with Ballgame (Coliseum)	Existing + Project (Full Buildout Non-Ballpark + Sellout Ballgame)
Yellow – Antioch to SFO	Afternoon	29%	29%	61%
	Evening	37%	37%	40%
Yellow – SFO to Antioch	Afternoon	78%	78%	81%
	Evening	98%	98%	**104%**
Red – Richmond to Millbrae	Afternoon	26%	26%	46%
	Evening	33%	33%	35%
Red – Millbrae to Richmond	Afternoon	72%	72%	76%
	Evening	**100%**	**100%**	**106%**
Green – Daly City to Warm Springs	Afternoon	78%	78%	80%
	Evening	99%	**137%**	**102%**
Green – Warm Springs to Daly City	Afternoon	11%	22%	19%
	Evening	16%	16%	18%
Blue – Daly City to Dublin/Pleasanton	Afternoon	**102%**	**102%**	**104%**
	Evening	**121%**	**145%**	**123%**
Blue – Dublin/Pleasanton to Daly City	Afternoon	10%	22%	19%
	Evening	17%	17%	18%

NOTES:
A Line Load of 1.0 is equivalent to 107 passengers per car on a BART train. BART cars can carry over 200 passengers per car in a crush load representing a Line Load of 1.87.

[1] Afternoon represents departures from the ballpark between 4:00 and 5:00 p.m. Evening represents arrivals to the ballpark between 5:30 and 6:30 p.m.

SOURCE: Fehr & Peers, 2021

4.20.6 Conclusion

As mentioned in the Draft EIR (p. 4.15-138), existing coordination between the Project sponsor and BART that occurs at the Coliseum would need to continue to help manage the additional riders with resources to guide attendees through the stations. Some of the existing management strategies that occur at the Coliseum that could apply to the three Project stations include providing BART staff to help facilitate the increased ridership. BART provides extra trains, when feasible, to serve Coliseum events and this practice may no longer be required because the Project would be located within walking distance of three BART stations that, combined, serve every BART line in the system.

BART notes in Comment A-14-12 that compared to the staffing required to ensure smooth crowd control and properly functioning equipment at the single Coliseum station, the three Project-serving stations would require more staffing and bear higher costs to manage the new ridership. As noted in the various analyses presented in the Consolidated Response, there may be some areas that require additional personnel to manage crowds in some but not all three stations.

The results of the capacity analyses described above show that:

- Although there is sufficient platform area to handle the passenger loads, consideration should be given through the TMP implementation for personnel to manage the potential for passenger bunching around escalators and other obstacles as passengers arrive on the platform after one or more of the 14 daytime ballpark events at the Lake Merritt and 12th Street BART stations, as well as before one or more of the 50 weekday evening ballpark events at the 12th Street BART station.
- The mezzanine of the Lake Merritt BART station may realize some passenger bunching that may require operational strategies during one or more of the 14 daytime ballpark events. Should this become an operational issue, observed through the TMP implementation, personnel may be needed to manage the bunching.
- There is sufficient fare gate capacity to handle the passenger loads at all stations with a ballpark event.
- Although some lines may operate over 100 percent capacity on game-days with the Project, riders are generally more dispersed between lines compared to game-days at the Coliseum, especially for transbay trips.

The draft TMP notes that many agreements for managing the transportation system before, during, and after a ballpark event have not been finalized. These agreements would be established through implementation of the TMP and ongoing management and monitoring of the TMP, with BART as a key stakeholder in that process. BART personnel or other personnel acceptable to BART are required as part of the TMP to manage pre- and post-event attendees accessing the BART stations. The number of personnel needed, and their deployment locations would be established through observation and monitoring.

4.21 AC Transit Congestion Impacts

Comments Addressed: A-3-2, A-3-3, A-3-5, A-3-6, A-3-7, A-3-8, A-3-9, O-47-21, O-47-23, O-48-8, O-62-60, O-63-17, I-229-1, I-335-2, and H2-2-39.

The AC Transit comment letter to the Draft EIR highlights multiple concerns: ballpark traffic impacts on existing AC Transit service on game days, bus-only lane designs on Broadway, delays to buses on 7th and 8th Street on game days, and the locations of shuttle stops at three BART stations on game days. Comments A-3-5, A-3-6, A-3-8, and A-3-9 specifically mention these concerns.

Beyond the primary concerns expressed in the AC Transit letter, other comments address monetary constraints, available transit vehicles, and driver demands related to delays or increased service requests around the ballpark. The AC Transit letter states, "Cost of New Regular Service: The EIR anticipates the creation of a new, high-density downtown neighborhood adjacent to the ballpark. We support this approach as a planning matter, but it will require additional transit service on both game days and non-game days. Transit service in North America does not recover its costs from fares, and therefore requires other forms of subsidy. AC Transit requests that operating subsidies to support new service be identified and committed for the life of the Ballpark."

Funding-related comments not directly related to implementation of mitigation measures do not raise specific concerns with the sufficiency of the analysis or mitigation measures contained in the Draft EIR. Comments highlighting a desire for funding new service for AC Transit are acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project.

Another comment expresses concern regarding parking spaces available at the Project site. With 8,900 parking spaces available at full buildout, AC Transit has concerns that the mode split among individuals traveling to the ballpark would increase AC Transit service demand, which in turn would affect existing and planned AC Transit service and result in financial constraints. The commenter does not raise specific concerns or questions regarding the sufficiency of the analysis or mitigation measures contained in the Draft EIR. The comments on financial impacts are acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project.

As discussed in this Consolidated Response 4.21, the Draft EIR describes potential delays, bus-lane designs, shuttle stop locations, and roadway improvements along 7th and 8th Streets. This Consolidated Response contains an analysis of alternative bus designs, the process for placement of game-day shuttle stops, multimodal improvements along 7th and 8th Streets, and delays to transit within the Project's influence area on game days. These issues and the adequacy of the Draft EIR are discussed in the following four subsections.

4.21.1 Potential Bus Lane Design Options on Broadway

Off-site Transportation Improvements were identified through the CEQA and non-CEQA analysis, conducted in line with the City of Oakland's *Transportation Impact Review Guidelines*. Pages 4.15-

94 through 4.15-98 discuss the general process and analysis undertaken to make the off-site Transportation Improvements. Pages 4.15-128 through 4.15-130 outline the improvements for the Broadway corridor and the implications for the corridor's transportation users.

The Broadway corridor has planned bus-only lanes as part of the City's adopted and funded 2019 3-Year Paving Plan, and bus-only lanes currently exist on Broadway between 11th and 20th Streets. As noted on Draft EIR p. 4.15-129, bus-only lanes are required for Broadway between 11th Street and 2nd Street as part of Mitigation Measure TRANS-1d (p. 4.15-198). The bus-only lanes would be an extension of the existing Broadway bus-only lanes recently installed between 20th Street and 11th Street. Draft EIR Figures 4.15-36, 4.15-37, 4.15-38, and 4.15-39 provide conceptual drawings of the off-site Transportation Improvements, including the Broadway bus-only lanes. Draft EIR p. 4.15-129 states:

"Unless transit lanes have already been installed, remove one motor vehicle lane in each direction to provide bus-only lanes, with pull-out bus stops considered as a design option. Concentrate bus stops between 3rd and 4th Streets and 8th and 10th Streets where on-street parking and commercial loading would be prohibited; maintain existing roadway capacity through the 5th and 6th Street intersections by removing the median, upgrading traffic signals, and prohibiting northbound left turning traffic at 6th Street; modify traffic signals to provide transit signal priority between 2nd and 11th Streets; add 3-inch yellow reflective sheeting to signal backplates; and replace any existing 8-inch signal heads with 12-inch signal heads. (Mitigation Measure TRANS-1d)"

Regarding bus stops along the bus-only lanes, two potential options are mentioned in the Draft EIR: pull-outs and in-line bus stops. Draft EIR p. 4.15-130 states:

"Bus stops designed as bus pull-outs would minimize bus bunching and a breakdown in the bus-only lane operation and maximize express bus operations. In-line bus stops (i.e., buses stop in the bus-only lane) maximize the area for transit amenities with less encroachment into the sidewalk space. Design decisions on the bus-only lanes and bus stops would be determined through a City review processing including consultation with AC Transit and other stakeholders."

The AC Transit letter addresses the Broadway bus-only lane improvements, stating that the bus-only lanes as currently designed for Broadway are not effectively supporting fast or reliable service because of right-turning traffic across the lanes. Comment A-3-5 states, "The lanes are designed with right turns across them at most intersections between 11th and 2nd. This will create bus-car conflicts in this segment, which is already affected by traffic movements to and from the Alameda tubes."

The 5th and 7th Street intersections have high volumes of right-turning traffic. To accommodate the right-turning traffic, the Broadway corridor improvements would include right-turn lanes at both 5th and 7th Streets to separate the right-turning traffic from the buses in the bus-only lane. Without the right-turn lanes, drivers would queue in the bus-only lane before making a right-turn movement from the bus-only lane. The design in the Draft EIR, providing right-turn lanes at intersections with high volumes of right-turning traffic, minimizes the time that right-turning traffic would be in the bus-only lane.

The commenter "requests that the City work with the District [AC Transit] to design effective, efficient bus lanes on Broadway." The commenter suggests one approach: removing the median to provide more room for bus lanes and other vehicle movements. This response focuses on identifying potential options to the bus lane design on Broadway and the implications of those designs. As shown in **Table 4.21-1**, potential options include center-running bus lanes, or bus pull-outs instead of in-lane stops.

TABLE 4.21-1
POTENTIAL OPTIONS FOR BUS LANE DESIGN ON BROADWAY AND ASSOCIATED IMPLICATIONS

	Center-Running Bus-Only Lanes	Bus Pull-Outs Instead of In-Lane Stops
Design Elements	12-foot-wide by 100-foot-long platforms (accommodating two buses) Ability to serve rapid and local buses 11-foot-wide bus lanes (with no buffer)	8-foot-wide platform area with amenities at the curb 11-foot bus lanes (with no buffer)
Ramifications	Removal of medians for center-running bus-only lanes would remove six trees between 2nd and 5th Streets and 18 trees between 6th and 10th Streets; Median platforms would require buses with left-side doors for boarding. Center-running bus-only lanes would not conform to existing shoulder-running bus-only lanes north of 11th Street. For a bus to pass another bus at a platform (example: rapid overtaking local), buses would pull into the motor vehicle travel lane from the left, which is an unexpected maneuver for auto drivers and a more difficult maneuver for bus drivers than pulling right into a lane. Median-running system requires left-turning traffic to have left-turn lanes and be signal protected.	Bus pull-out stops require narrowing the sidewalk to accommodate the platform area and amenities, which would remove five trees between 3rd and 4th Streets and 13 trees between 8th and 10th Streets. Alternatively, the median and 12 median trees could be removed. In-line bus stops require that the curb extend into the street, widening the sidewalk, to accommodate the platform area and amenities.

As noted in Table 4.21-1 the center running bus lanes design option suggested by the commenter would be incompatible with the current bus operations along Broadway. Center running bus lanes between Embarcadero and 11th Street would require buses with left-side doors for boarding, but AC Transit buses have right side doors for boarding. In addition, the center running bus lanes would be incompatible with the existing side running bus lanes on Broadway north of 11th Street. The commenter also requests bus pull outs, rather than in-line bus stops, between 3rd and 4th Streets and between 8th and 10th Streets. Bus pull-outs are currently provided at the 12th Street BART station where most ballpark event attendees would access buses. Elsewhere along the Broadway corridor has both pull-out and in-line bus stops. The City will work with AC Transit to establish bus stop designs during design development of the bus lane project, but the City preference is for in-line bus stops between Embarcadero and 11th Street because bus pull-outs would require sidewalk narrowing and the City anticipates substantial ballpark event pedestrian demands on Broadway as people walk between the BART station and the ballpark.

4.21.2 Bus Lanes for 7th and 8th Street from West Oakland to Lake Merritt BART Stations

The AC Transit letter addresses the improvements for 7th and 8th Street and refers to previous transit improvement requests (Comment A-3-6). The letter highlights previously requested bus-only lanes on 7th Street, or 7th and 8th Streets as a couplet, based on delays to passengers from the West Oakland and Lake Merritt BART stations. The comment goes on to state that some of the most frequent AC Transit service occurs on these streets, and that game-day traffic will likely increase delays. The commenter recommends bus lanes on 7th Street between Broadway and West Oakland BART and 7th and 8th Streets between Broadway and Oak Street (the Lake Merritt BART station), stating that these streets will likely have increased delays on existing transit.

The plan consistency analysis conducted for the Draft EIR identified that the Draft Downtown Oakland Specific Plan (DOSP) would implement bus-only lanes on 7th Street and/or 8th Street between Broadway and Oak Street to facilitate bus travel through Chinatown, between Alameda and Oakland, and between Broadway and the Lake Merritt BART station. No planning documents reviewed for the consistency analysis in the Draft EIR included bus-only lanes on the 7th Street and/or 8th Street corridors west of Broadway to the West Oakland BART station.

An assessment of bus volumes along the 7th Street and 8th Street corridors was reviewed. East of Broadway in Chinatown, there are about 18 buses per hour at peak times including Lines 18, 51A, and 62. West of Broadway, only Line 62 serves the West Oakland BART station, and it operates about three times per hour at peak times. Line 36 also travels on 7th Street for four blocks between the West Oakland BART station and Adeline Street about twice per hour at peak times. Line 800 also operates on the corridor, but as a night service (12:20–6:50 a.m.).

The frequency of bus service on the 7th/8th Street corridors between the West Oakland BART station and Broadway does not support the need for bus-only lanes and adopted planning documents do not identify bus-only lanes west of Broadway.

