

DOWNTOWN OAKLAND SPECIFIC PLAN Response to Comments Document

State Clearinghouse No. 2019012008



Prepared for:
City of Oakland
April 2024

URBAN
PLANNING
PARTNERS
INC.

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Prepared for the City of Oakland

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April 2024

The logo for Urban Planning Partners Inc. is a solid orange square containing the text "URBAN PLANNING PARTNERS INC." in white, uppercase, sans-serif font, arranged in four lines.

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I. INTRODUCTION

A. PURPOSE OF THE RESPONSE TO COMMENT DOCUMENT

This Response to Comments (RTC) document has been prepared to document responses to comments received on the 2019 Downtown Oakland Specific Plan Draft Environmental Impact Report (Draft EIR), State Clearinghouse #2019012008. The Draft EIR identifies the likely environmental consequences associated with the implementation of the Downtown Oakland Specific Plan (Specific Plan or Plan) and recommends mitigation measures to reduce potentially significant impacts, where feasible. This RTC document includes: a brief description of the environmental review process, the comments received on the Draft EIR and responses to those comments, and text revisions to the Draft EIR in response to the comments received and/or to amplify or clarify material in the Draft EIR.

This RTC document, together with the Draft EIR, constitutes the Final EIR for the Downtown Oakland Specific Plan.

The City of Oakland, as Lead Agency, will make decisions on certification of this EIR, consider approval of a Standard Conditions of Approval/Mitigation Monitoring and Reporting Plan (SCAMMRP), and consider approval of the Specific Plan and associated legislation such as General Plan amendments and Planning Code text amendments related to zoning. Before the City may approve the Specific Plan, the City must certify that the Final EIR adequately evaluates the environmental effects of the Specific Plan and that the Final EIR has been completed in conformance with the California Environmental Quality Act (CEQA).

B. ENVIRONMENTAL REVIEW PROCESS

According to CEQA, lead agencies are required to consult with public agencies that have jurisdiction over a proposed project and provide the public with an opportunity to comment on the Draft EIR. The City of Oakland (City) circulated a Notice of Preparation (NOP) that briefly described the project and the environmental topics that would be evaluated in the Draft EIR. The NOP was initially published on January 4, 2019. The public comment period for the scope of the EIR lasted from January 4, 2019 to February 21, 2019 and was extended 19 days longer than the 30 days required by the CEQA Guidelines. The NOP was sent to the State Clearinghouse, responsible and trustee agencies, organizations, and interested individuals.

The City held the following project scoping sessions:

- Planning Commission on February 4, 2019 and continued to February 20, 2019.
- Landmarks Preservation and Advisory Board (LPAB) meeting on February 6, 2019

Comments received by the City on the NOP either in writing or verbally at the public scoping sessions were considered during the preparation of the Draft EIR. The NOP and comment letters are included in Appendix B of the Draft EIR.

The Draft EIR was published on August 30, 2019 and distributed to applicable local and State agencies. Copies of the Notice of Availability of the Draft EIR (NOA) were mailed to all individuals who asked to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP.

The public comment period for the Draft EIR began on August 30, 2019 and was scheduled to end on Tuesday October 15, 2019. Ultimately the comment period was extended to November 8, 2019 (from the required 45 days to 70 days) at the direction of the Planning Commission in response to requests of members of the public and the Landmarks Preservation Advisory Board (LPAB). Four public hearings were held regarding the adequacy of the Draft EIR during the 70-day public comment period: the LPAB on September 23 and October 14, 2019 and the Planning Commission on October 2 and November 6, 2019. Both verbal and written comments received during each hearing and the associated responses are provided in *Chapter IV, Comments and Responses*, of this document.

C. DOCUMENT ORGANIZATION

This RTC document consists of the following chapters:

Chapter I: Introduction, discusses the purpose and organization of this RTC document and the Final EIR and summarizes the environmental review process for the project.

Chapter II: Plan Revisions and Draft EIR Project Description, provides an overview of the relevant revisions that have been made to the Draft Specific Plan since the Draft EIR was prepared and the potential effect, if any, such revisions may have on the findings presented in the Draft EIR.

Chapter III: List of Commenting Agencies, Organizations, and Individuals, contains a list of agencies, organizations, and persons who submitted written comments or spoke at public hearings on the Draft EIR during the public review period.

Chapter IV: Comments and Responses, begins with three master responses that address the merits of the Specific Plan and related Non-CEQA topics, community benefits program, and residential

displacement and affordability. The master responses are followed by written responses to each comment received during the public review period related to the adequacy of the Draft EIR. Each response is keyed to the preceding comment. Reproductions of each comment letter received on the Draft EIR as well as a summary of the verbal comments provided at the Draft EIR public hearings are also provided Three.

Chapter V: Text Revisions, contains corrections to the Draft EIR that are necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR. Text with double underline represents language that has been added to the Draft EIR; text with ~~strikeout~~ has been deleted from the Draft EIR. Revisions to figures are also provided, where appropriate.

II. PLAN REVISIONS AND DRAFT EIR PROJECT DESCRIPTION

The City's process for preparing the Draft Specific Plan has been very iterative and involved substantial on-going community engagement. Since the Draft EIR was published, the City has held or attended the following public meetings and events on the Specific Plan and received voluminous comments related to the Plan merits, independent of the Draft EIR comments:

- September 4, 2019 – Planning Commission
- September 9, 2019 – Chinatown Chamber of Commerce
- September 11, 2019 – Parks and Recreation Advisory Commission (PRAC)
- September 16, 2019 – Mayor's Commission on Persons with Disabilities
- September 18, 2019 – Chinatown Coalition
- September 18, 2019 – Old Oakland
- September 19, 2019 – SPUR
- September 19, 2019 – Thursdays at Latham Square
- September 23, 2019 – Bicycle and Pedestrian Advisory Commission (BPAC)
- September 23, 2019 – Landmarks Preservation Advisory Board (LPAB)
- September 24, 2019 – SPUR
- September 25, 2019 – Oakland Chamber of Commerce
- September 25, 2019 – East Bay Housing Coalition (EBHO)
- September 25, 2019 – DOSP Community Advisory Group (CAG)
- September 27, 2019 – Institutions & Transportation Agencies
- September 30, 2019 – Library Commission
- September 30, 2019 – Jack London Farmers' Market
- October 1, 2019 – SPUR Public Presentation
- October 2, 2019 – Mayor's Commission on Aging
- October 2, 2019 – Planning Commission
- October 4, 2019 – Lincoln Summer Nights
- October 7, 2019 – Market Rate Developers

- October 7, 2019 – Port of Oakland
- October 11, 2019 – Affordable Housing
- October 11, 2019 – Black Arts Movement Business District (BAMBD)
- October 14, 2019 – Landmarks Preservation Advisory Board (LPAB)
- October 14, 2019 – Jack London Improvement District (JLID)
- October 15, 2019 – Saint Vincent de Paul
- October 22, 2019 – 14th Street Businesses
- October 24, 2019 – Port of Oakland Board of Commissioners
- November 4, 2019 – Downtown Business Improvement Districts
- November 14, 2019 – Youth Advisory Commission
- November 19, 2019 – Port of Oakland Stakeholders
- December 5, 2019 – DOSP Community Advisory Group (CAG)
- December 11, 2019 – Zoning Update Committee (ZUC)
- February 28, 2020 – Oakland
- May 28, 2020 – DOSP Working Group
- May 23, 2020 – West Oakland Walk
- July 14, 2020 – East Bay Housing Organizations (EBHO)
- December 7, 2020 – BAMBD CDC

This exhaustive process facilitated the City receiving many meaningful and substantive comments on the August 2019 Public Review Draft Plan that have informed further refinements to the Plan. The purpose of this chapter is to identify changes that have been made to the August 2019 Public Review Draft Plan since the Draft EIR was prepared that may impact the physical environmental effects of the Downtown Oakland Specific Plan adoption and implementation. The Draft EIR utilized the Public Review Draft Specific Plan that was published on August 30, 2019¹ (August 2019 Public Review Draft Plan) as the basis for *Chapter III, Project Description*, and the associated EIR analyses. The summary of Plan revisions provided below is based on a comparison of the August 2019 Public Review Draft Plan and the City's Final Draft Plan, that will

¹Public Review Draft Downtown Oakland Specific Plan published on August 30, 2019, https://cao-94612.s3.amazonaws.com/documents/FINAL_DOSP-Public-Review-Draft-Plan_o82819_Compressed.pdf.

be reviewed by the Planning Commission on November 15, 2023. The revisions that may potentially impact the Draft EIR findings generally fall into four categories:

- Intensity Map Changes
- General Plan Amendments Changes
- Transitional Opportunity Areas Changes
- Development Program Changes

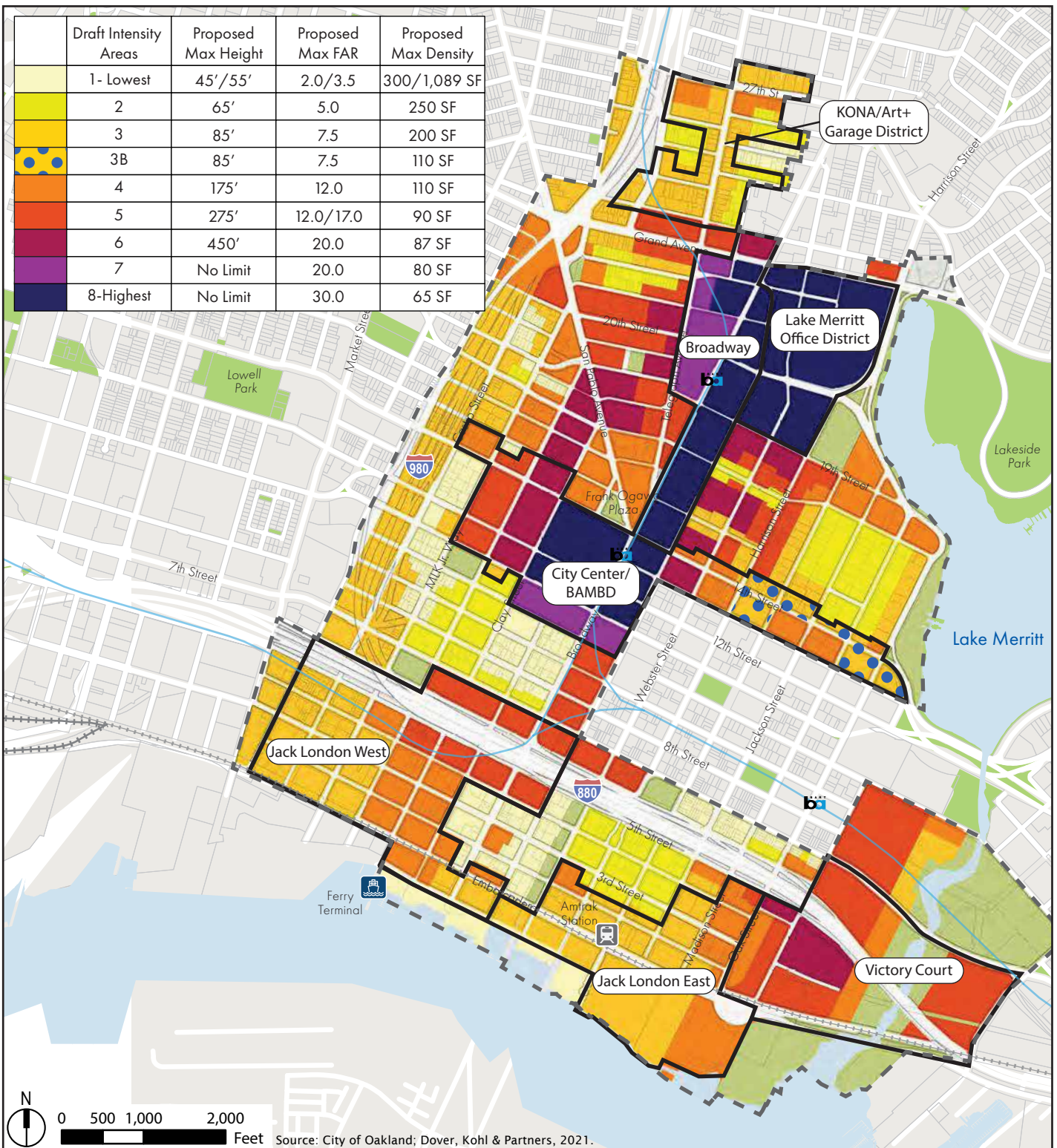
Each revision is described below in the context of the Draft EIR assumptions and findings followed by an assessment of whether the revisions would trigger recirculation pursuant to CEQA Guidelines Section 15088.5 which requires recirculation of an EIR when “significant new information” is added to the EIR after publication of the Draft EIR but before certification. The analysis supports that the revisions would not substantially change the findings of the Draft EIR and that they do not trigger recirculation of the Draft EIR.

A. PLAN REVISIONS

1. Intensity Map Changes

In response to community feedback, the Oakland Planning Bureau proposes to alter the intensity map that includes floor area ratio (FAR), density, and height from that analyzed in the August 2019 Public Review Draft Plan. As shown on updated Figure III-8 Proposed Maximum Intensity, Figure III- 9 Proposed FAR Change Areas, Figure III-10 Proposed Residential Density Change Areas, Figure III-11 Proposed Height Change Areas, Figure V.A-3, as well as Figure RTC-1 there are a limited number of intensity changes to the August 2019 Public Review Draft Plan, all clustered within five small areas. The intensity changes occur within portions of the West of San Pablo Planning sub-area, specifically from Grand Avenue to 20th Street and east to Martin Luther King Jr. Way (height increases from 85 feet to 175 feet in the Final Draft Plan, 7.5 FAR to 12.0, and from 200 square feet of residential density to 110 square feet of residential density), as well as between 14th and 15th Street between MLK Jr. Way and Jefferson Street (height increases from 175 feet to 275 feet in the Final Draft Plan, 12.0 FAR to 12.0/17.0, and from 110 square feet of residential density to 90 square feet of residential density).

Several decreases in intensity are also proposed within the Jack London District, Laney College area, and Old Oakland through the Central Core. Because the EIR analysis is focused on describing changes that may affect the physical environment, the proposed decrease in intensity would incrementally lessen the adverse impacts found in the Draft EIR and not result in any new or substantially greater impacts. As a result, further analysis of this revision is not warranted as the Draft EIR’s analysis around intensity is therefore more conservative.

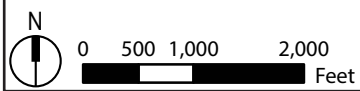
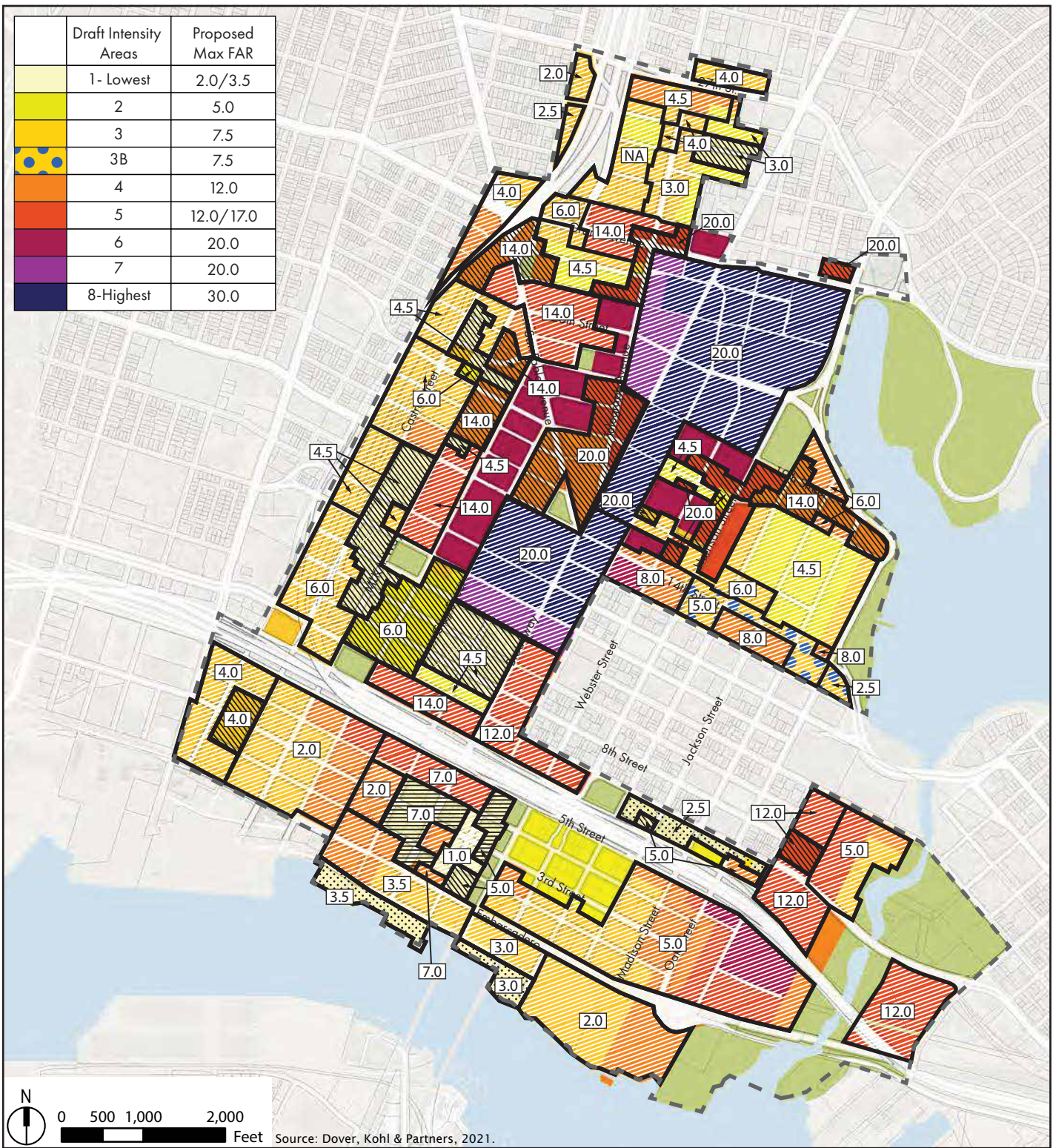


Legend

- Downtown Plan Boundary
- Parks
- BART Station
- Areas subject to Zoning Incentive Program to achieve maximum FAR, height, and/or density
- BART Line
- Railroad

Downtown Oakland Specific Plan EIR

Figure III-8
Proposed Maximum Intensity Map [Revised]

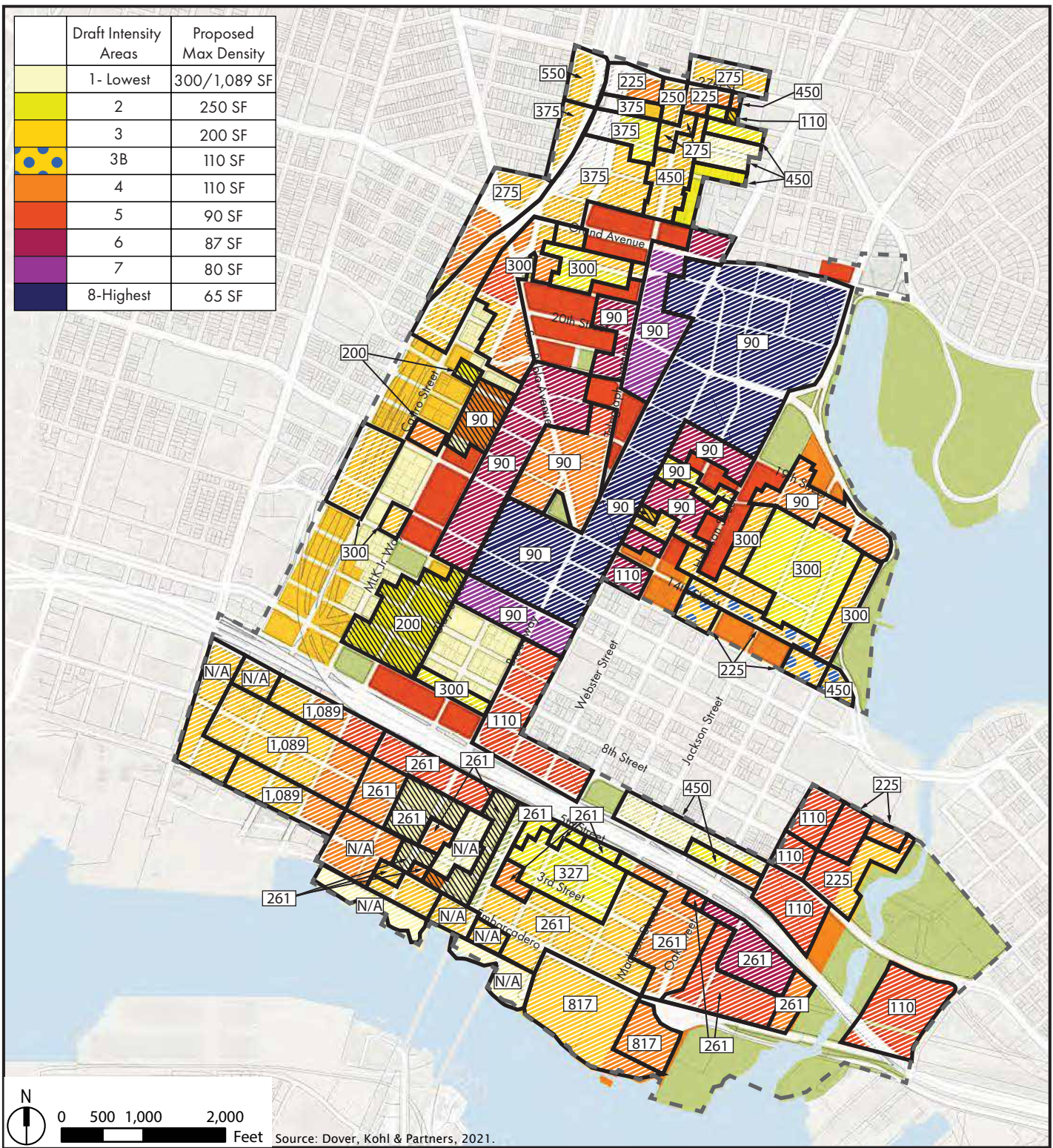


Legend

- Downtown Plan Boundary
- Parks
- BART Station
- BART Line
- Railroad
- Proposed Increased FAR Areas
- Proposed Decreased FAR Areas
- Existing FAR
- Current maximum FAR ranges between 2.0 and 3.5; Proposed maximum FAR is 2.0 or 3.5

Downtown Oakland Specific Plan EIR

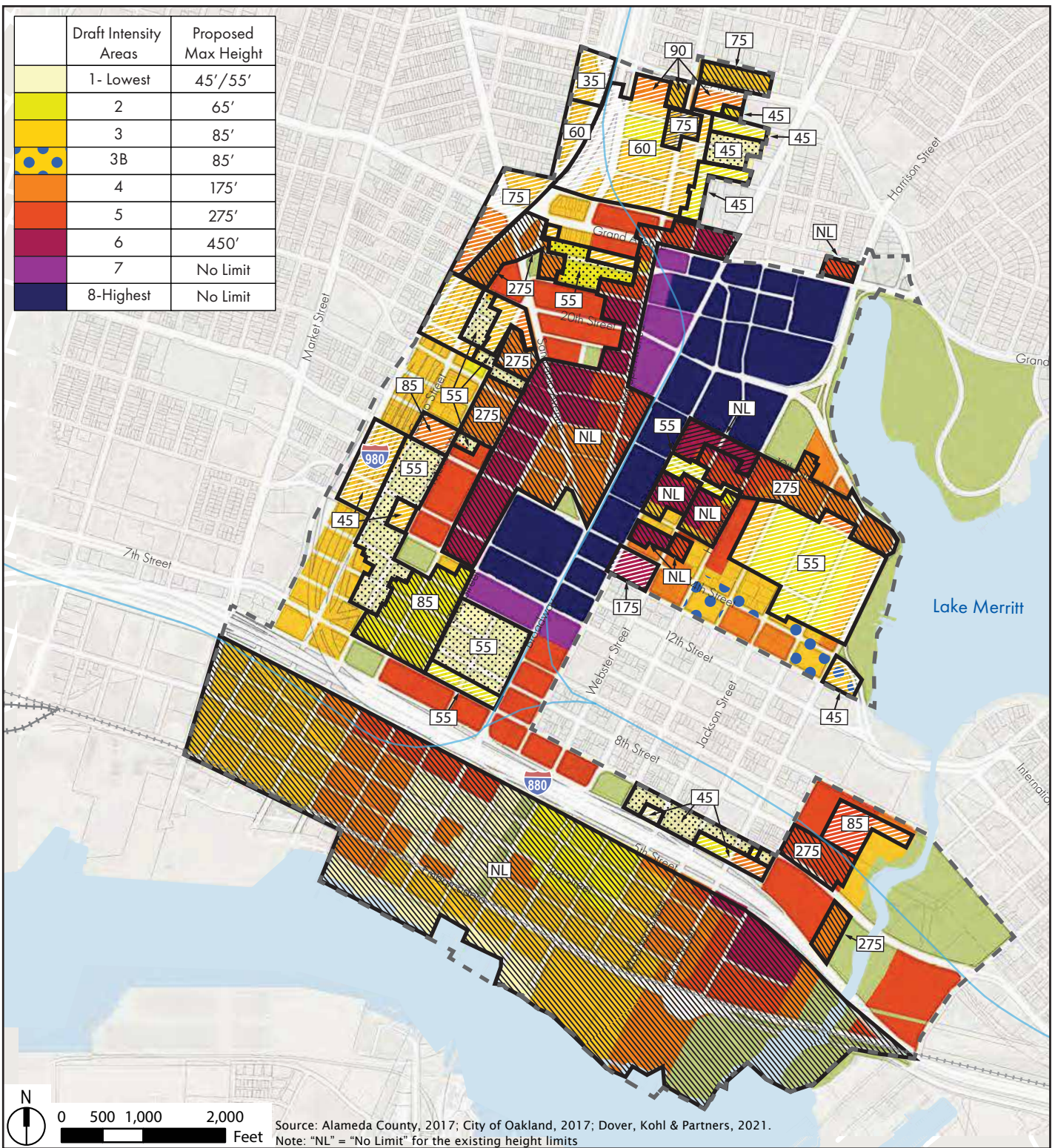
Figure III-9
Proposed FAR Change Areas [Revised]



- Legend**
- Downtown Plan Boundary
 - Parks
 - BART Station
 - BART Line
 - Proposed Increased Residential Density Areas
 - Proposed Decreased Residential Density Areas
 - Railroad
 - Existing Residential Density (square foot per dwelling unit)

Downtown Oakland Specific Plan EIR

Figure III-10
Proposed Residential Density Change Areas [Revised]

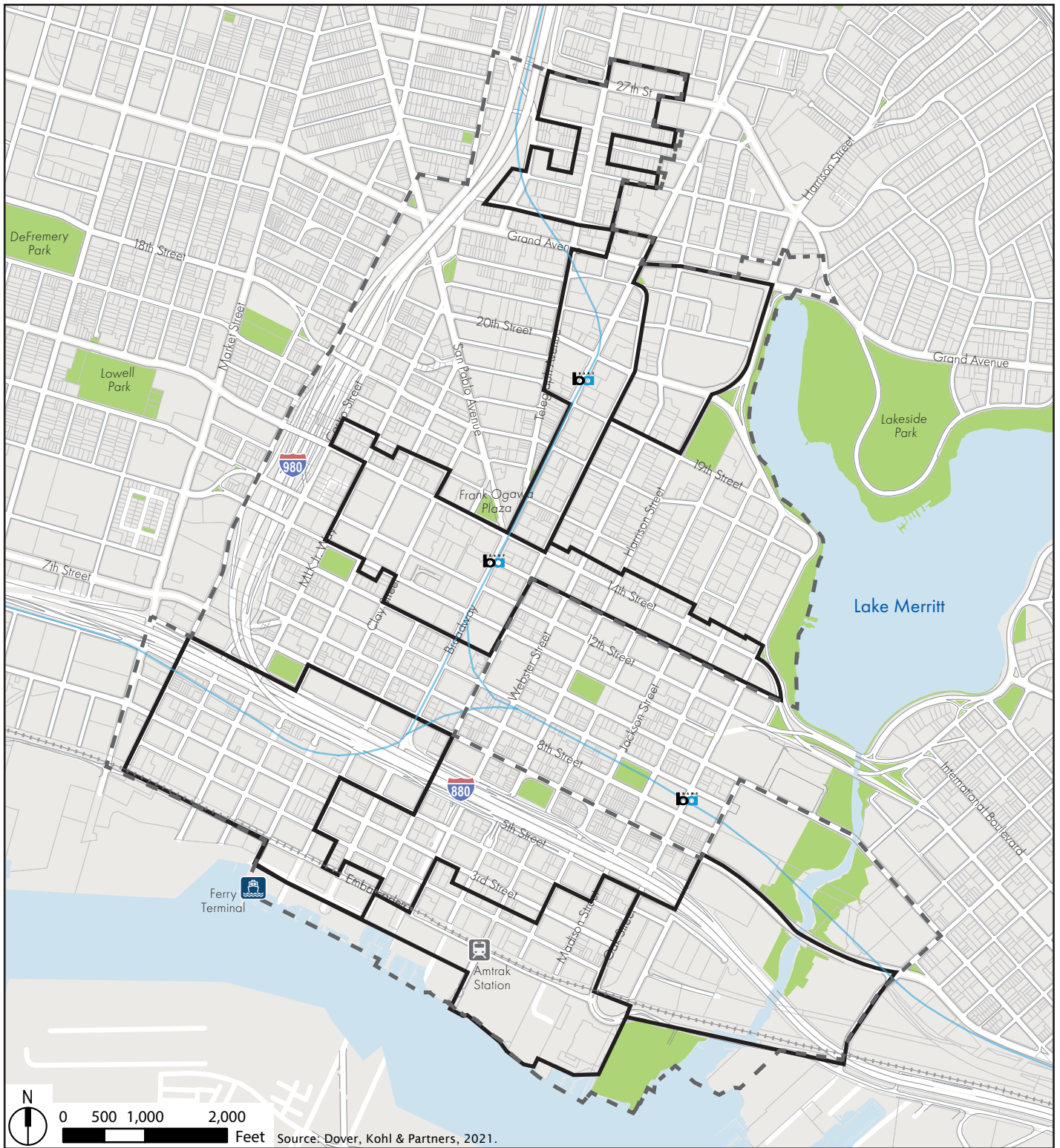


Legend

- Downtown Plan Boundary
- BART Station
- BART Line
- Railroad
- Parks
- Proposed Increased Height Limit Areas
- Proposed Decreased Height Limits Areas
- Existing Height Limits
- Current maximum height ranges between 45' and 55'; Proposed maximum height is 45' or 55'

Downtown Oakland Specific Plan EIR

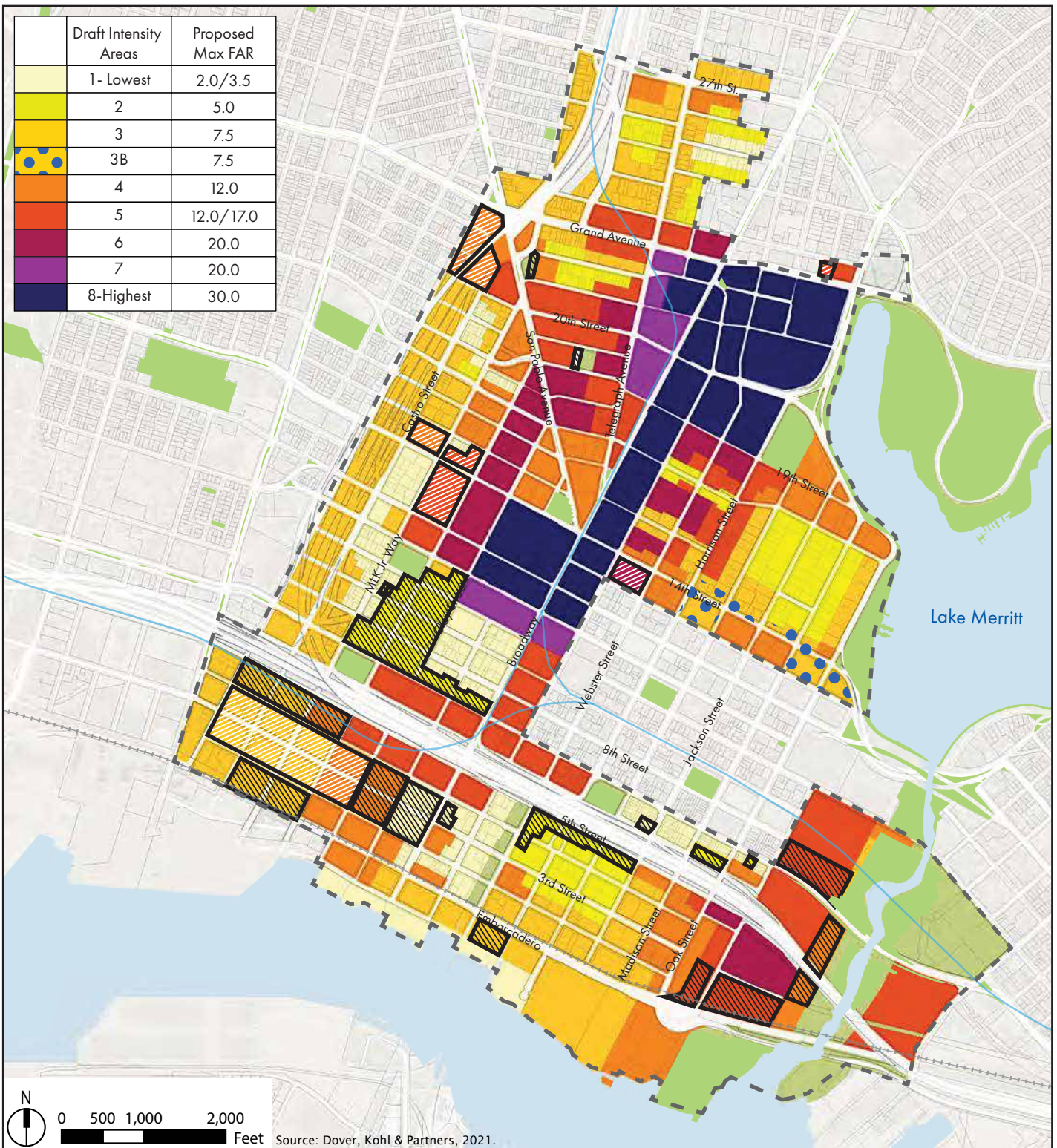
Figure III-11
 Proposed Height Change Areas [Revised]



- Legend**
- Downtown Plan Boundary
 - Parks
 - BART Station
 - Opportunity for Increased Bonus Intensity
 - BART Line
 - Railroad

Downtown Oakland Specific Plan EIR

Figure V.A-3
Opportunities for Increased Density [Revised]



Legend

- Downtown Plan Boundary
- Parks
- BART Station
- BART Line
- Areas of Increased Intensity
- Areas of Decreased Intensity
- Railroad

Downtown Oakland Specific Plan EIR

Figure RTC-1
Change in Intensities from August 2019 Public Review Draft Plan to Final Draft Plan

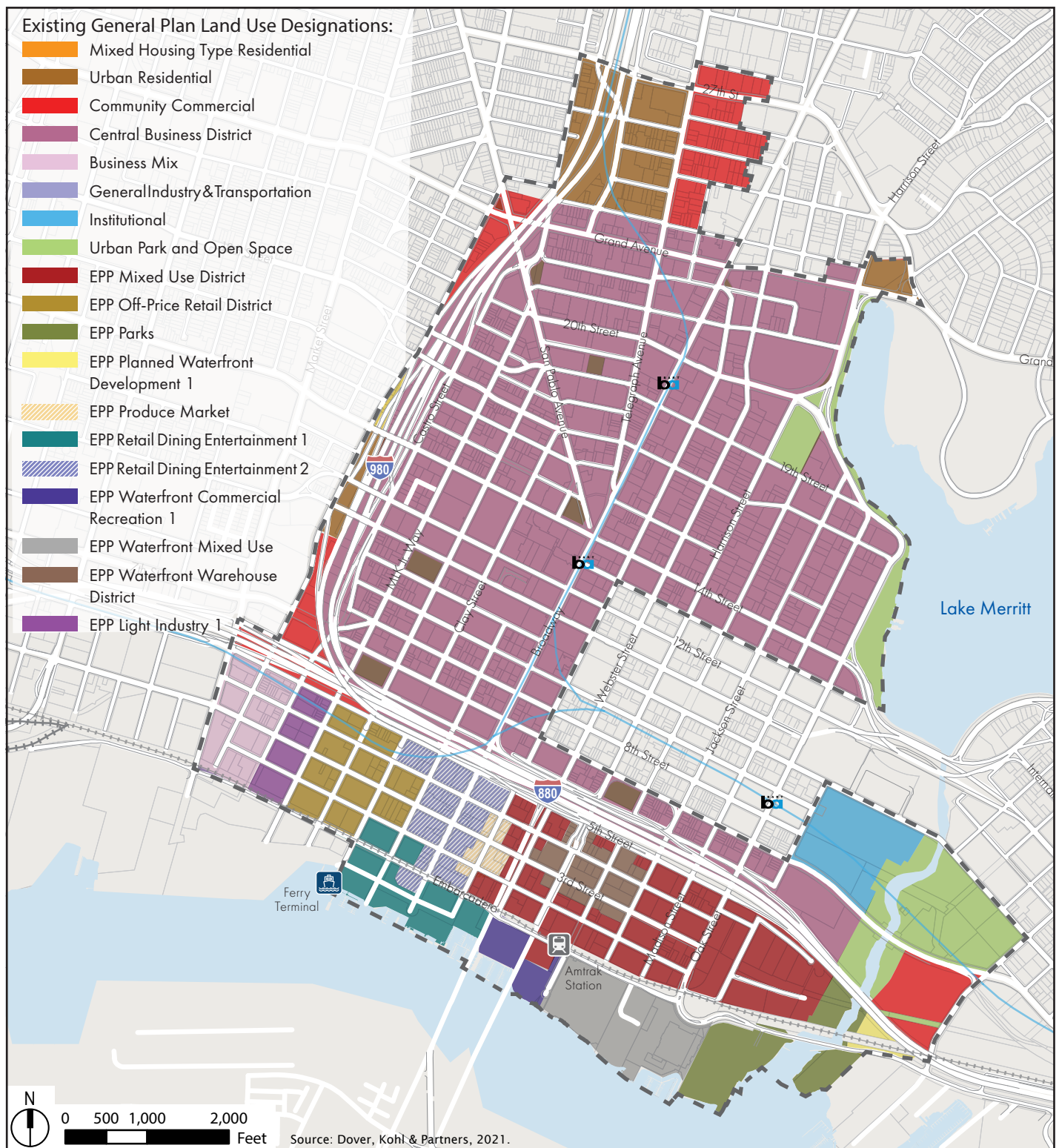
2. General Plan Amendments Changes

The August 2019 Public Review Draft Plan considered 34 General Plan amendments, as well as an option to amend the General Plan Land Use in proximity to the Howard Terminal, which is immediately adjacent to the Plan's southwest boundary along the Estuary. The Howard Terminal option has been removed in the Final Draft Plan. The Howard Terminal Option considered higher intensity than the base General Plan amendments.

The Final Draft Plan considers 31 total amendments. There are very few changes in General Plan amendments from the August 2019 Public Review Draft Plan to the Final Draft Plan north of the Jack London District, with the exception of two areas that were identified in the August 2019 Public Review Draft Plan as Central Business District 2 and are now Urban Park and Open Space (General Plan Amendment #9 and #10 shown in revised Figure III-6, Proposed General Plan Land Use Designations Amendments shown below as well as Figure III-5 Current General Plan Land Use Designations). These areas occur along 6th Street between MLK Jr. Way and Jefferson, and along 6th Street between Webster and Franklin. Changes from the Central Business District 2 to Urban Park and Open Space would not have any environmental impacts, nor would they cause any policy inconsistencies that were not already identified in the Draft EIR in *Chapter IV, Policy or Chapter V.A, Land Use*.

There are several changes from the August 2019 Public Review Draft Plan to the Final Draft Plan in the area closest to Market Street abutting the West Oakland Specific Plan. The blocks south of the I-880 and east of Brush Street were either identified as EPP Mixed Use District (between 5th and 4th Street, and between 2nd and Embarcadero West), or EPP Light Industry 1 (between 4th and 2nd streets). All areas within these four blocks have now been changed to Business Mix. This is consistent with the current General Plan designations in this area. The area south of 2nd Street to Embarcadero West from MLK Jr. Way to Jefferson was EPP Mixed Use District and is now EPP Light Industry 1 (General Plan Amendment #19 shown in revised Figure III-6, Proposed General Plan Land Use Designations Amendments shown below). The area south of 4th Street to Embarcadero West in the August 2019 Public Review Draft Plan was either identified as EPP Mixed Use District, or EPP Light Industry 1 and is now Retail Dining Entertainment 2 (General Plan Amendment #20 shown in revised Figure III-6, Proposed General Plan Land Use Designations Amendments shown below).

Along Webster Street south of the I-880, all the way to Water Street has been changed from EPP Mixed Use District to EPP Parks (General Plan Amendment #26 shown in revised Figure III-6, Proposed General Plan Land Use Designations Amendments shown below). The area just south of 880 on Harrison Street, as well as the area south of 880 on Alice Street has been changed from Mixed Use District to EPP Waterfront Warehouse District. The area south of Embarcadero West between approximately Madison Street to Estuary Park was EPP Waterfront Mixed Use has now switched to EPP Mixed Use District west of the Portobello Marina. (General Plan Amendment

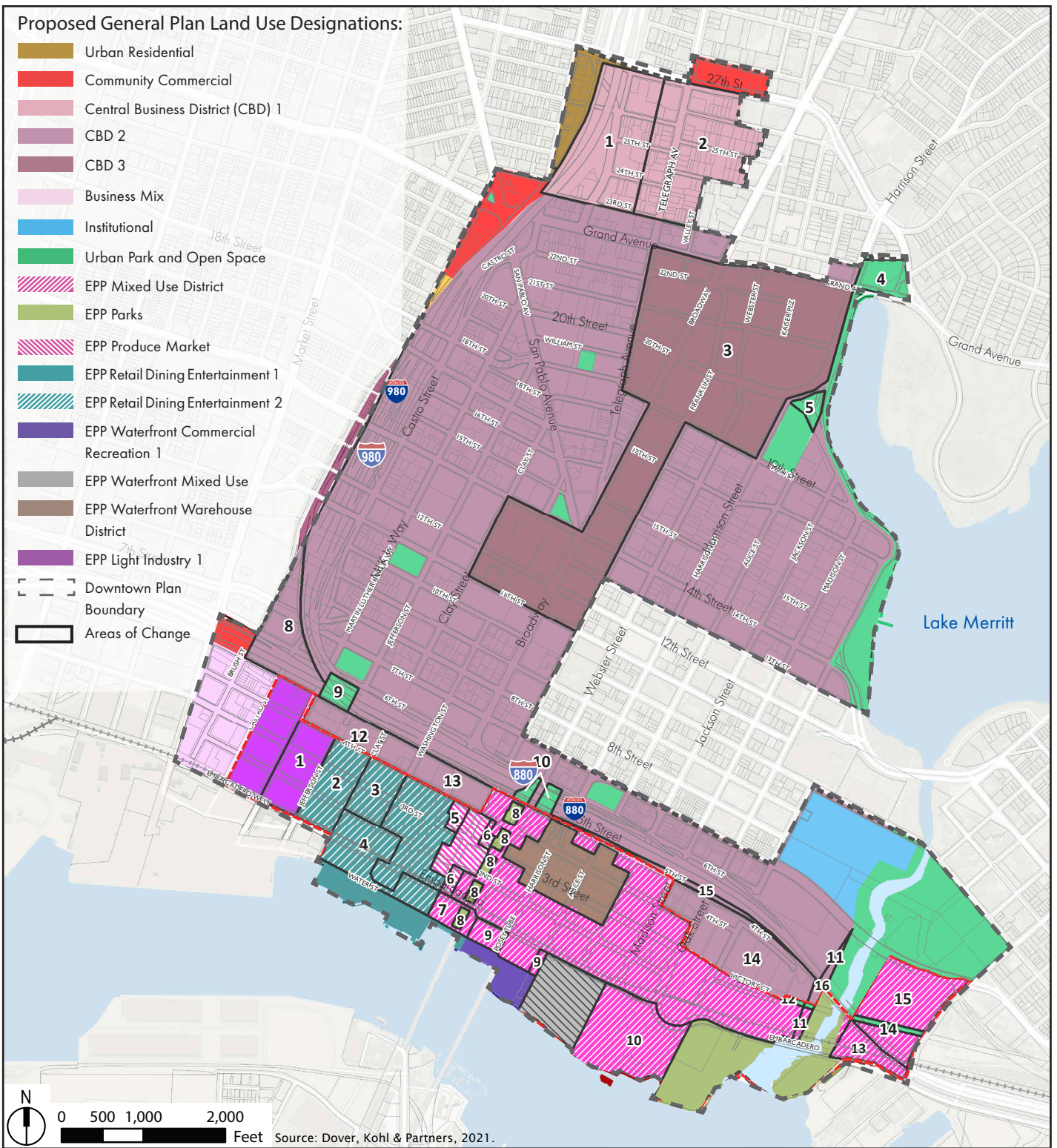


Legend

- Downtown Plan Boundary
- BART Station
- BART Line
- Railroad

Downtown Oakland Specific Plan EIR

Figure III-5
Current General Plan Land Use Designations [Revised]



Downtown Oakland Specific Plan EIR

Figure III-6
Proposed General Plan Land Use Designation Amendments [Revised]

#28 shown in revised Figure III-6, Proposed General Plan Land Use Designations Amendments shown below).

The General Plan amendment changes from the August 2019 Public Review Draft Plan to the Final Draft Plan represent minor changes to what was analyzed in the Draft EIR. The Final Draft Plan has been amended to increase the overall number of blocks to seven that are designated Industrial west of Broadway in the General Plan. This is accomplished by maintaining the full extent of the existing industrially-zoned blocks defined by Market Street, Embarcadero West, Martin Luther King Jr. Way, and 5th Street; and adding the three blocks defined by Martin Luther King Jr. Way, Embarcadero West, Jefferson, and 4th Street as 'Light Industry.'

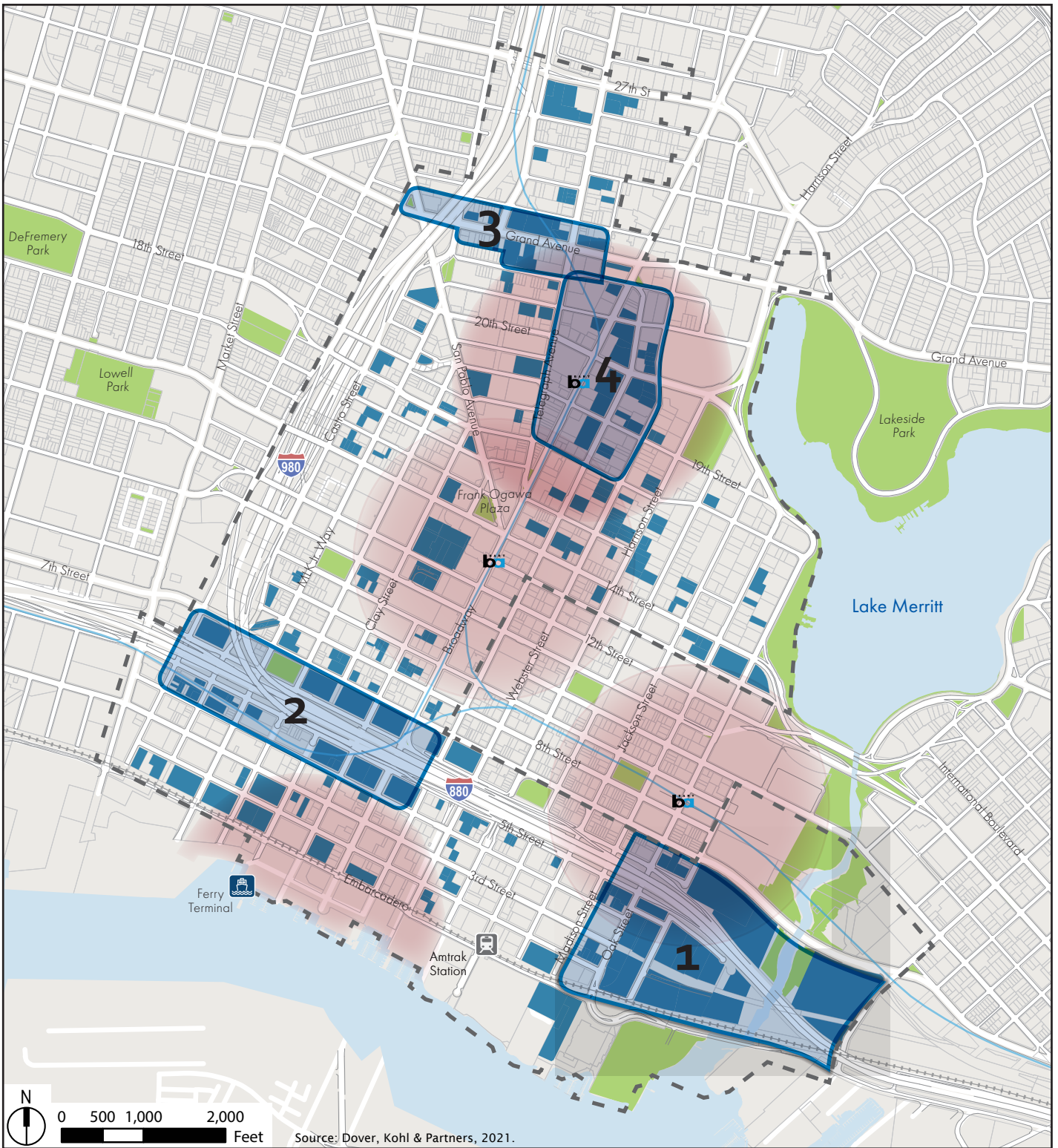
The above changes also shown in revised Figure III-6, Proposed General Plan Land Use Designations Amendments shown below would not have any environmental impacts because their prior, baseline designations are not any less intense than the amendments, nor would they cause any policy inconsistencies that were not already identified in the Draft EIR in *Chapter IV, Policy or Chapter V.A, Land Use*.

3. Transitional Opportunity Areas Changes

The August 2019 Public Review Draft Plan envisioned five separate transitional opportunity areas; Area 1, 2 and 3 located in Jack London District; Area 4 located the Lake Merritt Office District and Area 5 located on the boarder of Uptown and KONO. The Final Draft Plan removes transitional area number 3 located just north of Howard Terminal, as shown below on Figure III-14 and V.A-5. The opportunity sites within the previous transitional area number 3 remain as opportunity sites in the Final Draft Plan, but this area is no longer considered to be a transitional opportunity area of change. The above changes would not have any environmental impacts, nor would they cause any policy inconsistencies that were not already identified in the Draft EIR in *Chapter IV, Policy or Chapter V.A, Land Use*.

4. Development Program Changes

The development program has changed from the August 2019 Public Review Draft Plan to the Final Draft Plan. As shown below in Table II-1, the only increase in development square footage is in flex industrial square footage, where the Final Draft Plan anticipates an increase of 240,000 square feet. In addition, the associated increase in jobs for flex industrial would be 140. Residential units have remained the same, and the total commercial square footage has decreased by 1.7 million. The total institutional square footage has decreased by 10,000 square feet, and the number of parking spaces has decreased by 1,000. The main reason behind the development program changes is the revised vision for Jack London west of Jefferson Street. The Public Review Draft envisioned a larger mixed-use and residential component in that neighborhood, especially along Embarcadero by Howard Terminal, and between 4th and 5th

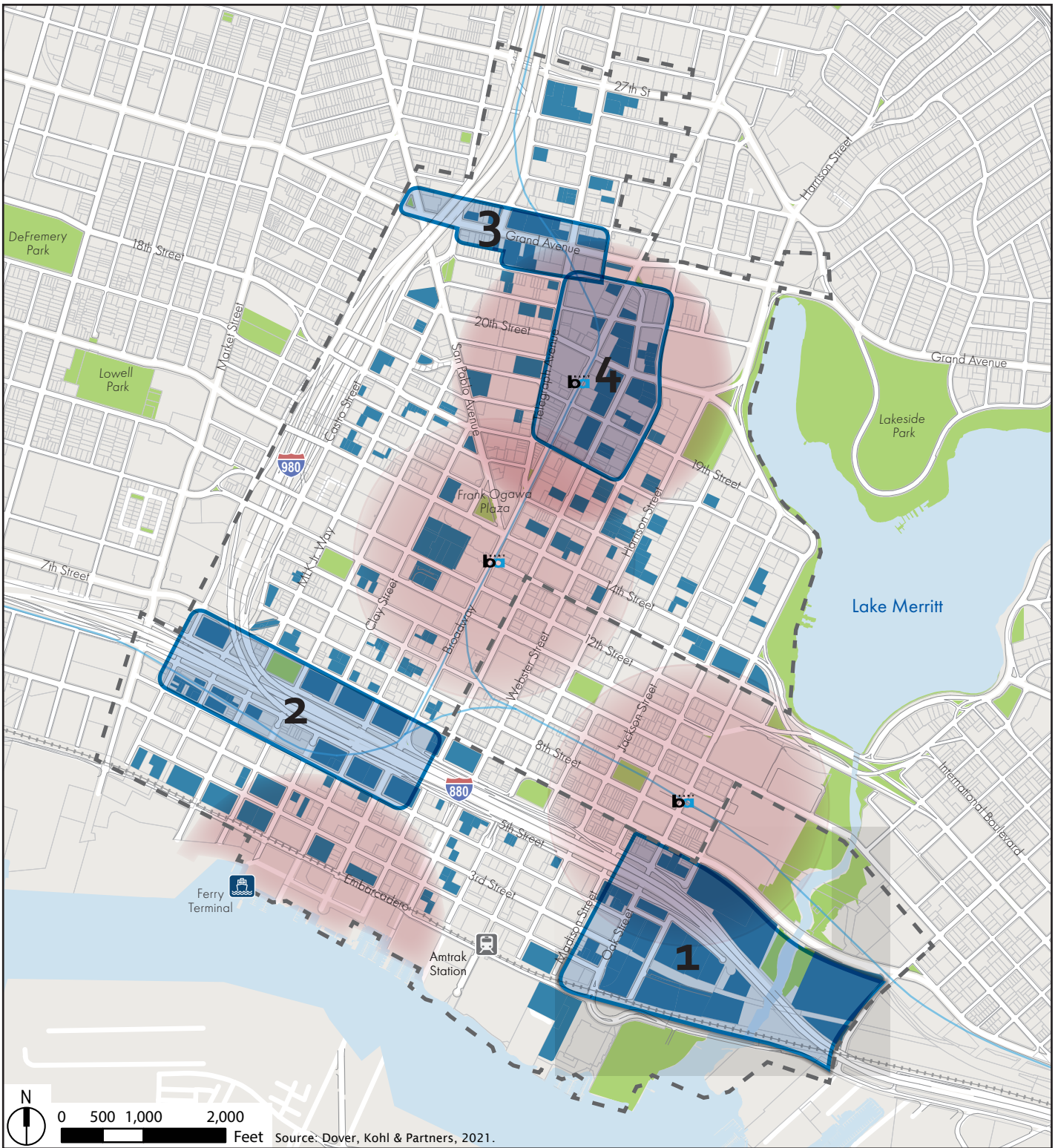


Legend

-  Downtown Plan Boundary
-  Parks
-  BART Station
-  Opportunity Sites
-  BART Line
-  Transformational Opportunity Areas
-  Railroad
-  Activity Node

Downtown Oakland Specific Plan EIR

Figure III-14
Transformational Opportunity Areas [Revised]



Legend

- Downtown Plan Boundary
- Parks
- BART Station
- Opportunity Sites
- BART Line
- Transformational Opportunity Areas
- Railroad
- Activity Node

Downtown Oakland Specific Plan EIR

Figure V.A-5
Transformational Opportunity Areas [Revised]

TABLE II-1 COMPARISON OF FUTURE DEVELOPMENT BY LAND USE BETWEEN AUGUST 2019 PUBLIC REVIEW DRAFT AND FINAL DRAFT PLANS^A

	Public Review Draft Plan	Final Draft Plan	Difference
Residential (Units)	29,100	29,100	0
Total Commercial (SF)	20,060,000	18,290,000	-1,770,000
Office	16,840,000	15,840,000	-1,000,000
Retail ^B	2,330,000	1,720,000	- 610,000
Flex	890,000	730,000	-160,000
Flex Industrial	260,000	500,000	+240,000
Institutional (SF)	1,310,000	1,300,000	-10,000
Parking (Spaces)	16,000	15,000	-1,000

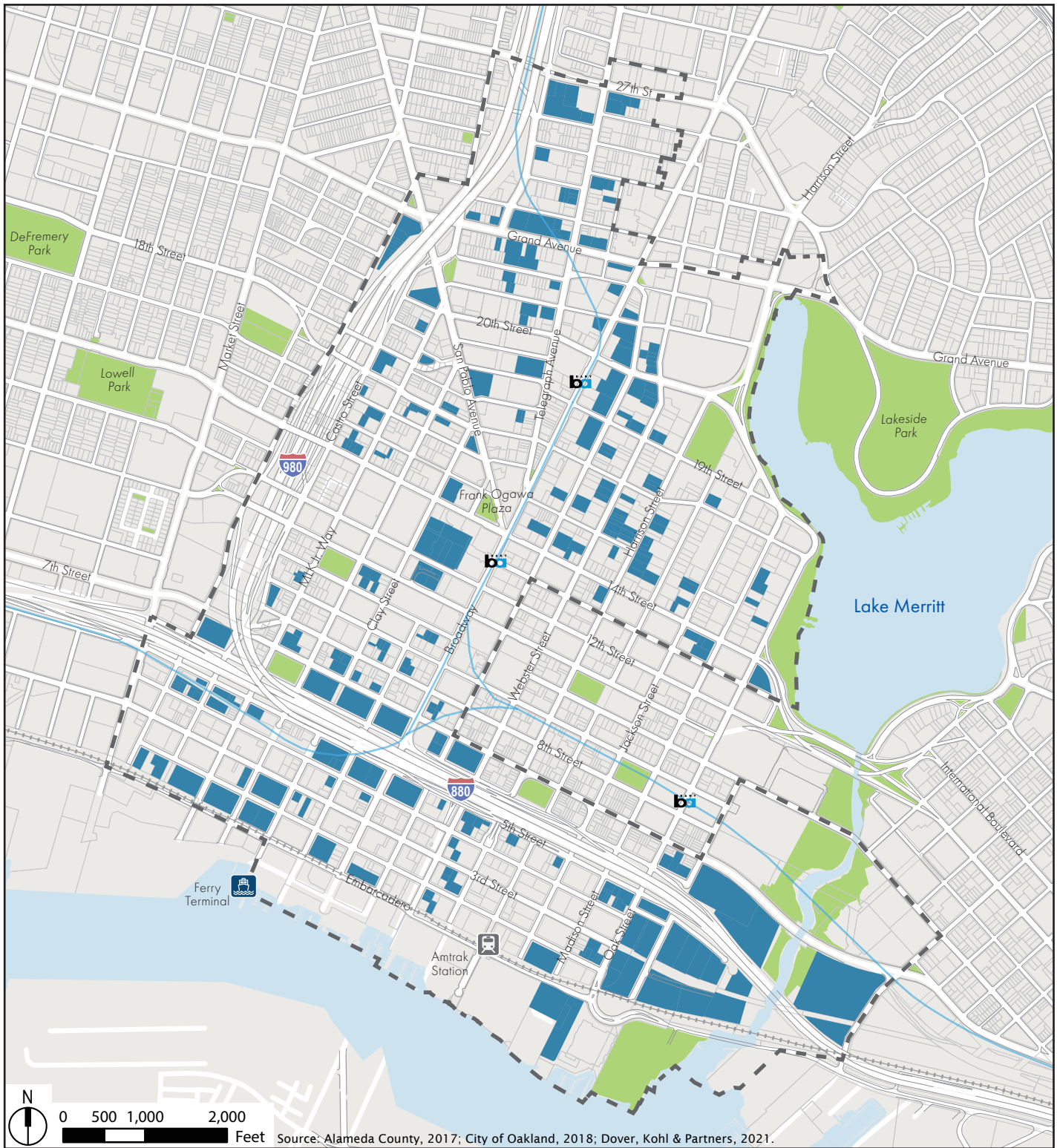
^A Numbers here show a comparison between the numbers utilized in the Draft EIR based on the August 2019 Public Review Draft Plan, Table III-4, and the numbers in the updated Final Draft Plan.

^B Retail includes Neighborhood Serving Commercial, hotels, and other non-specified commercial uses.

streets. Due to the uncertainty of Howard Terminal’s future and the Public Review Draft feedback to preserve and promote more industrial and production, repair, and distribution uses, changes to the development program were made to reduce building heights and increase industrial uses. To make up for the loss of residential in Jack London, some buildings with office, flex commercial, and retail/neighborhood-serving commercial uses were converted to residential, leading to an overall net loss of commercial in the development program.

Minimal changes in development associated with opportunity sites are proposed. The Final Draft Plan includes a net increase in four opportunity sites for a total of 70 sites when compared to the August 2019 Public Review Draft Plan’s 66 (see revised Figure III-13 and revised Figure V.A-4 shown below). The change between the August 2019 Public Review Draft Plan and the Final Draft Plan was due to several factors, including removing sites which have since been planned for development, fixing errors for which sites were already planned for development, and responding to public feedback. The following opportunity sites have been removed:

- One site at the Greyhound Bus Station off San Pablo Avenue.
- Two sites along MLK Jr. Way adjacent to 8th Street.
- Four sites along 8th Street between Broadway and Washington Street.
- One site at the Oakland Public Library located on the north side of 13th Street between Madison and Oak streets.



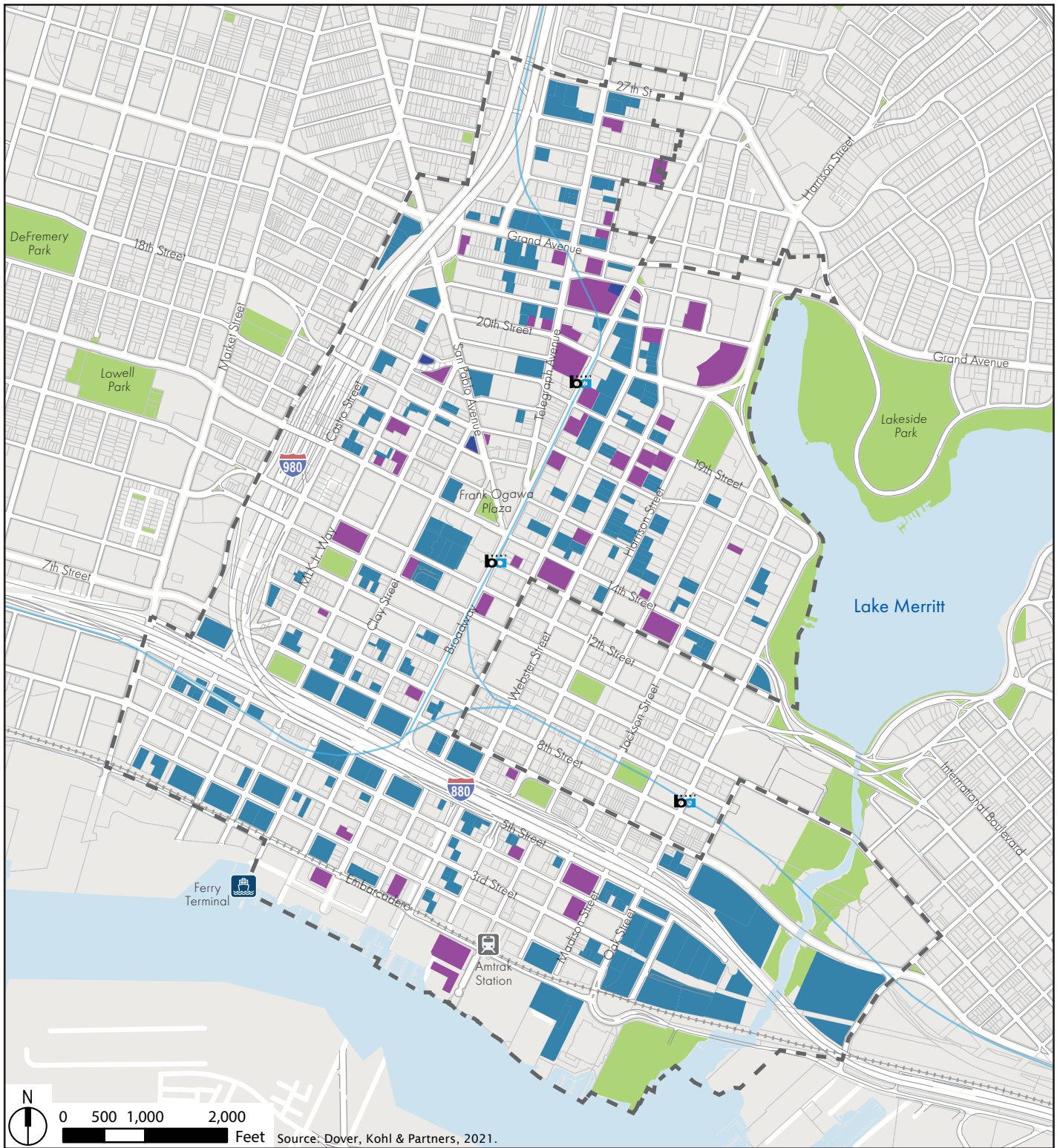
Source: Alameda County, 2017; City of Oakland, 2018; Dover, Kohl & Partners, 2021.

Legend

- Downtown Plan Boundary
- Opportunity Sites
- Parks
- b BART Station
- BART Line
- Railroad

Downtown Oakland Specific Plan EIR

**Figure III-13
Opportunity Sites [Revised]**



Legend

- Downtown Plan Boundary
- Parks
- BART Station
- Recently Completed/Anticipated Development
- BART Line
- Development Opportunity Sites
- Railroad

Downtown Oakland Specific Plan EIR

**Figure V.A-4
Opportunity Sites [Revised]**

The following have been added as opportunity sites:

- Nine sites clustered at the southeast corner of Grand Avenue and Bush Street.
- One site on the north side of 20th Street near the intersection of 20th Street and Rashida Muhammad Street.
- Two sites at the northeast corner of 4th and Brush streets.

B. CEQA ANALYSIS

CEQA Guidelines Section 15088.5 requires recirculation of an EIR when “significant new information” is added to the EIR after publication of the Draft EIR but before certification. The CEQA Guidelines states that information is “significant” if “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project proponents have declined to implement.” Section 15088.5 further defines “significant new information” that triggers a requirement for recirculation as including, but not limited to, identification of a new significant impact, of a substantial increase in the severity of an impact (unless mitigation is adopted to reduce the impact to a less-than-significant level), or of a new feasible alternative or mitigation measure that would lessen the environmental impacts of the proposed project that the project sponsor is unwilling to adopt. CEQA Guidelines Section 15088.5(b) states that recirculation is not required if “new information in the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.”

The City of Oakland Planning and Building Department proposes to alter the intensity map that includes FAR, density, and height from that analyzed in the August 2019 Public Review Draft Plan. See updated Figure III-8 Proposed Intensity, Figure III- 9 Proposed FAR Change Areas, Figure III-10 Proposed Residential Density Change Areas, Figure III-11 Proposed Height Change Areas for revised graphics to show the changes above.

As described above under Plan Revisions, the revisions proposed to the intensity map which includes FAR, residential density, and height would not permit development at an overall intensity or density beyond what was included in the development program. New analysis is not warranted for the reasons outlined below.

- 1) The Draft EIR studied development capacity that was greater than what is now being considered. The revisions would result in no changes in residential development projections and an overall net decrease in the commercial development program by over 9 percent (1.7 million square feet) with only a small net increase related to Flex Industrial. These changes would incrementally reduce projected employment growth and not result in any changes to projected population growth. As a result, impacts affected by population, housing

and job growth would remain the same and/or be incrementally less impactful. (i.e., parks, libraries, public services, population and housing, and utilities, including water).

- 2) The physical area of development is similar to that of the August 2019 Public Review Draft Plan as there were only minor tweaks to opportunities sites in the Final Draft Plan and generally the same development area exists. As such, there would be no substantial change in effects related to site-specific conditions, including biological resources; cultural resources, geology, and soils; hazards and hazardous materials, and hydrology and water quality analyzed in the Draft EIR, or agricultural and forest resources, mineral resources; energy; tribal cultural resources, or wildfire.
- 3) The Draft EIR analyzed higher heights than are proposed under the August 2019 Public Review Draft Plan on certain sites. Increases in height from the August 2019 Public Review Draft to the Final Draft Plan are limited in size and scale and would not result in impacts that were not previously identified in the Draft EIR.

These changes as discussed above result in a net decrease in intensity of development and associated population and employment growth. A more detailed analysis for several of the environmental resource topics are discussed below.

1. Land Use

a. Draft EIR Analysis

The Downtown Oakland Specific Plan Draft EIR found impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to: 1) physically dividing an existing community, 2) conflict with adjacent land uses, 3) conflict with land use policies, and 4) conflict with a habitat conservation plan or natural community conservation plan.

b. Proposed Changes Analysis

The Final Draft Plan does not propose any significant changes to the street network, and only proposes moderate changes to the public realm improvements. None of these revisions would physically divide an establish community, and thus impacts related to physical division of the existing community would be the same less then significant impacts as identified in the Draft EIR. As discussed above in Section A. Plan Revisions, only minor changes are proposed to opportunity sites from the August 2019 Public Review Draft Plan to the Final Draft Plan, in fact, there has been a decrease in the number of opportunity sites. In addition, one transitional area has been removed from the Final Draft Plan. The impacts associated with implementation of the Final Draft Plan have not changed as a result of any changes from the August 2019 Public Review Draft Plan, and therefore the analysis from the August 2019 Public Review Draft Plan remains valid.

Also as discussed above, the Final Draft Plan proposes changes to several General Plan Amendments, and as with the August 2019 Public Review Draft Plan, the Final Draft Plan proposes amendments in order to reconcile differences with current policies.

The General Plan amendment changes from the August 2019 Public Review Draft Plan to the Final Draft Plan represent minor changes to what was analyzed in the Draft EIR. Instead of Light Industry being proposed along 4th and 2nd streets from Brush to Clay, it is now all the way from 3rd Street to Embarcadero West east of Castro, and from 4th to Embarcadero West west of Jefferson. That is to say that there are no longer pockets, but rather fuller sections with Light Industry that more consistently follow the pattern of current industry and use within those blocks. The above changes, also shown above in revised Figure III-6, Proposed General Plan Land Use Designations Amendments, would not have any environmental impacts, nor would they cause any policy inconsistencies that were not already identified in the Draft EIR in *Chapter IV, Policy* or *Chapter V.A, Land Use*.

2. Transportation

a. Draft EIR Analysis

The Downtown Oakland Specific Plan Draft EIR found impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to: 1) vehicle miles traveled (VMT), 2) consistency with adopted motor vehicle policies, plans and programs, 3) conflicts between bicycle and transit along corridors where both are proposed with mitigation measure TRANS-1, and 4) street capacity. The Downtown Oakland Specific Plan Draft EIR found that development under the Specific Plan would generate additional multi-modal traffic traveling across the at-grade railroad crossing that would cause or exposure roadway users (e.g., motorists pedestrian, bus riders, bicyclists) to permanent or substantial transportation hazards, and this impact is conservatively deemed significant and unavoidable. In addition, the Draft EIR found that development under the Specific Plan would contribute to significant degradation of several Congestion Management Program or Metropolitan Transportation System segments.

b. Proposed Changes Analysis

As described above, the updated Development Program does not result in any changes in terms of residential units and therefore would not result in a change in population. As a result of the updated Development Program, the overall total amount of commercial square footage would decrease (-1,770,000 square feet, including -1,000,000 of office square footage, -610,000 of retail square footage, and -160,000 square feet of flex space). These changes would not significantly change any of the Draft EIR findings related to transportation because the overall trip generation and vehicle miles travelled projections in the Draft EIR reflected a scenario with more intensity

than the updated Development Program, and therefore presented a more conservative analysis that covers the scope updated Development Program without the need for revisions. Based on the comparison, the trip generation and forecasts would be less. The new development would generate roughly:

- 10,000 fewer vehicle daily trips
- 700 fewer AM peak hour trips
- 1,000 fewer PM peak hour trips

The reduction in trips also correlates with a reduction in vehicle miles travelled (VMT). In addition, the Final Draft Plan does not modify any changes to proposed street conversions, proposed bus transit networks or proposed connectivity and access improvement modifications. Therefore, the analysis presented in the Draft EIR continues to remain valid and the Specific Plan modifications related to traffic, and transportation remain valid. The following less-than-significant impacts would remain for the Final Draft Plan: 1) vehicle miles traveled (VMT), 2) consistency with adopted motor vehicle policies, plans and programs, 3) conflicts between bicycle and transit along corridors where both are proposed with mitigation measure TRANS-1, and 4) street capacity.

3. Air Quality

a. Draft EIR Analysis

The Downtown Oakland Specific Plan Draft EIR found impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to 1) the Plan's consistency with the Bay Area Clean Air Plan; 2) plan- and project-level generation and exposure to toxic air contaminants; 3) plan- and project-level sources of odors; 4) project-level construction emissions of criteria air pollutants; and 5) project-level local carbon monoxide concentrations. Impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years related to operational emissions of criteria air pollutants would be conservatively significant and unavoidable with mitigation of AIR-1. As stated in the Draft EIR on page 20, the feasibility or effectiveness of Mitigation Measure AIR-1 is unknown at this time.

b. Proposed Changes Analysis

Similar to the discussion in Transportation analysis above, quantitatively the Plan revisions would result in incrementally fewer VMT and vehicle trips operationally and less construction activity. These revisions would incrementally reduce the generation of criteria air pollutants, toxic air contaminants, and other health risks and would not result in any significant changes to the air quality impacts identified in the Draft EIR. The analysis in the Draft EIR presented a conservative

analysis. The Final Draft Plan would result in the same less than significant air quality impacts related to: the Plan's consistency with the Bay Area Clean Air Plan; plan- and project-level generation and exposure to toxic air contaminants; plan- and project-level sources of odors; project-level construction emissions of criteria air pollutants; and project-level local carbon monoxide concentrations, and the same conservatively significant and unavoidable impact related to operational emissions with mitigation of AIR-1.

4. Greenhouse Gas (GHG) Emissions

a. Draft EIR Analysis

The Downtown Oakland Specific Plan Draft EIR found 1) construction and operation of development projects under the Specific Plan would generate GHG emissions and could have a significant impact on the environment, but with implementation of Mitigation Measure GHG-1 impacts associated with implementation of the Specific Plan and reasonable foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to non-transportation GHG emissions and 2) impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to conflicts with applicable GHG plans, policies, or regulations.

b. Proposed Changes Analysis

The Downtown Oakland Specific Plan Development Program forms the basis of the Draft EIR analysis for GHG emissions. The Draft EIR analyzed both transportation GHG Emissions and non-transportation GHG Emissions. As with the transportation analysis, the total projected VMT for the Plan Area in the horizon year was compared quantitatively against the following per-capita VMT thresholds that have been recommended by the California Governor's Office of Planning and Research for SB 743 compliance.

- **15 percent below existing regional VMT per capita for residential and commercial/office projects; and**
- **No net increase in total VMT for retail projects.**

As described in *Section V.B Traffic and Transportation of the Draft EIR*, VMT generated by the Specific Plan would comply with SB 743 because VMT would be lower than the existing regional averages for residents and commercial development minus 15 percent; and Citywide VMT per service population would remain the same for retail development.

Assumptions for the generation of annual greenhouse gas emissions from non-transportation sectors is based on service population which includes a calculation of square footage of each land

use (commercial, industrial, retail etc.), as well as the population estimate. As described above, the updated Development Program does not have any changes in terms of residential units and in turn, population. There is a decrease in the total amount of commercial square footage, and institutional square footage, and a slight increase in flex industrial square footage, where the Final Draft Plan anticipated an increase of 240,000 square feet. In addition, the associated increase in jobs for flex industrial would be 140. The Draft EIR analysis relative to greenhouse gas emissions from non-transportation sectors therefore presented a conservative analysis, and thus the assumptions for greenhouse gas emissions would not change as a result of modifications to the Plan. All applicable SCAs, still would be incorporated in future developments, as applicable. Overall, the May 2021 Plan would result in the same less than significant greenhouse gas policy impacts and less than significant greenhouse gas emission impacts with mitigation measure GHG-1 identified in the Draft EIR for the Draft Specific Plan.

5. Aesthetics

a. Draft EIR Analysis

The Draft EIR found that impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant (1) would not substantially degrade public scenic vistas, (2) scenic resources) or (3) visual character or (4) would not create a new source of substantial light or glare in the Plan Area that would adversely affect day or nighttime views. The Draft EIR found that impacts with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years are conservatively deemed significant and unavoidable.

b. Proposed Changes Analysis

(1) Shadow

As described in the Draft EIR, given the sheer size of the Plan Area and amount of new development anticipated under the Plan, preparing a detailed shadow analysis was not feasible. The Draft EIR described a summary of the shadow trends in the Plan Area as a result of new development. Given the limited changes in height, and FAR from the August 2019 Public Review Draft Plan to the Final Draft Plan, the same shadow summary remains.

Winter shadow would still be the longest, and thus, during the winter months, some new shadow would extend the length of a full block or more, with the highest buildings casting the greatest amount of new shadow especially during winter mornings around 9:00 a.m. and winter afternoons around 3:00 p.m. This would occur primarily near Uptown, Lake Merritt Office District, and Central Core, where existing and proposed height limits are the highest. There are currently

no intensity changes that differ from the August 2019 Public Review Draft Plan, other than a reduction in intensity on a few small blocks with thin Uptown. The Final Draft Plan did not increase intensity compared to the August 2019 Public Review Draft Plan in Jack London Square or Laney College; in fact, in many areas the intensity decreased from what was analyzed in the August 2019 Plan.

Based on the foregoing, the revisions to the Draft EIR Intensity Map (Draft EIR Figure III-8 as well as Figure III-9 (FAR), Figure III-10 (Density) and Figure-11 (Height)) would not result in any new or substantially more-severe shadow impacts than identified in the Draft EIR.

(2) Wind

As described in the Draft EIR, development under the Specific Plan could be tall enough to result in adverse wind conditions. Buildings taller than their surroundings tend to intercept the stronger winds at higher elevations and direct them to the ground level. Given the limited changes in height, and FAR from the August 2019 Public Review Draft Plan to the Final Draft Plan, the revisions to the Draft EIR Height and Bulk Map (the Draft EIR Intensity Map (Draft EIR Figure III-8 as well as Figure III-9 (FAR), Figure III-10 (Density) and Figure-11 (Height)) would not result in any new or substantially more-severe wind impacts than identified in the Draft EIR .

6. Noise

a. Draft EIR Analysis

The Downtown Oakland Specific Plan Draft EIR found that 1) construction-generated noise would be less than significant with the implementation of SCAs and Policy CH-2.10 2) impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related operational noise 3) impacts associated with implementation of the Specific Plan and reasonable foreseeable development expected to occur in the Plan area over the next 20 years would be less than significant related to exposure of persons to significant noise during operation 4) impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to groundborne vibration during operations 5) impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to the exposure of people to excess noise levels from public use airports.

b. Proposed Changes Analysis

The Downtown Oakland Specific Plan Development Program forms the basis of the Draft EIR analysis for noise. Assumptions for the generation of traffic noise transportation sectors are based on the assessment of AM and PM peak hour traffic volumes at roadways segments within the vicinity of the Plan Area. As described above, the updated Development Program does not have any changes in terms of residential units and in turn, population. There is a decrease in the total amount of commercial square footage and institutional square footage, and a slight increase in flex industrial square footage. As described above in the transportation analysis, because the estimated number of new peak hour trips would decrease as a result of modifications to the Specific Plan, the Draft EIR analysis presented a conservative analysis that covers the scope of the updated Development Program without the need for revisions. All applicable SCAs still would be incorporated in future developments, as applicable. Overall, the Final Draft Plan would result in the same less than significant noise impacts identified in the Draft EIR for the August 2019 Public Review Draft Plan.

III. LIST OF COMMENTING AGENCIES, ORGANIZATIONS AND INDIVIDUALS

This chapter presents a list of letters and comments received during the public review period of the Draft EIR and describes the organization of the letters and comments that are included in *Chapter IV, Comments and Responses*, of this document.

A. ORGANIZATION OF COMMENT LETTERS AND RESPONSES

During the 70-day comment period, which ended on November 8, 2019, the City received written comments from 6 government agencies, 16 organizations or businesses, and 3 individuals. The City also received verbal comments from four public meetings: the Landmarks Preservation and Advisory Board Meetings on September 23, 2019 and October 14, 2019 and the Planning Commission meetings on October 2, 2019 and November 6, 2019. This RTC document includes a reproduction of each written comment letter (or email) received on the Draft EIR in its entirety and a summary of verbal comments made at the public hearing before the LPAB and Planning Commission. Written responses to each comment are provided.

The comment letters are numbered consecutively following the A, B, and C designations. The letters are annotated in the margin according to the following code:

State, Local and Regional Agencies:	A#
Organizations and Businesses:	B#
Individuals	C#
Public Hearings:	D#

The following agencies, organizations, and individuals provided written or verbal comments.