4.21.3 Delays to Bus Passengers from Nearby BART Stations

The AC Transit letter addresses concerns about the potential impact of ballpark event shuttle buses on AC Transit non-ballpark service due to additional vehicles using bus stops noting that there are multiple AC Transit routes serving the BART stations (Comment A-3-8). The AC Transit letter further notes the loss of convenient bus stops with reliable operations could result in substantial delays and disruptions for AC Transit.

Off-site transportation improvements were identified through the CEQA and non-CEQA analysis conducted in line with the City of Oakland's *Transportation Impact Review Guidelines.* Pages 4.15-94 through 4.15-98 discuss the general process and analysis undertaken to make off-site transportation improvements. Pages 4.15-117 through 4.15-119 outline the improvements for the 7th Street corridor between Mandela Parkway and Martin Luther King Jr. Way, as well as the implications for the corridor's transportation users.

The 7th Street corridor would be improved for walking and bicycling and enhanced with transit efficiency measures. Draft EIR Figures 4.15-23, 4.15-25, 4.15-26, 4.15-28, and 4.15-33 provide conceptual drawings of off-site street improvements along 7th and 8th Street between Mandela Parkway and Martin Luther King Jr. Way. The improvements in the Draft EIR and listed below were established through the CEQA and non-CEQA analysis.

- Convert one vehicle lane each way to a buffered bike lane between Mandela Parkway and Martin Luther King Jr. Way and conform the buffer bike lane on the 8th Street cutoff back to Jefferson Street, and incorporate transit boarding islands to separate buses and bicycle riders through bus stop areas. (Mitigation Measure TRANS-2a, p. 4.15-230.)
- Upgrade the sidewalk on the south side of 7th Street between Mandela Parkway and Market Street to provide a 6-foot effective width and correct sidewalk tripping hazards on both sides of the street. (Mitigation Measure TRANS-1e, p. 4.15-198.)
- Upgrade traffic signals on 7th Street at Adeline Street, Market Street, Brush Street, Castro Street, and Martin Luther King Jr. Way at both 7th and 8th Streets to support buffered bike lanes and sidewalk improvements. (as needed to support Mitigation Measure TRANS-1e, p. 4.15-198 and Mitigation Measure TRANS-2a, p. 4.15-230.)
- Install traffic control on 7th Street at Filbert Street to facilitate pedestrian crossings. (Non-CEQA recommendation.)
- Convert one westbound lane on 7th Street to a second left-turn lane approaching Market Street from Brush Street and upgrade traffic signals at Market, Brush, and Castro Streets to optimize traffic flow between I-980 and the Project particularly before, during, and after ballpark events. (Non-CEQA recommendation.)

Regarding motor vehicle travel along the 7th Street corridor between Mandela Parkway and Martin Luther King Jr. Way, Draft EIR Table 4.15-14 states regarding the user experience by bus riders and auto and truck drivers, “Lane reduction, 3 to 2 lanes, would increase delay for bus riders but intersection operations would continue to be LOS C or better for motor vehicles. While intersection delay would increase, the in-line bus stop platforms would eliminate delay pulling in/out of bus stops, improving rider comfort, and providing transit amenity opportunities.”

Regarding motor vehicle travel along 7th and 8th Streets between Broadway and Harrison Street, the City of Oakland required for informational purposes that intersection operations including LOS and delay be evaluated as part of preparation of the Draft EIR (see Draft EIR Appendix TRA.3, Intersection Operation Technical Draft Memorandum). Traffic congestion or measures of vehicular delay are not an environmental impact under CEQA per State CEQA Guidelines Section 15064.3. The intersection analysis concluded that the intersections on 7th and 8th Streets between Broadway and Harrison Street would operate at LOS C or better except at the 7th Street/Webster Street intersection, which would operate at LOS D.

The commenter accurately notes Table 4.15-14, which mentions delay to bus passengers and indicates that the delay would be greater before and after ballpark events because of surges of vehicles entering and leaving the ballpark where the parking is most concentrated. A microsimulation model was developed to evaluate the implications of ballpark event attendees

leaving an afternoon event and arriving to an evening event. The results of the microsimulation analysis are documented in Draft EIR Appendix TRA.3; the most congested corridor was determined to be between the Project and I-980 via Brush and Castro Streets. The increase in vehicle delay through the intersections on 7th Street between Market Street and Martin Luther King Jr. Way were measured from the model to determine the additional delay per intersection associated with a ballpark event, then that additional delay was extrapolated across all signalized intersections along the corridor between the West Oakland and Lake Merritt BART stations.

Midday Game Delays along 7th Street:

- During the most congested two-hour period at the conclusion of the 14 midday baseball games per season, a bus on 7th Street would experience an additional delay averaging 15 seconds per signalized intersection when heading eastbound, and 11 seconds westbound.
- Extrapolating the per-intersection delay to 17 intersections between the BART stations, Line 62 would experience three to four minutes of additional delay, Line 18 between Broadway and the Lake Merritt BART station would experience less than two minutes of additional delay through 7 intersections, and Line 51A would experience about one minute of additional delay through 4 intersections.

Evening Game Delays along 7th Street:

- During the most congested two-hour period before one of 50 weekday evening events, a bus on 7th Street would experience an additional delay averaging 10 seconds per signalized intersection when heading eastbound, and 7 seconds westbound.
- Extrapolating the per-intersection delay to 17 intersections between the BART stations, Line 62 would experience two to three minutes of additional delay, Line 18 would experience one minute of additional delay through 7 intersections, and Line 51A would experience less than one minute of additional delay through 4 intersections.

Traffic congestion or measures of vehicular delay are not an environmental impact under CEQA per State CEQA Guidelines Section 15064.3. However, as documented above, the delay to transit on 7th Street due to the event traffic from the proposed Project would be less than one minute except for Line 62 during Midday and Evening games and Line 18 during Midday games. The impact to AC Transit operations would be considered through implementation of the TMP. AC Transit would be key a stakeholder providing input on the TMP strategies; coordination with ballpark events before, during, and after events; and monitoring to address operational consequences of ballpark events on AC Transit operations.

4.21.4 Shuttle Bus Stop Locations to Minimize Transit Impacts

The Draft EIR identifies supplemental shuttle service from three nearby BART stations—Lake Merritt, West Oakland, and 12th Street (prioritized for opening day)—to the Project site on game days. As noted on Draft EIR p. 4.15-88 and in Figure 4.15-17:

"BART riders have several options to access the Project site including walking, buses and shuttles, shared bikes and scooters, and TNCs [transportation network companies]. Buses and shuttles would be particularly attractive because the Transportation Hub would provide bus

priority along 2nd Street during event days and then dedicated bus-only lanes that connect to the 12th Street BART station. AC Transit 72, 72M, and 72R would continue to operate on 2nd Street and additional lines could be extended and rerouted to the area at AC Transit's discretion."

The shuttles would arrive at the ballpark at the 2nd Street Transportation Hub as noted on Draft EIR p. 4.15-119 and in Figure 4.15-17. In addition to shuttles, AC Transit extension and rerouting of local AC Transit routes could occur to provide additional access the ballpark.

"The Transportation Hub on 2nd Street would connect to bus-only lanes on Broadway. Subject to extension and rerouting of AC Transit bus lines, on non-event days up to 20 buses per hour could use the Transportation Hub, increasing on event days up to 120 buses per hour. The Hub's core, because of its proximity to the ballpark, is anticipated to be between Martin Luther King Jr. Way and Clay Street and would be used by AC Transit while east and west of the core would be designated for event-day shuttle buses."

The AC Transit letter addresses the placement of the shuttle stop at each of the three BART stations. Comment A-3-8 states, "The EIR should commit to providing well-located bus stops that allow reliable operations on all days, at the BART stations."

The draft Transportation Management Plan or "TMP" (pp. 4.15-137 through 4.15-139) was developed as part of the Draft EIR process. The TMP uses an integrated approach to manage people accessing the ballpark through various modes of travel on game days. The TMP is a living document that would be periodically amended by the Project sponsor in coordination with the Port of Oakland and the City of Oakland. Mitigation Measure TRANS-1b requires implementation of the TMP, and the transit agencies—i.e., AC Transit, BART, WETA, and Capitol Corridor—would be key stakeholders providing input on the TMP strategies; coordination with ballpark events before, during, and after events; and monitoring.

Through the TMP process, the City identified preferred strategies that align with City policies and plans, including shuttle service. The TMP required shuttle to the 12th Street BART station (provided by AC Transit or a private operator), to increase the frequency and capacity of transit connections to BART stations on event days, may be implemented by opening day of the ballpark, while the shuttle service connection to the Lake Merritt and West Oakland BART station could be implemented later. Shuttles would need to be high capacity multi-door buses so people can (un)load quickly.

The commenter is asking the Project sponsor to commit to providing well-located bus stops that allow reliable operations on all days, at the three BART stations. The following response clarifies how the shuttle bus stops could be located to minimize impacts on AC Transit and the strategy for selecting a shuttle location through the TMP.

The TMP plays the largest role in coordinating the locations of shuttle bus stops at BART stations (12th Street, West Oakland, and Lake Merritt). As a stakeholder in the TMP, AC Transit would be brought into the shuttle planning process to ensure that shuttle routes and stop locations are safe and functional and would not interfere with existing bus service. The Draft EIR (Figure 4.15-17) shows the draft route for the shuttle buses between the BART stations and the ballpark. The

final route and shuttle stop placement discussions and final designs would be approved by the City with input from AC Transit.

As accurately noted by the commenter, two nearby BART stations are undergoing redevelopment: West Oakland and Lake Merritt. As these stations undergo redevelopment, restructuring of bus access will occur; therefore, a shuttle stop location cannot be identified at this time, and the location of shuttle stops may change before, during, and after redevelopment occurs. The TMP, as a living document, would coordinate the placement of these shuttle stop locations during the design and construction phase, as well as when the developments have been completed.

The 12th Street BART station has multiple existing transit stops along Broadway and perpendicular streets that currently serve existing AC Transit routes. As noted by the commenter, the shuttle stop location should be situated where it would not disrupt regular AC Transit operations.

An example shuttle stop location could be along 12th Street between Broadway and Clay Street, specifically on the north side beyond the AC Transit bus stop. This location would temporarily use on-street parking spaces for a shuttle stop and would be on the same block as the BART station portal, reducing pedestrian street crossings, and shuttle riders could access the BART station via Center Walk or Broadway. This example location demonstrates the opportunity to provide shuttle bus stops in areas that would not conflict with AC Transit operations. This is only an illustrative example, and the TMP should be used for the final site selection.

At the ballpark, the AC Transit bus stops would be located at the 2nd Street Transportation Hub (between Clay Street and Martin Luther King Jr. Way). The Draft EIR envisions AC Transit having the 2nd Street Transportation hub as a permanent home, and on game days the shuttle would extend east or west along 2nd Street as operationally appropriate and determined by the TMP in consultation with AC Transit.

4.21.5 Delays to Bus Service near the Ballpark on Game Days

Beyond the ballpark affecting AC Transit service along 7th Street on game days, as discussed earlier in this Consolidated Response, the Project is anticipated to affect roadways near the ballpark, and thus, other AC Transit routes in the area. As noted in the Draft EIR, four documents were prepared or reviewed to establish the Project's impacts:

- The *Howard Terminal–CMP and MTS Analysis* memorandum (part of the Draft EIR Additional Transportation Reference Material) and used as part of Impact TRANS-6 and 6.CU.
- The Howard Terminal–Operations Analysis memorandum (Draft EIR Appendix TRA.3) and used in the Non-CEQA analysis.
- The Howard Terminal–Transit Analysis memorandum (Draft EIR Appendix TRA.6) and used in the Non-CEQA analysis.
- A memorandum by the City, dated August 29, 2019, on the effectiveness of the Transit Priority on Broadway and used in the Non-CEQA analysis.

The AC Transit letter addresses AC Transit service delay in Comment A-3-9, "Cost of Delays and Disruptions to Regular Service: In addition, regular bus service in the vicinity of the ballpark is likely to be delayed on game days." The commenter continues by recommending that the City implement a game-day traffic control plan that prioritizes transit operations.

The commenter expresses an opinion that the Project's trips will increase delays for all transit near the ballpark on game days. Traffic congestion or measures of vehicular delay are not an environmental impact under CEQA per State CEQA Guidelines Section 15064.3. The commenter does not state specific concerns or questions regarding the sufficiency of the analysis or mitigation measures contained in the Draft EIR, nor does the comment raise a new environmental issue. The comment is acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project. However, the issue of bus transit delay raised in the comments is addressed below for informational purposes.

A series of off-site CEQA mitigation measures and non-CEQA improvements are listed in the Draft EIR (Draft EIR pp. 4.15-86 through 4.15-149) to avoid or reduce the magnitude of Project impacts and support the Project's transportation needs. Mitigation measures for transit within the Project's influence area include bus-only lanes and consolidated bus stops on Broadway, transit prioritization treatments such as signal priority, and the 2nd Street Transportation Hub. Additionally, the Transportation and Parking Demand Management and Transportation Management Plan include strategies to offset trips generated by the Project and strategies such as reserved off-street parking, enabling ballpark attendees who drive to go directly to their reserved parking spaces rather than recirculating in neighborhoods looking for available parking spaces.

The commenter requests processes to mitigate traffic delay for transit vehicles on game days. The following response discusses the range of potential delays to bus service in the vicinity of the Project site on game day and explains how the Project CEQA and Non-CEQA improvements would minimize these delays.