Governmental Agencies

A1	East Bay Municipal Utility District	October 14, 2019
A2	Department of Transportation, District 4	October 14, 2019
A3	Bay Area Rapid Transit	October 7, 2019
A4	Alameda County Transportation Commission	November 8, 2019
A5	Port of Oakland	November 8, 2019
A6	State Clearinghouse	November 15, 2019

Organizations and Businesses

B1a	Oakland Heritage Alliance	September 18, 2019
B1b	Oakland Heritage Alliance	September 22, 2019
B1c	Oakland Heritage Alliance	November 18, 2019
B2	Commission on Aging	October 23, 2019
B3a	Downtown Oakland Specific Plan Working Group	November 6, 2019
B3b	Downtown Oakland Specific Plan Working Group	November 8, 2019
B4	Oakland Measure DD Community Coalition	November 5, 2019
B5	Oakland Bicyclist and Pedestrian Advisory Commission	November 6, 2019
B6	Library Advisory Commission	November 7, 2019
B7	Union Pacific Railroad Company	November 8, 2019
B8	Oakland Chinatown Coalition	November 8, 2019
B9	East Bay Housing Organizations	November 8, 2019
B10	Coalition of Advocates for Lake Merritt, Oakland Tenants Union (OTU), Homeless Advocacy Working Group (HAWG)	November 8, 2019
B11	Golden Gate Audubon Society	November 8, 2019
B12	Pacific Merchant Shipping Association, et al.	November 8, 2019
B13	Wendel Rosen LLP, on behalf of Metrovation LLC	November 8, 2019
B14	Friends of Lincoln Square	November 8, 2019

Individuals

C1a	Tiffany Eng	October 1, 2019
C1b	Tiffany Eng	October 1, 2019
C2	Naomi Schiff	November 9, 2019

Public Meetings

D1	Landmarks Preservation Advisory Board Meeting Board Member Klara Komorous Board Member Vince Sugrue Board Member Marcus Johnson Board Member Peter Birkholz Naomi Schiff Daniel Levy Kirk Peterson	September 23, 2019
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- Thomas J Towey
- D2 Planning Commission Meeting October 2, 2019
- Planning Commissioner Nischit Hegde
- Planning Commissioner Jonathan Fearn
- Planning Commissioner Tom Limon
- Planning Commissioner Clark Manus
- Planning Commissioner Jahmese Myres
- Klara Komorous
- Daniel Levy
- James E. Vann
- Peter Birkholz, Cultural and Arts Garage District
- Mary Ellen Navas
- David Simon
- Theresa Hammond
- Marina Carlson
- Alvina Wong
- Chris Roberts
- Naomi Schiff
- Jennie Gerard
- Adrian Cotter
- Mark Brustman
- Mike Jacob
- Richard Sinkoff
- Tim Frank
- Jeff Levin
- Christopher Buckley
- Paul Bicmore
- Derek Sagehorn* (Meeting minutes incorrectly spell as Sasehorn)
- Tara Parker-Essig
- D3 Landmarks Preservation Advisory Board Meeting October 14, 2019
- Ronile Lahti
- Daniel Levy

	Victoria Barbero	
	Naomi Schiff	
D4	Planning Commission Meeting	November 6, 2019
	Vince Sugrue	
	Kenya Wheeler	
	Mark Brustman	
	Derek Sagehorn	
	Adriana Bargas	
	Mike Jacob	
	Ben Keller	
	Daniel Levy	
	Tim Frank	
	Planning Commissioner Nischit Hedge	

IV. COMMENTS AND RESPONSES

Written responses to each comment letter and verbal comments received on the Draft EIR are provided in this chapter. Letters received during the public review period of the Draft EIR are provided in their entirety. Each letter is immediately followed by responses keyed to the specific comments. The letters and comments are grouped by the affiliation of the commenting entity as follows: State, local, and regional agencies (A); organizations (B); individuals (C), and Public Hearing Comments from Landmarks Preservation Advisory Board and Planning Commission (D).

MASTER RESPONSES

Two master responses are also provided in this chapter that address recurring comments received on the Draft EIR. The intent of the master responses is to avoid repetition within this document and give a single, comprehensive response to the recurring comments to improve readability of the document by avoiding repetition and multiple cross-references. The two master responses include:

Master Response 1. Specific Plan Merits and Related Non-CEQA Topics Master Response: addresses comments received pertaining to the merits of the Specific Plan and related Non-CEQA topics, including topics pertaining to the Zoning Incentive Program and its community benefits program.

Master Response 2. Residential Displacement and Affordability: addresses comments received regarding residential displacement and housing affordability.

Master Response 1. Specific Plan Merits and Related Non-CEQA Topics Master Response

A large portion of comments received on the Draft EIR address the Specific Plan and not the adequacy of the Draft EIR. Such comments generally fall into one of the following categories:

- **Plan Merits and Revisions** – expressions of support for or concern about the Draft Specific Plan and/or suggestions/requests for revisions to the Plan.
- **Socioeconomic and Fiscal** – concerns related to community benefits, housing affordability, funding for capital improvements, etc.
- **Public Review and Community Engagement** – concerns about the adequacy of the public review process for the Plan and/or EIR that do not address adequacy of the Draft EIR.

- **Plan Implementation and Zoning** – concerns and requests specific to implementing the Plan include revisions to the General Plan and Zoning, including the Zoning Incentive Program and its feasibility study.

Most of such comments do not relate to the adequacy of the Draft EIR and as a result do not require a written response under the California Environmental Quality Act (CEQA). Given this and to separate the Environmental Impact Report (EIR) and its adequacy from the issues particular to the Plan, specific responses to such comments are not provided in this Response to Comments (RTC) Document.

Each Plan-related comment and/or each comment that addresses topics beyond the purview of the EIR or CEQA is noted as such in this document. The City has considered and, in many cases, addressed these comments as part of the merits of the Plan through revisions that include near-term and long-term implementation actions. Such comments will also be considered by the City decision-makers prior to acting on the Specific Plan in the context of the merits of the Plan.

a. Plan Merits/Revisions

Comments that fall into this category include plan-related comments about design, goals and policies that do not affect the physical environment or pertain to the adequacy of the analysis in the EIR. Plan goal and policy concerns are commonly not related to the quantifiable, physical environmental issues addressed in the EIR document, which are objectively assessed against the significance criteria provided by the City of Oakland's CEQA Thresholds/Criteria of Significance Guidelines. Many of the Plan comments address economic and social considerations that are outside the purview of CEQA. Some examples of comments include:

- Alameda CTC acknowledges and encourages the multimodal mobility outcomes documented in the Downtown Oakland Specific Plan.
- Reduce existing excessive by-right zoning intensities (floor area ratios or FARs, height limits and residential densities) coupled with increased, or “bonus” intensities in exchange for community benefits, including affordable housing and transferable development rights (TDR) for historic buildings.
- Change “Explore. . .” to “Incorporate an incentive plan being developed by the consultant” and include areas outside cultural districts with new and long-term vacant spaces. Identify minimum gross floor area for cultural entities and PDR. (C-1.5, p. 26, DEIR p. 107, 288)
- Make all ground floor spaces an opportunity to place Cultural Enterprises, with AFFORDABILITY provisions. (DEIR p. 107, 288, 335, 336)
- City Approvals, page 77: As a general comment, please look at the balance of new development we already have. Of the approximately 5,000 units of new construction housing coming online between 2018 and 2020, 96% is market rate, and only 4% is below market rate.

If streamlined approvals make this imbalance even more likely to occur in the future, it will accelerate the displacement and gentrification trends we are currently seeing. If we agree that that is an inequitable outcome, and the objective of this Plan is to create equitable outcomes, then we should not approve this Plan.

Although some of these comments cite pages from the Draft EIR, the pages cited are typically quoting what is in the Plan, which is what the EIR is evaluating. They do not address the adequacy of the EIR analysis. The City will consider changes to the Plan independent of the EIR/CEQA review; although some Plan revisions may be informed or in response to Mitigation Measures included in the EIR required to address impacts that exceed the CEQA thresholds. Section 15131(b) of the CEQA Guidelines provides that the economic or social effects of the project (the Plan in this case) shall be evaluated in an EIR if there is evidence that the economic or social effects of the project will produce significant physical environmental impacts. Some examples of such comments include:

- This EIR should address capital improvement funding for all City-owned facilities (including the Oakland Asian Cultural Center) and by identifying implementable plans to secure long term funding from the City.
- 5.A.2.b.(2) page 138, Central Core/Uptown/Lake Merritt Office District: Comment on Policy H-1.1: Do not upzone unless specific community benefits are attached to that public action which arbitrarily creates a windfall in land value for the landowner.
- We support studying an inclusionary housing policy downtown as an addition to rather than a replacement for the existing impact fee.
- Use Impact Fee for Gaps. Recommend that Transportation Impact Fees be used to fill in pedestrian safety and bike network gaps to create continuous corridors that are not addressed during development projects that occur in accordance with the Plan.

To the extent that the economic and social effects of the Plan could result in physical changes to the environment in the context of the CEQA significance criteria/thresholds, such potential environmental impacts are fully analyzed in the relevant topical chapters of the Draft EIR based on the identified CEQA significance criteria/thresholds. Also see Master Response 2. Residential Displacement and Affordability.

b. Public Review and Community Engagement

There were several comments received related to the public review and community engagement process. Although these comments are important, they do not relate to the adequacy of the EIR. The City's public review process for the EIR has far exceeded the requirements under CEQA and the periods for review have exceeded the maximum recommended in the CEQA Guidelines.

A Notice of Preparation (NOP) was initially published on January 4, 2019 and was extended 19 days longer than the 30 days required by the CEQA Guidelines. The City held three scoping sessions where only one is required. (Planning Commission on February 4, 2019 and February 20, 2019 and Landmarks Preservation and Advisory Board (LPAB) on February 6, 2019.)

The Draft EIR was published on August 30, 2019 and the public comment period for the Draft EIR began on August 30, 2019 and was scheduled to end on Tuesday October 15, 2019. Ultimately the comment period was extended to November 8, 2019 (from the required 45 days to 70 days – the CEQA guidelines recommend a maximum of 60 days) at the direction of the Planning Commission in response to requests of members of the public and the Landmarks Preservation Advisory Board (LPAB). Four public hearings were held regarding the adequacy of the Draft EIR during the 70-day public comment period: the LPAB on September 23rd and October 14th and the Planning Commission on October 2 and November 6, 2019. Only one hearing is required.

c. Plan Implementation and Zoning

Most of the implementation measures included in the Plan will be prepared and implemented following Plan adoption and as a result, the specifics of these measures are not specifically considered in the Draft EIR. However, it is assumed they will be consistent with the Plan and the proposed General Plan Amendments, and as such will not result in any new or greater adverse impacts than identified for the Plan. As an example, the zoning for parcels is expected to conform to the density, intensity and height standards detailed in the Plan. If this is the case, it is not expected that further CEQA analysis will be required. With that said, all future discretionary actions, such as approval of zoning amendments will be reviewed prior to the City considering them for approval to determine if the proposals fit within the analysis included in the Draft EIR and if any additional CEQA review is required. This is a typical process for subsequent approvals of items related to implementation of a Plan, particularly updated zoning.

d. Zoning Incentive Program

Several comments expressed the desire for a zoning incentive program that would allow increases in height, Floor Area Ratio (FAR), and/or density in exchange for specific community benefits. These comments do not relate to the adequacy of the Draft EIR and are not within the scope of CEQA requirements; a response noting such is provided for each comment. The City will consider these comments independent of CEQA, when the zoning amendments are considered. The Specific Plan is adopted by Resolution while Zoning is adopted in a separate action by Ordinance.

Master Response 2: Residential Displacement and Affordability

Many comments received raised concerns that the implementation of the Specific Plan would cause displacement of existing residents or groups of residents, including but not limited to seniors, youth, artists, and African Americans. Both indirect displacement and direct displacement are discussed throughout the Draft EIR.

This response will further clarify these issues and frame the difference between impacts under CEQA with broader policies and actions that the City considers in the Specific Plan to address concerns. This response is organized into three sections: current conditions, CEQA considerations related to displacement and non CEQA considerations related to displacement and affordability. The following definitions for displacement, as included within the Downtown Oakland Specific Plan Draft EIR¹, are used throughout this Response to Comments document:

- “Indirect displacement” is defined as the potential outcome of community investment that results in rising property values, benefiting homeowners and property owners but causing serious economic challenges for renters and prospective owners. These challenges may include existing residential renters and local small businesses facing higher and unaffordable rents, and potential local homebuyers trying to compete with outside cash investors for single-family homes. As a result, housing or business costs may become (more) unaffordable, and existing tenants may be forced by changing economic trends to find more affordable housing or business locations elsewhere, if available. As described on page 587 of the Draft EIR, while rising land prices and housing costs can cause indirect displacement, this would only be considered a physical impact under the CEQA criteria if it would necessitate the construction of replacement housing elsewhere.
- “Direct displacement” is defined as a more intentional outcome, at a small or broad scale, of planned changes in land use and the direct redevelopment of existing neighborhoods or business properties. Direct displacement occurs when existing homes and/or business properties are converted to new and different land uses or when affordable rental properties are converted into a less affordable use.

a. Current Conditions

Population and demographic data are described in detail in the Draft EIR Chapter 5.L, Population and Housing, 1) Setting starting on page 571 of the Draft EIR. The Setting describes existing conditions and trends for housing and population within the Plan Area, Greater Downtown, and Oakland as a whole. Data for the greater Downtown Oakland was taken from Strategic Economics’ Draft Affordable Housing and Anti-Displacement Background and Strategies

¹ Downtown Oakland Specific Plan Draft EIR, page 587.

Memorandum prepared as part of the background information for the Specific Plan.² Greater downtown includes the Specific Plan Area and Chinatown. Figure III-2 in the Draft EIR displays the greater Downtown Oakland area as the Plan Area boundary, and Chinatown as part of the Lake Merritt Station Area Plan. The Strategic Economics Memorandum also considered Howard Terminal, which is shown just outside the boundary of the Downtown Oakland Specific Plan in Figure III-2. As described in Strategic Economics' work, although Chinatown is subject to the Lake Merritt Specific Plan, it functions as an integral part of Downtown Oakland's economy. In addition, although not required by CEQA, information on racial disparities is included in the Draft EIR for informational purposes. The following existing conditions were presented starting on page 573 of the Draft EIR.

1. Population and Housing Characteristics
 - a. Racial and Ethnic Diversity
 - b. Economic Characteristics and Jobs
2. Housing
 - a. Housing Stock
 - b. Housing Cost

b. CEQA Considerations Related to Displacement

As stated on page 584 of the Draft EIR, the CEQA significance criteria are specific to displacement. These criteria direct the analysis and provide the determination of the potential significant effects related to displacement as stated below:

- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere, more than that contained in the City's Housing Element.

As discussed in the Draft EIR on page 587, while rising land prices and housing costs can cause indirect displacement, this would only be considered a physical impact under the CEQA criteria if it would necessitate the construction of replacement housing elsewhere. The Plan would increase development economic activity and land costs in the vicinity, and thus could represent reinvestment displacement. However, because displacement is an existing regional phenomenon resulting from conditions including job growth and insufficient housing construction throughout the Bay Area prior to, and independent of, the Specific Plan, it would be speculative to identify a singular cause for or contribution to increased land or housing costs that is directly attributable to the adoption and development under the Plan as it relates to indirect displacement.

² Strategic Economics, 2018. Draft Affordable Housing and Anti-Displacement Background and Strategies Memorandum, June 13.

CEQA only requires analysis and mitigation of potentially substantial adverse changes in the physical environment according to Public Resources Code 21151, 21060.5, and 21068. As stated on Draft EIR page 587, most of the opportunity sites were carefully selected to be sites that are currently vacant or developed with parking or underutilized commercial uses. Therefore, the direct loss of housing units and associated displacement of residents residing in such units would be unlikely to occur. As described on page 587 of the Draft EIR, build-out of the Specific Plan development program would result in approximately 29,100 additional housing units by 2040, averaging approximately 1,460 units per year between 2020 and 2040. As expressed in the Draft EIR, if new development displaced a housing unit or units, it would not be expected to necessitate the construction of replacement housing elsewhere outside the Plan Area given the higher-density housing that would replace the displaced units and create a substantial net increase in housing units. As such, the potential environmental effects from construction and operation of these replacement units is analyzed and evaluated throughout the Draft EIR.

c. NON-CEQA Considerations Related to Displacement

While not a CEQA issue in and of itself as described above, concern over the socio-economic effects of potential displacement of existing residential units and affordable housing in general is a policy issue that is addressed in the Specific Plan and many of its implementation actions. The provision of affordable housing choices is beyond the purview of CEQA and specifically this EIR. It is a citywide concern and policy goal for the City that must be addressed comprehensively through policy decisions and programs.

Social or economic impacts alone are not changes in physical conditions. CEQA Guidelines provide that social or economic impacts may not be treated as significant effects on the environment.³ Evidence of social or economic impacts (e.g., property values, rent levels, neighborhood demographics, etc.) that do not contribute to, or are not caused by, physical impacts on the environment are not substantial evidence of a significant effect on the environment.

Although indirect displacement is not considered part of the permanent physical environment and thus is not an environmental issue requiring analysis under CEQA and the City does not have thresholds of significance related to this issue, the Draft EIR does contain a discussion under “other considerations/supplemental information” starting on page 590, which is also summarized below. It is recognized that this issue is important to the community, has been addressed in the Specific Plan itself and vetted through an equity assessment process, and will be fairly considered by the legislative body when considering the policy alternatives, actions, and merits of the project. The *Plan Options Report* Appendix A: Equity Assessment of Plan Options, and Appendix

³ CEQA Guidelines Sections 15358(b), 15064, 15382.

B: Disparity Analysis discuss this issue and can be found in the provided link.
<https://www.oaklandca.gov/topics/plan-publications>.

The Specific Plan also includes several policies that address the threat of displacement as discussed on pages 588-589 of the Draft EIR. In addition to the Specific Plan's policies, existing regulations would also mitigate the loss of any housing units due to implementation of the Specific Plan. Oakland has a long history of tenant protections for residents. The Rent Adjustment Ordinance, Just Cause Eviction Ordinance, Ellis Act, and the Uniform Tenant Protection Relocation Ordinance provide a substantial set of existing tenant safeguards. The Rent Adjustment Ordinance, among other measures, restricts annual rent increases to the Consumer Price Index. This measure applies to all units in existence prior to 1983, which includes most of the units within the Specific Plan. The Just Cause Eviction Ordinance establishes regulations and a specific process for evicting tenants. Most importantly, it established clear criteria for the reason for eviction. It applies to all units in existence prior to 1995. The Ellis Act, a state law, dictates the process for permanently removing a unit from residential market (Ellis Act Ordinance Municipal Code Section 8.22.400.480). The Uniform Tenant Relocation Ordinance provides relocation payments to tenants displaced by no-fault eviction, tiered by need such as seniors and disabled residents.

The local, and state laws and ordinances mentioned above would help to avoid potential adverse effects related to the displacement of housing and people as a result of future development in the Plan Area. In addition, various standard conditions of approval, notably SCA-POP-1: Jobs/Housing Impact Fee (#71) and SCA-POP-2: Affordable Housing Impact Fee (#72) would also help to minimize any potential adverse effects related to the displacement of housing and people.

As stated in the Draft EIR, the levels of housing development anticipated in Oakland and in the Plan Area build-out are consistent with the City's Housing Element and General Plan. Construction needed for replacement housing, if existing housing units are redeveloped, would not exceed replacement housing anticipated in the City's Housing Element, General Plan, and related zoning policies. Any removal of housing units due to development under the Specific Plan would not be substantial in the context of total citywide housing units and the expected extensive net increase in housing units throughout the city that would result from Plan implementation into 2040.

When considering the initial comparison of jobs and housing, the Specific Plan would result in 60,730 new jobs and 29,100 new housing units. This would create a relationship of approximately two jobs per household for the Plan Area and would not materially alter the City's existing ratio of jobs per households or its ratio of existing jobs per employed residents. It is appropriate to have a higher jobs/housing ratio in a downtown well-served by transit than in the rest of the city, or in a bedroom community. Non-residential development, as part of the Plan, would be subject to the

requirements of the City of Oakland's Jobs/Housing Impact Fee Ordinance, and would apply to gross square feet of new office uses to mitigate the impact of employment growth on housing supply and affordability.

d. Conclusion

The Downtown Oakland Specific Plan contains policies, objectives and goals that specifically focus on minimizing displacement of existing businesses and residents. Some growth is projected to occur throughout the Plan Area, but the Plan itself mainly focuses on promoting the redevelopment of vacant and underutilized sites (most of the sites are surface parking lots) that are promoted as opportunity sites in Chapter 6 of the Public Review Draft Specific Plan and also described on page 587 of the Draft EIR. The Draft EIR considers both opportunity areas as well as overall development. Within downtown and the Plan Area, many of the identified opportunity sites are currently zoned and will continue to be zoned for greater development density/intensity than what currently exists on the site. This condition results in the demolition of some buildings that are underutilized, potentially unsafe, and in disrepair. With or without approval of the Specific Plan, it is unlikely that this condition would significantly change. Further, implementation of the Specific Plan is anticipated to result in a net increase of up to 29,100 units in the Plan Area by 2040. Through a combination of new housing production, preservation and protection, the Specific Plan targets providing 4,365 to 7,275 affordable housing units designated to accommodate extremely low to moderate income families. The Specific Plan's substantial net increase of housing units will ensure that implementation of the Plan does not necessitate construction of replacement housing outside the Plan Area.

The Specific Plan includes goals and policies to prevent indirect displacement such as to 1) create opportunities for economic growth and security for all Oaklanders, and 2) ensure sufficient housing is built and retained to meet the varied needs of current and future residents.

In addition, there are a selection of policies devoted to culture keeping, providing and retaining affordable housing for residents with the least resources, supporting small business, and a proposal for a zoning incentive program to provide community benefits to mitigate impacts of rising property values and rents.

City staff and consultants who have collaborated in preparing this response recognize that the debate over whether this Plan does enough to counter the potential for unintended, indirect displacement of existing Downtown Oakland residents and businesses will likely continue beyond consideration for approval of this Plan. The Specific Plan includes goals and policies intended to empower existing downtown residents and businesses to benefit from the new development and economic activity, as well as to improve the quality of life for existing and future residents, and to increase community-wide benefits associated with new downtown development. In addition, the

City has a long history of taking actions to protect tenants through rent stabilization and Just Cause eviction and relocation assistance.

However, the Plan by itself cannot provide the guaranteed funding required to implement all the proposed strategies that counteract or lessen the impact of indirect displacement. Achieving the goals of the Plan to both mitigate development impacts and improve existing conditions will require cooperative implementation efforts between elected officials, residents, businesses, City staff, anchor institutions, community-based organizations, nonprofit and for-profit developers, land trusts, financial institutions, philanthropic organizations, and local, State, and federal agencies. This process will be ongoing during the implementation phase of the Plan.

A. COMMENTS AND RESPONSES FROM STATE, LOCAL, AND REGIONAL AGENCIES



RECEIVED OCT 14 2019

October 9, 2019

Alicia Parker, Planner III
City of Oakland, Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Notice of Availability/Release of a Draft Environmental Impact Report for the
Downtown Oakland Specific Plan (Case Number SP16-001, File Number ER18020)

Dear Ms. Parker:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Downtown Oakland Specific Plan (Specific Plan) located in the City of Oakland (City). EBMUD commented on the Notice of Preparation of a Draft EIR for the project on February 5, 2019. EBMUD's original comments (see enclosure) still apply regarding general issues, water service, water recycling, wastewater service, and water conservation. EBMUD also has the following additional comments on the Draft EIR.

1

GENERAL

On page 650, under Utilities, 2. Regulatory Setting, d. City of Oakland, (4) Standard Conditions of Approval, SCA-UTIL-14: Recycled Water (#91), please change the text to reflect (*added text in bold italics*):

“Requirement: Pursuant to Section 16.08.030 of the Oakland Municipal Code, the project applicant shall provide for the use of recycled water in the project for *feasible recycled water uses* ~~landscape irrigation purposes~~ unless the City determines that there is a higher and better use for the recycled water, the use of recycled water is not economically justified for the project, or the use of recycled water is not financially or technically feasible for the project. *Feasible recycled water uses may include, but are not limited to, landscape irrigation, commercial and industrial process use, and toilet and urinal flushing in non-residential buildings.* The project applicant shall contact the New Business Office of the East Bay Municipal Utility District (EBMUD) for a recycled water feasibility assessment by the Office of Water Recycling. If recycled water is to be provided in the project, the project drawings submitted for construction-related permits shall include the proposed recycled water system and the project applicant shall install the recycled water system during construction.”

2

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Alicia Parker, Planner III

October 9, 2019

Page 2

Sincerely,



David J. Rehnstrom

Manager of Water Distribution Planning

DJR:DWG:sjp

sb19_184 Downtown Oakland Specific Plan

Enclosure: EBMUD's response letter to Notice of Preparation of a Draft Environmental Impact Report for the Downtown Oakland Specific Plan, dated February 5, 2019

cc: Lynette Dias
Urban Planning Partners
388 17th Street, Suite 230
Oakland, CA 94612



February 5, 2019

Alicia Parker, Planner III
City of Oakland, Bureau of Planning
250 Frank H. Ogawa, Suite 3315
Oakland, CA 94612

Re: Notice of Preparation of a Draft Environmental Impact Report for the Downtown
Oakland Specific Plan (Case Number SP16-001, File Number ER18020)

Dear Ms. Parker:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Downtown Oakland Specific Plan (Specific Plan) located in the City of Oakland (City). EBMUD has the following comments.

General

Pursuant to Section 15155 of the California Environmental Quality Act Guidelines and Sections 10910-10915 of the California Water Code, a Water Supply Assessment (WSA) will be required as the Specific Plan area will include potential development that exceeds the threshold requirement for an assessment of water supply availability. Please submit a written request to EBMUD to prepare a WSA. EBMUD requires the project sponsor to provide future water demand data and estimates for the Specific Plan area for the analysis of the WSA. Please be aware that the WSA can take up to 90 days to complete from the day on which the request is received.

EBMUD owns several rights-of-way (R/Ws) within the Specific Plan boundaries, including R/Ws 4321, 4322, 4323A, and 2731 that are located south of Embarcadero and serve EBMUD's wastewater facilities. Any proposed construction activity in EBMUD rights-of-way would be subject to the terms and conditions determined by EBMUD including relocation of the water mains and/or rights-of-way at the project sponsor's expense.

In order for EBMUD to better assess the infrastructure within the Specific Plan area, please include a figure that clearly details the street lines, street names, and parcels within and along the planning boundary in the Draft EIR.

WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation range between 0 and 100 feet, will serve proposed projects within the Specific Plan area. Any project within the Specific Plan area will be subject to the following general requirements.

Main extensions that may be required to serve individual projects to provide adequate domestic water supply, fire flows, and system redundancy will be at the project sponsor's expense. Pipeline and fire hydrant relocations and replacements, due to modifications of existing streets, and off-site pipeline improvements, also at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to individual projects within the Specific Plan area. Engineering and installation of new and relocated pipelines and services require substantial lead time, which should be provided for in the project sponsor's development schedule.

Under *Existing Conditions*, the NOP indicates the potential for contaminated soils and groundwater to be present within the project site boundaries. The project sponsor should be aware that EBMUD will not install piping or services in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may be hazardous to the health and safety of construction and maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping or services in areas where groundwater contaminant concentrations exceed specified limits for discharge to the sanitary sewer system and sewage treatment plants. The project sponsor must submit copies to EBMUD of all known information regarding soil and groundwater quality within or adjacent to the project boundary and a legally sufficient, complete, and specific written remediation plan establishing the methodology, planning, and design of all necessary systems for the removal, treatment, and disposal of contaminated soil and groundwater.

EBMUD will not design piping or services until soil and groundwater quality data and remediation plans have been received and reviewed and will not start underground work until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists, or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil and groundwater that may be encountered during excavation, or EBMUD may perform such sampling and analysis at the project sponsor's expense. If evidence of contamination is discovered during EBMUD work on the project site, work may be suspended until such contamination is adequately characterized and remediated to EBMUD standards.

WATER RECYCLING

The Specific Plan area is within the boundaries of EBMUD's East Bayshore Recycled Water Project. EBMUD's Policy 9.05 requires " . . . that customers . . . use non-potable water for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant life, fish and wildlife" to offset demand on EBMUD's limited potable water supply. The individual projects within the Specific Plan area may have a potential for significant recycled water demand, and the project sponsor would be responsible for any recycled water main extensions and on-site recycled water system. EBMUD requests all plumbing for feasible recycled water uses be plumbed separately from the on-site potable system in order to accept recycled water when it becomes available. Feasible recycled water uses may include, but are not limited to, landscape irrigation, commercial and industrial process use, and toilet and urinal flushing in non-residential buildings. EBMUD also requests that an estimate of expected water demand for feasible recycled water uses be provided in the EIR and that the project sponsor coordinate closely with EBMUD regarding specifications for the recycled water system.

WASTEWATER SERVICE

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to accommodate the proposed wastewater flows from the planned projects within this Specific Plan and to treat such flows provided that the wastewater generated by the project meets the requirements of the EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. The East Bay regional wastewater collection system experiences exceptionally high peak flows during storms due to excessive infiltration and inflow (I/I) that enters the system through cracks and misconnections in both public and private sewer lines. EBMUD has historically operated three Wet Weather Facilities (WWFs) to provide primary treatment and disinfection for peak wet weather flows that exceed the treatment capacity of the MWWTP. Due to reinterpretation of applicable law, EBMUD's National Pollutant Discharge Elimination System (NPDES) permit now prohibits discharges from EBMUD's WWFs. Additionally, the seven wastewater collection system agencies that discharge to the EBMUD wastewater interceptor system ("Satellite Agencies") hold NPDES permits that prohibit them from causing or contributing to WWF discharges. These NPDES permits have removed the regulatory coverage the East Bay wastewater agencies once relied upon to manage peak wet weather flows.

A federal consent decree, negotiated among EBMUD, the Satellite Agencies, the Environmental Protection Agency (EPA), the State Water Resources Control Board (SWRCB), and the Regional Water Quality Control Board (RWQCB), requires EBMUD and the Satellite Agencies to eliminate WWF discharges by 2036. To meet this requirement, actions will need to be taken over time to reduce I/I in the system. The consent decree requires EBMUD to continue implementation of its Regional Private Sewer Lateral Ordinance (www.eastbaypsl.com), construct various improvements to its interceptor system, and identify key areas of inflow and rapid infiltration over a 22-year period. Over the same time period, the consent decree requires the Satellite Agencies to perform I/I reduction work including sewer main rehabilitation and

specified intervals that this work has resulted in a sufficient, pre-determined level of reduction in WWF discharges. If sufficient I/I reductions are not achieved, additional investment into the region's wastewater infrastructure would be required, which may result in significant financial implications for East Bay residents.

To ensure that the projects within the Specific Plan contribute to these legally required I/I reductions, the lead agency should require the project applicant to comply with EBMUD's Regional Private Sewer Lateral Ordinance. Additionally, it would be prudent for the lead agency to require the following mitigation measures for the proposed projects: (1) replace or rehabilitate any existing sanitary sewer collection systems, including sewer lateral lines to ensure that such systems and lines are free from defects or, alternatively, disconnected from the sanitary sewer system, and (2) ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent I/I to the maximum extent feasible while meeting all requirements contained in the Regional Private Sewer Lateral Ordinance and applicable municipal codes or Satellite Agency ordinances.

WATER CONSERVATION

Individual projects within the Specific Plan area may present an opportunity to incorporate water conservation measures. EBMUD requests that the City include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,



David J. Rehnstrom
Manager of Water Distribution Planning

DJR:CC:dks
sb19_015.doc

cc: Lynette Dias
Urban Planning Partners
388 17th Street, Suite 230
Oakland, CA 94612

Letter A-1**East Bay Municipal Utility District****David J. Rehnstrom, Manager of Water Distribution Planning****October 9, 2019**

Response A-1.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response A-1.2 The City updated SCA #89 in January 2020 as shown below.

Page 650 of the Draft EIR is revised as follows:**SCA-UTIL-14: Recycled Water (#~~8991~~)**

Requirement: Pursuant to Section 16.08.030 of the Oakland Municipal Code, the project applicant shall provide for the use of recycled water in the project for feasible recycled water uses ~~landscape irrigation purposes~~ unless the City determines that there is a higher and better use for the recycled water, the use of recycled water is not economically justified for the project, or the use of recycled water is not financially or technically feasible for the project. Feasible recycled water uses may include, but are not limited to, landscape irrigation, commercial and industrial process use, and toilet and urinal flushing in non-residential buildings. The project applicant shall contact the New Business Office of the East Bay Municipal Utility District (EBMUD) for a recycled water feasibility assessment by the Office of Water Recycling. If recycled water is to be provided in the project, the project drawings submitted for construction-related permits shall include the proposed recycled water system and the project applicant shall install the recycled water system during construction.

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

P.O. BOX 23660, MS-10D

OAKLAND, CA 94623-0660

PHONE (510) 286-5528

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www.dot.ca.gov



*Making Conservation
a California Way of Life.*

October 14, 2019

SCH #2019012008

GTS # 04-ALA-2019-00460

GTS ID: 14053

ALA-880/980-PM VAR

Alicia Parker, Planner III
City of Oakland, Department of Planning and
Building, Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Downtown Oakland Specific Plan – Draft Environmental Impact Report (DEIR)

Dear Alicia Parker:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for this project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the August 2019 DEIR.

Project Understanding

The Downtown Oakland Specific Plan (Plan) will provide a roadmap for how the Downtown Oakland area develops over the next 20 years through policy guidance on land use, transportation, housing, economic development, public spaces, cultural arts, and social equity. The Draft Plan aims to ensure that Downtown Oakland remains a place of continuing growth and revitalization, as well as a valuable resource for the larger Oakland community through increased employment, housing, arts, and cultural opportunities. Both Interstate (I)-880 and I-980 bisect the project area.

Landscape Architecture/Aesthetics

For the proposed work within the Caltrans right-of-way (ROW), an online Visual Impact Assessment (VIA) Questionnaire will need to be completed and provided for each location/project to quantify the visual impacts (when individual projects are in the planning phases). VIAs will need to be completed for all work items identified in the master plan (VIA scope and magnitude to be

determined on a project by project basis). Viewpoints and photo simulations should be included to assess visual impacts. Avoidance and minimization measures shall also be addressed in VIA. The online VIA can be accessed here: <https://dot.ca.gov/programs/design/lap-visual-impact-assessment/lap-via-questionnaire>.

3,
cont.

The Draft Plan area includes sections of Classified Landscaped Freeways on I-880 from post mile (PM) 30.81 (Channel Park) to 32.40 (Adeline Street) and all of I-980. These roadways are not allowed to lose their Classified Landscaped Freeway status and any work that impacts vegetation on these routes must be replaced and repaired.

4

For all locations where enhanced connections across freeway corridors are proposed, note that aesthetic improvements to the overpasses and underpasses will be incorporated to the streetscape design (ex: aesthetic treatments to walls, rails, etc). Include the following item to implementation actions in Chapter 7 (starting on page 258) of the Draft Plan:

5

- Strengthen entrances/connections with new vegetation at and around the thresholds to the overpasses and underpasses.

This work is to be funded by the City.

If any new construction disturbs existing planting and irrigation within Caltrans' ROW, then these disturbed areas are to be restored to their previous conditions (or better). If re-planting in the disturbed location is not feasible, then replanting shall occur at a nearby location within the project limits.

6

Pages 44 and 45 of the Draft Plan shows vegetative buffers on and along Caltrans' ROW. In areas where adequate setbacks or proper ROW spacing cannot be met, buffers are to be provided on city-owned land. Additionally, vegetative buffer projects are to be funded by the City.

7

Traffic Safety

Please ensure that all curb ramps and pedestrian facilities located within the limits of this project are brought up to current Americans with Disabilities Act (ADA) standards.

8

Construction Projects on Caltrans ROW

Any facilities, utilities, or other construction projects that are proposed, moved or modified within, above or under Caltrans' ROW shall be discussed. Page 48 of the Draft Plan discusses proposals that would take place within Caltrans' ROW, which include modifications to I-980, constructing a park (Webster Green)

9

above the Webster Tube, parks under freeway structures, and unsheltered residence facilities. These proposals should be elaborated on and discussed with Caltrans management for approval as they require a Caltrans-issued encroachment permit.

9,
cont.

Industrial Zoning

Caltrans recommends discussion on how the Draft Plan will be compatible with existing and viable industrial land uses in the immediate and surrounding area so as not to displace these uses that may provide good employment opportunities to residents of Oakland. Retention of land zoned for industrial based purposes is an issue of concern for the entire Bay Area Region. Regarding industrial based land uses, Caltrans continues to support transportation and land use concepts that focus on the safe and efficient movement of goods delivered to or manufactured within these areas. The development and manufacture of goods benefit not just the local economy, but the regional, state and national economies as well. Caltrans seeks to elevate the potential impact of alternative land uses with the potential health impacts of locating incompatible land uses near industrial based lands. Good land use planning ensures adequate buffers between residential, commercial and industrial uses. Buffer zones may help alleviate potential impacts relating to congestion, noise and light pollution, increased biological impacts, and increased exposure to harmful pollutants.

10

Caltrans further recommends that aspects concerning community benefit be thoroughly researched and that industrial land use be an integral part of this Draft Plan and overall community planning process. While Caltrans is working to implement projects that improve air quality and reduce emissions, the benefits of these projects will be further realized through local land use decisions that maintain appropriate buffers between commercial and residential land uses and industrial based lands.

11

DEIR and Draft Plan Corrections

The maps in the DEIR do not show the updated roadway configuration with the removal of the 20th Street block at Lake Merritt. Please update the maps in the DEIR.

12

In the Draft Plan, a proposed pedestrian-bicycle bridge connecting Downtown Oakland to Alameda is shown in Figure M-4 on page 110. However, in the DEIR, this connection is not mentioned. Please add this to the DEIR.

13

Lead Agency

As the Lead Agency, the City of Oakland is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN.) The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. Furthermore, since this project meets the criteria to be deemed of statewide, regional or areawide significance per CEQA guidelines Section 15206, the subsequent EIR should be submitted to MTC and the Association of Bay Area Governments.

14

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW, requires a Caltrans-issued encroachment permit. To obtain an encroachment permit, a completed encroachment permit application, environmental documentation, six (6) sets of plans clearly indicating the State ROW, and six (6) copies of signed, dated and stamped (include stamp expiration date) traffic control plans must be submitted to: Office of Encroachment Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. To download the permit application and obtain more information, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

15

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Andrew Chan at 510-622-5433 or andrew.chan@dot.ca.gov.

Sincerely,



Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Letter A-2

Department of Transportation, District 4

Mark Leong, District Branch Chief

October 14, 2019

- Response A-2.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response A-2.2** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response A-2.3** This comment does not address the adequacy of the Draft EIR. Individual projects that are within the Caltrans right-of way will prepare a VIA consistent with Caltrans' requirements.
- Response A-2.4** This comment does not address the adequacy of the Draft EIR. Individual projects that involve Classified Landscape Freeways will be referred to Caltrans and be consistent with Caltrans' requirements.
- Response A-2.5** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-2.6** This comment does not address the adequacy of the Draft EIR and is beyond the scope of CEQA for this project. Individual projects that are within Caltrans ROW that disturb existing planting and irrigation will need to be restored to their previous conditions.
- Response A-2.7** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-2.8** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-2.9** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-2.10** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-2.11** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-2.12** Figures V.B-4, V.B-5 on pages 194-195, and Figure V.B-6 on page 198, and Figure V.B-7 on page 201 and Figure V.B-8 on page 204 of the Draft EIR have been revised and are included in *Chapter V, Text Revisions*, of this EIR.

Response A-2.13 The requested text has been added.

Page 165, eighth bullet of the Draft EIR, the following paragraph is added:

- *27th Street*. Class 4 Protected Bicycle Lanes between Grand Avenue and Broadway and Class 2 Bicycle Lane west of Broadway. This project would not be assumed in the EIR analysis because it is not funded. Alameda CTC, in cooperation with the City of Alameda and the City of Oakland, is conducting a feasibility study for extending a pedestrian and bicycle bridge across the Estuary. The Alameda CTC feasibility study is evaluating several potential alignments generally between Howard Terminal and the Lake Merritt Channel. This project, while identified in the City's Bike Plan, is not considered in the Downtown Specific Plan EIR because a preferred alignment has not been identified and there is no funding for the crossing's design, environmental studies, or construction.

Response A-2.14 The Draft EIR was made public on August 30, 2019 and was distributed consistent with the requirements of Section 15206 of the CEQA Guidelines.

Response A-2.15 This comment does not address the adequacy of the Draft EIR and is beyond the scope of CEQA for this project. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
 300 Lakeside Drive, P.O. Box 12688
 Oakland, CA 94604-2688
 (510) 464-6000

2019

October 7, 2019

Bevan Dufty
 PRESIDENT

Rebecca Saltzman
 VICE PRESIDENT

Robert Powers
 GENERAL MANAGER

Alicia Parker
 City of Oakland Bureau of Planning
 250 Frank H. Ogawa Plaza, Suite 3315
 Oakland, CA 94612

RE: Letter of Comment on the Downtown Oakland Specific Plan Draft EIR

DIRECTORS

Debora Allen
 1ST DISTRICT

Mark Foley
 2ND DISTRICT

Rebecca Saltzman
 3RD DISTRICT

Robert Raburn, Ph.D.
 4TH DISTRICT

John McPartland
 5TH DISTRICT

Elizabeth Ames
 6TH DISTRICT

Lateefah Simon
 7TH DISTRICT

Janice Li
 8TH DISTRICT

Bevan Dufty
 9TH DISTRICT

Dear Ms. Parker,

BART is rooted in Oakland, our headquarters are in the Lake Merritt Office District, the Oakland “Wye” is the core of the system, and BART recognizes the City of Oakland as a partner and collaborator. In 2015, the BART Board adopted our Strategic Plan Framework, with the vision that “BART supports a sustainable and prosperous Bay Area by connecting communities with seamless mobility.” As Downtown Oakland grows and changes over the coming years, so too will BART improve connections to Oakland and make upgrades to enhance reliability and resiliency. BART appreciates the opportunity to coordinate with the City of Oakland on the Downtown Oakland Specific Plan.

Please find below BART’s comments on the Downtown Oakland Specific Plan DRAFT Environmental Impact Report.

VMT ANALYSIS AND TRANSIT TRIPS

BART recognizes that the California Office of Planning and Research approved a Technical Advisory Memo in December 2018 on Evaluating Transportation Impacts in CEQA that clarified rules regarding the use of VMT as a metric in analyzing transportation impacts of projects. Regarding impacts to transit, the memo stated that “lead agencies generally should not treat the addition of new transit users as an adverse impact. An infill development may add riders to transit systems and the additional boarding and alighting may slow transit vehicles, but it also adds destinations, improving proximity and accessibility.” BART supports the intent of this message that new development should not be penalized for adding new riders to transit.

However, the DEIR’s basis for the finding of no significant impact on VMT is that a very large percentage of new trips would be taken on BART. Each weekday at present, on average, approximately 69,000 trips begin or end in a Downtown Oakland BART Station (12th Street, 19th Street, Lake Merritt), representing 16% of all BART trips. Table V.B-5 of the DEIR states that the recommendations of the Downtown Specific Plan will generate approximately 96,000 new BART trips, or approximately a 140% increase over current trip levels. BART welcomes these future new riders, but also recognizes the level of investment required to ensure that these new trips can safely be accommodated on our system.

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IMPROVEMENTS FOR BART ACCESS AND RELIABILITY

Page 202 of the DEIR refers to the Plan Policy M-2.5, to “maintain reliable, ADA-accessible access to transit stations (i.e. BART elevators and escalators) and find opportunities to increase the number of elevators. Address all access needs identified in previous BART Planning efforts for the 19th Street Station and the 12th Street/City Center Station.” Page 203 of the DEIR states that “the policies listed above yield a comprehensive set of projects in the Specific Plan (Appendix B, Table M-5). However, the BART elevator and escalator upgrades and access improvements mentioned in Policy M-2.5 are not included in the Transit Project Table M-5 in the Plan. BART requests that the Plan’s commitment to improve access to BART be memorialized by including these items as Projects in Table M-5.

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BART is excited at Plan recommendations to increase employment and residential density around the core of our system in Downtown Oakland. We are committed to making improvements to our system to respond to future growth opportunities. To expand upon and inform the recommendations of Plan Policy M-2.5, past BART planning efforts have identified the following needs to ensure that BART continues to operate in a safe and efficient manner. BART asks for the City of Oakland’s continued support and coordination on these and other future endeavors:

19th Street Station Project Needs:

- New elevator connecting street and concourse, per 2013 Station Modernization Plan – for redundancy and connectivity between AC Transit and BART (*BART beginning Design in early 2020*).
- Escalator canopies with roll-down doors to protect escalators from overnight damage and reduce escalator outages.
- New entrance at north end of station to expand pedestrian access to station and respond to new and upcoming development.
- Additional ticket vending machines or faregates to accommodate additional riders.

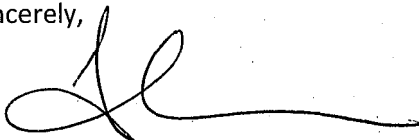
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12th Street/City Center Station Project Needs:

- New elevator connecting platform and concourse – provides redundant service in the event of an elevator outage.
- Escalator canopies with roll-down doors to protect escalators from overnight damage and reduce escalator outages.
- Interior upgrades including lighting and improvements to address fare evasion.
- Additional ticket vending machines or faregates to accommodate additional riders.
- *Future Need:* Study of platform capacity at lower platform to address crowding and emergency egress, respond to potential impacts of proposed Howard Terminal Stadium development.

BART looks forward to working with the City of Oakland as this Plan and DEIR continue to move through the public outreach process and approvals process.

Sincerely,



Tim Chan
Group Manager, Station Planning
BART Planning, Development & Construction

Letter A-3

San Francisco Bay Area Rapid Transit District

Tim Chan, Group Manager, Station Planning

October 7, 2019.

Response A-3.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response A-3.2 As the commenter correctly acknowledges, the Office of Planning and Research (OPR) has issued a memorandum stating that “lead agencies generally should not treat the addition of new transit users as an adverse impact.” Thus, this is not a CEQA topic to be studied and analyzed in the context of the Downtown Oakland Specific Plan EIR. With the above stated, and as evidenced by Policy M-2.5 and Policy M-2.8, (now policy M-2.6 in the Final Draft Plan) which supports expanding access to BART in downtown, the City supports BART’s efforts to provide system and access updates to its stations, including those to its elevators and escalators. The City also realizes that this is an operational issue that requires inter-agency and regional coordination and support. This would include supporting BART’s station expansion plans described in BART/SVRT Core Stations Modifications Study which identifies improvements for downtown BART stations. The City supports BART’s efforts to provide system upgrades including those to its elevators and escalators; however, this is an operational issue that requires inter-agency and regional coordination and support.

Page 202 of the Draft EIR is revised as follows:

Policy M-2.5: The City of Oakland is supportive of BART’s ongoing efforts to maintain reliable, ADA accessible access to transit stations (i.e., BART elevators and escalators), and find opportunities to increase the number of elevators. BART shall address all access needs identified in previous BART planning efforts for the 19th Street Station and 12th Street/City Center Station.

Response A-3.3 See Response A-3.2.

Response A-3.4 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.



November 8, 2019

Alicia Parker
 Planner III
 City of Oakland
 Department of Planning and Building, Bureau of Planning
 250 Frank H. Ogawa Plaza, Suite 2114
 Oakland, CA 94612

SUBJECT: Response to the Notice of Availability of a Draft Environmental Impact Report (DEIR) for the Downtown Oakland Specific Plan and Public Review Draft Plan

Dear Ms. Parker,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Downtown Oakland Specific Plan and Public Review Draft Plan. The Downtown Oakland Specific Plan (DOSP) covers roughly 930 acres encompassing most of downtown Oakland, including the Koreatown-Northgate District, Uptown, the Lake Merritt Office District, Lakeside, Old Oakland, the Jack London District, and Chinatown. Two BART stations and a number of AC Transit lines serve the plan area. The proposed plan provides a comprehensive vision for the DOSP planning area along with goals, policies, strategies and development regulations that will guide future growth, including changes to the transportation network to implement the City's adopted complete streets policies. The DEIR estimates that full buildout of the proposed plan would include 29,100 additional residential units and 20,060,000 square-feet of new commercial space, along with 16,000 parking spaces. The proposed plan would create more than 100 new PM-peak trips and is subject to review under The Alameda County Transportation Commission's (Alameda CTC's) Congestion Management Program (CMP), Land Use Analysis Program.

The Alameda CTC respectfully submits the following comments:

- Alameda CTC acknowledges and encourages the multimodal mobility outcomes documented in the DOSP, which include:
 - Mobility Outcome M-1: Downtown is well-connected across its internal and adjacent neighborhoods with bicycle and pedestrian networks that are accessible and safe for people of all ages and abilities
 - Mobility Outcome M-2: Communities that are more transit-dependent are well-served in traveling to and from downtown with frequent, reliable, and safe transit service
 - Mobility Outcome M-3: Oaklanders connect to downtown's resources with transportation options that accommodate people of all ages and abilities from their front door to their destination and back

All three mobility outcomes are consistent with complete streets principles and Alameda CTC encourages the City of Oakland to pursue these outcomes, especially as these outcomes improve safety for bicycles and pedestrians in downtown Oakland. Most of downtown Oakland is included in the Countywide High-injury Network for both cyclists and pedestrians laid out in Alameda CTC's Countywide Active Transportation Plan.

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- The DOSP includes a reconfiguration of Franklin and Webster Street, and includes plans to address congestion issues around the I-980 ramps and the Webster and Posey tubes through the Oakland/Alameda Access Project. Alameda CTC encourages continued coordination between the City of Oakland and Alameda CTC through the Oakland/Alameda Access Project.
- Impact Trans-2 in the DEIR notes that multimodal traffic on and near at-grade rail crossings near Jack London Square would increase under the proposed plan and proposes a mitigation measure to complete a Diagnostic Study as outlined in SCA-TRANS-7 to identify safety improvements. Alameda CTC's Countywide Rail Safety Study analyzed all at-grade rail crossings in the county and identified the Jack London Square area as a Tier 1 priority for safety improvements based on current levels of activity. With the growth the DOSP anticipates, these safety improvements will be even more critical.
- Impact Trans-3 notes that the proposed development under the DOSP will result in significant and unavoidable impacts to CMP and MTS segments, and that no mitigation is possible outside of Transportation Demand Management (TDM) measures. Given the potential impacts to CMP and MTS segments, Alameda CTC recommends the City of Oakland implements appropriate TDM measures which will significantly shift auto traffic generated by the proposed plan to other modes. Given the availability of multimodal infrastructure in the planning area, strong TDM measures have the potential to significantly offset many potential auto trips potentially generated by the DOSP.

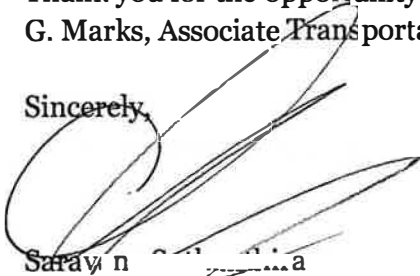
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Thank you for the opportunity to comment on this DEIR. Please contact me at (510) 208-7426 or Chris G. Marks, Associate Transportation Planner at (510) 208-7453, if you have any questions.

Sincerely,



Saravina Suthanthira
Principal Transportation Planner

CHRIS MARKS
FOR
SARAVINA
SUTHANTHIRA

Letter A-4**Alameda County Transportation Commission****Saravana Suthanthira, Principal Transportation Planner****November 8, 2019**

- Response A-4.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response A-4.2** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-4.3** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response A-4.4** Alameda CTC's concurrence with Impact TRANS-2 is noted along with the criticalness of the needed safety improvements. The City shares the commenters concerns regarding rail crossing safety in Jack London District as put forth in Impact TRANS-2. Alameda CTC has identified the area as a Tier 1 priority for railroad safety improvements. The City is committed to undertaking and completing the Diagnostic Study within the next five years to identify the railroad safety improvements, the schedule for implementation, and the potential funding for design and construction. The City supports Alameda CTC's efforts to provide at-grade safety upgrades through Jack London District; however, this is an operational issue that requires inter-agency and regional coordination and support.
- Response A-4.5** Alameda CTC's recommendations for the City to require TDM measures that will significantly offset many auto trips is noted. As indicated in the Draft EIR (Table V.B.5) on page 186, about 47 percent of all travel from Specific Plan development will be by transit, biking, walking, and other non-auto modes without TDM strategies. The City through its Transportation Impact Review Guidelines (TIRG) requires all development to achieve an additional 20 percent vehicle trip reduction, which means that about 57 percent of all downtown trips will be by non-auto modes.



November 8, 2019

Alicia Parker
 Planner III
 City of Oakland Bureau of Planning
 250 Frank H. Ogawa Plaza, Suite 2114
 Oakland, CA 94612
 aparker@oaklandca.gov

via email

Subject: Comments on the Draft Environmental Impact Report for the Downtown Oakland Specific Plan

Dear Ms. Parker:

The Port of Oakland (“Port”) appreciates the opportunity to provide comments on the City of Oakland’s (“City”) Downtown Oakland Specific Plan (“DOSP”) Draft Environmental Impact Report (“DEIR”) (August 2019; SCH #2019012008).

Since its founding in 1927, the Oakland Seaport has served as the principle ocean gateway for international containerized cargo shipments in Northern California. The Oakland Seaport manages 1,300 acres of maritime-related facilities serving a local market of over 14.5 million consumers. The Seaport and its tenants provide 27,732 jobs in the Bay Area¹, supporting the DOSP goal to create opportunities for economic growth, employment, and security for all Oaklanders and helping the City to achieve desired economic opportunity and workforce outcomes. To this end, the Port suggests that the DOSP, as well as other City plans, should consider the creation of “industrial sanctuary” zones which include policies for exclusion of and buffering from inconsistent land uses and provision of safe and efficient heavy truck routing.

The Port submits the following comments on the environmental analysis presented in the DEIR for your consideration.

Policy

1. The analysis of consistency with the West Oakland Specific Plan (dated June 2014) should be expanded to more adequately address industrial land use. The West Oakland Specific Plan area overlaps the DOSP area between Castro and Market Street and between Embarcadero West and I-880.

¹ *The Economic Impact of the Port of Oakland*, prepared for the Port of Oakland by Martin Associates, October 9, 2018. Available at <https://www.portofoakland.com/economic-impact-report/economic-impact-report/>.

The West Oakland Specific Plan cites the following from the City of Oakland’s General Plan Land Use and Transportation Element:

To avoid the creation of major land use conflicts in the future, both the business community and residents agreed that "a line must be drawn" where appropriate, to separate heavier industry from residential areas. One principle for "drawing the line" was to use I-880 as a border to protect the community from the impacts of heavy industry trucking and container storage related to maritime uses. Further, the new I-880 route includes on- and off-ramps that allow other business concerns that use trucks to have immediate access to the freeway to move goods, thereby avoiding travel on local residential streets.

The West Oakland Specific Plan includes industrial land strategies with the intent to “[m]inimize the intrusion of sensitive land use types such as residential, schools, etc. within the established industrial areas of West Oakland” and to “[s]upport the retention of industrial uses and industrial land use and zoning.” Specific strategies include:

Industrial Land Retention-1: With limited exceptions as specifically provided under this Plan, prohibit the expansion of new residential uses into the industrial areas of West Oakland so as to encourage business development and job growth.

Industrial Land Retention-2: Retain the land currently zoned M-30 within the 3rd Street Opportunity Area for industrial and business purposes.

The West Oakland Specific Plan also includes strategies to address the 3rd Street Opportunity Area with the intent to “[e]nhance the 3rd Street Opportunity Area as a business and employment center, focusing on manufacturing and light industrial uses that benefit from adjacency to the Port of Oakland, as well as commercial uses that enliven the area during the day and night.” Specific strategies include:

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cont.

3rd Street-1: Because this area [3rd Street Opportunity Area] has a long history of heavier industrial uses which provide essential services to the adjacent Port (i.e., recyclers, truck-dependent uses, etc.), maintain space for these Port-serving industrial uses, accommodating and blending these older uses with newer, more vibrant yet compatible commercial and light industrial uses.

3rd Street-2: Capitalize on this area’s proximity to the Port of Oakland and the regional freeway network with targeted infill of vacant and underutilized sites as locations for new businesses that reflect the existing mix of uses in the area.

3rd Street-5: Continue to prohibit new residential development in the 3rd Street Opportunity Area as an incompatible land use which could adversely affect the operations of existing and future industrial uses.

3rd Street-6: Reflect the potential for heavy truck usage in the area by instituting land use provisions that allow for significant truck activity.

Typically, industrial and residential land uses are separated to minimize effects of industrial noise, air emissions, and traffic on sensitive land use types. The DOSP would change land uses in the overlap

area described above to allow residential uses (e.g. through Mixed-use, Flex), which would be inconsistent with West Oakland Specific Plan policies to maintain this area for industrial use.

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2. The discussion of the Estuary Policy Plan (EPP) on page 85 does not include a Consistency discussion. For example, the EPP locates the Mixed Use District (MUD) east of Franklin Street; the DOSP would extend MUD into areas designated by the EPP as “Off-Price Retail District,” an area designated to limit intensity of new development to maintain warehouse and industrial character. The DEIR should also evaluate DOSP consistency with EPP policies such as:

Policy JL-3: Encourage the expansion of off-price retail establishments west of Broadway. The EPP notes that this area “bridges the more intense regional entertainment and dining attractions at the water’s edge and the heavier industrial and service commercial uses inland and to the west.”

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Policy JL-7: Maintain light industrial and warehousing uses west of Martin Luther King, Jr. Boulevard. The EPP “recommends maintaining light industrial activities, including warehousing and distribution uses, west of Martin Luther King, Jr. Boulevard where a concentration of industrial activities exist.”

3. Please include in the list of Regional Plans the *Alameda County Goods Movement Plan* (Alameda County Transportation Commission, February 2016) and the *San Francisco Bay Area Goods Movement Plan* (Metropolitan Transportation Commission, February 2016) and discuss the consistency of the DOSP with these plans.

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Land Use

4. Impact 2 Conflict with Adjacent Land Uses should address discrepancies with and required changes to the land use designations in the West Oakland Specific Plan, in addition to the Estuary Policy Plan. The Port believes that these plans more appropriately address the need to buffer and transition from industrial land uses to other uses.
5. Please add the West Oakland Specific Plan to the discussion in Impact 3 Conflict with Land Use Policy.
6. In cumulative impacts on page 141, the Draft EIR states that “...the Plan would maintain an industrially-zoned buffer area between Brush and Market Streets to support the City’s Industrial Land Use Policy in the adjacent West Oakland area and would therefore not result in a cumulative considerable contribution to the city-wide loss of industrial land supply.” The DEIR should substantiate this statement. The West Oakland Specific Plan reduced the amount of industrial land use available in West Oakland and offset that in part through its strategies to maintain industrial land uses in the Jack London Square area. As noted in Comment #1, the DOSP would further eliminate some of the WOSP area designated for industrial use, further decreasing the City’s supply of industrial land. The proximity of residential uses in the DOSP to industrial uses and the intensification of residential use will lead to further decreases in industrial land use, as is happening in West Oakland.

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Traffic and Transportation

7. The DOSP area includes designated Local Truck Routes, local roadways established for the movement of trucks. Please add a discussion of Local Truck Routes to the Setting and show the Local Truck Routes

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- on Figures V.B-2 and V.B-3. Local Truck Routes are established by Oakland Municipal Code 10.52.120; the City’s Truck Route map can be found at <https://www.oaklandca.gov/documents/truck-routes-and-prohibited-streets-map-color>. 8, cont.
8. Add a discussion of Oakland Municipal Code 10.53 Extra Legal Load Transportation Permits to the Local Regulatory Framework. The Oakland Police Department (OPD), under the authority delegated to the Chief of Police, issues permits for, among other things, overweight vehicles, defined as those that exceed a particular weight per the California Vehicle Code. The permits specify the streets on which the vehicle is authorized to move. Currently, OPD designates the following as part of the route for overweight trucks from the Port of Oakland: 3rd Street east from Adeline Street, south on Oak Street, west on Embarcadero West, north on 5th Avenue, east on 8th Street. 9
9. Please add the *Alameda County Goods Movement Plan* (Alameda County Transportation Commission, February 2016) and the *San Francisco Bay Area Goods Movement Plan* (Metropolitan Transportation Commission, February 2016) to the Local Regulatory Framework and evaluate compliance with the DOSP. For example, as noted on page 7 of the *Alameda County Goods Movement Plan*, “most of the Complete Streets guidance and standards provide little information about how to accommodate goods movement; and this is creating modal conflicts between goods movement and transit, bicycles and pedestrians...” 10
10. Impact 2 Consistency with Transportation Policy does not evaluate potential safety impacts along truck routes resulting from the increased auto, bicycle, pedestrian, and transit activity that would be generated by the DOSP. In particular, “low stress” bike routes are not likely to be compatible with truck routes. The truck routes, including Local Truck Routes and the roadways used for overweight trucks, are necessary for Port operations. Please add this evaluation. 11
11. The DOSP includes a discussion of a potential pedestrian/bike bridge connecting the City of Alameda and Jack London Square, potentially landing at Washington Street. Please note that the Estuary is a federal navigation channel and the bridge cannot obstruct the movement of vessels in the Estuary. Although such a bridge would be located east of Port terminals and the Inner Harbor Turning Basin, ships must sometimes travel move near this portion of the Estuary to allow a second ship to use the Turning Basin. Please address potential conflicts of the pedestrian/bike bridge with maritime uses in the channel. 12
- Air Quality**
12. Note that the Port’s 2017 Emissions Inventory (dated August 2018), with its August 28, 2018 Errata, shows an 80% reduction in diesel particular matter (“DPM”), not 81% as cited on page 222 of the DEIR. Please correct the text and analysis as appropriate. You can find the 2017 Emissions Inventory at: http://www.portofoakland.com/files/PDF/Port_Oakland_2017_Emissions_Inventory.pdf. 13
13. Provide a citation for the statement on page 222 of the DEIR: “Based on the Port’s 2020 projection, the current excess cancer risk in the Plan Area from Port maritime activities ranges from about 20 to 30 cases in a million.” The Port does not have this information. 14

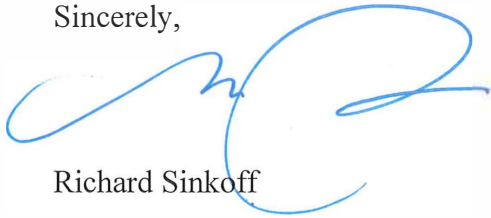
Utilities

14. The DOSP identifies the parcel which contains PG&E Substation C for development as Mixed Use. This would require construction of a new substation to replace it; discussion of impacts from a new substation should be included in the DEIR.

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Port staff appreciate the opportunity to provide comments on the DOSP Draft EIR. Please contact Ms. Andrea Gardner, Port Associate Environmental Planner/Scientist, at (510) 627-1181 or agardner@portoakland.com if you would like to discuss any of these comments.

Sincerely,



Richard Sinkoff

Director of Environmental Programs and Planning

CC: Danny Wan, Acting Executive Director
Robert Andrews, Acting Engineering Director
Diane Heinze, Port Environmental Assessment Supervisor

Letter A-5
Port of Oakland
Richard Sinkoff, Director of Environmental Programs and Planning
November 8, 2019

Response A-5.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response A-5.2 The Downtown Oakland Specific Plan does not recommend any changes to the existing industrial land use designations within the portion of the West Oakland Specific Plan (WOSP) area that overlaps the Downtown Oakland Specific Plan area (between Castro and Market Street from Embarcadero West to I-880).

The General Plan Land Use and Transportation Element (LUTE) implementation strategy cited in this comment is found on page 183 in the LUTE and refers to the principles that were used for determining the extent of the "Business Mix" designation in West Oakland. The Downtown Oakland Specific Plan is not proposing any changes to existing areas designated in the LUTE as "Business Mix."

In regard to the industrial land strategies cited from the West Oakland Specific Plan (WOSP), they do not apply to any areas of the city outside of the WOSP plan boundaries, including the adjacent Downtown Oakland Specific Plan area. The only portion of the West Oakland Specific Plan's 3rd Street Opportunity Area that overlaps with the Downtown Oakland Specific Plan is the area between Castro and Market Street from Embarcadero West to I-880. Within this overlap area, the Downtown Oakland Specific Plan does not recommend any changes to the existing industrial land use designations. In addition, the Downtown Oakland Specific Plan is consistent with the West Oakland Specific Plan strategies for this area that support manufacturing and light industrial uses that benefit from adjacency to the Port of Oakland in the West Oakland Specific Plan's overall 3rd Street Opportunity Area (generally between Castro and Union Street from Embarcadero West to I-880).

Response A-5.3 The Downtown Oakland Specific Plan proposes a new vision for the portion of the Estuary Policy Plan (EPP) area within the Downtown Plan boundary. All existing EPP policies that are currently inconsistent with the Downtown

Oakland Specific Plan will be amended to become consistent as part of the Downtown Oakland Specific Plan project.

Response A-5.4 See Master Response 1. Specific Plan Merits and Related Non-CEQA Topics.

CEQA does not require the City to discuss every way the Downtown Oakland Specific Plan (Specific Plan) is consistent with regional transportation plans. Rather, the EIR should describe the existing local and regional physical environment, as they exist when the Notice of Preparation (NOP) of the EIR is published, emphasizing those features that are likely to be affected by the Plan and the environmental constraints and resources that are rare or unique to the area (CEQA Guidelines Sections 15125(a), 15125(c)). Specifically, the EIR should discuss any inconsistencies between the proposed plan and adopted regional plans as they may relate to environmental issues (Id. at Section 15125(d)).

The City has carefully reviewed the Alameda County Goods Movement Plan and the San Francisco Bay Area Goods Movement Plan and has developed specific policies in the Specific Plan's Mobility Chapter that specifically focus on "facilitating safe and efficient goods movement." The commenter is referred to the Mobility Chapter of the Specific Plan, which lays out a range of mobility policies that are consistent with regional transportation plans. Since these policies are consistent with regional transportation plans, the EIR is not required to discuss them pursuant to CEQA Guidelines section 15125(d).

Below is a brief discussion of mobility policies in the Specific Plan that are consistent with regional plans. Specifically, Policy M-3.10 (previously M-3.9 in the August 2019 Public Review Draft Plan) states to "[m]aintain truck routes to, from, and within the Jack London [District] to facilitate safe and efficient goods movement from industrial and warehousing facilities. Develop a truck management plan for the larger Downtown Oakland area."

Further, the Specific Plan points to several pedestrian safety measures that the Specific Plan encourages and supports. For example, the Specific Plan states: "In addition to high injury network improvements, a rail safety project is proposed for Embarcadero West in Jack London that would install crossing treatments and fencing at each intersection and transform Embarcadero West into a "quiet zone" and an enhanced pedestrian corridor (which would provide a safer connection between the Jack London waterfront and the rest of downtown.) While these treatments are focused on pedestrian safety, they also improve comfort and access—particularly for vulnerable groups

(including seniors, children, and people with disabilities).” (Draft Specific Plan, page 104.)

In several places, the Specific Plan also encourages collaboration with regional transit agencies such as ACTC (the author of the Goods Movement Plan), BART, and ferry services. For example, the Specific Plan states, “A second Transbay crossing for BART is under consideration, as are improvements in Capital Corridor rail service and ferry service. The City of Oakland should partner with regional transit agencies in planning and implementing these improvements to further the City’s goals and objectives.” (Draft Specific Plan, page 114).

As yet another example, Policy M-2.4 (previously M-3 in the August 2019 Public Review Draft Plan) seeks to “[r]econfigure transit service in Jack London and Chinatown to better connect with regional transit (ferry terminal, Amtrak, and Lake Merritt BART) and improve bus transit connections within, to, and from downtown.”

Each of these above policies, and several more in the Specific Plan Mobility chapter, address infrastructure improvements to increase operational efficiencies, and are geared also toward collaborative coordination and support of regional agencies, such as the Metropolitan Transportation Commission (MTC), Alameda CTC (ACTC), BART, and other regional agencies.

In short, and as described more fully in the Specific Plan Mobility Chapter, the Specific Plan seeks to accommodate the variety of Plan Area transportation needs by concentrating and facilitating transit and by improving connectivity both within the Plan Area and outside it. Improving connectivity, goods movement, and travel are consistent policies of both regional Goods Movement plans and the Specific Plan Mobility Chapter.

Response A-5.5 Page 140, first paragraph under (3) Conflict with Land Use Policy (Criterion 3) of the EIR, is revised as follows:

The Downtown Specific Plan does not recommend any changes to the General Plan’s existing industrial land use designations within the portion of the West Oakland Specific Plan (WOSP) area that overlaps the Downtown Oakland Specific Plan area (between Castro and Market Street from Embarcadero West to I-880). As described further in Chapter IV, Policy of the Draft EIR, the Downtown Oakland Specific Plan is consistent with the WOSP.

The Plan is a regulatory program and, if adopted, would result in new planning policies and controls for land use to accommodate additional jobs and housing. Potential land use policy conflicts are described in detail in *Chapter IV, Policy*. Conflicts or inconsistencies with a general plan or adjacent specific plans such as the Lake Merritt Station Area Plan (LMSAP) or the West Oakland Specific Plan (WOSP), do not inherently result in a significant effect on the environment within the context of CEQA. As stated in Section 15358(b) of the CEQA Guidelines, "Effects analyzed under CEQA must be related to a physical change."

Section 15125(d) of the CEQA Guidelines states that EIRs shall discuss any inconsistencies between the project and applicable general plans in the Setting section of the document (not under Impacts). Further, Appendix G of the CEQA Guidelines (Environmental Checklist Form) explicitly focuses on environmental policies and plans, asking if the project would "conflict with any applicable land use plan, policy, or regulation ...adopted for the purpose of avoiding or mitigating an environmental effect". Even a response in the affirmative, however, does not necessarily indicate the project would have a significant effect, unless a physical change would occur. To the extent that physical impacts may result from such conflicts, such physical impacts are analyzed in this Draft EIR in the section that most aptly applies to that impact (e.g., Noise).

Response A-5.6 See Response A-5.5.

Response A-5.7 See Response A-5.5. Because the Downtown Specific Plan does not recommend any changes to the existing industrial land use designations within the portion of the West Oakland Specific Plan (WOSP) area that overlaps the Downtown Oakland Specific Plan area (between Castro and Market Street from Embarcadero West to I-880), the following amendments to the Draft EIR have been made.

Page 141, last paragraph of the Draft EIR, is revised as follows:

As described throughout this section, the Plan would not result in a significant land use impact by potentially physically dividing an established community; or conflicting with adjacent or nearby land uses; or conflicting with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. ~~Although the~~ The Downtown Oakland Specific Plan would change designated parcels from Light Industry to Mixed Use, the Plan would maintain an industrially-zoned

designated buffer area between Martin Luther King Jr. Way ~~Brush~~ and Market Streets to support ~~at the City's Industrial Land Use Policy in the~~ adjacent West Oakland Specific Plan area and would therefore not result in a cumulative considerable contribution to the city-wide loss of industrial land supply. Thus, the Plan would not be combined with or add to any potential adverse land use impacts that may be associated with other cumulative development. A review of cumulative development in the area, including past, present, existing, pending, and reasonably foreseeable future development, does not reveal any significant adverse cumulative impacts in the area. Cumulative development in the area consists of residential, commercial, office, and other typical urban uses.

Response A-5.8 The Downtown Oakland Specific Plan will align with the West Oakland Truck Management Plan⁴ and any future adopted changes.

Response A-5.9 See Response A-5.8.

Response A-5.10 The requested text is added in order to respond to the comment about the Alameda County Goods Movement Plan.

Page 182, new section (3) Alameda CTC Goods Movement Study, is added as follows:

(3) Alameda CTC Goods Movement Study

Home to the Port of Oakland, Oakland International Airport, and miles of rail and interstate infrastructure, Alameda County is critical to the region's goods movement. The Alameda CTC Goods Movement Plan explores opportunities and strategies the County may pursue to reach multiple goals related to goods movement, including economic prosperity, quality of life, interconnectedness and multimodal operations, safety and reliability, and innovation. Related to these goals, the Alameda CTC has explored opportunity areas to increase and improve the county's goods movement, some of which may interact with the development at Howard Terminal. Implementation of the project and its associated infrastructure improvements may affect the following opportunity areas:

- Increase Safety and Reliability: Improve time-of-day controls, signal coordination, street design features, and truck routing to reduce hindrances

⁴ City of Oakland, West Oakland Truck Management Plan, May 2019.

to truck movements. Improve at-grade rail crossings and implement quiet zones so that rail traffic may increase to meet future demands while minimizing safety and noise concerns.

- Design for Complete Streets: Design streets to be inclusive of all modes, including incorporating goods movement. Similarly, design to minimize queuing and congestion at intersections, freeway ramps, and Port access locations.
- Improve Connectivity: Improve the road network and reevaluate the overweight truck network to better connect industrial areas to the I-880 corridor.
- Implement Technology to Improve Operations: Implement queue detection technology and changeable message signs to reduce congestion and improve safety.
- Modernize Goods Movement Infrastructure: Modernize the road network in industrial corridors, improve safe access to industrial corridors and facilities, and improve last-mile truck routes and rail connections.

Sustainably Increase Global Competitiveness: Continue to be a global leader in goods movement while addressing community impacts, including separating truck activity from sensitive populations and environments, implementing rail quiet zones, and update zoning to preserve and further implement buffer zones along freight corridors.

- Continue to Work Collaboratively: Ensure key stakeholders are actively engaged in decision making processes that may impact goods movement in the County.

These opportunity areas align with the five main goals in Metropolitan Transportation Commission's document San Francisco Bay Area Goods Movement Plan which identifies five key goals for the Plan including:

- Increase economic growth and prosperity.
- Reduce environmental and community impacts and improve the quality of life in communities most affected by goods movement.
- Provide safe, reliable, efficient and well-maintained freight movement facilities.
- Promote innovative technology strategies to improve efficiency.

- Preserve and strengthen a multi-modal system that supports freight movement and is coordinated with passenger transportation systems and local land-use decisions.

Response A-5.11 The requested text is added in order to respond to the comment about truck routes.

Page 209, top of page before Impact TRANS-1 of the Draft EIR, discussion text is added as follows:

Truck Routes

Development under the Specific Plan would generate additional multi-modal traffic including auto, truck, bus, pedestrian, bicycle, and other micromobility users. The Specific Plan M-3.1 implements the City's adopted Complete Streets Policies with a focus on reconfiguring public streets with excess capacity to other modes such as bicycles, pedestrians, and transit. To implement this policy, there are pedestrian improvements under Policies M-1.1 through M-1.3; bicycle improvements under Policy M-1.10; and transit improvements under policies in Outcome M-2. These policies are also aligned with the opportunity areas in the Alameda CTC Goods Movement Plan including Design for Complete Streets: Design streets to be inclusive of all modes, including incorporating goods movement. Similarly, design to minimize queueing and congestion at intersections, freeway ramps, and Port access locations.

Examples where these policies yield positive results on designated truck routes include 3rd Street through Jack London District where the Specific Plan calls for Class 4 Parking Protected Bike Lanes. These lanes physically separate bike users from faster moving motor vehicle traffic including truck traffic. The physical separation reduces modal conflicts and increases sight lines between bike riders and motor vehicle drivers while slowing turning traffic at intersections where modal turning conflicts occur. The pedestrian improvements envisioned in the Specific Plan improve sight lines between pedestrians and motor vehicle drivers as well as bicyclists at intersecting streets and close sidewalk gaps such as 3rd Street where pedestrians must walk in the street where there are gaps in the sidewalk. The continuous sidewalks physically separate pedestrians from faster moving motor vehicle and bicycle traffic. Similar design solutions are proposed in the Specific Plan for Martin Luther King Jr. Way and Market Street where there is a mix of modal traffic. The 7th Street corridor, currently a multi-lane one-way street,

is another example where the Specific Plan calls for potentially converting the street to two-way and providing high-quality transit infrastructure including bus-only lanes.

Seventh Street is an example where transit amenities and one-way to two-way street conversion would potentially slow motor vehicle drivers. Speeds would be more in line with 25 miles per hour which would provide a safer environment for local businesses and residents who work and live along these streets while also maintaining reliable and reasonable speeds along the corridor for motor vehicle drivers. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to Plan Consistency.

Response A-5.12 The potential pedestrian/bike bridge connecting the City of Alameda and Jack London Square is in the very preliminary planning stages with feasibility studies evaluating bridge crossing alignment alternatives taking into consideration the navigational regulatory requirements but also landing impacts on either side of the Estuary and connectivity to the bike and pedestrian system on both sides of the Estuary. The alignment referenced by the commenter is one of a number of potential alignments being considered. These early studies will be used as the basis for more detailed studies at a later date (to be determined), including full environmental analysis and preliminary engineering studies. The bridge design and alignment will be determined as part of these latter studies. The Downtown Oakland Specific Plan identifies the bike and pedestrian bridge as a potential project, but it is not intended to establish a preferred alignment or design.

Response A-5.13 The requested text is added in order to correct diesel particulate matter reduction percentage emissions.

Page 222, second paragraph of the Draft EIR, is revised as follows:

In 2005, the average excess cancer risk within the Plan Area from DPM emissions associated with Port activities ranged from about 125 to 200 in a million.⁸ In March 2008, the Port's Board of Port Commissioners approved a Maritime Air Quality Policy Statement that sets a goal of reducing the average excess cancer risk in West Oakland from DPM emissions associated with the Port's maritime operations by 85 percent from 2005 to 2020. Based on the Port's 2017 Seaport Emissions Inventory, DPM emissions at the Port have decreased by ~~81~~ 80 percent since 2005⁹ and are projected to meet the

85 percent reduction goal in 2020.⁹¹⁰ Based on the Port's 2020 projection of an 85 percent reduction in DPM emissions, the current excess cancer risk in the Plan Area from DPM emissions associated with Port maritime activities would also be 85 percent lower than 2005 and ranges from about 20 to 30 cases in a million. As shown by the blue areas in Figure V.C-1, the BAAQMD recommends further study to assess local health risks from air pollution for future developments located near the Port. The BAAQMD also recommends additional studies for future developments located adjacent to existing gas stations.

⁹⁰⁹ Port of Oakland, 2019. Errata for the Port of Oakland 2017 Seaport Air Emissions Inventory Final Report. Dated August 28, 2018.

⁹¹⁰ Port of Oakland, 2018. Revised Draft Seaport Air Quality 2020 and Beyond Plan, December 14.

Response A-5.14 The cancer risk of 20 to 30 cases in a million was calculated based on the previously referenced information. To clarify this point, text is added to explain that an 85 percent reduction in DPM emissions will result in an 85 percent reduction in the cancer risk associated with the DPM emissions. The additional text is included in Response A-5.13 above.

Response A-5.15 The Downtown Oakland Specific Plan does not include recommendations for the removal or relocation of PG&E Substation C. To further address this comment, the proposed General Plan designation for the substation property has been amended in the Plan to 'Light Industry'. Therefore, a discussion of impacts from any relocation would be too speculative at this point in time and will be considered if something specific is proposed in the future.



Gavin Newsom
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Kate Gordon
Director

November 15, 2019

Alicia Parker
Oakland, City of
250 Frank H. Ogawa, Suite 3315
Oakland, CA 94612

Subject: Downtown Oakland Specific Plan
SCH#: 2019012008

Dear Alicia Parker:

The State Clearinghouse submitted the above named EIR to selected state agencies for review. The review period closed on 11/8/2019, and the comments from the responding agency (ies) is (are) available on the CEQA database for your retrieval and use. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

Check the CEQA database for submitted comments for use in preparing your final environmental document: <https://ceqanet.opr.ca.gov/2019012008/2>. Should you need more information or clarification of the comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

cc: Resources Agency

Letter A-6
State Clearinghouse
Scott Morgan, Director
November 15, 2019

Response A-6.1 The commenter acknowledges receipt and distribution of the Draft EIR to select state agencies. This comment is noted. No further response is required.

B. COMMENTS AND RESPONSES FROM ORGANIZATIONS



September 18, 2019

(By electronic transmission)

To: City of Oakland Landmarks Preservation Advisory Board

Subject: Draft Downtown Oakland Specific Plan - -Item 2 on Landmarks Board’s September 23, 2019 Agenda.

Dear Boardmembers:

In anticipation of the Board’s discussion of the Draft Downtown Oakland Specific Plan at its September 23, 2019 meeting, we are providing you the attached “Statement of Oakland Heritage Alliance Objectives” regarding the plan and our March 1, 2019 recommended height limit map for the plan area, including the cover letter to the City Planning Commission. The height map would implement Items 1 and 2 in the “objectives” statement. Also attached is the 2013 Seifel report on San Francisco’s transferable development rights program, referred to in Item 3 of the “objectives”.

1

We plan to send you a follow-up letter before the Board’s September 23 meeting discussing inconsistencies between the recently released draft specific plan and our statement of objectives, as well as other issues.

2

Given the importance and complexity of the plan, the need for adequate time for Board review and comment and the Board’s heavy September 23 agenda, we recommend that the Board extend its discussion of the plan to its October meeting.

3

Thank you for the opportunity to comment. Please contact Christopher Buckley at (510) 523–0411 or cbuckleyaicp@att.net or Naomi Schiff at (510) 835–1819 or Naomi@17th.com if you would like to discuss these comments.

Sincerely,

Tom Debley
President, Oakland Heritage Alliance

Attachments:

1. Statement of Oakland Heritage Alliance Objectives
2. March 1, 2019 recommended height limit map and letter
3. 2013 Seifel report on San Francisco’s transferable development rights program

By electronic transmission:

cc: William Gilchrist, Ed Manasse, Laura Kaminski, Alicia Parker, Joanna Winter, Peterson Vollmann, and Betty Marvin,
Bureau of Planning
Dover Kohl
Oakland City Planning Commission
Mayor and City Council

Draft Downtown Oakland Specific Plan
STATEMENT OF OAKLAND HERITAGE ALLIANCE PRIMARY OBJECTIVES
September 17, 2019

The following objectives were set forth in Oakwood Heritage Alliance's January 22, 2019 letter to the City Planning Commission on the Preliminary Draft Downtown Oakland Specific Plan and appeared in that letter as Items 2, 3, 4 and 5.

1. **Reduce existing excessive by-right FARs, height limits and residential density to promote community benefits, including affordable housing and TDRs to preserve historic buildings.** The Specific Plan provides an opportunity to correct the mistakes of the 2009 rezoning that provided excessive by-right height limits and FARs, which eliminated any incentives for developers to provide community benefits, such as affordable housing and acquisition of TDRs from historic buildings in exchange for increased height, FAR and residential density on their development sites. For example, much of downtown Oakland was provided with a by-right 20.0 FAR and unlimited height in the 2009 rezoning, which, unfortunately, appears mostly retained in the Preliminary Draft (based on the areas designated for "unlimited" height on the draft intensity map), which, in the absence of FAR designations, will presumably retain the existing excessive by-right 20.0 FARs. This is especially disappointing, given such statements in the 2016 Plan Alternatives Report as the following on page 4.7: "Rezone areas with unnecessarily excessive height limits to allow for more flexibility with density bonuses and other developer incentives".

By comparison, the maximum by-right FAR in San Francisco resulting from its 1985 Downtown Specific Plan was 9.0, which can be increased up to 18.0 with TDRs and other community benefits. "Overzoning", such as what exists in downtown Oakland, tends to artificially inflate land values and create more barriers to providing affordable housing and encourages owners to "land bank" their property while waiting for a major development project that will pay them top dollar. Ironically this can **discourage** development, rather than encourage it, as intended by overzoning. Land banking also tends to encourage a slumlord mentality, with building owners reluctant to spend money to properly maintain their buildings and refuse long-term leases that could include major tenant improvements, thereby discouraging high-quality tenants.

2. **Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) do not exceed the scale of contributing historic buildings within the APIs and ASIs.**

The Plan should require that new structures be visually subordinate to contributing buildings so as to not visually overwhelm the API/ASI and potentially compromise its API/ASI eligibility. In many cases, this means that the heights of new buildings need to be lower than the tallest adjacent contributing building and sometimes significantly lower, perhaps one or more stories.

For example, a new building located between a one-story and three-story contributing building should probably be no more than two stories. This must be reflected on any height/FAR maps that come out of the plan. *This is especially important in Old Oakland*, where the current by-right height limit is 55' (increased by 5' in 2009) while the tallest contributing buildings are about 45'.

Avoiding excessive architectural contrast with contributing buildings is a further requirement for achieving visual subordination and should be addressed in the Design Guidelines to be prepared as part of the Specific Plan.