AC Transit operates on multiple street segments in the Project's influence area. To analyze the range of potential delays to bus service in this area on game days, select roadway segments were reexamined: 5th Street, 7th Street, Broadway, and the Webster and Posey Tubes. 5th Street and 7th Street capture the most congested segments on game days and were used as proxies for street segments within the Project's influence area that are traveled by AC Transit routes. **Table 4.21-2** demonstrates the average additional delay per direction per vehicle per intersection during the two most congested hours for weekday midday game departures and evening game arrivals. The delay associated with the most congested hour is also provided.

The additional seconds of delay per intersection reflect the most congested street segments; thus, extrapolating these delays to other intersections in the study area represents a worst-case scenario but is illustrative of the additional delay that bus operators may experience. For example, Line 62 (three buses per hour) operates on 7th Street between the West Oakland and Lake Merritt BART stations with 17 signalized intersections. For the 14 weekday daytime games, during the two hours after a game, the six eastbound buses on 7th Street would each realize an increase in delay of about four minutes, while westbound buses would realize about three minutes of additional

delay. For the 50 weekday evening events, during the two hours before a game, the six eastbound and six westbound buses would each realize two to three minutes of additional delay.

TABLE 4.21-2
AVERAGE ADDITIONAL DELAY (IN SECONDS) PER BUS PER INTERSECTION DURING A GAME DAY

		Midday Game		Evening Game	
		Eastbound	Westbound	Eastbound	Westbound
5th Street	Most Congested 2 Hours	19	-	13	-
	Most Congested 1 Hour	21	-	15	-
7th Street	Most Congested 2 Hours	15	11	10	7
	Most Congested 1 Hour	17	14	11	9

NOTE: Delay represents seconds of delay at each intersection.
SOURCE: Fehr & Peers, 2021

The Webster and Posey Tubes already experience congestion during the p.m. peak period; this congestion is attributed to the tubes themselves, and not the intersections as drivers approach or depart from the Tubes. Impact TRANS-6 (Draft EIR p. 4.15-243) shows that the volume-to-capacity ratio and LOS ratings without the Project are degraded and the Project, representing roughly 2.2 percent of the total traffic, would contribute to the degradation; the resulting impact would be significant and unavoidable because widening the Webster and Posey Tubes was determined to be infeasible. The analysis used to determine the volume-to-capacity degradation was completed using the Alameda County Transportation Commission's travel demand model. The model includes a formula for estimating travel time on road segments. The formula was used to establish a corresponding travel time for the volume-to-capacity results, thereby establishing the increased travel time with the Project and with a ballpark event (**Table 4.21-3**). With the Project, p.m. peak-hour travel times through the Webster Tube would increase from 5.1 to 5.4 minutes with the Project and to 7.6 minutes after one of the 14 weekday daytime ballpark events. Travel time through the Posey Tube would increase from 2.4 to 2.5 minutes with the Project and to 3.5 minutes before one of the 50 weekday evening events (41 ballgames, nine concerts) during the year.

TABLE 4.21-3
WEBSTER AND POSEY TUBES CONGESTION TRAVEL TIME BETWEEN 7TH STREET AND ALAMEDA DURING THE P.M. PEAK PERIOD

Congestion Flow Travel Time in Minutes					
Webster Tube			Posey Tube		
No Project	Plus Project	After a Weekday Daytime Ballpark Event	No Project	Plus Project	Before a Weekday Evening Ballpark Event
5.1	5.4	7.6	2.4	2.5	3.5

SOURCE: Fehr & Peers, 2021

The *2019 Transit Priority on Broadway Report* prepared by Kimley-Horn and commissioned by the City of Oakland determined that dedicated transit lanes added to Broadway between 11th and 20th Streets would result in a 30 percent travel time savings and increase travel time reliability by 20 percent for buses. As an extension of these lanes from 11th Street to Embarcadero along Broadway, travel time savings and increased reliability is anticipated to continue along the corridor extension.

Additionally, this response includes strategies from the Draft EIR that would individually and collectively work to reduce the ballpark's impact on multimodal transportation.

The Transportation and Parking Demand Management Plan (Draft EIR p. 4.15-183) provides parking strategies that would disperse parking demand. The Parking Management Plan would include a parking reservation system connected to garages within at least 1 mile of the Project site. Drivers would reserve parking spaces, which would reduce recirculation in neighborhoods and minimize traffic congestion. The parking garages are dispersed, meaning that motor vehicle trips would be dispersed and drivers' entry to and departure from the garages would be staggered because of the walking distances between the parking garages and the Project site. Refer to Section 4.7 Parking for more information regarding parking and how ballpark attendees who drive would be dispersed to the neighborhoods around the Project.

For most of the year, the Project would have limited or no impact on AC Transit operations. A typical ballpark event schedule includes 14 weekday midday games, up to 50 weekday evening events, and 27 weekend events over the course of a year. Midday games would affect traffic when people arrive at the ballpark and again when they leave the ballpark. Evening games would affect traffic primarily when people arrive at the ballpark because traffic volumes in the area are substantially lower at 10 p.m. The remaining 274 days of the year, no impact or only a limited impact on AC Transit would occur.

The Transportation Management Plan (Draft EIR pp. 4.15-137 through 4.15-139) would include coordination with stakeholders, including AC Transit, to address operational issues that arise due to the ballpark events. The TMP serves as the traffic control plan that the commenter is requesting from the City. The commenter does not mention any deficiencies in the TMP itself. The comment is acknowledged for the record and will be forwarded to the decision makers for their consideration during deliberations on the Project.

4.22 General Non-CEQA

Many comments received on the Draft EIR address topics that do not relate to any specific section of the EIR or to the environmental review process, but rather relate to other aspects of the proposed Project or other subjects that are outside the purview of CEQA.

As introduced in the Draft EIR (p. 4.0-3), CEQA requires the analysis of the proposed Project's potentially significant impacts on the environment. Specifically, "a significant effect on the environmental is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project (State CEQA Guidelines Section 15002(g)). Comments

regarding the merits of the Project or matters that do not raise an environmental issue or specific questions about the analyses or information in the Draft EIR do not require response pursuant to CEQA Guidelines Section 15088.

Nonetheless, several comments raise concerns that are non-CEQA, even as part of discussion of environmental topics, and in most cases, Individual Responses are provided specifically to those comments in Chapter 5 of this document. In addition, certain non-CEQA issues raised in comments are addressed (all or in part) in the other Consolidated Responses in this chapter.

4.This Consolidated Response 4.22, *General Non-CEQA*, responds to other recurring non-CEQA themes that are not closely related to any of the more specific Consolidated Response topics in this chapter. These General Non-CEQA themes do not address specific concerns with the Draft EIR and its evaluation of impacts or alternatives; they do not raise any environmental issues that are within the scope of CEQA. The specific non-CEQA themes addressed in this Consolidated Response tend to express opinions and the statements that are rarely accompanied with supporting evidence. Nevertheless, many of the themes address topics of valid concern to the community or the City. Moreover, because the comments were submitted during the public review period on the Draft EIR, they nonetheless constitute part of the public record that will be available to decision makers as part of this Response to Comments/Final EIR when they consider whether to approve or disapprove the Project.

4.22.1 Opinions on the Merits of the Project

This group of comments consists of opinions and observations of numerous commenters expressing support for or opposition to the proposed Project. Representative comments in support of the Project are wide ranging.

4.22.1.1 Project Support

The majority of comments that express merits and support for the Project are made by individuals of the public and address views that include approval of the new ballpark at Howard Terminal as essential to retaining the team in Oakland and bolster City pride and an affinity for the Oakland A's (Comments H2-3-42, I-50-1, I-82-7, and I-247-1). Many comments regarding the Project's merits base their position in their view of that the Project would deliver a range of benefits. For example, "a plethora of life-changing improvements for its residents including new parks and open space, cleaner air quality, housing, and jobs" (Comments I-337-1 and I-303-1) and "help[ing] the long languishing Jack London Square entertainment district area reach its full potential to be a bustling neighborhood with restaurants, entertainment and more" (Comment I-315-1), as well as "providing unobstructed public access to the waterfront in an area where that is currently not possible" (Comment I-234-1). Other comments focused on Project merits not directly associated with environmental factors under CEQA include BART's stating its "appreciation for the Project's efforts to create a vibrant, multi-faceted district that will attract residents, businesses, and visitors to a location that can be accessed by many travel modes" (Comment A-14-1).

4.22.1.2 Project Opposition

Comments opposing the Project based on non-CEQA topics refer to negative economic impacts of the Project on the City, Port and area (example, Comment O-14-1) (*see also Section 4.22.6, Financial Considerations, below)* and most frequently raise non-CEQA concerns related to the Project's displacement in areas of West Oakland and Chinatown—communities vulnerable to…economic displacement (Comment O-43-1) and that the Project will undermine the Port's economic competitiveness (Comments O-15-3 and O-32-1) (see also Consolidated Response 4.13, *Gentrification and Indirect Housing Displacement*). Also, several comments were received pertaining to the Coliseum, which are addressed in Consolidated Response 4.10, *Alternative 2: The Off-Site (Coliseum Area) Alternative*, which includes responses to non-CEQA comments on the merits of the Coliseum (see Section 4.10.5, *Merits of the Coliseum Alternative and Consideration of Alternatives by Decision Makers*).

Overall, as stated previously, none of these opinions pertaining to Project merits or lack thereof due to considerations not addressed by CEQA refer to the adequacy of the analysis in the Draft EIR or concern environmental effects under CEQA. This Consolidated Response is included to provide consideration of these comments by decision makers as part of the Project approval process.

4.22.2 Financial Considerations, Community Benefits, and Other Statements

This group of comments also consists of opinions and observations about financial aspects of the proposed Project, which are not directly related to the CEQA considerations. The majority of these comments are also made by individuals rather than agencies or organizations.

Several comments primarily challenge the integrity of the Oakland A's as an investor in the Oakland community, stating that the "only driving force I see behind this is all green bags and bags and bags of money!!" (Comment I-224-1), and "I am very disturbed by the audacity of the A's organization holding our city hostage to fulfill their grandiose and selfish efforts" (Comment I-272-1).

Numerous comments further question the A's commitment to its financial contribution to public infrastructure or other community benefits (Comments I-179-4, I-207-10 and O-39-4). Certain comments go further and urge that the City of Oakland not engage in any financial support for the team, as the A's are a profit making business, and that the City also not do so without a full analysis of the economic impact on taxpayers and an economic study detailing a breakdown of public vs private costs (Comments I-148-1 and I-341-1). Other comments contend that the public and private costs estimated to date for the Project could be better spend elsewhere, including vital City services, its budget deficit, and investments schools, public housing, community programs (Comments I-62-2, I-179-4 and H2-1-40), and challenging issues to public health and safety (Comment I-282-7).

These comments are referenced herein for consideration by decisionmakers as part of the Project approval process. None of these comments refer to the adequacy or accuracy of the Draft EIR or to environmental effects of the proposed Project. CEQA does not require the financial details of a proposed Project to be addressed in the EIR, only that the party(ies) responsible for implementation of all mitigation measures identified to address significant environmental impacts be detailed in an MMRP (which will also detail the timing and responsibility party(ies) for monitoring and compliance) (State CEQA Guidelines Section 15097).

4.23 Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations

Comments Addressed: A-3-10, A-14-16, O-11-14, O-11-20, O-27-23, O-27-36, O-27-70, O-27-72, O-29-70, O-29-72, O29-2-5, O29-2-9, O29-2-10, O29-2-11, O29-2-12, O29-2-13, O29-2-24, O29-2-36, O29-2-37, O29-2-40, O-31-7, O-31-9, O-43-8, O-45-21, O-45-27, O-57-7, O-62-59, O-63-7, O-63-14, O-63-34, I311-2-24, I311-2-28, I311-4-5, I311-4-16, I311-4-23, I311-5-12, I311-7-7, and I311-7-18.

Several comments request additional information regarding the effectiveness of the Transportation and Parking Demand Management Plan for non-ballpark development and the Transportation Management Plan for ballpark events. Some commenters express skepticism that the proposed Transportation Management Plan required by Mitigation Measure TRANS-1B will achieve the 20 percent reduction in vehicle trips that is required under AB 734. One commenter states that "there is no analysis as to how the TMP will reduce vehicle trips by 20 percent" and that "there is no reasonable basis to conclude that any of the items listed as priorities in the TMP (which have not been defined with specificity) will accomplish the 20 percent reduction in vehicle trips as required by AB 734" (Comment O-63-84) and goes on to state that the TMP measures may reduce vehicle trips by only 6%.

The Draft EIR (Appendix TRA.2) evaluated the effectiveness of both the Transportation Demand Management (TDM) Plan for the non-ballpark development and the Transportation Management Plan (TMP) for the ballpark. Because of the location of the Project in an area that has very good transit, bicycle, and pedestrian access with dispersed parking, it was concluded that both the TDM Plan and the TMP would achieve a 20 percent vehicle trip reduction even if all strategies were only moderately effective. The 6% outcome for TMP trip reductions suggested by one of the comments would occur if all trip reduction strategies were ineffective or barely effective. Conversely, if the Project sponsor were highly effective at implementing all of the TMP measures, then a vehicle trip reduction of over 20 percent could be achieved (Draft EIR Table 4.15-23).

Mitigation Measure TRANS-1a would implement the TDM Plan for non-ballpark development and Mitigation Measure TRANS-1b would implement the TMP for ballpark events. Both measures set forth a performance standard (20 percent vehicle trip reduction) and provide a list of required and possible measures by which non-ballpark development at the Project site and the ballpark would achieve the performance standard. As stated above, the TDM and TMP effectiveness memorandum included in Draft EIR Appendix TRA demonstrates that the mitigation measure

would be effective under a range of measures. As explained in Consolidated Response 4.2, *Deferral of Mitigation*, because the effectiveness of various vehicle trip reduction strategies is likely to change over time as there are changes in transit services, parking supplies, travel behavior, transportation pricing, and advances in technology, it would be impractical to lock in place a list of specific actions at the time the Project is approved, as the development sites within the Project would be built out over numerous years into the future and the Plan needs some flexibility to adjust to changes described above.