3. **Provide a robust Transferable Development Rights (TDR) program.** Although the plan calls for a TDR program, an actual program mechanism has still not been provided, despite promises for such a program in previous downtown specific plan documents. We are disappointed that a more developed TDR proposal or options has not been provided, given the considerable elapsed time and resources that have now been dedicated to the Specific Plan. A TDR program was called for in the General Plan's 1994 Historic Preservation Element. Now 25 years have elapsed and the program still has not been implemented, despite the major resources dedicated to the Downtown Specific Plan and previous major land-use policy documents, including the 1998 land-Use and Transportation Element, the 2009 Downtown Rezoning and the 2014 Lake Merritt BART Station Specific Plan. TDRs have been very successful in preserving historic buildings in downtown San Francisco and elsewhere. The San Francisco model could be adopted almost verbatim in Oakland. See the Historic Preservation Element and the attached 2013 Seifel report on the San Francisco program for further discussion.



March 1, 2019

(By Electronic Transmission)
Oakland City Planning Commission
Downtown Plan team

Subject: Preliminary Draft Downtown Oakland Plan - -Additional Oakland Heritage Alliance Comments

Dear City Planning Commissioners and Downtown Plan team:

The following comments supplement Oakland Heritage Alliance's (OHA) previous comments dated January 22, 2019, February 5, 2019, and February 19, 2019.

1. **OHA-recommended height limits.** The attached map preliminarily indicates OHA's recommended maximum heights in the Downtown Plan area where historic resources occur. The recommended height limits apply to historic areas identified as Areas of Primary or Secondary Importance as defined in the Oakland General Plan and parcels in close proximity to these areas. The height limits are intended to reflect the prevailing height of individual historic buildings within these areas.

The map omits the Lake Merritt BART Station Plan area, since we understand that height limits and other development controls within this area are not subject to revision as part of the Downtown Plan process.

As stated in our 1-22-19 letter, we are very concerned at the incremental upzoning shown in key historic areas on the Preliminary Draft Plan map on page 284 as well as the excessive by-right height limits and floor area ratios established in some of these areas by the 2009 rezoning. A developer may further add on to these heights under the State Density Bonus Law. New buildings could be constructed, or additions made to existing structures, which could be too intrusive, incompatible with district-defining height characteristics, and thus damage the integrity of these historic areas, compromise their senses of time and place and potentially disqualify their eligibility for City historic district status or listing on the National Register of Historic Places.

The map's height limits are subject to adjustment, depending on:

- a. Continued refinement of the height limits based on further analysis of as-built conditions;
- b. Downtown Plan strategy for addressing height increases mandated by the State Density Bonus Law;
- c. Floor area ratios resulting from the Downtown Plan;
- d. Provision of any transferable development rights program under the Downtown Plan; and

- e. Ongoing consultations with stakeholders.

The attached map includes two-tiered height limits, consisting of two numbers separated by a slash, for certain 19th and early 20th Century residential areas, composed mostly of houses with hip or gable roofs. The first number indicates the wall height limit and the second number the roof height limit if a hip or gable roof is provided. For example, 30/40 indicates a wall height limit of 30 feet and a roof height limit of 40 feet. A similar two-tiered height limit has long been used in the City's lower density residential zones and in the context section of the 1-2 Unit Residential Design Review Manual. Implementation of the two-tiered system will depend on the following provisions:

- a. Rules for pitched roofs are established to ensure that the roof is characteristic of 19th and early 20th Century houses, that is, more or less symmetrical and with a fairly steep slope. Gable ends on street elevations should be no wider or taller than gable ends on contributing buildings. Some historic areas may not be characterized by gable ends, in which case gable ends would not be a design option.
 - b. Any new construction or additions must not be an overly dominant element within the historic areas, especially in terms of height. For example, a new building, lifted building or upper floor addition should be no taller than the historic area's "character-defining height" (both walls and roof peak) and no taller than the adjacent (or closest) contributing buildings at least for a certain distance back from the front wall (or possibly within the "Critical Design Area" as defined in the Small Project Design Guidelines).
2. **Provide a list of recent tall downtown buildings indicating heights in feet, number of stories and floor area ratios.** This information is needed to assist staff, consultants, decision-makers and the public in assessing current market demand for buildings of various heights and their visual impact.

Please contact Naomi Schiff at 510-893-1819 or Naomi@17th.com or Christopher Buckley at 510-523-0411 or cbuckleyAICP@att.net if you would like to discuss these comments.

Sincerely,



Tom Debley
President

Attachments: OHA Height Map

Cc: Mayor and City Council
Landmarks Preservation Advisory Board
William Gilchrist, Ed Manasse, Alicia Parker, Joanna Winter, Robert Merkamp, Catherine Payne,
Pete Vollmann, Betty Marvin, Bureau of Planning and Zoning
Dover-Kohl

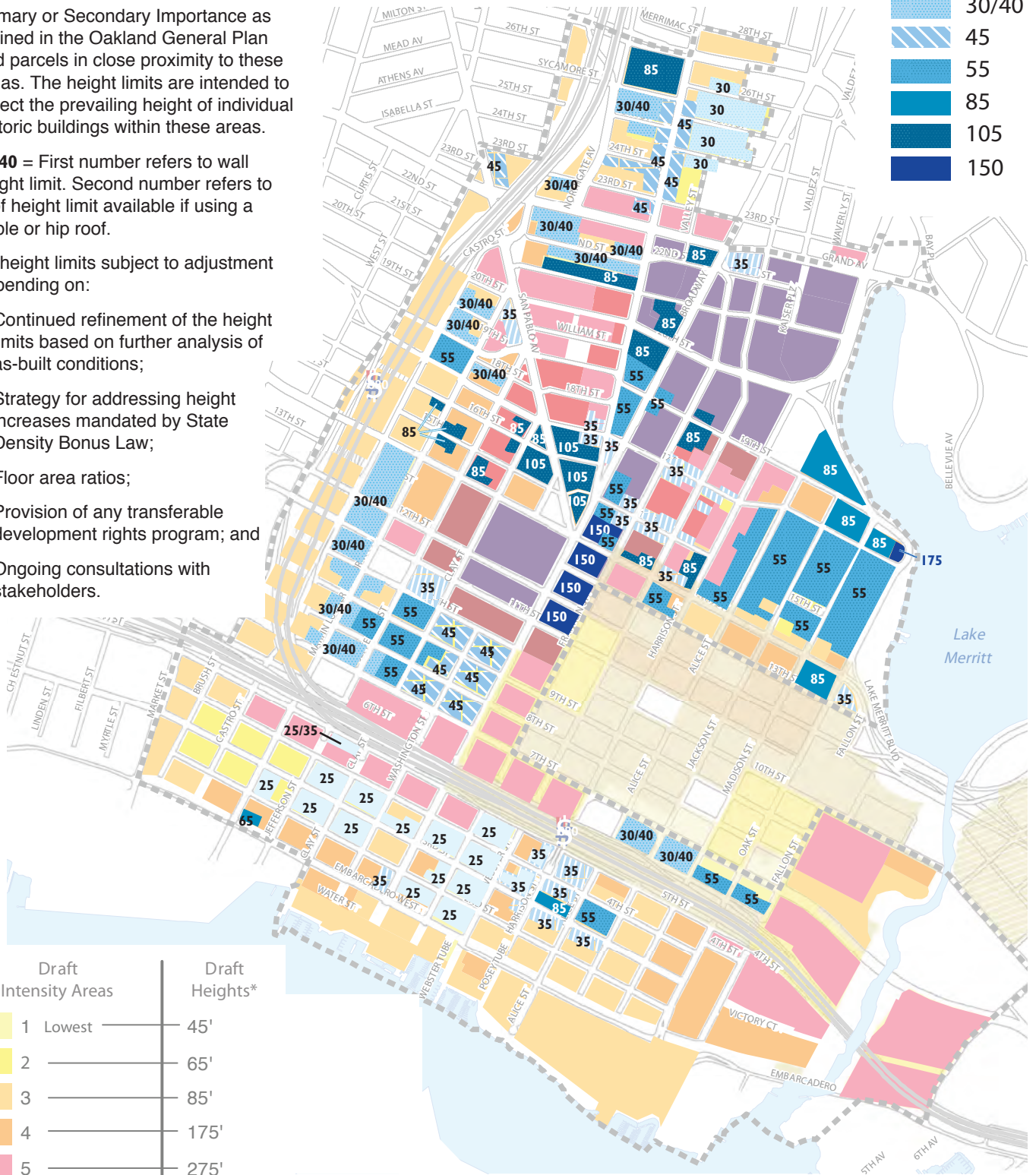
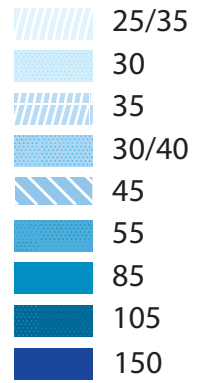
**Oakland Heritage Alliance
Preliminary Height Limit Recommendations: 3-1-2019**

**Letter B-1a
Attachment B**

OHA Recommends

NOTES:

- The recommended height limits apply to historic areas identified as Areas of Primary or Secondary Importance as defined in the Oakland General Plan and parcels in close proximity to these areas. The height limits are intended to reflect the prevailing height of individual historic buildings within these areas.
- **30/40** = First number refers to wall height limit. Second number refers to roof height limit available if using a gable or hip roof.
- All height limits subject to adjustment depending on:
 - Continued refinement of the height limits based on further analysis of as-built conditions;
 - Strategy for addressing height increases mandated by State Density Bonus Law;
 - Floor area ratios;
 - Provision of any transferable development rights program; and
 - Ongoing consultations with stakeholders.



Draft Intensity Areas	Draft Heights*
1 Lowest	45'
2	65'
3	85'
4	175'
5	275'
6	450'
7	Unlimited
8 Highest	Unlimited

REPORT

TDR Study

San Francisco's Transfer of Development Rights Program



June 2013

Prepared for

San Francisco Planning Department

Prepared by

Seifel Consulting Inc.

C.H. Elliott & Associates

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San Francisco Planning Department

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Executive Summary

In the mid-1980s, in response to unprecedented downtown growth and the potential loss of historic buildings, the City and County of San Francisco established its Transfer of Development Rights (TDR) program as part of the City's Downtown Plan (Ordinance 414-85). The program recognizes the Downtown's concentrations of historic buildings that together create a unique historic, architectural and aesthetic character.

As a planning tool, the TDR program has helped the City to accommodate growth in the Downtown while providing property owners of historic buildings with economic incentives to maintain cultural resources. Specifically, the TDR program allows unused development potential from a preservation property to be transferred and ultimately used on a development property in order to increase the allowable gross floor area of development above what would otherwise be allowed. The Planning Department processes San Francisco's TDR program, but does not regulate the sale of TDR or set TDR pricing. To ensure compliance with Planning Code, the Department reviews and certifies TDR eligibility, transfer and use.

2013 Analysis of TDR Program

In February 2013, the San Francisco Planning Department retained the team of Seifel Consulting, Inc. and C.H. Elliott & Associates (the Seifel team) to analyze San Francisco's TDR program and market activity, as well as the impact of the potential sale of TDR from public properties on the TDR market.

The Seifel team completed a comprehensive review of the City's existing TDR program and policies, and conducted in-depth analysis on the Planning Department's database used to track TDR certification, transfer and use. It assessed the historical pace of TDR activity, key market factors in TDR transactions, and the value of TDR to the real estate development community. To provide insight into program implementation, as well the TDR market and pricing, the team interviewed brokers and other stakeholders involved in the TDR market and prepared case studies on specific TDR transaction in San Francisco. Finally, the team researched historic preservation-related TDR programs in other cities.

The report is organized into the following sections:

- I. Introduction
 - II. San Francisco's TDR Program in Practice
 - III. San Francisco's TDR Market
 - IV. San Francisco TDR Market Participant Interviews
 - V. Historic Preservation TDR Programs in Other Cities
 - VI. Recommendations
- Appendices

The study's key findings and recommendations are presented in italicized text.

TDR Program in Practice

TDR Supply (Certification)

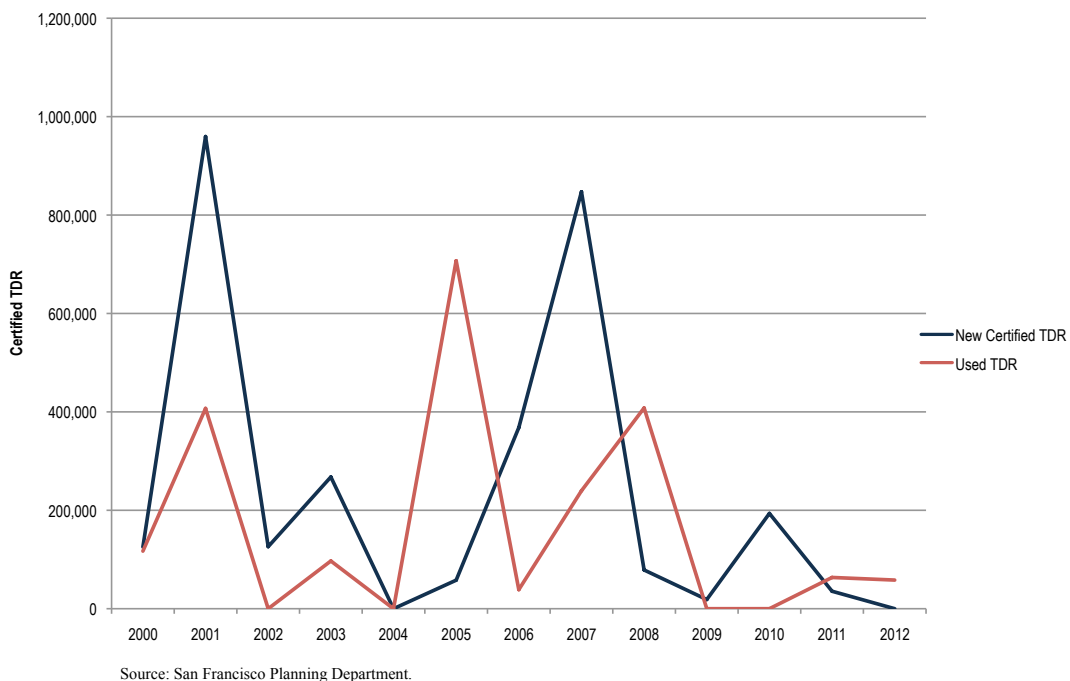
Since the TDR program's inception, the City has certified 5.3 million TDR originating from 112 parcels. The amount of certified TDR on an individual originating parcel ranges from 1,800 to 489,452 TDR. The average amount of TDR generated on each originating parcel is approximately 47,500 TDR, with half of the parcels originating less than 22,000 TDR.

TDR Demand (Usage)

Of the 5.3 million certified TDR, over half have been used in the development of 32 buildings on receiving sites, including 26 newly constructed buildings. The amounts of TDR used on individual developments range from 1,000 to 453,900 TDR. The average amount of TDR needed for development on the receiving site is approximately 80,000, with half of the parcels requiring less than 40,000 TDR. On average, developers using TDR have needed 2.5 TDR transactions to acquire sufficient TDR for their developments.

Since 2000, on average, approximately 237,000 TDR have been certified per year while on average, 164,000 TDR have been used per year. Figure ES-1 shows the actual amounts of TDR certified and used each year since 2000.

**Figure ES-1
TDR Certified and Used, 2000-2012**

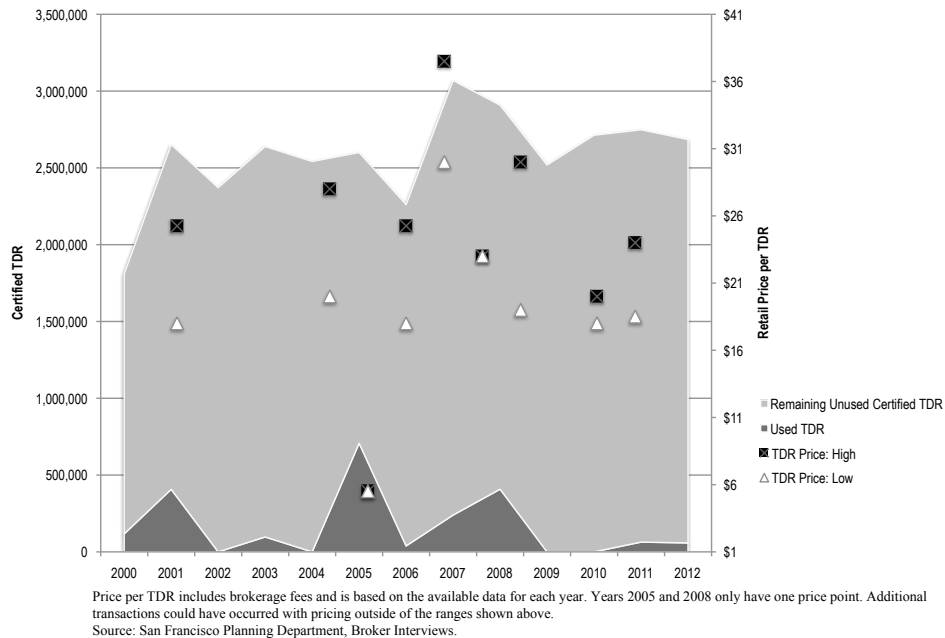


Historical TDR Pricing

Until late 2010, the City did not require the recordation of TDR sales prices, so pricing data on historical TDR transactions is not readily available. According to research, since 2000, TDR pricing has varied from a low of \$5.51 to a high of \$37.50, with most transactions in the range of \$18 to \$25.

(See Figure ES-2, which shows the total amount of certified TDR in existence each year, the number of TDR used per year, and market pricing.)

**Figure ES-2
Certified TDR, TDR Usage and Market Pricing, 2000-2012**



Key Findings on Program in Practice

- Since 2001, the annual amount of unused certified TDR in existence has been 2 million square feet or more.
- TDR usage fluctuates with market cycles, with recent TDR usage peaks in 2001, 2005 and 2008.
- Property owners/developers typically have had to acquire TDR through multiple transactions.
- TDR pricing has not correlated with supply, demand or use, but rather with the overall real estate market for development, as well as the characteristics of unique individual transactions.

San Francisco’s Current TDR Market

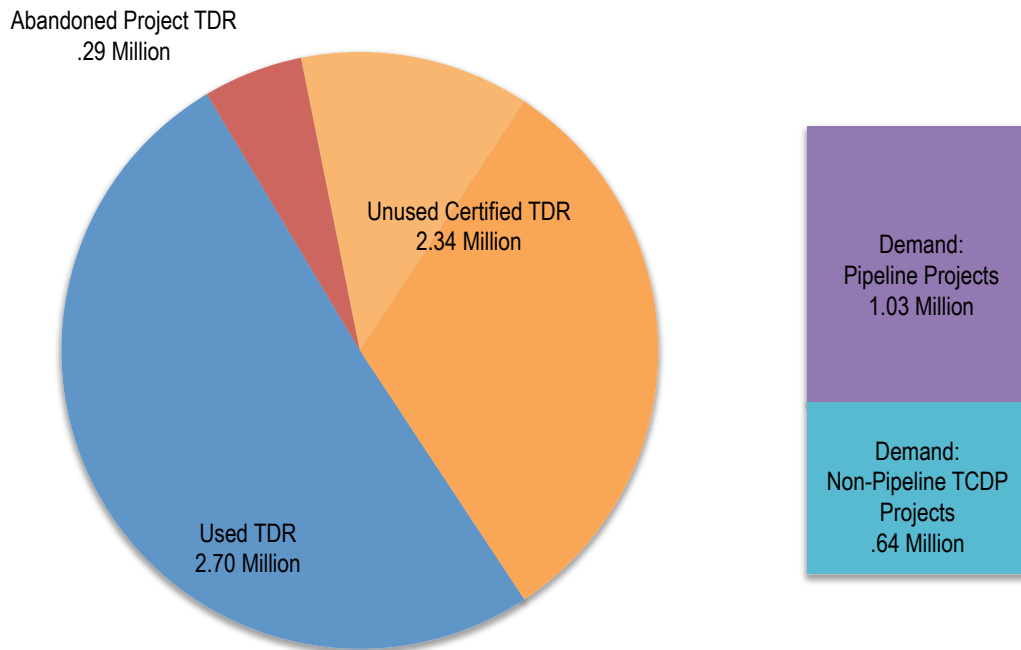
Existing TDR Supply

The TDR market has accumulated a significant supply of certified TDR. Of the TDR that have been certified since the beginning of the TDR program, 2.7 million have been used and an additional 300,000 have been applied to proposed projects that were subsequently abandoned, leaving 2.3 million unused certified TDR (see Figure ES-3). Not all certified TDR are currently available for purchase in the TDR market, and some may never likely enter the market. Approximately 700,000 TDR (or 30 percent) remain with the originating properties, and on average, these TDR have been certified for 10 years. In addition, most of the blocks of certified TDR that are not known to be identified for specific developments are small in size, ranging from 10,000 to 25,000 TDR.

Current TDR Demand and Pricing

Near-term TDR demand from pipeline and non-pipeline Transit Center District Plan (TCDP) projects is estimated at 1.67 million TDR based on about 1.03 million from pipeline projects and 640,000 from non-pipeline TCDP projects. Of this amount, approximately 810,000 TDR have already been acquired by project developers and 860,000 TDR need to be acquired (see Figure ES-3).

**Figure ES-3
Current TDR Market**



Source: San Francisco Planning Department.

According to Seifel team interviews and research, the most recent TDR transactions were for developments to be constructed directly adjacent to the future Transbay Transit Center—the Transbay Tower to be built at First and Mission and a potential high-rise residential development located at 524 Howard Street. Both transactions closed in March 2013, with sales price reported as follows:

- Transbay Tower: 151,454 TDR at \$24 per TDR
- Potential project at 524 Howard: 14,756 TDR at \$24.94 per TDR

Key Findings on Current TDR Market

- *The TDR market has accumulated a significant supply of unused certified TDR.*
- *The market analysis does not indicate that all certified TDR has been or is readily available for transfer and/or use.*
- *Current unmet TDR demand is estimated at 860,000 TDR.*
- *The TDR market price based on recent transactions is about \$25 per TDR.*

San Francisco's Future TDR Market

Future TDR Supply

The supply of TDR could increase in the future as a result of the certification of potential TDR that is be eligible under the current TDR program, and/or planning or zoning modifications that would make additional properties eligible for the TDR program. Overall, the following amounts of TDR could be certified from properties currently eligible for the TDR program:

- 2.7 million potential TDR from private properties not yet certified (a significant portion of this supply, however, might not actually enter the market); and
- 3.6 million potential TDR from eligible P-zoned properties in the Civic Center.

The Port has proposed legislative modifications to the TDR program that would allow Port properties Piers 19, 23 and 29 to certify and transfer TDR. The Port has estimated that approximately 924,000 TDR could be available from these properties.

Potential TDR could also be created in the Central Corridor Plan Area—the April 2013 Public Review Draft of the Central Corridor Plan discusses implementation strategies such as expanding the TDR program to the Central Corridor to help preserve historic buildings.

Future TDR Demand and Pricing

To project additional future TDR demand, the Seifel team evaluated historical certification and use of TDR, and analyzed the development pipeline and potential future development requiring TDR. Several factors influence future TDR demand, including the following:

- TDR program is limited to C-3 Districts in Downtown, and these areas have been extensively developed.
- San Francisco's real estate market can only support a certain level of new mid to highrise development to meet local employment and household demand, and most of the large-scale developments that are planned or underway do not currently require TDR.
- The City has had to balance historic preservation goals with other important public policy priorities. To address needs for community improvements and impacts from new development, the City has created mechanisms for new development to contribute to the funding of public infrastructure and facilities, open space and affordable housing. As a result, the City has either modified TDR program requirements or not required TDR for some area plans.
- The City has reduced TDR demand by exempting specific projects from TDR requirements in order to facilitate development on particular sites, improve financial feasibility and/or to meet other public policy objectives. For example, in 2006, the City entered into a Development Agreement for the Trinity Plaza development that eliminated the TDR requirement for the project. Without the exemption, the project would have required 879,000 TDR.

Key Findings on Future TDR Market

- *Land use policies have influenced demand in the current TDR market and will affect future TDR demand. Over the last decade, several area plans have been adopted that could have created additional TDR demand; however, these plans either did not create potential TDR demand or limited potential demand. As a result, the Seifel team does not project significant additional TDR demand in the future and expects pricing to continue to be influenced by the overall real estate market for development, as well as the characteristics of individual transactions.*

TDR from Public Properties

TDR from public properties could be an important source for meeting current and future TDR demand. It would have the advantage of being readily accessible and already assembled in larger amounts, overcoming key market challenges related to the current lack of transparency of TDR availability and the need for multiple TDR transactions in order to accomplish a major real estate development. The City could also control the annual release of public TDR to the real estate market, taking in to account changing demand over time as the real estate market fluctuates.

However, the market may not readily absorb the annual amount of TDR released by the City, particularly when the next downturn in the real estate market occurs.

Key Findings on TDR from Public Properties

- *The City has the opportunity to meet the demand for larger TDR requirements from P zoned properties. While existing certified TDR could potentially meet current TDR demand, not all of the certified TDR is likely to be available and would be difficult to assemble.*
- *Based on annual historical TDR demand, 1.2 million in new public TDR would likely take between 6 to 12 years to be fully absorbed.*

Market Participant Interviews

In order to obtain insight into how market participants perceive the TDR market and program, the Seifel team conducted interviews with various stakeholders.

TDR Availability

Many interviewees either believed few large blocks of TDR are available or did not have a sense of the available TDR supply. One stated that most historic building owners that could certify TDR have already done so, and many smaller buildings are owned by trusts that are incapable or unwilling to certify small amounts of TDR.

Most interviewees said they would probably use a broker to acquire any necessary TDR. Some commented that a centralized public database of available TDR would be helpful, yet they do not see the need for a centralized TDR bank. Two of the larger and more established property owners stated that they had acquired and certified their own TDR and had not used brokers or intermediaries.

Some were cautious about the idea of a central bank of TDR, or one group owning too many TDR—for example, if the City were to sell some of its TDR in bulk to a third party—as this could create a monopoly situation.

TDR Pricing

The appraisers interviewed reported that it is hard to get concrete data on the price or value of TDR as little public information is available. Generally, the brokers interviewed believed the current value of TDR is in the range of \$20 to \$30 per square foot, while the developers interviewed thought that TDR today are worth between \$25 and \$30 per square foot, up from around \$20 per square foot a year ago.

Public TDR

Brokers like the idea of the City setting a price for its own TDR annually, as this would make it easier for brokers to do land deals. One interviewee stated that it was not a good idea for the City to set the price of its TDR annually, as this could put the City at a disadvantage when the market was either increasing or decreasing rapidly.

Capital market participants were split over how easy it would be for the City to sell its TDR in bulk, if it were to choose to do so. All those interviewed thought that such a bulk price would be heavily discounted.

Key Findings from Market Participant Interviews

- *One of the most common concerns voiced during the stakeholder interviews was the limited supply of readily available TDR.*
- *Brokers, developer and property owners/investors support the concept of a centralized registry or database of available TDR, but many do not see the need for a TDR bank.*
- *Some interviewees were skeptical that demand would be sufficient for the City to sell any significant quantity of publicly owned TDR.*

Historic Preservation TDR Programs in Other Cities

As part of the TDR market analysis, the City is interested in learning how other cities structure their historic preservation TDR programs and identifying best practices that could benefit the City's program. A recent review of TDR programs in the US identified 239 TDR programs with a range of structures and purposes. Nearly two dozen of these programs focus on historic preservation. The Seifel team reviewed the following five TDR programs with a focus on historic preservation: Los Angeles; Oakland; New York City; Portland, Oregon; and Seattle, Washington.

Key Findings

- *While San Francisco's TDR program focuses on historic resources, Los Angeles, New York, Portland, and Seattle have expanded their programs to focus on additional areas of public interest, such as the preservation and creation of affordable housing and open space.*
- *Unlike most other cities TDR programs, San Francisco's TDR program allows any third party—developers with entitled or proposed projects, brokers, investors, speculators, and financial institutions, among others—to own TDR.*
- *The TDR programs follow similar processes in which an originating parcel applies for TDR, and TDR are certified based on a formula that accounts for zoning, existing FAR and potential FAR. Most jurisdictions track TDR through recorded documents that note at minimum the originating owner, the receiving owner and the number of TDR.*
- *TDR pricing is influenced by the presence or lack of alternative options to TDR to increase FAR. Due to the constrained supply and no other alternatives to increase FAR in New York City, TDR pricing can become extremely expensive and trades for 50 to 60 percent of land value, and recently prices have approached \$450 in prime neighborhoods. In other cities where multiple options and programs compete with TDR such as in-lieu fees, developers tend to opt for the lowest cost option, and pricing ranges from \$20 to \$30.*
- *Some cities generate revenues from their TDR program through fees and taxation. Los Angeles charges a TDR transfer fee with revenues deposited into a fund to be used for public services and facilities, while New York applies city and state real property transfer taxes on the TDR sales price.*

Recommendations

Based on analysis of San Francisco's TDR program and other jurisdictions' programs, the Seifel team presents several recommendations to refine the TDR program and its future implementation.

TDR Demand

- *Balance the need for potential impact fees with the City's historic preservation goals when developing the Central Corridor Plan and determining the extent TDR could be required for new development.*
- *Consider including additional areas in the TDR program such as (a) other Downtown areas that are not zoned C-3, but where office and/or residential is allowed, such as areas zoned C-M, MUG, and MUR; and/or (b) areas outside of the Downtown but within the northeast segment of the City.*

TDR "Bank"/Market Clearinghouse

- *Implement the annual TDR reporting requirements required in Ordinance 68-13 as soon as possible, and additionally, report on annual TDR certification and use, as well as market pricing, in order to inform and facilitate market activity.*
- *Provide information to the public on TDR that is available for purchase. For example, display TDR information on the San Francisco Property Information Map by indicating originating parcels with certified TDR remaining on the originating site.*
- *Devise a mechanism for potential buyers to contact TDR owners without displaying the names of the owners. This information could bring TDR sellers and buyers together and facilitate TDR transactions.*
- *Expand the amount of public TDR that is available for purchase, as described as follows.*

Publicly Owned TDR

- *Given the current active real estate market and unmet demand of about 860,000 square feet from pipeline projects and the TCDP, consider certifying approximately 1.2 million in public TDR in the near future in order to test the market demand for larger segments of TDR. Specifically, undertake the following:*
 - *Certify TDR from City-owned buildings that are eligible for the TDR program, prioritized in the City's 10-year Capital Plan, and approved by the Capital Planning Committee, such as the War Memorial Opera House and Veterans Building.*
 - *Consider requesting the Board of Supervisors to authorize the Department of Real Estate to transfer the TDR in the future. (The Department would determine how much TDR it would transfer in a particular transaction based on demand for the specific number of TDR.)*
 - *Consider establishing a minimum offer price to be annually reviewed in order to provide a level of certainty about TDR pricing to buyers and streamline the transaction process for selling TDR. Specifically, consider offering the initial release of TDR at a minimum of \$25 per square foot and future releases at this minimum amount with any increases in price informed by fair market value.*
- *Consider requesting Board of Supervisors to designate properties owned by the Port of San Francisco as eligible for the TDR program. Specifically, undertake the following:*
 - *Include potential properties such as Piers 19, 23 and 29, which are among the priorities in the Port's 10-Year Capital Plan (FY 2011-20 Update), as properties eligible for the TDR program.*
 - *Determine eligible FAR on the piers.*

TDR Program Review

- *Every five years, undertake a third party review of the TDR program, in order to evaluate program effectiveness including success in achieving City goals, and as necessary, recommend program refinements. Specifically, implement the following:*
 - *Tie the five year review to the five year report required to be prepared by the Planning Department (Administrative Code 10E.1) for the purpose of monitoring the impact of downtown development, which already is required to monitor long-term policy indicators such as the TDR program.*
 - *Prepare the next review by July 1, 2015, which is the next deadline for the Administrative Code 10E.1 report. (A review within the next two years would be of benefit as it could assess the impact of the recent modification to the TDR program to allow TDR to transfer freely across the C-3 District and the potential near-term certification and transfer of TDR from City-owned properties.)*

Other Recommendations

- *Require Cancellation of Notice of Use for projects that are not developed within a certain time period (three to five years from building permit or first addendum), and if a cancellation is not filed within the specified time frame, deem the TDR expired.*
- *Recognize that the Preservation Plan requirement may discourage participation by historic buildings with smaller amounts of potential TDR and consider relaxing the rules for TDR transfers under a certain amount.*
- *Evaluate the cost of TDR program administration and review fee charges to ensure fee amounts cover the cost of providing service.*
- *Integrate the TDR program certification, transfers and use into the City's permit and project tracking system (PPTS) to make the data more accessible internally for the Planning Department. In addition, the PPTS could generate automated reports identifying TDR market activity.*
- *Consider implementing the payment of property tax and transfer tax on TDR transactions by assessing the TDR value based on the transaction price upon transfer.*

I. Introduction

San Francisco's program for the Transfer of Development Rights (TDR) allows unused development potential from a preservation property to be transferred and ultimately used on a development property in order to increase the allowable gross floor area of development above what would otherwise be allowed. The City established the TDR program in the mid-1980s as a means to maintain development potential in the Downtown while at the same time to encourage the preservation of historic buildings.

The TDR program is codified in Article 11 and Section 128 of the Planning Code. Restricted to the City's Downtown, it allows TDR from properties with designated significant or contributory buildings to be transferred and used to augment development on receiving properties if the height, bulk and other rules of the Planning Code permit the increased development square footage.

On April 23, 2013, the Mayor signed Ordinance 68-13, which modifies San Francisco's TDR program. Prior to this modification, TDR could only be used to augment development on receiving properties that were located within the same Downtown Zoning District as the parcel from which the TDR transferred or to other designated C-3 Districts per Section 128. As of the effective date of the ordinance, TDR from any eligible building in any Downtown Commercial (C-3) zoning district or the South of Market Extended Preservation District can be used on a development site in any C-3 district.

Since its enactment in 1985, the City's TDR program has resulted in the certification of 5.3 million TDR originating from 112 parcels, of which 2.7 million TDR (56 percent) have been used to provide additional development potential.

A. Study of San Francisco's TDR Program

In February 2013, the San Francisco Planning Department retained the team of Seifel Consulting, Inc. and C.H. Elliott & Associates (the Seifel team) to conduct an analysis of San Francisco's TDR program with the following components:

- Evaluate San Francisco's TDR program and policies.
- Analyze San Francisco's TDR program and market activity to date.
- Perform a market analysis to evaluate the impact of the potential sale of TDR from public properties on San Francisco's TDR market.
- Review similar TDR programs in other cities.
- Make recommendations regarding the TDR program and its future implementation, particularly with respect to TDR associated with public properties.

This report presents the Seifel team's program review and market analysis, highlights best practices from other jurisdictions' historic preservation TDR programs, and offers recommendations to the Planning Department.

The Seifel team completed a comprehensive review of the City's existing TDR program and policies, and conducted in-depth analysis on the Planning Department's database used to track TDR certification, transfer and use. The team assessed the historical pace of TDR activity, key market factors in TDR transactions, and the value of TDR to the real estate development community. To provide insight into program implementation, as well the TDR market and pricing, the team interviewed brokers and other stakeholders involved in the TDR market and prepared case studies on specific TDR transactions in San Francisco. Finally, the team researched historic preservation-related TDR programs in other cities.

The Planning Department staff formed and led a committee to advise the Seifel team as its work progressed. In addition to Planning Department staff, the committee included staff from the Real Estate Division, Office of Economic and Workforce Development, Office of the City Administrator Capital Planning Program, Controller's Office, and Port of San Francisco. The report is organized as follows:

- I. Introduction
 - II. San Francisco's TDR Program in Practice
 - III. San Francisco's TDR Market
 - IV. San Francisco TDR Market Participant Interviews
 - V. Historic Preservation TDR Programs in Other Cities
 - VI. Recommendations
- Appendix A: Documents, Sources and Market Participants Interviewed
- Appendix B: Parcels Originating TDR and Parcels Using TDR
- Appendix C: Case Studies of San Francisco TDR Transactions
- Appendix D: Case Studies of TDR Programs in Other Cities

B. Overview of TDR Programs

TDR programs provide a mechanism for protecting certain types of land or buildings by allowing the transfer of unused development potential from one property to another property. TDR programs offer communities a tool to preserve sensitive areas, historic landmarks and/or other important resources by using market incentives to encourage the voluntary redirection of development away from areas or properties that a community wants to preserve, toward places that a community wants to grow. Over 200 communities in the U.S. have adopted TDR programs, many of which have been created to preserve open space and agricultural land, and to protect sensitive habitats. Historic preservation is the focus of nearly two dozen TDR programs, including San Francisco's TDR program.

Under a TDR program, the development right is a distinct article of private property that can be transferred from one property to another, and as such, has economic value. An entity can purchase development rights and transfer them to a property to be developed. The owner of the property who has sold TDR retains existing use rights and receives compensation in the marketplace for the value of the development right, while the ultimate purchaser can use the TDR to achieve higher levels of development. In many programs, the TDR unit is a single-family dwelling unit. In historic preservation programs, such as the San Francisco program, the TDR unit is one square foot of floor area.

The most common TDR program allows a property owner to sell development rights directly to another property owner who uses the TDR to increase development potential. Another program type involves the formation of a TDR bank—an entity operated by a local jurisdiction, regional government or private nonprofit organization—to buy, sell, and hold TDR or facilitate private TDR transactions. While San Francisco's TDR program does not involve a TDR bank, it does allow TDR to be purchased without having to be recorded on a specific property. As a result, TDR can be purchased and held on a speculative basis.

To enhance its evaluation of San Francisco's TDR program, the Seifel team surveyed historic preservation TDR programs in Los Angeles, Oakland, New York City, Portland (OR), and Seattle (WA), reviewing program scope, implementation, tracking, pricing and revenue generation. Chapter V presents a summary of the Seifel team's survey and Appendix D includes more detailed descriptions of the five programs.

C. San Francisco's TDR Program

In September 1985, the City and County of San Francisco adopted the City's TDR program as part of the City's Downtown Plan (Ordinance 414-85) as a response to unprecedented downtown growth and the potential loss of historic buildings. The program recognizes the Downtown's concentrations of historic buildings that together create a unique historic, architectural and aesthetic character. The goal of the program is to maintain Downtown's development potential, while at the same time to create an incentive to maintain historic buildings located in the Downtown and directing development to appropriate areas.

1. Program Purpose

The TDR program purpose, set forth in Planning Code Article 11, Preservation of Buildings and Districts of Architectural, Historical and Aesthetic Importance in the C-3 Districts, Section 1101, is as follows:

- (d) It is further found that the use of Transferable Development Rights ("TDR") as provided herein is necessary to promote the urban planning and design goals of the General Plan by:*
- (1) Maintaining appropriate overall development capacities in each zoning district within the C-3 area, as defined by applicable floor area, height, bulk and other parameters;*
 - (2) Encouraging and directing development into the Special Development District in order to maintain a compact downtown financial district; and*
 - (3) Facilitating the retention of Significant Buildings and Contributory Buildings, and the compatible replacement or alteration of Unrated buildings in Conservation Districts, as defined in this Article.*

As a planning tool, the TDR program has helped the City to accommodate growth in the Downtown while providing property owners of historic buildings economic incentives to maintain cultural resources.

2. Definitions, Eligibility and Requirements

Planning Code Section 128, Transfer for Development Rights in C-3 Districts, lays out the TDR program's definitions and requirements. Under the program, owners of lots on which eligible buildings are located are allowed to certify and sell their unused development rights for use on other sites within the Downtown Commercial Zoning District (C-3 District). Transferring unused TDR units enables the owner of a "Preservation Lot" to sell unused development rights as a financial incentive towards the preservation of that structure and allows a structure on a "Development Lot" to be built that exceeds the basic floor area ratio (FAR) limit. Following is a summary of the TDR-related definitions included in Planning Code Section 128:

Preservation Lot—A parcel of land on which is (a) a Significant or Contributory building (i.e., Category I, II, III or IV building per Article 11); (b) a Category V building that has complied with the eligibility requirement set forth in Article 11; or (c) a structure designated an individual landmark pursuant to Article 10.

Transfer Lot—A Preservation Lot from which TDR may be transferred. A lot zoned P (public) may be a Transfer Lot if (a) the building is owned by the City and County of San Francisco; (b) located in a P District adjacent to C-3 District; (c) designated as an individual landmark pursuant to Article 10, or listed on the National Register of Historic Places; and (d) the proceeds from the TDR sale are used to finance a project to rehabilitate and restore the building in accordance with the Secretary of Interior standards.

Development Lot—A lot to which TDR may transfer to increase the allowable gross floor area of development beyond what otherwise would be permitted.

Transferable Development Rights (TDR)—Units of gross floor area that may be transferred from a Transfer Lot to exceed the allowable gross floor area of a development on a Development Lot.

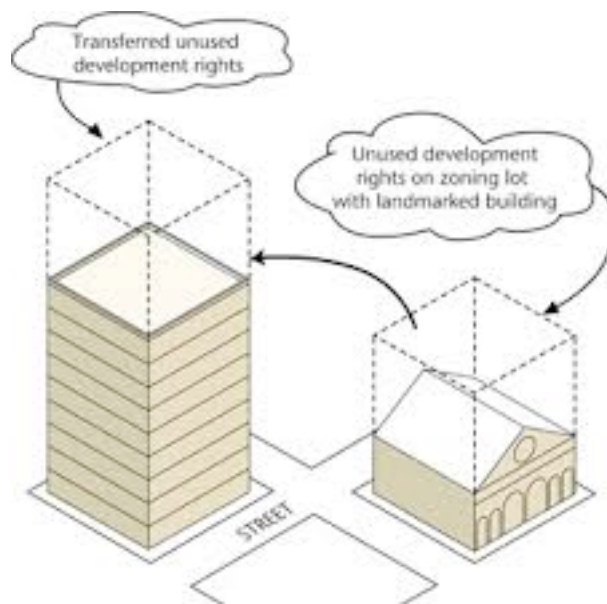
Unit of TDR—one unit of TDR is equal to one square foot of gross floor area.

Preservation, Rehabilitation and Maintenance Plan (Preservation Plan)—The Plan that must be submitted to Planning Department at the time of the initial transfer of TDR from the Transfer Lot. The Preservation Plan must also include a plan for ongoing maintenance; information regarding the nature and cost of any rehabilitation, restoration or preservation work to be conducted; a construction schedule; and any other information required by the Planning Department. The requirements of the approved Plan must be recorded along with the Certificate of Transfer in the Office of the County Recorder. Approval of the Certificate of Transfer is conditioned on the execution of the Preservation Plan, and a status report must be submitted to the Department within one year. Penalties can be invoked for failure to comply with the requirements, including a lien equal to the sale price of the TDR sold.

a. Calculation of TDR

The San Francisco TDR program is founded on the divergence between height limits—the absolute cap on building height—and Floor Area Ratio (FAR) limits—the limit on the ratio of a building's total floor area to the size of the piece of land upon which it is built. Through TDR, the owner of a development site can gain additional floor area to exceed the FAR and build up to the height limit. Figure I-1 presents an example of the FAR limiting development on a site to a height below the site's allowable height limit, indicates the unused development potential on the site, and demonstrates how unused development potential (TDR) can be transferred to another property.

**Figure I-1
Transfer of Unused Development Potential**



The essential element in determining the amount of development potential that is available for transfer is the FAR, as determined by Section 124 of the Planning Code. The maximum amount of TDR that is eligible for transfer is the difference between the allowable gross FAR permitted on the Transfer Lot and the gross FAR of the existing development on the Transfer Lot. Refer to Table I-1 for the FAR limits set forth in Section 124 for the C-3 Downtown Commercial Districts. Under the TDR program, a lot zoned P that qualifies as a Transfer Lot is deemed to have an FAR of 7.5:1 per Planning Code Section 128(a)(4).

**Table I-1
FAR Limit on TDR Transfer Parcels by District**

Transfer Lot District	FAR
C-3-S	5.0
C-3-C	6.0
C-3-G	6.0
C-3-O (SD)	6.0
C-3-R	6.0
C-3-S (SU)	7.5
C-3-O	9.0
P ^a	7.5

a. FAR for P set forth in Planning Code Section 128.

Source: San Francisco Planning Department.

b. TDR Transfer and Limits

Under the TDR program, TDR allow development projects to increase the permitted FAR on a lot; however, they do not allow projects to exceed height, bulk, setback, sunlight access, separation between towers, or any other rules or limitations applicable to the Development Lot. Article 2.5 of the Planning Code describes the maximum building height and bulk that is permitted, and the City is divided into height and bulk districts that are shown on the official zoning map.

The TDR program limits the amount of TDR allowed to transfer to a Development Lot. Specifically, the gross floor area of a structure on a lot located in the C-3-O District or the C-3-O (SD) District may not exceed a FAR 18:1, and the gross floor area of a structure on a lot located in the C-3-C, C-3-R, C-3-G, C-3-S, and C-3-S (SU) Districts may not exceed FAR that is 1.5 times the basic floor area limit for the specific district.

Until the effectiveness of Ordinance 68-13 on April 23, 2013, the Transfer Lot and the Development Lot had to be located in the same C-3 Zoning District or meet other geographic restrictions. The newly enacted legislation loosened the geographic restrictions to the following requirements:

- Transfer Lot and Development Lot are located in C-3 Zoning District, or
- Transfer Lot contains a significant building and is located in South of Market Extended Preservation District and the Development Lot is located in C-3 District, or
- Transfer lot is in P District adjacent to a C-3 District and Development Lot is located in C-3 District.

c. Effect of TDR Transfer

Transfer of TDR from a Transfer Lot containing a Contributory building or a landmark designated under Article 10 causes the building to become subject to the same restrictions on demolition and alteration that are applicable to Significant (Category I) buildings. Also, transferring TDR from a Transfer Lot permanently reduces the development potential of the Transfer Lot by the amount of TDR transferred. Section 124(f) provides two exceptions to this provision:

- Buildings in C-3-G and C-3-S Districts that are not designated as Contributory or Significant. Such a building may have additional square footage approved for the construction of dwellings affordable for 20 years to households whose earnings are within 150 percent of median income.
- Buildings in the C-3-G District designated as Significant or Contributory, in which TDR transferred from the lot prior to the effective date of the provision (May 2007) when the floor area transferred was occupied by a nonprofit corporation or institution meeting the requirements for excluding gross floor area from FAR calculation, and where the additional square footage includes only the amount to be used to accommodate dwelling units affordable for 50 years to households whose earnings are within 60 percent of median income.

3. Program Procedures

The Planning Department processes San Francisco's TDR program, but does not regulate the sale of TDR or set TDR pricing. To ensure compliance with the Planning Code, the Department reviews and certifies TDR eligibility, transfer and use. The TDR process involves three steps, and each step requires the submittal of an application and the ultimate recordation of a legal document that is signed by the Zoning Director. A fee is charged for each application type, per Planning Code Section 353(d)(6)-(8).

The following sections briefly summarize the steps in the TDR process and review how an owner can apply to cancel the use of TDR after the TDR has been recorded to a Development Lot, but not used.

Step 1: Statement of Eligibility

The Statement of Eligibility is the first step to determine whether a Preservation Lot is eligible to be a Transfer Lot and to calculate the amount of TDR available for transfer under Section 128.

1. An applicant submits the Application Packet for Statement of Eligibility for Transferable Development Rights to the Planning Department, which reviews the application and accompanying documents to determine whether the lot qualifies as a Transfer Lot, and if so, the amount of TDR units available for transfer.
2. If not appealed, the Statement of Eligibility becomes final on the 21st day after issuance, and at that time the Applicant must record the document at the Office of the County Recorder.
3. A certified copy of the recorded Statement of Eligibility must be returned to the Zoning Administrator. All of the information and exhibits submitted in connection with the application are retained as part of the permanent public record, which is subject to the Public Records Act.
4. The Zoning Administrator may issue a Notice of Suspension of Eligibility for a lot if it is determined that a building on a Preservation Lot has been altered or demolished in violation of Planning Code.

Step 2: Certificate of Transfer

The Certificate of Transfer is the second step in the process to transfer the previously determined amount of TDR units from the Transfer Lot to another party (transferee). TDR from a single Transfer Lot may be transferred as a group to a single transferee or in separate increments to several transferees. TDR may be

transferred either directly from an original owner of the TDR to the owner of a Development Lot or to persons, firms or entities who acquire the TDR and hold them for subsequent transfer to other persons, firms, entities (secondary party) or to the owners of a Development Lot or Lots. When TDR are transferred, they must be identified by a number. For example, if 5,000 TDR are determined to be eligible for transfer, they are numbered “1” through “5,000”.

1. The applicant prepares the Application Packet for Certificate of Transfer for TDR, which must include documents and information, including the amount and sale price of the TDR transferred. For initial transfers of TDR from the Transfer Lot, the Preservation Plan must be submitted.
2. The Planning Department reviews the application to confirm or verify the following:
 - Certified amount of TDR units (Statement of Eligibility);
 - Any alterations that may affect the gross floor area, if applicable (amended Statement of Eligibility);
 - Any applicable previous transfers;
 - Amount of TDR available for transfer; and
 - TDR units that remain on the Transfer Lot.
3. Upon verification and confirmation of the application, the Department prepares the Certificate of Transfer document, and the Zoning Administrator signs with notarized acknowledgement within five days.
4. The applicant must pick up the document, obtains signatures with notarized acknowledgements of both the Transferor(s) and Transferee(s), and proceed with recordation at the Office of the County Recorder.
5. A certified copy of the original recorded Certificate of Transfer must be returned to the Zoning Administrator.

Transfer of TDR from the Transfer Lot is valid under the following conditions:

- Statement of Eligibility has been recorded in the Office of the County Recorder prior to the date of recordation of the Certificate of Transfer; and
- Notice of Suspension of Eligibility has not been recorded prior to such transfer or, if recorded, has thereafter been withdrawn by an appropriate recorded Notice of Revocation, or an amended Statement of Eligibility has been recorded.

Step 3: Notice of Use

The Notice of Use is the third step in the three-step process to apply or attach TDR units to the Development Lot. When the use of TDR is necessary for the approval of a building permit for a project on a Development Lot, the permit will not be issued until written certification is recorded that the owner of the Development Lot owns the required number of TDR.

1. The Application Packet for the Notice of Use for Transferable Development Rights must be accompanied by a certified copy of each recorded Certificate of Transfer that documents the transfer of the TDR to the owner of the Development Lot, and all other matters of record affecting the TDR.
2. If applicable, certified copies of all intervening Certificates of Transfer of secondary parties must be attached to form a complete transfer record. The attached Certificates of Transfer must show the recorded instrument number of each document and date of recordation.

Cancellation of Notice of Use

The owner of a Development Lot for which a Notice of Use has been recorded can apply for a Cancellation of Notice of Use if (a) the building permit or site permit for which the Notice of Use was issued expires or is revoked or cancelled, (b) any administrative or court decision is used or law is adopted that doesn't allow the applicant to make use of the permit, or (c) a portion or all of the TDR are not used.

1. The Zoning Administrator prepares the Cancellation of Notice of Use, which the Development Lot owner signs. The document must be recorded in the Office of the County Recorder.
2. Once cancelled, the owner of the Development Lot may apply for a Statement of Eligibility.

4. Program Tracking

The San Francisco Planning Department maintains an internal database that tracks the TDR process. The database has three types of entries, certified TDR, transferred TDR and used TDR, which coincide with the three steps in the TDR process:

- **Certified TDR** is entered once the Statement of Eligibility has been approved. These entries include parcel characteristics including the case number, the address, the block and lot, and the zoning for each parcel. The database indicates the building category as defined by the Planning Code and whether the building is a landmark. The certified TDR line item indicates when the Statement of Eligibility was filed and approved and the recorded document number. It also includes the total number of certified TDR and the amount of remaining TDR on the Transfer Parcel that have not been transferred.
- **Transferred TDR** is entered when Certificates of Transfer are filed. All transfer records are filed under the originating parcel (i.e., Transfer Lot) regardless of whether the TDR is being transferred from the originating parcel or the TDR are being transferred by a third party. As a result, multiple transfers for the same TDR segment may be included in the database. The entry includes the date when the transfer was filed, when it was approved, and the recorded document number. The transfer information includes the start and end number for the TDR segment transferred as well as the sales price (required since December 5, 2010), and the owner.
- **Used TDR** is entered when the Notices of Use are filed. Unlike Transferred TDR entries, these entries are filed under the address of the receiving parcel (Development Lot address). This entry includes the date when the Notice of Use was filed, when it was approved and the recorded document number. The used information includes the start and end number for the TDR segment used and the total number of TDR used on the parcel. A "block-used" section indicates the block, lot and address for the TDR originating parcel. The zoning for the receiving parcel is also indicated to verify that the use is in compliance with the zoning transfer restrictions.

The database includes an overall summary table of the TDR activity, indicating the amount of TDR certified, used and available by the originating TDR C-3 zoning category.

5. Recent Legislation

As previously noted, on April 23, 2013, the Mayor signed legislation revising the TDR program by amending the Planning Code Sections 128 and 819, and Administrative Code 10E.1.

The legislation makes a significant modification to the TDR program by permitting the transfer of TDR from any Transfer Lot in the Downtown Commercial (C-3) District or the South of Market Extended Preservation District to a Development Lot in a C-3 District. The modification to allow TDR to transfer freely across the C-3 District was based on concern over gridlock in the TDR market. Since the TDR program enactment, a large percentage of TDR have transferred within the same C-3 Districts. The background information presented with Ordinance 68-13 stated the following:

By allowing increased flexibility, more properties will be able to sell and use TDR in the TDR market. Facilitating TDRs will both protect and restore additional historic buildings, and permit desired job and housing growth Downtown. The original restriction, which only allowed TDRs within the same C-3 District, was done to ensure that development wasn't concentrated in any one C-3 District. Since the program was enacted in the mid-1980s, a large percentage of the TDRs have been transferred within the same C-3 Districts. Now that the program has been in place for 25 years and many districts in downtown have been built out, it's necessary to liberalize the controls in order to equalize the supply and demand ratio and keep the program alive.

Chapter III, which assesses the City's current and future TDR markets, addresses the potential impact of this legislative change.

Ordinance 68-13 also implements the following:

- Requires that the Annual Report on the Downtown Plan per Administrative Code 10E.1 include an inventory of buildings eligible for TDR, an inventory of buildings where TDR transfers have been completed, and an inventory of TDR transfers completed within the year.
- Clarifies that the Preservation, Rehabilitation, and Maintenance Plan be submitted with an application for Certificate of Transfer rather than with the application for Statement of Eligibility. (A 2010 amendment to the TDR program created the requirement for the Preservation Plan. The requirement for Preservation Plan submittal is more appropriate at the application Certificate of Transfer stage, rather than at the time of the application for Statement of Eligibility.)

II. San Francisco's TDR Program in Practice

This chapter provides an overview of San Francisco's TDR program activity to date and summarizes case studies of TDR transactions.

A. Overview of Program History

A critical component of evaluating San Francisco's TDR program and market is understanding historical TDR activity.

1. Methodology

The San Francisco Planning Department maintains a database that tracks TDR certification, transfer and use. The Seifel team leveraged the City's TDR database for its review of the TDR market over time. When the Seifel team identified potential data inaccuracies or incompleteness, it discussed with the Planning Department how to account for the particular transactions and parcels.

2. TDR Certification and TDR Transfers

Since the TDR program's inception, the City has certified 5.3 million TDR originating from 112 parcels in Downtown San Francisco. (Refer to Appendix B for a list of the 112 originating parcels certifying TDR.) Based on historical data in the TDR database, it takes, on average, three months to process the Statement of Eligibility for TDR certification. The average amount of TDR generated on each originating parcel is approximately 47,500 TDR, with half of the parcels originating less than 22,000 TDR. The amount of certified TDR on an individual originating parcel ranges from 1,800 TDR at 34 Mason Street to 489,452 TDR at 121 Spear Street. (Refer to Appendix C for the case study on the Rincon Annex at 121 Spear Street).

Of the total certified TDR, 700,000 TDR remain with their originating parcel (Preservation Lot), with 12 originating parcels not transferring any TDR and 16 originating parcels having transferred most but not all of their TDR. On average, these 28 parcels each have approximately 25,300 TDR, and on average, their TDR has been certified for ten years.

The owners of the other 84 parcels have transferred all of the TDR that were certified on the originating parcel. Thus, it could be surmised that the TDR program has resulted in the retention at least 83 historic buildings. (Although 84 parcels have transferred all of their TDR, in one instance, TDR originated from a replacement building at 235 Front Street, which is compatible in scale and design to a historic building, rather than an actual historic building. Refer to Appendix C for the case study on the McDonald's at 235 Front Street.)

3. TDR Use

Of the 5.3 million certified TDR, over half (2.7 million TDR) have been used for 34 projects, involving 32 buildings on receiving sites, of which 26 are new buildings. (The buildings at 199 Fremont and 500 California have each had two separate projects requiring TDR.) The amounts of TDR used on individual developments range from 1,000 TDR at 111 Pine Street to 453,900 TDR at the Millennium Tower, located at 301 Mission Street. The average amount of TDR needed for development on the receiving site is approximately 80,000, with half of the parcels requiring less than 40,000 TDR.

Demand exists for large amounts of TDR for proposed new buildings, and particularly new high rises. (Refer to Appendix C for case study of the Millennium Tower at 301 Mission.) In addition, owners of 6 existing buildings have used TDR to expand their buildings, ranging from small additions such as

1 Market's use of 6,869 TDR to large additions involving additional building floors such as 120 Howard Street's use of 63,505 TDR. In at least one case, TDR was used on a historic building. The Omni San Francisco Hotel at 500 California used TDR to help renovate a historic 1927 office building to a hotel and re-create the building's three-story base that had been extensively renovated in the 1950s. Beginning in 1997, the renovation involved using 35,000 TDR to insert two additional floors (43,600 square feet) within the existing structure. The renovation project was completed in 2002. Prior to this renovation, TDR were used to upgrade the building's façade in 1988. Refer to Appendix B for a list of the 32 developments that have used TDR.

4. Abandoned Project TDR

A property owner with a development that has not gone forward may not realize that the TDR Notice of Use can be cancelled and that the TDR can be sold or applied to another project. Some of the TDR identified as Used in the database are associated with formerly entitled projects that were not developed. Specifically, in its database review, the Seifel team identified three formerly entitled projects that were not developed but their TDR are recorded as having been used:

- 524 Howard Street – 128,437 TDR
- 222 2nd Street – 103,146 TDR
- 949 Market Street – 56,498 TDR

Further complicating the record keeping, 222 2nd Street and 949 Market Street are currently approved for developments that are different from the previously permitted developments on those sites. The current 222 2nd Street development is estimated to require over 200,000 TDR, while the current 949 Market Street development has received a variance exempting it from any TDR requirement.

The owners of the TDR did not file a Cancellation of Notice of Use, and the TDR are not recorded as being transferred or used on other projects. Given the uncertain status of these TDR, the 288,081 TDR identified as Used on these projects has been categorized as Abandoned Project TDR in this analysis and has been isolated from Used TDR and Transferred TDR.

5. Comparison of Size of Certified and Used TDR Transactions

In addition to understanding the total number of certified TDR, it is important to consider the individual amount of TDRs originated by each parcel and the amount used by each development. The average amount of TDR generated on an originating parcel was approximately 47,500 TDR, however, over half of the originating parcels generated less than 25,000 TDR. On average, buildings used about 80,000 TDR on a receiving site, which is nearly double the average amount of TDR on originating parcels. Over 60 percent of the buildings used more than 25,000 TDR, and over 20 percent needed more than 100,000 TDR. Refer to Figure II-1 for the amount of TDR per originating parcel and the amount of TDR used per receiving site.

As a result of the different sizes of certified TDR versus the amount that is needed for developments, property owners/developers have had to acquire TDR from the few large TDR suppliers or accumulate TDR through multiple transactions. Of the 34 projects, 13 have required only one transaction, including 2 developments requiring over 100,000 TDR. Other projects (of all sizes) have required multiple transactions. On average, developers using TDR for their projects have needed 2.5 TDR transactions to acquire sufficient TDR. For example, 3 projects requiring less than 25,000 TDR needed to acquire TDR through multiple sources, and the majority of projects needing more than 100,000 TDR had to acquire more than five TDR segments. Figure II-2 shows the number of transactions and total TDR required for development.

Figure II-1
Amount of TDR per Originating Parcel and Amount of TDR Used on Receiving Site

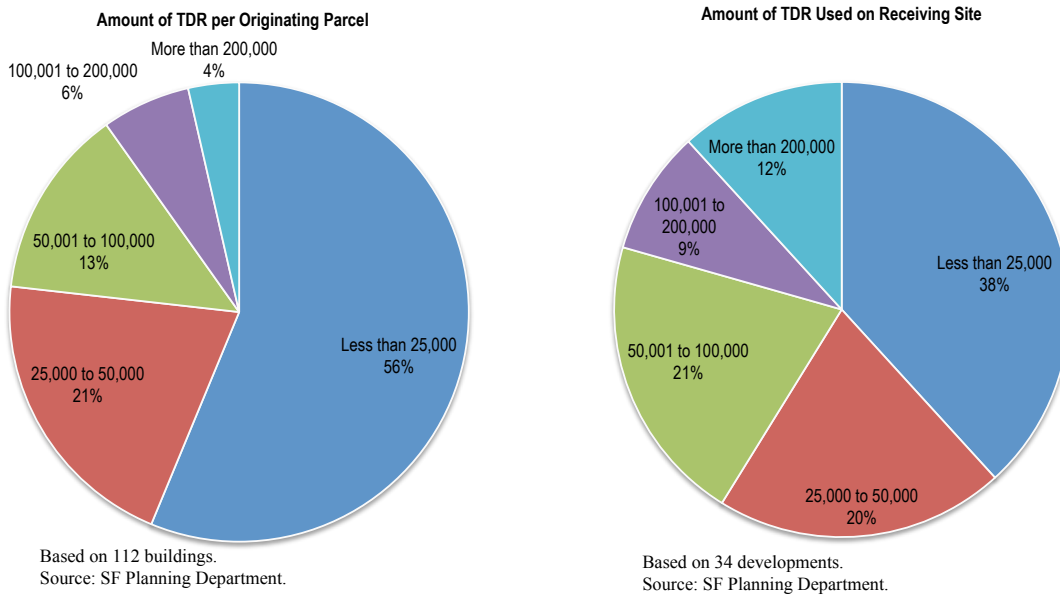
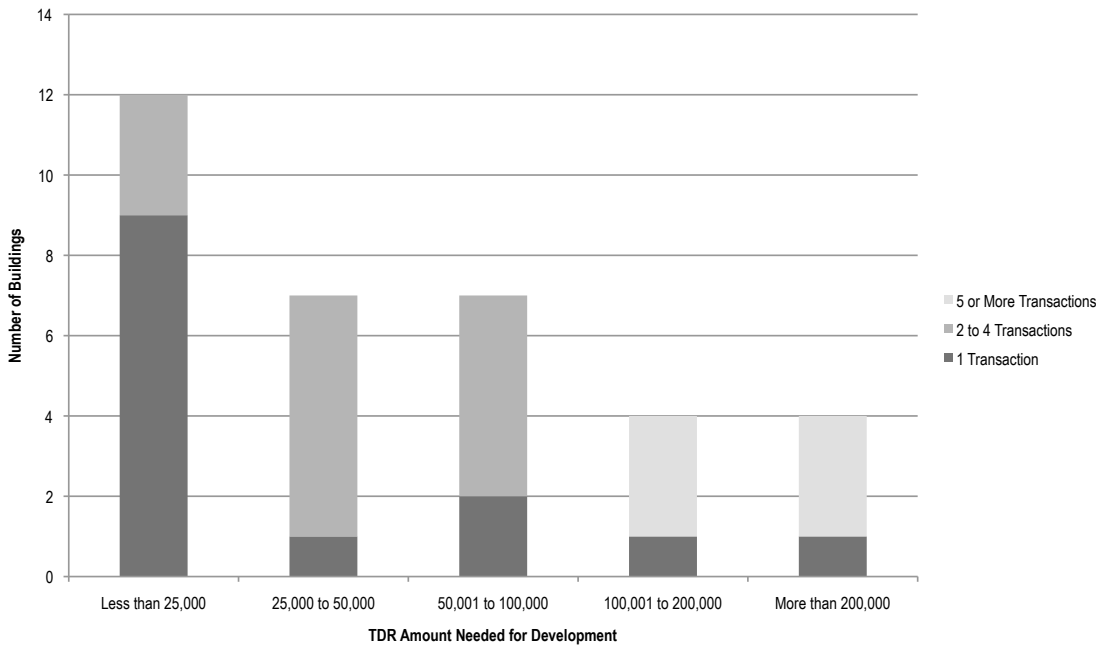


Figure II-2
Analysis of TDR Used for Development

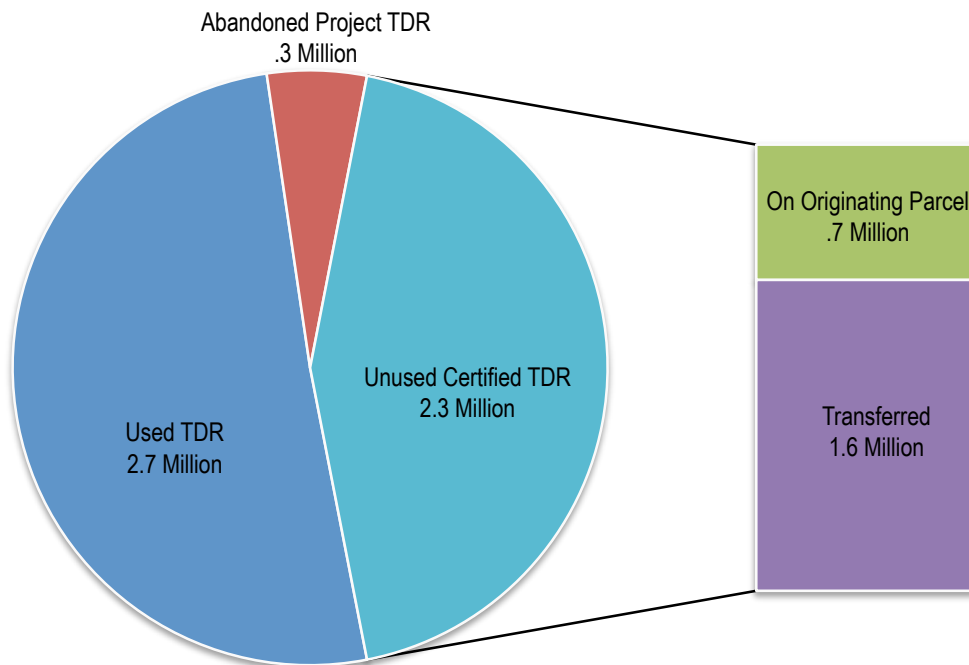


Source: San Francisco Planning Department.

6. Transferred TDR

Understanding and tracking the status of the transferred TDR is another critical component to understanding the TDR market and the implications of proposed TDR program modifications. Based on the 5.3 million certified TDR, the 700,000 certified TDR remaining on originating parcels, the 2.7 million used TDR, and the 300,000 abandoned project TDR, 1.6 million TDR are considered transferred TDR. Transferred TDR are certified TDR that are no longer owned by the property owner of the originating parcel but have not yet been used for a development. The TDR program allows any third party—developers with entitled or proposed projects, brokers, investors, speculators, and financial institutions among others—to own TDR. Refer to Figure II-3 for a breakdown of certified TDR.

Figure II-3
Composition of Certified TDR



Source: San Francisco Planning Department.

The status of the transferred TDR varies. Some of the transferred TDR have been purchased for future projects such as the TDR recently acquired for the Transbay Tower to be developed by Hines and Boston Properties. Developers who are interested in developing in areas that require TDR such as the Transit Center District Plan, but who do not yet have a specific project likely have accumulated TDR. Investors and speculators have held TDR with the intention of transferring to another entity. Financial institutions have acquired TDR through various mechanisms, including foreclosures.

7. Historical TDR Certification, Use and Pricing

TDR certification and use has fluctuated, and over time the market has accumulated a significant supply.

a. Certified TDR (Supply)

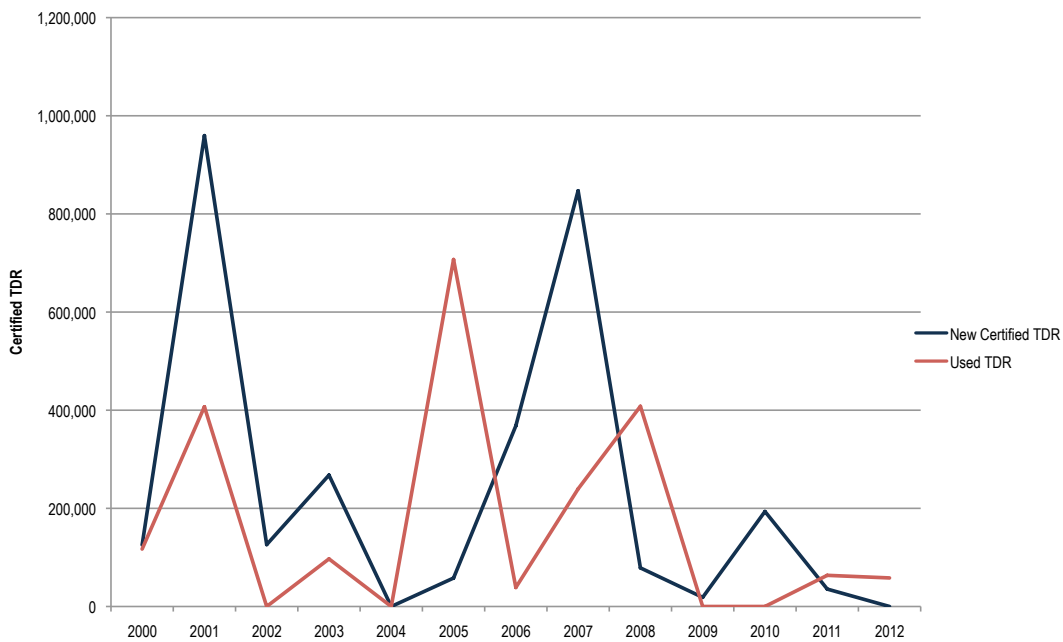
On average, 190,000 have been certified each year since the TDR program inception. Since 2000, on average, approximately 237,000 TDR have been certified per year. TDR certification peaked in 2001 with multiple originating parcels each certifying over 100,000 TDR. TDR certification peaked again in 2007 with 121 Spear Street alone originating 489,452 TDR. (Refer to Appendix C, case study of Rincon Annex at 121 Spear.)

b. Used TDR (Demand)

On average, 100,000 TDR have been used each year since 1985. (The year of TDR usage is based on the year identified in the planning case date and likely does not reflect the year that the construction was completed. In the TDR process, an adequate number of TDR must be acquired and filed for use prior to the issuance of the building permit.) Between 1985 and 2000, the average annual usage was 41,000. Since 2000, on average 164,000 TDR have been used per year. TDR usage has fluctuated with the market cycles, with the first TDR usage peaks in 1997 and 2001. The next TDR usage peak occurred in 2005 with Millennium Tower (453,900 TDR) and the Intercontinental Hotel (253,195 TDR). The most recent TDR usage peak was in 2008 with five projects using a total of 407,995 TDR. Since the market peaked in 2008, only 121,700 TDR have been used—63,500 in 2011 and 58,200 in 2012.

Figure II-4 indicates the amount of TDR certified each year since 2000 and the amount of TDR used each year since 2000. Figure II-5 also indicates the amount of TDR used per year since 2000, however, rather than show the amount of TDR certified in each year, it shows the total remaining unused certified TDR in existence in each year.

Figure II-4
Annual TDR Certification and Usage, 2000-2012



Source: San Francisco Planning Department.

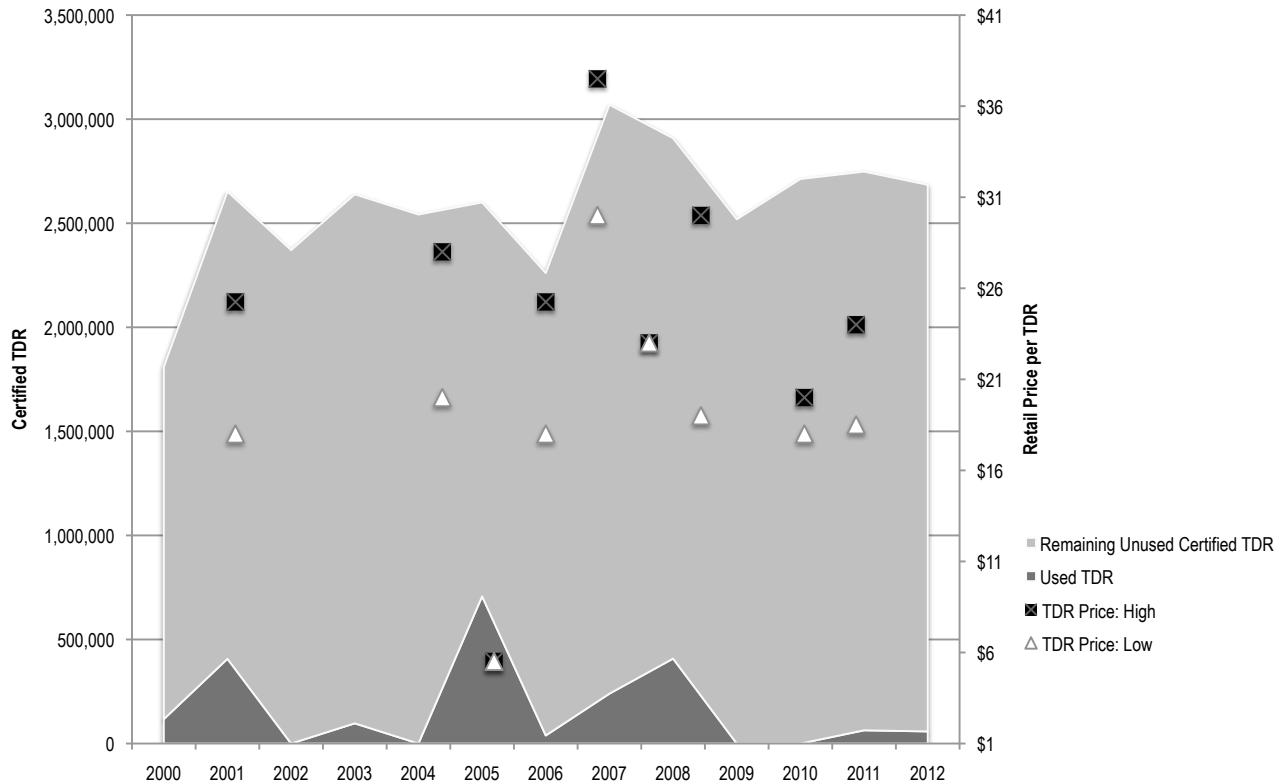
c. TDR Pricing

Until late 2010, the City did not require the recordation of TDR sales prices, so pricing data is not readily available for historical TDR transactions. However, based on a review of available data and interviews with TDR market stakeholders, the Seifel team found that TDR price has not correlated with supply, demand or use, but rather has been more closely correlated with the overall real estate market for development, as well as the unique characteristics of individual transactions that have occurred. TDR pricing has varied significantly since 2000, from a low of \$5.51 in 2005 to a high of \$37.50 in 2007, with most transactions in the range of \$18-\$25, as follows:

2000	\$18-\$25.25	2007	\$30-\$37.50	2012	\$18.50-\$24
2004	\$20-\$28	2008	\$23		
2005	\$5.51	2009	\$19-\$30		
2006	\$18-\$25.25	2011	\$18-\$20		

Figure II-5 indicates that while the supply of available TDR has not dipped below 2 million since 2001 and TDR usage peaked in 2001, 2005 and 2008, TDR pricing has varied significantly since 2000.

**Figure II-5
Available Certified TDR, TDR Usage and Market Pricing, 2000-2012**



Price per TDR includes brokerage fees and is based on the available data for each year. Years 2005 and 2008 only have one price point. Additional transactions could have occurred with pricing outside of the ranges shown above.
Source: San Francisco Planning Department, Broker Interviews.

B. San Francisco TDR Case Studies

As part of the TDR program review and market analysis, the Seifel team analyzed specific TDR transactions to provide insight into the TDR program implementation as well as how the TDR market operates. To provide further understanding of the TDR certification, transfer and use processes, the Seifel team researched, analyzed and prepared case studies on specific TDR transactions that represent different types of TDR transactions. Following is a listing of case studies:

- Rincon Annex—Property under SFRA and City TDR programs
- The Old Mint—Certification of TDR from City-owned property
- Old St. Mary’s—Property re-zoning for TDR program eligibility
- Former YMCA, 220 Golden Gate—Approval of TDR restoration to originating property
- McDonald’s, 235 Front Street—TDR certification from undesignated compatible building
- 80 Natoma—Use of Cancellation of Notice of Use
- First and Mission—Certified TDR in foreclosure
- Mission Street Developments—Projects requiring multiple TDR acquisitions

These case studies illustrate many of the complexities, challenges and opportunities associated with the TDR program and certification process, as well as project-specific TDR acquisition and use. Based on a review of case studies along with available data, the Seifel team found that TDR pricing has not correlated with supply, demand or use, but rather with the overall real estate market for development, as well as the characteristics of the individual transactions. The case studies also indicate that in some instances, to satisfy TDR demand, new TDR was created, rather than acquired in the market. Finally, the case studies indicate several modifications and exceptions to the program have occurred over time in order to satisfy the needs of property owners and developers.

Following is a summary of some of the case studies, along with the team’s observations on them. Refer to Appendix C for detailed descriptions of the case studies.

1. Rincon Annex

TDR were ultimately certified on a property that did not originally qualify for TDR under the TDR program of the San Francisco Redevelopment Agency (SFRA) because the historic building on the property had already undergone historic preservation and adaptive reuse and no FAR was authorized for the site. The SFRA modified its TDR policy, subject to a finding that the approval would promote the preservation, enhancement or maintenance of other landmark, significant, or contributory buildings owned by the SFRA or in or near any project area under the jurisdiction of the SFRA.

Results

- SFRA modified its TDR program and the Planning Department certified 489,452 TDR—to date, the largest amount TDR on an originating site.
- 65% of the TDR have been transferred to private parties.
- 35% of the TDR (171,308 TDR) were transferred to SFRA, which in turn transferred the TDR to the City, with the stipulation that the proceeds from the sale of the TDR be used for the development of the Fillmore Muni sub-station. The TDR have not been used to date and are unlikely to be used for historic preservation in the near future, given the challenges of developing the sub-station site.

Observations

- The TDR certification process was challenging due to the existence of two TDR programs that had conflicting policies.
- The proceeds from the sale of the TDR originating from the Rincon Annex site have not furthered the preservation of historic buildings to date.

2. The Old Mint

The TDR Program was modified to make eligible as a Transfer Lot any P zoned lot that is adjacent to a C-3 District and has situated on it a historic buildings owned by the City and County of San Francisco. In the early 2000s, Continental Development Corporation San Francisco LLC (CDC) approached the San Francisco Museum and Historical Society about the potential availability of TDR from the Old Mint property. Because it was zoned as Public (P), the Old Mint was ineligible for consideration as a Transfer Lot.

Results

- Any proceeds from the sale of TDR from a City-owned Transfer Lot must be used to finance rehabilitation and restoration costs.
- In 2003, the City certified 267,728 TDR on the Old Mint and authorized the San Francisco Museum and Historical Society to negotiate the sale of the TDR.
- In 2005, CDC San Francisco LLC bought 253,195 TDR for the development of the InterContinental San Francisco Hotel. It purchased the TDR for \$1,395,000, or \$5.51 per TDR. The remaining 14,553 TDR were sold at a price of \$18 per TDR.

Observations

- The program modification broadened the TDR program by including City-owned historic buildings and strengthened the program by requiring that any TDR proceeds from City-owned Transfer Lots must be used for rehabilitation and restoration.
- The \$5.51 sales price for each Old Mint TDR sold to CDC San Francisco LLC is the lowest known sales price. One of the 2010 modifications to the TDR program requires the recordation of the TDR sales price. With this information, potential TDR sellers will have better indication of market pricing.
- While TDR are a revenue source for rehabilitation and preservation, the proceeds may not be sufficient to fund a substantial portion of the cost. In this case, the TDR sale proceeds amounted to \$1.7 million, a small portion of the estimated \$50+ million it will take to restore the Old Mint.

3. Old St. Mary's

Although an important historic resource, Old St. Mary's was ineligible to generate TDR because it was located in the Chinatown Visitor Retail (CVR) Zoning District. The City re-zoned the property and amended the General Plan to change the zoning from CVR to C-3-O, thus making the property eligible for the TDR program.

Results

- In 2010, the Department certified 171,567 TDR for Old St. Mary's.
- Fortress Properties worked closely with Old St. Mary's to facilitate the changes needed to allow TDR to be created on the property and subsequent certification of the property's TDR.

- Fortress entered into an option agreement with Old St. Mary's to purchase all of the property's certified TDR at \$18 per TDR.
- To date, 56,053 TDR have been transferred from the site, while 115,514 TDR remain on the parcel. Of the remaining TDR, 39,600 TDR are in the process of being transferred.

Observations

- The City rezoned the property in order to make it eligible for the TDR program.
- In many instances, the process to gain eligibility for the TDR program has been time consuming.
- Due to the speculative nature of optioning in the TDR market, the parcel originating the TDR may not receive the actual market price of the TDR when the TDR are ultimately transferred. The option price could be above or below the market price. For example, a recent transfer of a segment of the Old St. Mary's TDR has a \$24 per TDR sales price, with proceeds of \$18 per TDR paid to Old St. Mary's and the remaining \$6 per TDR to Fortress Properties. In this instance, the option price is 75 percent of the market price.

4. Former YMCA, 220 Golden Gate

The TDR ordinance allows nonprofit corporations and institutions to certify the maximum amount of FAR allowed on their parcels under the zoning code, exclusive of any existing building FAR. However, if the transfer of TDR includes the FAR for the existing building, the existing building must remain occupied by non-profit organizations. The YMCA sold TDR that included existing building FAR. In the mid-2000s, the owners decided to sell the property. In 2005, the YMCA contacted the Zoning Administrator to determine whether TDR transferred from the site could be repurchased and restored to the site, thereby enabling the YMCA to sell the building unencumbered by the requirement that it be occupied by a non-profit organization per the TDR code.

Results

- Although the Certificates of Transfer of TDR specifically state that “[t]he transfer of TDR from the site of a Contributory Building... permanently restricts development of that site,” the Zoning Administrator determined that the code does not explicitly prohibit re-transfer and allowed TDR to be restored to the site because it was a replacement of existing floor area, provided that the TDR was purchased in a quantity equal to the developed floor areas of the existing building, and that no TDR deriving from the existing structure is transferred from the lot so long as the existing building remains standing on the site.
- The City's TDR database does not indicate that the YMCA purchased any TDR for 220 Golden Gate to replace the FAR for the existing building.
- In 2010, the Tenderloin Neighborhood Development Corporation (TNDC), a nonprofit provider of affordable housing acquired the building and two adjacent parcels and rehabilitated the building and developed the site.