The City would ensure that the performance standards are met through ongoing monitoring as well as on-going program adjustments and, if necessary, enforcement actions of the non-ballpark development and the ballpark events. The Project sponsor would be responsible for developing, implementing, monitoring, and adjusting the plans, in coordination with the City. The City would be responsible for approving the initial plans and any subsequent updates, reviewing the monitoring reports, and confirming that the vehicle trip reductions achieve the performance standards. If the standards are not met, the City would require Corrective Action Plan(s) including strategies to bring the plans into conformance. If the Corrective Action Plan(s) do not bring the plan into conformance to meet the performance standards, the City would institute enforcement procedures consistent with the Project's Conditions of Approval and Oakland Planning Code Chapter 17.152. The enforcement actions would include a penalty at least sufficient to fund and manage transportation improvements that would bring vehicle trips to the targeted level.

Commenters also express concern that the strategies are "based on forcing traffic and vehicle trips to the surrounding areas" and therefore do not represent a true reduction in vehicle trips (Comment O-63-84). This assertion is inaccurate. Draft EIR Tables 4.15-29 and 4.15-30 (p. 4.15-167) are inclusive of attendees who drive regardless of where they choose to park. Although the TMP includes off-site parking supply management as a TMP Strategy, the TMP includes all ballpark attendees who drive and park under motor vehicle trips in its analysis of the 20% reduction.

This Consolidated Response provides additional analysis of the mandatory measures listed in the mitigation measures, along with the potential of other measures, to provide a greater understanding of the maximum potential trip reduction the measures could achieve if all feasible measures were implemented, and to identify the measures likely to have the greatest effect at reducing vehicle trips.

This Consolidated Response discusses the TDM measures included in the Project, as analyzed in the Draft EIR, where it is included as Mitigation Measure TRANS-1a for the non-ballpark TDM Plan and Mitigation Measure TRANS-1b for the TMP for the ballpark events. Specifically, this Consolidated Response compares the proposed TDM Plan and TMP to standardized measures, based on the current state of the practice.

The methods used to quantify the programs set forth in the mitigation measures are based on the 2010 California Air Pollution Control Officers Association's (CAPCOA's) report *Quantifying*

Greenhouse Gas Mitigation Measures (henceforth referred to as the "CAPCOA Report").[145] This publication represents the state of the practice in estimating VMT and GHG emissions reductions due to TDM measures, and is founded on a comprehensive review of available literature and case studies. The measures evaluated in this memorandum have guidance within the CAPCOA Report on how to calculate a VMT reduction based on local data and the details of a program. Vehicle trip reductions are only taken for those measures where VMT has a one-to-one correspondence with vehicle trip reduction.

The CAPCOA Report includes a comprehensive list of TDM measures with evidence supporting their ability to reduce VMT and vehicle trips. Because the Project sponsor seeks to reduce vehicle trips by at least 20 percent, in compliance with AB 734, the TDM Plan and the TMP include a variety of potential trip reduction measures, including those both mandatory under Mitigation Measure TRANS-1a and Mitigation Measure TRANS-1b, as well as a menu of additional measures that may be necessary for the Project to reach its target reduction percentage.

Notably, the TDM Plan and TMP included in the Draft EIR include both mandatory measures and a menu of additional measures to reflect that flexibility during implementation may be required, as some measures may be more (or less) effective than a typical level of efficacy. Throughout this Consolidated Response, *mandatory measures* refer to the measures included in Draft EIR Table 4.15-36, beginning on p. 4.15-184 of the Draft EIR. *Additional measures* refer to those measures listed beginning on p. 4.15-187 of the Draft EIR. *Ballpark mandatory measures* refer to those included in Mitigation Measure TRANS-1b, presented in bold in the list beginning on p. 4.15-195 of the Draft EIR. Some of these measures are now required measures as described below in the revised mitigation measure. *Ballpark non-mandatory measures* are the non-bolded additional measures in that same list. Appendix TRA.2 includes the evaluation of the effectiveness of both the TDM Plan and the TMP at reducing the project's vehicle trips. The following sections of this Consolidated Response provide additional analysis of the mandatory measures listed in the mitigation measures as well as the menu of additional measures.

4.23.1 Transportation and Parking Demand Management Measures by Applicability at Howard Terminal Site

The CAPCOA Report lists a total of 51 TDM strategies. These strategies are classified by how they are implemented and which populations they affect, and are organized into the following groupings:

- **Land Use/Location (nine strategies):** Strategies that are intended to reflect a project's overall location, its land use composition, and the available transportation network nearby. The strategies listed in this section are all included as part of the project's project description and location and included in its baseline trip generation (before TDM reductions are applied). Therefore, these reductions are included in the baseline trips from which the 20% reduction is measured which is a conservative analysis.

[145] California Air Pollution Control Officers Association (CAPCOA), *Quantifying Greenhouse Gas Mitigation Measures*, August 2010. Available at: http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf. Accessed January 22, 2021.

- **Neighborhood/Site Enhancements (nine strategies):** Strategies that typically involve a capital investment or infrastructure delivery, either at the site or in the immediately surrounding neighborhood. Most bicycle and pedestrian infrastructure is included in this category.
- **Parking Policy/Pricing (four strategies):** Strategies that include limiting or pricing the available parking supply are included in this group.
- **Commute Trip Reduction Programs (15 strategies):** Strategies that focus on changing the behavior of employees at the site. These measures have also been applied in non-employment-based settings and are expected to work to some degree even for other trips. Overall, these strategies focus on incentives, marketing, and services.
- **Transit System Improvements (six strategies):** These strategies include expanding transit services or providing additional transit amenities. Key strategies that increase levels of bus or rail service are included in this group.
- **Road Pricing/Management (four strategies):** These measures are focused on managing the larger roadway system, such as by implementing congestion pricing, contributing to major infrastructure projects, or managing overall traffic flow to reduce vehicle emissions.
- **Vehicles (three strategies):** Strategies that increase the share of electric or other zero-emission vehicles in the fleet, generally related to operations at a project site. These do not relate to trip reduction.

Of the categories listed above, Land Use/Location, Road Pricing/Management, and Vehicles are umbrella categories that are not within the scope of the Project's TDM Plan and TMP to reduce vehicle trips. Per the City's Transportation Impact Review Guidelines land use and location variables were used in developing the Project's trip generation, and as such, including them in the TDM Plan and TMP would include some level of double-counting reductions. The Project also lacks the authority to implement road pricing/management strategies and has a minimal number of vehicles associated with Project operations and the vehicle measures focus on GHG emission reductions, not trip reductions. This leaves 34 strategies available to the Project across the remaining four categories of reductions.

4.23.1.1 Neighborhood and Site Enhancements

Regarding neighborhood and site enhancements (**Table 4.23-1**) designed to reduce vehicle trips and VMT, the Project largely includes the measures named in the CAPCOA Report as part of its Project description or as an element of the Draft EIR Mitigation Measures. Strategies in this category that are ineffective at vehicle trip reduction for this project include implementing a neighborhood electric vehicle network because neighborhood electric vehicles are considered vehicle trips and the measures target GHG emissions reductions.

TABLE 4.23-1
NEIGHBORHOOD AND SITE ENHANCEMENT STRATEGIES— CAPCOA 2010

CAPCOA Reference	CAPCOA Measure Title	Included in the Project's TDM Plan?[1]	Caveats for Application by the Project
SDT-1	Provide Pedestrian Network Improvements	Yes—Infrastructure Improvements and Encourage Walking and Biking Mandatory measures: 7, 8, 10, 11, 16, 17 Additional measures: 3, 4, 5 Ballpark measures: 7, 9, 10	The Project is in a dense urban area, so a high level of baseline pedestrian activity is included in Project trip generation. Estimates of TDM effectiveness for the Project beyond baseline are reduced by 50% i.e., only partial credit is taken for resulting trip reduction reflecting the assumed high baseline activity.
SDT-2	Provide Traffic-Calming Measures	Yes—Infrastructure Improvements and Encourage Walking and Biking Mandatory measures: 4, 8, 16 Additional measures: 3 Ballpark measures: 7	The Project is in a dense urban area, so calming due to low vehicle speeds and overall walkable environment is partially included in Project trip generation. Estimates of TDM effectiveness for the Project beyond baseline are reduced by 50% i.e., only partial credit is taken for resulting trip reduction reflecting the assumed high baseline activity.
SDT-3	Implement a Neighborhood Electric Vehicle Network	No	**This strategy would not be effective at reducing vehicle trips and was not included in the TDM Plan or TMP.** Neighborhood electric vehicles are considered vehicle trips and the measure relates to reducing GHG emissions.
SDT-4	Create Urban Non-Motorized Zones	Partially—on game days, key streets surrounding the ballpark to become pedestrian plazas Included in Project description	In addition to roadway management on game days, the Project provides ample plaza and walkway space dedicated for pedestrian use. No reduction towards 20% taken.
SDT-5	Incorporate Bike Lane Street Design	Yes—Infrastructure Improvements and Encourage Walking and Biking Mandatory measures: 5, 10 Additional measures: 2 Ballpark measures: 8	Reductions are included in quantification for SDT-1 and SDT-2.
SDT-6 SDT-7	Provide Bicycle Parking	Yes—also included in Project description Mandatory measures: 9 Ballpark measures: 13, 14	Reductions are included in quantification for SDT-1 and SDT-2.
SDT-8	Provide Electric Vehicle Parking	No—included in Project description	Effectiveness is not calculated because EVs are still considered vehicle trips, but the Project provides EV parking.
SDT-9	Dedicate Land for Bike Trails	No—included in Project description	Reductions are included in quantification for SDT-1 and SDT-2.

NOTES:

[1] *Mandatory measures* refer to the measures included in Draft EIR Table 4.15-36, beginning on p. 4.15-184 of the Draft EIR. *Additional measures* refer to the measures listed beginning on Draft EIR p. 4.15-187. *Ballpark mandatory measures* refer to the measures included in Mitigation Measure TRANS-1b presented in **bold** in the list beginning on Draft EIR p. 4.15-195, some of which are required under the revised mitigation measure. *Ballpark non-mandatory measures* are non-bolded additional measures in that same list.

SOURCE: *Quantifying Greenhouse Gas Emissions*, CAPCOA (2010); Fehr & Peers, 2021.

4.23.1.2 Parking Policy and Pricing

The Project proposes to incorporate each of the parking policy and pricing measures (**Table 4.23-2**) presented and documented in the CAPCOA Report.

TABLE 4.23-2
PARKING STRATEGIES—CAPCOA 2010

CAPCOA Reference	CAPCOA Measure Title	Included in the Project's TDM Plan?[1]	Caveats for Application by the Project
PDT-1	Limit Parking Supply	Yes—included in Limited Parking Supply Additional measures: 20, 21	Baseline parking supply in surrounding area is already below typical suburban averages; therefore, further reducing supply is less effective than in suburban areas but still could reduce trips.
PDT-2	Unbundle Parking Costs from Property Costs	Yes—included in Parking Management Mandatory measures: 23 Additional measures: 17	The Project is in a dense urban area, and baseline trips may reflect some unbundled parking but is identified as an additional measure for the Project because of limited parking supply.
PDT-3	Implement Market Price Public Parking	Yes—included in Parking Management Mandatory measures: 12 Additional measures: 18, 19 Ballpark measures: 12	In typical urban environments, parking may already be paid; as such, this measure may not reach full effectiveness.
PDT-4	Require Residential Area Parking Permits	Yes—included in Parking Management Ballpark measures: 19, 20	Supportive measure only, designed to lessen effects of parking pricing and restrictions on existing residents and employers.

NOTES:
[1] *Mandatory measures* refer to the measures included in Draft EIR Table 4.15-36, beginning on p. 4.15-184 of the Draft EIR. *Additional measures* refer to the measures listed beginning on Draft EIR p. 4.15-187. *Ballpark mandatory measures* refer to the measures included in Mitigation Measure TRANS-1b presented in **bold** in the list beginning on Draft EIR p. 4.15-195 some of which are required under the revised mitigation measure. *Ballpark non-mandatory measures* are non-bolded additional measures in that same list.

SOURCE: *Quantifying Greenhouse Gas Emissions*, CAPCOA (2010); Fehr & Peers, 2021.

4.23.1.3 Commute Trip Reduction Programs/Transportation and Parking Demand Management Marketing Programs

The Project proposes to provide a comprehensive commute trip reduction marketing program, described under the *TDM Marketing and Education* category of the Project's TDM Plan and TMP. There are several named measures in the CAPCOA Report that are not included, however, given a desire to avoid double-counting (i.e., when two separate measures may reduce the same vehicle trip). In most cases, programs such as ridesharing or transit subsidies are provided either through a regional program or by employers, rather than by the Project sponsor. The Project would provide a robust trip reduction marketing program; however, the plan does not independently quantify many of the measures to reduce the tendency for double-counting. Measures from the CAPCOA Report are documented in **Table 4.23-3**.

In addition, measures specific to school trips (such as school buses and school pool programs) are excluded, as the Project does not propose to include a school.

TABLE 4.23-3
COMMUTE TRIP REDUCTION STRATEGIES—CAPCOA 2010

CAPCOA Reference	CAPCOA Measure Title	Included in the Project's TDM Plan? [1]	Caveats for Application by the Project
TRT-1	Implement Commute Trip Reduction Program (Voluntary)	Yes—not quantified, as this is an umbrella measure	This measure is presented in the CAPCOA Report as an alternative to indicating individual commute trip reduction measures. Guidance for calculating reductions is to either use the overarching TRT-1 or TRT-2 calculations or take the total of individual measures. The Project takes the total of the individual measures in the TRT section.
TRT-2	Implement Commute Trip Reduction Program (Required)		
TRT-3	Provide Ride-Sharing Programs	Yes—marketing promotion of ridesharing in TDM Marketing and Education Additional measures: 9, 12, 13	Regional ride matching services (such as 511.org) already exist and are not explicitly quantified, to avoid double-counting.
TRT-4	Implement Subsidized or Discounted Transit Program	Yes—included in Transit Fare Subsidies and Commute Benefits Additional measures: 6, 7, 10 Ballpark measures: 11	The Project will rely on future employers to provide employee transit benefits. Reductions are quantified at a 50% subsidy for non-ballpark development and 100% subsidy for ballpark event attendees.
TRT-5	Provide End of Trip Facilities	Yes—included in Project description and Encourage Walking and Bicycling	The effectiveness calculation is included under SDT-2.
TRT-6	Encourage Telecommuting and Alternate Work Schedules	Yes—telecommuting strategies in place and included in trip generation Additional measures: 22, 23, 24	There is potential for more telecommuting. The measure is the responsibility of employer tenants rather than the Project sponsor, and as such is not explicitly quantified.
TRT-7	Commute Trip Reduction Marketing	Yes—included in TDM Marketing and Education Additional measures: 9, 13, 15, 16	This measure largely applies to commute trips by on-site employees; however, it is reasonable to expect that marketing and programs would also influence residents at 30% effective and ballpark visitors at 25% as compared to employee reductions.
TRT-8	Implement Preferential Parking Permit Program	Yes—included in Parking Management Additional measures: 12	N/A to trip reduction.
TRT-9	Implement Car-Sharing Program	Yes—included as Carshare Parking Spaces	N/A the maximum effectiveness in urban area is already reached with number of carshare spaces required by City.
TRT-10	Implement a School Pool Program	No—not applicable	This measure does not apply to the Project, as it does not include a school component.
TRT-11	Provide Employer-Sponsored Vanpool/Shuttle	No—responsibility of employers through TDM Marketing and Education	This measure refers to long-distance shuttles ("tech buses" and similar). Last-mile shuttles are discussed under Transit System Improvements.
TRT-12	Bike-Sharing Programs	Yes—includes potential to dedicate additional space for bikeshare stations Additional measure: 14 Ballpark measure: 14	The Project provides space for bikeshare stations; development depends on coordination with regional bike/scooter-share providers.

TABLE 4.23-3 (CONTINUED)
COMMUTE TRIP REDUCTION STRATEGIES—CAPCOA 2010

CAPCOA Reference	CAPCOA Measure Title	Included in the Project's TDM Plan? [1]	Caveats for Application by the Project
TRT-13	School Bus Program	No—not applicable	This measure does not apply to the Project, as it does not include a school component.
TRT-14	Price Workplace Parking	Yes—included in Parking Management Additional measure: 18 Ballpark measure: 12	Considered as part of parking measures and not explicitly quantified, to avoid double-counting.
TRT-15	Implement Employee Parking "CasH-Out"	No—strategy is incompatible with pricing workplace parking; however, if parking is not subject to price floor, this could be implemented	Under California state law, employers must provide parking cash-out if they lease spaces off-site for employees and provide them as a benefit; however, this is not quantified as part of the Project because spaces are not leased off-site for employees.

NOTES:
[1] *Mandatory measures* refer to the measures included in Draft EIR Table 4.15-36, beginning on p. 4.15-184 of the Draft EIR. *Additional measures* refer to the measures listed beginning on Draft EIR p. 4.15-187. *Ballpark mandatory measures* refer to the measures included in Mitigation Measure TRANS-1b presented in **bold** in the list beginning on Draft EIR p. 4.15-195 some of which are required under the revised mitigation measure. *Ballpark non-mandatory measures* are non-bolded additional measures in that same list.

SOURCE: *Quantifying Greenhouse Gas Emissions*, CAPCOA (2010); Fehr & Peers, 2021.

4.23.1.4 Transit System Improvements

The project proposes to facilitate transit primarily through infrastructure improvements and development of the Transportation Hub. Because the area is already served by AC Transit and nearby ferry service, there is limited applicability for many of the CAPCOA Report's measures (**Table 4.23-4**), as the Project is expected to have relatively high levels of transit mode share even without the proposed mitigation measures. In addition, enhanced transit service cannot be considered a guaranteed element of the TDM Plan, as it would require negotiation with AC Transit and other transit agencies. A given LOS improvement cannot be guaranteed; however, reductions are presented using reasonable assumptions for increases in service.\

4.23.2 Updated Vehicle Reduction Estimates

Initial estimates of the vehicle trip reduction potential of the Project's TDM plan and TMP were presented in a December 1, 2020, memorandum to the City of Oakland (Draft EIR Appendix TRA.2). The memorandum evaluated Mitigation Measure TRANS-1a which would implement a TDM plan for the non-ballpark development and Mitigation Measure TRANS-1b which would implement a TMP for the ballpark events. The methods used to quantify the mitigation measures were based on the CAPCOA Report and presented a range of effectiveness depending on the mandatory and a menu of additional measures selected and their effectiveness and concluded that the TDM Plan and the TMP could achieve the 20 percent trip reduction performance standard with a moderately successful program incorporating both mandatory and a menu of additional measures. Multiple comments were received on the Draft EIR questioning whether the plan presented and assessed in the Draft EIR represented the maximum feasible mitigation to reduce significant and unavoidable impacts on air quality. There are also some comments reflecting preferences for certain measures and questioning the effectiveness of the programs in meeting the 20% reduction.

TABLE 4.23-4
TRANSIT SYSTEM IMPROVEMENT STRATEGIES—CAPCOA 2010

CAPCOA Reference	CAPCOA Measure Title	Included in the Project's TDM Plan? [1]	Caveats for Application by the Project
TST-1	Provide a Bus Rapid Transit System	Partially—under Transit Operations, 72R will be extended to provide service Mandatory measures: 1, 2, 3, 4, 6, 18, 19, 21 Additional measures: 5, 8 Ballpark measures: 1, 2, 3, 4, 5, 15	AC Transit Line 72R has elements of bus rapid transit; however, features of that service were included as part of the development of baseline trip generation, and as a result, it is not quantified here to reduce double-counting.
TST-2	Implement Transit Access Improvements	Yes—Transportation Hub allows for enhanced transit use and pedestrian access Additional measures: 8 Ballpark measures: 1, 5	This is the most appropriate quantification category for development of the Transportation Hub; however, the Hub also provides multiple other benefits with respect to walking and biking.
TST-3	Expand Transit Network	Yes—included under Transit Operations Additional measures: 8 Ballpark measures: 1, 2, 3, 4, 5, 15	Quantification assumes a 25% increase in the number of buses per hour/overall connections. This is equivalent to one additional AC Transit line serving the Project or a private shuttle service with 10-minute headways for the non-ballpark portion of the Project.
TST-4	Increase Transit Service Frequency/Speed		
TST-5	Provide Bike Parking Near Transit	Yes—included in Transportation Hub Additional measures: 1	The CAPCOA Report does not quantify reductions due to bicycle parking near transit or other co-benefits of a multimodal transportation hub; quantification is included in measure TST-2.
TST-6	Provide Local Shuttles	Yes—included under Transit Operations Ballpark measures: 6	Effectiveness of last-mile shuttles from West Oakland or Lake Merritt BART would be based on travel time savings compared to walking and reduced by 75% i.e., only partial credit is taken for resulting trip reduction reflecting that most people using the last-mile shuttle are already using BART as their primary travel mode to a ballpark event.

NOTES:
[1] *Mandatory measures* refer to the measures included in Draft EIR Table 4.15-36, beginning on p. 4.15-184 of the Draft EIR. *Additional measures* refer to the measures listed beginning on Draft EIR p. 4.15-187. *Ballpark mandatory measures* refer to the measures included in Mitigation Measure TRANS-1b presented in **bold** in the list beginning on Draft EIR p. 4.15-195 some of which are required under the revised mitigation measure. *Ballpark non-mandatory measures* are non-bolded additional measures in that same list.

SOURCE: *Quantifying Greenhouse Gas Emissions*, CAPCOA (2010); Fehr & Peers, 2021.

Table 4.23-55 shows each measure recommended for inclusion in Mitigation Measure TRANS-1a and TRANS-1b, both mandatory and part of a menu of additional measures, and includes reduction estimates to reflect the average expected effectiveness by population (employees, residents, non-ballpark visitors, and ballpark visitors). The effectiveness of the menu of additional measures in Table 4.23-5 are shown in *italics*. This table differs from Draft EIR Appendix TRA-2 in that this table presents the effectiveness of only the mandatory measures listed in the mitigation measures and then the effectiveness of all feasible measures. Whereas Appendix TRA-2 documented a range of effectiveness depending on the mix of mandatory measures and those from the menu of additional measures.

As shown in Table 4.23-5, implementation of only the mandatory measures listed in Mitigation Measure TRANS-1a, and the mandatory measures listed in Mitigation Measure TRANS-1b, would result in a 12.5 percent reduction in total weekday non-ballpark trips and a 16.8 percent reduction in ballpark trips. These percentages represent the sum of the individually grouped measures in Table 4.23-5. This is because of the relative ineffectiveness of the mandatory TDM measures at targeting residents and non-event visitors. All measures (mandatory and those additional measures listed on the menu) listed in Mitigation Measure TRANS-1a and Mitigation Measure TRANS-1b are expected to result in an average reduction of 22.8 percent of weekday non-ballpark trips, and 23.6 percent of ballpark trips. These results are consistent with the Appendix TRA.2 findings that a 20% vehicle trip reduction performance standard can be achieved with a moderately successful program incorporating mandatory measures in combination with those on the menu of additional measures. AB 734 requires trip reductions of 20% and the performance standards in Mitigation Measures TRANS-1a and TRANS-1b are consistent with that requirement and are not proposed for change.

The TDM Plan and TMP include both mandatory measures and a menu of additional measures to reflect that flexibility during implementation may be required, as some measures may be more (or less) effective than a typical level of efficacy. Also as noted previously in the Consolidated Response the effectiveness of various vehicle trip reduction strategies is likely to change over time as there are changes in transit services, parking supplies, travel behavior, transportation pricing, and advances in technology. It would be impractical to lock in place a list of specific actions at the time the Project is approved because the Project would be built out and the ballpark operated over numerous years into the future and the Plan needs some flexibility to adjust to changes described above

4.23.2.1 Draft EIR Text Edits Mitigation Measure TRANS-1a and 1b

In response to comments received on the Draft EIR, and consistent with this Consolidated Response 4.23, *Transportation and Parking Demand Management Plan and Transportation Management Plan Considerations*, Mitigation Measure TRANS-1a and Mitigation Measure TRANS-1b are amended as follows (additions are underlined and deletions are ~~crossed out~~):

> **Mitigation Measure TRANS-1a: Transportation and Parking Demand Management (TDM) Plan.**
>
> This mitigation measure ~~is intended to~~will ensure that the Project achieves a 20 percent project VTR for the non-ballpark development over conditions without a TDM Plan, as prescribed in AB 734.
>
> A separate TDM Plan shall be prepared for each building within the non-ballpark development unless otherwise approved by the City. The building owner or their designee shall submit a Transportation and Parking Demand Management (TDM) Plan for the non-ballpark development for review and approval by the City prior to building occupancy. A draft TDM Plan is included in Draft EIR Appendix TRA. To ensure implementation of the TDM Plan, the building owners or their designees shall actively participate in a Transportation Management Association (TMA) to be established by the Project sponsor prior to occupancy of the first non-ballpark building. The TMA at a

minimum covers the non-ballpark development for the site but could also cover the ballpark or additional development in Jack London District and potentially downtown.

The goals of the TDM Plan shall be the following:

- Reduce vehicle traffic and parking demand generated by the Project to achieve at least a 20% reduction in vehicle trips. ~~the maximum extent practicable.~~
- Prioritize pedestrian, bicycle, transit, and carpool/vanpool modes of travel. All four modes of travel shall be considered, as appropriate.
- Enhance the City's transportation system, consistent with City policies and programs.

The TDM Plan shall include the baseline calculations of non-ballpark development vehicle trips. These will be the baseline measurements that the TDM Plan will be measured against.

The TDM Plan shall comply with the requirements of AB 734 (Section 21168.6.7(a)(3)(A)(iii)), which states that the Project must have a TDM Plan that achieves a 20 percent reduction in vehicle trips as compared to operations absent the plan. A separate TDM Plan shall be prepared for each building in the non-ballpark development, unless otherwise approved by the City. The TDM plan for each building shall achieve the 20 percent reduction within one year after the completion of that building. The TDM Plan for each building shall include the mandatory measures identified in this measure and additional~~a range of~~ services and programs ~~designed~~ as necessary to meet the 20 percent reduction~~, such as providing incentives for transit usage and carpools, bicycle parking and support, signage, and real-time transit information~~.

As stated in Table 4 of the City's *Transportation Impact Review Guidelines*, the following TDM strategies (**Table 4.15-36**) are required to be incorporated into the TDM Plan based on the project location or other characteristics. These strategies should be identified as a credit toward a project's VTR.