Observations

- The sale of TDR not only encumbers the building envelope, but can also impact the types of users allowed on the site in the future depending on the type and amount of TDR sold. When deciding whether or not to sell TDR, property owners must consider the implications for the future sale of the property and future users.

5. Other Case Studies

Other case studies demonstrate various aspects of the TDR program. Refer to Appendix C for descriptions.

McDonald's, 235 Front Street

The Zoning Administrator has taken extenuating circumstances into account in determining whether a property is eligible for TDR. For example, TDR were certified on a property at 235 Front Street in which a historic building was demolished due to severe damage incurred during the 1989 earthquake. A replacement building was constructed in 1993 that was compatible in scale and design with the conservation district. However, the building was not formally designated as a Compatible Replacement Building, which would have made the property eligible to transfer TDR.

Since the demolition of the building on the site was necessary to ensure public health, safety and welfare, the Zoning Administrator determined that it would be contrary to the spirit of the Planning Code to penalize the property owner by prohibiting the certification and transfer of TDR from the property.

80 Natoma

TDR can exist in the market without necessarily being attached to a property, be transferred multiple times before being used on a development site, and be cancelled if not used and enter the market again. As an example, 160,000 TDR were acquired from six separate Transfer Lots for a residential high rise to be developed at 80 Natoma. The TIPA ultimately purchased the property and the TDR. Not needing the TDR, the TIPA recorded a cancellation of the Notice of Use for each of the six groupings of TDR. The TDR were sold to Fortress Properties, who sold them to JP Capital, LLC, which filed Chapter 11 bankruptcy. MS Mission Holding, LLC acquired the 160,000 TDR through bankruptcy proceedings.

First and Mission

A significant amount of TDR can be assembled for future development and become concentrated in one large ownership through a complex set of transactions. David Choo, a real estate investor in San Francisco was one of the most active land buyers in San Francisco in 2006 and 2007, assembling seven parcels at First and Mission and acquiring 315,716 TDR (including the 160,000 TDR discussed in 80 Natoma above) to facilitate their development. (Based on the TCDP TDR program, the development at 50 First Street will only require approximately 150,000 TDR. The remaining 165,716 TDR may be transferred to another development project.) Choo financed the TDR acquisition process using funds from a \$67.1 million loan, which was secured by the deeds of trust against the properties. Capital Source Finance LLC originated the loan, and MS Mission Holdings LLC, a Morgan Stanley/Lincoln Property joint venture acquired the loan in April 2011. In May 2011, MS Mission Holdings recorded a notice of default. In December 2011, Choo and MS Mission Holdings entered into a bankruptcy trial. The trial court concluded that MS Mission could foreclose on the properties. MS Mission Holdings acquired the properties and TDR in January 2012. As a result MS Mission Holdings is currently the largest non-developer owner of TDR in the market.

Mission Street Developments (Receiving Sites)

Due to large amounts of TDR that are required for some developments and a limited supply of large amounts of unused TDR, developers must acquire TDR from multiple sources. For example, the JP Morgan Chase building at 560 Mission required 287,133 TDR, which the developer acquired from six separate parcels. The Millennium Tower, at 301 Mission, needed 453,900 TDR, which were sourced from five different parcels. The Millennium Tower is the largest TDR development to date, with over one third of the 1.2 million square foot of development from TDR. Acquiring TDR from multiple sources has time and monetary transactional costs to the developer. However, depending on the receiving development, the value of the incremental development derived from TDR can be significantly higher than the TDR purchase price.

C. Key Findings

- *Since 2001, the annual amount of unused certified TDR in existence has been 2 million square feet or more.*
- *TDR usage fluctuates with market cycles, with recent TDR usage peaks in 2001, 2005 and 2008.*
- *Property owners/developers typically have had to acquire TDR through multiple transactions.*
- *TDR pricing has not correlated with supply, demand or use, but rather with the overall real estate market for development, as well as the characteristics of unique individual transactions.*

III. TDR Market

A. Current Market

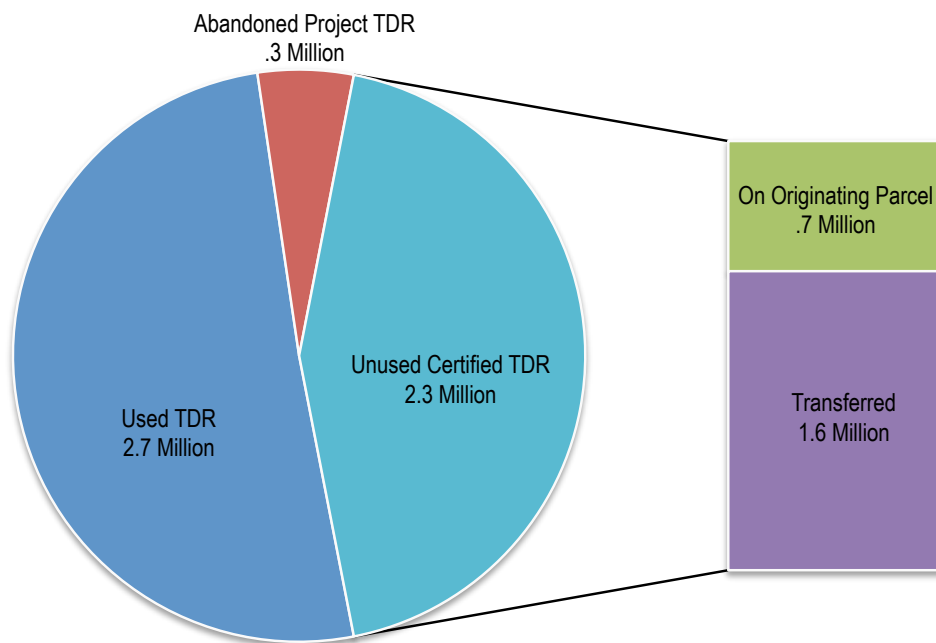
1. Methodology

To analyze the TDR market, the Seifel team reviewed the current TDR supply and demand, key market factors in TDR transactions, and the value of TDR to the real estate development community. It conducted extensive analysis of the TDR database and other research, and interviewed brokers and other stakeholders involved in the TDR program and marketplace.

2. Supply of Certified TDR

The TDR market has accumulated a significant supply of certified TDR. Of the 5.3 million TDR that have been certified since the beginning of the TDR program, 2.7 million have been used and approximately 300,000 TDR have been applied to development projects that were abandoned, leaving 2.3 million TDR available for use, of which approximately 700,000 (or 30 percent) remain with the originating properties. Refer to Figure III-1. (The Used TDR number of 2.7 million has been adjusted from what is reported in the City’s TDR database to account for the 300,000 TDR reported in the database as used, but the associated development project did not occur, and no Notice of Cancellation of Use was filed with the Planning Department.)

**Figure III-1
Composition of Certified TDR**



Source: San Francisco Planning Department.

Not all of the 2.3 million certified TDR is likely to be currently available for purchase in the TDR market. Some of these TDR may never enter the market while others may enter the market at a later time. Based on the Seifel team's research, TDR could be held back from the market for the following reasons:

- TDR remain on the originating parcel, but the owner does not want to sell it.
- TDR amount is not large and thus, not a potential source of significant revenue for the TDR owner.
- TDR have been forgotten or abandoned.
- TDR are being held until the market reaches a higher price point.
- TDR are being accumulated, however, a specific development project has not yet been identified.
- TDR are intended for a specific project that has not yet been permitted.

Based on the variety of reasons that TDR supply may be withheld from the market, it is challenging to determine what amount of supply is considered active in the existing market.

As stated previously, 700,000 TDR have not transferred from their originating parcel. Although these TDR could potentially be available for future development, on average they have been certified for ten years without transacting in the TDR market. Even with the 700,000 TDR remaining on the originating parcels, since the average holding is approximately 25,300, a large future development would have to undertake several transfers to obtain the necessary amount of TDR. As will be discussed in Chapter IV, the real estate brokers active in the TDR market indicate that the current TDR supply is significantly constrained with few active sellers in the market possessing more than 50,000 TDR.

3. Demand

As described in Section II, TDR demand fluctuates with real estate market cycles, and the current cycle is generating TDR demand.

Pipeline TDR Demand

After several years of stagnant development in San Francisco, housing and commercial development has been booming since 2011, and the City's pipeline of development continues to be active, with many developments located in the C-3 District. The City's Pipeline Report includes the following activity:

- Nine projects are under construction in the C-3 District, comprising about 1,600 residential units and 311,000 square feet of net additional commercial space. Four of these projects will reportedly use approximately 337,000 TDR.
- Five commercial projects comprising about 1.5 million square feet of commercial development have filed for, or been issued, building permits but have not commenced construction. Four of these five will use approximately 428,000 TDR.
- Twenty-one projects in the C-3 zoning District have Planning Department approval or have filed applications for approval, yet have not yet filed for building permits. Combined, these projects will provide about 1,852 residential units and 2.2 million square feet of net additional commercial space. Based on currently available data, three of these twenty-one projects need a total of approximately 266,000 TDR for development, as follows:
 - 41 Tehama Street (Estimated: 57,825 TDR, located in TCDP—see below)
 - 425 Mission Street (Actual Purchase: 151,454 TDR, located in TCDP—see below)

- 300 California Street (Estimated: 56,307 TDR)
- The Planning Department identified three additional projects that have applied for or received project approvals that were not listed in the City’s Pipeline Report for the fourth quarter of 2012. Combined these projects will require approximately 270,000 TDR for development, as follows:
 - 181 Fremont (Estimated: 46,000 TDR, located in TCDP—see below)
 - 50 1st Street (Estimated: 162,000 TDR, located in TCDP—see below)
 - 75 Howard (Estimated: 61,785 TDR)

In total, the pipeline is estimated to need 1.3 million TDR, with approximately 270,000 TDR classified as used, about 810,000 TDR acquired by developers for the intended project, and approximately 220,000 still needed for development.

Refer to Table III-1 for a listing of the pipeline projects requiring TDR (as known to date).

TCDP TDR Demand

The Transit Center District (TCDP) consists of approximately 145 acres centered around the Transbay Terminal, situated between the Northern Financial District, Rincon Hill, Yerba Buena Center and the Bay. The purpose of the TCDP is to increase development around San Francisco Transbay Terminal. Prior to the adoption of the TCDP and associated Planning Code amendments, project sponsors in the plan area would have had to acquire TDR to exceed the base FAR limit established in the Planning Code, which varied from 6:1 for the C-3-O (SD) District and 9:1 for the C-3-O District. Under the TCDP, the entire Plan area was rezoned as C-3-O (SD). The projects in the TCDP are required to purchase TDR for the increment of square footage exceeding the base FAR limit of 6:1 up to a maximum FAR of 9:1.

According to the TCDP Financial Program, the Planning Department estimated that the TCDP area would demand approximately 1.06 million TDR. According to the current pipeline and Planning Department staff, four TCDP projects are active and in the Planning Application Filed stage:

- Transbay Tower at 101 First Street/425 Mission Street), which will provide 1.37 million square feet of net additional commercial space (Acquired 151,454 TDR)
- 41 Tehama Street (Need to Acquire estimated 57,825 TDR, as cited above)
- 181 Fremont (Need to Acquire estimated 46,000 TDR, as cited above)
- 50 1st Street (Acquired 162,000 TDR, as cited above)

While the proposed project at 181 Fremont was not in the City’s pipeline report for the fourth quarter of 2012, City staff indicated that it is progressing through the planning approval process. The proposed development will include a 52-story building reaching a maximum height of 745 feet. The project will contain approximately 404,000 square feet of office space, 74 dwelling units and 2,000 square feet of retail space. The project will require approximately 46,000 TDR based on its parcel size. In the TDR analysis, the 46,000 TDR is categorized as pipeline TCDP that still needs to be acquired by the developer.

**Table III-1
TDR Needed for San Francisco C-3 Pipeline Developments**

Project Status	Address	TDR	TDR Database Categorization		
			Used ^b	Acquired by Developer ^c	Need to Acquire ^c
Construction	1401 Market St ^d	99,123		99,123	
	55 9th St ^e	27,310		27,310	
	535 Mission St	146,880	146,880		
	120 Howard St	63,505	63,505		
	<i>Subtotal</i>	<i>336,818</i>	<i>210,385</i>	<i>126,433</i>	<i>0</i>
Building Permit Issued	942 Mission St	24,000	24,000		
	350 Mission St ^f	170,145	10,585	159,560	
	525 Howard St	23,605	23,605		
	<i>Subtotal</i>	<i>217,750</i>	<i>58,190</i>	<i>159,560</i>	<i>0</i>
Building Permit Filed	222 2nd St ^g	210,436		210,436	
Planning Application Approved	949 Market Street ^h	0			0
	41 Tehama St ⁱ	57,825			57,825
	425 Mission St ^j	151,454		151,454	
	181 Fremont ^k	46,000			46,000
	<i>Subtotal</i>	<i>255,279</i>	<i>0</i>	<i>151,454</i>	<i>103,825</i>
Planning Application Filed	300 California St ^l	56,307			56,307
	50 1st St ^m	162,000		162,000	
	75 Howard ⁿ	61,785			61,785
	<i>Subtotal</i>	<i>280,092</i>	<i>0</i>	<i>162,000</i>	<i>118,092</i>
Total		1,300,375	268,575	809,883	221,917

- a. Project Status for 41 Tehama, 425 Mission St and 181 Fremont have been updated from the 4th Quarter 2012 Pipeline based on conversations with the San Francisco Planning Department.
- b. Used based on used TDR entries in the San Francisco Planning Department's TDR Database dated February 2013. TDR usage may vary from the amounts listed.
- c. Based on transfers in the San Francisco Planning Department's TDR Database dated February 2013, interviews and research. Actual TDR required may vary. Estimates are listed for properties with available information. Properties that do not have estimates may require TDR.
- d. Based on an interview, 1401 Market Street, also known as Crescent Heights, used 99,123 TDR from 5 TDR transactions.
- e. 55 9th Street based on TDR owned by AVA Ninth LLP according to the TDR Database.
- f. Based on an interview, 350 Mission required 170,145 TDR from 13 transactions. TDR database has information for one of the 13 TDR transactions for 10,585 TDR.
- g. 222 2nd Street TDR is based on TDR owned by 222 Second Street Owner LP according to the TDR database.
- h. According to San Francisco Planning Department Case 2008.0217CVX Variance Decision dated November 15, 2010, the proposed project will not require TDR.
- i. According to San Francisco Planning Department Case 2008.0801EVX Section 309 Determination of Compliance, the proposed project will require 57,825 TDR.
- j. Based on information provided by the San Francisco Planning Department.
- k. Based on estimates provided by the San Francisco Planning Department.
- l. According to San Francisco Planning Department Case 2012.0605U Preliminary Project Assessment, the proposed project will require 56,307 TDR.
- m. Property has already procured TDR and is currently in litigation. TDR estimate is based on information provided by the San Francisco Planning Department.
- n. Based on information provided by the San Francisco Planning Department.

Source: San Francisco Planning Department, Broker Interviews, Seifel Team.

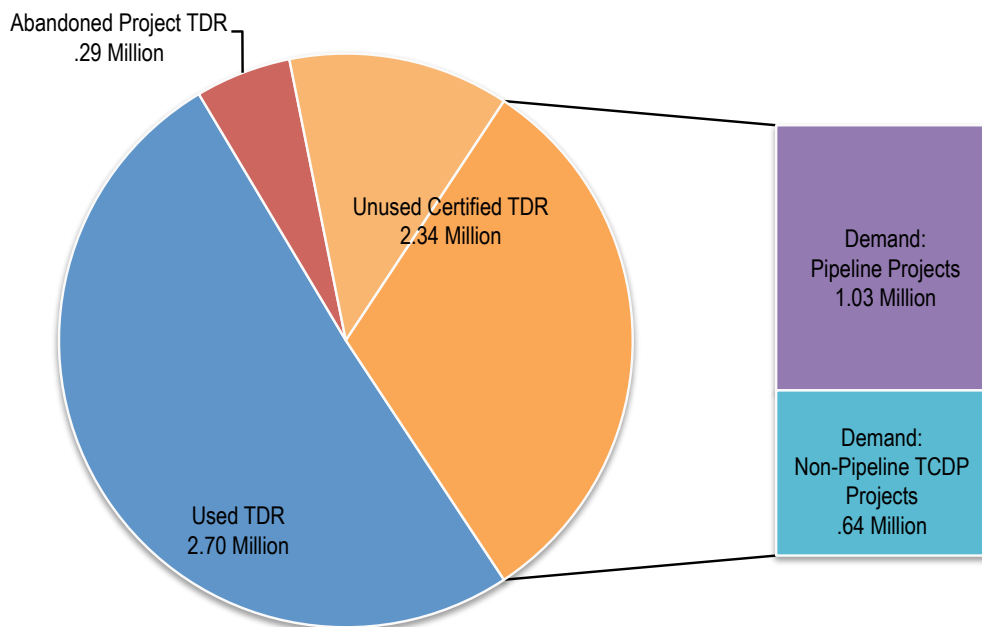
The proposed mixed use development at 50 1st Street would include two towers, one office tower with 1.2 million gross square feet of office and the other with 500 housing units. Although the developer acquired a total of 315,716 certified TDR, the project will only require approximately 162,000 TDR based on the parcel size. The project is identified as a pre-application in the City’s office development database, but it is not included in the City’s pipeline because the owner went into bankruptcy, which is currently in litigation. In the TDR analysis, the 162,000 TDR required for the project is categorized as pipeline TCDP, and the analysis considers these TDR to have been acquired by the developer.

After accounting for these four active TCDP projects, approximately 640,000 TDR are estimated to be needed for the non-pipeline TCDP projects.

Near-term Demand

As shown in Figure III-2, out of the 2.34 million unused certified TDR, near-term demand of TDR from pipeline and non-pipeline TCDP projects is estimated at 1.67 million TDR (based on about 1.03 million from pipeline projects and 640,000 TDR from non-pipeline TCDP projects). After accounting for this near-term demand, about 600,000 certified TDR would remain unused.

**Figure III-2
Current TDR Market**



Source: San Francisco Planning Department.

Of the 1.67 million TDR demanded in the current and near-term, the intended developers have already acquired a large portion of the TDR. As described above, about 1.03 million TDR are needed for the pipeline projects. Based on market research and interviews, approximately 810,000 of these TDR have been transferred to developers of the pipeline projects. Although the TDR have not yet been used for these projects, this analysis assumes that the need for TDR for these projects has been fulfilled. Thus, the estimated unmet TDR demand for pipeline projects is 222,000 TDR.

TCDP buildout is estimated to require 1.06 million TDR. Of this amount, four projects are included in the pipeline analysis leaving approximately 640,000 TDR to be needed for the non-pipeline TCDP projects.

In total, of the 1.67 million TDR demanded by pipeline and non-pipeline TCDP projects, approximately 810,000 have been acquired by the end developer, and about 860,000 TDR need to be acquired and represent unmet demand.

4. Transactions/Pricing

According to Seifel team interviews and research, the most recent TDR transactions were for the Transbay Tower and the high-rise residential development site located at 524 Howard Street directly adjacent to the future Transbay Transit Center. Both transactions closed in March 2013, with sales price reported as follows:

- Transbay Tower: 151,454 TDR at \$24 per TDR
- A potential residential project at 524 Howard: 14,756 TDR at \$24.94 per TDR

B. Future Market

1. Supply

The supply of TDR could increase in the future as a result of (a) the certification of potential TDR that currently would be eligible under the TDR program and (b) planning or zoning modifications that would include properties currently ineligible for the TDR program as eligible.

Potential Eligible TDR Not Yet Certified

The Planning Department does not track the potential number of TDR that could be eligible to be certified but have not yet been certified to date. However, when the TDR program was created in 1985, the Planning Department estimated that the potential supply of TDR was approximately 8.0 million square feet based on the 1985 inventory of likely eligible historic properties. As 5.3 million TDR have been certified, the estimated potential supply of additional TDR not yet certified would be 2.7 million. Given that these potential TDR haven't been certified since the TDR program began 28 years ago, it seems unlikely that a substantial amount of these potential TDR will enter the TDR market.

Potential TDR from Eligible P zoned Properties

The Planning Department's estimate of 8.0 million square feet of potential TDR did not include potential TDR from P zoned properties because P zoned properties originally were not eligible for TDR. The TDR Program was modified in 2003 to make eligible as a Transfer Lot any P zoned lot that is adjacent to a C-3 District and has situated on it a historic buildings owned by the City and County of San Francisco. The only such eligible property that has certified TDR to date is the Old Mint. Several City-owned buildings, such as the Civic Center buildings are eligible for the TDR program, and the potential TDR from these properties are estimated at 3.6 million, as shown in Table III-2.

**Table III-2
Potential Civic Center TDR**

	Lot Area	Eligible	Actual	Available
City Hall	237,000	1,777,500	516,484	1,261,016
War Memorial Opera House and Veterans Building	238,064	1,785,480	563,200	1,222,280
Asian Art Museum	90,259	676,943	185,000	491,943
Bill Graham	113,437	850,778	302,250	548,528
101 Grove Street	24,815	186,113	104,000	82,113
Total	703,575	5,276,814	1,670,934	3,605,880

Source: San Francisco Real Estate Department.

Potential TDR from TCDP Properties

Ordinance 0182-12, which enacted the Transit Center District Plan (TCDP), increased the potential supply of TDR by expanding the New Montgomery-Mission-Second Street Conservation District to include additional historic resources along Mission and Natoma Streets, and reclassifying Category V buildings that are in the 150-S Height District to be eligible for the transfer of TDR. As a result, approximately 27 properties are TDR eligible.

Overall, the following amounts of TDR could be certified from properties currently eligible for the TDR program:

- 2.7 million potential TDR from private properties not yet certified, however, a significant portion of this supply may not actually enter the market, as explained above.
- 3.6 million potential TDR from eligible P zoned properties in the Civic Center.
- TDR from other eligible P zoned properties, such as 101 Grove.
- Additional TDR from the TCDP area from the expansion of the historic district.

Possible Future Modifications Increasing Supply

Central Corridor Plan Area

The April 2013 Public Review Draft of the Central Corridor Plan includes implementation strategies that would protect priority resources by designating additional buildings under Articles 10 and 11 of the Planning Code, extending the South End Historic District Extension, and expanding the TDR program to the Central Corridor to help preserve historic buildings. The plan identifies areas for proposed increased density that could create additional supply of TDR from historic buildings in the areas, but the amount of new potential TDR has not yet been quantified.

Port of San Francisco Properties

The Port has proposed modifications to the TDR program that would allow Port properties Piers 19, 23 and 29 to certify and transfer TDR. The Port has estimated TDR generation from the existing built

area (shed area) on these three piers. The Port assumed an eligible FAR of 5.0 and that the actual shed area is built to a 2.0 FAR. Port staff have indicated that approximately 924,000 TDR could be available from these properties, as shown in Table III-3.

**Table III-3
Potential Port Piers 19,23 and 29 TDR^a**

Pier No.	Shed Area	Eligible 5.0 FAR	Actual 2.0 FAR	Available 3.0 FAR
19	102,848	514,240	205,696	308,544
23	103,834	519,170	207,668	311,502
29	101,237	506,185	202,474	303,711
Piers 19, 23, and 29	307,919	1,539,595	615,838	923,757

a. FAR amounts based on Shed Area square footage, not on total site area.
Assumes an eligible FAR of 5.0 and a built FAR of 2.0.

Source: Port of San Francisco.

2. Demand

As described above, approximately 1.7 million square feet of demand from buildings is identified in the Pipeline Report and potential development in the TCDP. Of this amount, approximately 810,000 TDR have already been transferred to the proposed project developers, and 860,000 TDR need to be acquired. Future demand for TDR will also be impacted by the Central Corridor Plan Area, as well as the City’s Proposition M, which impacts office development.

At this time, significant additional TDR demand is not projected in the future for the reasons described below.

Central Corridor Plan Area

The Central Corridor Plan’s intention to increase density within the Central Corridor could lead to additional demand for TDR, but how much is unknown at this time. The Public Review Draft of the Central Corridor Plan states the following:

Given the amount of high-rise space recently enabled through the Transit Center District Plan and goals to build on and complement the character of SoMa, this Plan does not envision high rise development as a major component of the Central Corridor Plan. Rather, it promotes the kind of mid-rise development that is more in line with SoMa’s current character and can also enable the large floorplate work spaces that are in high demand, yet difficult to find and secure, in central City locations. In general, the mid-rise heights set by the plan provide for the same, and in some cases even more, density that would be provided with taller buildings. The large floorplates possible on large development sites, combined with heights ranging from 8 to 12 stories, enables a significant amount of density.

Current Plan concepts being considered include the requirement for new development to purchase TDR for square footage of new development that exceeds a FAR of 4:1 or 5:1. The extension of TDR into the Central Corridor, as well as requiring new construction in the Plan area to purchase TDR, will be analyzed concurrently with the environmental review of the Plan.

Proposition M

San Francisco’s Proposition M limits the annual amount of new office developments over 25,000 square feet to 950,000 square feet and could serve as a limiting factor on the demand for TDR in the short to medium term. According to the City’s Office Development Annual Limitation Report,

approximately 17.4 million square feet of office space, an annual average of 644,000 square feet, has been approved since 1985. Of this, the Transit Tower has been approved for approximately 1.4 million square feet, and Candlestick Point has been approved for 800,000 square feet.

The Pipeline Report for C-3 zoned parcels indicates a total of 4.2 million square feet of non-residential space under construction or planned. Of this, approximately 3.0 million square feet of office has already been approved under Prop M (inclusive of the Transit Tower).

According to the City staff as of May 2013, 2.2 million square feet is currently available under the Prop M program for large projects over 50,000 square feet. According to the March 2013 Office Development Annual Limitation Report, about 4.7 million square feet of development is in the pre-application stage (most of this square footage is within large multi-year master plans, such as Seawall 337, and intended to be built out over many years, if not decades.) If all of the large office projects in the pre-application stage were approved, they would exceed the amount available by about 3.4 million square feet. Within a year or two, large office projects may have to compete to be approved under the large office square foot annual limit in Prop M of 875,000 square feet. While this would not affect the demand for TDR from high rise residential developments, it could have a significant impact on the demand from office space.

3. Transactions/Pricing

Given the supply and demand considerations outlined above, the Seifel team does not expect significant upward pressure to mount on the value of TDR above approximately \$25 in the short to medium term.

C. Trends Affecting TDR Demand

Trends in TDR demand will have a significant impact on the potential for sales of TDR from public properties.

Historic Demand

- Demand Created in Program Foundation
Robust demand is an essential element of any successful TDR program, and San Francisco's TDR program created significant demand over time for two reasons:
 - The 1985 baseline development threshold is low enough that developers seek to exceed it, thus creating demand (in 1985 estimated to be 8 million TDR).
 - Developers cannot acquire bonus floor area through on-site features such as site design, architectural details, or public amenities. Thus, when developers want to exceed baseline FAR, they must acquire TDR.
- Average Annual Demand
Since 2000, on average each year, 164,000 TDR have been used and 237,000 TDR have been certified. Since 2001, over 2 million unused certified TDR were in existence in any given year.
- Demand by Development Projects
Since the TDR program inception, only 34 development projects involving 32 buildings have used TDR (two buildings have had two separate TDR-related projects). Of the 32 buildings using TDR, 26 were newly constructed buildings, while 6 were building expansions. The average TDR usage was 79,538 per development project, and 84,509 per building.

More than half of the demand for TDR square footage has been for office development (55 percent), with 30 percent for residential developments, and 15 percent for hotels. As described above, Proposition M limits the amount of office space that can be developed per year, and thus, can be a limiting factor in the use of TDR for high-rise office towers.

- Demand influenced by Real Estate Cycles
TDR usage has fluctuated with real estate market cycles, with TDR usage peaks in 1997, 2001, 2005, and 2008. The highest TDR usage peak was in 2005, with only two projects accounting for all of the usage. 2013 is projected to be another peak year for TDR usage, with an estimated 500,000 likely to be used. Both 2005 and 2013 are considered to be within strong real estate market cycles in San Francisco.

Current and Future Demand

As discussed above, current and near term unmet demand is estimated at 860,000 TDR. Several factors influence TDR demand including the amount of remaining development opportunities in the Downtown, balancing historic preservation goals with other public policy objectives, and land use policies affecting future demand.

- C-3 Zone
The TDR program is limited to the C-3 Districts located in the Downtown area of San Francisco. The C-3 Districts have been extensively developed, with a significant portion of the remaining opportunity sites located in plan areas such as the TCDP and Market and Octavia, which have limited the need for TDR. The limited number of development sites in C-3 Districts outside of plan areas will not generate significant TDR demand in the future.
- Balancing Historic Preservation Goals with Other Public Objectives and Benefit Programs
With the loss of redevelopment in California and limited financial resources, the City must balance the TDR requirement and historic preservation goals with other demands for services and public policy objectives. These are key considerations in policy decision making, and particularly with consideration of new plan areas such as the Central Corridor Plan, which have the potential to increase demand for TDR.

Concentrated new development often results in significant demand for infrastructure and services. While new development generates a variety of local public revenues (property taxes, sales taxes, real estate transfer taxes, etc.), additional investments in parks, streets, transportation facilities, and community facilities and services beyond what can be provided through these local General Fund revenue sources are essential to meet demand attributable to the new development.

To address the impacts of the new development, the City has created mechanisms for development to contribute to the funding of public infrastructure while balancing other City programs. As a result, the City has altered TDR program requirements for some particular projects and plan areas, such as the modified TDR program and impact fee implementation in TCDP.

- Land Use Policies Affecting Future Demand
Land use policies can affect TDR demand. Just as the downtown rezoning in 1985 created demand potential, upzoning of areas that do not require TDR reduces the potential for creating additional demand. Over the last decade, several area plans have been adopted that could have created additional TDR demand, however, these plans either did not create TDR demand potential or limited potential demand. Examples of such plans include:
 - 2005 Rincon Hill Area Plan allowed for high rise residential towers without requiring the use of TDR.

- 2007 Market and Octavia Neighborhood Plan includes high density land uses with heights of 120-400 feet close to transit. Rather than including a TDR provision, payments to the Citywide Affordable Housing Fund and the Van Ness and Market Neighborhood Infrastructure Fund are required for developments that receive greater FAR.
- 2012 TCDP generated demand for 1.06 million TDR, which represents a significant component of current demand. However, if TDR were required on the full FAR above 6:1, this could have created demand for up to 7.5 million TDR. However, other policy priorities were also considered and implemented in the Plan, including affordable housing and significant impact fee contributions to public transit and open space.
- **Individual Development TDR Exemptions**
The City has exempted specific projects from TDR requirements in order to facilitate development on particular parcels, improve financial feasibility and/or to meet other public policy objectives.
 - Trinity Plaza Development – In 2006, the City entered into a Development Agreement with the developer, Angelo Sangiacomo, for the residential development in Mid-Market that includes three towers with 1,900 residential units with frontages along Market, Mission, Eighth, and Stevenson. The agreement removed the requirement for TDR. The project would have required 879,000 TDR.
 - 706 Mission Proposed Project – The proposed project would have 215 dwelling units, 52,000 square feet for the Mexican Museum and 4,800 square feet of retail and includes the rehabilitation of the 10-story Aronson Building. The Special Use District proposed by the project sponsors would eliminate the need to purchase the 178,000 TDR required for the project.
- **Future Large Scale Developments that do not Require TDR**
San Francisco’s real estate market can only support a certain level of new mid to high-rise development to meet local employment and household demand. Most of the large-scale developments that are planned or underway currently do not require TDR, such as:
 - Hunters Point Shipyard/Candlestick Point
 - Mission Bay
 - Pier 70
 - Park Merced
 - Seawall Lot 337
 - Treasure Island

D. Certification of TDR from City-Owned Properties

TDR from public properties could be an important source for meeting demand for larger TDR requirements. It would have the advantage of being readily accessible and already assembled in larger amounts, overcoming key market challenges related to the current lack of transparency and the need for multiple TDR transactions in order to accomplish a major real estate development. The City can also control the annual release of public TDR to the real estate market, taking in to account changing demand over time as the real estate market fluctuates.

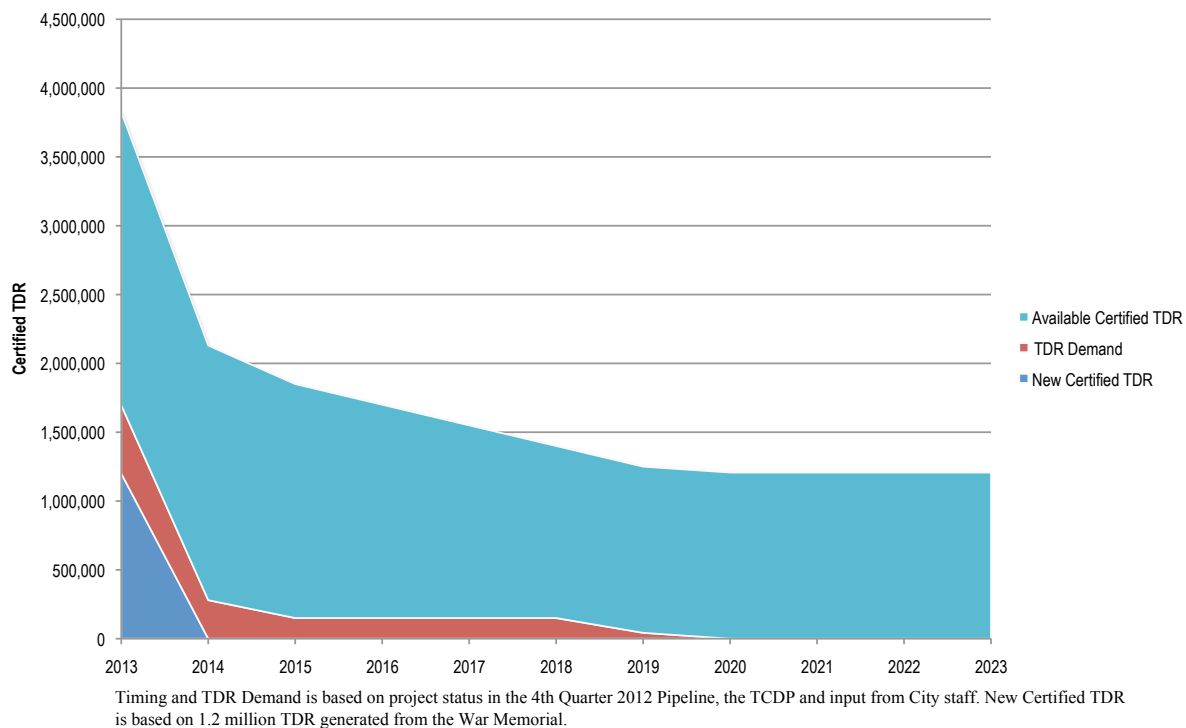
City staff have identified the War Memorial Opera House and Veterans Building in the Civic Center as a priority TDR originator. The Seifel team assumes that the City certifies up to 1.2 million in potential TDR from the War Memorial in order to test the market demand for larger segments of TDR, but not certify any additional public TDR from other properties at this time. It would be prudent

for the City to certify TDR from the War Memorial in the near future given the current active real estate market and near-term demand of about 860,000 square feet from pipeline projects and the TCDP.

As described above, the annual amount of TDR released by the City may not be readily absorbed by the market, particularly if there is a downturn in the real estate market. Based on annual average historical TDR demand ranging between 100,000 to 200,000, 1.2 million in new public TDR would likely take between 6 to 12 years to be fully absorbed. Furthermore, the future demand for TDR will be influenced by the large amount of development potential from high rise development in future large scale projects that do not require TDR.

Figure III-3 illustrates what would occur from the potential certification of 1.2 million in potential TDR from the War Memorial in the Civic Center. It shows the projected TDR from 2013 through 2023 based on the 2.6 million available certified TDR and TDR estimates from the pipeline and TCDP. The TDR demand assumes that pipeline projects under construction and projects that have filed for or received building permits will use TDR in 2013. The projects that have applied for planning applications, including the Transit Tower, are assumed to use TDR in 2014. The demand for the remaining 640,000 TDR for the non-pipeline TCDP is based on 150,000 TDR annually from 2015 through 2019.

**Figure III-3
Projected TDR Market Demand and Supply**



E. Key Findings

1. Current TDR Market

- *The TDR market has accumulated a significant supply of unused certified TDR.*
- *The market analysis does not indicate that all certified TDR has been or is readily available for transfer and/or use.*
- *Current unmet TDR demand is estimated at 860,000 TDR.*
- *The TDR market price based on recent transactions is about \$25 per TDR.*

2. Future TDR Market

- *Land use policies have influenced demand in the current TDR market and will affect future TDR demand. Over the last decade, several area plans have been adopted that could have created additional TDR demand; however, these plans either did not create potential TDR demand or limited potential demand. As a result, the Seifel team does not project significant additional TDR demand in the future and expects pricing to continue to be influenced by the overall real estate market for development, as well as the characteristics of individual transactions.*

3. TDR from Public Properties

- *The City has the opportunity to meet the demand for larger TDR requirements from P zoned properties. While existing certified TDR could potentially meet current TDR demand, for the reasons stated above, not all of the unused certified TDR is likely to be available and would be difficult to assemble.*
- *Based on annual historical TDR demand, 1.2 million in new public TDR would likely take between 6 to 12 years to be fully absorbed.*

IV. Summary of Market Participant Interviews

In order to obtain insight into how market participants perceive the TDR market and program, the Seifel team conducted interviews with various stakeholders. A list of the market participants contacted is included in Appendix A. The findings from the interviews are summarized below, organized by type of stakeholder—Brokers, Developers, Property Owners/Investors, Consultants/Appraisers, and Equity Investors/Capital Market Participants.

1. Brokers

The Seifel team interviewed several brokers, including Edward Suharski, Managing Partner at Fortress Property Group LLC, who has been an active participant in many of the TDR transactions and has become known as the “go to guy” in the TDR market. Mr. Suharski has been involved in brokering as well as buying, optioning and selling TDR, and provided a substantial amount of information to the Seifel team over many telephone interviews.

TDR Availability

When the TDR program started, brokers thought that plenty of TDR were available in the marketplace; however, currently, it is not clear to them who has TDR or how many are available. For example, one broker stated he has a potential listing for a development parcel that will need 60,000 square feet of TDR, yet he does not know where to go to purchase them, other than to contact Edward Suharski.

The brokers interviewed, including Mr. Suharski, do not think that many large blocks of TDR are available. Some commented that a centralized public database of available TDR would be helpful, yet they do not see the need for a centralized TDR bank. Many like the idea of the City setting a price for its own TDR annually, as this would make it easier for brokers to do land deals.

TDR Price and Transparency

Edward Suharski reported that his most recent TDR sales prices were approximately \$25 per TDR. Other brokers interviewed believe the current value of TDR is in the range of \$20 to \$30 per square foot.

Other than Mr. Suharski, brokers in the market involved in buying or selling development properties are generally of the opinion that the current TDR process is inefficient and not sufficiently transparent. Most commented that the certification and transfer processes are too cumbersome and not worth the effort for existing property owners with small amounts of eligible but uncertified TDR.

2. Developers

Developers interviewed have acquired development sites with the necessary TDR already in place as well as acquired sites that need TDR in order to be developed. One long established San Francisco developer said that in the early days of the TDR program it was relatively easy to acquire or option TDR because plenty of TDR were readily available.

TDR Availability

None of the developers interviewed had a sense of the supply of TDR available today. Most said they would probably use a broker to acquire any necessary TDR. All thought that more transparency in the TDR market would be helpful, in terms of what is currently available and prices paid, potentially through a centralized database. Developers like certainty and therefore a centralized TDR source would remove one of the risk factors from the development process in San Francisco.

TDR Price

The developers interviewed thought that TDR today are worth between \$25 and \$30 per square foot, up from around \$20 per square foot a year ago.

They indicated that they factor the price of acquiring TDR into their proformas as if it was another fee. In other words, the price they bid for a site takes into account the cost of acquiring the necessary TDR—the higher the price of the TDR, the less they can afford to pay for the site.

3. Property Owners/Investors

Two of the larger and more established property owners in San Francisco stated that they had acquired and certified TDR using their own attorneys and architects and had not used brokers or intermediaries. Smaller property owners tend to use brokers to find or certify and sell TDR.

TDR Availability

Owners indicated that the current system is too bureaucratic given the numerous steps in the process, and the complex zoning transfer rules should be simplified, in particular. (Note, these interviews were conducted prior to the enactment of Ordinance 68-13.) Owners with small quantities of existing TDR, or the eligibility to certify TDR, often do not believe it is worth the effort to certify and sell the TDR. Also, they were cautious about selling all of their TDR, believing that they should reserve some in case they needed to increase the size of the building at some point.

They thought that a registry of TDR holders would be helpful. Some property owners were cautious about the idea of a central bank of TDR, or one group owning too many TDR—for example, if the City were to sell some of its TDR in bulk to a third party—as this could create a monopoly situation. Some were skeptical that demand would be sufficient for the City to sell any significant quantity of publicly owned TDR.

TDR Price

Some were also concerned that the City pricing of its TDR could be subject to political pressure or other external influences. The idea of the City setting the price for its TDR annually, based on the market, relieved some of these concerns.

4. Consultants/Appraisers

TDR Availability

One interviewee said that developers are scraping for TDR these days, although the more established owners and developers know where to find them. One consultant believed that most historic building owners who could certify TDR have done so by now and stated that smaller buildings are owned by trusts incapable or unwilling to certify small amounts of TDR.

Consultants interviewed thought that publishing a central database of available TDR by parcel would be a good idea, and the zoning transfer rules should be simplified. (Note, these interviews were conducted prior to the enactment of Ordinance 68-13.) One participant thought that negotiating the price for each individual sale or using an appraisal was more appropriate.

TDR Price

One consultant stated that it was not a good idea for the City to set the price of its TDR annually, as this could put the City at a disadvantage when the market was either increasing or decreasing rapidly.

The appraisers interviewed reported that it is hard to get concrete data on the price or value of TDR as very little public information is available. They tend to rely on anecdotal evidence and discussions with TDR owners and Mr. Suharski. Often a considerable time lag exists between when a block of TDR is optioned and a price is agreed upon, and when the transfer takes place, which can be misleading when trying to determine current values. In addition, a difference in value exists depending on whether TDR are sold to an end user or to an intermediary. In the opinion of one appraiser, this “wholesale” versus “retail” price difference could be as much as 40 percent.

5. Equity Investors/Capital Market Participants

Bulk Transactions

Capital market participants were split over how easy it would be for the City to sell its TDR in bulk. Because this would essentially be a speculative investment, like a land banking fund, it would mostly appeal to private equity investors or entrepreneurial funds. Institutional investors would not likely be interested in this type of investment.

Those interviewed thought that the bulk price would have to be heavily discounted. A prospective buyer would probably approach this by projecting out likely demand over the next ten years, and then use a relatively high internal rate of return (IRR) to arrive at a net present value. Another metric described was to calculate how long it would take to return all the initial capital invested; that is, some investors might look to get all their money out after the first two or three deals, rather than within a number years.

One interviewee thought this could be an interesting opportunity for a group looking to invest in the San Francisco market. If a group became the main holder of TDR in the City, it could leverage that position to obtain either debt or equity positions in future developments. In other words, it would contribute the necessary TDR in return for becoming a partner in the development.

One person interviewed thought that developers in the city with large projects in the pipeline might be interested in bulk buying more TDR than they need at a discounted price. For instance, if they could buy twice what they needed at half the retail price, they would get their money’s worth up front, and then could hold the rest, effectively at a zero basis, to be sold over time.

Another observed that the potential TDR market could be broadened if the City were to sell a portfolio comprising TDR bundled with existing income producing property or properties. This would then appeal to investors looking for income as well as capital growth.

6. Key Findings

- *One of the most common concerns voiced during the stakeholder interviews was the limited supply of readily available TDR.*
- *Brokers, developer and property owners/investors support the concept of a centralized registry or database of available TDR, but many do not see the need for a TDR bank.*
- *Some interviewees were skeptical that demand would be sufficient for the City to sell any significant quantity of publicly owned TDR.*

V. Historic Preservation TDR Programs in Other Cities

As part of the TDR market analysis, the City is interested in learning how other cities structure their historic preservation TDR programs and identifying best practices that could benefit the City's program. A recent review of TDR programs in the U.S. identified 239 TDR programs with a range of structures and purposes. Nearly two dozen of these programs focus on historic preservation. This chapter highlights best practices from five cities based on a comparative review of each program's purpose, process and tracking, pricing, and program revenues.

A. Cities

TDR programs in two California cities and three other US cities were chosen for study. Los Angeles and Oakland are California cities that have utilized TDR to preserve historic buildings and meet other key planning objectives. New York City has one of the most well-known and used TDR programs in the nation, and its program has been a model for many other TDR programs. Portland, Oregon and Seattle, Washington are included based on their similar historic building stock and emphasis on revitalized downtowns. Each program is briefly described below, and Appendix D presents a more detailed description of each program.

- **Los Angeles**
As part of its plan for the Central Business District (CBD) in 1975, Los Angeles and its Community Redevelopment Agency (CRA) initiated its TFAR program for the transfer of floor area rights (TFAR) to encourage a high-density, mixed use downtown, preserve historic landmarks, promote affordable housing, create public open space, and meet other policy objectives to create a vital downtown.
- **Oakland**
Another Bay Area TDR program focused on historic preservation, Oakland's program allows transfers of residential density between abutting properties in order to encourage the preservation of turn-of-the-century historic homes. Oakland's program has not been frequently used, so limited information is available.
- **New York**
In 1968, New York adopted its program to mitigate possible financial losses by owners whose properties were designated as historic landmarks and to allow greater flexibility through zoning lot merger or density zoning.
- **Portland**
From 1988 through 2003, Portland instituted a number of density bonus and transfer programs to meet a range of public policy objectives, such as preserving historic landmarks, residential housing and SRO units in the Central City, and open space in the South Waterfront.
- **Seattle**
As part of the comprehensive Downtown Restoration effort in 1985, Seattle initiated its program to help retain low income housing, preserve historic landmarks, encourage infill development, and create incentives for varying building scale in the downtown. In order to facilitate TDR use, the city created a TDR bank that buys and sells housing TDR.

The following subsections describe the best practices gained from the comparative analysis of the five programs.

B. Program Purpose

Similar to San Francisco's program, the five TDR programs that are examined focus on the preservation of historic resources while encouraging new development. The intent of the historic preservation TDR programs is to create a process in which otherwise unusable development rights from historic resources may be converted into an asset that may be sold to increase development opportunities on other parcels while generating revenues for the owners of historic resources for rehabilitation and preservation.

As a condition of the TDR certification, all five TDR programs provide guidelines for the rehabilitation and maintenance of the originating buildings. Aside from these requirements, none of the programs specifies the portion of TDR revenues that must be allocated to the rehabilitation or preservation of the historic resource.

While San Francisco's TDR program focuses on historic resources, Los Angeles, New York, Portland, and Seattle have expanded their programs to focus on additional areas of public interest, such as the preservation and creation of affordable housing and open space. In addition, some of the programs such as New York's and Portland's have removed geographic constraints for particular types of TDR to allow its use throughout the city and to increase demand.

C. Program Process and Tracking

Although each TDR program is unique, the TDR programs follow similar processes in which an originating parcel applies for TDR, and TDR are certified based on a formula that accounts for zoning, existing FAR and potential FAR. Most jurisdictions track TDR through recorded documents that note at minimum the originating owner, the receiving owner and the number of TDR.

After the TDR certification process, the five TDR programs function differently. In San Francisco, the TDR originator may retain the certified TDR or may transfer it to another entity, and the TDR does not need to be used within a specific time frame for development. Thus, third parties may speculatively purchase and hold TDR in San Francisco for an unlimited period of time. Other cities did not report having a speculative TDR market, and certified TDR typically transfer directly to the receiving site. The City of Los Angeles is the main source for TDR, which it refers to as TFAR—Transferable Floor Area Rights. In its TFAR transfer agreements, Los Angeles establishes use-of-TFAR expiration dates in order to deter speculative accumulation. In Seattle, developers can purchase TDR from private owners, or they can purchase TDR for housing from the city's TDR bank, which was created to facilitate TDR transactions.

Tracking the creation, transfer and use of TDR is an essential component to the TDR program implementation and understanding the TDR market. It ensures that TDR are properly being processed from certification through use and documents the existing market supply and owners of certified TDR. This is particularly important when TDR may transfer multiple times before they are ultimately used for development and when multiple owners and users exist in the market. Seattle tracks TDR certification, ownership, transfers, and pricing and publishes a quarterly report documenting TDR transactions. Los Angeles began creating a TFAR database to track the origination, transfer and use of TFAR but to date has not completed its database.

San Francisco maintains an internal database that tracks TDR certification, transfers and use. When available, the individual records include the transaction's recorded document and the name of the owner. Beginning in 2010, the City's TDR program requires the recordation of pricing information, although this information has not been collected for all of the transactions since 2010. The City is in the process of gathering this information.

D. Program Pricing

Determining the value of TDR is a critical component to the market functioning. Despite the supply of public TDR in some cities, none of the five cities have set prices for public TDR, although one City has set a formula to calculate the price of public TDR.

Due to the nature of New York's program requiring abutting parcel, constrained TDR supply, and no other alternatives to increase FAR, TDR pricing can become extremely expensive. TDR in New York is estimated to trade for 50 to 60 percent of land value, and in recent years, TDR in prime neighborhoods has approached \$450 per square foot.

Los Angeles originally charged \$35 for publicly owned TFAR, but revised its TFAR valuation to a formula that bases the pricing on the appraised value of the receiving site. TFAR valuation has averaged \$21 to \$23 per TFAR. Private TFAR owners are able to negotiate their own pricing.

In Portland, developers can achieve maximum height density and height parameters through 18 bonus options and 6 TDR options that compete with each other. Developers tend to opt for the lowest cost option for additional FAR. As a result, TDR value varies, with pricing in 2007 ranging from \$6.50 to \$18.00 per square foot.

Seattle TDR pricing ranges from \$15 to \$20. The TDR bank does not have fixed pricing as transactions are individually negotiated. For some projects, developers in Seattle may elect to pay the housing–childcare fee at \$22 per square foot in lieu of purchasing TDR. This option impacts the pricing in the TDR market.

TDR pricing in San Francisco has reportedly ranged from \$5.51 to \$38 and currently is \$25. To date, the City of San Francisco has not sold TDR in the market. (The San Francisco Museum and Historical Society sold TDR from the Old Mint, which is owned by the City of San Francisco.)

E. Public Revenue

Public revenues are not necessarily generated through TDR programs. However, in some of the cities the TDR program generates revenues. In others, TDR are considered taxable.

Seattle's TDR bank was originally funded through the Cumulative Reserve Fund to purchase housing TDR to preserve low-income housing. Any revenues that the city generates from selling TDR are reinvested into the bank for future housing TDR purchases.

Like Seattle, Los Angeles is involved in the sale of TFAR. Los Angeles is the largest TFAR supplier, and revenues from TFAR sales are deposited into a fund to be used for affordable housing, open space, historic preservation, public transportation, and public/cultural facilities. Los Angeles also charges a Public Benefit Transfer fee on publicly and privately transacted TDR, and proceeds from the sale are also deposited in the TFAR revenue fund.

New York considers TDR to be a transfer of real property interest and upon its recordation the parties are required to pay city and state real property transfer taxes on the sales price.

Currently, San Francisco does not assess property transfer fees or property taxes on TDR.

F. Key Findings

- *While San Francisco's TDR program focuses on historic resources, Los Angeles, New York, Portland, and Seattle have expanded their programs to focus on additional areas of public interest, such as the preservation and creation of affordable housing and open space.*
- *Unlike most other cities TDR programs, San Francisco's TDR program allows any third party—developers with entitled or proposed projects, brokers, investors, speculators, and financial institutions, among others—to own TDR.*
- *The TDR programs follow similar processes in which an originating parcel applies for TDR, and TDR are certified based on a formula that accounts for zoning, existing FAR and potential FAR. Most jurisdictions track TDR through recorded documents that note at minimum the originating owner, the receiving owner and the number of TDR.*
- *TDR pricing is influenced by the presence or lack of alternative options to TDR to increase FAR. Due to the constrained supply and no other alternatives to increase FAR in New York City, TDR pricing can become extremely expensive and trades for 50 to 60 percent of land value, and recently prices have approached \$450 in prime neighborhoods. In other cities where multiple options and programs compete with TDR such as in-lieu fees, developers tend to opt for the lowest cost option, and pricing ranges from \$20 to \$30.*
- *Some cities generate revenues from their TDR program through fees and taxation. Los Angeles charges a TDR transfer fee with revenues deposited into a fund to be used for public services and facilities, while New York applies city and state real property transfer taxes on the TDR sales price.*

VI. Recommendations

The 2012 TDR Handbook states that the San Francisco TDR Program is one of the most successful historic preservation TDR programs in the US due to several factors, including the following:

- The 1985 baseline development threshold for the Downtown is low enough that developers seek to exceed it, thus creating demand.
- Designated landmarks are difficult to alter or demolish in San Francisco. In other cities with TDR historic preservation–focused TDR programs, preservation protections are imposed only after owners have consented to landmark designations.
- San Francisco developers cannot gain bonus floor area through on-site features such as site design and architectural details. When developers seek to exceed the baseline, they must acquire TDR.
- Unlike programs that require close proximity of sending and receiving sites, San Francisco allows sending and receiving sites anywhere within the Downtown, creating a larger, more viable market for potential buyers and sellers.

The Seifel team observed additional factors contributing to the success of San Francisco’s TDR program. First, the program has been modified and expanded over time to further historic preservation goals. For example, it has been expanded to include historic buildings owned by the City that are located on P zoned lots adjacent to the C-3 District. Recent modifications include eliminating the requirement that the Transfer Lot and Development Lot had to be located in the same C-3 Zoning District, requiring a Preservation Plan when TDR are transferred, and recording the TDR sales price.

Second, unlike many other historic preservation TDR programs, San Francisco’s program does not require certified TDR to be directly transferred to a receiving parcel. Because a Transfer Lot can sell TDR to a speculative buyer without having to wait until a proposed development uses TDR, TDR demand is created sooner than would otherwise occur, and historic buildings can be preserved before TDR is actually used. In addition, under San Francisco’s program, TDR do not expire after a specified time. On the downside, with speculation, the parcel originating the TDR may not receive the actual market price of the TDR when they are transferred for ultimate use. By tying the transfer of TDR to a receiving site, TDR pricing would more closely correlate with the value of the receiving site, similar to New York City’s program.

Based on the analysis of San Francisco’s TDR program and other cities’ programs, as well as discussions with City staff, the Seifel team presents recommendations grouped by the following categories:

- A. TDR Demand
- B. TDR “Bank”/Market Clearinghouse
- C. Publicly Owned TDR
- D. TDR Program Review
- E. Other Recommendations

A. TDR Demand

One of the primary ingredients for a successful TDR program is the existence of strong demand in the market. As described in Chapter III, demand for TDR could decrease after the TCDP demand is satisfied. If the City seeks to continue the success of its TDR program, it may need to consider creating additional TDR demand by expanding the areas that could receive TDR or making it easier for developers to use TDR. Los Angeles, for instance, revised its program's calculation formula to allow higher density for priority development areas using TDR near transit. The TDR program could be expanded in the Downtown beyond the C-3 District and/or beyond the Downtown into other San Francisco areas.

Recommendations

- *Balance the need for potential impact fees with the City's historic preservation goals when developing the Central Corridor Plan and determining the extent TDR could be required for new development.*
- *Consider including additional areas in the TDR program such as (a) other Downtown areas that are not zoned C-3, but where office and/or residential is allowed, such as areas zoned C-M, MUG, and MUR; and/or (b) areas outside of the Downtown but within the northeast segment of the City.*

B. TDR "Bank"/Market Clearinghouse

The Seifel team was tasked with reviewing TDR programs in which the local government acts as a prime or central TDR bank or TDR broker. A local government can serve as a TDR bank for the purpose of buying, selling, and holding TDR or facilitating private TDR transactions. A TDR bank can serve as a clearinghouse that connects buyers and sellers, creating a pool of TDR to assure availability of TDR when needed, offer TDR at a set price, provide financing to acquire TDR, use the proceeds from TDR sales to purchase additional TDR, and provide sales price information. By providing a single point of contact, a TDR bank can streamline the process for TDR buyers and sellers.

The San Francisco TDR program already has some of the advantages of a TDR bank because TDR can be purchased and held, and pools of TDR can be created. In addition, San Francisco's TDR market is a mature market, and thus does not require the creation of a TDR bank. However, one of the most common dissatisfactions with San Francisco's TDR program is the lack of information on TDR available in the marketplace and how to access it, as well as data on recent sales prices.

With the recent passage of Ordinance 68-13, additional reporting on TDR will be required as part of the Annual Report on the Downtown Plan. This new reporting, which requires inventories of buildings eligible for TDR, buildings where TDR transfers have been completed, and TDR transferred within the year, will address some of these concerns about lack of information. However, additional steps could be taken to make other useful information more readily available.

Recommendations

- *Implement the annual TDR reporting requirements required in Ordinance 68-13 as soon as possible, and additionally, report on annual TDR certification and use, as well as market pricing, in order to inform and facilitate market activity.*
- *Provide information to the public on TDR available for purchase. For example, display TDR information on the San Francisco Property Information Map by indicating originating parcels with certified TDR remaining on the originating site.*

- *Devise a mechanism for potential buyers to contact TDR owners without displaying the names of the owners. This information could bring TDR sellers and buyers together and facilitate TDR transactions.*
- *Expand the amount of public TDR that is available for purchase, as described in C following.*

C. Publicly Owned TDR

TDR from City-owned properties could be an important source for meeting current TDR demand. One of the most common concerns voiced during the stakeholder interviews was the limited supply of readily available TDR, which could be offset by the certification of publicly owned TDR. Certifying publicly owned TDR would not only provide a readily accessible supply of large amounts of TDR that are required for some developments, it would also provide financial resources for the preservation and rehabilitation of City-owned historic buildings, many of which are designated as landmarks.

Recommendations

- *Given the current active real estate market and unmet demand of about 860,000 square feet from pipeline projects and the TCDP, consider certifying approximately 1.2 million in public TDR in the near future in order to test the market demand for larger segments of TDR. Specifically, undertake the following:*
 - *Certify TDR from City-owned buildings that are eligible for the TDR program, prioritized in the City's 10-year Capital Plan, and approved by the Capital Planning Committee, such as the War Memorial Opera House and Veterans Building.*
 - *Consider requesting the Board of Supervisors to authorize the Department of Real Estate to transfer the TDR in the future. (The Department would determine how much TDR it would transfer in a particular transaction based on demand for the specific number of TDR.)*
 - *Consider establishing a minimum offer price to be annually reviewed in order to provide a level of certainty about TDR pricing to buyers and streamline the transaction process for selling TDR. Specifically, consider offering the initial release of TDR at a minimum of \$25 per square foot and future releases at this minimum amount with any increases in price informed by fair market value.*
- *Consider requesting Board of Supervisors to designate properties owned by the Port of San Francisco as eligible for the TDR program. Specifically, undertake the following:*
 - *Include potential properties such as Piers 19, 23 and 29, which are among the priorities in the Port's 10-Year Capital Plan (FY 2011-20 Update), as properties eligible for the TDR program.*
 - *Determine eligible FAR on the piers.*

D. TDR Program Review

According to City staff, the 2013 review of the TDR program is the most comprehensive and detailed review of the TDR program since the program's inception, and provides useful information on the program status and effectiveness. Regular updated reviews of the TDR program would be useful for policy and implementation considerations.

Recommendations

- *Every five years, undertake a third party review of the TDR program, in order to evaluate program effectiveness, including success in achieving City goals, and as necessary, recommend program refinements. Specifically, implement the following:*

- *Tie the five year review to the five year report required to be prepared by the Planning Department (Administrative Code 10E.1) for the purpose of monitoring the impact of downtown development, which already is required to monitor long-term policy indicators such as the TDR program.*
- *Prepare the next review by July 1, 2015, which is the next deadline for the Administrative Code 10E.1 report. (A review within the next two years would be of benefit as it could assess the impact of the recent modification to the TDR program to allow TDR to transfer freely across the C-3 District and the potential near-term certification and transfer of TDR from City-owned properties.)*

E. Other Recommendations

Based on the findings presented in this report and the Seifel team research and analysis, the TDR program could be improved by the enhancements listed below.

1. Expiration of TDR Recorded as Used but not Actually Used

As discussed in Chapter II, in some instances, TDR has been recorded as used TDR in the City's database when it has not actually been used because the intended development projects were not actually developed. In such an instance, if the TDR owner does not file a "Cancellation of Notice of Use," the TDR continues to be recorded as used.

In other instances, developers may acquire TDR in excess of what is needed to accomplish a development. As an example, Tishman Speyer acquired 25,000 TDR for the Foundry III development at 525 Howard. However, the project required 23,605 TDR, leaving 1,395 TDR designated as used remaining with the developer, who may hold the TDR to apply to future development, or may abandon them if the value does not exceed the transactional cost of selling the TDR to another entity.

Recommendation

- *Require Cancellation of Notice of Use for projects that are not developed within a certain time period (three to five years from building permit or first addendum), and if a cancellation is not filed within the specified time frame, deem the TDR expired.*

2. Applicability of Preservation Plan Requirement

Some historic preservation TDR programs in other cities require that historic buildings on parcels with originating TDR be rehabilitated and maintained. Recent modifications to the San Francisco program requires the submittal of the Preservation Plan, which must describe any proposed preservation and rehabilitation work and related maintenance and upkeep of the Transfer Lot. Of the 112 parcels from which TDR originated, 84 parcels have transferred all of the TDR that were certified on the parcel. Thus, the Preservation Plan requirement does not apply to these 84 parcels. The requirement would apply to the 12 parcels that have certified but not transferred any TDR. Presumably, if any TDR were subsequently transferred from the 16 parcels that have transferred a portion but not all of their certified TDR, the requirement would apply.

Recommendations

- *Recognize that the Preservation Plan requirement may discourage participation by historic buildings with smaller amounts of potential TDR and consider relaxing the rules for TDR transfers under a certain amount.*

3. Program Administration

The Planning Department's administration of the program involves review and approval of applications for certification, transfer, use, and cancellation of use, as well as coordination with the Recorder's office. It also involves updating and maintaining the TDR database. A program modification passed in 2010 places additional responsibility on the Department, including the review of preservation plans and status reports, as well as additional program reporting.

Recommendations

- *Evaluate the cost of TDR program administration and review fee charges to ensure fee amounts cover the cost of providing service.*
- *Integrate the TDR program certification, transfers and use into the City's permit and project tracking system (PPTS) to make the data more accessible internally for the Planning Department. In addition, the PPTS could generate automated reports identifying TDR market activity.*

4. Property Taxation and Property Transfer Fee

TDR transactions mark the transfer of a real property interest, and TDR constitutes taxable property. In *Mitsui FudoSan v. County of Los Angeles* (1990), the California Supreme Court let stand a ruling of the Second District Court of Appeal that TDR are taxable property interests, and their conveyance constitutes a change in ownership that permits a reappraisal of that property interest. The court also recognized that the base year value of the seller's property should be proportionately reduced.

According to historical documents, the City may have levied transfer fees and property taxes on TDR transfers during the 1980s and into the early 1990s. Records of TDR transfer and use from this period contain references to "grantor declares documentary transfer tax...computed on full value of property conveyed." Some include a fee and others stated no fee. One record stated that the "amount of real property tax due is shown on separate paper."

Recommendation

- *Consider implementing the payment of property tax and transfer tax on TDR transactions by assessing the TDR value based on the transaction price upon transfer.*

Appendix A: Documents and Sources

Information presented in the TDR Report was compiled from the following sources.

Documents Related to San Francisco's TDR Program

Dyett & Bhatia and Keyser Marston Associates. *TDR Program Analysis Phase 1, Prepared for The City of San Francisco*, February 15, 2008.

San Francisco Planning Department Executive Summary. *Initiation of Planning Code Text Change, Zoning Map Amendment, and General Plan Amendment, Hearing Date: May 20, 2010, Continued from April 22 and March 25, 2010*, May 20, 2010.

San Francisco Planning Department Ordinance 68-13 File No. 120474. An ordinance amending Planning, Administrative Codes related to the Transfer of Development Rights - Planning Code, Sections 128 and 819, and Administrative Code, Section 10E.1, San Francisco, April 23, 2013.

San Francisco Planning Department Staff Memo. *New Planning Code Amendment: Section 128: Transfer of Development Rights*, Board File No. 10-1200, December 5, 2010.

San Francisco Planning Department TDR Database Updated February 22, 2013.

TDR Resources

Nelson, Arthur C., Rick Pruetz and Doug Woodruff. *The TDR Handbook: Designing and Implementing Transfer of Development Rights Programs*, Island Press, 2012

San Francisco Planning Department Documents and Resources

San Francisco Planning Department. *Central Corridor Plan, Draft for Public Review*, April 2013.

San Francisco Planning Department, Historic Preservation Committee. *Transfer of Development Rights Overview and Update*, May 2, 2012.

San Francisco Planning Department. *Office Development Annual Limitation ("Annual Limit") Program*, March 8, 2013.

San Francisco Planning Department. *Planning the Central Corridor, Urban Land Institute San Francisco*, February 26, 2013.

San Francisco Planning Department Ordinance. An ordinance implementing the Market and Octavia Area Plan of the General Plan, San Francisco, April 16, 2008.

San Francisco Planning Department. San Francisco Redevelopment Agency and AECOM. *Transit Center District Plan, Draft for Public Review*, November 2009.

San Francisco Planning Department, San Francisco Redevelopment Agency and Transbay Joint Powers Authority. *Transit Center District Plan, Public Workshop #4 Financial Program*, May 26, 2009.

Other Cities TDR Programs Documents and Resources

Nelson, Arthur C., Rick Pruetz and Doug Woodruff. *The TDR Handbook: Designing and Implementing Transfer of Development Rights Programs*, Island Press, 2012

Los Angeles

Section 14.5 Transfer of Floor Area Rights – Central Business District and City Center Redevelopment Project Areas:

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:lapz_ca

“Los Angeles” Smart Preservation TDR Updates. <http://smartpreservation.net/los-angeles-california/>

Oakland

“Oakland” Smart Preservation TDR Updates. <http://smartpreservation.net/oakland-california/>

Planning Code Text Section 17.106.050

New York City

Been, Vicki, John Infranca and Josiah Madar. “The Market for TDRs in New York City” NYU School of Law, Public Law Research Paper No. 12-50, NYU Law and Economics Research Paper No. 12-31. Brooklyn Law Review, Vol. 78, 2012.

Finn, Robin. “The Great Air Race” The New York Times, February 22, 2013.

Landis, Marc, Kevin McGrath and Lonica Smith. “Transferring Development Rights in New York City” New York Law Journal Real Estate Trends, September 29, 2008.

Portland

Johnson Gardner. “Evaluation of Entitlement Bonus and Transfer Programs Portland’s Central City Report on Findings Prepared for The City of Portland Oregon Bureau of Planning November 2007”.

Seattle

McKnight, Reuben. “September 2002: Block Exchange Transfer of Development Rights in Seattle” Preservation Seattle.

Seattle Municipal Code 23.49.014.

Smart Growth/Smart Energy Toolkit. “Transfer of Development Rights (TDR) Case Study Seattle, WA”

Financing Economic Development in the 21st Century.

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Other Organizations and Persons Contacted

Laura Hewitt Walker, City of Seattle, Office of Housing, Strategic Advisor

Don Spivack, former Community Redevelopment Agency of the City of Los Angeles, retired

Nicholas Maricich, City of Los Angeles Planning Department, City Planner

Ellen Ittelson, City of Denver, retired

Jim Lazarus, San Francisco Chamber of Commerce

Market Participants Contacted

Brookfield Properties

Brookwood Group

CAC Group

Carneghi-Blum & Partners

Cerberus Capital

City Center Retail

Colliers

Cushman & Wakefield

Eastdil Secured

Fortress Property Group

Grosvenor Americas

Holliday Fenoglio Fowler

Jones Lang LaSalle

Kidder Mathews

Laurence Badiner

McCarty Cook & Co.

Northwestern Mutual Life Insurance Company

Patson Development

Prudential Mortgage Capital Company

Shorenstein Properties

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Appendix B: Parcels Originating TDR and Parcels Using TDR

As part of the TDR program review and market analysis, Seifel analyzed the Planning Department's TDR Database to identify TDR origination and use by parcel. The following tables identify parcels that originated TDR and parcels that used TDR in their development.

Appendix B
Parcels Originating Certified TDR
San Francisco TDR Market Analysis

Year ^a	Originating Address ^b	Building Name	Total Certified TDR	Total Remaining Certified TDR
1986	79 New Montgomery St	Academy of Art University Atelier and Non-Profit Gallery	90,433	2,233
	259 Front St		18,024	-
	660 Market St		73,253	2,253
1987	74 New Montgomery St		43,434	-
	722 Market St		14,786	-
1988	169 Steuart St	YMCA - Embarcadero	31,372	-
	255 Golden Gate Ave		19,476	-
1990	16 Jessie St		86,018	-
	220 Golden Gate Ave	Shih-Yu-Lang Central (Tenderloin) YMCA	81,795	-
	600 Stockton St	Ritz-Carlton	277,376	-
	121-123 2nd St		10,722	222
	301-315 Pine St	Pacific Exchange	118,146	-
1991	415 Geary St	American Conservatory Theater	89,437	-
	491 Post St	Academy of Art Morgan Auditorium	90,750	90,750
1998	1 Bush St	One Bush Plaza	48,501	-
	1 Grant St	Savings Union Bank	25,145	-
	2 New Montgomery St	Palace Hotel and Garden Court Room	336,764	168,382
	20 California St		22,286	-
	116 Natoma St	N. Clark & Sons Building	37,594	-
	116 New Montgomery St	Standard Building	17,487	-
	132 2nd St	Excelsior Glove Factory	20,642	-
	141 2nd St	Rincon Building	17,280	-
	153 Kearny St		31,562	-
	169 Steuart St	YMCA - Embarcadero	89,442	-
	240 California St	Buich Building	25,421	-
	364 Bush St		33,579	-
	530 Sacramento St		52,577	-
	590 Market St		95,424	-
601 Mission St	The Stevenson Building	23,448	-	
1999	28 2nd St		10,585	-
	42 2nd St		16,756	-
	50 Fell St		78,480	20,142
	57 Post St	Mechanics' Institute Library and Chess Room	23,633	3,723
	163 2nd St		10,240	-
	182 2nd St		22,678	-
	200 Kearny St		19,279	-
	230 California St	Hind Building	24,790	-
	400 Montgomery St	Kohl Building	15,336	-
	500 Montgomery St		34,677	-
	520 Montgomery St		11,279	-
	538 Montgomery St		13,707	-
	575 Sutter St		21,931	-
	631 Howard St		26,568	-

**Appendix B
Parcels Originating Certified TDR
San Francisco TDR Market Analysis**

Year ^a	Originating Address ^b	Building Name	Total Certified TDR	Total Remaining Certified TDR
2000	154 Sutter St		19,807	2,807
	445 Geary St	Curran Theatre	56,498	-
	460 Bush St		14,759	2,759
	576 Sacramento St		4,641	-
	1067 Market St		17,158	-
	609-611 Market St		12,590	12,590
2001	77 Beale St		37,639	-
	120 2nd St		19,568	-
	133 Kearny St		37,586	-
	149 2nd St		25,128	-
	215 Market St		151,511	-
	220 Jessie St	Jessie Street Substation	168,300	-
	564 Bush St	Notre Dame des Victoires Church and Rectory	54,930	-
	566 Bush St	Notre Dame des Victoires Church and Rectory	15,402	-
	606 Folsom St		21,130	-
	657 Howard St		75,268	-
	666 Mission St		60,264	-
	748 Mission St		186,590	-
		1182 Market St		106,222
2002	1 Jones St	Hibernia Bank (San Francisco)	82,980	-
	333 Sacramento Street		13,424	-
	1072 Market St		29,706	-
2003	88 5th St	Old Mint	267,728	-
2005	25 Kearny St		18,456	-
	83 McAllister St		12,103	-
	640 Sutter St	Metropolitan Club	27,405	7,405
2006	1 Mission St	Audiffred Building	34,762	-
	36 2nd St		9,742	-
	54 Mint St		5,278	-
	66 Mint St		15,516	-
	96 Jessie St		15,623	-
	99 Battery St		16,015	-
	150 Powell St		17,549	17,549
	200 California St		19,859	-
	209 Kearny St		9,128	-
	236 Front St		36,251	-
	237 Front St		30,526	-
	332 Pine St		21,748	-
	348 Pine St		8,903	-
	429 Bush St	Peter Building	15,873	-
	447 Bush St	Hotel des Arts Hotel	8,650	-
	565 Commercial St		24,037	-
	572 Folsom St		11,536	-
	576 Market St		15,349	-
600 Stockton St	Metropolitan Life Insurance Building	17,864	17,863	
	679 Sutter St		14,812	-

**Appendix B
Parcels Originating Certified TDR
San Francisco TDR Market Analysis**

Year^a	Originating Address^b	Building Name	Total Certified TDR	Total Remaining Certified TDR
2007	1 Taylor St		41,823	41,823
	34 Mason St		1,800	-
	121 Spear St	Rincon Center Post Office	489,452	-
	235 Front St		38,803	-
	407 Sansome St		21,678	13,090
	435 Powell St		6,537	-
	559 Clay St		18,636	4,000
	583 Howard St		16,354	-
	625 Pine St		29,700	-
	635 Pine St		110,550	-
	701 Taylor St		20,742	2,000
2008	982 Market St.	The Warfield	33,510	3,510
	1000 Market St		17,634	17,634
	101 Howard St		18,318	18,318
	168 2nd St		6,342	6,342
	225 Front St		9,167	-
2009	369 Pine St	Exchange Block Building	16,592	16,592
	421 Powell St		28,284	28,284
2010	545 Mission St		18,589	18,589
2011	608 Folsom St		22,044	-
	680 California St	Old St. Mary's	171,567	115,514
2011	144 2nd St		21,450	21,450
	156-160 2nd St		14,040	14,040

a. Year is based on year of case in TDR Database.

b. Originating Address is based on address listed in the TDR Database. Parcel may have multiple or alternate addresses than what is listed.

Source: San Francisco Planning Department TDR Database Dated February 2013.

**Appendix B
Parcels Using Certified TDR
San Francisco TDR Market Analysis**

Year^a	Database Address^b	Building Name	TDR	TDR Purchases
1983	100 First St	100 First Plaza	38,176	2
1984	235 Pine St		55,267	2
1985	101 2nd St		83,664	2
	343 Sansome St	Crown Zellerbach Building	6,850	1
1986	222 2nd St	Not Developed.	103,146	0
	600 California St	Federal Home Loan Savings Bank	5,001	1
1987	111 Pine St		1,000	1
	720 Market St		14,786	1
	142-158 California St		75,981	4
1988	500 California St	Omni San Francisco Hotel	9,999	1
1997	199 Fremont St.		188,000	1
1998	299 2nd St	Courtyard San Francisco Downtown	89,376	1
1999	70 Natoma St	Not Developed. (80 Natoma)	0	0
2000	1 Market St	Southern Pacific Building/One Market Plaza	6,869	1
	69 Clementina St	69 Clementina Lofts	36,095	2
	199 Fremont St.		12,480	1
	500 California St	Omni San Francisco Hotel	35,000	2
	949 Market St	Not Developed. (CityPlace Center)	56,498	0
2001	215 Fremont St	Del Monte Building, Charles Schwab Building	49,246	3
	405 Howard St	The Orrick Building/Foundry Square II	22,253	2
	417 Montgomery St	General Petroleum Building, America California Bank	41,374	4
	451 Montgomery St		33,615	1
	524 Howard St	Not Developed.	89,437	0
	554 Mission St	JPMorgan Chase Building	287,133	6
2002	524 Howard St	Not Developed.	39,000	0
2003	199 New Montgomery St		97,000	3
2005	101 Fremont St	Millenium Tower (301 Mission St)	453,900	5
	155 5th St	Intercontinental Hotel	253,195	1
2006	400 Howard St	Foundry Square I	22,712	3
	466 Bush St	Orchard Garden Hotel	16,000	1
2007	555 Mission St		239,636	9
2008	1 Polk St	Argenta	62,838	4
	<i>535 Mission St</i>		<i>146,880</i>	<i>6</i>
	645 Howard St	One Hawthorne	149,509	6
	<i>1407 Market St</i>	<i>Crescent Heights Planned Development - NeMa</i>	<i>48,768</i>	<i>4</i>
2011	120 Howard St		63,505	1
2012	<i>350 Mission St</i>	<i>Planned Development.</i>	<i>170,145</i>	<i>13</i>
	<i>942 Mission St</i>	<i>Planned Hotel Development.</i>	<i>24,000</i>	<i>2</i>
	<i>505-525 Howard St</i>	<i>Foundry III</i>	<i>23,605</i>	<i>1</i>

Note: Bolded projects were not developed and italicized projects are currently planned or under construction.

a. Year is based on year of case in TDR Database.

b. Originating Address is based on address listed in the TDR Database. Parcel may have multiple or alternate addresses than what is listed.

Source: San Francisco Planning Department TDR Database Dated February 2013.

Appendix C: Case Studies of San Francisco TDR Transactions

As part of the TDR program review and market analysis, Seifel identified and analyzed specific TDR transactions to provide insight into the TDR program implementation and effectiveness as well as the TDR market. The following descriptions of TDR transactions illustrate many of the complexities, challenges and opportunities associated with the TDR program and certification process, as well as project-specific TDR acquisition and use.

A. Rincon Center, 121 Spear Street

Located at 121 Spear Street and built in 1940 as part of the New Deal Work Project Administration, the Rincon Annex U.S. Post Office building contains 27 murals illustrating California history. In 1980, the City designated the historic building as San Francisco Landmark 107. In 1981, the Board of Supervisors approved the Rincon Point-South Beach Redevelopment (RPSB) Plan, which included the Rincon Annex and designated the San Francisco Redevelopment Agency (SFRA) as the entity with land use jurisdiction in the Rincon Point-South Beach redevelopment project area. In August 1985, the SFRA authorized an Owner Participation Agreement (OPA) with Rincon Center Associates for a mixed-use development on the Rincon Annex site and required the rehabilitation and adaptive reuse of the Rincon Annex as part of the agreement. (As noted above, the San Francisco TDR program was adopted on September 17, 1985.) A new 23-story mixed-use building was added on the south side of the block that contains a new post office, offices, and 320 apartments. In addition, two stories were added atop the original Rincon Annex building and a large atrium was cut into the interior.

On May 22, 2001, the Agency Commission adopted a TDR policy that applied Section 128 of the Planning Code to the Yerba Buena Center and RPSB Project Areas, allowing the transfer of development rights from historic properties located in the two project areas that had an underlying C-3 classification in the Planning Code's Zoning District Use Maps. The TDR policy gave the SFRA's executive director the authority to approve and concur as to a Statement of Eligibility prepared by the Zoning Administrator if the Agency Commission determined that such authorization would promote the goals for the applicable Redevelopment Plan and enable the preservation, enhancement or maintenance of a Landmark, Significant Building or Contributory Building.

1. TDR Certification

In November 2006, Rincon Center Commercial LLC, the owner of the Rincon Annex building and an affiliate of Beacon Capital Partners, submitted an application to the Planning Department for a Statement of Eligibility for 508,560 TDR related to the Rincon Annex based on its designation as a historic building and a TDR calculation based on the FAR standard for the underlying zoning for the site of C-3-O. In October 2007, the Zoning Administrator approved the application. As the Rincon Annex was located in the RPSB Project Area, SFRA staff reviewed the TDR application and made an initial determination that it could not concur with the approval because no TDR could be authorized from the site for two reasons. First, as the Rincon Annex had already been rehabilitated based on the 1985 OPA, the TDR would not meet the SFRA's TDR policy requirement of enabling the "preservation, enhancement or maintenance" of an historic structure. Second, the Redevelopment Plan and Design for Development did not authorize any FAR for the site, rather they established development capacity through height and bulk limits, and as the Rincon Annex had already developed to its full height and bulk capacity, staff determined that no excess development rights could be transferred.

After discussions with representatives of the building's owner, the Planning Department, the Mayor's Office, and the Office of the President of the Board of Supervisors, the SFRA Commission approved an amendment to the SFRA's TDR policy to provide for the authorization of TDR in cases such as the Rincon Annex. Under the revised policy, if the historic building that generated the TDR had already been preserved, the SFRA Commission could authorize the Executive Director to concur with the Zoning Administrator's TDR Statement of Eligibility, subject to a finding that the approval would promote the preservation, enhancement or maintenance of other landmark, significant, or contributory buildings owned by the Redevelopment Agency or in or near any project area under the jurisdiction of the SFRA. The policy also allowed the SFRA Commission to authorize concurrence with Zoning Administrator's Statement of Eligibility for TDR based on the underlying zoning map, even if under the standards of the

redevelopment plan in which the preservation lot is located, no unused development capacity exists. This policy revision allowed for the creation of TDR on the Rincon Annex site as long as the approval resulted in the preservation of other historic buildings that the Agency owned located or in or near a project area. To satisfy the revised policy, the Rincon Annex owner agreed to transfer 35 percent of the TDR to the SFRA. The Rincon Annex owner received 489,452 TDR, to date the largest amount of certified TDR on an originating parcel, of which the 35 percent (171,308 TDR) were transferred to the SFRA.

2. TDR Transfer and Use

Since their original authorization, many of the TDR on this parcel have been transferred multiple times, and some have been used.

Rincon Center Commercial LLC's TDR

Rincon Center Commercial LLC received 318,144 TDR from the Rincon Annex. Of these, 102,891 TDR have been used as follows:

- 535 Mission
39,386 TDR used in 2008 for the entitlement of 535 Mission Street (27-story, 378 ft tall, 307,000 sq ft office building under construction, estimated completion 2014); and
- 120 Howard
63,505 TDR used in 2011 for the entitlement of 120 Howard Street (constructed in 1972 as 7-story, 100 ft tall building. Currently, a 9-story, 145,060 sq ft Class A office building).
- One Hawthorne (TDR acquired, held, and resold to Rincon Center Commercial LLC)
In 2007, citing “an apparent limited quantity of TDR currently available” the One Hawthorne development, located at Howard and Hawthorne, filed an application for a TDR Timing Acquisition Variance. If approved, the variance would have allowed the approved project to obtain a site permit and commence construction before the necessary TDR for the project were acquired and extension the TDR acquisition timing until the issuance of the final certificate of occupancy. The Zoning Administrator denied the variance and One Hawthorne LLC acquired 150,000 TDR from Rincon Center Commercial in 2007 and held these TDR until the developers were able to acquire from other sources the necessary TDR for the 25-story, 250 ft tall, 165-unit luxury condominium high rise project. After holding the TDR for four years, One Hawthorne LLC transferred them back to Rincon Center Commercial LLC in 2011.
- Transbay Tower
At the end of 2011, Rincon Center Commercial LLC had 215,253 TDR remaining. In March 2013, Rincon Center Commercial LLC, which is an affiliate of Beacon Capital Partners, entered into an agreement with Hines and Boston Properties to sell approximately 150,000 TDR to be used for development of the 61-story, 920 ft, 1.3 million sq ft Transbay Tower, anticipated to be completed in 2017. Thus, Beacon Capital Partners will have approximately 65,253 TDR remaining.

SFRA's TDR

In 2008, the SFRA received 171,308 TDR. The resolution authorizing the SFRA to approve the Zoning Administrator's TDR Statement of Eligibility for the Rincon Annex and enter into an agreement with Rincon Center Commercial LLC for the transfer of 35 percent of the TDR, also authorized SFRA to offer the Agency's TDR for sale through a competitive process to maximize proceeds. The staff report accompanying the resolution noted that “there is significant demand at this time for additional development rights, and TDRs are presently valued in the range of \$30-\$35 per square foot.” The current market value was cited as \$5 to \$6 million, however, SFRA did not sell its TDR at that time. The SFRA intended to use TDR for the Muni sub-station parcel located at Fillmore and Turk Streets, which SFRA

had purchased in 2003. However, it was unable to find a developer interested in rehabilitating the sub-station and further developing the parcel and in 2009, transferred its 171,308 TDR to the City along with the Fillmore Muni sub-station. According to the transfer agreement, the revenues from the sale of the TDR must be used to develop the sub-station parcel. To date, the City has not identified a developer interested in the Fillmore Muni sub-station, and the TDR remain in its possession.

B. The Old Mint, 88 5th Street

In 1852, President Millard Fillmore authorized a branch of the United States Mint in California, and the building was completed in 1874. After minting operations were transferred in 1937, the Treasury Department and other government agencies occupied the building. In 1961, the “Old Mint” was designated a National Historic Landmark, and in 1988 it was listed on the National Register of Historic Places. Due to needed seismic upgrades and security improvements, the building was permanently closed in 1995 and became property of the General Services Administration (GSA).

In 2001, Mayor Willie Brown established the San Francisco Old Mint Task Force to address the rehabilitation and reuse of the building. In January 2003, the San Francisco Museum and Historical Society submitted a plan to renovate the building and establish a permanent home for the San Francisco Museum. Based on the proposal, the Task Force recommended that the City enter into negotiations with the Society for a 66-year lease. In June 2003, the Board of Supervisors voted to allow the City to take possession of the vacant building from the GSA and enter into exclusive negotiations with the Society to turn the building into a museum.

According to a 2002 study completed by BAE, the seismic and rehabilitation costs—seismic retrofit, historic preservation and rehabilitation, site improvements, building system replacements and upgrades and environmental abatement—were approximately \$25.5 million in 2002 dollars. Today, the costs are estimated at \$50 million to \$60 million (2013 dollars), plus additional costs for museum outfitting.

1. TDR Certification

The City revised the Planning Code to allow as eligible transfer lots any P zoned lots adjacent to a C-3 District that had a historic building on it that is owned by the City and County of San Francisco under the condition that the proceeds from the sale of the TDR were used to finance certain rehabilitation and restoration costs. Any lot satisfying the criteria is deemed to have an allowable FAR of 7.5:1.

In 2003, the City certified 267,728 TDR on the Old Mint and authorized the San Francisco Museum and Historical Society to negotiate the sale of the TDR.

2. TDR Transfers and Use

In 2005, CDC San Francisco LLC bought 253,195 TDR for the InterContinental San Francisco Hotel located at 888 Howard Street, adjacent to the Moscone West Convention Center. Based on recorded documents provided by the City, CDC San Francisco LLC purchased the TDR for \$1,395,000, or \$5.51 per TDR. This is the lowest known sales price for TDR.

Fortress Property Group purchased the remaining 14,533 TDR for approximately \$262,000, or \$18 per TDR. These TDR have not yet been used.

C. Old St. Mary's, 680 California

Old St. Mary's is located at the corner of California Street and Grant Avenue in the Chinatown neighborhood at 660-680 California Street and is San Francisco Landmark 2. Built in 1854, Old St. Mary's was the first Roman Catholic Cathedral built in California and is the second oldest church in San Francisco still in use.

1. TDR Certification

Old St. Mary's was originally zoned in the Chinatown Visitor Retail (CVR) Zoning District and as such, was ineligible to generate TDR. In order to be eligible for TDR, the City needed to re-zone the property and amend the General Plan to change the zoning from CVR to C-3-O. The City based its rezoning recommendation on three factors:

- The property was located one lot to the west of the C-3-O Zoning District and integrating this lot into the commercial zoning would not have a negative effect on the mixed use Chinatown neighborhood.
- No changes in use for the Church property were proposed, and the church would continue serving the community with religious and community services.
- The proposed zoning would enable Old St. Mary's to participate in the TDR program, thus enabling the preservation of the significant landmark.
- In 2010, the Zoning Administrator certified 171,567 TDR for Old St. Mary's.

2. TDR Transfers and Use

Fortress Properties worked closely with Old St. Mary's to rezone the property to allow TDR to be created on the property, and subsequent certification of the property's TDR. Fortress entered into an option agreement with Old St. Mary's to purchase all of the property's certified TDR at \$18 per TDR.

Fortress Properties brokers the sale of Old St. Mary's TDR through its option agreement. When it identifies buyers for the TDR, it transfers its option price to buyers at \$18 per TDR. Old St. Mary's receives \$18 for each TDR, and Fortress Properties charges a brokerage fee to the buyer through a separate agreement. A current transfer has a \$24 per TDR sales price, with \$18 per TDR attributed to Old St. Mary's and the remaining \$6 per TDR to Fortress Properties.

To date, 56,053 TDR have been transferred from the site, while 115,514 TDR remain on the parcel. Of the remaining TDR, 39,600 TDR are in the process of being transferred.

D. Former YMCA, 220 Golden Gate

Built in 1908, the former Central YMCA is a historic 9-story building located on the corner of Golden Gate and Leavenworth Avenues in the Tenderloin neighborhood.

1. TDR Certification

The TDR ordinance allows nonprofit corporations and institutions to certify the maximum amount of FAR allowed on their parcels under the zoning code, exclusive of any existing building FAR. According to the C-3 zoning code, gross FAR excludes existing floor area that is permanently devoted to cultural, educational, recreational, religious, or social services facilities available to the general public at no cost or at a fee covering actual operating expenses, provided that nonprofit corporations or institutions provide the facilities. Selling all of the potential TDR encumbers the building and the user. Only users that qualify to have the same FAR calculation may occupy the building in the future. Based on zoning and the YMCA's ownership, the TDR calculation is based on the maximum floor area based on zoning and assumes no existing building square footage in the calculation. In 1990, the YMCA certified 81,795 TDR.

2. TDR Transfers, Use, Repurchase and Restoration

In 1990, the YMCA transferred to Sepulveda Properties 76,700 TDR, which were used for 101 2nd Street, a 26-story, 388,000 square foot office building developed by Hines in 2000. In 2001, the remaining 5,095 TDR were sold to Foundry Square II Associates for Foundry II, a 10-story office development at 401 Howard completed in 2003 by Wilson Meany Sullivan and Equity Office Properties.

The facility's size and maintenance issues were becoming a financial burden on the operations of the YMCA. The property had significant deferred maintenance and seismic upgrade needs, and it was determined that the best remedy would be to sell the asset, along with the two adjacent parcels of land. In 2005, the YMCA contacted the Zoning Administrator to determine whether TDR transferred from the subject site could be repurchased and restored to the site, enabling the YMCA to sell the building unencumbered by the requirement that it be occupied by a non-profit organization per the TDR code.

Although the Certificates of Transfer of TDR specifically state that “[t]he transfer of TDR from the site of a Contributory Building... permanently restricts development of that site,” the Zoning Administrator determined that the code does not explicitly prohibit re-transfer and allowed TDR to be restored to the site because it was a replacement of existing floor area, provided that the TDR was purchased in a quantity equal to the developed floor areas of the existing building, and that no TDR deriving from the existing structure is transferred from the lot so long as the existing building remains standing on the site. The City's TDR database does not indicate that the YMCA purchased any TDR for 220 Golden Gate to replace the FAR for the existing building.

In 2010, the Tenderloin Neighborhood Development Corporation (TNDC), a nonprofit provider of affordable housing acquired the building. TNDC worked with the San Francisco Mayor's Office of Housing on the rehabilitation and redevelopment of the site. Completed in 2012, the Kelly Cullen Community provides housing to 172 formerly homeless people and includes a Department of Public Health Medical and Wellness Clinic. In addition, the historic theater and common spaces provide social activities and recreational opportunities for Tenderloin residents.

E. McDonald's, 235 Front Street

The site had a three-story brick building built in 1909 and was designated a Category IV Contributory Building in the Front-California Conservation District. In 1989, the building was severely damaged during the Loma Prieta earthquake. Based on assessments from structural engineers, the Bureau of Building Inspection and the Department of Public Works determined that the building was a public health and safety hazard and issued a demolition order, and the building was subsequently demolished. According to the Front-California Conservation District, no new or replacement structure was allowed to be constructed unless it was compatible in scale and design with the surrounding area.

In 1993, a proposal for a replacement structure was filed for a 34-foot high, one-story-plus mezzanine building containing approximately 9,625 square feet. Since the proposal did not require any exceptions, exceed a height of 75 feet, or exceed 50,000 square feet, the Section 309 application was reviewed administratively. The replacement structure was determined to be compatible in scale and design with the Front-California Conservation District, the replacement structure application was approved, and the structure was built in 1994. However, at the time, the replacement structure was not formally designated as a Compatible Replacement Building, which would have made the property eligible to transfer its TDR.

1. TDR Certification

In 2007, McDonald's USA requested a ruling from the Zoning Administrator regarding whether the replacement building at 235 Front Street was eligible to certify and sell TDR despite not formally being designated as a Compatible Replacement Building.

A Category IV Contributory Building is eligible to transfer its TDR, but the alteration or demolition of a Category IV Contributory Building in violation of Sections 1110 or 1112 of the Planning Code addressing historic preservation eliminates that property's eligibility to transfer its TDR. However, the Planning Code did not contemplate a situation in which a Category IV Contributory Building would have to be demolished due to irreparable damage sustained in a natural disaster. Since the demolition of the Category IV Contributory Building on the site was necessary to ensure public health, safety and welfare, the Zoning Administrator determined that it would be contrary to the spirit of the Planning Code to penalize the property owner by prohibiting the certification and transfer of TDR from the property.

The Zoning Administrator determined that the Category V Unrated Building at 235 Front Street was a Compatible Replacement Building and authorized TDR certification on the site.

In 2007, 38,803 TDR were certified on 235 Front Street.

2. TDR Transfers and Use

In 2007, Stockbridge/WMS Foundry 3 Equity Venture, LLC, an affiliate of Wilson Meany Sullivan, purchased 25,000 of the TDR. In 2012, Tishman Speyer purchased the project from Wilson Meany Sullivan and broke ground on the 10-story 286,000 square foot office building at 525 Howard. The project required 23,605 TDR, leaving Tishman Speyer with 1,395 TDR remaining. The 1,395 TDR have not been transferred or used. In 2008, Fortress Properties purchased the remaining 13,803 TDR from McDonald's USA and transferred the TDR to Entrex Holdings, LP. These TDR have not transferred or been used.

F. 80 Natoma

Proposed in 1998 by Robert Swig of Swig Enterprises and Kent Swig of Swig Burris Equities, LLC, the Century was to be a 51-story luxury residential building at 80 Natoma Street at Second Street. Developer Jack Myers acquired the rights to the entitled project and the 160,000 square feet of TDR intended for the project. The proposed development was located directly in the path of the underground trackway leading to the Transbay Terminal Project/Caltrain Extension Project.

In 2005, the the Transbay Joint Powers Authority (TJPA) purchased the parcel from the developer Jack for \$58 million, which included the 160,000 TDR. At that time, the TJPA determined that it did not need the TDR and prepared to sell the TDR.

1. TDR Cancellation of Use

The 160,000 TDR acquired for the Century development were from 6 different parcels:

- 1 Mission
- 169 Steuart
- 236 Front
- 237 Front
- 565 Commercial
- 576-580 Market

TJPA cancelled the planned use of the TDR at 80 Natoma by recording a Cancellation of Notice of Use for each grouping of TDR. It then recorded a Statement of Eligibility for each of the six TDR sets to document the availability of the TDR for sale.

2. TDR Transfers and Use

TJPA entered into a Purchase and Sale Agreement (PSA) with Fortress Properties for the 160,000 TDR. Fortress Properties transferred its purchase rights to JP Capital, LLC. TJPA and JP Capital LLC signed an amendment to Fortress Properties' PSA, and JP Capital, LLC purchased the 160,000 TDR for \$4,040,000 (\$25.25 per TDR) in 2006.

In August 2011, JP Capital, LLC filed Chapter 11 bankruptcy. As part of the bankruptcy proceedings, MS Mission Holdings, LLC, a Morgan Stanley/Lincoln Property joint venture, acquired the 160,000 TDR from JP Capital. To date, MS Mission Holdings, LLC owns the TDR, and they have not been used.

G. Transfer of TDR Ownership and Bankruptcy

David Choo, a real estate investor in San Francisco was one of the most active land buyers in San Francisco in 2006 and 2007. Over this time period, Choo through a group of entities assembled seven parcels at First and Mission where he and fee developer Solit Interests Group sought approvals to build four towers designed by architect Piano. The proposed development was based on the City's Transit Center District Plan and the use of TDR, which allowed for greater development potential on the assembled parcels. As part of the due diligence process and acquisition, Choo acquired over 315,716 TDR from 12 different parcels (which includes the 160,000 parcels JP Capital acquired from 80 Natoma).

Choo financed the property acquisition process with a \$67.1 million loan secured by the deeds of trust against the properties. Capital Source Finance LLC originated the loan and in April 2011 MS Mission Holdings LLC, a Morgan Stanley/Lincoln Property joint venture, acquired the loan. In May 2011, MS Mission recorded a notice of default. At the time, Choo owed \$90.8 million on the property. From May to August 2011, Choo entered into restructuring negotiations with MS Mission Holdings, before filing voluntary bankruptcy.

In December 2011, Choo and MS Mission Holdings entered into a bankruptcy trial. A key component of the trial was the appraisal value of the underlying assets. Choo's appraised valuation, which relied upon the TCDP and included TDR value, set a fair market value of \$140 million, while MS Mission Holdings' valuation was based on existing zoning and did not include TDR value, set valuation at \$70.7 million. The trial court concluded that MS Mission could foreclose on the properties. MS Mission acquired the properties and TDR in January 2012. As a result MS Mission Holdings became the largest non-developer holder of TDR in the market.

Choo sued MS Mission Holdings alleging wrongful foreclosure among other items, but it was dismissed. Choo appealed the decision, and the case was remanded to the trial court based on the exclusion of Choo's witnesses who would have offered testimony on the properties' valuation.

H. Large Projects Built with TDR

1. JP Morgan Chase, 560 Mission Street

The JP Morgan Chase Building is an office building located at 560-584 Mission Street, on the border between South of Market and the Financial District. The 31-story Class A building is 420 feet tall and contains approximately 668,000 square feet of office. This development required 287,133 square feet of TDR, which the developer acquired from six different parcels:

- 163 2nd Street – 10,240 TDR
- 1 Bush Street – 60,000 TDR
- 132 2nd Street – 20,624 TDR
- 2 New Montgomery Street – 168,382 TDR
- 601 Mission Street – 23,448 TDR
- 364 Bush Street – 4,439 TDR

2. Millennium Tower, 301 Mission

At 645 feet in height, the Millennium Tower is the fourth-tallest structure in San Francisco. The 1.2 million square foot, luxury high rise residential complex consists of two towers, 60-stories and 11-stories. In total, the project includes 419 condominium units, 21,500 square feet of amenity space, 8,000 square feet of retail space, and a five-level underground parking garage for 340 cars.

The Millennium Tower opened for sales in 2008, the first units closed in 2009, and the final units closed in 2013. The tower generated \$750 million in sales, a 25 percent return on cost for the \$600 million development. The average selling price was \$1.8 million per unit with 5,000 square foot penthouses selling for nearly \$10 million.

Over one-third of the development's square footage was from TDR. To date, this is the largest TDR development in San Francisco, requiring 453,900 square feet of TDR from five different parcels:

- 215 Market Street – 151,511 TDR
- 77 Beale Street – 37,639 TDR
- 220 Jessie Street – 168,300 TDR
- 748 Mission Street – 77,250 TDR
- 606 Folsom Street – 19,200 TDR

Appendix D: Case Studies of TDR Programs in Other Cities

To enhance its evaluation of San Francisco's TDR program, the Seifel team reviewed other historic preservation TDR programs and, working with the technical committee, selected five programs to survey in greater depth: Los Angeles, Oakland, New York City, Portland (OR), and Seattle (WA). Appendix D includes descriptions of the five programs.

Los Angeles, California

1. Purpose of Program

The City and its Community Redevelopment Agency (CRA) developed its transfer of floor area rights (TFAR) program as part of its plan for the Central Business District (CBD) to encourage a high-density, mixed use downtown. Approved in 1975, the TFAR program was designed to achieve a wide range of objectives: preserve historic landmarks, promote affordable housing, create public open space, provide public transportation and create public/cultural facilities as well as offer flexibility in the concentration of development without overwhelming the overall capacity of the public service and infrastructure system.

During the mid-1970s when the TFAR program was adopted, allowable FAR in the CBD was decreased 50 percent from 13:1 to 6:1, and the TFAR program allowed FAR transfer from underdeveloped sites to new development parcels up to the previous FAR limit of 13:1. The program allows unused floor area potential to be transferred within the CBD as long as the originating and receiving sites were within 1,500 feet of one another and located within the same sub-district.

In 1985, the City adopted a variation of the original mechanism called the Designated Building Site ordinance as a mechanism to preserve historic buildings in the downtown and the City's Central Library in particular. To use this variation, the City Council must find that the Designated Building Site designation is needed to preserve and restore a structure that is designated as historic by the Cultural Heritage Commission, and the building must be City owned and operated. Approval as a Designated Building Site establishes a maximum floor area ratio of 13:1 for the entire land area within the Designated Building Site, not just the receiving site.

2. Program Process

Historically, CRA was responsible for administering the TFAR program, the land use plan and the vision for the CBD Plan. In the original TFAR program, the CRA considered whether an application for TFAR was consistent with the Redevelopment Plan/Community Plan, appropriate within the circulation system and compatible with existing/proposed development as well as the infrastructure system. If the CRA Board approved the TFAR application, this process was repeated three more times by the City Planning Commission, Los Angeles City Council and the Mayor of Los Angeles.

In 2010, several of the CRA's Project Areas were about to expire which meant that the TFAR program would also expire. The City wanted to preserve the TFAR program for these areas, and thus the City adopted TFAR regulations to designate the City as lead on TFAR developments in expiring CRA Project Areas, but it did not include the other CRA Project Areas.

The statewide dissolution of redevelopment agencies in 2011 impacted the TFAR program for the then-active Project Areas. While the CRA had the responsibility for implementing land use regulations in its Project Areas, it was unclear whether the authority transferred to the Successor Agency. The Planning Department is in the process of absorbing the land use regulations and programs under its capacity.

3. Program Experience and Pricing

The City owns sizeable amounts of transferable floor area in the LA Convention Center and other public sites and have the largest TFAR supply in the market. This serves as an inventory of readily available TFAR, thereby assuring developers that they will be able to buy the floor area they need.

When the program was initially developed, CRA brokered publicly and privately owned TFAR. By doing this, private owners were able to have their TFAR based on the receiving site's valuation rather than the

sending site's valuation, which would have been minimal. Over time, publicly owned TFAR has been the main source for TFAR transactions.

For many years, publicly owned TFAR was sold for \$35 per square foot of TFAR. The revenues were put into a fund to be used for affordable housing, open space, historic preservation, public transportation and public/cultural facilities. The original \$35 flat fee per TFAR has since been replaced by the following formula: (a) take the sales price or appraised value of the receiving site; (b) divide by the receiving site area; (c) divide again by the site's baseline density limit; (d) multiply by 40 percent; and (e) multiply again by the number of square feet to be transferred to the site. Based on the formulaic TFAR valuation, TFAR prices have ranged between \$21 to \$23.

For TFAR transactions, the developer must also pay a Public Benefit Payment. When the donor site is owned by the City or CRA, the payment to the City is called the Transfer Payment and is calculated as 10% of the per square foot TFAR price, or \$5 per square foot of TFAR, whichever amount is greater. For privately transacted TDR, the Public Benefit Payment is \$5 per TFAR. Subject to the City's approval, an applicant can apply a portion of the Public Benefit Payment directly to the actual benefits. For example, a developer could apply a portion of the funds for pedestrian amenities. The remainder is deposited in a Public Benefit Payment Trust Fund.

As part of public TFAR transfers, the City establishes timelines for optioning TFAR as well as an expiration date for each transaction. If the TFAR are not used by the negotiated expiration date, the developer must re-acquire TFAR for the project.

Recently the City revised the total buildable square footage calculation for TFAR receiving sites to encourage development around transit. For projects within 1,500 feet of transit, the buildable area calculation for receiving sites is extended from the property line to the middle of the road, which allows more density on the receiving sites.

In 2007, the City created the Downtown Housing Incentives to encourage downtown housing, which is an alternative to TFAR purchases to increase density. The City removed the density restrictions for housing from zoning based on the inclusion of affordable units. The ordinance modified several code sections, offering developers incentives to increase buildable area, reduce parking requirements, as well as yard and open space requirements on housing projects that contain a requisite number of affordable units within the zone. Projects that qualify must offer 5% of the total number of units to Very Low Income individuals; and either 10% / 15% / 20% of the total units to Low/Moderate/Workforce individuals and must replace, on a one-for-one basis, any affordable housing units that were lost through the redevelopment of the site. While this program has not been used yet due to the soft housing market, it could impact TFAR demand in the future.

Oakland, California

1. Purpose of Program

For over two decades, Oakland has had a mechanism that allows transfers of residential density between abutting properties. The TDR ordinance was designed to encourage the preservation of turn-of-the-century summer homes dating back to the days when wealthy families used Oakland as a retreat from San Francisco. However, the TDR ordinance is not limited to historic residential buildings, it can be used in specific residential zones. While Oakland revised its zoning code in 2011, the TDR provision (formerly Section 7057) was inserted in the new code unchanged as Section 17.106.050.

2. Program Process

Under the Oakland program, a potential sending site could be any property in the City zoned for high-density residential (R-60, R-70, R-80 and R-90). Development rights are made available for transfer by restricting the number of dwelling units or floor area that can be developed on the sending site. The legal document restricting future development on the sending site must be approved by the City Attorney and filed with the County Recorder. Only properties which abut the sending site may be used as receiving sites. Once approved, these receiving sites can use the development rights acquired from the sending sites to exceed the density allowed by the site's base zoning.

The transfer is made through the conditional use permit (CUP) process. In order to be approved, the proposed density increase must be provided for in the zoning regulations for the receiving site. A TDR application must also meet all of the criteria generally required for the granting of a CUP. In addition, the City must find that the transfer of dwelling units or floor space would have an impact that is at least no greater than the impact which would result from the amount of development automatically allowed by the zoning code for the sending and receiving sites.

3. Program Experience and Pricing

It is likely that interest in transferring development rights is reduced by the need for receiving sites to abut sending sites. In addition, base zoning can allow floor area ratios as high as 7:1 to potential receiving sites, typically supplying more density than most developers can use.

The City's TDR code section requires sending and receiving sites to be adjacent. But the City has previously approved a variance to allow this transfer between nearby but not adjacent properties.

New York City

1. Purpose of Program

New York's TDR program began in 1968 and is one of the most active and mature TDR programs in the U.S. It was initiated to mitigate possible financial losses by owners whose properties were designated as landmarks and to allow greater flexibility through a zoning lot merger, or density zoning. Over time, it has been modified to include an affordable housing component.

There are three ways to transfer TDR: zoning lot merger, certification or special permit, and through the inclusion of affordable housing.

Zoning lot merger is the most common type of TDR transfer. The transfers are limited to adjacent properties with a minimum of ten contiguous feet between adjacent properties. If the properties are not adjacent, but within the same block, neighboring parcels can be included through assemblage of adjacent parcels. For the zoning lot merger, the properties do not have to be under single ownership, but they are treated as one.

The certification process applies to special zoning subdistricts that promote historic preservation, open space and unique cultural resources such as the Theater District. The certification process does not require parcels to be adjacent, but they need to be within the same subdistrict. Designated landmarks that are not in a special subdistrict require a special permit. In these cases, the site may be adjacent, across the street, or diagonal if the site is on a corner.

Inclusionary housing TDR requires that the development allocates at least 20 percent of the floor area to households earning 80 percent AMI or below. For each housing square foot, the development receives an additional 0.25 square feet of development. The FAR can be transferred off-site to a project in the same community district or a project within ½ a mile.

2. Program Process

Because a zoning lot merger constitutes an actual purchase of some or all of the unused development rights of certain tax lots, the parties to this transaction customarily execute and record a deed-like instrument known as a Zoning Lot Development Agreement (ZLDA) documenting the sale and transfer of development rights.

The ZLDA, and any related purchase and sale contracts among the parties, govern the delivery of the TDR. The ZLDA contains the principal business terms of the transaction: the purchase price, the development rights, if any, retained by the grantor lot for potential future use, and the number of development rights that are being made available to the purchaser. Because a ZLDA marks the transfer of a real property interest upon its recordation, the parties are required to pay city and state real property transfer taxes on the sales price.

Occasionally, instead of a ZLDA, parties will execute a more streamlined instrument that, by its terms, completes the transfer of the development rights. Transfers that occur through mechanisms other than zoning lot mergers are recorded using different instruments.

3. Program Experience and Pricing

Supply and demand dictate the price of TDR in the market, but air rights are estimated to trade for 50 to 60 percent of the underlying land value. Twenty years ago, \$45 a square foot was considered a typical price. Based on 210 arm length TDR transactions from 2003 to 2011, the average TDR price was

\$171 per square foot. In the last six months of 2012, one broker was involved in the negotiation of 11 transactions totaling 291,623 square feet of air rights, with an aggregate worth of \$75 million or \$257 per square foot. Pricing in prime neighborhoods has approached \$450 per square foot in recent years.

Portland, Oregon–Transfer of FAR (TDR)

1. Purpose of Program

The City of Portland’s density bonus and transfer programs reflect a number of programs adopted from 1988 through 2003 for the Central City. The programs were instituted to meet a range of public policy objectives, including preserving historic landmarks, residential housing and SRO units and open space in the South Waterfront subdistrict. In particular, Portland wanted to encourage integrated design and development of larger areas to allow greater cohesion and place making while preserving historic landmarks and creating a revenue stream for rehabilitation in addition to protecting affordable housing.

These programs have been successful to varying degrees in achieving these objectives. The overall entitlement system consists of 18 bonus options and 6 transfer options adopted over almost 20 years.

The programs operate within the maximum density and height parameters of the Central City.

The programs can compete with each other, with developers tending to opt for the lowest cost option for additional FAR.

The Central City’s FAR transfer options break down into four basic types:

- 1) Intra-project transfer: The Abutting Lot transfer is used within a single development project that includes multiple entitled lots which border each other, or in some cases face each other across a right-of-way. This option involves shifting some FAR potential from one lot to boost the potential on another lot above its base FAR.
- 2) Cross-district transfers: There are three examples of this type (SRO, Historic Landmark, and Residential transfers). These options involve transferring the FAR from a site that contains a building to be preserved to a new development site. This development potential can be purchased from the owner of the sending site, and transferred over a fairly wide range, creating a market for FAR.
- 3) Sub-district transfer: Within the South Waterfront sub-district, FAR can be sold and transferred among sites that do not have to be abutting.
- 4) Central City Master Plan transfer: This option is used within a master planned area that includes multiple lots. The cumulative FAR potential from the lots may be shifted among the individual sites, so that any individual site may end up with density exceeding the base amount. This transfer option is unique because it does not limit the amount of FAR that can be transferred to an individual site (whereas other transfer and bonus options are generally limited to an additional 3:1 FAR). In addition, master planned areas can consist of non-contiguous sites, which potentially allow transfers across the Central City.

2. Program Experience and Pricing

The cost of FAR in the Transfer Program is determined in many cases through negotiation. Professionals in the market reported that transferable FAR sold within a range of \$6.50 to \$18.00 per square foot in 2007, with an average of roughly \$10.00 per square foot.

Seattle, Washington

1. Purpose of Program

In 1985, as part of the comprehensive Downtown Restoration effort, the City developed its TDR program to help retain low income housing, preserve historic landmarks, encourage infill development, and create incentives for varying building scale in the downtown. In 1988, the City established a TDR bank.

2. Program Requirements

The Seattle downtown revitalization program includes a TDR program that is based on districts that have specific planning objectives. Each district has its own mechanisms, guidelines and TDR calculation formulas according to the specific planning goals for the district. Although the specific use determines the eligibility for sending and receiving areas, the amount of TDR rights is determined on square footage. In general, the transferable area is determined based on the potential floor area that could be developed on a site and subtracting the amount that has already been developed.

3. Program Process

In the TDR processing, the City reviews the TDR calculations and certifications to verify the accuracy of the amount of eligible TDR from the sending site, and also verifies the paperwork for the transfer from the sending site to the receiving site. The City tracks all of the TDR transactions in a manually updated database and generates quarterly reports. All transactions, whether private or through the TDR bank, require execution and recordation of a TDR Agreement between the owner of the TDR site and the City. TDR are transferred by a Statutory Warranty Deed and are recognized by the courts as real property.

4. Program Experience and Pricing

The City has revised its zoning and TDR programs to incentivize TDR use. Under the original TDR program, maximum allowable density could be reached without the use of TDR credits through the inclusion of other amenities and bonuses. Height and density regulation revisions in 1989 significantly reduced building height limitations and the base and maximum FAR. As a result, many of the older buildings in the City were at or above their FAR, which reduced the available supply of TDR credits.

Due to the complexity of the program and to encourage the preservation and rehabilitation of particular uses, the City developed a TDR Bank to facilitate the purchase of TDRs. To encourage affordable housing preservation, the City gave the TDR bank \$1.2 million to purchase housing TDR from sending sites. In 1994, the City contributed \$3.1 million to the TDR bank for the purchase of development rights from landmark performing arts theaters. For the first 11 years, the City was the sole purchaser of TDRs. The first private purchase from Seattle's TDR bank was in 1997 for 130,000 square feet for \$1.5 million, approximately \$11.54 per TDR. Each deal processed through the bank is privately negotiated. Initially, the bank sold TDR for less than they were purchased, but increased oversight and tracking in early 2000 ensured that the bank was not losing money.

In Seattle, TDR pricing has ranged from \$15 to \$20 per TDR. The total TDR purchases made by the City between 1992 and 2012 is approximately \$6.3 million, with an average square foot cost of \$13. The city's total TDR sales between 1997 and 2012 is \$12,257,305, with an average square foot cost of about \$15.

Pricing has been impacted by other City policies. For increased FAR, the first 75% of the needed additional floor area can be acquired by paying the Housing/Childcare Fee or through the purchase of privately held TDR or housing TDR from the TDR bank. As a result, current housing TDR pricing is comparable to the Housing/Childcare Fee, which is approximately \$22 per square foot.

Letter B-1a
Oakland Heritage Alliance
Tom Debley, President
September 18, 2019

Response B-1a.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-1a.2 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-1a.3 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Attachment A, B, C The attachment does not address the adequacy of the Draft EIR; no further response is necessary.



September 22, 2019

(By electronic transmission)

**To: Landmarks Preservation Advisory Board
Downtown Specific Plan Team**

Subject: Downtown Oakland Specific Plan Public Draft for Review

Oakland Heritage Alliance (OHA) has not yet completed its review of the Draft Downtown Oakland Specific Plan (DOSP) so the comments we are presenting in this letter are still preliminary and are subject to future modification and expansion.

In our September 17, 2019 letter to you, we attached a statement of our three primary objectives, which are updated in the attached revised statement to reflect the current draft plan and which read as follows:

1. Reduce existing excessive by-right zoning intensities (floor area ratios or FARs, height limits and residential densities) coupled with increased, or “bonus” intensities in exchange for community benefits, including affordable housing and transferable development rights (TDRs) for historic buildings.
2. Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) do not exceed the scale of contributing historic buildings within the APIs and ASIs.
3. Provide a robust TDR program.

Some provisions of the draft plan, notably the “Proposed Maximum Intensity Map” on page 217, are clearly inconsistent with these objectives, especially Objective 2. Consistency with Objectives 1 and 3 is unclear, because the viability of Objective 1’s community benefits program and Objective 3’s TDR program depend on base (“by- right”) zoning intensities (height, FAR, and residential density) being low enough to incentivize developers to provide community benefits (including TDRs) in exchange for increased “bonus” intensity.

Although the draft plan describes such a two-tiered system in its “zoning incentive program” discussions, the proposed maximum intensity map only shows maximum intensities, without the by-right intensities. The by-right intensities are needed in order to evaluate whether the community benefits and TDR programs will actually work.

According to the plan and staff statements, the by-right intensities and the actual maximum intensities will be determined by the zoning intensity study currently underway and the actual

zoning intensity map resulting from that study as well as other input which will be completed either concurrently with the final plan or shortly thereafter.

3,
cont.

Given the foregoing concerns, we have the following specific comments:

1. **Reduce proposed zoning intensities within most APIs and ASIs so they are more consistent with the API/ASIs contributing historic buildings.** The intensities shown on the proposed maximum intensity map must be reduced or modified in many cases so that they do not exceed the scale of contributing historic buildings within APIs and ASIs as per OHA Objective 2. Examples of these problematic intensities include:
 - a. **Produce market API, which is mostly one-story buildings about 15 feet in height.** It currently has an appropriate 1.0 FAR but is proposed for a problematic 2.0/3.5 maximum FAR and a 45 foot/55 foot height limit. OHA recommends a maximum height limit of 25 feet.
 - b. **Lower Broadway ASI, which contains Oakland’s six oldest documented buildings from the 1850s and 1860s, which are one and two stories (about 15–25 feet in height).** The current FAR is an excessive 7.0 and the proposed FAR increases this to 7.5 with a grossly excessive 85-foot maximum height limit. OHA recommends a maximum height limit of 25 feet.
 - c. **Old Oakland API with maximum contributing building heights of approximately 45 feet, including parapet.** The proposed maximum FAR is 2.0/3.5 with 44/55-foot height limits. A 45-foot height limit would be appropriate, but it is not yet clear if the maximum height limit will be 45 feet or 55 feet. It should be 45 feet.
 - d. **Lakeside apartment district API or “Gold Coast”.** This area currently has an appropriate 55 foot height limit and 4.5 FAR but is proposed for upzoning with a 65 foot height limit and 5.0 FAR (Intensity Area 2) and an 85 foot height limit and 7.5 FAR (Intensity Area 3). The existing height limits and FAR should be retained.

4

See attached map of OHA preliminary height limit recommendations. (Note: the March 1, 2019 version of this map was attached to our September 17, 2019 letter to the Landmarks Board, but we have updated it to the attached September 22, 2019 version to reflect the plan’s proposed maximum intensity map as well as several minor adjustments to our March 1, 2019 recommendations.)

In addition, staff has advised us that the two-tiered intensity designations for Intensity Area 1 (e.g. 45 feet/55 feet height limits) reflect lower Area 1 intensities south of I-880 and higher Area 1 intensities north of I – 880. However, staff advises that lower intensities north of I-880 in Area 1 may still be applied to specific subareas, based on future analysis of each subarea.

2. **Two-tiered development intensity framework and community benefits including TDR program.**

- a. **Expand the zoning intensity program boundary to include most areas outside of APIs and ASIs and delete areas which includes certain APIs and ASIs.** Expanding the zoning intensity program area will compensate for the OHA-recommended reduced by-right intensities within APIs and ASIs. Examples of APIs and ASIs that should be deleted from the intensity program area include the Downtown and Uptown APIs and the Upper Telegraph Avenue 23rd–27th St. ASI.
- b. **Direct the consultant preparing the zoning intensity study to identify: (i) where reductions in current by-right intensities will incentivize developers to seek bonus intensities under the community benefits/TDR programs; and (ii) the reduced by-right intensity levels.** See attached 5-28-19 zoning intensity study proposal.

Despite repeated requests from OHA and other stakeholders, staff instructed the consultant to take the existing by-right intensities (height limits and FARs) as a given and only evaluate increases from these existing by-right intensities as possible bonus intensities. **The Downtown Specific Plan must instead assess the existing by-right intensity levels throughout the plan area for possible reduction, accompanied by additional “bonus intensity” that would be available in exchange for TDRs, affordable housing and other community benefits.** In much of the plan area, the existing by-right intensity levels appear too high to adequately incentivize proposals for community benefits. This is especially the case when combined with state density bonus law provisions, which allow for significant intensity increases in exchange for minimal levels of affordable housing.

It is therefore extremely important that the zoning incentives study include analysis of what “base” or “by-right” development intensity is best for making incentives work. Unfortunately, the study appears to be comparing only the *existing* development intensities (much of which resulted from the 2009 downtown upzoning and some of which are too high) with the “up-zoned densities contemplated by the Downtown Oakland Specific Plan”, as stated in Task 3.2 in the 5-28-19 study proposal. Thus, we will not know if reduced intensities in some areas would actually make the use of community benefits more likely.

Limiting the study to the “up-zoned densities contemplated by the Downtown Oakland Specific Plan” is putting the cart before the horse and suggests that staff is hoping to use the consultant’s analysis to justify zoning recommendations that staff has already developed without community input. **The proposed “by-right”**

zoning and “bonus” zoning in the plan should instead derive from the consultant’s analysis, with the by-right zoning low enough and bonus zoning high enough to adequately incentivize provision of the identified community benefits, including affordable housing and preservation of historic buildings through TDR and possibly other mechanisms.

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cont.

3. Delete the following provisions from the implementation action list:

- a. **Action step 54, third bullet (page 270) that calls for “exploring allowing additional height on parcels adjacent to historic properties that rehabilitate the adjacent historic property”.** This strategy is an unnecessary incentive for historic building rehabilitation and could significantly compromise the setting for rehabilitated buildings. LU-2.1 and LU-2.2 are cited as relevant policies, but these policies do not mention this strategy.
- b. **Action step 74 (page 276), which states “update the city’s demolition findings to allow development near the periphery of fragmented Areas of Primary Importance and Areas of Secondary Importance that is compatible with the historic district”.** This action step appears to promote demolition of contributing buildings within APIs and ASIs. If portions of APIs and ASIs are “fragmented” (presumably by vacant lots), compatible development of vacant lots should be promoted instead.

6

4. Classify “opportunity sites” into distinct categories, with identifying names and the distinct categories added to the Opportunity Sites Map (Figure LU-3, page 201). All sites in APIs and ASIs should be considered as “historic district infill” and not included in the Opportunity Sites Map. “Underutilized sites” should similarly exclude historic resources. “Adaptive reuse” site language should be rewritten to refer to the Historic Preservation Element and language already in other city requirements. And, publicly-owned sites should have their own category, as these public assets should be preserved for public-serving uses.

The below are examples of sites identified as “opportunity sites” which should be reclassified. This is not an exhaustive list. OHA may add to the list as part of our further review of the Draft Plan.

7

- a. **Main Library: key public asset on public land.** The 1951 Miller and Warnecke building as well as its site is a historic and cultural resource. This facility was purchased with public bond funds, is a public asset and must so remain. While the library could perhaps be improved, modernized, or expanded, the site should remain a library property and not shown on the Opportunity Sites Map.
- b. **Fire Alarm Building: historic building, Walter Matthews, 1911.** Historic building on open space, originally park land. Again, a public asset. Should be reserved for

future library use if needed, or similar public-facing facility and not shown on the Opportunity Sites Map.

- c. **401 Broadway and 430 Broadway:** county-owned buildings which should be classed as public assets.
- d. **Schilling Garden on 19th Street, a historic resource in an API.** Adjoining Snow Park has recently been enlarged and rebuilt with Measure DD and federal funds. The site should be identified as “historic district infill,” not shown on the Opportunity Sites Map and probably zoned as open space or limited height so that it will not have impacts on the now heavily-used park. It may present a great opportunity for public acquisition as a potential future park acquisition.

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cont.

OHA requests the Landmarks Board recommend to the City Planning Commission that the Commission direct staff and the consultants to apply the above specific comments to the next iteration of the specific plan.


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Given the importance and complexity of the plan document, **OHA also recommends that the Landmarks Board continue its discussion of the draft plan to its October meeting.**

9

Thanks so much,

Sincerely,



Tom Debley
President, Oakland Heritage Alliance

Attachments:

1. OHA Statement of DOSP Objectives
2. OHA Preliminary Height Map Recommendations
3. Zoning Incentives Study Proposal

By electronic transmission:

cc: William Gilchrist, Ed Manasse, Laura Kaminski, Alicia Parker, Joanna Winter, Peterson Vollmann, and Betty Marvin, Bureau of Planning
Dover Kohl
Oakland City Planning Commission
Mayor and City Council

Draft Downtown Oakland Specific Plan
STATEMENT OF OAKLAND HERITAGE ALLIANCE PRIMARY
OBJECTIVES.
September 22, 2019

The following objectives are derived from those set forth in Oakland Heritage Alliance's January 22, 2019 letter to the City Planning Commission on the Preliminary Draft Downtown Oakland Specific Plan and appeared in that letter as Items 2, 3, and 4.

1. **Reduce existing excessive by-right zoning intensities (floor area ratios or FARs, height limits and residential densities) coupled with increased, or "bonus" intensities in exchange for community benefits, including affordable housing and transferable development rights (TDRs) for historic buildings.** See TDR discussion in Objective 3 below.

The Specific Plan provides an opportunity to correct the mistakes of the 2009 rezoning that provided excessive by-right height limits and FARs, which eliminated any incentives for developers to provide community benefits. For example, much of downtown Oakland was provided with by-right 14.0, 17.0 and 20.0 FARs in the 2009 rezoning, which, unfortunately, is mostly retained in the Draft Specific Plan. This is especially disappointing, given such statements in the 2016 Plan Alternatives Report as the following on page 4.7: "Rezoning areas with unnecessarily excessive height limits to allow for more flexibility with density bonuses and other developer incentives".

By comparison, the maximum by-right FAR in San Francisco resulting from its 1985 Downtown Specific Plan was 9.0, which can be increased up to 18.0 with TDRs and other community benefits. "Overzoning", such as what exists in downtown Oakland, tends to artificially inflate land values and create more barriers to providing affordable housing and encourages owners to "land bank" their property while waiting for a major development project that will pay them top dollar. Ironically this can **discourage** development, rather than encourage it, as intended by overzoning. Land banking also tends to encourage a slumlord mentality, with building owners reluctant to spend money to properly maintain their buildings and refuse long-term leases that could include major tenant improvements, thereby discouraging high-quality tenants.

2. **Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) does not exceed the scale of contributing historic buildings within the APIs and ASIs.**

The Plan should require that new structures be visually subordinate to contributing buildings so as to not visually overwhelm the API/ASI and potentially compromise its API/ASI eligibility. In many cases, this means that the heights of new buildings need to be lower than the tallest adjacent contributing building and sometimes significantly lower, perhaps one or more stories. For example, a new building located between a one story and three story contributing building should probably be no more than two stories. This must be reflected on any height/FAR maps that come out of the plan. *This is*

especially important in Old Oakland, where the current by-right height limit is 55' (increased by 5' in 2009) while the tallest contributing buildings are about 45'.

Avoiding excessive architectural contrast with contributing buildings is a further requirement for achieving visual subordination and should be addressed in the Design Guidelines to be prepared as part of the Specific Plan.

3. **Provide a robust Transferable Development Rights (TDR) program.** Although the plan calls for a TDR program, an actual program mechanism has still not been provided, despite promises for such a program in previous Downtown Specific Plan documents. We are disappointed that a more developed TDR proposal or options has not been provided, given the considerable elapsed time and resources that have now been dedicated to the Specific Plan.

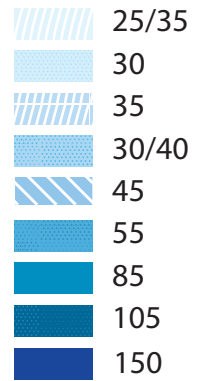
A TDR program was called for in the General Plan's 1994 Historic Preservation Element. Now 25 years have elapsed and the program still has not been implemented, despite the major resources dedicated to the Downtown Specific Plan and previous major land-use policy documents, including the 1998 Land Use and Transportation Element, the 2009 Downtown Rezoning and the 2014 Lake Merritt Station Area Plan. TDRs have been very successful in preserving historic buildings in downtown San Francisco and elsewhere. The San Francisco model could be adopted almost verbatim in Oakland. See the Historic Preservation Element and the 2013 Seifel report on the San Francisco program (previously provided to the Landmarks Preservation Advisory Board) for further discussion.

Oakland Heritage Alliance
Preliminary Height Limit Recommendations: 9-22-2019

Letter B-1b
Attachment B

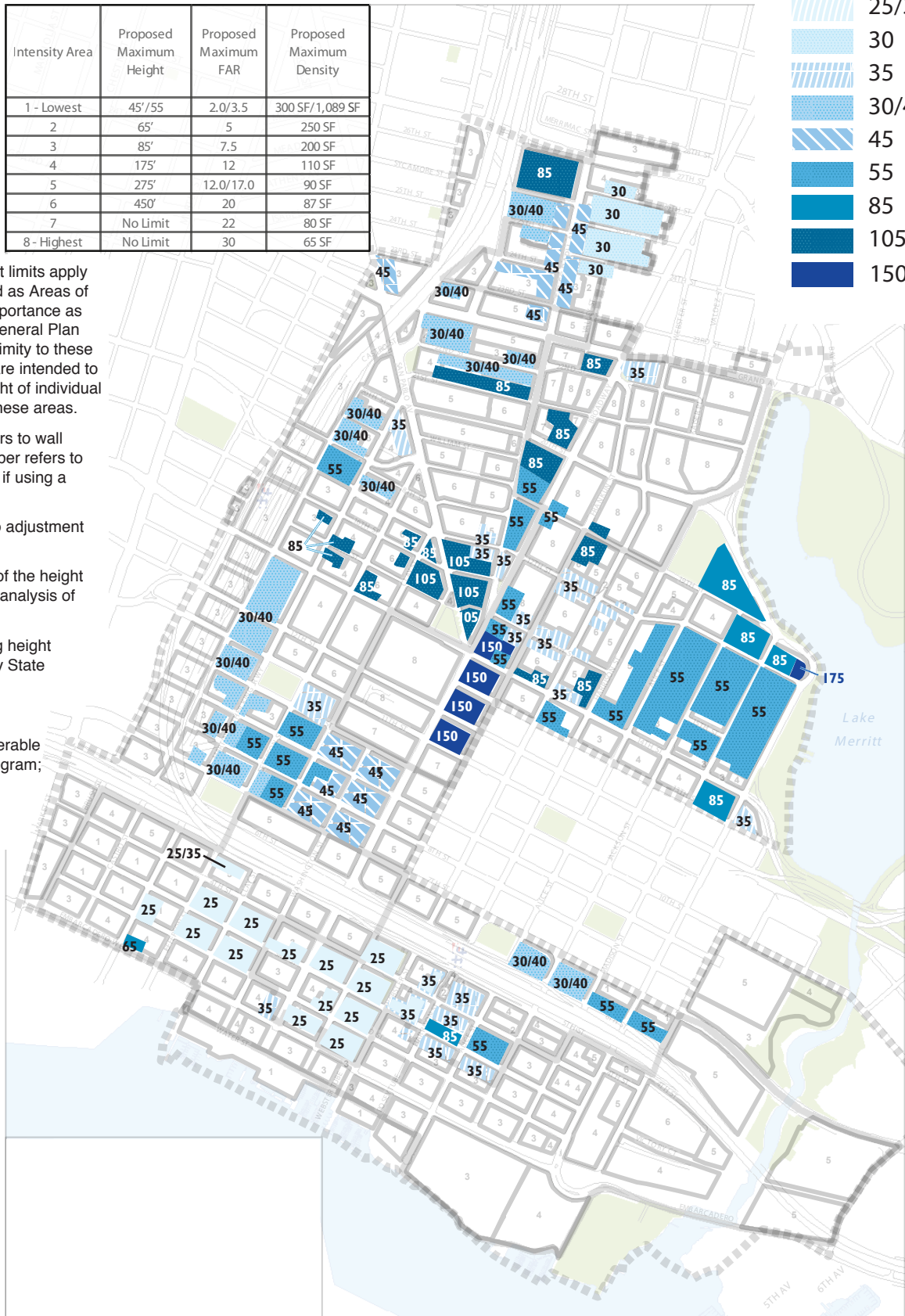
OHA Recommends

Intensity Area	Proposed Maximum Height	Proposed Maximum FAR	Proposed Maximum Density
1 - Lowest	45'/55	2.0/3.5	300 SF/1,089 SF
2	65'	5	250 SF
3	85'	7.5	200 SF
4	175'	12	110 SF
5	275'	12.0/17.0	90 SF
6	450'	20	87 SF
7	No Limit	22	80 SF
8 - Highest	No Limit	30	65 SF



OHA NOTES:

- The recommended height limits apply to historic areas identified as Areas of Primary or Secondary Importance as defined in the Oakland General Plan and parcels in close proximity to these areas. The height limits are intended to reflect the prevailing height of individual historic buildings within these areas.
- **30/40** = First number refers to wall height limit. Second number refers to roof height limit available if using a gable or hip roof.
- All height limits subject to adjustment depending on:
 - Continued refinement of the height limits based on further analysis of as-built conditions;
 - Strategy for addressing height increases mandated by State Density Bonus Law;
 - Floor area ratios;
 - Provision of any transferable development rights program; and
 - Ongoing consultations with stakeholders.



Proposal

Downtown Oakland Specific Plan Zoning Incentives Program Economics Study

The Economics of Land Use



Prepared for:

City of Oakland

Prepared by:

Economic & Planning Systems, Inc.

May 28, 2019

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EPS #191033

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1. PROJECT UNDERSTANDING

The City of Oakland (City) is preparing the Downtown Oakland Specific Plan to ensure the downtown's continued growth and revitalization while providing community benefits to local residents and the broader community. The Preliminary Draft Plan (January 2019) proposes policies that link real estate development, land use, transportation, economic development, housing, public spaces, cultural arts, and social equity as measurable outcomes. As part of the planning effort, the City is contemplating how upzoning envisioned would affect land value and, to what extent and through what approaches, this value creation may provide funding or other opportunities for community benefits. The City has identified five focus geographies for potential incentive zoning with each posing unique land-use opportunities and policy objectives.¹

California cities have a long history of obtaining community benefits from real estate development through a variety of mechanisms, including fees, conditions of approval, and development agreements. Today throughout California, zoning incentive programs are establishing clearer, better-defined approaches to ensuring that community benefits from new real estate development projects fulfill unmet development objectives while also providing transparency to developers. Zoning Incentive programs commonly are founded on the concept of "value capture," an approach in which a public entity recovers value for public purposes. Public entities commonly create value with investments in public facilities and services (e.g., transit and utilities upgrades), as well as through changes to zoning codes that increase the potential value of land. Typically, when the public sector creates value in these ways, landowners enjoy an associated financial gain. However, value capture may be used to leverage specific outcomes of public interest or benefit that would not otherwise occur.

The State of California's Affordable Housing Density Bonus Law is an example of a zoning incentive value-capture program. Under this law, developers are granted additional density (i.e., the right to build additional market-rate units) in return for their development of affordable-housing units. Whenever a city offers planning and zoning flexibility, an additional increment of value is created, and it is appropriate for the project developer to share a portion of that value gain with the community for use toward a public benefit.

The City is seeking economic analysis and related policy guidance that informs establishment of a zoning incentives program for the Downtown Oakland Specific Plan. The work will consider the City's potential policies to: create value; measure value increments that might be reclaimed for public purposes; and suggest program approaches and methods that are likely to generate the desired public benefits. The economic evaluation will use a pro forma financial feasibility framework to estimate land value created by zoning incentives (i.e., increments of additional height and density identified by the City) that may be offered in certain focus areas of the plan. The analysis would also consider the policy landscape for zoning incentives programs (case studies on relevant programs in other jurisdictions, including Transferable Development Rights

¹ Focus areas are the Art and Garage District, Lake Merritt Office District, Third Street (West of Broadway), Oak Street (South of 10th Street), and Victory Court.

(TDR) examples), evaluate the possible interaction of a downtown Oakland program with California's Density Bonus Law, and touch on other funding sources for community infrastructure, such as Enhanced Infrastructure Financing Districts. The study will culminate with targeted recommendations for a zoning incentives program in Oakland's downtown. The Work Program provided below details EPS's proposed approach to providing these services.

2. *WORK PROGRAM*

EPS proposes to undertake case-study research and technical real-estate analyses to address the potential for a successful Downtown Oakland Specific Plan (DOSP) zoning incentives program that addresses the City's policy objectives as identified by the Preliminary Draft Plan and future collaborations with City staff. This research will consider various zoning-incentive program models, financial analysis of the value created by projected increased development capacity, and evaluation of how a zoning incentive program might interact with State Density Bonus Law and a potential Transferable Development Rights (TDR) program in the Downtown Oakland Specific Plan area. The EPS Work Program also includes a high-level review of the potential for an Enhanced Infrastructure Financing District (EIFD) and Downtown Oakland Specific Plan-specific area development impact fee. As described below, the proposed Work Program may be further refined based on City input to ensure that EPS work products successfully support the Downtown Oakland Specific Plan process and outcomes, furthering the City's broader policy objectives for Downtown Oakland.

Task 1: Project Initiation

Before a project initiation meeting, EPS will review the Preliminary Draft Specific Plan and other background documents provided by the City. Subsequently, EPS will attend a project initiation work session with City staff to review, discuss, and refine the proposed Work Program as necessary. During this kickoff meeting, the group will discuss the history of the Downtown Oakland Specific Plan effort to date, City goals and key policy objectives, and the primary objectives and deliverables of this study. In addition, EPS will review with staff the methodologies EPS has typically used to measure community benefits potential in recent assignments for other jurisdictions. Communication protocols, data requirements, and the schedule for project deliverables will also be confirmed at the project initiation meeting.

Task 2: Zoning Incentives Program Case Studies

EPS will identify relevant precedents for plan-based voluntary zoning incentive programs that deliver benefits above and beyond statutorily required project contributions. It is anticipated that this task will include an overview of value capture theory, zoning incentive program types and their processes, and highlight a range of zoning incentive program models. This zoning incentive program overview will discuss the economic rationale for voluntary community benefits and will present a range of approaches employed by cities to incentivize community benefits contributions. In addition, this task will consider up to six examples of existing zoning incentive programs and document findings in a case-study format. TDR programs will be considered, including up to three examples of this approach toward generating community benefits.

Task 3: Zoning Incentives Financial Analysis

Task 3.1: Market Assessment and Construction Cost Data

In this task, EPS will identify and assemble available data sources to support pro forma financial analysis, including real estate market data and construction cost data. As data allow, the information will be specific to Oakland and detailed by geographic subarea and land use. Given

the City's desire to study specific focus areas in the Downtown Oakland Specific Plan, EPS will endeavor to identify key market differences generated by the specific local context of each Downtown Oakland Specific Plan focus area.

EPS will analyze real-estate market trends, including rents, vacancies, and sale prices for land and buildings by land use. The assessment will leverage existing EPS local market knowledge with information from published brokerage reports, informal interviews with knowledgeable local brokers and developers, and market information from CoStar Group. Construction costs will be based on representative, location-adjusted per-square-foot cost estimates from Leland Saylor or RS Means (annual construction cost estimator datasets) and will be generally verified during the informal conversations with local developers, as well as through review of EPS in-house project data for comparable developments.

Task 3.2: Real Estate Development Prototypes

A set of up to six development prototypes consistent with the existing zoning and the up-zoned densities contemplated by the Downtown Oakland Specific Plan will be defined and agreed on in collaboration with City staff. These development prototypes will form an essential basis for the financial analysis by defining projects allowable under existing zoning and new zoning. The prototypes will define the achievable height and density of buildings that would be constructed under different scenarios (with and without the zoning increases in each focus area). In following this analysis, it will be critical that the prototypes accurately reflect the density increase achievable for typical projects over and above "baseline" land use designations and zoning regulations. EPS will rely on City staff input concerning building formats.² With input from City staff, EPS will finalize the set of prototypes for financial modeling.

Task 3.3: Pro Forma Financial Feasibility Analysis

EPS will create a static (i.e., stabilized year) pro forma financial analysis that estimates the market-supported "residual value" created by each building prototype. Up-zoned prototype values will be compared with baseline values for residential and commercial land uses across the focus area geographies. These pro forma financial analyses will reflect the market potential and cost of development, based on analytical inputs identified as part of prior tasks. For example, lease rates for each focus area and construction costs for new development will factor into the land value estimates generated for each building prototype. This analysis also will consider the value creation that may be derived from State Density Bonus Law and how this would potentially affect the City's incentive zoning policy. The pro forma analyses will establish expected supportable land values under existing and potential zoning allowances, identify increases for each zoning incentive, and specifically address each focus area to the extent data support differentiation. Land value outputs will be reported as a range based on EPS analysis of key market and economic inputs. Additional sensitivity testing, as may be requested by the City, would require authorization and use of budgeted contingency funding.

² Engaging an architect/planner to assist with prototype development may be advisable to improve precision around achievable site yields (buildable space) under various zoning scenarios. EPS is able to subcontract such expertise at the City's request (cost not included).

Task 3.4: Financial Feasibility of Benefits Requirements

Following assessment of the value creation from increased density for each prototype, EPS will test the feasibility implications of various benefits requirements contemplated by City staff. EPS will work with the City to identify up to five benefit requirements. The financial impact of these requirements will be tested after they have been explicitly defined (e.g., affordable housing requirements would include affordability levels, tenure, and unit types) using the financial feasibility analysis framework established in **Task 3**. This assessment will determine correspondence between specific benefits sought and the likely density bonus necessary to incentivize the provision of that benefit. The work will inform potential “defined community benefits” (i.e., a specific public benefit provided earns the developer/applicant a corresponding density, height and/or floor-area-ratio bonus) that might be included in the zoning incentive program recommendations.

Task 4: Public Financing Options Overview

EPS will conduct a high-level review of tax increment financing tools that may be suitable for the Downtown Oakland Specific Plan. The review will identify how the financing is established, who pays, potential benefits, and the limitations of the financing. It is anticipated that EPS will focus this overview on (1) the Enhanced Infrastructure Financing District (EIFD) tool and (2) area development impact fees. EPS will describe positive and negative considerations for the Downtown Oakland Specific Plan and rely on up to three case studies of EIFDs (or IFDs) or area-specific fees elsewhere to evaluate their potential applicability to the plan.

Task 5: Program Recommendations

This task will document recommendations for a zoning incentives program in Downtown Oakland. The recommendations will address program framework, value creation potential, assessment of community benefit requirements, interaction of the program with State Bonus Density Law, and potential to incorporate a TDR component into the program. EPS will also describe the general impact of community benefits on value creation and potential geographic applicability of community benefits within the Downtown Specific Plan rather than other areas in the City. Recommendations will be attentive to the market’s sensitivity to any value-capture program (i.e., analyzing the extent to which the City can capture value without jeopardizing the desired high-density urban form envisioned by the plan), with acknowledgement of existing and future requirements for affordable housing, transportation improvements, and schools.

Task 6: Implementation Advisory

EPS will assist City staff in writing/reviewing the program definition and provide input on the regulatory framework for the incentive zoning. EPS guidance will relate primarily to program economics and the firm’s knowledge of programs in other jurisdictions. Building on financial analysis described in **Task 3**, EPS will fine-tune program recommendations from **Task 5**, to help the City establish appropriate program requirements that balance community benefit provisions with economic assumptions of the Specific Plan, based on financial analysis of prototypes. The exact EPS level of effort required for **Task 6** work is not known at this time, although a preliminary estimate of consulting time is presented in the **Cost of Service** section.

Task 7: Report Document

The outputs from the preceding tasks will be documented in a report deliverable. This report will summarize the study, including background information, case studies and other research, financial analysis technical approach and outputs, and program recommendations, including implementation strategies, as described in **Task 6**. The document will include a written narrative and supporting figures and graphics that help to communicate the study process and its outputs to a broad audience.

Initially, EPS will produce an Administrative Draft Report. EPS will accept one round of consolidated comments from the City before refining the document, as appropriate, and producing a Public Draft Report. EPS anticipates receiving public comment on this Public Draft Report but assumes no substantive changes will be required to finalize the report (i.e., the budget is based on the assumption that finalizing the report will be primarily editorial in nature).

Task 8: Meetings

The proposed Work Program is based on the assumption EPS will attend up to five in-person meetings with City staff over the course of the study to initiate the project, discuss case studies, collaborate on prototypes, present preliminary findings, discuss program frameworks, and coordinate on other aspects of the project, as needed. In addition, EPS will present the study at one public stakeholder meeting and one Planning Commission/Zoning Update Committee meeting. EPS also is available for conference call coordination meetings with the City as needed throughout the study process. Any additional meetings, including meetings/presentations to the advisory group or added hearings with elected officials, will require a contract amendment or will be billed at EPS's standard hourly rates, subject to prior authorization.

3. *TIMELINE AND FEE PROPOSAL*

Schedule

EPS anticipates that the technical work for this study (**Task 1** through **Task 5**) can be completed within 8 to 12 weeks, as shown in **Table 1**. We understand that the Community Workshop meeting may occur before the technical work is completed. EPS recommends that this initial public meeting might serve to introduce and educate the public about zoning incentive programs and the technical analysis that is underway. EPS envisions completing the program recommendations, reflective of public comments and staff input, over a 4-week period following the completion of technical work. Assuming timely collaborations with City staff and clear and direct guidance on program direction, EPS would produce an Administrative Draft Report by week 16 of the study. This preliminary timeline will be adjusted at the kickoff meeting to best meet the City's needs and help achieve its various Downtown Specific Plan milestones.

Cost of Service

EPS anticipates completion of **Task 1** through **Task 8** for an estimated budget of **\$105,000**, including a 10 percent (10%) contingency to allow for flexibility and uncertainties associated with the EPS Work Program. Contingency funds only would be accessed with written approval from the Client. This budget includes EPS's participation in seven face-to-face meetings (**Task 1 and Task 8**), including the kickoff meeting, four additional coordination meetings with staff, and two presentations. Additional meetings or presentations, including added public meetings or added hearings with elected officials, will require a contract amendment or will be billed at EPS's standard hourly rates, subject to prior authorization. **Table 2** below details the EPS staff hours and direct expenses required for this engagement.

EPS charges for its services on a direct-cost (hourly billing rates plus direct expenses), not-to-exceed basis. You will be billed only for the work completed up to the authorized budget amount. Travel, data, or reproduction expenses will be billed at cost, and invoices are submitted monthly and are payable on receipt.

Table 1 Downtown Oakland Specific Plan Zoning Incentives Program Economics Study Timeline Estimate by Task

Task/ Description	Week																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Task 1: Project Initiation	M																
Task 2: Case Studies		M															
Task 3: Financial Analysis																	
Subtask 3.1 Market Assessment																	
Subtask 3.2 Real Estate Development Prototypes*					M												
Subtask 3.3 Financial Feasibility Analysis							M										
Subtask 3.4 Feasibility of Benefits Requirements*																	
<i>Community Workshop</i>								PP									
Task 4: Infrastructure Financing Tools																	
Task 5: Program Recommendations										M							
Task 6: Implementation Advisory*																	
Task 7: Report*																	AD
<i>Planning Commission</i>																	PP

*Note: assumes hands-on collaboration and timely input from the City staff.

M - attendance of an in-person meeting.

PP - public presentation

AD - Administrative draft report

**Table 2 Downtown Oakland Specific Plan Zoning Incentives Program Economics Study
 Budget Estimate by Task**

Task/ Description	EPS Staff				Staff Cost Subtotal	Direct Cost	Total Cost
	Sigman PIC	Musbach Project Advisor	Nimon PM	RA			
Task 1: Project Initiation (1)	4	2	8	2	\$3,740	\$20	\$3,760
Task 2: Case Studies	10	4	8	40	\$11,290	\$0	\$11,290
Task 3: Financial Analysis	20	10	96	12	\$31,300	\$500	\$31,800
Task 4: Infrastructure Financing Tools	6	2	12	10	\$6,270	\$0	\$6,270
Task 5: Program Recommendations	14	8	12	2	\$9,190	\$0	\$9,190
Task 6: Implementation Advisory	8	6	12	3	\$7,100	\$0	\$7,100
Task 7: Report	14	4	30	22	\$14,670	\$0	\$14,670
Task 8: Meetings (2)	16	4	16	16	\$11,280	\$90	\$11,370
Billing Rates *	\$265	\$320	\$220	\$140			
Total Project Costs					\$94,840	\$610	\$95,450
Project Contingency @ 10%							\$9,545
Not-To-Exceed Total (Rounded)							\$105,000

* Billing rates shown are applicable during 2019 and are subject to change annually.

(1) Includes attendance at one in-person kickoff meeting.

(2) Assumes attendance at four in-person coordination meetings with staff and two public presentations (community and PC).

Letter B-1b
Oakland Heritage Alliance
Tom Debley, President
September 22, 2019

Response B-1b.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-1b.2 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1b.3 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1b.4 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1b.5 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics

Response B-1b.6 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1b.7 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1b.8 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1b.9 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Attachment A, B, C: The attachment does not address the adequacy of the Draft EIR; no further response is necessary.



November 8, 2019

(By electronic transmission)

To: Downtown Specific Plan Team, Consultants, and Oakland Planning Commission
Subject: Downtown Oakland Specific Plan Draft Environmental Impact Report

We have prepared the following comments on the Environmental Impact Report. We request in addition that the comments in our letter to the Planning Commission of November 6 be considered by the team; they are attached.

1. **Page 55. Figure III-11 (Proposed Height Change Areas)** shows the central part of the Cathedral Neighborhood API on 22nd St. between MLK and Telegraph Avenue as having a proposed maximum height of 45/55 feet. This is inconsistent with Figure III-11’s legend and the legends on Figures III – 7, III – 8, III – 9, and III-10, as well as the corresponding Maximum Intensity Map on Page 217 of the Draft Specific Plan that show the API’s central 22nd Street portion in Intensity Area 2, which has a maximum height of 65 feet. It may be that this area was supposed to be in Intensity Area 1, which **does** have a maximum height of 45/55 feet and not showing it in Intensity Area 2 was a mistake.

2. **Page 355. Mitigation Measure CULT – 1A(ii).** This mitigation measure requires revision of Oakland’s transferable development rights (TDR) ordinance within three years of Plan adoption. To be effective, the revised TDR ordinance needs to be adopted **prior to or concurrently with** implementation of the Plan’s development intensity changes. The mitigation measure’s statement “The use of this program shall be considered into the current height changes proposed downtown” needs to be changed to read: “The revised TDR ordinance shall be adopted concurrently with or prior to adoption of the FAR, height limit, and residential density changes and other zoning changes proposed in the Plan”.

3. **Page 682. Alternatives considered and rejected.** The “fully mitigated historic resources alternative” needs to be described more fully with additional analysis explaining why it was rejected. The DEIR states:

“a fully mitigated historic resources alternative was considered and rejected because of the number and extent of designated and potentially designated historic resources within the Plan Area. It would be infeasible to protect and otherwise not materially alter such resources given the amount of new development contemplated in the Plan. As such, two of the Plan’s key goals would not be fulfilled, Goal 1: create opportunities for economic growth and security and Goal 2: ensure that sufficient housing is built to meet the needs of current and future residents, and therefore this alternative was rejected.”

For example, the analysis needs to indicate the amount of office and other workplace floor area and residential units (including affordable units) as contemplated by Plan Goals 1 and 2 that would be reduced under this alternative and why other adjustments to the Plan could not offset these reductions. For example, why could the proposed maximum development intensities (including those based on community benefits, including TDRs) contemplated by the Plan as shown on the proposed Maximum Development Intensity Map on Page 217 of the Plan be adjusted to **increase** intensities outside of properties containing historic resources to offset reduced intensities for properties containing historic resources? For example the maximum FAR shown on the Page 217 map is 30.0 with community benefits, including presumably TDR. For the extensive portion of the 30.0 FAR area not containing historic resources, why could this not be increased to at least 36.0, which we understand is the FAR of the Salesforce Building in San Francisco, or even more?

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cont.

4. **Page 100. Historic Preservation Element of Oakland General Plan.** The statement that “The Specific Plan is consistent with the Historic Preservation Element” is inaccurate. Most notably, the Plan is inconsistent with Historic Preservation Element Policy 3.9a, which states:

“Unless necessary to achieve some other Oakland General Plan goal or policy which is of greater significance, the base zone of existing or eligible Preservation Districts shall not encourage demolition and removal of a district’s contributing or potentially contributing properties nor encourage new construction that is incompatible with these properties.”

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The Plan’s intensity increases impacting properties within existing or eligible preservation districts is specifically inconsistent with Policy 3.9a, since the Plan’s intensity increases, as shown on the proposed Maximum Intensity Map on Plan Page 217, could indeed “encourage demolition or removal of a district’s contributing or potentially contributing properties” and/or “encourage new construction that is incompatible with these properties”. Neither the Plan nor the DEIR contains any analysis explaining why such intensity increases are “necessary to achieve some other Oakland General Plan goal or policy which is of greater significance”.

5. **Why were the following project alternative and mitigation measures in Oakland Heritage Alliance’s February 19, 2019 letter in response to the Notice of Preparation not discussed in the DEIR?**

Project Alternative: Provide development intensities in areas with concentrations of historic properties that are no higher than the levels in place prior to the 2009 rezoning.

6

Mitigation Measures:

- a. Apply height limits to APIs, areas in close proximity to APIs and other areas with high concentrations of historic properties that do not exceed the prevailing heights of contributing buildings (including the heights of any adjacent contributing building), when viewed from streets or other public areas., taking into account any building height increases above the height limit resulting from application of the state density bonus law.
- b. In APIs where contributing buildings are predominantly pitched roof (gable and/or hip), require pitched roofs with configurations and slopes consistent with those of the contributing buildings for new construction and additions within the API.
- d. For new construction within areas with concentrations of historic buildings, (including but not limited to APIs and areas in close proximity to APIs) as well as additions to historic buildings, provide design guidelines that require the massing, composition, surface materials, fenestration, detailing and other architectural treatments to be consistent with and subordinated and deferential to those of the contributing API buildings and/or buildings receiving additions. See the design guidelines provisions in the Oakland General Plan’s Historic Preservation Element. (Note: Although the DEIR does include a Design Guidelines mitigation, the mitigation should specifically state that the Guidelines “require the massing, composition, surface materials, fenestration, detailing and other architectural treatments to be consistent with and subordinated and deferential to those of the contributing API buildings (and contributing buildings within other areas with high concentrations of historic buildings) and/or buildings receiving additions.”

6,
cont.

6. Page 401. Mitigation Measure AES-2: Wind Analysis. Change line 8 to read: “...project sponsor ~~would~~ shall incorporate, ~~if feasible,~~ measures to reduce such effects, as necessary...” and change line 10 to read “Examples of measures that such projects ~~may~~ shall incorporate,...”

Add the following to the list of possible measures that the project shall incorporate:

“Towers set back on top of low rise podiums to direct excessive winds to the podium roof rather than to street level and towers with intermediate setbacks to direct excessive winds to the setback levels rather than to lower levels”.

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In addition, Mitigation Measure AES-2 should include a detailed discussion of specific mitigation measures such as the one above including quantitative assessments of which measures can be most effective. The discussion could serve a template for project-specific mitigation measures once individual projects are proposed.

7. **Additional Mitigation: Fire Alarm Site**
Pages 91-92. Fire Alarm Building (triangular block bounded by 13th Street, Oak Street and Lakeside Drive). The DEIR appropriately cites the LMSAP provisions that, among other things, call for “reuse of the Fire Alarm Building site... as a public amenity” and that the site continue to include open space. The DEIR notes that the Specific Plan would increase the height limit from the current 45 feet (pursuant to the LMSAP) to 85 feet. The DEIR statement that the Specific Plan’s intensity increases for the site “does not directly conflict with the LMSAP” is highly debatable. The Plan’s intensity increases arguably constitute a “significant effect” for CEQA purposes. A project alternative or mitigation measure should be included that states:

8

“To avoid increasing the potential for adverse effects on the Fire Alarm Building, retain or reduce the existing 45-foot height limit, maximum floor area ratio limit and residential density limit for the triangular block bounded by 13th Street, Oak Street and Lakeside Drive.”

8. **The EIR Fails to Comply with CEQA.**

The proposed Specific Plan is distinctive because it would provide for the wholesale upzoning of the area that constitutes Oakland’s historic core. This is not a plan for the design and construction of an entirely new building project. It changes existing zoning for an area that the DEIR acknowledges is the oldest and most historically significant part of Oakland. The proposed Plan does not address any proposed specific construction, or any location or design plan for any specific structure at any specific location. It instead proposes to rezone the City’s historic core based on general policies and broad concepts, without analyzing the impacts of that change on any specific historic resource.

The proposed Specific Plan does not qualify as a “project” under CEQA, and should be “tiered” to confirm the availability of environmental review of future construction projects. Under CEQA, a “Project” means “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (CEQA Guideline § 21065.) The Plan “project” does not propose that any specific building be built in any particular location, or specify location, plans, or design parameters for any specific structure. The proposed Specific Plan will not “cause” any direct physical change in the environment; such affects would be caused by future and as yet unproposed construction projects. Instead, the proposed upzoning prescribes rezoning and general policies that would pave the way for future actual construction projects that the DEIR may be proposing would be exempt from later public environmental review due to the certification of this EIR.

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The proposed Specific Plan is a policy statement and City Plan amendment. If an EIR is to be issued now, it should a “tiered EIR” under § 15385, thus confirming the availability of environmental review for future construction projects, including the identification and assessment of significant adverse impacts on historic resources. The DEIR should clarify and make clear that certification of this EIR does not foreclose environmental review of later actual projects and their effects on the environment.

If the intent of this EIR is to foreclose future site-specific environmental review, the DEIR should say so. If it is intended to leave the way open for future environmental review, that should be made clear. The Public and City decision makers should not be left in doubt regarding the consequences of certification of this EIR on the environmental assessment of future construction projects.

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cont.

9. The “Project Description” is inadequate.

The proposed “Project” appears to make land use changes to enable potentially myriad and as yet undefined future construction projects. Because the proposed Specific Plan does not describe the siting, size, mass, or appearance of any building to be built within the Plan area, it does not describe a stable “project,” and is inadequate under CEQA. The proposed Plan merely presents different conceptual scenarios that future developers may follow for developments within Oakland’s already long developed historic core. The environmental impacts of such future construction projects in the historic core cannot be adequately identified and assessed based on the proposed Project Description and this DEIR.

10

10. The analysis of impacts on historic and cultural impacts is inadequate.

The proposed Plan area includes 50 designated City Landmarks, 23 designated APIs, 29 ASIs, 40 National Register properties, three National Register historic districts, and two national landmarks. (DEIR p. 312.) The DEIR acknowledges significant unavoidable impacts on historic resources in the Plan area, but contains no specificity regarding or analysis of the impacts of the proposed Plan on any particular historic resource. (DEIR at 19.) This is inadequate to inform the decision makers and the Public of the nature and extent of the admittedly significant adverse impacts of the proposed Plan on either historic resources as a whole or on any specific historic structure or district.

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11. The DEIR appears to impermissibly eliminate or defer environmental review of the impacts of particular future construction projects on historic resources.

The DEIR finds that the impacts of the proposed Plan on historic resources are significant and unavoidable. (DEIR p. 19.) Yet the DEIR does not specify any method, standard, or procedure by which any future project in the proposed Plan area would be evaluated for significant adverse impacts on any historic resource, nor does it provide any measures by which such impacts on a specific historic resource would *necessarily* be mitigated. If a future project would demolish or radically transform an historic structure contrary to Secretary of Interior Standards, the DEIR should not foreclose any future environmental review, particularly (but not limited to) cases where there is no effective mitigation. None of the proposed mitigation measures would provide adequate mitigation in such cases. (DEIR pp. 19-25.) Again, the EIR should confirm the availability of future, site-specific environmental review for historically significant structures and districts.

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12. The Infill Site Exemption under Public Resources Code §21099(d) Does Not Apply.

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The DEIR does not analyze aesthetic impacts under CEQA based on the claim that the proposed Specific Plan meets the requirements for an exemption under section 21099(d). This is incorrect, the exemption does not apply, and the DEIR fails to address aesthetic impacts as CEQA requires.

The DEIR argues that the § 21099(d) exemption applies because “The *entire Plan Area* is within an urban area of Oakland that includes commercial, office, and residential uses,” and “*the development program* for the Specific Plan includes both residential, commercial, light industrial, and institutional square footage.” (DEIR p. 365, emphasis added.)

§21099(d) does not apply to an “entire Plan Area” or a “development program.” The exemption explicitly applies only to “a residential, mixed-use residential, or employment center project *on an infill site* within a transit priority area.” (§ 21099(d), emphasis added.)

An “infill site” is “a *lot* located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.” (§ 21099(a)(4), emphasis added.)

A “lot” means “*all* parcels utilized by the project.” (§ 21099(a)(5), emphasis added.)

The “lots” covered by the proposed Specific Plan are not *all* for “residential, mixed-use residential, or employment center project[s],” as subsection (d) requires. The existing and proposed uses include light industrial; manufacturing; artist studio and production spaces; institutional; and retail/restaurant/entertainment uses, and open space. (*E.g.*, DEIR 116-120; 212-213; Figures III-4 & III-5.)

There is no evidence that every vacant “lot” with the proposed Plan area is on a “site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.” (§ 21099(a)(4).)

Further, the lots with uses other than residential, mixed-use residential or an employment center project under the proposed Specific Plan are not covered by the subsection (d) exemption.

Because not all “lots” within the proposed Specific Plan area are covered by the exemption, the exemption does not apply to the proposed Plan. (§ 21099(a)(5), § 21099(d).)

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cont.

13. The Proposed Specific Plan Conflicts with Other Elements of the General Plan.

The Proposed Specific Plan acknowledges that the area covered by the proposed Plan area contains over 100 City Landmarks, other highly rated structures, CEQA historic resources, and Areas of Primary and Secondary Importance. (DEIR Figure III-23; *see also, e.g.*, pp. 312, 342-43.)

These include sites on the Local Register of Historic Resources (LRHR). Local Register sites that would be adversely affected by the increased height and FAR limits under the proposed Plan include but are not limited to:

- the produce market API with an FAR increase of 1.0 to 2.0/3.5;
- most of the 1850s-60s buildings on lower Broadway plus the old Western Pacific station (Oakland’s first official designated landmark) with an FAR increase from 7.0 to 7.5;
- the Lake Merritt “Gold Coast” API with a height limit increase from 55 feet to 65 feet and 85 feet;
- the fire alarm building with an FAR increase from 2.5 to 7.5 and a height limit increase from 45 feet to 85 feet; and
- the old Oakland S-7 zone’s 7th Street frontage with a height increase of 55 feet to 85 feet and an FAR increase of 4.5 to 7.5.

The Historic Preservation Element of the General Plan (HPE) mandates specific protections for historically significant properties, including City Landmarks, Preservation Districts (“APIs” and “ASIs”), and Heritage Properties. “Heritage Properties” include resources listed on the LRHR. The “projected development program” contemplated by the proposed Specific Plan conflicts with the Historic Preservation Element, as well and other elements of the General Plan.

The Specific Plan identifies the following objectives:

- Goal 1: Create opportunities for economic growth and security for all Oaklanders.
- Goal 2: Ensure sufficient housing is built and retained to meet the varied needs of current and future residents.
- Goal 3: Make Downtown’s streets comfortable, safe, and inviting and improve connections to the city as a whole so that everyone has efficient and reliable access to downtown’s jobs and services.
- Goal 4: Encourage diverse voices and forms of expression to flourish.
- Goal 5: Provide vibrant public spaces and a healthy environment that improve the quality of life downtown today and for generations to come.
- Goal 6: Develop downtown in a way that contributes to community needs and preserves Oakland’s unique character.

(DEIR pp. 40-42.)

Notwithstanding Goal 6, the DEIR finds that the proposed Specific Plan would cause significant unavoidable negative impacts on historic resources. “Implementation of the Specific Plan and its associated development is anticipated to result in the demolition, destruction, or relocation of some historical resources either as individual resources and/or as contributors to historic districts.” (DEIR p. 19.)

The proposed Specific Plan’s dominant emphasis on maximizing development potential in the area, at the expense of historic preservation, is admittedly inconsistent with the Goals of the HPE:

While the Plan includes several policies to protect historic resources and neighborhood character, *the Plan’s primary goals are to create opportunities for economic growth and economic security for all Oaklanders and ensure sufficient housing is built and retained to meet the varied needs of current and future residents. Development associated with achieving the Plan’s economic growth and housing policies consequently could adversely impact individual historic resources and/or historic districts as discussed below.* The Plan accomplishes these growth and housing goals by increasing height limits and intensity in some areas and replacing existing general plan designations. The Plan also identifies opportunity sites for future development. *If these Plan goals and policies are implemented as envisioned, then they could result in significant unavoidable impacts to historic and cultural resources.* (DEIR p. 337, emphasis added.)

Thus, the objectives of the proposed Plan as implemented directly conflict with the twin core goals of the HPE:

HPE GOAL 1: *To use historic preservation to foster the economic vitality and quality of life in Oakland by:*

- (1) Stressing the positive community attributes expressed by well-maintained older properties;
- (2) *Maintaining and enhancing throughout the City the historic character, distinct charm, and special sense of place provided by older properties;*
- (3) *Establishing and retaining positive continuity with the past thereby promoting pride, a sense of stability and progress, and positive feelings for the future;*
- (4) Stabilizing neighborhoods, enhancing property values, conserving housing stock, increasing public and private economic and financial benefits, and promoting tourist trade and interest *through preservation and quality maintenance of significant older properties;*

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cont.

(5) *Preserving and encouraging a city of varied architectural styles and environmental character reflecting the distinct phases of Oakland's cultural, social, ethnic, economic, political, and architectural history;*
and

(6) Enriching the quality of human life in its educational, spiritual, social, and cultural dimensions through continued exposure to 'tangible reminders of the past.

HPE GOAL 2: To preserve, protect, enhance, perpetuate, use, and prevent the unnecessary destruction or impairment of properties or physical features of special character or special historic, cultural, educational, architectural or aesthetic interest or value.

Such properties or physical features include buildings, building components, structures, objects, districts, sites, natural features related to human presence, and activities taking place on or within such properties or physical features.
(Emphasis added.)

Further, the proposed Plan is inconsistent with the following examples of the enhanced protections provided by the HPE for historically significant properties and districts, including the more than 100 City Landmarks and City Preservation Districts in the proposed Plan area (DEIR p. 312):

HPE Policy 2.1 states:

The City will use a combination of incentives and regulations to encourage preservation of significant older properties and areas which have been designated as Landmarks, Preservation Districts, or Heritage Properties. *The regulations will be applied according to the importance of each property, with the more important properties having stronger regulations.*

HPE Policy 2.3 states:

Landmarks and Preservation Districts will be treated as zones pursuant to the Oakland Zoning Regulations and will be designated in the same manner as rezonings.

Designation of

Landmarks and Preservation Districts may be initiated by the owner(s), the Landmarks Preservation Advisory Board or the City Planning Commission. *The City Planning Commission will hold a public hearing and act after either (i) receiving the proposal from the*

Landmarks Preservation Advisory Board (if initiated by the Board); or (ii) receiving the Board's recommendation on the proposal (if initiated by the owner(s) or Planning Commission). The Planning Commission will forward all recommendations to the City Council which will make the final decision.