TABLE 4.15-36
NON-BALLPARK DEVELOPMENT TRANSPORTATION AND PARKING DEMAND MANAGEMENT PLAN CONSISTENCY WITH CITY'S TRANSPORTATION IMPACT REVIEW GUIDELINES

Improvement	Required by Code or When …	Required for Proposed Project?
1. Bus boarding bulbs or islands	• A bus boarding bulb or island does not already exist, and a bus stop is located along the project frontage; and/or • A bus stop along the project frontage serves a route with 15 minutes or better peak hour service and has a shared bus-bike lane curb	**Yes.** The Transportation Hub (Mitigation Measure TRANS-1c) on 2nd Street would, depending on design, provide bus boarding bulbs or islands.
2. Bus shelter	• A stop with no shelter is located within the project frontage, or • The project is located within 0.10 miles of a flag stop with 25 or more boardings per day	**Yes.** The Transportation Hub (Mitigation Measure TRANS-1c) on 2nd Street would include bus shelters or other, comparable amenities.
3. Concrete bus pad	• A bus stop is located along the project frontage and a concrete bus pad does not already exist	**Yes.** The Transportation Hub (Mitigation Measure TRANS-1c) on 2nd Street would incorporate concrete bus pads.

TABLE 4.15-36 (CONT.)
NON-BALLPARK DEVELOPMENT TRANSPORTATION AND PARKING DEMAND MANAGEMENT PLAN CONSISTENCY WITH CITY'S TRANSPORTATION IMPACT REVIEW GUIDELINES

Improvement	Required by Code or When …	Required for Proposed Project?
4. Curb extensions or bulb-outs	• Identified as an improvement within site analysis	**Yes.** Project would construct bulb-outs where additional pedestrian waiting space is needed at intersections and where truck and emergency access can still be accommodated (Mitigation Measure TRANS-1e).
5. Implementation of a corridor-level bikeway improvement	• A buffered Class 2 or Class 4 bikeway facility is in a local or county adopted plan within 0.10 miles of the project location: and • The project would generate 500 or more daily bicycle trips	**Yes.** Bike lanes on Martin Luther King Jr. Way between the site and 8th Street (Mitigation Measure TRANS-2b); on 7th Street between Mandela Parkway and Martin Luther King Jr. Way (Mitigation Measure TRANS-2a); on Embarcadero West, south side of the railroad tracks, between Martin Luther King Jr. Way and Washington Street and potentially to Broadway (Mitigation Measure TRANS-3a); and completed bike lanes on Washington Street between Embarcadero West and 10th Street (Mitigation Measure TRANS-2c) would constitute multiple corridor-level bikeway improvements.
6. Implementation of a corridor-level transit capital improvement	• A high-quality transit facility is in a local or county adopted plan within 0.25 miles of the project location; and • The project would generate 400 or more peak period transit trips	**Yes.** The Transportation Hub on 2nd Street (Mitigation Measure TRANS-1c) together with bus-only lanes on Broadway to connect the Transportation Hub and the 12th Street BART Station (Mitigation Measure TRANS-1d) would constitute a corridor-level transit capital improvement,
7. Installation of amenities: lighting; pedestrian-oriented green infrastructure, trees, and greening landscape; trash receptacles per Pedestrian Master Plan and applicable streetscape plans.	• Always required	**Yes.** Pedestrian amenities to be installed throughout the site together with off-site upgrades to sidewalks, lighting, curb ramps, and crosswalks on several transportation corridors serving the Project (Mitigation Measure TRANS-1e).
8. Installation of safety improvements identified in the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.)	• When improvements are identified in the Pedestrian Master Plan along project frontage or at an adjacent intersection	**Yes.** Construct railroad safety improvements between Schnitzer Steel and Broadway which requires CPUC approval (Mitigation Measure TRANS-3a). Pedestrian safety improvements to be installed throughout the site together with off-site upgrades to sidewalks, lighting, curb ramps, and crosswalks on several transportation corridors serving the Project (Mitigation Measure TRANS-1e).
9. In-street bicycle corral	• A project includes more than 10,000 square feet of ground floor retail, is located along a Tier 1 bikeway, and on-street vehicle parking is provided along the project frontages.	**Yes.** In-street bicycle corrals or bicycle parking of similar ease and density to be provided on-site.
10. Intersection improvements[a]	• Identified as an improvement within site analysis	**Yes.** On- and off-site intersections would be designed to address these concerns.

TABLE 4.15-36 (CONT.)
NON-BALLPARK DEVELOPMENT TRANSPORTATION AND PARKING DEMAND MANAGEMENT PLAN CONSISTENCY WITH CITY'S TRANSPORTATION IMPACT REVIEW GUIDELINES

Improvement	Required by Code or When …	Required for Proposed Project?
11. New sidewalk, curb ramps, curb and gutter meeting current City and ADA standards	• Always required	**Yes.** All on-site sidewalks, curb ramps, curbs, and gutters would meet current City and ADA standards.
12. No monthly permits and establish minimum price floor for public parking[b]	• If proposed parking ratio exceeds 1:1000 sf. (commercial)	**Yes.** ~~In commercial developments where the parking ratio exceeds 1:1,000 sq. ft., no monthly.~~ Monthly permits would be prohibited ~~offered~~ for all publicly available spaces, and a price floor would be established for all publicly available parking.
13. Parking garage is designed with retrofit capability	• Optional If parking ratio exceeds 1.25 spaces per unit (residential) or 1:1000 sf. (commercial)	**Yes.** Residential parking would be limited to 1 space per unit. Commercial developments with parking more than 1:1,000 sq. ft. could be designed with retrofittable garages.
14. Parking space reserved for car share	• If a project is providing parking and a project is located within downtown. One car share space reserved for buildings between 50 and 200 units, then one car share space per 200 units.	**Yes.** Project would include car share parking that meets these residential ratios and car share parking for commercial parking at one car share space per 200 parking spaces. And regularly monitor car share parking usage and adjust, as necessary.
15. Paving, lane striping or restriping (vehicle and bicycle), and signs to midpoint of street section	• Typically required	**Yes.** All on-site streets would be newly constructed.
16. Pedestrian crossing improvements	• Identified as an improvement within site analysis	**Yes.** New on-site streets and intersections as well as off-site transportation improvements would include the pedestrian crossing features.
17. Pedestrian-supportive signal changes[c]	• Identified as an improvement within operations analysis	**Yes.** All new and modified on- and off-site signals would have pedestrian supportive signal features.
18. Real-time transit information system	• A project frontage block includes a bus stop or BART station and is along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better	**Yes.** The Transportation Hub (Mitigation Measure TRANS-1c), each building, and the ballpark would make real time transit information available for transit serving the Hub, BART, Amtrak, and ferries.
19. Relocating bus stops to far side	• A project is located within 0.10 miles of any active bus stop that is currently on the near side	**Yes.** Construct Transportation Hub on 2nd Street (Mitigation Measure TRANS-1c). Bus stops would either have parallel pull-in or saw-tooth designs depending on Class 2 Bike Lanes and parking priorities.
20. Signal upgrades[d]	• Project size exceeds 100 residential units, 80,000 sf. of retail, or 100,000 sf. of commercial; and • Project frontage abuts intersection with signal infrastructure older than 15 years	**Yes.** All new and upgraded traffic signals, whether on- or off-site, would meet city standards in effect at the time of installation or upgrade.

TABLE 4.15-36 (CONT.)
NON-BALLPARK DEVELOPMENT TRANSPORTATION AND PARKING DEMAND MANAGEMENT PLAN CONSISTENCY WITH CITY'S TRANSPORTATION IMPACT REVIEW GUIDELINES

Improvement	Required by Code or When …	Required for Proposed Project?
21. Transit queue jumps	• Identified as a needed improvement within project operations analysis with frontage along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better	**Yes.** The bus-only lanes on Broadway between Embarcadero West and 11th Street (Mitigation Measure TRANS-1d) function as transit queue jumps.
22. Trenching and placement of conduit for providing traffic signal interconnect	• Project size exceeds 100 units, 80,000 sf. retail, or 100,000 sf. commercial; and • Project frontage block is identified for signal interconnect improvements as part of a planned ITS improvement; and • A major transit improvement is identified within operations analysis requiring traffic signal interconnect	**Yes.** New and modified traffic signal installations, whether on- or off-site, would be interconnected to City standards at the time of installation or upgrade.
23. Unbundled parking	• If proposed parking ratio exceeds 1.25 spaces per unit (residential)	**Yes.** Residential parking would be unbundled from residential leases and residential purchases. ~~limited to 1 space per unit. Therefore, unbundled parking not required.~~

NOTES:
a Such as visibility improvements, shortening corner radii, pedestrian safety islands, accounting for pedestrian desire lines.
b May also provide a cash incentive or transit pass alternative to a free parking space in commercial properties.
c Including but not limited to reducing signal cycle lengths to less than 90 seconds to avoid pedestrian crossings against the signal, providing a leading pedestrian interval, provide a "scramble" signal phase where appropriate.
d Including typical traffic lights, pedestrian signals, bike actuated signals, transit-only signals.

SOURCES: City of Oakland Transportation Impact Review Guidelines, 2017.

The performance venue shall establish a TDM Plan that incorporates traffic management strategies to minimize its traffic impact on neighboring communities, including the Seaport, that may include traffic and/or parking control offices or other personnel acceptable to the City to manage traffic at key intersections and railroad crossings.

Other TDM strategies, some of which are described in City's *Transportation Impact Review Guidelines*, that could be ~~considered~~ included for each building in the non-ballpark development as needed to meet the 20% trip reduction requirement include, but are not limited to, the following, as well as applicable strategies that may be stipulated in Transportation Management Plan for the ballpark (Mitigation Measure TRANS-1b). The required strategies noted below shall apply to all TDM Plans for the non-ballpark development:

1. Provide long-term and short-term bicycle parking and (for commercial uses) shower and locker facilities more than the minimums set forth in chapter 17.117 of the Oakland Planning Code. (Optional)

2. Provide additional access to bikeways per the Let's Bike Oakland Plan: construction of priority bikeway projects, on-site signage, and bike lane striping. (Optional)

3. Provide additional safety elements per the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count-down signals, bulb outs, etc.) to encourage convenient and safe crossing at arterials, in addition to safety elements required to address safety impacts of the project. (Optional)

4. Provide additional amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan Update, the Master Street Tree List and Tree Planning Guidelines, which can be viewed at http://www2.oaklandnet.com/oakca1/groups/pwa/documents/report/oak042662.pdf and http://www2.oaklandnet.com/oakca1/groups/pwa/documents/form/oak025595.pdf, respectively) and any applicable streetscape plan. (Optional)

5. Provide additional transit stops/shelters, pedestrian access, way finding signage, and lighting around transit stops per transit agency plans or negotiated improvements. (Optional)

6. Provide direct on-site sales of transit passes purchased and sold at a bulk group rate (through programs such as AC Transit Easy Pass or a similar program through another transit agency). (Optional)

7. Provide transit subsidy to employees ~~or~~ and residents (per bedroom) in the form of an AC Transit EasyPass (currently up to $154.10 per year per person) or Clipper Card loaded with the equivalent of half of an AC Transit unlimited monthly pass (currently $42.30 per month per person). (Required)

8. Provide ongoing contribution to transit service to the area between the Project and nearest mass transit station prioritized as follows: (1) Contribution to AC Transit bus service such as extending Line 6 to the Project; (2) Contribution to an existing area shuttle or streetcar service; ~~and~~ or (3) Establishment of new shuttle service with 10 minute headways during peak demand periods. ~~The amount of contribution (for any of the above scenarios) would be based upon the cost of establishing new shuttle service (Scenario3).~~ (Required)

9. Provide guaranteed ride home program for employees, either through 511.org or through separate program. (Optional)

10. Provide pre-tax commuter benefits (commuter checks) for employees. (Optional)

11. Provide free designated parking spaces for on-site car-sharing program (such as City Car Share, Zip Car, etc.) and/or car-share membership for employees or tenants. Designate at least the minimum number of on-site residential parking spaces for car-sharing (as required by Oakland Municipal Code, Section 17.116.105). (Required)

12. Provide on-site carpooling and/or vanpooling program that includes preferential (discounted or free) parking for carpools and vanpools. (Optional)

13. Provide information concerning alternative transportation options. (Optional)

14. Sponsor a bike share station in the project vicinity. (Optional)

15. Designate a staff person from each tenant as their TDM representative to coordinate, monitor, and publicize TDM activities that are being implemented by the building management. (Optional)

16. Designate a TDM representative for the building management that coordinates TDM strategies with residents and tenants, participates in the Transportation Management Association, and oversees the annual building TDM Plan monitoring. (Required)

17. Provide parking spaces sold/leased separately for residential units (Required) ~~(as required by Oakland Municipal Code, Section 17.116.310)~~ and for office and commercial uses (Required).

18. Charge employees for parking or provide a cash incentive or transit pass alternative to a free parking space ~~in commercial~~ for all non-residential properties. (Optional)

19. Prohibit monthly parking permits and establish a minimum price floor for publicly accessible parking. (Required)

20. Provide less parking than parking demand ~~for residential and commercial uses~~with the following maximums at buildout: 0.85 spaces per residential unit; 2.0 spaces per ksf for office; 2.6 spaces per ksf for commercial i.e., restaurant, retail, entertainment; and 0.5 spaces per hotel unit (Required).