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HPE Policy 2.4 states:

Demolitions and removals involving Landmarks or Preservation Districts will generally not be permitted or be subject to postponement unless certain findings are made.

Demolition or removal of more important Landmarks and of most Preservation District properties will normally not be permitted without the required findings, while demolition or removal of less important Landmarks will be subject only to postponement.

HPE Policy 3.9 states:

(a) Unless necessary to achieve some other Oakland General Plan goal or policy which is of greater significance, the base zone of existing or eligible Preservation Districts shall not encourage demolition or removal of a district's contributing or potentially contributing properties nor encourage new construction that is incompatible with these properties.

(b) The City will always consider including a historic preservation component in areawide or specific plans. As part of any amendment to the Zoning Regulations, the impact on historic properties will be evaluated.

(See Tables 4-1 to 4-3 (required findings); see also HPE Policy 2.5 re designation of Heritage Properties, Tables 4-4 & 4-5.)

The proposed Specific Plan fails to recognize these and other protections provided by the HPE for historically significant properties and districts, and does not attempt to resolve the conflicts between the HPE and the proposed Plan. (DEIR pp. 343-353.) While the DEIR acknowledges that “The Central Core contains some of Oakland’s most identifiable historic landmarks” (p. 342), “Buildings with smaller footprints and lower heights face increased threat from demolition and redevelopment to accommodate larger-scale buildings with higher-yielding economic values. Such changes are likely to occur over the life of the Specific Plan and could impact historic resources within the Central Core.” (DEIR p. 346.)

13. **Pages 75-76.**

Clarify the relationship between the existing and potential conditions shown in Tables III-3, III-4 and III-5 and the proposed intensity, and land-use designations presented in Figures III-4, III-6 and III-8.

For example, are the conditions set forth in Tables III-3, III-4 and III-5 based on the lower and relatively fine-grain intensity levels shown in Figure III-8 or the much greater and broad brush levels shown in Figure III-6?

To adequately assess the Plan impacts on the various parts of the Plan Area, the projected intensities as shown in the Tables need to be mapped. The “potential aerial massing of future development” shown in Figure III-12 is only minimally helpful, since

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cont.

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it is only illustrative and does not provide any specific land-use information (residential, office, retail, etc.) or intensity information (height, FAR, residential density).

Maps need to be presented showing the existing (including for entitled projects) numbers of residential units and non-residential floor area for each block within the Plan Area and the potential increased numbers of residential units and nonresidential floor area for each block that would be achieved under both the Figure III-8 and Figure III-6 scenarios. Tables for both Figure III-6 and Figure III-8 should then be provided that tabulate the existing and potential residential units and nonresidential floor areas shown on the maps for each block.

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cont.

Thank you for the opportunity to comment. Please contact Christopher Buckley at (510) 523–0411 or cbuckleyaicp@att.net, or Naomi Schiff at (510) 835–1819 or Naomi@17th.com if you would like to discuss these comments.

In addition to the above, we are appending a few other comments, some of which indicate the need for a thorough proofreading to ensure that no typos or errors creep in that might create confusion in the future.

17

Thanks so much,

Sincerely,



Tom Debley
President, Oakland Heritage Alliance

cc: William Gilchrist, Ed Manasse, Laura Kaminski, Alicia Parker, Joanna Winter,
Peterson Vollmann, and Betty Marvin, Bureau of Planning
Dover Kohl
Oakland Planning Commission
Oakland Landmarks Preservation Advisory Board
Mayor and City Council

Attached:
Additional comments from Oakland Heritage Alliance
Letter to Planning Commission, November 6, 2019

Additional comments from Oakland Heritage Alliance: November 8, 2019

Omission of Uptown Chinatown area in vicinity of 20th St. and San Pablo Ave. from historic narrative. EIR p. 307	18
Use italics for <i>Report on the</i> . . . p. 309	19
Italicize <i>Oakland Tribune Yearbook</i> p. 310	20
Obfuscatory English: “Ultimately, discriminatory redlining impacted the economic benefits the FHA intended.” P. 311. Should be . . . “redlining limited,” or “reduced,” or “constricted. . .” or even “affected” Impacted is a useless verb here and implies no one is to blame.	
p. 311 same page next paragraph, “onset” not outset. Same page, “at along” —choose one.	
p. 311 Flip the order of “The Waterfront Warehouse Historic District and the Produce Market Historic District, both of which consist of masonry warehouses reflecting the industrial character of the pre-tourist-based waterfront, are situated adjacent to the Jack London development” to “The Jack London development is adjacent to the Warehouse Historic District and the Produce Market Historic District, both of which consist of masonry warehouses reflecting the industrial character of the pre-tourist-based waterfront.” (Because the historic resources were there much earlier.)	21
P. 311 last full paragraph: Again replace “impacted” —“which were moved due to the. . .” or at least “affected by”	
P. 312 for clarity: might be better to say “following the previous alignment” or “following the earthquake-destroyed alignment”	22
P. 317 insert new information regarding California State Historic tax credit just passed, effective 2020.	23
P. 335 missing letter at Policy E.2.7 “maintain”	24
Policy E.2.12 note historic buildings on/near site.	
Policy E.2.13 25th Street district is too contracted. See historic district map and related historic buildings.	
Policy LU-2.3 no source of funding.	
P. 336, Policy C 1.2 funding. Support small businesses/nonprofits?	
Policy C-1.6: Such as what policies and regulations?	
Policy C-1.7 Rather than prioritize, does it mean “Set a high priority for. . .” (Alice Arts/Malonga)?	25
Policy LU-2.1: Draft appears to misunderstand state law re CHBC; no legislation required. Director of Planning and Building can issue implementing memo.	
Policy LU-2.2 Included in HPE, TDRs should be implemented as soon as possible.	
Policy LU-2.4 Rewrite this. Please see OHA letters. This could erode historic districts.	
P. 337 Long paragraph after subhead should be reread, proofread, and checked for clarity. Possibly delete "ALTHOUGH" in line 10?	26

347 insert comma after Koreatown

27

348 “This area also includes the 25th Street Garage API, which does not have the exact same boundaries at the cultural district.” as for at?

We support the following Mitigation Measures, with some questions and comments regarding how to strengthen them or clarify them.

pp354-55

Mitigation Measure CULT-1A: The Plan shall be revised to include the following implementation measures focused on minimizing impacts to historic resources:

i. **Reinstate and promote the City Downtown Façade Improvement Program** consistent with Action 3.8.1(9) of the Historic Preservation Element of the City of Oakland General Plan for both commercial and residential properties including SROs. The program shall require financial contribution to this fund when historical resources are impacted by future development projects in the Plan Area, and potentially the other Specific Plan areas, based on a formula established by the City as part of reinstating the program. If reestablished, the fund shall be used to implement the additional mitigation measures identified below, as appropriate.

28

No funding mechanism is proposed here beyond assessing developers if they demolish historic resources, apparently, if “impact” means to demolish or partially demolish such a resource. Might it also include affecting historic resources in other ways, such as by shadow or design features of adjoining properties? We are unsure as to what is meant.

P. 355:

Mitigation Measure CULT-1A ii. Revise the City Transfer of Development Rights (TDRs) Ordinance, within three years of Plan adoption,” *Rewrite for faster implementation.*

P. 357

Mitigation Measure CULT-1E ii PASSED: *please update.*

29

P. 58:

Mitigation Measure CULT-1F iii. Maintain a list of vacant parcels to assist with building relocation assistance.

Additionally, a relocation fund could be established and paid into by projects that demolish historic resources. This could result in the salvage of stand-alone historic resources, especially smaller resources that sit on large lots, which face fierce development pressure. This is more appropriate in areas that are not considered historic districts or groupings of buildings. This can be facilitated via CEQA review by making known Historic Preservation Element Action 3.8.1.2, allowing buildings to be moved to a location consistent with its [their?] historic or architectural character.

30

Mitigation Measure CULT-1F iv. Study the feasibility of amending the Downtown Oakland National Register Historic District to provide a means for more property owners to use the Federal Rehabilitation Tax Credits. The amendment should evaluate an extended boundary and additional contributors, to include more of downtown’s significant historic buildings. This would provide a means for more property owners to use the Federal Rehabilitation Tax Credit as owners of resources within a National Register-listed historic district.

This is a good idea, and we would suggest establishing Historic Districts for all APIs in the downtown area, and for all eligible PDHPs, so that property owners could make use of Federal and the new State historic tax credits.

P. 359

Mitigation Measure CULT-2: Implement Mitigation Measures CULT-1A – CULT-1F. (SU)
Implementation of Oakland Municipal Code 17.136.075, Regulations for Demolition or Removal of Designated Historic Properties and Potentially Designated Historic Properties, as well as the proposed beneficial

31

Plan policies outlined above, would provide some level of protection for historical resources that may be affected by implementation of the Specific Plan. However, additional mitigation would be necessary to further reduce potential impacts on historical resources located on the opportunity sites shown on Figure V.E-1. Although the proposed measures would not mitigate impacts to historical and cultural resources to a less-than-significant level, the City has a responsibility to mitigate to the greatest degree feasible (CG Section 15091) and these mitigation measures could be used to offset the findings of overriding consideration (CG 15093) to compensate for the unavoidable impacts with a more defined strategy and set of implementation actions. In this way, the Specific Plan implementation actions may also assist in balancing competing goals and objectives as new projects are considered.

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cont.

We are not clear on the meaning and implications of this mitigation measure and request a more detailed discussion. What is meant by Implementation of Oakland Municipal Code 17.136.075, that is not now implemented? Please clarify this mitigation. We would like to discuss it with the consultant and team.

p. 363 typo
There is a possibility that if demolition or major alternation

32



November 6, 2019

(By electronic transmission)

To: City Planning Commission and Downtown Specific Plan Team
Subject: Downtown Oakland Specific Plan Public Draft

The following comments restate and expand upon the preliminary comments in Oakland Heritage Alliance's October 1, 2019 letter. Most of the changes are in Item 1 beginning on Page 2, a new Item 6 and revisions to the attached OHA Statement of Objectives.

The draft Zoning Incentives Study has not yet been released, despite previous staff statements that it would be available prior to the City Planning Commission's November 6 meeting. **Given the importance and complexity of the Zoning Incentives Study, OHA recommends that the City Planning Commission continue its consideration of the Draft Plan until at least the Study's release and allow at least two weeks for Commission and public review prior to the Commission meeting.**

Attached is a **revised** statement of OHA's three primary objectives¹ which are summarized as follows:

1. Reduce existing excessive by-right zoning intensities (floor area ratios or FARs, height limits and residential densities) in most areas and allow increased, or "bonus" intensities in exchange for community benefits, including affordable housing and, for historic buildings, transferable development rights (TDRs).
2. Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) do not exceed the scale of contributing historic buildings within the APIs and ASIs.
3. Provide a robust TDR program.

Some provisions of the draft plan, notably the "Proposed Maximum Intensity Map" on page 217, are clearly inconsistent with these objectives, especially Objective 2. Consistency with Objectives 1 and 3 is unclear, because the viability of Objective 1's community benefits program and Objective 3's TDR program depend on base ("by- right") zoning intensities (height, FAR, and residential density) being low enough to incentivize developers to provide community benefits (including TDRs) in exchange for increased "bonus" intensity.

¹ derived from our January 22, 2019 letter to you regarding the previous Preliminary Draft Plan and revised from the version attached to OHA's October 1, 2019 letter

Although the draft plan describes such a two-tiered system in its “zoning incentive program” discussions, the proposed maximum intensity map only shows maximum intensities, without the by-right intensities. The by-right intensities are needed in order to evaluate whether the community benefits and TDR programs will actually work.

According to the plan and staff statements, the by-right intensities and the actual maximum intensities will be determined by the zoning intensity study currently underway and the zoning intensity map resulting from that study as well as other input which will be completed either concurrently with the final plan or shortly thereafter.

Given the foregoing concerns and other issues, we have the following specific comments:

- 1. Reduce proposed zoning intensities within and in proximity to most APIs and ASIs so they are more consistent with the API/ASI’s contributing historic buildings.** The intensities shown on the proposed maximum intensity map must be reduced or modified in many cases so that they do not exceed the scale of contributing historic buildings within APIs and ASIs as per OHA Objective 2. Examples of these areas with problematic intensities include:
 - a. Produce Market API, which is mostly one-story buildings about 15 feet in height.** Much of it currently has an appropriate 1.0 FAR but is proposed for a problematic 2.0/3.5 maximum FAR and a 45 foot/55 foot height limit. OHA recommends a maximum height limit of 25 feet.
 - b. Lower Broadway ASI, which contains Oakland’s six oldest documented buildings from the 1850s and 1860s and the old Western Pacific Railroad Station (Oakland’s first officially designated Landmark), which are one and two stories (about 15–25 feet in height).** The current FAR is an excessive 7.0 and the proposed FAR increases this to 7.5 with a grossly excessive 85-foot maximum height limit. OHA recommends a maximum height limit of 25 feet.
 - c. Old Oakland API with maximum contributing building heights of approximately 45 feet, including parapet.** The proposed maximum FAR is 2.0/3.5 with 45/55-foot height limits but increased to a grossly excessive 12.0 and 85’ along the API’s 7th Street frontage. A 45-foot height limit should be mapped throughout the API (including along 7th Street), but it is not yet clear if the maximum height limit (except along 7th Street) will be 45 feet or 55 feet.
 - d. Lakeside apartment district API (“Gold Coast”).** This area currently has an appropriate 55 foot height limit and 4.5 FAR but is proposed for upzoning with a 65 foot height limit and 5.0 FAR (Intensity Area 2) and an 85 foot height limit and 7.5 FAR (Intensity Area 3). The existing height limits and FAR should be retained.
 - e. APIs and ASIs with mostly 1-3 story late 19th and early 20th century detached residences.** These areas include the 7th Street/Harrison square API, the Grove Street/ Jefferson/ Lafayette Square API, the Cathedral Neighborhood

API, the 18th Street (MLK-Jefferson Street) API and the 26th Street (Northgate-Telegraph Avenue) ASI. Although there is a possibility that the height limits in much of these areas may be reduced from the generally prevailing 55 feet to 45 feet, 45 feet still exceeds the heights of most of the contributing buildings. Most of these buildings have hip or gable roofs with wall heights seldom exceeding 30 feet and heights to the peak of the hip or gable roof seldom exceeding 40 feet. **OHA is therefore recommending a basic height of 30 feet and additional height for hip and gable roofs of 40 feet.**

The adverse impacts of the existing 55-foot height limits are illustrated by the attached photo of a recently completed building at 570 22nd Street in the Cathedral Neighborhood API. Its height and bulk visually overwhelm the surrounding one and two story historic buildings. Its intrusiveness is further intensified by a zero front setback compared to the typical 15 foot front setback of the historic houses. Projects like this will destroy the architectural integrity of these historic neighborhoods.

In addition, the height limits on parcels adjacent or in close proximity to these APIs and ASIs need to be consistent with the prevailing building heights in the APIs and ASIs. See attached photo of an approximately 55-foot tall building at the northwest corner of 6th and Oak Streets adjacent to the 7th Street API that visually overpowers the adjacent historic houses. This parcel and several others along the north side of 6th Street are now proposed for an even further intensity increase from the current excessive levels of 85 feet and 5.0 FAR to 275 feet and 12.0 FAR.

Similarly, the existing 55-foot height limit along the north side of 22nd Street outside the Cathedral Neighborhood API but directly across the street from API contributing buildings is proposed to be increased to an even more excessive 85 feet with a 7.5 FAR. These increases also include be extremely important First Baptist Church at the northwest corner of 22nd Street and Telegraph Avenue and the API's West Grand Avenue frontage.

- f. Northern edge of Waterfront Warehouse District API along 5th Street.** The current 5.0 FAR is proposed to be increased to an excessive 12.0. OHA recommends a height limit for much of the Waterfront Warehouse District of 35 feet with increases up to 55 feet and 85 feet where taller contributing buildings exist.
- g. Fire Alarm Building on triangular block bounded by 14th, 13th and Oak Streets located within the Lake Merritt API.** This substantially landscaped site was originally part of Lakeside Park and should be zoned open space. The very important approximately 25 foot tall one story Fire Alarm Building, constructed in 1911, was the nerve center for the numerous fire alarm boxes that for many years were scattered throughout the city. The current height and FAR limits are 45 feet and 2.5 while a grossly excessive 85 feet and 7.5 are proposed. See also Comment 4b below.

- h. **25th Street Garage District API.** Most buildings in this API are one story with an approximately 20 -foot height. Although the draft plan may retain the existing height and FAR limits of 45 feet and 2.5 through its proposed 45-foot/55-foot and 2.5/3.0 designations along the API’s 25th Street portion, the API’s remaining portions are proposed to have their height and FAR limits drastically increased to 65 feet and 5.0. OHA is proposing a 30-foot height limit throughout the API.
- i. **Telegraph Avenue (W. Grand Avenue-27th Street) ASI.** This ASI mostly consists of architecturally notable 1–3 story early 20th century commercial buildings with maximum heights of about 45 feet. The draft plan proposes to increase the height and FAR limits from the current levels of 60 feet and 3.0 (already too high) to 85 feet and 7.5. OHA recommends a 45-foot height limit for most of the ASI.

See attached map of OHA preliminary height limit recommendations. Note that the heights shown on the map may need to be reduced to reflect height increases mandated by the state density bonus law.

In addition, staff has advised us that the two-tiered intensity designations for Intensity Area 1 (e.g. 45/55' height limits) reflect lower Area 1 intensities south of I-880 and higher Area 1 intensities north of I-880. However, staff advises that lower intensities north of I-880 in Area 1 may still be applied to specific subareas, based on future analysis of each subarea.

2. **Reduce existing excessive by-right zoning intensities (FARs, height limits and residential densities) in most areas and allow increased, or “bonus” intensities in exchange for community benefits, including affordable housing and, for historic buildings, transferable development rights (TDRs).**
 - a. **Expand the zoning intensity program boundary to include most areas outside of APIs and ASIs and delete areas which include certain APIs and ASIs.** Expanding the zoning intensity program area will compensate for the OHA-recommended reduced by-right intensities within APIs and ASIs. Examples of APIs and ASIs that should be deleted from the intensity program area include the Downtown and Uptown APIs and the Upper Telegraph Avenue 23rd–27th Street ASI.
 - b. **Direct the consultant preparing the zoning intensity study to identify: (i) where reductions in current by-right intensities will incentivize developers to seek bonus intensities under the community benefits/TDR programs; and (ii) the reduced by-right intensity levels.** See the 5-28-19 zoning intensity study proposal attached to our October 1, 2019 letter.

Despite repeated requests from OHA and other stakeholders, staff instructed the consultant to take the existing by-right intensities (height limits and FARs) as a given and only evaluate increases from these existing by-right intensities as possible bonus intensities. **The Downtown Specific Plan must instead assess the existing by-right intensity levels throughout the plan area for possible**

reduction, accompanied by additional “bonus intensity” that would be available in exchange for TDRs, affordable housing and other community benefits. In much of the plan area, the existing by-right intensity levels (many of which resulted from the 2009 downtown upzoning) appear too high to adequately incentivize proposals for community benefits. This is especially the case when combined with state density bonus law provisions, which allow for significant intensity increases in exchange for minimal levels of affordable housing.

It is therefore extremely important that the zoning incentives study include analysis of what “base” or “by-right” development intensity is best for making incentives work. But since staff has told the consultant to compare only the *existing* development intensities with the “up-zoned densities contemplated by the Downtown Oakland Specific Plan” (as stated in Task 3.2 in the 5-28-19 study proposal), we will not have the consultant’s assessment of whether reduced intensities in some areas would actually make the use of community benefits more likely.

Limiting the study to the “up-zoned densities contemplated by the Downtown Oakland Specific Plan” is a backwards process and suggests that the consultant’s analysis will be used to justify zoning recommendations that have already developed without community input. **The proposed “by-right” zoning and “bonus” zoning in the plan should instead derive from the consultant’s analysis, with the by-right zoning low enough and bonus zoning high enough to adequately incentivize provision of the identified community benefits, including affordable housing and preservation of historic buildings through TDRs.**

3. Delete the following provisions from the implementation action list:

- a. **Action step 54, third bullet (page 270) that calls for “exploring allowing additional height on parcels adjacent to historic properties that rehabilitate the adjacent historic property”.** This strategy is an unnecessary incentive for historic building rehabilitation and could significantly compromise the setting for rehabilitated buildings. LU-2.1 and LU-2.2 are cited as relevant policies, but these policies do not mention this strategy.
- b. **Action step 74 (page 276), which states “update the city’s demolition findings to allow development near the periphery of fragmented Areas of Primary Importance and Areas of Secondary Importance that is compatible with the historic district”.** This action step appears to promote demolition of contributing buildings within APIs and ASIs. If portions of APIs and ASIs are “fragmented” (presumably by vacant lots), compatible development of vacant lots should be promoted instead.

4. **Classify “opportunity sites” into distinct categories, with identifying names and the distinct categories added to the Opportunity Sites Map (Figure LU-3, page 201) and exclude sites containing historic buildings.** All sites in APIs and ASIs should be considered as “historic district infill” and not included in the Opportunity Sites Map. “Underutilized sites” should similarly exclude historic resources. “Adaptive reuse” site language should be rewritten to refer to the General Plan’s Historic Preservation Element and language already in other city requirements. And, publicly-owned sites should have their own category, as these public assets should be preserved for public-serving uses.

Below are examples of sites identified as “opportunity sites” which should be reclassified. This is not an exhaustive list. OHA may add to the list as part of our further review of the Draft Plan.

- a. **Main Library: key public asset on public land.** The 1951 Miller and Warnecke building as well as its site is a historic and cultural resource. This facility was purchased with public bond funds, is a public asset and must so remain. While the library could perhaps be improved, modernized, or expanded, the site should remain a library property and not shown on the Opportunity Sites Map.
 - b. **Fire Alarm Building: historic building, Walter Matthews, 1911.** Historic building on open space, originally park land. Again, a public asset. Should be reserved for future library use if needed, or similar public-facing facility and not shown on the Opportunity Sites Map.
 - c. **401 Broadway and 430 Broadway:** county-owned buildings which should be classed as public assets.
 - d. **Schilling Gardens on 19th Street at the end of Alice Street, a historic resource in an API.** Adjoining Snow Park has recently been enlarged and rebuilt with Measure DD and federal funds. The site should be identified as “historic district infill,” not shown on the Opportunity Sites Map and probably zoned as open space or limited height so that it will not have impacts on the now heavily-used park. It may present a great opportunity for public acquisition as a potential future park acquisition.
5. **Provide a framework for a downtown Oakland design review program.** We had been expecting a complete design review document to be developed as part of the plan process, but the plan provisions appear limited to only several statements calling for design compatibility in arts and culture areas (page 148 and Action Step 51), and public frontages (LU-1.5 and Action Step 73), with minimal discussion of how such compatibility would be achieved.

Especially important is a vision statement for an **iconic downtown skyline** addressing the design of the upper portions of tall buildings with specific strategies to achieve this vision. The strategies should include massing and step back provisions, treatment of building tops and other variables that would be implemented as part of revised zoning standards and design review

criteria. Although we are still reviewing the draft plan, we can find no action steps or other discussion addressing this task, except for a few statements hidden in the plan text, such as calling for residential towers to be more slender.

San Francisco's Planning Code has a number of provisions addressing this issue, including limiting the cross-sectional area of the upper portions of tall buildings and requiring step backs at specified height levels, which would be a good starting point for Oakland.

6. Provide a more carefully considered General Plan Amendment Map (Figure LU-13A on page 225).


This map is overly broad brush, designating much of the plan area as CBD 2 and CBD 3, with 20.0 and 30.0 FAR, respectively. A finer grained map is needed that more carefully considers desired outcomes, including preservation of APIs and ASIs.

OHA requests that the City Planning Commission direct staff and the consultants to apply the above specific comments to the next iteration of the Specific Plan.

We are still formulating our comments on the Draft Environmental Impact Report, which we will submit in a separate follow-up letter by the November 8, 2019 comment deadline.

Thanks so much,

Sincerely,



Tom Debley
President, Oakland Heritage Alliance

Attachments: attachments 4-6 omitted from this copy.

1. OHA Statement of DOSP Objectives (revised 11-6-19)
2. OHA Preliminary Height Map Recommendations
3. Photograph of 570 22nd Street project
4. Photograph of 6th and Oak project.
5. Los Angeles 2019 Second Quarter Housing Progress Report.
6. Los Angeles Transit Oriented Communities Guidelines

By electronic transmission:

cc: William Gilchrist, Ed Manasse, Laura Kaminski, Alicia Parker, Joanna Winter, Peterson Vollmann, and Betty Marvin,
Bureau of Planning
Dover Kohl
Oakland Landmarks Preservation Advisory Board
Mayor and City Council

Draft Downtown Oakland Specific Plan
STATEMENT OF OAKLAND HERITAGE ALLIANCE PRIMARY
OBJECTIVES.
Revised November 6, 2019

The following objectives are derived from those set forth in Oakland Heritage Alliance’s January 22, 2019 letter to the City Planning Commission on the Preliminary Draft Downtown Oakland Specific Plan and appeared in that letter as Items 2, 3, and 4.

1. **Reduce existing excessive by-right (base) zoning intensities [floor area ratios (FARs), height limits and residential densities] in most areas and allow increased, or “bonus” intensities in exchange for community benefits, including affordable housing and, for historic buildings, transferable development rights (TDRs).** See TDR discussion in Objective 3 below.

The Specific Plan provides an opportunity to correct the mistakes of the 2009 rezoning that provided excessive by-right height limits and FARs, which eliminated any incentives for developers to provide community benefits. For example, much of downtown Oakland was provided with by-right 14.0, 17.0 and 20.0 FARs in the 2009 rezoning, which, unfortunately, is mostly retained in the Draft Specific Plan. This is especially disappointing, given such statements in the 2016 Plan Alternatives Report as the following on page 4.7: “Rezoning areas with unnecessarily excessive height limits to allow for more flexibility with density bonuses and other developer incentives”.

By comparison, the maximum by-right FAR in San Francisco resulting from its 1985 Downtown Specific Plan was 9.0, which can be increased up to 18.0 (higher at some locations, such as the Salesforce Tower) in exchange for TDRs and other community benefits. “Overzoning”, such as what exists in downtown Oakland, tends to artificially inflate land values and create more barriers to providing affordable housing and encourages owners to “land bank” their property while waiting for a major development project that will pay them top dollar. Ironically this can **discourage** development, rather than encourage it, as intended by overzoning. Land banking also tends to encourage a slumlord mentality, with building owners reluctant to spend money to properly maintain their buildings and refuse long-term leases that could include major tenant improvements, thereby discouraging high-quality tenants.

See also 2014 white paper on Public Benefit Zoning, prepared for the Association of Bay Area Governments, Metropolitan Transportation Commission and Eastbay Housing Organizations available at: http://ebho.org/wp-content/uploads/2011/09/LVR-White-Paper-ExecSum_141113.compressed.pdf

An example of an apparently successful incentive zoning strategy which provides affordable housing is Los Angeles’s Transit Oriented Communities (TOC) Incentive Program adapted pursuant to Measure JJJ. See attached TOC guidelines. According to the attached Los Angeles 2019 Second Quarter Housing Progress Report, approximately

3,863 affordable units have been proposed out of a total of approximately 19,928 residential units (or about 19.4%) since the program was established in October, 2017.

Emeryville's zoning incentives program (previously discussed in OHA's February 5, 2019 letter to the City Planning Commission) is also looking promising. Building permits for the Sherwin-Williams project are expected to be issued by early next year. Of the 500 residential units, 85 (17%) are to be affordable. And \$7,000,000 (5% of total construction value) of additional community benefits will be provided, including such projects as utility undergrounding along various streets, a courtesy shuttle to the West Oakland BART station and a public art gallery and community room.

2. Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) does not exceed the scale of contributing historic buildings within the APIs and ASIs.

The Plan should require that new structures be visually subordinate to contributing buildings so as to not visually overwhelm the API/ASI and potentially compromise its API/ASI eligibility. In many cases, this means that the heights of new buildings need to be lower than the tallest adjacent contributing building and sometimes significantly lower, perhaps one or more stories. For example, a new building located between a one story and three story contributing building should probably be no more than two stories. This must be reflected on any height/FAR maps that come out of the plan. *This is especially important in Old Oakland*, where the current by-right height limit is 55' (increased by 5' in 2009) while the tallest contributing buildings are about 45'.

Avoiding excessive architectural contrast with contributing buildings is a further requirement for achieving visual subordination and should be addressed in the Design Guidelines to be prepared as part of the Specific Plan.

3. Provide a robust Transferable Development Rights (TDR) program. Although the plan calls for a TDR program, an actual program mechanism has still not been provided, despite promises for such a program in previous Downtown Specific Plan documents. We are disappointed that a more developed TDR proposal or options has not yet been developed, given the considerable elapsed time and resources that have now been dedicated to the Specific Plan.

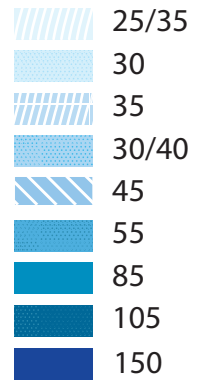
A TDR program was called for in the General Plan's 1994 Historic Preservation Element. Now 25 years have elapsed and the program still has not been implemented, despite the major resources dedicated to the Downtown Specific Plan and previous major land-use policy documents, including the 1998 Land Use and Transportation Element, the 2009 Downtown Rezoning and the 2014 Lake Merritt Station Area Plan. TDRs have been very successful in preserving historic buildings in downtown San Francisco and elsewhere. The San Francisco model could be adopted almost verbatim in Oakland. See the Historic Preservation Element and the 2013 Seifel report on the San Francisco program (previously provided to the Landmarks Preservation Advisory Board and City Planning Commission) for further discussion.

Oakland Heritage Alliance

Preliminary Height Limit Recommendations: 9-22-2019

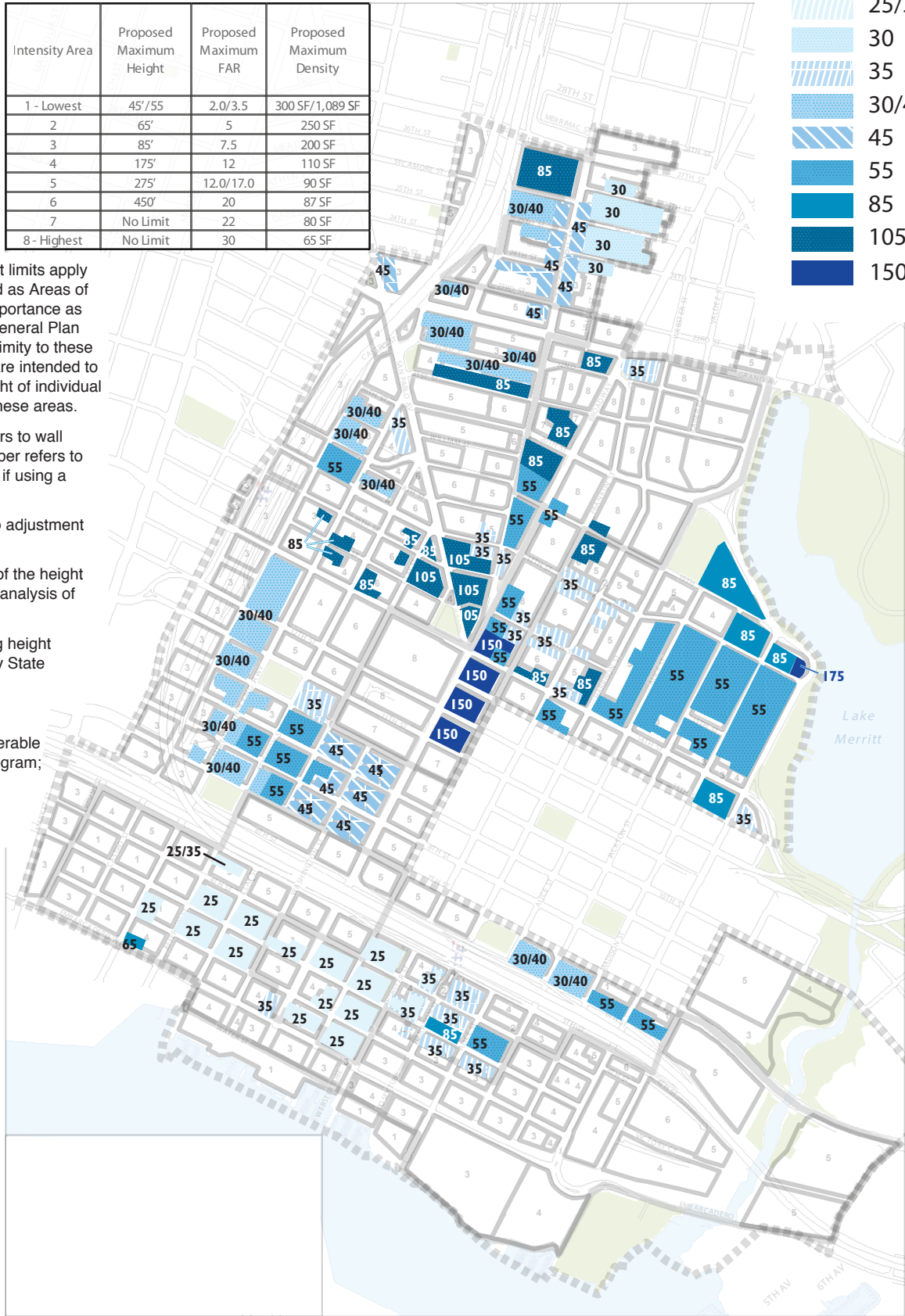
OHA Recommends

Intensity Area	Proposed Maximum Height	Proposed Maximum FAR	Proposed Maximum Density
1 - Lowest	45'/55'	2.0/3.5	300 SF/1,089 SF
2	65'	5	250 SF
3	85'	7.5	200 SF
4	175'	12	110 SF
5	275'	12.0/17.0	90 SF
6	450'	20	87 SF
7	No Limit	22	80 SF
8 - Highest	No Limit	30	65 SF



OHA NOTES:

- The recommended height limits apply to historic areas identified as Areas of Primary or Secondary Importance as defined in the Oakland General Plan and parcels in close proximity to these areas. The height limits are intended to reflect the prevailing height of individual historic buildings within these areas.
- **30/40** = First number refers to wall height limit. Second number refers to roof height limit available if using a gable or hip roof.
- All height limits subject to adjustment depending on:
 - Continued refinement of the height limits based on further analysis of as-built conditions;
 - Strategy for addressing height increases mandated by State Density Bonus Law;
 - Floor area ratios;
 - Provision of any transferable development rights program; and
 - Ongoing consultations with stakeholders.



Letter B-1c
Oakland Heritage Alliance
Tom Debley, President
November 8, 2019

- Response B-1c.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-1c.2** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. This figure has been updated in the Plan.
- Response B-1c.3** City staff is committed to amending Oakland’s Transferable Development Rights (TDR) Ordinance and including it for adoption with the package of other Planning Code amendments necessary to implement the Plan including the floor area ratio (FAR), height limit, residential density, and other zoning changes proposed in the Plan.

Page 354, Mitigation Measure CULT-1A of the Draft EIR, is revised as follows:

- i. **Seek additional resources to fund Reinstated and promote the City Downtown Façade Improvement Program**⁵² consistent with Action 3.8.1(g) of the Historic Preservation Element of the City of Oakland General Plan for both commercial and residential properties including SROs. The program shall require financial contribution to this fund when historical resources are impacted and unable to be mitigated by future development projects in the Plan Area, and potentially the other Specific Plan areas, based on a formula established by the City.. In addition, the City shall seek other sources for funding, such as grant opportunities, as part of reinstating the program. If reestablished, the Façade Improvement Program fund shall be used to implement the additional mitigation measures identified below, as appropriate.
- ii. **Revise the City Transfer of Development Rights (TDRs) Ordinance Program. Draft and include TDR amendments within three years of Plan adoption in the package of Planning Code amendments needed to implement the Plan including floor area ratio (FAR), height limits, residential density changes, and other zoning changes proposed in the Plan** to encourage the retention of the smaller-scale buildings that are prevalent in downtown and are at high risk for redevelopment and demolition. The revised ordinance Planning Code should be

~~accompanied by~~ include a specific TDR program for building owners and project sponsors within the Plan Area, ~~and potentially the other Specific Plan areas~~. This program should include identifying potential properties to participate and outreach to these owners so they understand the benefits as well as how this program could fit into a menu of preservation incentives. The transfer enables the owner of the receiving site to develop additional gross floor area, above and beyond what would otherwise be allowed. The use of this TDR program shall be considered when evaluating the current height changes proposed in Downtown Oakland. ~~into the current height changes proposed downtown~~. A good One model for this program has been ~~on-going~~ ongoing in San Francisco.

- iii. **Adopt an Encourage Adaptive Reuse Ordinance**, ~~within three years of Plan adoption~~, Elements that would encourage preservation of historic buildings within the Plan Area will be included in the package of proposed Planning Code amendments that include FAR, height limits, residential density changes, and other zoning changes proposed in the Plan, ~~and potentially the other Specific Plan areas~~. The City of Los Angeles has adopted a highly successful similar program adopted an overlay in 1999 for downtown that was extended into other areas communities across LA in 2003 through the Adaptive Reuse Incentive Area Specific Plan that can serve as a model. ~~Other elements of the ordinance~~ Elements should include a means to expedite project approvals height limitations for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities. It should also delineate areas, design standards and delineation of which historic buildings or areas in downtown are eligible for provisions to encourage reuse, with a focus on designated Landmarks, buildings within National Register-listed historic districts, and buildings within APIs ~~and ASIs~~. Provisions to encourage reuse could include but not be limited to reduced permitting costs, ways to accommodate existing floor area ratios, and reduced parking and open space requirements, when necessary to achieve project goals. ~~Other provisions could include~~ The City will develop expedited review for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities, as well as expedited review of the use of the California Historical Building Code (CHBC) and ways to encourage

projects to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Response B-1c.4 The Downtown Oakland Specific Plan focuses the vast majority of new growth outside of Areas of Primary Importance (API) or Areas of Secondary Importance (ASI), but because of the significant amount of total land area within the Downtown Oakland Specific Plan boundary covered by these historic designations (28%),⁵ it would be infeasible to fully avoid materially altering some of these resources given the amount of new development contemplated in the Plan, and therefore would be infeasible to propose a fully mitigated historic resources alternative. As discussed in the CEQA Guidelines Section 15126.6, an EIR is not required to consider alternatives which are infeasible, and there is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Response B-1c.5 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. In the context of the Draft EIR, as noted in the quoted policy with the statement "[U]nless necessary to achieve some other Oakland General Plan goal or policy which is of greater significance" most General Plans, Specific Plans, and other policy documents include goals and policies that support a variety of different outcomes, and often times these goals and policies are in competition with each other. The text in the Draft EIR is revised to more accurately communicate this:

Page 100, (2) Consistency, of the Draft EIR, is revised as follows:

The Specific Plan is consistent with Historic Preservation Element policies; however, there are other goals that given the City's priorities, may be a higher priority. The City is always balancing multiple conflicting priorities and goals. The Specific Plan is careful to emphasize the importance of preserving historic resources to the extent feasible. One example of this is Goal 6, which states: Develop downtown in a way that contributes to community needs and preserves Oakland's unique character. Under Goal 6 is Land Use Outcome LU-2: Oakland's extensive array of historic buildings, cultural enclaves, civic organizations, and culture keepers are preserved within downtown's-built environment.

⁵ City of Oakland, Areas of Primary and Secondary Importance within Downtown Oakland Specific Plan, January 30, 2020.

The Specific Plan values the preservation and reuse of historic buildings as an essential element to maintaining community character. The Specific Plan includes policies to preserve and adapt historic buildings downtown, develop an updated Transfer of Development Rights (TDR) program to assist preservation efforts and expand the City's online Cultural Asset map. The Specific Plan also proposes creating a Cultural Districts Program to establish new cultural districts. The Black Arts Movement and Business District (BAMBD) was the eCity's first adopted cultural district. Potential additional districts could include a Chinatown Heritage District and an Art & Garage District in Koreatown/Northgate (KONO), and a Jack London Maker District.

While the Specific Plan puts forward many policies that would be beneficial to historic and cultural resources in the downtown area, other policies that may be beneficial in other Plan realms, such as economic opportunity or affordable housing, would potentially impact historic and cultural resources, as they encourage new construction in areas that likely include historical resources within the downtown built environment.

Response B-1c.6 The City reviewed all comments received from the public and in consultation with its historic consultant developed a list of mitigation measures that further the policy goals of the Downtown Oakland Specific Plan. The measures minimize impacts to cultural resources as indicated in its cultural resources chapter of the Draft EIR. Pertaining to project alternatives, see Response B-1c.4.

As described above in Response B-1c.5, the Specific Plan values the preservation and reuse of historic buildings as an essential element to maintaining community character and includes polices to preserve and adapt historic buildings downtown. As also indicated in Response B-1c.5, there are other goals that given the city's priorities, may be considered of equal or greater significance, and the Specific Plan is careful to emphasize the importance of preserving historic resources to the extent feasible. The Downtown Oakland Specific Plan focuses the vast majority of new growth outside of Areas of Primary Importance (API) or Secondary Importance (ASI), but because of the significant amount of total land area within the Downtown Plan boundary covered by these historic designations (22 percent for APIs

and 6 percent for ASIs),⁶ it would be infeasible to fully avoid materially altering some of these resources given the amount of new development contemplated in the Specific Plan.

See Response B-1c.12. Projects that are based on the Secretary of the Interior's Standards for the Treatment of Historic Properties⁷ are generally deemed to have a less-than-significant impacts to historic resources. The Secretary's Standards are specifically mentioned in the CEQA Guidelines. They have been adopted and accepted by innumerable California cities as the tool for reviewing historic preservation projects. Further, Standards #9 and #10 contain language that relate to the materials, features, size, scale and proportion, and massing of new construction. Additionally, Standard #3 discourages changes to historic properties that create a false sense of historical development or that would add conjectural features.

Response B-1c.7 The requested changes to Mitigation Measure AES-2: Wind Analysis, are noted; however, the Mitigation Measure AES-2: Wind Analysis has been removed to be in accordance with the General Plan EIR. As described in Impact AES-2: Wind Analysis, in the Draft EIR, implementation of the Downtown Oakland Specific Plan and development that may occur under the Plan may result in adverse wind conditions. The City will work with developers and architects to modify designs to reduce wind impacts to the extent feasible. However, they expect there will be some cases that a superior design may be preferred and potential wind impacts may not be fully mitigated. As a result, this impact is identified as conservatively significant and unavoidable and the requested revisions have not been incorporated into the mitigation.

Response B-1c.8 It is unclear what specific impact or threshold the commenter is referring to as "constituting a significant effect." The Plan's intensity has been analyzed, and a summary of the impacts is provided as a summary table in *Chapter II, Summary*, of the Draft EIR, and discussed throughout the Draft EIR in various topical chapters. There is no threshold that indicates height alone would adversely impact a historic resource. As individual projects are proposed,

⁶ City of Oakland, 2020. Areas of Primary and Secondary Importance within Downtown Oakland Specific Plan, January 30.

⁷ Weeks, Kay D. and Anne E. Grimmer. 1995 (updated by Grimmer, 2017). The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings. Department of the Interior, National Park Service, Washington, D.C: Government Printing Office.

specific impacts related to historic resources would be evaluated, and project specific impacts would be identified.

There are many examples of tall buildings adjacent to historic structures where the historic integrity of the lower-scaled building is not significantly impacted. This particular concern is most relevant to the Secretary of Interior Standards, Standard #9 which states:

- *"New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment."*

The Plan assumes adaptive reuse of the Fire Alarm Building and opportunity for further development of the parcel with an addition to the historic building. Any proposed addition to the building would be reviewed for its conformance with the Secretary of the Interior's Standards. Projects that meet the Standards are understood to be mitigated to a less than significant level. This is also a City-owned property, and therefore any project on it would be subject to a Development Agreement and significant City review.

Related to conflicting with the Lake Merritt Station Area Plan (LMSAP), the Fire Alarm Building is within the portion of the Downtown Oakland Specific Plan area that overlaps the portion of the LMSAP area shown on Figure III-2 on page 34 of the Draft EIR. Upon adoption of the DOSP, all of the LMSAP areas that are currently within the DOSP area boundary will be removed from the LMSAP. Therefore, although the LMSAP contains policies which may in some cases address different goals, policies, and objectives than the Downtown Oakland Specific Plan, the City will have decided upon adoption of the Plan, whether, on balance, the Downtown Oakland Specific Plan is consistent (i.e., in general harmony) with the various plans for downtown, including the LMSAP. Therefore, the fact that the Downtown Oakland Specific Plan may not meet every policy, goal, or objective of the LMSAP to the full extent, does not inherently result in a conflict or inconsistency or constitute a significant effect on the environment.

Response B-1c.9 The Specific Plan presents a unified, cohesive, and broadly construed array of policies, strategies, and changes to regulations and physical projects for the purpose to create a desired future growth and development framework. As described further on page 42 of the Draft EIR, the project description in the

Draft EIR describes components that could result in potentially significant impacts. The Draft EIR includes the projected development program that represents the reasonably foreseeable development expected to occur in the Plan Area over the next 20 years and is thus the level of development envisioned by the Specific Plan and analyzed in the Draft EIR. The reasonably foreseeable development assumed for the EIR analysis assesses what might be feasible based on several market factors. Through the established planning and environmental review and permitting process required for each individual development in the City and under the Specific Plan, the City would monitor actual development associated with the study area, as the Specific Plan is implemented.

As discussed on page 77 of the Draft EIR, the City intends to use the streamlining/tiering provisions of CEQA to the maximum extent feasible, so that future environmental review of specific projects is expeditious and undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines Section 15152 and elsewhere. Specifically, pursuant to CEQA Guidelines Section 15183, streamlined environmental review is allowed for projects that are consistent with the development density established by zoning, community plan, specific plan, or general plan policies, for which an EIR was certified, unless such a project would have environmental impacts peculiar/unique to the project or project site; were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent; are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the General Plan,, community plan or zoning action; or are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

Pertaining to the assertion that the proposed Specific Plan does not qualify as a "project" under CEQA, Public Resources Code Section 21065 defines "project" as an agency activity that "may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Under the definition of 21065, "a reasonably foreseeable indirect physical change is one that the activity is acceptable, at least in theory, of causing." In addition, the likely actual impact of an activity is not at issue in determining its status as a project.

Response B-1c.10 As described in *Chapter III, Project Description*, of the Draft EIR, the Specific Plan, which provides a vision and planning framework for future growth and development in the approximately 930-acre Plan Area and is the project evaluated. The Specific Plan presents a unified, cohesive, and broadly construed array of policies, strategies, and changes to regulations and physical projects for the purpose of creating a desired future growth and development framework. As described further on page 74 of the Draft EIR, the Plan identifies a projected development program that represents the reasonably foreseeable development expected to occur in the Plan Area over the next 20 years and is thus the level of development envisioned by the Specific Plan and analyzed in the Draft EIR. The reasonably foreseeable development assumed for the EIR analysis assesses what might be feasible based on several market factors. Through the established planning and environmental review and permitting process required for each individual development in the City and under the Specific Plan, the City would monitor actual development associated with the study area, as the Specific Plan is implemented.

The CEQA analysis presented in the Draft EIR is based on the development quantities set forth in the projected development program, but the intent of the Specific Plan and the Draft EIR is to provide as much flexibility as is feasible related to the precise mix of newly developed land uses and their location within the Plan Area (within the envelope of the development program) while conforming to the CEQA analysis and thresholds. The Specific Plan does not go into detail of specific buildings to be built in the Plan Area, as the goal of this Specific Plan is programmatic in nature in that it sets broad policies and goals intended for a specific geographic area.

The degree of specificity in an EIR corresponds to the degree of specificity in the underlying activity described in the EIR. As CEQA specifies, a Program EIR is appropriate for a Specific Plan, under which there will be future development proposals that are: 1) related geographically 2) logical links in a chain of contemplated actions, 3) connected as part of a continuing program, and 4) carried out under the same authorizing statute or regulatory authority and have similar environmental impacts that can be mitigated in similar ways (CEQA Guidelines Section 15168). For some site-specific purposes, a program-level environmental document may provide sufficient detail to enable an agency to make informed site-specific decisions within the program. This approach would allow agencies the ability to consider program-wide mitigation measures and cumulative impacts that might be

slighted in a case-by-case analysis approach, and to carry out an entire program without having to prepare additional site-specific environmental documents. In other cases, the formulation of site-specific issues is unknown until subsequent design occurs leading to the preparation of later project-level environmental documentation. Preparation of a program-level document simplifies the task of preparing subsequent project-level environmental documents for future projects under the Specific Plan for which the details are currently unknown. This EIR presents an analysis of the environmental impacts of adoption and implementation of the Specific Plan. Specifically, it evaluates the physical and land use changes from potential development that could occur with adoption and implementation of the Specific Plan. The assumed projected development program is described in *Chapter III, Project Description*. Pursuant to CEQA Guidelines Sections 15162-15164, 15168, 15183, and 15183.5, future program-and project-level environmental analyses may be tiered from this EIR. As described on page 77 of the Draft EIR, the City intends to use the streamlining/tiering provisions of CEQA to the maximum feasible extent, so that future environmental review of specific projects is expeditiously undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines Section 15152 and elsewhere.

Response B-1c.11 The Draft EIR provides this information on pages 341-353.

Response B-1c.12 Revisions have been provided to Mitigation Measure CULT-1D to clarify current design standards versus design guidelines.

Page 356 and Chapter II, Summary, page 22, Mitigation Measure CULT-1D of the Draft EIR, is revised as follows:

Mitigation Measure CULT-1D: As part of the implementation of Plan Policy LU-2-4 that revises the City's Demolition Findings Requirements to facilitate new compatible development near the outer edges of fragmented APIs and ASIs, require ~~tailored objective design standards guidelines~~ to help ensure architectural compatibility. The ~~standards guidelines~~ should illustrate treatments for rehabilitation of the historic commercial buildings typical in these historic districts, as well as provide strategies for new construction both within and on the immediate periphery or edge of these significant areas. New construction in these areas should take into consideration the historic parcel pattern; assembling lots and creating bulkier building footprints changes the character of the street rhythm. These ~~standards guidelines~~ will help mitigate the impacts of future development on these sensitive areas of

~~downtown. example for this mitigation best practices from other cities is the Historic Downtown Los Angeles Design Guidelines completed in July 2002 by the Los Angeles Conservancy and three downtown Business Improvement Districts (BIDs).⁵³~~

Specifically, the Draft EIR requires that the new design standards should illustrate treatments for rehabilitation of the historic commercial buildings typical in historic districts, as well as provide strategies for new construction both within and on the immediate periphery or edge of historically significant areas APIs and ASIs. Further, the design standards will ensure that new construction takes into consideration the historic parcel pattern and will further mitigate any potential impact of future development.

As noted in the Response to B-1.6, design standards that are based on the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings are generally deemed to have no impacts to historic resources. The Secretary's Standards are broad and provide general information to determine appropriate treatments for historic properties. They apply to a wide range of circumstances and resources and are intended to guide projects toward appropriate treatment selections.

Response B-1c.13 As stated in the comment, an "infill site" is "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The exemption includes the provision that an infill site is located within an urban area that has been previously developed, or on a vacant site with provisions as described above. The Plan Area is a highly developed area both currently and historically. All areas around Lake Merritt have been previously developed, and therefore the exemption does apply to the entire Plan Area. As a result, it is not critical that every vacant lot within the proposed Plan Area is on a "site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses," because all areas in the Plan Area have been previously developed.

Public Resources Code Section 21099 was enacted as part of Senate Bill (SB) 743 to further the Legislature's strategy of encouraging transit-oriented, infill development consistent with the goal of reducing greenhouse gases. Further, SB 375 was enacted to implement the California Global Warming Solutions

Act of 2006. When it comes to climate change, the State's long term environmental goals are clear—that the State must reduce greenhouse gas emissions over the next few decades, and SB 743 works toward this goal by allowing for greater flexibility for projects while incentivizing public transit. The Downtown Oakland Specific Plan is a project with many of the main goals being to increase residential and commercial density near transit, which is the exact intent and purpose behind SB 375 and SB 743.

Related to the assertion that not all lots covered by the proposed Specific Plan are for "residential, mixed-use residential, or employment center projects," employment center projects according to 21099(a)(1). means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area. With the exception of EPP Parks and LUTE Urban Park and Open Space; zoning amendments currently being prepared allow commercial activity in most areas and thus, allow the Infill Exemption provision to be utilized.

Furthermore, the Office of Planning and Research (OPR) has issued technical guidance regarding interpretation of SB 743 and Public Resources Code Section 21099. According to OPR: "[regarding] land use projects, residential, office, and retail projects tend to have the greatest influence on vehicles miles traveled (VMT). For that reason, OPR recommends the quantified 15 percent per capita or below thresholds described [in the technical advisory] for purposes of analysis and mitigation."

However, it is also important to note that OPR defers to local agencies in using more location-specific thresholds, which may even include other specific land use types. OPR states: "Lead agencies, using more location-specific information, may develop their own more specific thresholds, which may include other land use types. In developing thresholds for other project types, or thresholds different from those recommended here, lead agencies should consider the purposes described in section 21099 of the Public Resources Code and regulations in the CEQA Guidelines on the development of thresholds of significance (e.g., CEQA Guidelines Section 15064.7)."

The Downtown Oakland Specific Plan is attempting to increase residential and commercial density downtown, while also retain preexisting institutional and limited industrial uses. Given these goals, the City is afforded great deference in applying Public Resources section 21099 to individual parcels within the Plan area.

Response B-1c.14 See Response B-1c.8.

Response B-1c.15 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1c.16 As stated on page 74 of the Draft EIR, Table III-3 of the Draft EIR includes development program calculation assumptions. Table III-4 shows the number of residential units, commercial, industrial, and institutional square footage and number of parking spaces that currently exist, are in active development through 2019, and are identified in the Specific Plan future development through 2040 and the new increase with active development and Plan Future Development through 2040. Table III-5 presents the existing and assumed growth of population and employment in the Plan Area between 2010 (the base year for the analysis) and 2040 ("buildout year" or "planning horizons"). A certain amount of development and growth in the Plan Area would be expected even without the implementation of the Plan.

Figure III-4 displays the various Land Use Character Areas in the Plan Area. Figure III-6 displays the proposed General Plan Land Use Designation Amendments, and Figure III-8 displays the proposed development intensities (which identifies the proposed maximum permitted FAR, residential density, and building heights).

The CEQA analysis in the Draft EIR is based on the development quantities set forth in the Development Program of the Specific Plan (Table III-4 "Plan Future Development Through 2040" and Table III-5 "Plan Future Development Through 2040"). The Development Program for the Specific Plan is a numerical estimate of potential future development based on the land use intensity recommendations, as well as on the economic and market realities. Figure III-6 and Figure III-8 serve two purposes; Figure III-6 displays the General Plan Amendments as part of the Specific Plan while Figure III-8 displays the draft intensity map indicating changes to FAR, density, and height.

Regarding the comment that projected intensities as shown in the tables need to be mapped, please see Response B-1c.10, as the goal of this Specific Plan is programmatic in nature in that it sets broad policies and goals intended for a geographic area. As stated in Section 15168 (c) of the CEQA Guidelines for a Program EIR, subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

Response B-1c.17 This comment is noted. Responses to individual comments related to proofreading, and/or other edits are written below.

Response B-1c.18 The commenter is referring to a historic Chinese settlement of the east side of San Pablo Avenue, between 19th and 20th Street. As part of the Uptown Mixed-Use Project Environmental Impact Report,⁸ Archeo-tec Inc. completed archaeological pre-testing. Several surveys were conducted from December 15, 2005 to January 12, 2006 in response to a mitigation measure as part of the Final EIR. On January 9, 2006 small deposits of euro and Chinese artifacts were found including a fragment from a porcelain teacup, four medicinal vials, and a food storage container. As described in the pre-test report, nothing warranted a test evaluation program, but a write up was recommended for the artifacts sampled.⁹ While there was a scattering of Chinese artifacts, there was nothing indicative of Chinese settlement in the vicinity of 20th Street and San Pablo Avenue.¹⁰

Page 307, second paragraph of the Draft EIR, is revised as follows:

During the 19th century, California saw Chinatowns become part of the urban fabric. Los Angeles, Fresno, San Francisco, and Oakland each had multi-block areas with a focused enclave of Chinese residents and businesses. In Oakland, this is evidenced by notations on the 1889 Sanborn Map in the blocks east of Broadway and bounded by 7th, 9th, Webster, and Franklin streets.³² After the 1906 San Francisco earthquake, the enclave encompassed a much larger area of downtown, east of Broadway to Madison and from 7th Street extending to 11th and 12th streets. In addition, according to a dissertation by Willard Chow, there was also a Chinese settlement which had been located on the east side of San Pablo Avenue between 19th and 20th streets, and which had been displaced in the 1870s due to the northward expansion of Oakland's central business district. While a scattering of Chinese artifacts was found adjacent to the area, there was nothing indicative of Chinese settlement in the vicinity of 20th Street and San Pablo Avenue.³³ Many Chinese residents, ~~burned out of~~ fleeing the 1906 fire in San Francisco's Chinatown, ~~by the 1906 fire~~ temporarily and permanently relocated to Oakland, adding to Oakland's

⁸ City of Oakland, 2003. Uptown Mixed Use Project, Draft Environmental Impact Report, September.

⁹ Archeo-tec, Inc. Uptown Oakland, Archaeological Pre-Testing, Summary Report as of January 13, 2006. Available at: <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/webcontent/oako35166.pdf>, accessed February 21, 2020.

¹⁰ Dr. Allen Pastron, Director of Archeo-Tech, 2020. Personal communication with Urban Planning Partners, February 25.

Chinese population. By the turn of the twentieth century, Oakland was beginning to attract businesses and residents away from its more populous neighbor, San Francisco. This was fueled partially by the growing Key System of electric railways that connected the most densely populated areas of Oakland to the outlying suburbs of Berkeley and Alameda, as well as a ferry service to San Francisco's Ferry Building, started in 1903.

³³ Dr. Allen Pastron, Director of Archeo-Tech, 2020. Personal communication with Urban Planning Partners, February 25.

Response B-1c.19 We do not use italics anywhere in the Draft EIR document.

Response B-1c.20 We do not use italics anywhere in the Draft EIR document.

Response B-1c.21 **Page 311, opening text and first paragraph of the Draft EIR, is revised as follows:**

....to redlining, or exclusionary lending and service-related practices based on race. Ultimately, discriminatory redlining ~~impacted~~ limited the economic benefits of the FHA ~~intended~~.

It was not until full-scale preparations for and the ~~outset~~ onset of World War II that Oakland entered its next era of intense industrial, commercial, and economic development. From 1940 to 1945, Oakland's population increased by one third, with a population of nearly 385,000 in 1950. Intensified shipbuilding and harbor activities, including the construction of the Oakland Army Base and the Naval Supply Center, provided much-needed employment for migrating newcomers and established Oakland residents alike.

Page 311, third paragraph of the Draft EIR, is revised as follows:

In the 1950s, the Port of Oakland sponsored a redevelopment plan to create a destination area ~~at~~ along the waterfront to compete with San Francisco's Fisherman's Wharf, including multiple restaurants and a Boatel, a hotel on the waterfront. The initial Jack London Square development was further enhanced and remodeled in the 1980s. The new development was a departure from the industrial uses that had been the mainstay of Oakland's waterfront. The Jack London Square development is adjacent to or near the Waterfront Waterfront Warehouse Historic District and the Produce Market Historic District, both of which consist of masonry warehouses

reflecting the industrial character of the pre-tourist-based waterfront, ~~are situated adjacent to the Jack London development.~~ In recent years, many of these older warehouses have been converted to housing, with some retail and restaurant uses as well.

Page 311, fourth paragraph, last sentence of the Draft EIR, is revised as follows:

.... The freeway alignment severed West Oakland from downtown, displaced residents, and resulted in the demolition of housing stock. During construction, Preservation Park, bounded by Castro Street, Martin Luther King Jr. Way, and 14th and 12th streets, was created by assembling a collection of historic, Victorian-era houses ~~impacted by~~ which were moved to accommodate the freeway's construction.

Response B-1c.22 Page 312, first paragraph, fourth sentence of the Draft EIR, is revised as follows:

This was the result of fierce community organizing and opposition to the Federal Government's original proposal to reconstruct following the ~~same~~ pre-earthquake alignment.

Response B-1c.23 Page 320, added an additional paragraph regarding state tax credit to the Draft EIR above (5) California Historical Building Code (CHBC):

(5) California Historic Tax Credit

On October 9, 2019, Governor Gavin Newsom signed SB 451 to establish the California Historic Tax Credit, with an effective date of January 1, 2021. However, at this time it is unclear how the program will be implemented. Implementation procedures for the program are still being worked out as of January 2021. However, SB 451 will provide an annual aggregate cap (\$50,000,000) on the state historic tax credit program, with \$10 million set aside for residential and smaller projects. All eligible buildings must be listed on the California Register of Historic Places.

The California Historic Tax credit became effective January 1, 2021 and has a sunset date of January 1, 2026. Between now and the effective date, the California Office of Historic Preservation must adopt regulations to implement the bill and work with the California Tax Credit Allocation Committee to establish a written application. At this time, the program has

not been fully implemented and it is unclear how quickly the program will move forward.

As proposed, the credit is equal to 20 percent of the qualified rehabilitation expenditures with respect to a certified historic structure. An additional 5 percent bonus is available for a certified historic structure that meets one of the following criteria as defined in existing law, such as structures located on government surplus property; in a designated census tract; or is part of a military base reuse authority. Rehabilitation of structures that include affordable housing, are part of a transit-oriented development with higher density, or mixed-uses also qualify for the additional 5 percent bonus.

The tax credit is available for qualified rehabilitation expenditures related to a taxpayer's qualified principal residence if the expenses are determined to rehabilitate the historic character and improve the structural integrity of the residence. In order to qualify for the residential tax credit, the taxpayer must have an adjusted gross income of \$200,000 or less and use the structure as his or her principal residence. The credit amount is not less than \$5,000 but does not exceed \$25,000.

Page 320, (5) California Historical Building Code (CHBC) of the Draft EIR, is revised as follows:

~~(5)(6)~~ California Historical Building Code (CHBC)

Page 320, (6) California Health and Safety Code of the Draft EIR, is revised as follows:

~~(6)(7)~~ California Health and Safety Code

Page 321, (7) California Assembly Bill 52 of the Draft EIR, is revised as follows:

~~(7)(8)~~ California Assembly Bill 52

Page 321, (8) Senate Bill 18 of the Draft EIR, is revised as follows:

~~(8)(9)~~ Senate Bill 18

Response B-1c.24 Page 335, Policy E.2.7 quoted in the Draft EIR, is revised as follows:

Policy E-2.7: Ensure City policies and actions maintain sufficient industrial space downtown to.....

Response B-1c.25 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-1c.26 **Page 337, second paragraph of the Draft EIR, is revised as follows:**

While the Plan includes several policies to protect historic resources and neighborhood character, this must be balanced with the Plan's primary goals ~~are~~ to create opportunities for economic growth and economic security for all Oaklanders. The Plan promotes policies to ~~and~~ ensure sufficient housing is built and retained to meet the varied needs of current and future residents. ~~Development associated with achieving the Plan's economic growth and housing policies consequently could adversely impact individual historic resources and/or historic districts as discussed below.~~ The Plan accomplishes these growth and housing goals by increasing height limits and intensity in some areas and replacing existing General Plan designations. The Plan also identifies opportunity sites for future development. If these Plan goals and policies are implemented as envisioned, ~~then~~ they could result in significant unavoidable impacts to historic and cultural resources. ~~Although as~~ As is often the case with plan policies, many ~~of the Plan's~~ policies have the potential for both positive as well as adverse outcomes. This is reflected in some policies that appear in both the list above, ~~as well as the those listed below,~~ as they may result in significant impacts to historic and cultural resources:

Response B-1c.27 The API has different boundaries compared to the cultural district. No change to text.

Response B-1c.28 Fee should only be for demolition (the same as exists today) if developer tries to keep a façade as part of their development this should be encouraged, not discouraged. For the TDR timeline, see above language in response to the other TDR timeline.

Specific to the revision of the TDR, see Response B-1c.3

Response B-1c.29 The requested text is updated because Mitigation Measure CULT IE-ii has passed.

Page 357, fourth paragraph of the Draft EIR, is revised as follows:

- ii. ~~Provide City support of efforts at the State level to create a Promote the California Historic Tax Credit through This could take the form of pro-active encouragement of state legislation that would enact the tax credit property owners to apply for the credit through educational programs and outreach.~~

Response B-1c.30 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-1c.31 The context of Implementation of Oakland Planning Code 17.136.075 is stated in the Impacts of CULT-2: Alterations to Historic Buildings that could occur under the Specific Plan that could change the significance and character of historic resources as a result of the Specific Plan. Page 359 of the Draft EIR describes, that while implementation of Oakland Planning Code 17.136.075 and the Plan policies would provide some protection for historic resources, these mitigation measures would not be enough to mitigate impacts to historic and cultural resources to a less-than-significant level. The emphasis on page 359 is that even with the current demolition findings, the impacts of the Downtown Oakland Specific Plan would be significant and unavoidable.

Response B-1c.32 **Page 363, second paragraph of the Draft EIR, is corrected as follows:**

There is a possibility that if demolition or major ~~alternation~~alteration of a historic resource occurs with adoption of and development under the Specific Plan, and if avoidance, adaptive reuse, and appropriate relocation as identified in SCA-CULT-4: Property Relocation (#~~3536~~) are not feasible, and the same circumstance occurs with other projects in the Plan Area vicinity that may likely affect potential historic resources, a significant and unavoidable cumulative impact could result, even with the application of recordation, public interpretation, and financial contributions as identified in all SCAs incorporated to all development projects.

From: [Bryan Ricks](#)
To: [Winter, Joanna](#)
Cc: [Means, Scott](#)
Subject: [EXTERNAL] Statement for Environmental Impact Report
Date: Wednesday, October 23, 2019 12:16:39 PM
Attachments: [image002.png](#)
[Comments on EIR MBS draft.docx](#)

CAUTION: This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Per our recent Commission on Aging session, here are our official comments for the Environmental Impact Report. Note: regarding population numbers, these go back to the last Census taken. They are not consistent with current projections from different agencies on aging but with the new Census on the horizon we will have more consistent figures that everyone bases projections around.

1

Please advise as to ways we can assist the Planning Commission by providing insights regarding senior community members of Oakland. How can we find out about meeting dates?

2

Best regards,

Bryan Ricks – Executive Director/Area Developer
CareBuilders at Home- East Bay
Chairman, Commission on Aging (Oakland)
400 29th Street, Suite #403 Oakland, CA 94609
510-628-8426 (office)
310-686-7700 (mobile)
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Re: Comments on the Draft Downtown Oakland Specific Plan EIR

Dear Ms. Winter,

Thank you for your October 2 presentation to the Mayor’s Commission on Aging on the Downtown Oakland Specific Plan. The Commission is looking forward to participating in the planning process going forward and we stand ready to provide information and assistance to make sure that the interests of Oakland’s ever-increasing senior population are served. We will have comments on the Downtown Specific Plan in the future, but this letter specifically focuses on the Draft EIR. We realize that seniors originally did not receive any special focus in developing the Plan and we believe that there are potential environmental impacts, specifically in the area of housing and displacement, which must be addressed and mitigated. ***The City must ensure that implementation of the Specific Plan does not displace seniors. The City should also plan the development of new housing to ensure that the projected residential growth in the area accommodates a proportional number of seniors.***

3

4

Comments on the Analysis and Findings

The EIR states on page 585 that “development anticipated with implementation of the Specific Plan development program would add up to 29,100 residential units, accommodating growth of up to approximately 52,600 residents. Growth due to the adoption of and development under the Specific Plan would contribute to population growth expected in Oakland in the future. The amount of population growth anticipated from adoption of and development under the Specific Plan would account for about 20 percent of total population growth projected for Oakland between 2010 and 2040, as shown in Table V.L-6. The additional expected residents due to development under the Specific Plan would constitute approximately 8 percent of the projected total population of Oakland in 2040.” The population analysis in the EIR must be revised to take into account the rate of growth of the senior population, specifically within the Downtown Oakland Specific Plan area, as well as considering the special economic status of seniors.

5

In 2040 there will be nearly 80 million older adults in the US, more than twice as many as in 2000. Additionally, the senior population is becoming increasingly diverse. Between 2012 and 2030, the white population of 65 and older is projected to increase by 54 percent compared with 125 percent for older minorities. The Census Bureau defines older adults as: “Young-old” (65-74 years), “Old” (75-84) and “Oldest-old” (85 and older). *The 85+ years category is the fastest growing segment of the U.S. population.* (U.S. Department of Health and Human Services, Administration on Aging. (2012). A profile of Older Americans: 2012.)

6

Oakland’s senior population growth is slightly faster than the country’s rate; forecasts project a steady increase in Oakland residents who will be over the age of 65 by 2030, with constant population growth heading into the mid-century. The well-documented housing crisis, with its steep rise in prices, has already begun to impact Oakland’s over 55,000 seniors, many of whom live on fixed incomes. Sixty percent of seniors who rent their homes have a housing cost burden well over 30% of their household income, according to the Senior Services Coalition April 2018 report.

The U.S. Census Bureau estimates that roughly 16 percent of older adults in Oakland are living below the federal poverty level, nearly double the rate in the San Francisco-Oakland-Hayward metropolitan area. The Senior Services Coalition of Alameda County reports that 18.3% of Alameda County residents age 65+ live below 150% of the Federal Poverty Level of \$1,011/month. (FPL). 150% of the FPL is currently \$1,517/month, \$23 less than the Fair Market Rent of a studio apartment in Alameda County, and Oakland rents are higher still. The Coalition also reports that 3 out of 4 single Alameda County seniors live below 200% of the FPL, and well below the Elder Economic Security Index of \$2,170/month— a measure of what it takes to meet basic needs in Alameda County. One in five calls to the Alameda County Community Food Bank are from older adults.

6,
cont.

The analysis and findings in the EIR relating to housing should be amended to include information about the existing and projected numbers of seniors currently living within the area, taking into account the fact that seniors and younger wage-earners are not fungible when projecting housing needs and analyzing possible displacement. The Commission on Aging wishes to drive home two points: 1) seniors are not just numbers and 2) senior population growth is a special, more rapidly growing subset of general population growth.

Comments on the Mitigation Measures

Based on the amended analysis and findings, the City should develop specifically targeted mitigation measures. As an additional mitigation measure, the City should consider supporting viable, responsible programs that encourage and facilitate community housing for seniors wishing to share housing space. The Commission on Aging is currently studying several such programs.

7

The Commission looks forward to being a part of the planning process wherever we can be useful. Please do not hesitate to contact me or Scott Means if we can assist in sharpening the City's focus on the needs and interests of Oakland's elders as they will be affected by the Downtown Specific Plan.

Very truly yours,

Bryan Ricks,
Chair, Mayor's Commission on Aging

Letter B-2
Commission on Aging
Bryan Ricks, Chairman
October 23, 2019

- Response B-2.1** This comment is noted for the record. The data used for population and housing was the most recent data publicly available at the time of the CEQA analysis and at the time of the Notice of Preparation. This is the data relevant for purposes of compliance with CEQA.
- Response B-2.2** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-2.3** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-2.4** See Master Response 2: Residential Displacement and Affordability.
- Response B-2.5** This comment identifies seniors as a rapidly growing subsection of the population in the Plan Area and as a population that has unique economic characteristics. The population projections calculated by the Association of Bay Area Governments (ABAG) used in the analysis of population and housing impacts are based on an understanding of the region's changing demographic characteristics, including age. The Plan Bay Area Projections 2040 estimate that approximately 20 percent of Oakland's 2040 population will be aged 65 years or older (131,805 senior residents out of the total projected population of 650,652). Planning for this demographic is important, but the aging population has been considered in the numbers underlying the population and housing analysis. Moreover, CEQA does not require analysis on specific age groups or economic characteristics of people, but rather requires information and analysis as to the general population growth as it pertains to the General Plan.
- Response B-2.6** See Response B-2.5.
- Response B-2.7** See Master Response 2: Residential Displacement and Affordability.

Downtown Oakland Specific Plan Working Group

• housing • labor • cultural arts • open space • historic neighborhoods • equity • historic preservation • shelter • parks •

November 6, 2019

Our working group represents housing, labor, cultural arts, open space, historic neighborhoods, equity, historic preservation, libraries, and parks. This is abbreviated; we will submit our full version on November 8, 2019.

HIGHLIGHTS OF THE WORKING GROUP CONSENSUS POSITION

I. PROCESS.

- a. **Schedule a Planning Commission hearing or work session on the draft incentives study report. Provide the draft report ahead of time so that public may comment at the hearing.**
- b. **Direct staff to prepare an equity assessment** of the Plan to see if the likely outcomes (not the aspirational outcomes) will increase or reduce the racial disparities that have been identified. Bring the assessment back to Planning Commission well before the Final Plan is developed, so that the PC can direct changes to the Plan in light of those findings.

- ### II. KEY COMMENT. Reduce existing excessive “by-right” (base) zoning intensities
- (floor area ratios/FARs, height limits and residential densities) and allow increased, or “bonus” intensities in exchange for community benefits, including affordable housing and transferable development rights (TDRs) for historic buildings.

LAND USE MAPPING. Change Proposed Maximum Intensity Map on Page 217 (EIR Figures III-7, III-8, III-9) of Draft Plan to:

- a. Expand the zoning incentives program boundary to *include* most areas outside of historic APIs and ASIs and *delete areas* which include certain APIs and ASIs.
- b. Show reduced “by-right” intensities as well as “bonus” (maximum) intensities can be allowed if community benefits are provided, within the zoning incentives boundary area.

III. INCENTIVES. Direct the consultant preparing the zoning incentives study

(See 5-28-19 zoning incentives study proposal.) to:

- a. Identify where reductions in current by-right intensities will incentivize developers to seek bonus intensities under the community benefits/TDR programs;
- b. Identify the optimal by-right intensities to maximize feasibility and probability of using bonuses and incentives in return for increased intensity, including reductions in existing by-right intensities; and
- c. Identify possible further adjustments in the by-right and bonus intensities to reflect the impact of the State Density Bonus program, the circumstances under which the program is workable, and whether additional density/intensity can be awarded for additional affordability.

IV. ARTS/CULTURE

- a. **Retain ALL light Industrial zoning** not just on 25th Street in the Arts+Garage District (AGD), but compare to current zoning and apply to the rest of the AGD area. Make light industrial/clean industrial zoning an option for ALL ground floor spaces in downtown.
- b. (C-1.10) **Zoning to preserve and encourage PDR (Production, Distribution and Repair) is highlighted in the Culture Keeping section yet is not mentioned in subsequent zoning maps.**
- c. **Make all ground floor spaces available** for Cultural Enterprises, with affordability provisions
- d. (C-3.6 and p.150): Incentivize vacant spaces providing “temporary” cultural activities to ***transition to business support programs for permanent viability, in lieu of fine***
- e. Implement Cultural Easements in affordable ground floor spaces to provide ownership opportunities or be developed as long term spaces that incubate cultural entities.
- f. (C-3.7 and p.151): ***“Explore. . .Facility Funds ”*** should be ***“Implement a “Cultural Preservation and Enhancement Fund”*** — developer-funded, not added to ticket sales at existing, already taxed, cultural venues.. One developer suggested \$5,000 per unit.
- g. (P. 42) Provide affordable space for Master Lease Program, specify rates, or tiered, based on entity operating budget; dedicated cultural, arts, and maker.
- h. (P. 135 Outcome C-3) Affordable arts space must incorporate housing for artists.
- i. **Require design guidelines for all Cultural Districts and areas with architecturally or historically important buildings** in order to result in excellence of designs.
- j. (Page 90, Par. H-1.3) Do not designate libraries as “opportunity sites.”
- k. The plan and EIR do not adequately analyze displacement and its impacts on the main library and the branches, when combined with population growth projections. (EIR pp. 31, 83, 98, 104, 288),

V. HISTORIC PRESERVATION

- a. Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) **does not exceed the scale of contributing historic buildings within the APIs and ASIs.** See OHA Recommended Height Map.
- b. **Replace Figure LU-3 “Opportunity Sites” with a map or several maps** that distinguish infill sites, adaptive reuse sites, publicly-owned sites, and remove historic resources (Figure LU-5), ASIs and APIs from that map. Preservation and reuse of historic resources is city policy, so they should not appear on the opportunity sites map.
- c. EIR CULT-1Aii:Delay TDRs, for 3 years after plan adoption? TDR must be implemented concurrently with zoning changes.

VI. AFFORDABLE HOUSING

- a. Plan claims to address equity and cites affordability, displacement and homelessness as primary equity issues, which were major concerns in public meetings. EIR p. 2: If “The Plan serves as a mechanism for ensuring that future development is coordinated . . . manner” and the Project Overview calls out supporting existing residents only by “growing existing businesses and the creative economy . . .” and does not specifically address affordable housing, then we continue to push out non-rich and creative people.
- b. Because people of color are disproportionately affected by affordability and homeless issues and disproportionately at risk of displacement, racial equity issues cannot be adequately addressed without a clear strategy to increase the percentage of affordable housing..

- c. The goal of 15% – 25% affordable housing would **reduce** the percentage of affordable housing in the Plan area and works against achieving equity objectives.
- d. Plan fails to consider strategic downzoning in certain areas in order to make incentives and bonuses for housing more feasible. Looking only at increasing intensity is not enough. See also Comment II above.
- e. Too many policies/actions say “continue”, “explore” and “maintain”. Yet existing policies have been inadequate; less than 10% of new housing in the downtown is affordable.
- f. (Page 180) The discussion in the box , titled “Shoreline Protective Measures” should include an option for “no residential development permitted.”
- g. Prioritize publicly-owned sites for public use such as sheltering homeless or affordable housing.
- h. II.A. EIR Summary, Overview of Downtown Oakland Specific Plan, page 8: In Goal 2, the report should be specific about affordable housing. “Sufficient numbers” of units is not increasing affordability for most. Housing markets are segmented. If the majority of new housing is at the high end, then rents may soften from perhaps \$4,500 to \$4,000 a month, not help the majority who can afford \$1,500 to \$2,month.

Comments on Specific Policies and Actions (Plan pages 90–93)

H-1.2: Should read “Leverage the city’s inventory of publicly-owned land by adopting an ordinance to implement the policies in the public land policy, Resolution Number 87483 C.M.S.

H-1.5: We support increasing the jobs–linkage fee, including consideration of expanding the fee to cover other non-residential uses not currently covered.

H-1.2: We support studying an inclusionary housing policy as an addition to rather than a replacement for the existing impact fee..

H-2.3: We support efforts to expedite review and approval of 100% affordable housing projects. The City should explicitly encourage the use of SB 35 streamlining for affordable housing.

H-2.4: Revisions to the condominium conversion ordinance must continue its basic objective, to ensure that there is no net loss of rental housing as a result of conversions. Amendments to the condo ordinance are scheduled so this action may not be needed in the Plan.

Measures of Success (pages 94 and 95)

- 1. A target of 15% to 25% affordable housing will result in a reduction of the percentage of housing affordable to lower income households in the downtown area. This is likely to reduce the percentage of persons of color in the downtown and contradicts the stated goals.

We are not in favor of using the RHNA proportions to target affordability levels when the RHNA calls for 47% of new housing to be affordable to moderate income and below, not 15%–25%. Even at 25% “affordable”, the result would be as follows:

<u>Income Level</u>	<u>RHNA</u>	<u>Downtown Plan</u>
Above Moderate	53%	75%
Moderate	19%	10%
Low	14%	7.5%
Very Low	7%	3.75%
Extremely Low	7%	3.75%

If the overall targets for affordable housing cannot match the RHNA, affordable housing targets must prioritize those with the most pressing needs— households with lowest incomes.

2. The measure of success for cost burden should be disaggregated by income level. Replacing low income households with above-moderate income households will result in lower overall cost burden but not by reducing cost burden for those households who are currently cost-burdened or severely cost-burdened, as those are concentrated in the very low and extremely low income categories in particular. We need to see measures of cost burden by both race and income level.

VII. ECONOMIC DEVELOPMENT/JOBS

- a. **Require apprentices from state-approved apprenticeship programs** on the construction phase of any project, with a focus on working with Apprenticeship programs who recruit pre-apprentices from Cypress Mandela Training Center and Rising Sun Center for Opportunity.
- b. Support small businesses through incentive programs, similarly to our recommended incentives for arts/cultural districts.
- c. Institute a standard condition of approval for all new development that requires outreach and replacement for lost street parking as well as advance notice and improved signage for adjacent retail and commercial businesses within two blocks in any direction.
- d. Maintain industrial and light-industrial zoning in the 3rd Street area west of Broadway, and preserve buffer areas between residential and industrial uses.
- e. The construction boom of the last ten years in downtown Oakland has been largely wasted as an opportunity to rebuild a local, skilled and career oriented blue-collar construction workforce. As a result, Oakland's experience mirrors a national trend in which, as a report from the Construction Industry Institute observes:
“[T]he construction industry is shifting from the long-experienced problem of not having enough qualified craft professionals to the problem of not having enough craft professionals, period. The result is a statistically significant, direct linkage between craft professional availability and construction project safety, cost, and schedule performance.”
- f. Oakland’s Downtown Plan, to avoid problems of construction project safety, cost, and schedule performance, must directly address the issue of construction trades professional availability. Accordingly, we urge the inclusion of the following policies in the plan:
 - Applicants for major projects in the Downtown Specific Plan area shall prequalify construction contractors based on measurable investment in workforce development and retention.
 - Specifically, for all projects of 50,000 square feet or more, prequalified contractors shall have made monetary contributions to defray workforce training and health care costs for all construction hours worked on all the contractor’s projects over the six months prior to prequalification.
 - Prequalified contractors shall provide evidence of having made good faith efforts to increase equitable representation of groups most impacted by racial disparities, and other priority populations, including justice-involved individuals.
 - An applicant for a project utilizing optional bonus density shall provide a significant community benefit package that shall include a Project Labor Agreement (PLA) and commitments to use local journeymen and apprentices.
 - We recommend that the planning staff consult with representatives of the Building and Construction Trades Council of Alameda County regarding incorporation of appropriate standards in the plan.

1

VIII. TRANSPORTATION

- a. One-way to two-way streets conversion has support from Chinatown neighborhoods.
- b. “Paseos” recommendation requires greater attention to long term maintenance and keeping order. What arrangements are needed for small business deliveries and for customers who come from transit-poor neighborhoods, have accessibility challenges, or travel from afar?
- c. Lafayette Square Park must not become an expanded layover parking site for AC Transit, creating visual blockage, air pollution, and impairing the experience for park users.
- d. Short-term parking (that is, customer parking) is a small-business and cultural arts **equity issue**—but remedies are either non-existent or insufficient. Arts organizations, businesses, and nonprofits serving and run by the most-vulnerable populations are suffering, as described by the equity indicators report. The plan could recommend opening the ALCO lot on 12th and Madison past 5 pm, with ambassadors to escort patrons to and from Malonga Center. The City could work with the County to facilitate shared-use parking. What opportunities for parking exist for families, seniors, people from transit-poor areas, or from out of the area?
- e. The failure to provide adequate library services in the downtown plan area will force residents to use library branches elsewhere in Oakland, increasing trip generation and the Vehicle Miles Traveled/transportation impact for the DOSP.