21. Provide shared parking opportunities and/or parking districts to optimize parking use without increasing vehicle trip reduction goals. (Optional)

22. Allow employees to work off-site. (Optional)

23. Allow employees to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite (e.g., working four, ten-hour days; allowing employees to work from home two days per week). (Optional)

24. Allow employees to stagger work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours. (Optional)

The TDM Plan shall include an ongoing monitoring and enforcement program to ensure that the TDM Plan is implemented on an ongoing basis during project operation. The program shall comply both with the AB 734 legislation as well as the requirements of the Oakland Municipal Code Chapter 10.68 (Employer-Based Trip Reduction Program). The TDM Plan shall also specify the topics to be addressed in an annual report as explained below. A separate TDM Plan shall be prepared for each building (unless otherwise approved by the City) prior to building occupancy.

- TDM Implementation – For VTR strategies involving physical improvements, the Project sponsor shall obtain the necessary permits/approvals from the City and install the improvements prior to the completion of the Project Phase 1 unless the physical improvement is required as part of a specific building in which case the improvement must be completed prior to occupancy of the building in question. All other TDM strategies shall be implemented per each building's TDM Plan.

- TDM Monitoring – The owner or their designee for each building of the non-ballpark development, through the TMA, shall submit an annual compliance report each year through and including the fifth year following buildout of the non-ballpark development for review and approval by the City. The annual report shall document the status and effectiveness of the TDM strategies, including the actual VTR achieved during building operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the building's owner or their designee, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the building has failed to achieve the VTR goal, additional measures shall be

implemented until the goal is met. If in two successive years, the VTR goals are not satisfied, the building's owner or their designee shall prepare and submit for City Staff approval a Corrective Action Plan to bring the TDM Plan into conformance with VTR goals. The Corrective Action Plan shall detail the additional measures for the building to be implemented and their expected vehicle trip reduction. If the required automobile trip reduction target is still not being met one year after the Corrective Action Plan is implemented, or if the building's owner or manager fails to submit the reports described above, or if the reports do not meet City requirements, the building will be considered in violation of the Mitigation Measure and the City may initiate enforcement action as provided for in the Project's Conditions of Approval and Oakland Planning Code Chapter 17.152, including but not limited to imposition of a penalty, in an amount to be determined by the City, at least sufficient to fund and manage transportation improvements that would bring vehicle trips to the targeted level.

Mitigation Measure TRANS-1b: Transportation Management Plan.

The Project sponsor shall submit a draft Transportation Management Plan (TMP) for the ballpark for review and approval by the City together with its application for building permits for the ballpark. The TMP shall incorporate by reference Mitigation Measure TRANS-1a, which shall apply to the ballpark employees. The TMP shall outline operational strategies to optimize access to and from the ballpark within the constraints inherent to a large public event. The TMP must be approved by the City prior to the issuance of the Temporary Certificate of Occupancy for the ballpark. The TMP will be a living document requiring periodic updates over time as travel patterns change because of development and changes to transportation infrastructure and operations. All revisions to the TMP shall be subject to the review and approval of the City.

The following are the City's overarching goals for the TMP:

- To ensure improvements benefit the community at large and contribute to equitable opportunities for all people and communities.
- To provide residents, workers, and visitors with safe, efficient, affordable, convenient, and reliable mobility options including public transit, walking, carpooling, and biking.
- To manage how the project interacts with the surrounding area, including residential neighborhoods, the Port of Oakland, and local industries and businesses.

The City of Oakland has prioritized walking and public transit as critical to achieving these goals. Transit will have minimal impacts on community, neighborhood and Port operations, the environment, and safely move the maximum number of people. The TMP shall have the following high-level objectives.

- Minimize auto mode share to achieve at least a 20% reduction in vehicle trips. ~~and reduce vehicle trips and parking demand generated by the project to the maximum extent practicable.~~
- Facilitate and promote safe use of non-automobile transportation by people attending and supporting ball games and other events as well as other uses on-site.

- Highlight and optimize the use of transit by attendees and employees to ball games and other events.
- Facilitate and maximize bicycle use by attendees and employees to ball games and other events.
- Facilitate a high-quality walking experience to the ballpark from adjacent neighborhoods by identifying key walking routes and major street crossing locations, so that wayfinding, infrastructure improvements, and/or personnel (e.g., traffic control officers, parking control officers, or other personnel acceptable to the City) can be located at critical points to manage the interaction of pedestrians and vehicles during medium and large events.
- Maximize safety for all transportation users at key locations in and around the ballpark and broader neighborhood during event ingress and egress.
- Minimize conflicts between ridesourcing, i.e., Lyft, Uber, and taxi operations and key transit, walking, biking, and Port truck access streets near the ballpark.
- Facilitate the safe and efficient flow of vehicle traffic into and out of the site and the adjacent neighborhoods during event and no-event conditions.
- Minimize event-related vehicular, bicycle, and pedestrian impacts to surrounding residential and commercial areas, including warehouse and industrial operations and the Port.
- Minimize conflicts with Seaport operations, including freight movement by roadway and rail.

The TMP shall include the baseline calculations of ballpark development vehicle trips as set forth in the EIR, which would reflect the ballpark at the Project site absent a TMP. These will be the baseline measurements that the TMP will be measured against.

A Parking Management Plan for the ballpark shall be one component of the TMP. But the TMP shall have many other elements as described below including modal strategies addressing transit, pedestrians, bicycles, automobiles, parking, and ridesourcing, i.e., Lyft, Uber, and taxis. The TMP shall address the railroad crossings, event-day operations and communication, curb management, freight, and emergency vehicle access. The TMP shall provide the framework for monitoring, refinement, and performance standards. Refer to the Draft TMP in Appendix TRA for more details.

The TMP shall comply with requirements of AB 734 (Section 21168.6.7(a)(3)(A)(iii)), which states that the Project must have a TMP that achieves a 20 percent reduction in vehicle trips as compared to operations absent the plan. The TMP for the ballpark development shall achieve the 20 percent reduction within one year after the completion of the first baseball season. The TMP shall include mandatory measures set forth herein and a menu of additional measures to meet the 20% reduction, ~~a menu of options~~ including permanent infrastructure changes and operational changes designed to reduce the number of vehicle trips, including temporarily expanding the capacity of bus transit, as appropriate, to serve the baseball park events, use of traffic and/or parking control officers or other personnel acceptable to the City to manage the flow of people to and from the ballpark, and a range of services and programs to reduce vehicle trips~~designed~~

~~to meet the 20 percent reduction~~, including providing incentives for transit usage and carpools, bicycle parking and support, signage, and real-time transit information.

The City identified the following priorities for the TMP that are consistent with the City of Oakland's Transit First Policy as well as AB 734. The~~se strategies are preferred by the City and~~ strategies in **bold** ~~represent strategies that~~ are ~~expected~~ mandatory to be implemented by opening day of the ballpark and will be adopted as specific mitigation measures (as identified below) or conditions of approval, as applicable.

1. **Extending transit service such as Line 6, 72, 72M, and 72R to and constructing the Transportation Hub on 2nd Street in coordination with AC Transit and the City of Oakland. ~~(Required as Mitigation Measure TRANS-1c)~~**

2. Additional regular AC Transit bus service connecting the Project site to Downtown, as well as the West Oakland, 12th Street, and Lake Merritt, BART stations.

3. **Bus priority lanes serving the 12th Street BART station and Downtown Oakland to increase the speed, reliability, and attractiveness of transit services. (Required as Mitigation Measure TRANS-1d)**

4. Bus priority lanes serving the West Oakland and Lake Merritt BART stations to increase the speed, reliability, and attractiveness of transit services.

5. **Supplemental shuttle service (provided by AC Transit or a private operator) to the 12th Street BART station using high capacity multidoor buses to increase frequency and capacity of transit connections to BART stations on event days.**

6. Supplemental shuttle service (provided by AC Transit or a private operator) to either the West Oakland and/or Lake Merritt BART stations using high capacity multidoor door buses to increase frequency and capacity of transit connections to BART stations on event days.

7. **Pedestrian improvements along 7th Street, Market Street, Martin Luther King Jr. Way, Washington Street, ~~and~~ Broadway and 8th Street connecting the BART stations and the ballpark as well as improvements on streets serving the Transportation Hub and the Pedestrian Bridge over the railroad tracks. (Required as Mitigation Measure TRANS-1e and TRANS-3b)**

8. **Bicycle network improvements on 7th Street, Market Street, Martin Luther King Jr. Way, Washington Street, and 2nd Street. (Required as Mitigation Measure TRANS-2a, TRANS-2b, and TRANS-2c)**

9. **Wayfinding between the West Oakland BART station and the ballpark via 7th Street, between the 12th Street BART station and the ballpark via Broadway and Washington Street, and between the Lake Merritt BART station and the ballpark via 8th Street.**

10. **At-grade railroad crossing improvements along the project's frontage and extending to ~~Broadway~~ Oak Street. (Required as Mitigation Measure TRANS-3a and TRANS-3b)**

11. Transit subsidies to provide ~~free or~~ reduced cost transit (for example equivalent to an average roundtrip BART fare at 12th Street BART station which is currently $6.70)

for ballpark attendees and/or employees ~~particularly at the Transportation Hub on 2nd Street~~.

12. **No parking subsidies for ballpark employees and contractors.**

13. **A combination of standard, secure, and valet bicycle parking at multiple locations, identified in collaboration with OakDOT.**

14. **Identification of geofenced micromobility parking (such as scooters and bike share), as well as priority and coordination for on-site and/or site-adjacent shared micromobility services identified in collaboration with OakDOT.**

15. **Coordination with transit providers to provide timed transit service before and/or after the game or event, including but not limited to AC Transit, BART, Amtrak, and WETA.**

16. **~~Agreements~~ Coordination between the City, A's and TNC operators (such as Lyft and Uber) to use geofencing or similar methods to restrict pick-up and drop-off zones to designated locations significantly farther from the ballpark than bus transit and shared micromobility options.**

17. **Enforcement of local access restrictions to limit circulation of vehicles other than local traffic within the neighborhoods adjacent to the Project site before, during, and after ballgames.**

18. Implementation of TNC fee (through private agreements between A's and TNC operators) for access to designated locations to limit demand to support VTR goals.

19. **Implementation of the Parking Management Plan titled *Toward a High-Performance Parking Management System for a Thriving Oakland: a Plan* to manage ~~Coordination with OakDOT on management of~~ the off-site parking garages within at least one mile of the Project site.**

20. **Implementation of the Parking Management Plan titled *Toward a High-Performance Parking Management System for a Thriving Oakland: a Plan* to manage ~~Coordination with OakDOT on the management of~~ on-street parking on-site and in adjacent neighborhoods within at least one mile of the Project site, including the implementation of RPPs~~, through the OakPark parking plan~~.**

21. Further reduction of on-site parking as needed to achieve VTR goals.

22. Additional measures and technology. With approval from the City of Oakland, the TMP may include additional or substitute measures and technology to reduce Project-generated trips that are not currently known or available, provided that the VTR plan demonstrates to the City's satisfaction that such measures are equally or more effective as existing available measures, are consistent with the City's various published plan documents, as amended, and meet the City's policy goals and values.

23. **The A's shall actively market and disseminate information to employees, ballpark attendees, and contractors regarding travel to and from the ballpark events such as carpooling, reserving parking, using AC Transit, BART, bicycling, and bikeshare, as well as other non-auto modes and services. Active marketing campaigns shall be coordinated with transit providers and other local**

groups as appropriate and may include "event" days that celebrate and promote specific non-auto travel modes.

24. Provide BART personnel or other personnel acceptable to BART to manage pre- and post-event attendees accessing the West Oakland, 12th Street, and Lake Merritt BART stations to ensure safe and efficient access for all people traveling to and from ballpark events through the BART stations.

25. Provide Traffic Control Officers or other personnel acceptable to the City of Oakland to manage pre- and post-event attendees to ensure safe and efficient access for all people traveling to and from ballpark events.

The TMP shall include an ongoing monitoring and enforcement program to ensure that the TMP is implemented on an ongoing basis during project operation. The program shall comply with the AB 734 legislation.

- TMP Implementation of Physical Improvements – For VTR strategies involving physical improvements, the Project sponsor shall obtain the necessary permits/approvals from the City and install the improvements prior to opening day of the ballpark. Functionally equivalent interim measures may be considered by the City in circumstances where such measures are needed to address unforeseen construction delays to off-site improvements.

- TMP Implementation Inaugural Events – The Project sponsor shall work with a designated team of ballpark and city and Port staff to establish, implement, monitor, debrief, and adjust the TMP during each ballpark event until the transportation patterns are established. Once transportation patterns are established the designated team shall meet quarterly the first two years, and at least annually thereafter, to coordinate transportation efforts and adjust, remove, or add measures to refine the TMP.

- TMP Monitoring – The Project sponsor shall follow the monitoring and performance requirements described in the TMP. Annual compliance reporting will be required each year that the ballpark is in operation and be submitted for review and approval by the City. The annual report shall document the status and effectiveness of the TMP, including but not limited to the actual VTR achieved by the Project during operation. If deemed necessary, the City may elect to have a peer review consultant, paid for by the Project sponsor, review the annual report. If timely reports are not submitted and/or the annual reports indicate that the Project sponsor has failed to implement the TMP, or if the reports do not meet City requirements, the Project sponsor will be considered in violation of the Mitigation Measure and the City may initiate enforcement action as provided for in the Project's Conditions of Approval and Oakland Planning Code Chapter 17.152, including but not limited to imposition of a penalty, in an amount to be determined by the City, at least sufficient to fund and manage transportation improvements that would bring vehicle trips to the targeted level.

TABLE 4.23-5
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Infrastructure Improvements (Including Bicycle and Pedestrian Infrastructure and Programs)							
Bus boarding bulbs or islands	Mandatory measure #1 Ballpark mandatory measure #1	SDT-1 SDT-2 SDT-4 SDT-5 SDT-6 SDT-7 SDT-9	3.0% *(0.0%)*	3.0% *(0.0%)*	3.0% *(0.0%)*	3.0% *(0.0%)*	2% reduction for pedestrian improvements and overall traffic calming (SDT-1 and SDT-4); 1% reduction for bicycle improvements. CAPCOA does not provide quantification for SDT-5, SDT-6, SDT-7, or SDT-9. As such, there is no expected additional effectiveness to providing additional or non-priority measures, as the Project has already reached the maximum potential effectiveness after applying all mandatory measures. The Project's location in a dense urban area results in high walk and bike mode share under baseline trip generation. As such, improvements have limited ability to further reduce trips.
Bus shelter	Mandatory measure #2 Ballpark mandatory measure #1						
Concrete bus pad	Mandatory measure #3						
Curb extensions or bulb-outs	Mandatory measure #4						
Implementation of a corridor-level bikeway improvement	Mandatory measure #5 Additional measure #2						
Install amenities: lighting; pedestrian-oriented green infrastructure, trees, and greening landscape; trash receptacles per Pedestrian Master Plan and applicable streetscape plans	Mandatory measure #7 Additional measure #4, 5						
Install safety improvements identified in Pedestrian Master Plan (e.g., crosswalk striping, curb ramps, countdown signals, bulb-outs)	Mandatory measure #8 Additional measure #3						
In-street bicycle corral	Mandatory measure #9						
Intersection improvements	Mandatory measure #10 Ballpark mandatory measure #10						
New sidewalk, curb ramps, curb and gutter meeting City and ADA standards	Mandatory measure #11						
Paving, lane striping (vehicle and bicycle), and signs to midpoint of street section	Mandatory measure #15						
Pedestrian crossing improvements	Mandatory measure #16 Ballpark mandatory measure #10						

TABLE 4.23-5 (CONTINUED)
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Wayfinding signage	Ballpark mandatory measure #9						
Pedestrian-supportive signal changes	Mandatory measure #17						
Signal upgrades; traffic signal interconnection	Mandatory measure #20, 22						
Development of Howard Terminal High-density housing and office uses	TDM Plan only						
Bike lanes Martin Luther King Jr. Way from the site and 8th Street, 7th Street from Mandela Parkway to Martin Luther King Jr. Way, including 8th Street fork	Mandatory measure #1 Additional measure #2						
Bike lanes north of 8th Street on Martin Luther King Jr. Way to San Pablo Avenue, Market Street from 3rd Street north into Berkeley, 2nd Street connecting to Oak Street/Embarcadero corridor, and Washington Street	Additional measure #2 Ballpark mandatory measure #8						
Upgrades to sidewalks along the primary corridors serving the ballpark including 7th and Market Streets, Martin Luther King Jr. Way, Washington Street, Broadway, 8th Street, and in the vicinity of the pedestrian and bicycle bridge	Additional measure #3 Ballpark mandatory measure #7						
Provision of long- and short-term bicycle parking and shower and locker facilities (for commercial uses) more than the minimums set forth in Chapter 17.117 of the Oakland Planning Code	Additional measure #1						
Sponsorship of a bikeshare station	Additional measure #14 Ballpark mandatory measure #14						
Free bicycle/scooter valet and/or secure parking spaces for at least 500 bicycles and scooters with flexibility to expand to 1,000 spaces	Ballpark mandatory measure #13, 14						

TABLE 4.23-5 (CONTINUED)
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Limited Parking Supply							
1.0 space per residential unit provided, compared to average vehicle ownership of 0.94 vehicles in the surrounding neighborhood	Additional measure #20	PDT-1	0.0% *(4.5%)*	12.5% *(0.0%)*	4.0% *(0.0%)*	6.3% *(0.0%)*	Ballpark parking effectiveness reflects shifts to transportation network companies. Residential parked below level allowed by City code (1.25 spaces per unit) rate is still above background vehicle ownership rate used for trip generation. As such, additional reductions are necessary to further reduce residential trips. Potential 4.5% reduction assumes a parking ratio of 0.85 spaces per unit.
2.0 spaces per KSF office provided, compared to average 2.9 spaces per KSF	Additional measure #20, 21						
Limit on on-site parking spaces available for ballpark attendees to 3,500 spaces at opening day and 2,000 spaces at site buildout	Ballpark additional measure #21						
2.6 spaces per KSF retail and restaurant provided, compared to average 2.8 spaces per KSF for non-December period	Additional measure #20, 21						
Parking Management							
Publicly accessible parking, no monthly permits, establish minimum price floor	Mandatory measure #12 Additional measure #19	PDT-3 PDT-4 TRT-14	N/A	7.4% *(0.0%)*	5.5% *(0.0%)*	2.8% *(0.0%)*	Ballpark parking pricing effectiveness reduced to reflect shift to transportation network companies. The Project's location in a dense urban area means that some parking pricing is accounted for in the baseline trip generation. As such, parking pricing effectiveness is reduced to reflect limited ability to further reduce trips. Additional measures introduce no additional effectiveness, provided minimum price floor is set at market rate.
Parking garage designed with retrofit capability	Mandatory measure #13						
All paid workplace parking, rather than parking provided as benefit	Additional measure #18 Ballpark mandatory measure #12						
Parking Management Plan that includes pricing control of on-street parking	Ballpark mandatory measure #20						
Use of pricing to maintain 90–95% occupancy rate at nearby off-site garages	Ballpark mandatory measure #20 Ballpark non-mandatory measure #21						

TABLE 4.23-5 (CONTINUED)
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Use of pricing to maintain 85% occupancy rate at nearby on-street spaces	Ballpark priority measure #20 Ballpark non-mandatory measure #21						
Curb management to prohibit on-street parking by attendees near ballpark, if necessary, to maintain on-street parking for local businesses and residents	Ballpark mandatory measure #19, 20						
Expansion of residential parking programs in West Oakland and Downtown	Ballpark mandatory measure #20						
Parking spaces leased separately from unit rent	Mandatory measure #23 Additional measure #17	PDT-2	0.0% *(6.5%)*	N/A	N/A	N/A	City requires unbundled parking for residential units parked at a certain rate (Mandatory Measure #23), the site is parked at a rate that does not trigger that requirement. As such, unbundled parking is included as an additional measure. Based on urban nature of the site, partial credit is given for potential reductions due to unbundling, to reflect other development in area that charge separately for parking spaces.
Carshare Program							
Dedicated on-site carshare parking spaces	Mandatory measure #14 Additional measure #11	TRT-9	0.7% *(0.0%)*	0.7% *(0.0%)*	0.7% *(0.0%)*	N/A	Maximum effectiveness in urban area is already reached with number of carshare spaces required by Mandatory Measure #14
Transit Operations							
Contribution to AC Transit service enhancement	Additional measure #8 Ballpark mandatory measure #15 Ballpark additional measure #2	TST-1 TST-2 TST-4 TST-5	0.0% *(2.1%)*	0.0% *(2.1%)*	0.0% *(2.1%)*	0.0% (*1.2%*)	Transit improvements associated with mandatory measures are partially included in existing urban context and so the Project's baseline trip generation; as such, while some reduction is anticipated for the measures alone most of the reduction would be from increased service.
Extension of the 72 bus lines to provide High-frequency AC Transit service near the ballpark along 2nd Street, i.e., Transportation Hub	Additional measure #8 Ballpark mandatory measure #1, 5						

TABLE 4.23-5 (CONTINUED)
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Real-time transit information system	Mandatory measure #18						Calculations assume 25% increase in service, including extension of routes, reduction of travel times due to dedicated Broadway transit lanes, and increase in frequency (from 12 to 15 buses during peak periods).
Relocation of bus stops to far side	Mandatory measure #19						Elasticity of transit ridership to frequency is 0.7. Elasticity of transit ridership to coverage is 1.4; extension of transit service along 2nd Street is included in baseline trips, and so not calculated here. 50% of new transit trips shift from automobiles, 25% on game days. This represents the share of population for which subsidies shift behavior from driving, rather than from another mode (walk, bike, carpool, and transit), as well as the fact that vehicle occupancies for events tend to be higher than for other types of trips.
Corridor-level transit capital improvements bus-only lanes on Broadway between Embarcadero and 11th Streets, connecting 12th Street BART station; or 7th Street between the West Oakland BART station and Castro Street; or 7th and 8th Streets, connecting Broadway to the Lake Merritt BART station at Oak Street.	Mandatory measure #6, 21 Ballpark mandatory measure #3 Ballpark additional measure #4						
Rerouting of bus lines such as Line 6 closer to the ballpark; or connect the West Oakland and Lake Merritt BART stations via bus lines through 2nd Street; or provide a shuttle service to BART for non-ballpark development.	Additional measure #8 Ballpark mandatory measure #1						
Additional game-day shuttles to West Oakland or Lake Merritt BART stations	Ballpark additional measure #6	TST-3 TST-6				0.0% *(1.2%)*	Elasticity of time savings to transit demand is 0.5; shuttle would result in maximum 8-minutes time savings compared to walking assuming efficient loading/unloading time. Conversion of shuttle ridership to reduced vehicle trips uses 25% factor. Many riders will have taken BART even without the shuttle service, and average vehicle occupancies for trips to the ballpark are high.
Transit Subsidies							
Transit subsidy to residents (per bedroom) and employees at least equal to an unlimited AC Transit EasyPass or half a monthly unlimited bus pass	Additional measure #6, 7	TRT-4	0.0% *(2.7%)*	0.0% *(6.2%)*	n/a	0.0% *(3.1%)*	Price elasticity of transit demand = -.43. Conversion from mode shift to reduced vehicle trips = 0.5 for non-events, 0.25 for events.
Encourage employers to enroll in a service to assist employees to use pre-tax income for transit passes	Additional measure #10						

TABLE 4.23-5 (CONTINUED)
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Transit reimbursement equivalent to one round-trip fare; free transit after ballpark events at the Transportation Hub	Ballpark additional measure #11						Assumes 50% employer subsidy (with partial credit due to typical provision of transit subsidies by employers), full reimbursement of transit fares for game-day attendees, and provision of at least 50% of monthly transit costs for residents.
TDM Marketing and Programs							
Active marketing of carpooling, BART, AC Transit, bikeshare, and other non-auto modes and services such as guaranteed-ride-home programs	Additional measure #9, 13	TRT-3 TRT-7	0.0% *(1.7%)*	0.0% *(9.6%)*	n/a	0.0% *(1.4%)*	TDM marketing programs are assessed conservatively, compared to suburban areas, and do not include reductions for programs beyond marketing and promotion except workers. Reductions are applied to non-office uses at a 30% factor for residential, and a 25% factor for visitors. Telecommuting and flexible schedules are applied to worker trips only. Marketing is presumed to not apply to non-event visitors, as that population cannot be specifically targeted prior to a trip.
Building tenant representatives / building management responsible distributes information from the TMA about TDM to employees, residents, and visitors	Additional measure #15, 16						
On-site carpooling and/or vanpooling program that includes preferential (discounted or free) parking for carpools and vanpools	Additional measure #12						
TMA for the non-ballpark development made up of its employers, developers, and/or property managers responsible for implementing and managing TDM Plan for non-ballpark development	Additional measure #9, 13, 15, 16						
Allowing employees to work off-site, adjust schedules, adopt flexible working hours, and/or telecommute	Additional measure #22, 23, 24						
TNC Management							
Manage transportation network companies, prohibit drop-offs/pick-ups except in designated areas farther from ballpark than the Transportation Hub before and after events; enforcement via physical barriers and traffic control officers.	Ballpark mandatory measure #16, 17 Ballpark additional measure #18	N/A				4.8% *(0.0%)*	Calculated based on time savings compared to driving and parking, with transportation network company drop-off relocated several blocks away from the ballpark. Results in short-distance trips shifting to transit, bicycling, and walking.
Implement transportation network company fee, rationing access to pick-up/drop-off zones on-site (if provided) and nearby off-site (if provided) locations	Ballpark mandatory measure #18 Ballpark additional measure #22						

TABLE 4.23-5 (CONTINUED)
TRANSPORTATION AND PARKING DEMAND MANAGEMENT STRATEGY—AVERAGE WEEKDAY EFFECTIVENESS

Description	Mitigation Measure Element #[1]	CAPCOA Equivalents	Expected Trip Reduction[2]				Notes
			Residents	Workers	Non-Event Visitors	Event Visitors	
Total Reduction (Mandatory Measures Only)			3.7%	23.6%	13.2%	16.8%	CAPCOA indicates a maximum potential reduction not including land use of 40%; this maximum was reached for worker trips.
Project Total Reduction with Mandatory Measures (Weighted by Trip %)			**12.5%**			**16.8%**	
Total Reduction (All Measures)			20.5%	40%	14.7%	23.6%	
Project Total Reduction with All Measures (Weighted by Trip%)			**22.8%**			**23.6%**	

NOTES:

1 Mandatory measures refer to the measures included in Draft EIR Mitigation Measures TRANS-1b Table 4.15-36 (p. 4.15-184 through 186). Additional measures refer to the measures listed on Draft EIR (p. 4.15-187 and 185). Ballpark mandatory measures refer to the measures included in Draft EIR Mitigation Measure TRANS-1b (p. 4.15-195 and 196) presented in bold, some of which are required under the revised mitigation measure. Ballpark additional measures are non-bolded measures in that same list.

2 Reductions are presented in two lines: X.X% and (Y.Y%). Reductions represented by "X.X%" are those from mandatory and ballpark mandatory measures only. Reductions represented by (Y.Y%) are additional potential reduction if all measures in the category are included.

SOURCE: Quantifying Greenhouse Gas Emissions, CAPCOA (2010); Fehr & Peers, 2021.