IX. OPEN SPACE/PARKS

- a. Parks and Open Space should have its own chapter, separate from one called “Community Facilities and Public Amenities”
- b. The Fire Alarm Building site (triangular block between Lake and the Main Library) should be designated part of the Lake Merritt parks, public open space, and reserved for public uses.
- c. The Plan should propose solutions that provide a steady and dedicated stream of revenue for maintenance and upkeep needs. LLAD has proven inadequate for these needs.
- d. The EIR and Plan are both inadequate and insufficient in planning for and studying effects upon Lake Merritt and the Channel from Lake Merritt to the Estuary. (minimal mentions in EIR at pp 99, 119, 126,159-160, 421,425, 431,432, 434, 435).Adjoining 275-ft height limits should be revisited and development held well away from the water. The Channel’s health, flow, marine life, birds, animals, ecology, and protection from pollution are essential. Paths and open space should be accompanied with appropriate plantings to support the ecology of this fragile area. The EIR bird species list may omit some protected species known to occur in the area and understate the importance of the resource to the Pacific Flyway migration. The SCA bird protections, may be fine but may be inadequate protection in this sensitive area.
- e. **Heights near the lake between 14th and 17th Streets should remain at 55 feet as in the 2009 zoning.** EIR pp 11, 92, 375, 376, 380, 386, 387 Views **from** the public parklands along Lake Merritt (an Area of Primary Importance) and **from** its historic structures should be kept as open as possible **and are not discussed in the EIR.** The park and the lake will be more heavily used with density increases and due to the Measure DD improvements. In the northwestern part of Lake Merritt, do not overshadow the lake itself.
- f. **Protect the newly improved and enlarged Snow Park from shadow impacts** by limiting heights to its south, in the 244 Lakeside historic AP
- g. (Page 164 CH-05 Community Health) 3rd paragraph: *"Through capital improvement projects and private, . . . incorporate more green . . . reduce damaging runoff into these key bodies of water."* This repeats what is mandated by state law. Can we present a higher vision? Perhaps: ***Through capital improvement projects and private development, there is an opportunity to***

incorporate greener infrastructure. Find locations to plant tomorrow's heritage Oaks—spaces that allow a tree to grow to an immense mature size (Oaks are the number one best habitat tree.) Park and street plantings should be robust and designed to add architectural stature to our streets as well as filter dust, sequester carbon, hold up to physical abuse and repair themselves, and generally, thrive in our urban setting.

- h. (Page 168 CH-05 Community Health) second paragraph: "~~An example~~ *An Illustrated concept . . . is the Webster Green (Figure CH-2), a linear Another idea (Figure CH-3) is to transform the I-880 freeway underpass . . . taking advantage of underused space.*". The Webster Green is not an example, it is a concept with great potential.
- i. (Page 169 CH-05 Community Health) figure CH-1 add a symbol for "Heritage Oak" and place half a dozen around the Priority areas for New Public Spaces.
- j. (Page 174 CH-05 Community Health) add number 7. **Walk This Way**, Improvements to Broadway under the I-880 overpass to link downtown with Jack London Square on Broadway. It was approved by City Council in August of 2018. (Page 175 CH-05 Community Health) add **Walk This Way**, Improvements to Broadway under the I-880 overpass from 4th to 7th street.
- k. **EIR does not mention contamination of public parks, open spaces, streets, and waters as a result of encampments without sanitation services, and of the shortage of public restrooms.** This impact must be covered in the EIR and plan, **beyond the standard conditions of approval**, which only cover new construction. (P. 178 CH-05 Community Health) Additional Strategies. "**Increase number of public restrooms**". The business community is struggling with cleaning up the effects of the weekend and evening parties.

IX. HOMELESSNESS

- a. **Make Homelessness part of a section called Affordable Housing and Homelessness, with Homelessness as coherent section.**
- b. (Page 177) Fig. CH-6 (map). **The 'Tuff Sheds' sites are temporary**, similar to informal tent encampments, and should not be mapped as permanent. (wrongly mapped, one near the Lake channel is to be discontinued) Tuff Sheds villages could be shown in a "Housing and Homelessness" chapter along with informal tent encampments.
- c. (Page 183, CH-1.14) While libraries offer inviting **spaces for relaxing, libraries** should not be seen the primary places of refuge for the homeless. This increases the burden on resources. (The open-door policy of libraries to the unsheltered population must continue.)
- d. (Page 184 CH-1.20) The creation and management of safe needle exchange and disposal operations should be components of a progressive homelessness program, integrated with a wrap-around services in an effective and comprehensive assistance approach
- e. (Page 86) The final paragraph lacks an "action item." Be more expansive in ensuring "value capture" from development incentives; establish meaningful targets; encourage production of "extremely low income housing" and broadly delineate innovative housing types.
- f. (Page 90) The priority allocation of public land should be toward production of housing that the market does not provide, which is "extremely low income housing." The objective of any leveraging of city-owned land must be for that same goal.

- g. The City should implement an active policy of “land-banking” to the maximum extent feasible, inventorying and acquiring excess land and buildings in Oakland from private sources and from other governmental agencies, for housing its citizens.

X. COMMUNITY HEALTH

- a. (P. 160 CH-05 Community Health) under Health Disparities’: “*Vehicle-Pedestrian Motor Vehicle Accidents Emergency Department Visit Rates (2013-3Q2015. . . .*” This is mathematically inaccurate
- b. (P. 162 CH-05 Community Health) “*Poor air quality results in high asthma rates, which disproportionately impact Black residents. . . west of San Pablo Avenue.*” Is this saying Black residents succumb to air pollution at a higher rate than other races or that all succumb, but because there are more black residents in that area they are disproportionately affected? See, for instance: <https://www.lung.org/our-initiatives/healthy-air/outdoor/air-pollution/highways.html> “...expert panel of scientists from around the world reviewed over 700 studies from around the world, examining the health effects of traffic pollution. They concluded that traffic pollution causes asthma attacks in children, and may cause a wide range of other effects including: the onset of childhood asthma, impaired lung function, premature death and death from cardiovascular diseases and cardiovascular morbidity. The area most affected, they concluded, was roughly the band within 0.2 to 0.3 miles (300 to 500 meters) of the highway.” 1

XI. OVERALL ENVIRONMENTAL COMMENTS

- a. I.C. EIR Scope of Analysis, page 4: The Scope ignores economic outcomes, and economic outcomes drive environmental outcomes. Substantial research definitively finds that **income is the greatest predictor of carbon footprint**. Creating greater concentrations of rich people creates greater concentrations of carbon footprint.
- b. II.D. EIR Areas of Controversy, page 10: EIR states that many NOP comments were non-CEQA topics. Insofar as they address economic conditions and likely economic outcomes: Greater incomes have a largely direct relationship to carbon impact. When we crowd out working class and low-income residents, we increase carbon impact with longer commutes.
- c. I.D. EIR Report Organization, page 6: summary of Chapter VII, Where are “basic objectives of the project.” listed? If the outcomes of the regulatory streamlining provided by this DOSP EIR fail to create conditions which support the objectives, then rewrite the regulatory framework to make the objectives more likely to occur.
- d. Land Use and Planning EIR p. 115-142: States that implementation would not result in significant land use impacts. There are obvious land use impacts to industrial, cultural, housing, open space, wildlife.
- e. Population and Housing EIR p 571: States that implementation of the project would not result in any significant impacts. The analysis estimates a quadrupling of the area population. Much like the comment above, this defines an impact.

XI. IMPLEMENTATION FOLLOW-THROUGH AFTER PLAN COMPLETED

Process for follow-through: Establish an officially-designated Implementation Committee. The Committee should oversee implementation of only the Downtown Specific Plan, rather than all of Oakland’s specific plans, as staff has suggested. Each specific plan should have its own implementation committee. Require reporting to the Committee by staff and Committee oversight. Periodic assessments (with a specified time period, such as twice yearly) must be prepared and presented to the Committee, then reviewed by the City Planning Commission and City Council. Previous plans have not been evaluated for efficacy, success, development targets, or equity results, to our knowledge.

Contributors to this consensus statement include:

Hiroko Kurihara
Jeff Levin
Ener Chiu
Tiffany Eng
Mike Jacob
Tim Frank
Vince Sugrue
Sandra Ue
James Vann
Margaretta Lin
Peter Birkholz
Eric Arnold
Binta Ayofemi
Christopher Buckley
Naomi Schiff

Letter B-3a

Downtown Oakland Specific Plan Working Group

**Hiroko Kurihara, Jeff Levin, Ener Chiu, Tiffany Eng, Mike Jacob, Tim Frank, Vince Sugrue,
Sandra Ue, James Vann, Margaretta Lin, Peter Birkholz, Eric Arnold, Binta Ayofemi,
Christopher Buckley, Naomi Schiff**

November 6, 2019

Response B-3a.1 See Response B-3b.

Downtown Oakland Specific Plan Working Group

• housing • labor • cultural arts • open space • historic neighborhoods • equity • historic preservation • shelter • parks •

November 8, 2019

Our working group represents housing, labor, cultural arts, open space, historic neighborhoods, equity, historic preservation, libraries, jobs, and parks. These comments pertain to both the Downtown Plan and to the Draft Environmental Impact Report. DEIR page references may not be comprehensive but are inserted for convenience.

1

I. PROCESS.

Schedule a Planning Commission hearing or work session on the draft incentives study report. Provide the draft report ahead of time so that public may comment at the hearing.

Direct staff to prepare an equity assessment of the Plan to see if the likely outcomes (not the aspirational outcomes) will increase or reduce the racial disparities that have been identified. Bring the assessment back to Planning Commission well before the Final Plan is developed, so that the PC can direct changes to the Plan in light of those findings. (DEIR p. 2, 8, 13, 31, 83, 87, 88, 108, 168, 171, 187, 193, 288, 302, 496, 528, 533, 589, 612)

2

II. KEY COMMENT. Reduce existing excessive “by-right” (base) zoning intensities

(floor area ratios/FARs, height limits and residential densities) and allow increased, or “bonus” intensities in exchange for community benefits, including affordable housing and transferable development rights (TDRs) for historic buildings. (DEIR p. 11, 14, 20, 22, 99, 104, 107, 108, 138, 323, 335, 338, 355, 356, 389, 393, 612, 653)

3

LAND USE MAPPING. Change Proposed Maximum Intensity Map on Page 217 (EIR Figures III-7, III-8, III-9) of Draft Plan to:

- a. Expand the zoning incentives program boundary to *include* most areas outside of historic APIs and ASIs and *delete areas* which include certain APIs and ASIs.
- b. Show reduced “by-right” intensities as well as “bonus” (maximum) intensities can be allowed if community benefits are provided, within the zoning incentives boundary area.

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III. INCENTIVES. Direct the consultant preparing the zoning incentives study

(See 5-28-19 zoning incentives study proposal, and pages in DEIR under II above) **to:**

- a. Identify where reductions in current by-right intensities will incentivize developers to seek bonus intensities under the community benefits/TDR programs;
- b. Identify the optimal by-right intensities to maximize feasibility and probability of using bonuses and incentives in return for increased intensity, including reductions in existing by-right intensities; and

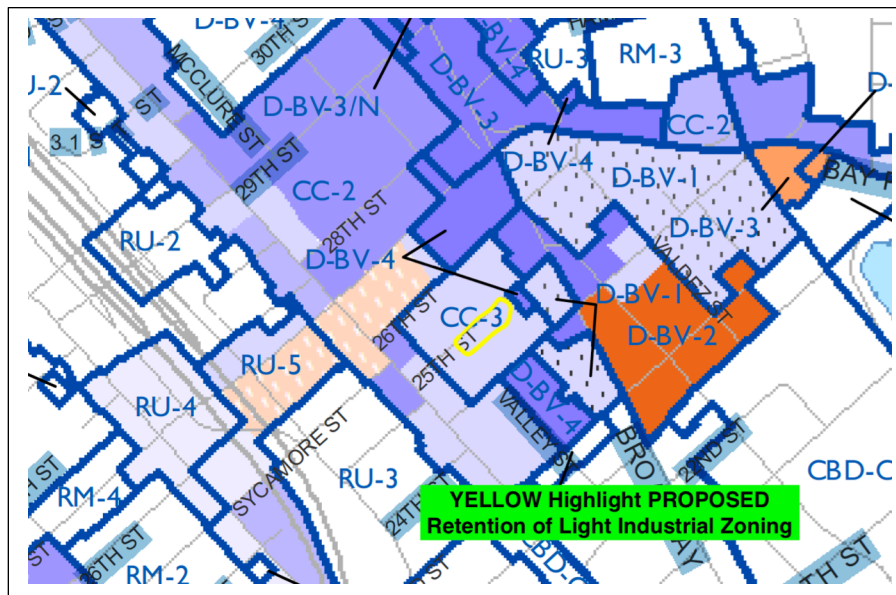
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- c. Identify possible further adjustments in the by-right and bonus intensities to reflect the impact of the State Density Bonus program, the circumstances under which the program is workable, and whether additional density/intensity can be awarded for additional affordability.

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cont.

IV. ARTS/CULTURE

- a. **Retain ALL light Industrial zoning** not just on 25th Street in the Arts+Garage District (AGD), but compare to current zoning (see map below) and apply to the rest of the AGD area.(Figure III-4, DEIR) Make this type of light industrial/clean industrial zoning an option for *all* ground floor spaces in downtown. Oakland must retain as much industrial light manufacturing zoned area as possible. Reconsider the conversion of industrial to residential in the estuary area. Refer to character map on Page 211 of the Draft DOSP. (NOTE the **spot zoning** that has taken place).



*

- b. **Incorporate the zoning incentives study** into the plan and DEIR: The outcomes of the study, which must redefine its scope to start from a lower baseline than current zoning, will better inform our ability to adequately respond to impacts described in the DOSP and DEIR.
- c. (C-1.10, DEIR p. 107, 288) **Zoning to preserve and encourage PDR (Production, Distribution and Repair) is clearly highlighted in the Culture Keeping section yet is not mentioned in any subsequent zoning maps.** Apply consistent language in zoning maps that refer to “FLEX-INDUSTRIAL” (another reason to redefine and complete the zoning incentive study)
- d. (C-1.5, p. 26, DEIR p. 107, 288): **Change “Explore. . .” to “Incorporate** an incentive plan being developed by the consultant” and include areas outside cultural districts with new and long term vacant spaces. Identify minimum gross floor area for cultural entities and PDR **Make all ground floor spaces an opportunity** to place Cultural Enterprises, with **AFFORDABILITY** provisions (DEIR p. 107, 288, 335, 336)

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- e. (C-3.6 and p.150, DEIR p. 71,): Incentivize vacant spaces providing “temporary” cultural activities to ***transition to business support programs for permanent viability, in lieu of a fine*** for all vacant ground floor spaces that are vacant more than 9 months. Displacement / Replacement: How will relocation amounts be determined? Will relocation be within the area? Or will Oakland artists move away? 11
- f. The Arts and Culture land use category ***should specify affordability levels*** particularly for ground floor uses, to de-emphasize “retail”; define % BMR; outline tiered rates based on tenant operating budget. (DEIR p. 43, 94, 96, 107, 120, 136, 267, 335) 12
- g. Implement Cultural Easements in affordable ground floor spaces to provide ownership opportunities that can be supported by entities like CAST or be developed as long term spaces that incubate cultural entities. These easement allocations for ground floor spaces should earn high points for new developments’ community benefit incentives. (DEIR p. 43, 94, 96, 107, 120, 136, 267, 335) 13
- h. (C-3.7 and p.151): ***“Explore. . .Facility Funds ”*** should be ***“Implement a “Cultural Preservation and Enhancement Fund”*** — developer-funded, not added to ticket sales at existing, already taxed, cultural venues.. One developer suggested \$5,000 per unit. 14
- i. (LU 2.3) Cultural Districts Program: specify community priorities by district (DEIR p. 101, 139, 140 but this topic not sufficiently nor adequately covered). 15
- j. (P. 42) Provide affordable space for Master Lease Program, specify rates, or tiered, based on entity operating budget; dedicated cultural, arts, and maker spaces in new developments or long term vacant sites as well as cultural districts. (DEIR p. 43, 94, 96, 107, 120, 136, 267, 335) 16
- k. (P. 135 Outcome C-3) Affordable arts space must incorporate housing for artists. (Not covered in DEIR, but should be, due to cultural and equity impacts.) 17
- l. **Require design guidelines for all Cultural Districts and areas with architecturally/historically important buildings** in order to result in excellence of design, to create future historically relevant buildings. If not in an arts district, where else? Perhaps another area would be the waterfront, for truly signature buildings.(DEIR insufficient and inadequately covers this issue, p. 11, 383, 396) 18
- m. (Page 90, Par. H-1.3) A key cultural marker is reflected in the love that Oaklanders have for our libraries as vital public places of culture, technology, education, and interaction. The City is not so desperate that its libraries must be constructed with housing above. Do not designate them as “opportunity sites.” DEIR narratives on libraries are inaccurate and should be further researched and then rewritten. (DEIR p. 604-605, 619, 620, 621, 624) 19
- n. The plan and EIR do not adequately analyze displacement and its impacts on the main library and the branches, when combined with population growth projections. (EIR pp. 31, 83, 98, 104, 288), Without an expansion and capital investment, increased use will create more wear and tear on the Main Library. The impact will be significant deterioration of critical intangible cultural resources, The main library and AAMLO structures are both architecturally and historically significant. Depending upon the scale of development, enlargement of the main library may have impacts on the scenic views of and from the Lake. DEIR narratives on libraries are inaccurate and should be further researched and then rewritten. (DEIR p. 604-605, 619, 620, 621, 624) 20

- o. EIR (p. 620): “LUTE Policy N2.2: “. . . provisions of services by civic and institutional uses should be distributed and coordinated to meet the needs of city residents. Adherence to this policy would reduce the potential impact on libraries to less than significant. “ EIR claims increased revenues as a result of development would fund expanded facilities and increased services. What the EIR fails to recognize is as stated in the City of Oakland 5 year forecast “there is always a several year lag between the time a building is constructed and when new revenues come online.” As growth in the downtown will be incremental, the increased use of existing facilities will accelerate their physical deterioration, disproportionately impacting existing residents. DEIR narratives on libraries are inaccurate and should be further researched and then rewritten. (DEIR p. 604-605, 619, 620, 621, 624)

21

V. HISTORIC PRESERVATION

- a. Ensure that new development within or in proximity to Areas of Primary and Secondary Importance (APIs and ASIs) **does not exceed the scale of contributing historic buildings within the APIs and ASIs**. See OHA Recommended Height Map. (DEIR p. 338, 354, 355, 356, Table II-I)
- b. **Replace Figure LU-3 “Opportunity Sites” with a map or several maps** that distinguish infill sites, adaptive reuse sites, publicly-owned sites, and remove historic resources (Figure LU-5), ASIs and APIs from that map. Preservation and reuse of historic resources is city policy, so they should not appear on the opportunity sites map. (DEIR p. 43,50, 57, Figs III-13, III-14, III-23, 74, 91, 92, 98, 99, 108, 131, Fig V. A-4, Fig. V-A.5, 138,139, Fig. V.E-1, 334, 337, 338, Fig. V.E-3, 341– 343, Fig V.E-4, V.E-5, 346–353, 359, 390, 391, 484, 586, 587, 698)
- c. EIR CULT-1Aii: Why delay implementing Transfer Development Rights (TDRs), included in Oakland’s General Plan 25 years ago, for 3 years after plan adoption? Change the schedule to one year. (DEIR p. 11, 19, 20, 336, 355,

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VI. AFFORDABLE HOUSING

- a. Plan claims to address equity and cites affordability, displacement and homelessness as primary equity issues. These have also come up repeatedly as major concerns in public meetings. EIR p. 2: If “The Plan serves as a mechanism for ensuring that future development is coordinated . . . manner” and the Project Overview calls out supporting existing residents only by “growing existing businesses and the creative economy . . .” and does not specifically address preservation, protection, and development of affordable housing, then we continue to push non-rich and creative people out of the area. (DEIR p. 31, 83, 98, 104, 288, 572–590, 684, 690, 697, 704)
- b. Because people of color are disproportionately affected by affordability and homeless issues and disproportionately at risk of displacement, racial equity issues cannot be adequately addressed without a clear strategy to maintain and increase the percentage of affordable housing in the downtown. The Draft Plan moves us in the opposite direction. (DEIR 14, 90, 98, 99, 104, 134, 136, 335, 337, 571, 572-590)

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c. The goal of 15% – 25% affordable housing would reduce the percentage of affordable housing in the Plan area and works against achieving equity objectives. (DEIR 14, 90, 98, 99, 104, 134, 136, 335, 337, 571, 572-590)	27
d. Plan fails to consider strategic downzoning in certain areas in order to make incentives and bonuses for housing more feasible. Looking only at increasing intensity from existing permitted levels is not enough.	28
e. Too many policies/actions say “continue”, “explore” and “maintain”. These are not new actions , and yet it’s clear that existing policies have been inadequate, since less than 10% of new housing in the downtown is affordable. . (DEIR p. 31, 83, 98, 104, 288, 572–590, 684, 690, 697, 704)	29
f. (Page 180, DEIR p. 102, 257, 492, 495,496, FigV.J-3, 508, 517, 530–536) The discussion in the box , titled “Shoreline Protective Measures” should include an option for “no residential development permitted.”	30
d. Replace Figure LU-3 “Opportunity Sites” with a map or several maps that distinguish infill sites, adaptive reuse sites, publicly-owned sites and vacant opportunity sites. Publicly-owned sites should be prioritized for public uses such as sheltering the homeless population or providing affordable housing. . (DEIR p. 43,50, 57, Figs III-13, III-14, III-23, 74, 91, 92, 98, 99, 108, 131, Fig V. A-4, Fig. V-A.5, 138,139, Fig. V.E-1, 334, 337, 338, Fig. V.E-3, 341–343, Fig V.E-4, V.E-5, 346–353, 359, 390, 391, 484, 586, 587, 698)	31
g. II.A. EIR Summary, Overview of Downtown Oakland Specific Plan, page 8: In Goal 2, the report should be specific about affordable housing. “Sufficient numbers” of units is clearly not increasing affordability for most existing residents in Oakland. Housing markets are segmented. If the majority of new housing is at the high end, then rents may soften from perhaps \$4,500 to \$4,000 a month. That will not help the majority of residents who can afford \$1,500 to \$2,000 a month.	32
<u>Comments on Specific Policies and Actions (Plan pages 90–93, DEIR p. 337, 588)</u>	
H-1.2: Should read “Leverage the city’s inventory of publicly-owned land by adopting an ordinance to implement the policies contained in the public land policy as outlined in Resolution Number 87483 C.M.S.	33
H-1.5: We support increasing the jobs–linkage fee, including consideration of expanding the fee to cover other non-residential uses not currently covered. (DEIR p. 583, 587, 590, 592)	34
H-1.2: We support studying an inclusionary housing policy downtown as an <u>addition to</u> rather than a replacement for the existing impact fee. Any analysis of fees and inclusionary requirements should consider the income levels likely to be targeted by each policy. In most cases, projects funded with impact revenues will target much lower income levels than are typically reached by inclusionary housing policies. This study should also include reassessing the current on-site alternative compliance mechanism in the fee ordinance, to ensure that the onsite option yields an equivalent outcome to payment of the fee. (DEIR p. 99, 583, 589, 590, 592))	35
H-2.3: We support efforts to expedite review and approval of 100% affordable housing projects. The City should explicitly encourage and promote the use of SB 35 streamlining provisions for affordable housing. (DEIR 14, 90, 98, 99,104,134, 136, 335, 337, 571-590, 612, 652,	36

H-2.4: Any revisions to the condominium conversion ordinance must continue the basic objective of the ordinance, which is to ensure that there is no net loss of rental housing as a result of condominium conversions. We do not support actions to promote homeownership that come at the expense of existing tenants or that reduce the supply of rental housing. Amendments to the condo ordinance are currently scheduled for consideration by the Community and Economic Development Committee on October 22, 2019, so this action may not be needed in the final Plan. (DEIR p. 104)

37

Measures of Success (pages 94 and 95 (DEIR p. 104)

1. A target of 15% to 25% affordable housing will result in a reduction of the percentage of housing affordable to lower income households in the downtown area. This is likely to reduce the percentage of persons of color in the downtown and is in contradiction to the Plan’s stated goals of advancing racial equity.

Moreover, we are not in favor of using the RHNA proportions to target affordability levels when the RHNA itself calls for 47% of new housing to be affordable to moderate income and below, not 15%-25%. Even at 25% “affordable”, the result would be as follows:

Income Level	RHNA	Downtown Plan
Above Moderate	53%	75%
Moderate	19%	10%
Low	14%	7.5%
Very Low	7%	3.75%
Extremely Low	7%	3.75%

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If the overall targets for affordable housing cannot match the RHNA, then affordable housing targets need to prioritize those with the most pressing housing needs, which are households at the lowest income levels. (DEIR p. 97, 137, 337, 581, 588, 612, 653)

2. The measure of success for cost burden should be disaggregated by income level. Replacing low income households with above-moderate income households will result in lower overall cost burden but not by reducing cost burden for those households who are currently cost-burdened or severely cost-burdened, as those are concentrated in the very low and extremely low income categories in particular. We need to see measures of cost burden by both race and income level. (DEIR p. 32, 579, 580)

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VII. ECONOMIC DEVELOPMENT/JOBS

- a. **Require apprentices from state-approved apprenticeship programs** on the construction phase of any project, with a focus on working with Apprenticeship programs who recruit pre-apprentices from Cypress Mandela Training Center and Rising Sun Center for Opportunity.
- b. Support small businesses through incentive programs, similarly to our recommended incentives for arts/cultural districts. (DEIR p. 71)

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| c. | Institute a standard condition of approval for all new development that requires outreach and replacement for lost street parking as well as advance notice and improved signage for adjacent retail and commercial businesses within two blocks in any direction. (DEIR p. 205, 213, 216) | 42 |
| d. | Maintain industrial and light-industrial zoning in the 3rd Street area west of Broadway, and preserve buffer areas between residential and industrial uses. (DEIR p. 14, 43, 85, 94,96, 107, 119, 136, 141, 225, 246, 267, 312, 347, 365, 368, 481, Figure IV-2,) | 43 |
| e. | The construction boom of the last ten years in downtown Oakland has been largely wasted as an opportunity to rebuild a local, skilled and career oriented blue-collar construction workforce. As a result, Oakland's experience mirrors a national trend in which, as a report from the Construction Industry Institute observes:
<i>“[T]he construction industry is shifting from the long-experienced problem of not having enough qualified craft professionals to the problem of not having enough craft professionals, period. The result is a statistically significant, direct linkage between craft professional availability and construction project safety, cost, and schedule performance</i> | 44 |
| f. | Oakland’s Downtown Plan, to avoid problems of construction project safety, cost, and schedule performance, must directly address the issue of construction trades professional availability. Accordingly, we urge the inclusion of the following policies in the plan: <ul style="list-style-type: none"> • Applicants for major projects in the Downtown Specific Plan area shall prequalify construction contractors based on measurable investment in workforce development and retention. • Specifically, for all projects of 50,000 square feet or more, prequalified contractors shall have made monetary contributions to defray workforce training and health care costs for all construction hours worked on all the contractor’s projects over the six months prior to prequalification. • Prequalified contractors shall provide evidence of having made good faith efforts to increase equitable representation of groups most impacted by racial disparities, and other priority populations, including justice-involved individuals. • An applicant for a project utilizing optional bonus density shall provide a significant community benefit package that shall include a Project Labor Agreement (PLA) and commitments to use local journeymen and apprentices. • We recommend that the planning staff consult with representatives of the Building and Construction Trades Council of Alameda County regarding incorporation of appropriate standards in the plan. | 45 |

VIII. TRANSPORTATION

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|----|--|----|
| a. | One-way to two-way streets conversion has support from Chinatown neighborhoods. (DEIR p. 64, 67, Figure III-20, 130, 146–148, 199, 200, 202, 203, Figure V.B-, 396, 487,) | 46 |
| b. | “Paseos” recommendation requires greater attention to long term maintenance and keeping order. What arrangements would be made for access for small business deliveries and for customers who come from transit-poor neighborhoods, have accessibility challenges, or travel from far away? (DEIR p. 67, Fig. III-22, 396, | 47 |
| c. | Lafayette Square Park must not become an expanded layover parking site for AC Transit, creating visual blockage, air pollution, and impairing the experience for park users. (DEIR p. 202, 303, 404) | 48 |

- g. Short-term parking (that is, customer parking) is a small-business and cultural arts **equity issue**—but remedies are either non-existent or insufficient. Arts organizations, businesses, and nonprofits serving and run by the most-vulnerable populations are suffering, as described by the equity indicators report. For example, the plan could recommend opening the ALCO lot on 12th and Madison past 5 pm, with ambassadors to escort patrons to and from Malonga Center. The City could work with the County to facilitate shared-use parking. What other opportunities for parking exist for families, seniors, people from transit-poor neighborhoods, or from out of the area? (DEIR p. 205, 213, 216) 49
- d. The failure to provide adequate library services in the downtown plan area will force residents to use library branches elsewhere in Oakland, increasing trip generation and the Vehicle Miles Traveled/transportation impact for the DOSP. (DEIR p. 604) 50

IX. OPEN SPACE/PARKS

- a. Parks and Open Space should have its own chapter, separate from one called “Community Facilities and Public Amenities” (DEIR p. 605 and following pp.) 51
- b. The Fire Alarm Building site (triangular block between Lake Merritt and the Main Library) should be designated as part of the Lake Merritt park lands, public open space, and reserved for public uses. (DEIR p. 92, 95) 52
- c. The Plan should propose solutions that provide a steady and dedicated stream of revenue for maintenance and upkeep needs. LLAD has proven inadequate for these needs. (DEIR p. 622) 53
- d. The EIR and Plan are both inadequate and insufficient in planning for and studying effects upon Lake Merritt and the Channel from Lake Merritt to the Estuary. (minimal mentions in DEIR at pp 99, 119, 126,159-160, 421,425, 431,432, 434, 435). Adjoining 275-ft height limits should be revisited and development held well away from the water. The Channel’s health, flow, marine life, birds, animals, ecology, and protection from pollution are essential. Everyday access to the water should be protected and development held well away from the water. Paths and open space should be accompanied with appropriate plantings to support the ecology of this fragile area. The EIR bird species list may omit some protected species known to occur in the area and understate the importance of the resource to the Pacific Flyway migration. Lake Merritt bird lists include more than 100 species using it. Thus, the SCA bird protections, may be fine but may be inadequate protection in this sensitive area. Additional measures should be instituted near the Lake and Channel. 54
- e. **Heights near the lake between 14th and 17th Streets should remain at 55 feet as in the 2009 zoning.** (DEIR pp 11, 92, 375, 376, 380, 386, 387) Views **from** the public parklands along Lake Merritt (an Area of Primary Importance) and **from** its historic structures should be kept as open as possible **and are not discussed in the EIR.** The park and the lake will be more heavily used with density increases and due to the Measure DD improvements. In the northwestern part of Lake Merritt, do not overshadow the lake itself. 55
- Protect the newly improved and enlarged Snow Park from shadow impacts** by limiting heights to its south, in the 244 Lakeside historic API (DEIR p. 119, 120, 375, 404, 606, 607), 56
- f. (Page 164 CH-05 Community Health) Third paragraph: *"Through capital improvement projects and private development, there is an opportunity to incorporate more green . . . that can reduce damaging runoff into these key bodies of water.* "This just repeats what is 57

<p>mandated by state law. It would be better to push the landscape into a higher vision. Perhaps: <i>Through capital improvement projects and private development, there is an opportunity to incorporate greener infrastructure. Find locations to plant tomorrow’s heritage Oaks— spaces that allow a tree to grow to an immense mature size (Oaks are the number one best habitat tree and can do more for birds and other wildlife than most other restoration). Park and street plantings should be robust and designed to add architectural stature to our streets as well as filter dust, sequester carbon, hold up to physical abuse and repair themselves, and generally, thrive in our urban setting. This may mean select plants based on function and not necessarily ‘low water use’ A little water for plants that serve thousands of residents is justifiable; let the water be conserved in the lawns of the suburbs. (DEIR p. 680)</i></p>	<p>57, cont.</p>
<p>g. (Page 168 CH-05 Community Health) second paragraph: “<i>To ensure parks and plazas are attractive to all residents. . . for all ages and abilities and allow different types of people to use them at the same time.</i>” Eliminate ‘all different types of people’ as it was already stated’</p>	<p>58</p>
<p>h. (Page 168 CH-05 Community Health) second paragraph: “An example <i>An Illustrated concept of such a project suggested by the community is the Webster Green (Figure CH-2), a linear park meant to connect Chinatown to Jack London and the Estuary waterfront. Another idea (Figure CH-3) is to transform the I-880 freeway underpass . . . taking advantage of underused space.</i>”. The Webster Green is not an example, it is a concept with great potential.</p>	<p>59</p>
<p>i. (Page 169 CH-05 Community Health) figure CH-1 add a symbol for “Heritage Oak” and place half a dozen around the Priority areas for New Public Spaces. (DEIR p. 39, at g.)</p>	<p>60</p>
<p>j. (Page 174 CH-05 Community Health) add number 7. Walk This Way, Improvements to Broadway under the I-880 overpass to link downtown with Jack London Square on Broadway. It was approved by City Council in August of 2018. (Page 175 CH-05 Community Health) add Walk This Way, Improvements to Broadway under the I-880 overpass from 4th to 7th street. (DEIR p. 41, Goal 3)</p>	<p>61</p>
<p>k. There is no EIR mention of contamination of public parks, open spaces, streets, and waters as a result of encampments inadequately or not at all provided with sanitation services, and of the shortage of open public restrooms. This key impact of and upon hundreds of unhoused residents must be covered in the EIR and in the plan, beyond the standard conditions of approval, which only cover construction methods, built structure, and utilities. The plan’s discussion of eliminating or reducing homelessness is inadequate, insufficient, and unrealistic, and the EIR should not be based upon it. (DEIR p. 381, 419)</p>	<p>62</p>

IX. HOMELESSNESS

<p>a. Make Homelessness part of a section called Affordable Housing and Homelessness, with Homelessness as coherent section. (DEIR p. 14, 590, 607,)</p>	<p>63</p>
<p>b. (Page 177) Fig. CH-6 (map). The ‘Tuff Sheds’ sites are temporary, similar to informal tent encampments, and should not be mapped as permanent. (the mismapped one near the Lake channel is being discontinued) Tuff Sheds villages could be shown in a “Housing and Homelessness” chapter along with informal tent encampments (DEIR p. 623)</p>	<p>64</p>
<p>c. (Page 183, CH-1.14) While libraries offer inviting spaces for relaxing, libraries should not be seen the primary places of refuge for the homeless. This increases the burden on resources</p>	<p>65</p>

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| <p>already tightly squeezed. (The open-door policy of libraries to the unsheltered population must continue to be encouraged.) (DEIR p. 604-5)</p> | <p>65,
cont.</p> |
| <p>d. (Page 184 CH-1.20) The creation and management of safe needle exchange and disposal operations should be components of a progressive homelessness program, integrated with a wrap-around services in an effective and comprehensive assistance approach (DEIR p. 600)</p> | <p>**</p> |
| <p>e. (Page 85) At “Strengthen protections ...,” the statement: “. . . amend the Condominium Conversion Ordinance to expand the units covered ...” is contrary to the intent of the ordinance (“no loss of rental housing”) and directly contradicts the proposed ordinance revision currently in process of deliberation and action by the City Council. (DEIR p. 104)</p> | <p>* +</p> |
| <p>f. (Page 86) The final paragraph lacks an “action item.” This paragraph should be more expansive in ensuring “value capture” from development incentives; should establish meaningful targets and encourage production of “extremely low income housing” and more broadly delineate innovative housing types, such as small houses, converted shipping containers, manufactured modular housing, garage conversions, RV and vehicle safe-parking sites, micro units, and accessory dwelling units (ADUs). (DEIR p. 11, 14, 20, 22, 99, 104, 107, 108, 138, 323, 335, 338, 355, 356, 389, 393, 612, 653)</p> | <p>* ,</p> |
| <p>g. (Page 90) The priority allocation of public land should be toward production of housing that the market does not provide, which is “extremely low income housing.” The objective of any leveraging of city-owned land must be for that same goal. (DEIR p. 337)</p> | <p>* -</p> |
| <p>h. The City should implement an active policy of “land-banking” to the maximum extent feasible, inventorying and acquiring excess land and buildings in Oakland from private sources and from other governmental agencies, for housing its citizens. (DEIR p. 337)</p> | <p>+\$</p> |

X. COMMUNITY HEALTH

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| <p>a. (Page 160 CH-05 Community Health) under Health Disparities’: “<i>Vehicle-Pedestrian Motor Vehicle Accidents Emergency Department Visit Rates (2013-3Q2015). All Races: 121.9, African American/Black: 212.8.</i>” This is mathematically inaccurate. I believe it should be written All Races: 334.7 Black 212.8 (Black is a subset of All). Also, not sure how the data ended up with fractions with a defined time period. Its not as if someone is .7% hit by a vehicle or go to the hospital .7%. Same incorrect math applies to the next paragraph on Age Adjusted Asthma. It is an important piece of information, just needs to be accurately stated.</p> | <p>71</p> |
| <p>b. (Page 162 CH-05 Community Health) “<i>Poor air quality results in high asthma rates, which disproportionately impact Black residents. Black carbon from diesel engines is a leading cause of respiratory illness and is of concern for the high-population neighborhoods adjacent to I-880 and I-980 where concentrations of pollution are the highest. These areas include Jack London, Chinatown, Old Oakland, and the area west of San Pablo Avenue.</i>” Is this statement saying that Black residents succumb to air pollution at a higher rate than other races or is it saying that all races succumb to the polluted air along these corridors but due to the fact there are more black residents in that area they are disproportionally affected? This is an important distinction:, If Black residents have a higher sensitivity to air pollutants, then why and how to amend this? If it is simply that everyone living there has similar issues it would be a more straightforward problem.</p> | <p>72</p> |

XI. OVERALL ENVIRONMENTAL COMMENTS

- a. I.C. EIR Scope of Analysis, page 4: The Scope ignores economic outcomes, and economic outcomes drive environmental outcomes. Substantial research definitively finds that **income is the greatest predictor of carbon footprint**. Creating greater concentrations of rich people creates greater concentrations of carbon footprint. 73
- b. II.D. EIR Areas of Controversy, page 10: EIR states that many comments on the NOP were non-CEQA topics. Insofar as the comments address economic conditions and likely economic outcomes: Greater incomes have a largely direct relationship to greater carbon impact. In addition, when we crowd out working class and low-income residents to outlying areas, we increase their carbon impact by forcing longer commutes. 74
- c. I.D. EIR Report Organization, page 6: summary of Chapter VII, Where are “basic objectives of the project.” listed? If the outcomes of the regulatory streamlining provided by this DOSP EIR fail to create conditions which support the objectives, then rewrite the regulatory framework to make the objectives more likely to occur. 75
- d. Land Use and Planning EIR p. 115-142: This section states that implementation of the project would not result in any significant land use impacts. There are obvious land use impacts to industrial, cultural, housing, open space, wildlife. 76
- e. Population and Housing EIR p 571: This section states that implementation of the project would not result in any significant impacts. The analysis estimates a quadrupling of the area p 77
- f. (Page 178 CH-05 Community Health) Additional Strategies. “**Increase number of public restrooms**”. The business community is struggling with cleaning up the effects of the weekend and evening parties. Both homeless and bar patrons, having no other options, use entry doors set back from the street as a place to relieve themselves. Thus, what is a financial gain to the entertainment industry is a financial burden to the retail and office industry. (DEIR p. 607) 78

XI. FOLLOW-THROUGH AFTER PLAN COMPLETED

Process for follow-through: Establish an officially-designated Implementation Committee. The Committee should oversee implementation of only the Downtown Specific Plan, rather than all of Oakland’s specific plans, as staff has suggested. Each specific plan should have its own implementation committee. Require reporting to the Committee by staff and Committee oversight. Periodic assessments (with a specified time period, such as twice yearly) must be prepared and presented to the Committee, then reviewed by the City Planning Commission and City Council. Previous plans have not been evaluated for efficacy, success, development targets, or equity results, to our knowledge. 79

Hiroko Kurihara
 Jeff Levin
 Ener Chiu
 Tiffany Eng
 Mike Jacob
 Tim Frank
 Vince Sugrue
 Sandra Ue

James Vann
 Margaretta Lin
 Peter Birkholz
 Eric Arnold
 Binta Ayofemi
 Christopher Buckley
 Naomi Schiff

Letter B-3b**Downtown Oakland Specific Plan Working Group**

Hiroko Kurihara, Jeff Levin, Ener Chiu, Tiffany Eng, Mike Jacob, Tim Frank, Vince Sugrue, Sandra Ue, James Vann, Margaretta Lin, Peter Birkholz, Eric Arnold, Binta Ayofemi, Christopher Buckley, Naomi Schiff

November 8, 2019

- Response B-3b.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-3b.2** See Response B-2.5.
- Response B-3b.3** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.4** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.5** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.6** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.7** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.8** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.9** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.

- Response B-3b.10** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.11** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response, and Master Response 2: Residential Displacement and Affordability.
- Response B-3b.12** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.13** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.14** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.15** The comment describes the cultural district program as not being adequately or sufficiently covered. The community priorities by district are not something that this Draft EIR or CEQA analysis is intended to study, see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.16** This comment does not address the adequacy of the Draft EIR. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response.
- Response B-3b.17** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.18** Recent state legislation such as SB 35, SB 330 and AB 1763 prohibit the adoption of new subjective design guidelines for housing projects. Objective design standards for the City of Oakland will be developed through the SB 2 grant process, under a separate Request for Proposal (RFP) process.
- Response B-3b.19** Related to the library as an opportunity site, see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics Master Response. The comment describes that the Draft EIR analysis is inaccurate and should be further

researched and then rewritten, but it does not point to specific areas that are inaccurate or describe how the analysis should be rewritten. Page 604-605 describes existing conditions for libraries. Pages 619-621 discuss impacts to libraries as a result of adoption and development under the Specific Plan, and 624 discusses cumulative impacts to public services and recreation, including libraries as a result of the Specific Plan.

Response B-3b.20 As described on pages 620-621 of the Draft EIR, capital improvement fees would not be enough to provide expanded services, including those that may be triggered by population growth associated with new development; however, even if a library facility was required to service the increased population or employees resulting from development that occurs under the Specific Plan, the new facility would likely be developed on an infill parcel. Under CEQA, the threshold for impacts on public services include those which, “result in substantial adverse physical impacts associated with the provision of or need for new or physically altered government facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services: fire protection, police protection, schools, or other public facilities (Appendix G, Part XIV, CEQA Guidelines).” This is a relatively high threshold and even if new or expanded library facilities are constructed it is not expected that the construction of such facilities would exceed this threshold given the infill nature of sites within downtown. If any potential impacts would occur, it is expected they could be mitigated to a less-than-significant level. As a result, development under the Specific Plan as described in the Draft EIR would result in a less-than-significant impact related to libraries.

As described on page 619 of the Draft EIR, the Oakland Public Library does not have any performance standards that are tied to level of demand. While it is true that the increased use of library facilities could accelerate their physical deterioration, this is not considered to rise to the level of significance pertaining to threshold 1) of public services and facilities.

It is not yet possible to know what expansion or modifications to the main Library may be proposed in the future. Therefore, it is too speculative to provide any project specific analysis as part of this EIR. A project-specific analysis will be required at such time any expansion, modifications, or new development are proposed.

Response B-3b.21 The Draft EIR on top of page 621 acknowledges that capital improvements would be received as part of the development of projects pursuant to SCA-PUB-3: Capital Improvements Impact Fee (~~#7374~~), but that "these fees would not be enough to provide expanded services, including those that may be triggered by new development." In addition, capital improvement impact fees are not the only source of money used for parks and recreation, and other public services such as libraries. There would also be additional tax revenue from new residential and commercial office development. The Draft EIR has been revised to acknowledge that there is lag between the time a building is constructed and when new revenues come online.

Pertaining to growth in the downtown increasing the use of existing facilities, see Response B-6.10.

Page 621, first paragraph of the Draft EIR is revised as follows:

Fund to cover costs associated with increased operational costs such as additional police and fire personnel. While the Specific Plan has policies that would encourage investment and improvements to libraries, as well as capital improvements that would be received as part of the development of projects pursuant to SCA-PUB-3: Capital Improvements Impact Fee (~~#7374~~), these fees would not be enough to provide expanded services, including those that may be triggered by new development. In addition, there is normally a several year lag between the time a building is constructed and when new revenues are available.⁵⁹

⁵⁹City of Oakland, 2019. Five Year Financial Forecast, 2019-2024. Available at: https://cao-94612.s3.amazonaws.com/documents/FY-2019-21-5yearfactsheet_final.pdf, accessed January 24, 2020.

Response B-3b.22 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.23 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.24 See Response B-1c.3. EIR-Cult-1Aii has been changed to start immediately as opposed to 3 years after plan adoption.

Response B-3b.25 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.

- Response B-3b.26** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-3b.27** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-3b.28** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics
- Response B-3b.29** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.30** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.31** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.32** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.33** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.34** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.35** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.36** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.37** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.38** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.39** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.40** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.41** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.42** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.43** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.44** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.45** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-3b.46** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.47 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.48 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.49 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.50 Vehicle Miles Traveled (VMT) is measured in per capita terms for establishing CEQA significant impacts for transportation and not absolute terms. The VMT per capita for residential uses and the worker VMT for commercial uses must be 15 percent less than the regional averages pursuant to OPR guidance. In 2040 with implementation of the Specific Plan, the residential VMT per capita is expected to be 65 percent less than the regional average and the per worker VMT is expected to be 35 percent less than the regional averages. These results illustrate that residential and employment development in Downtown Oakland is substantially more efficient than development elsewhere in Alameda County. As a result, if such increase in trip generation or VMT does occur, it would not cause a significant CEQA impact.

Response B-3b.51 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.52 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.53 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.54 The Biological Resources section of the Draft EIR provides an assessment of the potential impacts on sensitive biological resources. As discussed under Criterion 3 on page 433 of the Draft EIR, no development programs associated with the Specific Plan currently include modifications to Lake Merritt, the Lake Merritt Channel, or other regulated waters, but specific development applications could include new pathways or other shoreline modifications that could result in direct or indirect impacts to these features. Further environmental review of specific development applications would address any potential impacts on jurisdictional waters. Where modifications are unavoidable, applicants for specific developments within the Plan Area that could affect regulated waters would have to secure authorizations from the U.S. Army Corps of Engineers, California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), and San Francisco Bay Conservation and Development Commission (BCDC), where necessary, and would have to comply with all conditions pertaining to the protection of regulated waters.

As indicated in Figure III-4: Proposed Land Use Character Areas, Figure III-6: Proposed General Plan Land Use Designation Amendments, and Figure III-11: Proposed Height Change Areas, among other figures in the Draft EIR showing land use changes proposed under the Specific Plan, a broad band of open space is proposed along the Lake Merritt Channel through the Plan Area. The Lake Merritt Channel would continue to serve as a movement corridor for aquatic and bird species moving between Lake Merritt and Inner Harbor. However, movement opportunities are already impeded by existing structures such as the Embarcadero, I-880, 7th Street, and Lake Merritt Boulevard overcrossings, and existing structures along the fringe of the corridor, which birds and other wildlife have become acclimated to in their movement patterns. Similarly, the western edge of Lake Merritt that forms the northeastern boundary of the Plan Area is already developed with existing structures that influence wildlife habitat values and movement activities on the lake.

As discussed under Criterion 4 in *Chapter V.G, Biological Resources*, the Specific Plan development program proposes increasing the intensity of residential, industrial, and office uses in parts of the Plan Area. However, birds and other wildlife associated with the nearby habitats of Lake Merritt, the Lake Merritt Channel, and the Oakland Estuary are already acclimated to the light, noise, and other disturbance from human activity. New buildings anticipated under the Specific Plan would have to comply with measures designed to minimize bird collision with larger buildings, which would address the risk to birds colliding with buildings as they fly over and through the Plan Area. The City's SCA-BIO-1: Bird Collision Reduction Measures (~~#2829~~) calls for minimizing the number of antennas and other rooftop structures, avoiding the use of mirrors in landscape design or bird-friendly attractants, applying bird-friendly glazing treatments on windows, reducing light pollution, and implementing operation and management activities that promote bird safety. Birds and other wildlife common in urbanized areas would continue to utilize trees and other habitat features within the Plan Area, and no substantial interference with native resident or migratory wildlife is anticipated.

It is unclear what the commenter's concern is regarding the assertion that the "EIR bird species list may omit some protected species known to occur in the area and understate the importance of the resource to the Pacific Flyway migration." Table V.G-1 on pages 411- 414 of the Draft EIR contains a list of special-status plant and animal species considered to have the highest

potential for possible occurrence in the Plan Area. These include ten special-status bird species known or suspected to possibly occur in the Plan Area. Other bird species, such as white-tailed kite, other raptors, and more common bird species may occur in or occasionally frequent the margins of the Plan Area, particularly where natural habitat remains along the shoreline of Lake Merritt and the Lake Merritt Channel. Some of these species are identified by name in the habitat descriptions for the Plan Area contained in the Setting of *Chapter V.G, Biological Resources* (see pages 403- 407 of the Draft EIR).

As acknowledged under Criterion 1 on page 431 of the Draft EIR, other migratory birds protected under the federal Migratory Bird Treaty Act and/or the California Fish and Game Code, may use the Plan Area for foraging, resting, and nesting. However, species potentially impacted by adoption and development under the Specific Plan are already adapted to the high level of human activity and disturbance by which this portion of Oakland is defined. Tree removal, building demolition, and other construction activities may cause disturbance to bird nests when in active use, but adequate controls would be implemented to minimize disturbance and inadvertent loss. Tree removal anticipated under the Specific Plan would have to comply with the City's SCAs, including SCA-BIO-2: Tree Removal During Bird Breeding Season (~~#2930~~), which would ensure that appropriate protection of nesting trees is provided when in active use during the bird nesting season (February 1 through August 15). These restrictions would extend from December 15 to August 15 for trees located in or near marsh, wetland, or aquatic habitats, which would include Lake Merritt, the Lake Merritt Channel, and the Oakland Estuary. As discussed above, new buildings and roof top structures anticipated under the Specific Plan would have to comply with measures designed to minimize bird collision with larger buildings, which would address the risk of special-status and other bird species colliding with buildings as they fly over the Plan Area. Based on existing urbanized conditions of the Plan Area and the controls provided under the applicable SCAs, potential impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to sensitive or special status species, as well as more common bird species protected under the Migratory Bird Treaty Act and California Fish and Game Code. No revisions to the Draft EIR are considered necessary in response to this comment.

Response B-3b.55 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.56 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.57 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.58 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.59 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.60 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.61 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.62 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. The CEQA significance criteria related to parks and recreation uses the metric of whether the project, in this case the Specific Plan, would increase the use of existing neighborhood or regional parks such that substantial physical deterioration of that facility would occur or be accelerated; or include recreational facilities or require the construction or expansion of recreational facilities which might have a substantial adverse physical effect on the environment. While the current contamination of public parks, and open spaces because of encampments and the shortage of open public restrooms effects the existing conditions of parks and open space, this is not a result of the Specific Plan. Further, the addition of 29,100 residential units under the Specific Plan would substantially increase the supply of housing and revenue to the City. While neither of these alone will solve homelessness in Oakland, both will help reduce homelessness.

Response B-3b.63 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.64 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.65 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.

Response B-3b.66 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.67 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.68 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.69 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.70 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.71 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.72 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.73 While economic outcomes are important to understand in the larger context of Downtown Oakland and the Plan, this comment as the Draft EIR presents, is out of the scope of this Draft EIR. While some economic outcomes may drive environmental outcomes, specific connections are not known and would be too speculative to make within the context of this EIR.

Response B-3b.74 See Response B-3B.73.

Response B-3b.75 The project/plan objectives and outcomes are listed in *Chapter III, Project Description* and on pages 40-42 of the Draft EIR. As described on page 40, in accordance with CEQA Guidelines Section 15124, an EIR must present a statement of project objectives, which in the case of a Specific Plan, are often the same as the Plan objectives. In the Draft EIR, the Plan's six goals as well as 15 associated outcomes are used here as the project's objectives. It is not the job of this Draft EIR to create conditions which support the objectives.

Response B-3b.76 While this comment states that there are land use impacts to industrial, cultural, housing, open space, and wildlife as a result of the project, it does not offer specifics on what additional impacts there would be that have not been already analyzed in the Draft EIR. Therefore, it is not possible to provide a more specific response. Based on the CEQA significance criteria for land use, the EIR analysis finds that although there would be changes in land use, the changes would not trigger a significant impact under CEQA.

Response B-3b.77 The CEQA significance criteria for population and housing are:

- Induce substantial population growth in a manner not contemplated in the General Plan, either directly (for example, by proposing new homes and business) or indirectly (for example, through extension of roads and other infrastructure), such that additional infrastructure is required but the impacts of such were not previously considered or analyzed.

- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.
- Displace substantial number of people, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.

Given the above, the mere increase in population does not constitute a significant impact.

Response B-3b.78 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-3b.79 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.



Oakland Measure DD Community Coalition

To: Oakland Planning Commission members
 From: Measure DD Community Coalition
 RE: Comments on the Downtown Oakland Specific Plan and draft EIR
 Date: November 5, 2019

The [Measure DD Community Coalition](#), composed of representatives of local advocacy and interest groups, and individual citizens, was formed in 2003 to advise the City on the use of the funds from 2002's Measure DD Bond Measure. These bond funds have made significant, popular improvements to the parklands at Lake Merritt and along the Lake Merritt Channel. The parklands, which form the entire eastern border of the Downtown Oakland Specific Plan (DOSP), are essential to meeting the park needs of the plan's projected residential population. However, the plan gives scant attention to these parklands. Several of the plan's projects and policies will have an adverse impact on the future life of various improvements funded by Measure DD. Following are our chief concerns about the plan's impact on Lake Merritt and Channel parkland.

Identify realistic financing dedicated to the maintenance and upkeep of the Lake Merritt parklands

Our primary issue is with the plan's failure to ensure that sufficient maintenance and upkeep of the Lake Merritt parklands will be provided now and into the future. The plan proposals and related mitigations don't address the predictable increase in their use by the projected increase in population of more than 50,000 residents. The draft EIR acknowledges this problem: "The amount of acreage of parks in downtown is small in comparison to other parts of the city, and with the projected increase in population, the existing overused parks will become increasingly more overused" (p. 623). On-going maintenance of the City's parks and open spaces remains a chronic budget problem. For that reason alone the plan must propose a realistic financing method that will provide a steady, dedicated stream of revenue sufficient for parks maintenance needs and permanent upkeep. Suggesting an update in the LLAD (CH-1.6, p.182, draft EIR p.622), which has already failed more than once, cannot be considered realistic in addressing this need.

Provide zoning provisions to meet a substantial goal of housing that relieves homeless encampments in Lake Merritt parklands and along the Lake Merritt Channel

The plan must offer effective solutions that will eliminate encampments along Lake Merritt's shoreline and the Channel by providing housing and services for the campers. The maintenance of this parkland is in part severely challenged by homeless individuals resorting to camping there. One of the plan's measures of success is "the number of people moving from homelessness to transitional and permanent housing increases..." (p. 95). This aspirational statement is not

backed up by zoning provisions and strategies to accomplish it. There should be an additional goal to reduce the number of encampments. The plan’s current statement won’t make a dent. The plan should provide for a truly significant number of units of affordable housing at the deepest levels of subsidy to begin to address the increasing number and size of encampments. The plan calls for up-zoning for residential development. This is a mistake that should be corrected. Increased density is acceptable under a two- tier zoning approach that allows greater heights/more dwelling units in exchange for significant community benefits such as affordable housing. It’s disappointing that the Incentives Study commissioned by the City will not be available until after the period for making comments on the plan and draft EIR is closed.

3,
cont.

Ensure that development along the Channel respects its ecology and is required to provide continuous public access

The plan makes scant mention of the Channel. The safety and protection of the Channel ecology, and its protection from pollution, are essential. The plan must ensure that development on either side of the Channel on Laney, Peralta, and Victory Court parcels takes this into account. The proposed 275’ height limits should be re-examined and re-mapped where buildings might line the Channel (fig. LU 10a, p.217). The plan must ensure everyday access to the water by residents and visitors alike on paths through public open space on either side of the Channel. Development along the Channel shore must not be allowed to overwhelm, detract or impede public access. The plan should call for appropriate plantings along the edge to support wildlife and the marine ecosystem, and reduce polluting runoff.

4

Retain the existing height limits of buildings facing the lake to avoid shadows on parkland

The Land Use Intensity designations of the Lakeside and Lake Merritt Office District neighborhoods (fig. LU-10a, p.217) were subjected to intense scrutiny by the Planning Department and City Council during the 2006-2009 rezoning of this area. The Council specifically voted to reduce proposed height limits of 65’/85’ to 55’ for the residential community facing Lake Merritt between 14th and 17th Streets and from Lakeside Drive to both sides of Alice Street. The plan must retain the existing land use intensity and height limits so as not to obstruct views from and of the Lake. New housing, office buildings, and parking, especially in the Lakeside neighborhood, should not overshadow the lake, the surrounding parkland and the recently improved Snow Park. In addition to advocating for keeping the existing height limits, we support the mitigation proposal to add a shadow study to the Standard Conditions of Approval for a project that is “at or adjacent to a public or quasi-public park” (AES-1, draft EIR, pgs. 398- 399).

5

6

Integrate parks into a seamless web

The minimal attention accorded parks is a striking failure of the plan. A small step in the right direction would be for the plan to call for knitting together all the existing parks and proposals for their improvements into a broader vision: the Green Loop, West Oakland Walk, Estuary Park, Jack London’s waterfront, the Bay Trail, the Lake Merritt to Bay Trail Bike-Ped Bridge, and the paths around Lake Merritt and along the Channel. These elements of public infrastructure offer ample places for making the city more engaging to all; integrating them into a seamless web would greatly increase their value.

7

Letter B-4
Oakland Measure DD Community Coalition
no individual signature
November 5, 2019

- Response B-4.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-4.2** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-4.3** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-4.4** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-4.5** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-4.6** The support for the shadow study mitigation measure is acknowledged.
- Response B-4.7** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

November 6, 2019

Joanna Winter
City of Oakland
250 Frank H. Ogawa Plaza, 2nd Floor
Oakland, CA 94612

RE: Comments on Downtown Oakland Specific Plan Public Review Draft Plan and Downtown Oakland Specific Plan Draft EIR

Dear Ms. Winter:

The City of Oakland’s Bicyclist and Pedestrian Advisory Commission (BPAC) is grateful to the City for inviting comments on the Downtown Oakland Specific Plan (Downtown Plan) Public Review Draft Plan and Downtown Oakland Specific Plan Draft Environmental Impact Review (EIR).

1

BPAC was created by City Council in 2014 to advise City Council and staff on “the accommodation of bicyclists and pedestrians in all transportation plans, policies, projects and programs.” A committee of BPAC, the Planning Commission Review Committee, specifically focuses on the bicyclist- and pedestrian-related impacts of major development projects and specific plans.

Thank you for presenting the Downtown Plan to the BPAC on September 19, 2019. The plan reflects a significant amount of community input and analysis and contains many elements that the BPAC is excited to support. We especially support the use an Equity Framework to guide the plan. Downtown Oakland has the potential to showcase the city at its best, with housing and jobs accessible to all Oaklanders via mobility modes that are compatible with the state’s and city’s climate change goals.

2

Based on the BPAC’s review of the Plan we offer the following comments:

Make Downtown Plan Fully Consistent with 2017 Pedestrian Plan and 2019 Bike Plan

We appreciate the Plan’s numerous references to the city’s pedestrian and bike plans. Creating a safe environment for pedestrians and bicyclist will be even more critical during the planning period. We recommend that the Downtown Plan be revised in several ways to ensure it furthers the goals of the Oakland Walks! Pedestrian Plan and Let’s Bike Oakland Bike Plan:

3

- **List more Pedestrian Policies.** In the discussion of important programs and policies in the Pedestrian Plan (Downtown Plan, p. 104), please add these programs and policies from the Pedestrian Plan to the list of especially relevant ones: Maintain roadway features that reduce speeds and make pedestrian crossings safer; Improve pedestrian environment under and over freeways; Partner with neighborhood groups to perform walk audits. Also, one bullet references “*Developing* a temporary traffic control protocol”.

Such a protocol as already been developed so “Developed” should be replaced with “Implement and monitor”.

3,
cont.

- **Use Impact Fee for Gaps.** Recommend that Transportation Impact Fees be used to fill in pedestrian safety and bike network gaps to create continuous corridors that are not addressed in the course of development projects that occur in accordance with the plan.
- **Address New High Injury Hot Spots.** We applaud the Plan’s focus on recommendations for specific projects in Downtown Plan, Appendix A to address the pedestrian High Injury Network. The Plan should also recommend that these improvements, once carried out, should be evaluated to determine whether injuries in fact dropped. Also, the Plan should explicitly acknowledge that the development contemplated under the Plan could lead to new pedestrian collision hot spots that will need to be addressed by developers or the City.

4

5

Recommend Adding Measures of Success to Evaluate Pedestrian and Bicycle Safety and Monitor Transit Service

- **Bicycle and Pedestrian Safety.** Recommend measuring Number of Bicycle and Pedestrian Incidents on a per capita basis (population plus employment), by level of severity relative to Baseline conditions.
- **Transit Service.** Recommend adding peak and mid-day transit travel times on major transit corridors (Broadway, Telegraph, 14th Street, etc.) relative to Baseline conditions.

6

Make Reducing Reliance on Single Occupancy Vehicles a Goal

- **Reduce Single Occupancy Vehicle Use.** BPAC supports the Plan’s emphasis on walking, biking and riding transit. To create a comfortable and safe environment for these modes and to help meet the City’s Climate Action Plan goals, the Plan should seek to reduce reliance on single occupancy vehicles. Without this as part of the goal, the Plan could inadvertently increase use of this mode. Please review the Mobility goal, Goal 03, by adding at the end “without continued reliance on single occupancy vehicles”.
- **Add Measure of Success.** Add reduction in the number of single occupancy vehicle trips as a Mobility Measure of Success (Downtown Plan, p.132).

7

Seriously Tackle the Climate Change Challenge with more Ambitious VMT Reduction Goals

- **Transform Use of Transportation.** Oakland’s City Council has adopted a greenhouse gas emissions reduction target of 56 percent relative to the City’s 2005 baseline year by 2030. Transportation accounts for 67% of Oakland’s greenhouse gas emissions, according to the draft Equitable Climate Action Plan. Thus, if Oakland is going to have any chance of meeting its goals and demonstrating its climate leadership, transportation to and from downtown Oakland needs to be transformed.
- **Slash VMT.** The EIR analyzes how vehicle miles travelled (VMT) per capita will change under the Plan. This is important from a climate change perspective due to the prevalence of fossil fueled vehicles. The EIR finds that through 2040 VMT per capita will remain flat at 4.8 for residential land uses and will decrease slightly for commercial land uses from 15.1 from 13.3 (EIR, p. 190). The 2040 VMT is deemed “less than significant”

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because the VMT is more than 15% below regional averages (EIR, p. 192). This is a very disturbing conclusion and could translate to significant increases in greenhouse gases as the number of people living and working in downtown increases. The VMT threshold used in the EIR should be made much more ambitious to be consistent with the City's climate change goals. VMT per reductions of 50% or greater, at least, are appropriate. There are no areas better than downtown, given its substantial transit connectivity, to aggressively reduce VMT. The EIR and Plan should be revised accordingly. VMT rates should also be reported for 2020 and 2040 No Project and Project conditions in EIR, Table V.B-6 on page 190 of the EIR to fully disclose VMT impacts of the Project.

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cont.

- **Study Banning Cars.** BPAC recommends that the Plan order a study of banning all single occupancy vehicles from downtown. Such a ban would be a powerful approach to reduce greenhouse gas emissions, create a safer environment for pedestrians and cyclists, and improve transit flows. This is not an outlandish concept. Just across the bay, the San Francisco Municipal Transportation Agency Board voted in October 2019 to ban cars from Market Street starting in 2020.

10

Design Streets and Sidewalks to Support How They Will Be Used in the Future

- **Include Street Typologies.** The Plan depicts street cross sections for three specific streets in Chinatown (Downtown Plan, p. 122-123). Cross sections like these are very helpful to design how the public right-of-way will be shared by different users--pedestrians, bikes, buses, vehicles. We recommend that the Plan expand on these and include generic street typologies that could be applied throughout downtown. San Francisco's Better Streets Plan contains "street types" that are a good example of this approach. These typologies can serve as a guide for designing appropriate streetscape environments, which will differ depending on the role of the street, e.g. transit corridor.
- **Widen Sidewalks.** The Mobility section should discuss the potential need for sidewalks to be widened on blocks where the existing width is insufficient for the anticipated growth in foot traffic, in particular adjacent to BART stations under 2040 Project conditions. The visualizations showing increased sidewalks, such as the one of 9th Street and Broadway on Downtown Plan, page 103, are compelling; however, it would be useful to see the streets where sidewalk widening is proposed on a map. Sidewalk widening recommendations should also be incorporated into site plans and project conditions for development occurring on these streets, where appropriate.

11

12

Support Use of Transportation Demand Management Plans with Specific Goals and Sufficient Staff

- **Set TDM Goals.** BPAC strongly supports the policy of requiring downtown employers with more than 50 employees to develop and implement Transportation Demand Management (TDM) plans to increase the number of people who walk, bike and use transit. The Plan should state what trip reduction goals these TDMs need to meet so that employers know what will be expected. Certain measures should be required too,

13

including limits on onsite parking and bulk procurement of transit passes for residents and/or employees (e.g. EcoPass).

- **Staff TDM Oversight.** The success of the TDM policy will require sufficient staff to oversee TDM plans. The plan should highlight the need for funding additional City staff resources and identify potential funding sources, such as impact fees paid by new developments.

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cont.

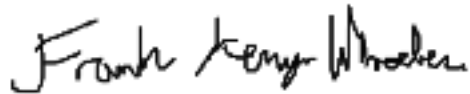
Recommend Further review of one-way to two-way street conversions

- **Study One-Way Conversions.** Members the BPAC have different views on the merits of one-way to two-way street conversions. However, we agree that it is a significant change that should studied on both a street specific basis and as part of a downtown-wide circulation study. Where conversions are undertaken, the City should develop plans to help residents and visitors safely get through the transition. The City should also consider interim measures such as adding two-way bike lanes to one-way streets prior to the conversion being completed.

14

Thank you for your hard work on this Plan and for considering the BPAC's input. We look forward to working together as the Plan is completed.

Sincerely,



Kenya Wheeler, AICP
Chair
Oakland Bicyclist and Pedestrian Advisory Commission

cc: Members of the Oakland Planning Commission
Councilmember Lynette Gibson McElhaney, District 3
Councilmember Nikki Fortunato Bas, District 2
Council President Rebecca Kaplan
Councilmember Dan Kalb, Chair, Public Works Committee
Oakland Department of Transportation: Jason Patton, Noel Pond-Danchik, Emily Ehlers
Oakland Public Works: Daniel Hamilton, Sustainability Director
Warren Logan, Director, Mobility and Interagency Relations, Office of Mayor Libby Schaaf

Letter B-5
Oakland Bicyclist and Pedestrian Advisory Commission
Kenya Wheeler, Chair
November 6, 2019

- Response B-5.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-5.2** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-5.3** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.4** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.5** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.6** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.7** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.8** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. The City's adopted GHG reduction target of 56 percent by 2030 is the basis for the threshold of significance used in the Draft EIR. The analysis is consistent with the adopted City policy, and the project description and mitigation measures support the needed changes in land use and mobility options to achieve the target.
- Response B-5.9** The commenter states that the VMT threshold used in the EIR should be made more stringent than what is currently used (15 percent below regional averages) and consistent with the City's climate change goals. In fact, the thresholds for GHG emissions from the transportation sector used in the Draft EIR are a combination of quantitative and qualitative thresholds outlined in *Chapter V.D, Greenhouse Gas Emissions, Section V.D.3.b.(1)*, page 275, and are supportive of the State and the City's GHG emission reduction goals. The quantitative VMT threshold was also explained in detail in *Chapter V.D, Greenhouse Gas Emissions, Section V.D.3.b.(1)*, page 274, which summarizes the recommendations from the Office of Planning and Research advisories, the Association of Environmental Professionals whitepaper, and the California Air Resources Board (CARB) whitepaper, in support of the use

of a 15 percent reduction in VMT goal as a metric consistent with the CARB's 2017 Scoping Plan and the statewide goals for 2030 and 2050 GHG emission reductions. In addition, the EIR's GHG analysis also used a qualitative metric to evaluate the Downtown Oakland Specific Plan's (Plan) compliance with the transportation related GHG reduction measures proposed in the City's recent Climate Action for Urban Sustainability (CURB) planning tool, which will be incorporated into the next update to the City's Energy and Climate Action Plan (ECAP). The GHG analysis demonstrated that the Plan would meet the quantitative and qualitative thresholds in *Chapter V.D, Greenhouse Gas Emissions, Section V.D.3.c.(1)*, on pages 277-278.

Although the City of Oakland has limited legislative authority over transportation, VMT associated with the implementation of the Plan are subject to several of the City's requirements and policies that were only analyzed qualitatively in the Draft EIR and would be expected to further reduce VMT and the associated emissions. These potential VMT and emission reductions that were not quantified include, requiring Transportation and Parking Demand Management Plan and installation of electric vehicle charging infrastructure for individual projects, and other policies and measures in the Plan.

Therefore, the Draft EIR used the appropriate VMT and transportation related GHG thresholds supportive of the State and the City's climate action goals.

- Response B-5.10** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.11** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.12** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-5.13** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. Also note that SCA-TRANS-5: Transportation and Parking Demand Management (#7879) requires project applicants to submit a TDM Plan for review and approval by the City with the following goals of the TDM Plan:
- Reduce vehicle traffic and parking demand generated by the project to the maximum extent practicable.
 - Achieve the project vehicle trip reductions (VTR) of 10 percent for projects generating fewer than 100 new AM or PM peak hour vehicle trips, and 20 percent for projects generating 100 or more peak hour trips.

Refer to pages 173-177 for a comprehensive list of TDM strategies as well as implementation and operational oversight requirements by both the project applicant and the City staff.

Response B-5.14 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Attachment A: Detail Analysis with Specific Recommendations

Comments specific to the Draft Environmental Impact Report:

- | | |
|--|-----------|
| <p>1. The plan does not adequately analyze displacement, and the impacts of displacement combined with the population growth projections on the main library and the branches throughout library system. Without an expansion in space and appropriate capital investment, the increased population will create more wear and tear on the Main Library and the impact will be significant deterioration of an important cultural resource.</p> | <p>1</p> |
| <p>2. The EIR fails to recognize that the services provided by the libraries are an intangible cultural resource as well as the historical and architectural significance of both the Main Library and AAMLO structures.</p> | <p>2</p> |
| <p>3. In the history section of the EIR please include “when the Oakland Free Public Library was established on November 7, 1878, in what is now the AAMLO building, it was the second free public library in the state.”</p> | <p>3</p> |
| <p>4. In the discussion of the Main Library on page 620 “There are currently no active plans to construct new or expanded facilities” misrepresents the status of the Main, please include – “the City Council has approval of \$700,000 for a feasibility study for a new main library, which is an indicator of intent, as well as committing funds for a feasibility study for the Hoover Durant Branch Library which is just outside the DOSP area and would serve Downtown Residents.”</p> | <p>4</p> |
| <p>5. On page 620 the EIR fails to fully describe the role of the Main Library. The Main Library is a federal repository library. This designation places limits on the storage and keeping of government documents. (Minimum of 5 years unless superceded). The Main Library’s centralized services work as the main nerve center for the entire library system. Most deliveries and returns of materials pass through it. All new materials for the system are processed, billed and catalogued at the Main and citywide outreach vehicles and materials are headquartered at the Main. All library administrators work out of the Main Library.</p> | <p>5</p> |
| <p>6. Maps fail to include existing preschools and charter schools in the area (in particular, the Child Development Centers (CDCs) which are run by OUSD). This is of significance because the libraries provide service to OUSD schools, pre- schools/CDCs and charter schools within its boundaries. Existing deficits in the system increase the specific population which the Main Library serves. Since OUSD eliminated its adult education program, Second Start is one of the few remaining places in the City where free literacy tutoring is available. Population growth would include growth in schools and library’s role in supporting school programming.</p> | <p>6</p> |
| <p>7. Expansion of the main library in its current site to serve the growing population will require significantly materially altering the physical characteristics of the existing structure which is considered architecturally significant.</p> | <p>7</p> |
| <p>8. Expansion of the Main Library in its current waterfront site, may impact the views of / from the Lake.</p> | <p>8</p> |
| <p>9. The failure to provide adequate library services in the downtown plan area will force residents and school programs to use library branches elsewhere in Oakland, increasing trip generation and the Vehicle Miles Traveled/transportation impact for the DOSP.</p> | <p>9</p> |
| <p>10. The Main and Asian Branch libraries are play an important role in supporting intangible cultural assets in the Downtown by providing targeted multilingual resources. A significant growth in users without expansion of the library system will exacerbate existing deficits, result in the deterioration and degradation of quality of services and</p> | <p>10</p> |

these intangible cultural resources disproportionately impacting existing residents, predominately communities of color in the downtown and throughout Oakland.

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cont.

11. The EIR states “LUTE Policy N2.2 states that provisions of services by civic and institutional uses should be distributed and coordinated to meet the needs of city residents. *Adherence to this policy would reduce the potential impact on libraries to less than significant.*” And references increased revenues as a result of development which would fund expanded facilities and increased services. What the EIR fails to recognize is as stated in the City of Oakland 5-year forecast “there is always a several year lag between the time a building is constructed and when new revenues come online.” As growth in the downtown will be incremental, the increased use of our existing facilities will accelerate their physical deterioration ***disproportionately impacting existing residents.***

11

Comments specific to Strategies within the Plan:

CH1.14 – “Work with downtown libraries to create a safe daytime shelter, community gathering and services program for Oakland’s unhoused and vulnerable residents.”

In reviewing the updated plan, we are concerned about the over emphasis on the libraries as a daytime shelter or drop in center for the homeless and other vulnerable populations. The libraries always have and will continue to welcome all the residents of Oakland; and must be a safe place for all; to include students, children and youth, seniors, and homeless. We suggest that the planning document pivot and instead say:

12

“Work with the Downtown Libraries to ensure that they appropriately supported and funded to serve and provide refuge and safe community gathering spaces for the diversity of Oaklanders; to include our more vulnerable populations children, youth, students, seniors and the unhoused.”

Include the library in the Economic Development strategy. We recommend that the DOSP plan reflect how the Main Library offers a strategic way to achieve equity in the plan. As the city experiences a large increase in its downtown population that will be living in denser conditions, we should expect that they will expect to use their public facilities even more. We know that millennials use libraries more than any other generation.

13

The libraries play an important role in bridging the divide by providing educational attainment and access to economic opportunity for youth and adults alike. Job, college, and affordable housing research and applications are all online. The library features many ongoing examples of resources to support nonprofits, artists and small businesses emerging and established and job creation.

H2.11 “Implement a centralized online waiting list for affordable housing”

The DOSP does not acknowledge that the Digital Divide in Oakland is real yet more than one out of five do not have broadband access. And therefore, the plan does not have a strategy of how residents can get access to these resources.

14

Lack of broadband access affects equity outcomes in all categories of the plan from disconnected youth to resident access to job and housing opportunities.

According to the US Census 2018, between the years of 2014-17, 21% of households in Oakland did not have broadband Internet subscriptions. (US Census Quick Facts [census.gov/quickfacts/fact/table/oaklandcityCalifornia,US/PST045218](https://www.census.gov/quickfacts/fact/table/oaklandcityCalifornia,US/PST045218)).

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cont.

The Main Library ameliorates this divide in a multitude of ways that are listed in much more detail in Attachment B.

Include the library in Affordable Housing, Economic Development and Youth sections of the plan as a partner to ensure Oakland Residents stay connected and have access to computer and internet services in order access to the new entertainment, housing and job opportunities that will be result from the development of the downtown plan.

E-1.1 “. . . Prioritize new funds generated by development to serve underserved communities per future direction by City Council.”

15

Change this to “Prioritize new funds generated by development *to fund Public Facilities that serve underserved and vulnerable communities*, per future direction by City Council. The City must meet it’s baseline service needs; parks and recreation and libraries.

E-2.8 Provide affordable space for entrepreneurs.

An expanded contemporary library can provide co-working and makerspaces for small and emerging businesses and nonprofits. The library promotes equitable business development and growth in a way that working people can access for free.

16

Within Equitable Economic Opportunity include a strategy that speaks to: “Work with Oakland Libraries to advance co-working” facilities and resources for artists, students, makers and emerging entrepreneurs and enterprises within the libraries.” Tools, technology, computer and internet, printing, data collections etc.”

E.31 “Pursue establishment of youth empowerpoint zone program in downtown Oakland integrated with local non-profit organizations and focused on career training opportunities.”

17

CH1.9 Invest in youth and senior driven programing and facilities for downtown public spaces.

18

Include library services as an important strategy in addressing needs of “disconnected youth” in Oakland.

19

Letter B-6
Library Advisory Commission
November 7, 2019

Response B-6.1 See Response B-3b-20.

Response B-6.2 The library is an intangible cultural resource. In recognition of its historical and architectural significance, the Final Draft Plan lists the library as an adaptive reuse site, as opposed to an opportunity site.

Response B-6.3 The requested text is added to page 305 to include a discussion of the Oakland Free Public Library.

Page 305, first paragraph of the Draft EIR, is revised to add the following sentence:

With an accessible harbor, Oakland was strategically located and easily reachable from inland agricultural areas via expanding rail service. A period of rapid population expansion and physical growth followed in the 1870s and 1880s, including the establishment of a civic core, commercial buildings, a working waterfront, and improved infrastructure. When the Oakland Free Public Library was established on November 7, 1878, in what is now the African American Museum and Library at Oakland building, it was the second free public library in the state. An 1888 map of Oakland provides a Victorian-era glimpse of Oakland's expansion at the time. Kellersberger's original city grid had exploded to the west, east, and north, with build-out of the downtown outpacing other areas. The map includes Kellersberger's two previously unnamed public squares that flanked Broadway, labeled Court House and Hall of Justice, while City Hall is marked at San Pablo Avenue and 14th Street.

Response B-6.4 The requested text is added to page 620.

Page 620, second paragraph of the Draft EIR, is revised as follows:

LUTE Policy N2.2 states that provisions of services by civic and institutional uses should be distributed and coordinated to meet the needs of city residents. Adherence to this policy would reduce the potential impact on libraries to less than significant. There are currently no active plans to

construct new or expanded facilities; however, the City Council has approved \$700,000 for a feasibility study for a new main library as well as a commitment to fund a feasibility study for the Hoover Durant Branch Library, which is just outside the Plan Area and would also serve downtown residents. ~~however~~ There is demand for the following: a new Main Library, a new branch in the Hoover-Foster neighborhood, a new branch in the San Antonio neighborhood, a permanent branch for Piedmont Avenue, a new location for the Tool Lending Library, and new or expanded Asian branch.

Response B-6.5 The requested text is added to page 604 versus page 620 as requested.

Page 604, first bullet point of the Draft EIR, is revised as follows:

Oakland Main Library. Located at 125 14th Street, the Main Library has 350,000 reference and circulating books and 33 computers with internet access, in addition to magazine, newspaper, sheet music, and map collections. The library provides many services including computer training, tax assistance, lawyer assistance, homework assistance, and ~~storytime~~ story time. The Main Library is also a federal repository library. This designation places limits on the storage and keeping of government documents (Minimum of five years unless superseded). The Main Library's centralized services work as the main nerve center for the entire library system. Most deliveries and returns of materials pass through it. All new materials for the system are processed, billed, and catalogued at the Main and citywide outreach vehicles and materials are headquartered here.

Response B-6.6 Figure V.M-3 identifies all charter and district-run schools within and around the Plan area and marks the location of preschools (PKs) and Child Development Centers (PK CDCs) with a purple square and a yellow star, respectively. The figure has been revised to improve the legibility of this information.

Page 602, Figure V.M-3 of the Draft EIR, is revised to include definitions for school abbreviations such as PK, CDC, and TK. The figure is included in Chapter V, Text Revisions.

Response B-6.7 A future project for the Oakland Public Library has not yet been designed nor has funding been secured. As a result, it is too speculative to provide a project-specific analysis in this EIR. Once a specific project is proposed, an historic resource evaluation will be required, and the City will review to determine what level of CEQA analysis is required.

- Response B-6.8** See Response B-6.7.
- Response B-6.9** See Response B-3b.50.
- Response B-6.10** See Response B-3b.20. The threshold for public services discusses adverse physical impacts associated with the provision of or need for new or physically altered facilities such that construction could cause significant environmental impacts, or to maintain acceptable service ratios. As described on page 619, the Oakland Public Library does not have any performance standards that are tied to level of demand. While it is true that the increased use of library facilities could accelerate existing deficits, which has the potential to disproportionately impact communities of color in the downtown and throughout Oakland, this is not considered to rise to the level of significance pertaining to the CEQA threshold for public services and facilities.
- Response B-6.11** The Draft EIR on top of page 621 acknowledges that capital improvements impact fees received as part of the development of projects pursuant to SCA-PUB-3: Capital Improvements Impact Fee (~~#7374~~) "would not be enough to provide expanded services, including those that are may be triggered by new development." The Draft EIR has been revised to acknowledge that there is lag between the time a building is constructed and when new impact fee revenues come online.

Pertaining to growth in the downtown increasing the use of existing facilities, see Response B-6.10.

Page 621, first paragraph of the Draft EIR, is revised as follows:

Fund to cover costs associated with increased operational costs such as additional police and fire personnel. While the Specific Plan has policies that would encourage investment and improvements to libraries, as well as capital improvements that would be received as part of the development of projects pursuant to SCA-PUB-3: Capital Improvements Impact Fee (~~#7374~~), these fees would not be enough to provide expanded services, including those that may be triggered ~~be~~ by new development. In addition, there is normally a several year lag between the time a building is constructed and when new revenues are available.⁵⁹

⁵⁹City of Oakland, 2019. Five Year Financial Forecast, 2019-2024. Available at: https://cao-94612.s3.amazonaws.com/documents/FY-2019-21-5yearfactsheet_final.pdf, accessed January 24, 2020.

Response B-6.12 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.13 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.14 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.15 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.16 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.17 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.18 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-6.19 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.



BUILDING AMERICA®

November 8, 2019

City of Oakland
Planning and Building Department
Planning Bureau; Strategic Planning Division
250 Frank W. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: **Union Pacific Railroad Company’s Comments to City of Oakland’s Downtown Oakland Specific Plan and Environmental Impact Report (EIR)**

To Whom It May Concern:

Union Pacific Railroad Company (“Union Pacific”) submits the following comments in connection with the City of Oakland’s Downtown Oakland Specific Plan EIR:

1

Initially, Union Pacific believes that the environmental impact report (“EIR”) impermissibly “bite-sizes” land use decisions in the City, by virtue of its exclusion of potential impacts from what the EIR repeatedly describes as the proposed “Howard Terminal Option.” The EIR recognizes that impacts from that proposed project, if approved, will impact and will indeed result in changes to the Downtown Specific Plan.

2

The Howard Terminal Option is not merely a proposal for a new baseball stadium. Rather, as the EIR candidly states, it is a “proposed project to reuse the Howard Terminal site for a new baseball stadium, waterfront open space, and mixed-use development.” (EIR at 49). Indeed, the EIR specifically states that “Under the Howard Terminal Option, the intensity of development in the surrounding blocks would be adjusted so that there would be increased intensity for the area between Brush, Clay, 2nd, and 4th streets adjacent to Howard Terminal.” (EIR at p. 57.)

Yet there is no analysis of the Howard Terminal Option “impacts” in the context of the Downtown Specific Plan. The EIR cannot simply state that there is one outcome for the Specific Plan if the Howard Terminal Option does not materialize and another if it does, without any analysis of the environmental impacts of that project and the evaluation of mitigation measures. It is simply impermissible for the Specific Plan to make land use decisions which assume either approval or denial of the Howard Terminal Option without the EIR considering the environmental impacts of that project on those land use decisions.

3

It is no answer to say that the environmental impacts of that project will be evaluated in a separate EIR and will be performed in connection with the Howard Terminal Option, when the Specific Plan has already determined *in advance* specific land use decisions which will flow from approval of that project. Moreover, approval of the Downtown Specific Plan prior to evaluation of the environmental impacts of that project may, indeed, needlessly result in certain impacts being deemed unavoidable, since the Downtown Specific Plan could conceivably already be in place.

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In short, the Downtown Oakland Specific Plan EIR must consider the environmental impacts associated with the Howard Terminal Option, in the event it was to be approved.

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cont.

Additionally, the exclusion of a robust discussion of the current and potential future impacts of operations within the Howard Terminal area from consideration in connection with the Downtown Specific Plan fails to satisfy the requirements for a complete EIR. The Specific Plan and the EIR have been designed to carve out the significant Port and rail operations which occur in this area. The rail corridor itself is occupied with both slow moving and stopped trains accessing Union Pacific's nearby intermodal and manifest rail yards.

5

Likewise, while the EIR states "Development under the Specific Plan would generate additional multi-modal traffic traveling across ... at grade railroad crossings that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard," it fails to address mitigation of those impacts. The EIR states:

"UPRR owns and operates the two mainline railroad tracks through the Jack London District which is part of the Specific Plan. In addition to the "Green Loop" which would attract bicycle and pedestrian activities to the waterfront, substantial residential and commercial development is contemplated in the Specific Plan which would be expected to generate multi-modal demand for services on both sides of the railroad tracks, recreational demand for water-related activities and the Bay Trail which crosses the railroad tracks at Clay Street ... Introducing additional multi-modal traffic at the existing at-grade railroad crossings therefore potentially contributes to safety issues along the railroad corridor through Jack London District both at at-grade crossings and between crossings." (EIR at p. 210.)

Yet, instead of actually evaluating and proposing specific mitigation measures, the EIR states that:

6

"The Specific Plan shall include an implementation measure that requires the City of Oakland within the next three years to undertake and complete an Diagnostic Study as outlined in SCA-TRANS-7. Railroad Crossing (#82) to identify and implement the suite of improvements to enhance multi-modal safety along the railroad tracks including the elements necessary for a Quiet Zone through jack London District. The study shall identify the schedule and potential funding for implementing the suite of improvements resulting from the study and the City as the lead agency would design and construct the improvements."

Directing a "Diagnostic Study" to *identify* "mitigation measures" does not satisfy the requirement that an EIR evaluate and provide specific required mitigation measures. Instead, it puts development ahead of potential mitigation, rather than conditioning development on mitigation.

It is simply inadequate to say that "Given funding for the Diagnostic Study has not yet been identified and the implementation of any resulting recommendations would likely require approval by agencies outside of the City of Oakland (CPUC or UPRR), this impact is conservatively deemed significant and unavoidable under CEQA Criterion #2." The issue that funding for the Study has not been approved is nothing more than an excuse for not performing the analysis of mitigation measures required for a complete EIR. To be sure *some* mitigation measures may require approvals from the PUC or UPRR. Yet, at the same time, criterion exists for obtaining those approvals as to specific mitigation measures.

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cont.

And finally, the Specific Plan includes plans for zoning changes which are designed to increase the density of residential development in the area adjacent to and in the vicinity of the Embarcadero (EIR at p. 134) (as well as other areas in the vicinity of the railroad). While generally noting that both Union Pacific and Amtrak utilize a rail line that runs down the center of the Embarcadero, and through other areas of proposed increased residential development, the EIR fails to adequately address the potential impact of noise and diesel emissions from those operations, together with the unique traffic issues arising from such development in the context of this setting.

7

Sincerely,

Union Pacific Railroad Company



Robert C. Bylsma

Letter B-7
Union Pacific Railroad Company
Robert C. Bylsma
November 8, 2019

- Response B-7.1** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-7.2** As part of the Final Draft Plan, the Howard Terminal Option has been removed. For a discussion of other plan revisions, see *Chapter II, Plan Revisions and Draft EIR Project Description*.
- Response B-7.3** See Response B-7.2.
- Response B-7.4** See Response B-7.2.
- Response B-7.5** See Response B-7.2.
- Response B-7.6** The following changes have been made to the Draft EIR to update Mitigation Measure TRANS-2 in response to the comment.

Page 210, bottom of the page, Mitigation Measure TRANS-2 of the Draft EIR, is revised as follows:

Mitigation Measure TRANS-2: The Specific Plan shall include an implementation measure that requires the City of Oakland within the near-term (1 to 5 years) to undertake and complete a Diagnostic Study as outlined in SCA-TRANS-7: Railroad Crossings (~~#8082~~) to identify and implement the suite of improvements to enhance multi-modal safety along the railroad tracks including the elements necessary for a Quiet Zone through Jack London District. The study shall identify the schedule and potential funding for implementing the suite of improvements resulting from the study and the City as the lead agency would design and construct the improvements, relying on outside agency funding. Any proposed improvements must be coordinated with California Public Utility Commission (CPUC) and affected railroads; and all necessary permits/approvals must be obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings). (SU)

The Alameda CTC has undertaken many studies to address railroad safety in Alameda County as part of the Alameda County Rail Safety Enhancement Program. The work was completed in February 2020 and the agency is now

soliciting proposals to retain a consultant team to design and deliver railroad crossing improvements throughout Alameda County that will include railroad crossing improvements in the Jack London District. The memorandum Oakland Rail Corridors and Crossings (August 22, 2018) documents recommendations for improving rail safety through the Jack London District from west of Market Street to east of Webster Street. The identified improvements include:

- Eliminate eastbound travel on Embarcadero and convert one lane of roadway into a pedestrian esplanade.
- Retain the westbound travel lane for one-way traffic; eastbound traffic would need to use 2nd or 3rd Street.
- Reopen Jefferson to replace access to Howard Terminal lost by converting Embarcadero to one-way street.
- Eliminate left turning movements from westbound Embarcadero across the tracks at all crossings.
- Install a 4-foot decorative barrier parallel to the tracks between the crossings to deter pedestrians from crossing tracks between crossings.
- Install pedestrian crossing gates and refuge islands at all crossings.
- Add additional street lighting at select locations.
- Install improved wayfinding signage on nearby roadway to direct visitor to the District.
- Install new pavement markings and striping at crossings.

The Alameda CTC study noted that the capital cost for these improvements was \$16,500,000. As noted in the Alameda CTC memorandum, the site assessments and recommendations described above do not replace the formal consultation process required by the California Public Utilities Commission (CPUC) under General Order 88-b: Modifications to Existing Crossings. The Alameda CTC-commissioned study is also consistent with the City-commissioned study completed in 2011 which studied the rail corridor improvements necessary to support a Quiet Zone operation through the Jack London District. The City expectation is that because the Alameda CTC procurement includes both design and construction the necessary consultation process per General Order 88-b and construction will occur.

Given that funding for the ~~Diagnostic Study has not yet been identified~~ design and construction of the rail safety improvements would occur through Alameda CTC, which is an outside agency, and the implementation of any resulting recommendations would likely require approval by agencies outside of the City of Oakland (CPUC or and UPRR), this impact is conservatively deemed significant and unavoidable under CEQA Criterion #2.

Response B-7.7 Pertaining to traffic issues arising from development in the context of the setting: Response B-7.6 describes a suite of transportation improvements for the railroad corridor through Jack London District to manage the multimodal crossings of the railroad tracks.

Pertaining to the impact of noise and diesel emissions, the Union Pacific Railroad and the Embarcadero are mapped in an area with elevated air pollution (Figure V.C-1, on page 223 as updated by BAAQMD). Air quality concerns associated with residential development in areas mapped with elevated air pollution are addressed in Response B-8.36. Noise and vibration concerns associated with residential development near the Union Pacific Railroad and major roadways are addressed in Responses B-12.39-B-12.42.

OAKLAND CHINATOWN COALITION

November 8, 2019

TO: City of Oakland Planning Commissioners and Planning Staff
CC: Councilmembers Fortunato Bas, Gibson McElhaney, and Kaplan
FROM: Oakland Chinatown Coalition
SUBJECT: Downtown Oakland Specific Plan, Draft EIR Comments

Dear Planning Commissioners and Staff:

The organizational and individual members of the Oakland Chinatown Coalition have participated in many public meetings leading up to the release of the Downtown Oakland Specific Plan. We have reviewed the Draft Environmental Impact Report, and have the following comments. The purpose of this letter is simply to collect and catalogue all of the comments on the Draft EIR for response by staff. We note that it is difficult to fully comment on this document, since the Zoning Incentive Study (which would help us understand what the impacts of the DOSP would be), is not yet available for review. We will follow up with a shorter, more summarized and thematic response (less technical, more appropriate to elected officials and community members) to the overall Plan and EIR at a later point in time.

The current membership of Oakland Chinatown Coalition consists of AHS, AIWA, APILO, APEN, AYPAL, Buddhist Church of Oakland, Chinese American Citizens Alliance - Oakland Lodge, Chinese Community United Methodist Church, EBALDC, Family Bridges Inc, FAJ, Friends of Lincoln Square Park, Lincoln Elementary School, New Hope Chinese Cancer Foundation, OACC, Oakland Chinatown Lions Foundation, Wa Sung Community Service Club, Alan Yee, Gilbert Gong, Heidi Kong, Karolyn Wong, Lailan Huen.

If you have any questions about the comments below, please direct them to Ener Chiu at echiu@ebaldc.org, Julia Liou at jliou@ahschc.org, Mike Lok at mlok@ahschc.org, or Alvina Wong at alvina@apen4ej.org.

Sincerely,
Oakland Chinatown Coalition

OAKLAND CHINATOWN COALITION

DOSP EIR Chapter (reference)	Oakland Chinatown Coalition Comments
General/Other	Please do not use the image on the front cover of the Draft EIR. The image literally depicts a new building displacing an existing, functioning, well used community childcare service.
1. Introduction	
a. Downtown Oakland specific plan/project overview	If “The Plan serves as a mechanism for ensuring that future development is coordinated and occurs in an orderly and well planned manner” and the Project Overview specifically calls out supporting existing residents only by “growing existing businesses and the creative economy as important to creating a plan that serves both current and future residents” and does not specifically address preservation, protection, and development of affordable housing, then we will continue to create the conditions that push non-rich and creative people out of the area.
b. Environmental review process	
c. Score of analysis	The Scope conveniently ignores economic outcomes, which is inappropriate because economic outcomes drive environmental outcomes. There is substantial research that definitively finds that income is the greatest predictor of carbon footprint. Therefore, creating greater and greater concentrations of rich people creates greater and greater concentrations of carbon footprint. We are happy to provide backup studies if requested; the consensus on this finding is widely searchable.
d. Report organization	U nder the summary of Chapter VII, the text states that there are “basic objectives of the project.” Where are these objectives listed? And if the outcomes of the regulatory streamlining provided by this DOSP EIR fail to create conditions which will support the objectives, then should we not rewrite the regulatory framework to actually make the objectives more likely to occur?
2. Summary	
a. Overview of downtown Oakland specific plan	In Goal 2, the report should be specific about affordable housing. “Sufficient numbers” of units is clearly not impacting affordability for the majority of existing residents in Oakland. Housing markets are segmented. If the vast majority of new housing that is built is at the highest end of the market, then rents at the top of the market will soften from say \$4,500 a month to \$4,000 a month. But that will not help the vast majority of residents who can only afford \$1,500 to \$2,000 a month.
b. Summary of impacts, standard conditions of	

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OAKLAND CHINATOWN COALITION

approval, and mitigation measures		
c. Alternatives		
d. Areas of controversy and issues to be resolved	<p>The text states that many of the comments on the NOP were non-CEQA topics. Insofar as the comments address economic conditions and likely economic outcomes, we refer back to our earlier comment about the Scope of Analysis, that economic outcomes drive environmental outcomes. Greater incomes have a largely direct relationship to greater carbon impact. In addition, when we crowd out increasing numbers of working class and low-income residents to outlying areas and we increase their carbon impact as well by forcing longer commutes.</p> <p>Is it possible to give a sense of how many people gave a certain comment. For instance, if 20 people comment that affordability is important, and only 1 person comments that they would like to consider using a net-zero threshold for GHG emissions, are the comments weighted differently?</p>	7 8
e. Summary of impacts table		
3. Project Description		
a. Overview		
b. Location		
c. project/plan objectives and outcomes	<p>Goal 2, Housing Outcome H-1: add language specifically about low income and working class households. “A full range of lifestyles and choices” is marketing language that sounds like it is describing luxury housing that has differing amenities targeted to different tastes. It is important that new housing is also available for households of different sizes, with multiple generations, and also for low-income people. These are necessities, not lifestyles or choices.</p> <p>Goal 5, Community Health Outcome CH-1: revise text to say “All Oaklanders, including children, youth, and seniors, can lead safe and healthy lives, enjoying streets, public spaces, parks, and rec centers downtown that provide....”</p>	9
d. Plan components	<p>1 Land Use Character and Intensity, page 42</p> <p>o Development Intensity Map, third bullet point: Do these development intensities lead to the stated goals and objectives that are supposedly desired?</p>	10

OAKLAND CHINATOWN COALITION

2 Character Areas, pages 43 - 45

o I suggest re-ordering the bullet points to match the order listed in Figure III-4. That would make review and referencing much easier to follow.

o Mixed-Use Institutional bullet point, page 45, doesn't show up in the map on Figure III-4. Is this described more specifically anywhere?

o Bullet point text describing potential Howard Terminal ballpark development reads: "Area between Brush, Clay, 2nd and 4th streets would become Mixed Use Flex..." This sentence should say "could become" rather than definitively would, given that so much is in flux around the ballpark. The Mixed Use Flex designation sounds like it would encourage more commercial displacement by liberalizing the zoning and raising the land values of the properties in that area. In general, we oppose this, and want to retain as much light industrial land use as possible.

2.b. Development Intensity, pages 50 – 57

o The Plan proposes a net increase in development intensity and density throughout the Plan Area, but to what end? Cramming more people into a location Downtown may be desirable, but only if it doesn't actively displace people who are already here. Planners and the City would never dream of doing something like this in other desirable parts of the City. For example, many people would like to live in Rockridge, where there is a BART station, good schools, and commercial activity, but there is no plan to quadruple the number of residents in that part of the City. Increased density is equitable only if it brings increased affordability and amenities and quality of life to the people who are already here, and if that increased density is also shared with wealthier neighborhoods elsewhere in the City and region.

2.c. Opportunity Sites

o Figure III-15, page 60: why are the sites considered opportunities for office development so limited? There are many other locations where office is possible, including adjacent to the current Lake Merritt BART Station, sites in Jack London Square, etc.

3.a.(2) Connectivity and Access Improvements, page 61: Is it possible to identify who is advocating so strongly for this "Green Loop"? Connectivity as a concept has been shown to be more important to whiter and wealthier residents. Poorer residents of color have been shown to prefer improving existing assets like having functioning lights and clean bathrooms at parks. <https://www.citylab.com/design/2016/03/why-race-matters-in-planning-public-parks-houston-texas/474966/>

4 Public Realm Improvements, pages 67 – 71

o First bullet point, page 67: Do not implement "Green Loop" and "West Oakland Walk" without a comprehensive investment in affordable housing development, and preservation and protection in place first. Also do not implement "Green Loop" without first modernizing and improving existing rec centers and parks in

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OAKLAND CHINATOWN COALITION

	<p>Downtown with amenities that community members have been demanding for more than 20 years.</p> <ul style="list-style-type: none"> o Second to last bullet point, page 71: Do not include new public open space as part of the redevelopment of Victory Court until existing public rec centers and parks in the Capital Improvement Plan are fully funded and underway. Do not build new infrastructure until the existing infrastructure is usable and sustainable. Please see Figure III-17,III-18,III-11, III-15,III-7,III-2, III-4 	<p>17, cont. 18</p>
<p>e. Projected development program</p>	<ul style="list-style-type: none"> o The scenarios being studied in Tables III-3 through III-5 are too permissive. If these are the scenarios, then that means that any impacts below these incredibly aggressive projections don't have to be further studied or mitigated for. o Text on page 76 says that the City will track total number of residential units, hotel rooms, and nonresidential square footage. We hope that the City can track these simple metrics, as the systems often do not seem to be in place to actually keep track of things. Please also track residential affordability of new units brought online. o Text on page 76 also says that "Economic and social changes resulting from a project are not treated as significant effects on the environment..." We have already made the argument in this letter above that economic outcomes drive environmental outcomes 	<p>19 20 21</p>
<p>f. Required approvals and actions</p>	<p>City Approvals, page 77: As a general comment, please look at the balance of new development we already have. Of the approximately 5,000 units of new construction housing coming online between 2018 and 2020, 96% is market rate, and only 4% is below market rate. If streamlined approvals makes this imbalance even more likely to occur in the future, it will accelerate the displacement and gentrification trends we are currently seeing. If we agree that that is an inequitable outcome, and the objective of this Plan is to create equitable outcomes, then we should not approve this Plan.</p>	<p>22</p>
<p>4. Policy</p>		
<p>a. City of Oakland</p>	<p>1.a.(1) LUTE, Consistency, page 83: If the Plan's objectives are simply to create more housing, irrespective of level of affordability, then it is not consistent with the objective of equity.</p> <p>1.a.(2) Let's Bike Oakland, Consistency, page 88: If the Plan's objectives are simply to provide an integrated system of new walking and biking paths, then it is not consistent with the objective of equity, which per our previous statement above, would be to improve existing infrastructure and assets before creating new ones.</p> <p>1.a.(4) Broadway Valdez District Specific Plan, pages 89 – 90: I found this comparison of what was in the plan to what was produced helpful. Essentially, there were nearly double the anticipated housing units created, from a modest 1,800 to 3,355 (although, I believe several hundred of these permitted units were simply for rehab of existing affordable units). How many of these permits were for new housing, and how many of those units were</p>	<p>23 24 25</p>

OAKLAND CHINATOWN COALITION

	<p>below market rate?</p> <p>1.a.(5) Lake Merritt Station Area Plan, pages 90 – 92: How much new housing has been built out, and how much of that is below market rate? There were some interesting ideas in the LMSAP, and some ideas have been cherry-picked out. Does anyone remember who advocated strongly for the Webster Green? (it was in the chinatown process - architect in JL side - check with jack london bid) It is not idea that I have heard from many community members, but perhaps I am unaware of the strong advocacy around this. Our comments on this issue are consistent with those on the Green Loop. Modernize and make sustainable the existing recreational assets first before investing in new infrastructure that will create new operational liabilities.</p>	<p>25, cont.</p> <p>26</p>
<p>b. Regional plans</p>		
<p>5. Setting, Impacts, Standard Conditions of Approval, and Mitigation Measures</p>		
<p>a. Land use and planning</p>	<p>5.A.1.a.(1), page 119, Open Space: The text notes that the existing Park Acreage in the Plan Area is just 1.8 acres per 1,000 residents, or about 4.5 times less than that of the rest of the City. If the population quadruples, as projected in the Plan, then the projected park space would drop by less than 0.5 acres per 1,000 residents, close to 1/20 of the City average. However, the mitigation measure here should not be an automatic increase in park space. As noted throughout our comments, mitigation measures need to be prioritized. And in this case, the priority for mitigating this inequity should be improvement of existing open space and recreational facilities, so that they can more adequately serve more residents. For instance, modernization and expansion of the existing Lincoln Rec Center (the only public rec center in the Downtown Oakland), must be a top priority. Revitalization of Madison Park must also be a key priority as it would essentially bring a recreational space to Downtown Oakland since it is currently not being used as such. Madison Park could also connect to the public BART plaza next door to form a unique multiblock linear urban park. Another mitigation measure should be creation of a recreation impact fee that finds the nexus between intensification of land use and use of public recreational facilities.</p> <p>Table V.A-1, pages 121 - 122: This table would provide an excellent start to finding which projects have not paid their affordable housing impact fees.</p> <p>Table V.A-3, page 126: W-12 Phase 2 project was replaced with the EBALDC Affordable Hsg project at the</p>	<p>27</p> <p>28</p> <p>29</p>

OAKLAND CHINATOWN COALITION

	<p>same address, lower in the table. Eliminate the former so it is not double counted. The Prosperity Place project at 188 11th St has been completed and shouldn't be on this list.</p> <p>5.A.2.b.(1) page 130, Street Network Changes: The text reads: "Furthermore, the substitution of traffic lanes with transit-only lanes ... would remove barriers to circulation, especially for non-auto modes, which would be beneficial to neighborhood connectivity." We contest this statement, as it depends on the context. If you take auto traffic off of Broadway, it will move onto secondary arterials within the surrounding neighborhoods, like Franklin and Webster, causing more traffic within neighborhoods. This occurred in San Francisco, when transit only lanes were created on Market. More auto traffic moved into SOMA and other surrounding areas.</p> <p>5.A.2.b.(1) page 131, Public Realm Improvements: The text states: "New open spaces would not create physical barriers that could physically divide a community." However, new open spaces would take financial resources that would fuel further disinvestment in existing facilities, which would create holes that would physically divide the community. Improvements to existing facilities should be prioritized over the creation of new facilities. Also, it is important to deal with existing physical barriers (like 880), and prioritize projects that could reduce those current barriers. One top priority that the Chinatown Coalition would address is to improve the undercrossings under 880 that divide Chinatown from Jack London Square.</p> <p>5.A.2.b.(2) page 131, Conflict with Adjacent Land Uses: The question here is less whether there is conflict between adjacent uses, and more whether the Plan creates conditions that encourage a monoculture of use types. For instance, if new commercial spaces are developed that are so expensive, that only alcohol serving establishments are profitable enough to survive, crowding out art spaces, childcare, hardware stores, bodegas, and other less profitable but necessary functions, is that a desirable outcome? This crowding out can be seen in neighborhoods like Old Oakland, which now has the highest concentration of ABC liquor licenses in the City, and is turning into an "entertainment district" at the expense of local residents. It is a fine balance to maintain a diverse and balanced community. The same logic applies also to residential uses. High income residential buildings will always have the power to conflict with and crowd out lower-income residential buildings.</p> <p>5.A.2.b.(2) page 138, Central Core/Uptown/Lake Merritt Office District: Comment on Policy H-1.1: Do not upzone unless specific community benefits are attached to that public action which arbitrarily creates a windfall in land value for the landowner.</p> <p>5.A.2.b.(3) page 140, Conflict with Land Use Policy: This Plan does conflict with RHNA targets established by</p>	<p>29, cont.</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p>
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OAKLAND CHINATOWN COALITION

	State of CA because it does not identify the resources necessary to meet RHNA and the equity goals supposedly at the center of the Plan. The physical change in Downtown is happening now in plain sight, and the Plan would exacerbate this trend by its proposed indiscriminate and unfettered massive upzoning, which uses public action to increase private land value, without getting anything in return.	34, cont.
b. Traffic and transportation	The study should include the two-way conversion of Webster Street from 14th Street to 7th Street. It should also address the effects of the bike lanes and reduction of lanes on the Chinatown commercial area and its impact on loading and unloading for the commercial trucks. Prioritization of bike lanes should be on streets that Chinatown merchants and Coalition members have identified, rather than those identified by bicycle advocates who do not work or live in Chinatown (for example, 10th Street is an appropriate bike arterial, but not 8th and 9th Streets). Overall, circulation improvements ie. two-way street conversions, Improvements and program support for existing assets such as existing public parks/rec centers/cultural centers <u>should be prioritized over</u> the creation of new projects such as the reclamation of the 980 or a “green loop”.	35
c. Air quality	<ul style="list-style-type: none"> If Downtown is to take on so much new housing, air quality for all these residents will be a concern. How will we mitigate 880 and Port of Oakland sources of pollution to help improve air quality Downtown? 	36
d. Greenhouse gas emissions		
e. Cultural and historic resources	<ul style="list-style-type: none"> Art and Culture are a public health issue because it is one of the social determinants of a healthy community. This EIR should address capital improvement funding for all City-owned facilities (including OACC) and by identifying implementable plans to secure long term funding from the City. Chinatown artists are part of the Culture Keepers narrative to preserve and promote arts and culture in Oakland Chinatown and Downtown Oakland Chinatown receives inadequate marketing support from the City as a cultural and historic neighborhood. Invest in OACC as an affordable event space for the City and the community. 	37 38 39 40 41
f. Aesthetics		
g. Biological resources		
h. Geology and soils		

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i. Hazards and hazardous materials		
j. Hydrology and water quality		
k. Noise		
	<p>5.L.1, pages 571 - 581: These pages seem factually accurate.</p> <p>5.L.2.b.(4), Standard Conditions of Approval, page 583:</p> <ul style="list-style-type: none"> • SCA-Pop-1: as a point of comparison, I believe Oakland’s jobs/housing impact fee is currently around \$5/SF. San Francisco recently increased theirs to around \$70/SF. • SCA-Pop-2: the City has so far not demonstrated that they can capably implement or collect the impact fee that they passed in 2016 and use it for affordable housing production. We estimate, using a conservative formula that there should be at least \$75M that has been collected in fees over the last three years. The City has so far accounted for \$7M as of the date of this letter. • SCA-Pop-3: Additional resources are needed for oversight and enforcement <p>5.L.3.a., Thresholds of Significance, page 584: The Plan would induce substantial population growth in a manner not contemplated in the General Plan because the vast majority of the permanent residential growth would be at upper income levels, who are the only households that can afford the astronomical rents associated with the development that we are currently seeing. The Plan would exacerbate this trend. Logically then, this would necessitate the construction of replacement or additional affordable housing elsewhere (likely out of Oakland), which would then displace lower income people to those areas. This is not theoretical. It is measurably and visibly happening, and the statistics in the Plan and EIR show that trend happening. The Plan does not do anything that is concretely resourced to counter that trend.</p> <p>Table V.L-6, page 586: The data in this table does not seem to match the data in Table III-5, which showed a quadrupling of population in the Plan Area. I believe it is because the Population figure of 52,600 does not include the units in active development now, so it is undercounting that future population projection shown in III-5.</p>	<p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p>
l. Population and housing	5.L.3.b.(1), Induce Unplanned Population Growth, pages 585 - 587: The population growth cited here is not	48

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anticipated by Oakland's General Plan, because that Plan had a Housing Element that showed at what income levels Oakland's housing growth should be at. The Plan here does not add new resources (we have not yet reviewed the Zoning Incentives Plan) to counter the trend that has already been underway in Oakland over the past five years and provide any mechanisms to improve retention of low-income people, or to develop for people who don't fit the monoculture of earning more than than \$150,000 annually that it would take to afford the vast majority of new housing product coming on line.

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cont.

5.L.3.b.(2), Displacement of Housing and People, pages 587 - 590: The EIR text states that "...higher density housing that would replace the displaced units and create a substantial net increase." That statement is only true if you do not care about income level replacement of actual people. The economics of new market rate construction are not affordable to most residents anywhere, so they would be essentially providing housing for new residents coming in from out of the region. You can see this as a physical change to the typology of buildings that is prevalent in Downtown, and a real change in who gets to live in those buildings. The DOSP lists several policies to address the threat of displacement, but they are insufficient for the following reasons.

- Policy H-1.7: Fine aspirationally. But how is the City generating resources to actually produce this housing? And how are we resourcing services to help existing residents fight unjust evictions, stay in their homes, and avoid becoming part of a new surge in homelessness?
- Policy H-1.2: same comment as above.
- Policy H-1.4: Too late. The City has not been effectively collecting on the policy that it had already implemented in 2016. As of the date of this letter, the City appears to have only collected possibly 1/10 of the amount of fee that should have been generated by the construction that we see.
- Policy H-1.9: Needs to be paired with limits and enforcement and tax policy that discourages short term rentals, which reduce the supply of permanent housing for Oakland residents.
- Policy H-2.2: From what permanent and stable fund that matches the need?
- Policy H-2.7: Add pro-bono legal assistance to help tenants fight unjust evictions.
- Policy H-2.9: Need to leverage Federal housing subsidies for operations like Section 8 vouchers.

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For all the reasons listed above, we vehemently disagree that the impacts associated with displacement will be Less Than Significant.

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5.L.3.d.(1), Job Induced Population Growth, pages 592 - 593: Any time you have a housing market that is more inelastic than a job market, you will have housing cost impacts from job growth. The question is, what can a Specific Plan and its associated policies do to mitigate these impacts and protect existing residents, even as

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	<p>growth is occurring? As usual, the City has not addressed the heart of this issue and figured out how to adequately resource the mitigation measures, and so the Plan will further exacerbate the trends that we are currently seeing, until the market crashes. Perhaps a question that we can address is whether or not the City can plan for an eventual crash and scoop up assets in the future so that the next generation can be better protected.</p>	<p>51, cont.</p>
<p>m. Public services, facilities, and recreation</p>	<p>The projected quadrupling of the Downtown population would severely impact public services, facilities such as the Lincoln Recreation Center (the only staffed park in downtown), and other recreation facilities. The City should update its impact fee policy to be able to resource overburdened public facilities. Investments in public facilities should ideally be something the City does as a baseline out of its general fund, not something that is counted as a community benefit.</p> <p>Please do not create a system of segregated inequitable public realms where new higher income residents use newer improvements, and current lower income residents are using outdated, deteriorating facilities.</p> <p>P. 610 “Make provisions for sunlit plazas, pedestrian spaces and “pocket parks...” Capital improvement investments proposed in the DOSP should be in alignment with the Capital Improvement Program priorities and investments should first improve and expand existing facilities before new parks are created.</p> <p>P. 611 (2) Standard Conditions of Approval: “Monitoring/Inspection: N/A”. Who is ensuring that fees are collected? What are the assurance that the impact fees will cover increased in investments in parks and recreation centers?</p> <p>P. 621 (2) Parks and Recreation Facilities</p> <p>P. 622 The plan policies (C2.2, CH1.4, CH CH 1.5, and E1.1) need to specifically call out Lincoln Square Park as the only public rec center serving all of Downtown. It does not make sense to reference fanciful investments in new projects and not mention existing facilities that need improvement and are at the top of the City’s CIP priority list. The City should not fund the Webster Green or connectivity improvements before investments in existing under-capacity facilities serving low-income and underrepresented communities are made.</p>	<p>52</p> <p>53</p> <p>54</p> <p>55</p>

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n. Utilities	
6. Effects Found not to be Significant	
a. Agriculture and forest resources	
b. Mineral resources	
c. Energy	
d. Tribal cultural resources	
e. wildfire	
7. Alternatives	
a. Project objectives and impacts	
b. Alternatives considered and rejected	
c. CEQA alternatives considered	
d. CEQA alternatives considered	
8. CEQA Required Assessment Conclusions	
a. Growth-inducing impacts	
b. Significant irreversibles changes	
c. Significant unavoidable environmental impacts	

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d. Cumulative impacts	
e. Effects found not to be significant	
9. List of Preparers and References	
a. Lead agency	
b. Consultants	
c. References	
d. Personal communication	
Appendices	
a. Notice of preparation and written comments received	
b. Improvement project list	
c. CalEEMod	
d. Cultural and historic resources(Archaeology Report + Typology Study)	
e. Traffic model output and noise field notes	
f. Transportation and circulation supplemental information	
g. Water supply assessment	

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List of figures		
Figures III-7	Figures III-7 through III-12 are impossible to coherently evaluate because the maps are spot-zoned to an incredible level of specificity that does not seem to match the character areas that are outlined and described earlier in the EIR. I spent nearly an hour trying to read these maps, and as a planner who is very familiar with the area, I could not. Is it reasonable to assume that others can?	56
Figure III-11	Figure III-11 suggests that all of Jack London Square District is getting decreased height limits. Is that true?	57
Figure III-17	It appears that the City is already planning for connectivity improvements around Howard Terminal in this document. Does that mean that the A's ballpark is already a foregone conclusion at that location?	58
Figure III-18	Please remove 8th and 9th Streets from the bike map identifying those streets as low-stress short term networks. The biking infrastructure will disrupt existing businesses loading practices in that location.	59
Figure V-A-2	The projects identified as Building Permit Filed, Building Permit Issued, and Under Construction should be checked to see if they have paid their affordable housing impact fee.	60
List of tables		

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<p>Table II-1 Summary of Impacts and Mitigation Measures</p>	<p>o Land Use and Planning: Incredibly, this section states that implementation of the project would not result in any significant land use impacts. See our comments above in Section 5.A.</p>	<p>61</p>
	<p>o Traffic and Transportation</p>	
	<p>§ Trans-1: we disagree that creation of bus-only lanes would be a LTS level of significance. Bus only lanes would push auto traffic onto different arterials. If you create a bus-only lane on Broadway, it will push auto traffic into the neighborhood arterials like Franklin, Webster, Washington, and Clay, in closer proximity to more residents and through the heart of historic neighborhoods.</p>	<p>62</p>
	<p>§ Trans-3: please define CMP and MTS segments.</p>	<p>63</p>
	<p>o Greenhouse Gas Emissions</p>	
	<p>§ GHG-1: please define MTCO_{2e}/SP</p>	<p>64</p>
	<p>§ Is the Carbon Free Mandate something that applies to buildings, or energy producing utilities. If the latter, why is it in a Specific Plan?</p>	<p>65</p>
	<p>o Cultural and Historic Resources</p>	
	<p>§ Cult-1A ii.: why delay Transfer Development Rights (TDRs) until 3 years after plan adoption? Also, please explain how it makes sense to upzone and then implement TDRs.</p>	<p>66</p>
	<p>§ Cult-1A iii.: you must be specific that you are intending to expedite project approvals for historic building rehabs that would convert vacant or underutilized properties to provide affordable housing and SRO and live-work and cultural activities. If you are not specific about affordable housing, then you are streamlining redevelopment of those spaces into spaces that accelerate gentrification.</p>	<p>67</p>
	<p>§ Cult-1C: not sure what a “thematic rather than a geographically based API” actually means. Also, must be specific about protecting SRO buildings as affordable housing.</p>	<p>68</p>
<p>§ Cult-1E i.: apply Mills Act only to buildings with (commercial or residential) rent restrictions.</p>	<p>69</p>	
<p>§ Cult-1F: Chinatown Improvement Initiative should review this section.</p>	<p>70</p>	
<p>§ Cult-1F iv.: Again, if we don’t enforce rent restrictions with the use of any kind of tax credit, historic included, it may accelerate gentrification. However, we recognize that there is economic analysis here that should inform this recommendation, and that reuse of existing historic buildings is an important goal culturally and economically.</p>	<p>71</p>	

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- o Population and Housing: Incredibly, this section states that implementation of the project would not result in any significant impacts. Much like the comment above on Land Use, this defies logic. Later in the report the analysis estimates a quadrupling of the area population. How is this not an impact? See our comments above in Section 5.L.
- o Public Services, Facilities, and Recreation
 - § Pub-1: If this report anticipates a quadrupling of the area population, how could the level of significance of the impact upon public facilities (like Lincoln Rec Center, the only public rec center in all of Downtown and Asian Branch Library which also serves the area.) be Less Than Significant? See our comments above in Section 5.M.
 - o Utilities
 - § UTL-1: what about sewer? And as a general comment, it might be productive for the City to advocate to EBMUD that they reexamine their System Capacity Charge fee tiers. Urban multifamily units use approximately 20% of the water volume as a single family home in the suburbs. But the SCC rates do not reflect the much greater costs of utility service provision at the outer edges of the District.

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Letter B-8
Oakland Chinatown Coalition
November 8, 2019

- Response B-8.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-8.2** This comment is noted, and the cover has been revised.
- Response B-8.3** See Master Response 2: Residential Displacement and Affordability.
- Response B-8.4** The comment notes that socioeconomic characteristics of future residents could affect environmental outcomes yet are not included in the scope of the EIR. It would be speculative to identify the Plan as a singular cause for, or contribution to, increased land or housing costs and thus, as specified in Master Response 2: Residential Displacement and Affordability, this comment refers to an economic effect that is outside the scope of CEQA. Moreover, the Draft EIR has utilized a methodology approved by the Bay Area Air Quality Management District (BAAQMD) to assess GHG impacts and found that construction and operation of development projects under the Plan would be less than significant with implementation of Mitigation Measure GHG-1. This indicates that the GHG emissions associated with the Plan, which are indicated as a concern in this comment, would not be significant for purposes of CEQA.
- Response B-8.5** Project/Plan objectives and outcomes are found in *Chapter III, Project Description* under section C of the Draft EIR. The adequacy of the regulatory framework to achieve the state objectives and outcomes is beyond the purview of the EIR and CEQA. Please see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.6** Please see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.7** Non-CEQA NOP comments were not quantified; the list of non-CEQA comments includes comments that were heard repeatedly as well as unique comments. The list of non-CEQA comments was provided for informational purposes only. Comments that do not relate to the scope or content of environmental impacts are not considered under CEQA. However, as

mentioned in Master Response 1: Specific Plan Merits and Related Non-CEQA Topics, these non-CEQA concerns will be considered by City decision-makers prior to taking action on the Specific Plan. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics for more information.

Response B-8.8 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.9 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.10 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.11 This comment is related to document organization. The text has been revised as suggested in the comment to improve readability.

Pages 43 and 45, first eight bullet headings, are revised as follows:

- Flex Industry Mixed-Use, Downtown Core would....
- Mixed Residential Mixed-Use Pedestrian Corridor would....
- Mixed-Use Waterfront/Entertainment would....
- Mixed-Use Flex Mixed-Use Urban Residential would....
- Mixed-Use Urban Residential Mixed-Use Flex would....
- Mixed-Use Institutional Flex Industry would....
- Mixed-Use Pedestrian Corridor Mixed-Use Institutional would....
- Mixed-Use Downtown Core Mixed Residential would....

Response B-8.12 The land use labeled as "institutional" in the key to Figure III-4 corresponds to the Mixed-Use Institutional bullet.

Page 44, Figure III-4 of the Draft EIR, the figure key has been revised and the revised figure is included in Chapter V, Text Revisions.

Response B-8.13 This comment refers to language used to describe potential development at Howard Terminal. The sentence before the bullet point in question makes it clear that this is contingent upon approval of the Howard Terminal project. No change is necessary.

Response B-8.14 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.15 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

- Response B-8.16** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.17** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.18** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.19** This comment is about the goals of the Plan. Please see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.20** This comment about the capacity of the City does not address the adequacy of the Draft EIR. No further response is required.
- Response B-8.21** As previously mentioned in Response B-8.4, it would be speculative to identify the Plan as a singular cause for or contribution to increased land or housing costs and therefore this comment refers to an economic effect that is outside the scope of CEQA. Please see Master Response 2: Residential Displacement and Affordability.
- Response B-8.22** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-8.23** See Master Response 1: Specific Plan Merits and Related Non-CEQA topics.
- Response B-8.24** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.25** This comment is about the Broadway Valdez District Specific Plan and does not address the adequacy of the Draft EIR.
- Response B-8.26** The question related to how much new housing has been built out, and how much is below market rate in the Lake Merritt Station Area Plan does not address the adequacy of the Draft EIR. In addition, the comment related to the Green Loop is about the goals of the Plan. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.27** Mitigation Measure PUB-1: Part 1) Requires the City to update the Capital Improvement Impact fees and/or implement a dedicated impact fee specific to parks and recreation. This mitigation measure would improve existing open space and recreational facilities. The City does not typically provide mitigation measures that prioritize funding for some recreational facilities over others; however, this is something that can be explored further in additional policy and implementation measures independent of the CEQA process.

Response B-8.28 This comment does not address the adequacy of the Draft EIR but has been noted.

Response B-8.29 As described on page 120 of the Draft EIR, a significant amount of new office and residential development is approved, under construction or has been recently completed (recorded in April 2019) in Downtown Oakland. Prosperity Place is a project that was recently completed as recorded in April 2019 and therefore remains on the list for Table V.A-3.

Page 126, Table V.A-3, row 5 of the Draft EIR, is revised as follows:

~~W-12 Phase 2 285 12th Street Mixed Use 7 77 0 1,500~~

Response B-8.30 The comment quotes text from the Land Use Chapter of the Draft EIR which discusses the Plan's impacts as it relates to whether the project would physically divide an existing community. The discussion pertains to street network changes with a focus on non-auto modes. However, we recognize the commenters concerns related to the context of the quoted text.

Response B-8.31 The Draft EIR analyzes physical impacts as a result of the Plan and the commenter is quoting the threshold related to physically dividing an established community. Financial resources as a result of Plan improvements are outside the purview of CEQA. While existing physical barriers are of concern to communities (like I-880), this is beyond the level of analysis for CEQA, as the primary concern is the effect of the project on the environment. In this case the project, as stated on page 31 of the Draft EIR is the Downtown Oakland Specific Plan.

Response B-8.32 This comment does not address the adequacy of the Draft EIR. For a discussion on affordability, see Response Master 3: Residential Displacement and Affordability.

Response B-8.33 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.34 As discussed on page 97 of the Draft EIR, the City's Housing Element identifies current and projected housing needs and set goals, policies, and programs to address those needs, as specified by the State's Regional Housing Needs Allocation process (RHNA). Oakland's State-mandated fair share of housing for the current housing cycle totals 14,765 housing units, including 2,059 units that are affordable to extremely- and very low-income households, 2,075 for low-income households, 2,815 for moderate-income

households, and 7,816 for at or above moderate-income households. The Housing Element identified 66 housing opportunity sites in the Downtown/Jack London Square (DJL) Priority Development Area (PDA), which is roughly equivalent to the Plan Area, of which 49 remain undeveloped.¹¹ The table below shows the total building permits issued citywide between January 2021 and June 2023 for units by income level.

	VLI	LI	MI	AMI	Total
DOSP	3	35	48	715	801
Citywide	585	363	76	3,055	4,079

	VLI	LI	MI	AMI	Total
DOSP	0.4%	4.4%	6.0%	89.3%	100.0%
Citywide	14.3%	8.9%	1.9%	74.9%	100.0%

Source: Accela. Oakland Building permits issued from 1/1/2021 through 6/30/2023.

Development under the Plan would provide up to 29,100 new residential units in the Plan Area, including 4,350 to 7,250 new income-restricted affordable units. The Specific Plan does not dictate the income level of the income restricted affordable units, though it does express a priority in City housing funding for extremely and very low-income housing to address the homelessness crisis. In addition, the Specific Plan includes policies to study an inclusionary housing policy, increased affordable housing impact fees for downtown, and/or Enhanced Infrastructure Financing District with a significant portion of this new long-term revenue stream dedicated to affordable housing retention and production, thereby expanding the amount of affordable housing in the area or providing additional fees for affordable housing to the city.

Response B-8.35 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.36 In general, CEQA does not consider impact of existing environmental conditions on a project’s future users or residents (California Building Industry Association v. Bay Area Air Quality Management District, 2 Cal. App. 5th 1067 [2016]). Independent of CEQA, the City’s SCA-AIR-4, Exposure to Air

¹¹ Accela. Planning APR Report for PLN and PUD Projects submitted between 01/01/2014 and 03/05/2021, and City of Oakland Housing Element, 2015-2023. Appendix C: Detailed Site Inventory.

Pollution (Toxic Air Contaminants) (~~#2324~~), does address the commenter's concern. As described under Section V.C.3.c.(2), adoption and implementation of SCA-AIR-4 would require new housing projects located in areas mapped by the Bay Area Air Quality Management District (BAAQMD) with elevated air pollution (Figure V.C-1, as updated by BAAQMD) to prepare a detailed health risk assessment (HRA) and/or incorporate health risk reduction measures into the project design.

As stated on page 221 of the Draft EIR, the BAAQMD has performed a screening-level cumulative analysis of mobile and stationary sources in the Bay Area to map localized areas of elevated air pollution that exceed an excess cancer risk of 100 in a million or PM_{2.5} concentrations of 0.8 micrograms per cubic meter, or are within 500 feet of a freeway, 175 feet of a major roadway (>30,000 annual average daily vehicle trips), or 500 feet of a ferry terminal. According to the BAAQMD, the majority of the Plan Area is currently located in an area with elevated air pollution (Figure V.C-1, as updated by BAAQMD), and future project developers will be required to comply with SCA-AIR-4. The predominant toxic air contaminant (TAC) of concern from mobile and stationary sources in the vicinity of the Downtown Specific Plan Area (including I-880 and the Port of Oakland) is diesel particulate matter (DPM). For example, in West Oakland a recent study found that over 90 percent of the cancer risk from local air pollution is from DPM. Under SCA-AIR-4, future residential projects that could be exposed to unacceptable levels of DPM can satisfy the requirements of SCA-AIR-4 by installing high-efficiency air filtration systems rated MERV-13 or higher to reduce cancer risks from exposure to DPM and fine particulate matter (PM_{2.5}). Air filters with a MERV-13 rating or higher can reduce levels of indoor DPM and PM_{2.5} by at least 85 percent relative to the incoming outdoor air. Therefore, future project developers will be able to reduce health risks associated with exposure to DPM from I-880, the Port of Oakland, and other sources in the vicinity of the Downtown Specific Plan Area by complying with SCA-AIR-4.

To further address the commenter's concerns, the following text has been added to the Draft EIR to clarify that DPM is the primary TAC of concern in the Plan Area and that exposure to DPM can be reduced to acceptable levels by compliance with SCA-AIR-4.

Page 220, fifth paragraph, continuing to page 221, first paragraph of the Draft EIR, is revised as follows:

DPM and PM_{2.5} from diesel-powered engines are a complex mixture of soot, ash particulates, metallic abrasion particles, volatile organic compounds, and other components that can contribute to a range of health problems. In 1998, the CARB identified DPM from diesel-powered engines as a TAC based on its potential to cause cancer and other adverse health effects.⁴ While diesel exhaust is a complex mixture that includes hundreds of individual constituents, under California regulatory guidelines, DPM is used as a surrogate measure of exposure for the mixture of chemicals that make up diesel exhaust as a whole. More than 90 percent of DPM is less than 1 micron in diameter, and thus is a subset of PM_{2.5}.⁵ The estimated cancer risk from exposure to diesel exhaust is much higher than the risk associated with any other TAC routinely measured in the region. For example, in West Oakland a detailed study of air quality in 2017 found that over 90 percent of the cancer risk from local air pollution is from DPM.⁶

⁶ Bay Area Air Quality Management District (BAAQMD) and West Oakland Environmental Indicators Project, 2019. Owning Our Air: The West Oakland Community Action Plan — A Summary, October.

Page 245, second paragraph of the Draft EIR, is revised as follows:

The City's SCA-AIR-4, Exposure to Air Pollution (Toxic Air Contaminants) (~~#2324~~), would apply to residential development in areas mapped by BAAQMD with elevated air pollution (Figure V.C-1, as updated by BAAQMD). Prior to approval of a construction permit in areas with elevated air pollution, the project applicant must either prepare a detailed HRA and/or incorporate health risk reduction measures into the project, such as the installation of high-efficiency air filtration systems rated MERV-13 or higher to reduce cancer risks from exposure to DPM and PM_{2.5}. The predominant source of cancer risk from TACs in the Plan Area is from DPM emissions. The installation of high-efficiency air filtration systems rated MERV-13 or higher can reduce levels of indoor DPM and PM_{2.5} by at least 85 percent relative to the incoming outdoor air.¹⁸

¹⁸ South Coast Air Quality Management District, 2009. Pilot Study of High-Performance Air Filtration for Classrooms Applications, October.

Response B-8.37 This comment is not related to the adequacy of the Draft EIR. No further response is necessary.

- Response B-8.38** Chapter 07: Implementation and Ongoing Engagement of the Plan identifies action steps specific to capital improvements. See page 260 of the August 2019 Public Review Draft Plan. Chapter 07 of the Plan does identify potential funding sources.
- Response B-8.39** This comment is not related to the adequacy of the Draft EIR. No further response is necessary.
- Response B-8.40** This comment is not related to the adequacy of the Draft EIR. No further response is necessary.
- Response B-8.41** This comment is not related to the adequacy of the Draft EIR. No further response is necessary.
- Response B-8.42** This comment notes that information provided in the population and housing chapter (*Chapter V.L*) is factually accurate. No further comment or response is necessary.
- Response B-8.43** This comment does not address the adequacy of the Draft EIR; no further response is necessary. It is noted that Oakland's jobs/housing impact fee is less than San Francisco's.
- Response B-8.44** This comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-8.45** This comment does not address the adequacy of the Draft EIR; no further response is necessary. The City updated their Standard Condition of Approval in December 2020. Any city-wide changes to SCA's including SCA #73 (now #92 in SCA revision dated December 16, 2020) (SCA-POP-3), if deemed necessary, would have been changed at that time.
- Response B-8.46** Development under the Plan would provide up to 29,100 new residential units in the Plan Area including 4,350 to 7,250 new income-restricted affordable units. As stated in Response B-8.34, the Specific Plan does not detail the income levels for the income restricted affordable units. The higher range of affordable units proposed under the Specific Plan (7,250) meets the RHNA targets when looking at the total number of affordable units as defined as extremely-and very low income, low-income and moderate income (6,959). As stated in Response B-8.34, the City's Housing Element identifies current and projected housing needs and sets goals, policies, and programs to address those needs. As discussed on page 97 of the Draft EIR,

on April 1, 2019 the City released the 2018 Housing Element Progress Report. During the process of creating the 2019 Housing Element Progress Report, it was discovered then there was an error in identifying the last year's numbers. On May 14, 2020, Planning and Building Staff submitted a revised report to the Department of Housing and Community Development and the Governor's Office of Planning and Research.

Page 97, second paragraph of the Draft EIR under c. Housing Element is revised as follows:

On April 1, 2019, the City released the 2018 Housing Element Annual Progress Report. During the process of creating the 2019 Housing Element Progress Report, it was discovered then there was an error in identifying the last year's numbers. On May 14, 2020, Planning and Building Staff submitted a revised report to the Department of Housing and Community Development and the Governor's Office of Planning and Research. During 2018, citywide 4,044 housing units were proposed, 1,456 of which have been approved thus far. 5,673 units housing units were entitled and building permits issued for 4,617 ~~9,706~~ housing units. Additionally, 687 housing units received certificates of occupancy and are open to tenants. This includes 46 housing units, 40 of which are income restricted, within the Plan Area boundaries. Of the 10,290 ~~16,066~~ housing units that have been entitled, started construction, or completed, or received building permits; 87 percent are for very-low-income households, 45 percent for low-income, 0.54 percent for moderate-income, and 87 ~~88~~ percent are market-rate.

The Specific Plan includes policies to study an inclusionary housing policy and increased impact fee for downtown, as well as the Zoning Incentives Study, thereby expanding the amount of affordable housing in the area as well as providing additional fees for affordable housing in the city. In response to the assertion that the Plan does not do anything that is concretely resources to counter that trend, this is a comment directed at the Plan itself and does not pertain to the adequacy of the EIR. See Master Response 1: Plan Merits and other Non-CEQA Related Topics, and Master Response 2: Residential Displacement and Affordability.

Response B-8.47 Table V.L-6 displays population and employment estimated growth under the Specific Plan compared to estimated projections (both city-wide and in the Plan Area), while Table III-5 provides population of existing and future downtown population by land use just in the Plan Area. The commenter is correct in that Table V.L-6, Growth Under the Specific Plan, "2040" (first

column) does not include active development as this is happening independent of the Specific Plan and would result regardless of this plan. Table III-5 captures this active development through April 2019 under a separate column. In order to clarify that Table V.L-6's row "Growth Under the Specific Plan, 2040" does not include active development, the following change has been made to Table V.L-6:

Page 586, Table V.L-6 of the Draft EIR, is revised as follows:

Growth under the Specific Plan, 2040^a

^a See Table V.L-5, Downtown Future Development by Land Use. Note that population, households, and employment numbers do not include active development through April 2019, which are (Column 2 in Table III-5), or Existing Baseline (Column 1 in Table III-5) conditions.

Response B-8.48 See Response B.8-46.

Response B-8.49 This comment does not address the adequacy of the Draft EIR; no further response is necessary. See Response B-850, Master Response 2: Residential Displacement and Affordability, and Master Response 1: Plan Merits and other Non-CEQA Related Topics.

Response B-8.50 The thresholds of significance under CEQA related to displacement are as follows:

- ***Displace substantial numbers of existing housing***, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.
- ***Displace substantial number of people***, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.

As described on page 590, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to direct or indirect displacement of housing and people. The Draft EIR also discusses the jobs/housing relationship which is provided starting on page 590. While regional and local governments may use jobs-housing balance as a planning tool to weigh particular policy outcomes, it does not necessarily imply a physical change to the environment or relate to any recognized criteria under CEQA. Due to comments raised during the scoping period for

the Draft EIR about homelessness, low-income households, and vulnerable groups, the job-housing balance (expressed as a ratio of jobs per household) is discussed for informational purposes.

For a discussion on residential displacement and affordability, see Master Response 2: Residential Displacement and Affordability.

Response B-8.51 This comment does not address the adequacy of the Draft EIR; no further response is necessary. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.

Response B-8.52 The Draft EIR recognizes that with the increase of population as a result of the Specific Plan impacts would be significant (see Impact PUB-1 on page 621). Mitigation Measure PUB-1 on page 623 of the Draft EIR presents a two-tier mitigation strategy focused on updating the Capital Improvements Impact fees and/or implementing a dedicated impact fee specific to parks and recreation. The other part of the mitigation strategy requires the city to create a Privately Owned Public Spaces program so that outdoor and indoor spaces can be provided for public enjoyment by private owners in exchange for bonus floor areas or waivers. As discussed on page 623, impacts associated with implementation of the Specific Plan would be less than significant related to recreation with implementation of Mitigation Measure PUB-1. The recommendation that the City should update its impact fee policy is noted.

Mitigation Measure PUB-1 Part 1) has been amended to require a portion of the parks and recreation dedicated fee to fund green stormwater infrastructure in public spaces.

Page 623, Mitigation Measure PUB-1 of the Draft EIR, is revised as follows:

Mitigation Measure PUB-1: Part 1) Requires ~~The City to update~~ shall explore updating the Capital Improvement Impact fees, and/or implement a dedicated impact fee specific to parks and recreation. Dedicating a portion of the impact fee to fund green stormwater infrastructure in public spaces should be explored. Part 2) Requires The City shall study the city to create feasibility of creating a Privately Owned Public Spaces (POPOS) program so that outdoor and indoor spaces can be provided for public enjoyment by private owners in exchange for bonus floor area or waivers. An equity analysis

will be conducted as part of the study to explore strategies to encourage equitable access. (LTS)

- Response B-8.53** The quote from the comment is from the Open Space, Conservation and Recreation (OSCAR) Element pertaining to Capital Improvement investments proposed in the Specific Plan, which relates to Plan Merits and other non-CEQA related topics. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.54** City staff is responsible for ensuring that fees are collected in association with the issuance of building permits. See Response B-8.52. An update to the Capital Improvement Impact fees and/or a dedicated fee specific to parks and recreation is included in this EIR as Mitigation Measure PUB-1.
- Response B-8.55** This comment does not address the adequacy of the Draft EIR; no further response is necessary. For a discussion on Plan Merits and other non-CEQA related topics, see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.56** Figures III-7 through III-12 are graphics from the Plan. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.57** Jack London District was governed by the Estuary Policy Plan which does not have height limits. As a result, the change is shown as a reduction.
- Response B-8.58** The A's/Howard Terminal project is undergoing a separate CEQA process and has its own EIR. As part of Downtown Oakland Specific Plan Draft EIR we have included the Howard Terminal project in our cumulative analysis as it is currently being proposed; however, this does not mean it is necessarily a foregone conclusion at this location. As mentioned, it is undergoing a separate CEQA process, as well as a separate planning process.
- Response B-8.59** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.60** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-8.61** See Responses B-8.27 through B-8.34.
- Response B-8.62** The City of Oakland established the following thresholds for traffic and transportation CEQA impacts as described in the Draft EIR on page 182-183:

- Cause a ***substantial additional VMT*** per capita, per service population, or other appropriate efficiency measure.
- Conflict with a plan, ordinance, or policy addressing the safety or performance of the circulation system, including transit, roadways, bicycle lanes, and pedestrian paths (except for automobile level of service or other measure of vehicle delay).
- Substantially induce additional automobile travel by ***increasing physical roadway capacity*** in congested areas (i.e., by adding new automobile lanes or adding a new road).

The impacts associated with the bus-only lanes on Broadway are identified as less than significant (LTS) because they a) would not cause an increase in VMT per capita, service population, or other appropriate efficiency measure; b) would not conflict with a plan, ordinance, or policy; and c) would not increase physical road capacity.

Response B-8.63 Alameda County Transportation Commission (Alameda CTC) conducts periodic monitoring of the major roadways on the Congestion Management Program (CMP) roadway network and the Metropolitan Transportation System (MTS) in Alameda County. These roadways include the State Highways and arterial roads of regional significance because they connect regions within cities and/or cities within Alameda County.

Response B-8.64 The following changes have been made to the Draft EIR to as requested.

Page 279, first paragraph after Impact GHG-1 of the Draft EIR, is revised as follows:

The non-transportation GHG emissions for buildout of the Plan Area in 2040 are summarized in Table V.D-6. The results from CalEEMod estimate that non-transportation GHG emissions for buildout in 2040 are 1.01 metric tons of carbon dioxide equivalents per service population (MTCO_{2e} /SP), which exceeds the interim 2040 GHG efficiency threshold of 0.34 MTCO_{2e} /SP. The largest GHG contributions are from energy use (electricity and natural gas), which account for approximately 73 percent of the overall GHG emissions.

Response B-8.65 A carbon free mandate is not something mentioned in the Specific Plan. There are policies that reduce the City's carbon footprint but there is no "Carbon Free Mandate."

Response B-8.66 See Response B-1c.3.

Response B-8.67 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-8.68 Changes have been made to the Draft EIR specific to Mitigation Measure CULT-1C to provide more clarity on thematic groups of buildings.

Page 356 and Chapter II, Summary table, page 21, Mitigation Measure CULT-1C of the Draft EIR, is revised as follows:

Mitigation Measure CULT-1C: Further the Planning Code protections for SROs hotels with additional façade protections for these buildings, perhaps by deeming this specific historic building type eligible for participation in the Mills Act program or by documenting these resources as a thematic grouping of buildings, rather than geographically based API. While Planning Code Chapter 17.153 Demolition, Conversion and Rehabilitation Regulations for Residential Hotels, was adopted in 2018, and provides some protections, additional incentives or protections would further ensure the viability of these resources and mitigate further losses of both their historic use and character.

Response B-8.69 Enacted in 1972, the Mills Act is State of California legislation that grants participating local governments (cities and counties) the authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. It is available to any qualifying property owner.

Response B-8.70 This comment does not address the adequacy of the Draft EIR.

Response B-8.71 This comment does not address the adequacy of the Draft EIR.

Response B-8.72 See Response B-8.50.

Response B-8.73 See Response B-52.

Response B-8.74 Sewer impacts were addressed under 1) Wastewater, Criteria 1 and 4 starting on page 653 of the Draft EIR and found to be less than significant. The suggestion that the City advocate to EBMUD to reexamine their Sewer Capacity Charge fee tiers does not relate to the adequacy of the Draft EIR but is noted.



East Bay Housing Organizations

VIA E-MAIL

November 8, 2019

Oakland City Planning Staff
250 Frank H Ogawa Plaza, 3rd Floor
Oakland, CA 94612

RE: Comments on Draft DOSP.

Dear City Planning Staff:

I am writing on behalf of East Bay Housing Organizations. EBHO is a member-driven organization working to preserve, protect, and create affordable housing opportunities for low-income communities in the East Bay by educating, advocating, organizing, and building coalitions.

Thank you for the opportunity to comment on the Downtown Oakland Specific Plan's (DOSP) Draft Plan and DEIR. These comments restate and supplement comments we have made verbally at various stakeholder meetings and public hearings, and as part of the letter from the Downtown Oakland Specific Plan Working Group that was submitted on November 5, 2019.

EBHO supports more intensive development in downtown Oakland, particularly close to transit, in a way that promotes sustainability, inclusion and equity, and that moves us into the future while protecting existing residents from displacement.

We want to thank City staff for the work they have put into the development of this plan, including the numerous community forums, stakeholder meetings, and other efforts to solicit public input as the plan is being developed. We particularly support the focus on racial and economic equity, the disparity analyses that have been done, and the substantial amounts of data that have been collected and presented in the various plan-related documents that have been published to date. The City should be commended for these efforts.

As the same time, we have a number of concerns about this draft, and hope that these comments will be useful to the City as it moves forward with development of the Final Plan, expected to be published in 2020. Regrettably, many of these comments have been made previously, particularly in regard to the Preliminary Draft Plan, but have not been incorporated into the Draft Plan.

General Comments

1. The Plan needs to address equity issues and close the disparities, not just analyze them. The Plan contains a lot of very useful introductory material and framing that among other things focuses specifically on racial and economic disparities. However, the Plan itself, particularly the affordable housing strategies and policies, falls short of providing concrete equity solutions. Consistently throughout this process, the community has repeatedly cited issues of housing affordability, displacement of existing residents and businesses, and homelessness as some of the most urgent concerns they want the plan to address. And as the Plan notes, these issues in particular have a very clear racial disparity dimension to them. Without specific, concrete strategies and policies to address those issues, the Plan will not accomplish its stated goals to advance racial and economic equity. **We strongly recommend that each chapter explicitly address and demonstrate how the implementation actions will close racial disparities. We further recommend that the City prepare an equity assessment that formally analyzes whether the Plan’s actions will in fact accomplish its stated objectives.**

2

2. A primary concern is that the Plan goals for affordable housing are far too low. As noted in the Plan documents themselves, currently, 20% - 25% of the housing in downtown is deed-restricted affordable housing for very low and low income households. The plan presents a range of goals, from 15% to 25% of new development, for future affordable housing construction. This will result in a reduction in the percentage of downtown housing that is affordable. Coupled with vacancy decontrol requirements in rent control and the threat of loss of housing from condo conversion, demolition, and other causes, this will result in less diversity downtown, not more. And because there is a disparate impact on people of color, seniors, people with disabilities and other protected classes, it raises significant concerns about fair housing and the potential for exclusion rather than inclusion. This is inconsistent with the City’s stated vision for a diverse downtown and a Plan that is informed by issues of racial and economic equity.

3

In addition, these goals fall far short of what the City needs to do to meet its Regional Housing Needs Allocation targets by income level. As noted in the City’s Housing Element, the RHNA numbers for the 2015-23 Planning Period allocate 28% of the City’s housing need to the very low and low income categories, and an additional 19% to moderate income. A housing production target of 15%-25% falls short of this ratio, which is of particular concern given the current imbalance in what has been permitted to date (see comment below under “Measures of Success”). The Plan should help advance the Housing Element’s goals.

4

3. **Prioritizing housing affordability is all the more critical because the City has failed to meet its RHNA needs for very low, low and moderate income housing but has greatly exceeded its need for above moderate income housing.** Since 2015, the City’s building permit activity has yielded more than 92% above-moderate income housing units (not affordable to the vast majority of the City’s existing renters and first-time homebuyers) and less than 8% affordable units. The “housing balance” is even worse in the downtown area.

5

4. **The Housing section needs to be specific and concrete.** We need something more than just an inventory of existing programs and policies. Language like “explore” and “consider” are not a plan – they are what is supposed to happen in the course of developing the plan. As the City develops the Draft Plan and in particular the implementation section, specific policies, strategies and potential resources should be identified and the City should commit to pursue those to the maximum extent possible. We believe the Plan should set ambitious targets that more closely align with actual needs, calculate the gap in resources and policies needed to achieve those targets, and then lay out a plan to fill those gaps. A simple continuation of existing policies will not achieve this, since to date existing policies have yielded only 8% affordable housing compared to 92% higher end market-rate housing.

6

5. **The Plan must incorporate the principle of value capture.** Public actions such as upzoning and more liberal development standards, as well as investments in infrastructure and transportation, create a significant increment to land value that is captured by private land owners through no efforts of their own. A portion of this publicly created value needs to be recaptured in the form of public benefits, including affordable housing.

This is all the more critical since in the past the City has failed to do so, particularly in the downtown, where height and FARs were increased substantially and parking requirement were reduced or eliminated, without any requirement for inclusion of affordable units or other community benefits. Given the severity of the housing crisis and the strength of the development environment for market-rate housing that is unaffordable to the vast majority of existing renters and first-time homebuyers, the City can no longer afford to give away publicly created value to land owners.

7

As many commenters and Planning Commissioners have noted, the pending Zoning Incentives Study is critical to the final Plan and how it is implemented. **While we appreciate that the study will be considered by the Zoning Update Committee, we think it is essential that this discussion take place with the entire Planning Commission, and that it focus not only on the study itself, but on how to include a zoning incentive plan into the Final Plan.**

8

6. **To make bonuses and incentives effective tools, the City should seriously assess the extent to which current zoning does or does not encourage the use of density bonus.** If existing zoning already permits more density or height than the market will support, then density bonuses will not be sought. Similarly, if increasing density would require switching construction techniques from wood frame to more expensive steel and concrete, then density bonuses will not be workable. The City should look strategically at different areas of the downtown and see where a recalibration of base zoning would incentivize the use of density bonuses that would provide affordable housing and yield development at the desired intensities. Alternatively, the City could maintain existing zoning but require a Conditional Use Permit that allows building to the maximum intensity only when affordable housing and other benefits are provided.

9

While we appreciate that the City is currently conducting a Zoning Incentives Study, In the context of a zoning incentive program, it is not sufficient to examine how increasing intensity from current by-right levels can be structured. The study needs to examine where the “sweet spots” are for zoning incentives, and whether the existing base zoning lends itself to an effective incentive program, or whether it needs to be recalibrated.

10

We have heard concerns that such downzoning is not legal. We disagree. It is a long and well established principle in case law that downzoning is not in itself an illegal taking, provided such action does not result in a loss of substantially all economically viable uses. Recently enacted legislation – Senate Bill 330 – provides restrictions on downzoning, but only where such downzoning is not offset but upzoning. In the context of the DOSP, which will create a substantial net increase in development intensity, targeted downzoning in specific places will not violate SB 330.

11

We also want to clarify the points that we have been making repeatedly over the past three years. EBHO advocates consideration of “strategic downzoning” in order to enhance the economic feasibility of an incentive program. This is entirely different from a general call for downzoning, often for exclusionary purposes, which we do not support. Our goal is to encourage more intensive development in the downtown, but to do so in a way that allows for provision of public benefits.

It is essential that these issues be given a full hearing before the entire Planning Commission prior to development of the Final Plan, and not just the Zoning Update Committee. The Final Plan must include a concrete zoning incentives program and not just assurances that such a program may be adopted in the future.

12

7. **Prevention of displacement needs to extend to preservation of cultural assets and small, locally owned businesses, particularly those rooted in communities of color.**

13

The loss of these uses also acts to catalyze displacement of residents as the amenities and services they rely on are lost to more expensive retail and entertainment uses that are out of reach to existing residents. Prevention of displacement needs to focus not just on individual households but on vulnerable communities as well.

13,
cont.

8. The Plan contains almost no actions to address current homelessness or prevent further homelessness from taking place. The issue of homelessness in the downtown has been raised in numerous public forums and comments throughout the development of the plan, and is one of the major concerns cited. The chapter on Housing and Affordability must include strategies and policies to address this issue. We recommend the addition of a fourth outcome and set of supportive policies that are explicitly focused on better assistance for the current unhoused population – including strategies that provide permanent housing and not just temporary or transitional housing – and measures to prevent further homelessness.

14

9. Given the inadequacy of the affordable housing strategy and the disproportionate amount of higher-end market-rate housing called for in the plan, there is a significant likelihood of an increase in displacement and homelessness resulting from the Plan. Neither the Draft Plan nor the DEIR adequately address this. The policies listed on pages 588-589 of the DEIR are not adequate nor sufficiently concrete to prevent or mitigate displacement. Many of those policies are simply continuations of existing citywide policies that have demonstrably failed to halt the tide of displacement in Oakland. Others are aspirational without specific funding sources identified. Given the low percentages of housing for very low and low income that are called for in the Plan, new development cannot be seen as adequately preventing displacement or providing sufficient replacement housing for households that may be displaced.

15

Comments on Specific Policies and Actions (Plan pages 90–93)

H-1.2: This policy should more explicitly reference policies already established by the City Council with respect to surplus public land. **Specifically, this policy should read “Leverage the city’s inventory of publicly-owned land by adopting an ordinance to implement the policies in the City’s adopted public land policy, Resolution Number 87483 C.M.S. adopted on December 11, 2018.**

16

H-1.5: **We support increasing the jobs–linkage fee**, including consideration of expanding the fee to cover other non-residential uses not currently covered.

H-1.6: This policy should refer to **creation of multiple new revenue streams** dedicated to supporting construction and preservation of affordable housing. While EIFDs are one such

approach, it is not the only one. We support the use of a range of value-capture approaches, and these should be called out in addition to EIFDs.

H-1.7: We are not in agreement with the proposed target breakdown of new affordable units by income category. See comments below under Measures of Success.

H-1.12: We support studying an inclusionary housing policy as an addition to rather than a replacement for the existing impact fee. However, If the City is considering replacing the impact fee with an inclusionary zoning requirement, it must ensure that **any inclusionary requirement produce the same number of units, and at the same depth of affordability as the fee would yield.** If an inclusionary requirement is adopted, the City should provide enough flexibility to allow this to be met not just by affordable units within a market-rate building, but also through subdividing larger parcels to permit adjacent market-rate and 100% affordable projects, and allowing the affordable units to be built on adjacent or nearby parcels.

H-2.3: We strongly support expediting the review and approval of 100% affordable projects. The City has on numerous occasions committed to such action but in practice this has not always been the case. We recommend adopting provisions for ministerial approval of affordable housing projects that conform to current zoning (including any density bonuses provided). At a minimum, this should include adoption of procedures and training of staff on the applicability of SB 35 streamlining and other State laws, but we urge the City to consider streamlining measures that go beyond basic State requirements.

H-2.4: We are opposed to replacement of the current condominium conversion ordinance that would change its basic purpose. The condominium conversion ordinance was not adopted to provide enhanced opportunities for homeownership. It is intended to protect the city's rental housing stock from being diminished. Revisions to the condominium conversion ordinance must continue its basic objective, to ensure that there is no net loss of rental housing as a result of conversions.

As Planning staff are aware, we have been working for several years on changes to the condominium ordinance that would extend coverage to 2-4 unit buildings, strengthen the requirements for "conversion rights" to ensure that genuine replacement units are added to the rental housing supply before conversions can take place, provide for better noticing, and ensure that tenants get adequate relocation assistance and priority for the replacement units. Planning staff has been consulted on this language and we are surprised to see a different proposal here. This language should be deleted and replaced with language that is consistent with the efforts already underway.

Note that amendments to the condo ordinance are scheduled to be heard by the City Council prior to Plan adoption, so this action may not be needed in the Final Plan.

16,
cont.

17

H-2.9: Provision of supportive services is important for affordable housing and critical for SROs and housing targeted to people with special needs. This Policy needs to be more specific. **The City should pro-actively work with Alameda County and other entities to provide multi-year funding for services.** Currently most services are funded only annually even though the housing is restricted to these populations for at least 55 years. This poses particular challenges for SROs and other special needs housing.

H-2.10: The City’s affordable housing regulatory agreements already require prioritization of units for people who were displaced by “no-fault” evictions. **The City should consider expanding the definition of displacement to include persons who were forced to move due to an unaffordable rent increase or series of rent increases** (with appropriate documentation).

17,
cont.

H-2.14: We strongly support measures to ensure that housing meets, at a minimum, basic habitability standards. At the same time, **any pro-active inspections and enforcement must include provisions to protect residents from both direct displacement due to the rehabilitation work needed and economic displacement from the pass-through of the costs of that work** in the form of higher rents that may be unaffordable to low income tenants.

Measures of Success (pages 94 and 95)

1. A target of 15% to 25% affordable housing will result in a reduction of the percentage of housing affordable to lower income households in the downtown area. This is likely to reduce the percentage of persons of color in the downtown and contradicts the stated goals.

We are not in favor of using relative RHNA proportions to target affordability levels when the RHNA proportions for above-moderate versus other categories are being ignored. The RHNA itself calls for 47% of new housing to be affordable to moderate income and below, while the Plan calls for a goal of 15%–25%. Even at 25% “affordable”, the result would be as follows:

Income Level	RHNA	Draft Plan
Above Moderate	53%	75%
Moderate	19%	10%
Low	14%	7.5%
Very Low	7%	3.75%
Extremely Low	7%	3.75%

18

If the overall targets for affordable housing cannot match the RHNA, affordable housing targets must prioritize those with the most pressing needs— households with lowest incomes.

2. **The measure of success for cost burden should be disaggregated by income level.** Replacing low income households with above-moderate income households may result in lower average cost burden across all income levels as a whole, but it will not reduce cost burden for those households who are currently cost-burdened or severely cost-burdened, as those are concentrated in the very low and extremely low income categories in particular. We need to see measures of cost burden by both race and income level.

18,
cont.

Additional Comments

The Plan currently contains no controls to prevent the demolition of existing rental housing to make way for new development. The DEIR's assertion on page 587 that any housing units that might be demolished to make way for new development would be replaced by a greater number of units fails to take into account that the new units will be far more expensive than the units being lost, and thus would not mitigate the loss of existing and more affordable housing. **The City should either prohibit development on sites that currently have rental housing units or did so within the past 10 years, or condition approval of such projects on provision of full 1-for-1 replacement with units comparable in size and affordability.**

19

The City needs to incorporate the impacts of climate change, including but not limited to sea level rise. For example, while the Plan includes discussion of sea level rise as a Community Health concern, dealing with sea level rise is not integrated into the land use plan. The map on page 237 of the Draft Plan indicates significant inundation projected for the Jack London and Victory Court areas. Despite this risk, the land use plan targets significant new development, including residential development, in these areas. Without specific mitigation measures identified, it makes no sense to call for intensive development in areas that are known to be at risk.

20

In addition, the **City must consider the impact of climate change on existing and planned infrastructure**, including streets, sewage treatment plants, and storm water management, when assessing the ability of that infrastructure to support new development. If these systems are impacted by climate change, then the capacity to support new development will be significantly reduced.

21

We appreciate the opportunity to comment and the City's efforts to solicit community comment and input. We hope that this will be followed by a meaningful discussion of how these comments can be incorporated into the Plan. **We urge staff to return to the Planning Commission prior to completion of the Final Plan with a summary of comments received and staff responses to those comments.**

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EBHO Comments on Draft Plan for Downtown Oakland

November 8, 2019

Page 9

We look forward to a robust community engagement process as the Final Plan is developed.

Sincerely,



Jeffrey P. Levin

Policy Director

cc: Oakland City Planning Commissioners

Letter B-9
East Bay Housing Organizations
Jeffrey Levin, Policy Director
November 8, 2019

- Response B-9.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-9.2** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.3** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.4** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.5** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.6** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.7** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.8** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.9** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.10** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.11** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.12** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.13** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-9.14** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-9.15** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-9.16** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.

- Response B-9.17** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-9.18** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-9.19** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics and Master Response 2: Residential Displacement and Affordability.
- Response B-9.20** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.21** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-9.22** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

**‘DRAFT’ ENVIRONMENTAL IMPACT REPORT (DEIR)
FOR OAKLAND DOWNTOWN SPECIFIC PLAN (DTOSP)
CASE NO ER:180020 (CED) -- STATE CLEARING HOUSE 201.90112008**

8 November 2019

**Coalition of Advocates for Lake Merritt (CALM)
Oakland Tenants Union (OTU)
The Homeless Advocacy Working Group (HAWG)**

“ENVIRONMENTAL IMPACT” OBSERVATIONS

- | | |
|---|---|
| <p>1. Omission of the Unaddressed Impacts to-and-from the Enveloped “Lake Merritt BART Station Area and Plan” (Chinatown)</p> <ul style="list-style-type: none"> • The entire Station Area is a cut-out of the DTOSP, and is completely surrounded by and affected by the installations of DOSTP. • The edge conditions where the two Plans intersect are not separated but are fluid and continuous. Interactions flow freely back and forth between the Plan areas. • “Impacts,” positive and negative, including traffic, wind, shadows, pedestrian flow occur unimpeded at the edge conditions, but are not acknowledged by the DEIR. | 1 |
| <p>0. [Page 15] AC “Rapid Transit” bus stops in the downtown and Chinatown.</p> <ul style="list-style-type: none"> • Impact of increased distance of bus stops. • Impacts on lower income, elderly and disabled passengers not addressed. | 2 |
| <p>1. [Pages 15-16] Loss of Parking Garages, Off-Street Parking Lots, & Street parking Spaces.</p> <ul style="list-style-type: none"> • Impacts of increased pedestrians’ traffic on public streets and sidewalks. • Increased pedestrian traffic due to decreased parking facilities. • Impacts of circling vehicular traffic for pickups and drop-offs and seeking fewer off-street parking spaces. | 3 |
| <p>2. [Pages 16-17 & page 217-(c)] Diminished Air, Water, Environmental Quality Due to Increased Vehicular Traffic, Gas Emissions, and Associated Impacts.</p> | 4 |
| <p>3. [Page 24 & 382] Environmental Degradation Due to ‘Non-Art’ Graffiti-Marred Walls & Surfaces & Blight.</p> <ul style="list-style-type: none"> • Visual and aesthetic impacts & prevention not addressed. | 5 |
| <p>4. [Page 25] Negative Impacts of Increased Shadows by Multiple New Hi-Rise Buildings.</p> <ul style="list-style-type: none"> • Increased shadows on adjacent buildings, view windows, and office work areas. • Decreased sunlight and brightness on sidewalks, parks, bus stops and rest areas. | 6 |
| <p>5. [Page 27 & 400-(3)] Negative Impacts of Increased Wind Effects Due to Multiple New Hi-Rise Buildings.</p> <ul style="list-style-type: none"> • Increased high wind patterns affecting building entries. • Increased discomfort of pedestrians at bus stops and along sidewalks in vicinities of hi-rise buildings. | 7 |

6.	[Page 29] Negative Impacts of Utility & Services Demands on Public Infrastructure.	8
	<ul style="list-style-type: none"> • Effects of instantaneous doubling of demand densities on aging public infrastructure. • Capacity of aging infrastructure to serve the increased demand. • Increased disruptions of traffic and circulation due to increased under-street repairs. 	
7.	[Pages 90-91] Un-Consistency of Environmental Effects and Mitigations on the Adjacent and Enveloped Chinatown Neighborhoods	9
	<ul style="list-style-type: none"> • Identification, comparison, and evaluation of impacts and mitigations at the intersections of DTOSP and Lake Merritt BART Station Area EIRs. 	
8.	[Page 48] Existing Transit Service.	10
	<ul style="list-style-type: none"> • Impact of distances between pickup points evaluated for the growing number of elderly, disabled, and wheelchair users. • Impacts on ability of homeless and lower income passengers to access essential locations of needed and required services. 	
9.	[Page 24] Environmental Degradation Due to ‘Non-Art’ Graffiti-Marred Walls & Surfaces.	11
	<ul style="list-style-type: none"> • Visual and aesthetic impacts & prevention not addressed. 	
10.	[Page 97-(2)] Housing Element.	12
	<ul style="list-style-type: none"> • Recitation of goals -- without critical analyses -- does not assist their accomplishment. • Negative impacts of the growing crises of homelessness cannot be ignored 	
11.	[Page 103] Central District Urban Renewal Plan.	13
	<ul style="list-style-type: none"> • Goals, targets, and impacts of homelessness are not addressed. 	
12.	[Pages 122-129] Impact of Voluminous instantaneous increase of New Housing Units in DTOSP.	14
	<ul style="list-style-type: none"> • Over 23,000 housing units in various stages of implantation are identified in the DTOSP. • The impacts of instantaneously tripling the residential density of the DTOSP area cannot be overlooked. • Impacts of 23,000-plus additional new housing units in the DOSP on Specific Plan elements and projections cause interplay between the DOSP and the DTSOP that must be evaluated. 	
13.	[Page 173] Transportation and Parking Demand Management.	15
	<ul style="list-style-type: none"> • Impacts of “in-the-street” parking (namely, Telegraph Ave & KONO District) on vehicles, traffic, transportation, deliveries, buses, emergency vehicles, pedestrians should be evaluated and mitigations be developed. 	
14.	[Page 24] Environmental Degradation Due to ‘Non-Art’ Graffiti-Marred Walls & Surfaces.	16
	<ul style="list-style-type: none"> • Visual and aesthetic impacts & prevention not addressed. 	

15. [Page 345 & 370 & Figs V.E.S. 4 & 5] “Areas of Primary Interest” (API) and Lakeside Drive Area.	17
<ul style="list-style-type: none"> • Negative impacts of DOSP proposals to change the current 2009 zoning of the Lakeside Drive API on traffic, views, shadows, residential density and quality of life factors should be addressed in advance of rezoning. 	
16. [Page 495] Clean Water & Creek Protection.	18
<ul style="list-style-type: none"> • The incongruity of homeless encampments and accompanying pollution of the Estuary Channel and gravity creeks need intensive address. 	
17. [Page 495-(4)] Coastal Hazards.	19
<ul style="list-style-type: none"> • In the analysis and evaluation of the impacts of “sea level rise,” the “no residential building allowed” option must be presented as an essential mitigation measure. 	
18. [Page 571-577] Population and Housing.	20
<ul style="list-style-type: none"> • That, in just the last decade, housing costs -- which are unrestrained and unrelated to inflation -- have tripled, and the city’s Black population has plummeted from 47% to appx 20%. Facts that must be examined for impacts on the DOSP. 	

James E Vann AIA ... (510-763-0142)
for CALM – OTU – HAWG

Letter B-10

Coalition of Advocates for Lake Merritt, Oakland Tenants Union (OTU), Homeless Advocacy Working Group (HAWG)

James E. Vann

November 8, 2019

Response B-10.1 As discussed on page 4 of the Draft EIR, the potential impacts on Chinatown were considered in the Draft EIR analysis. As an example, the analysis considers how the effects of the new development could potentially impact neighborhoods adjacent to the Plan Area, including Chinatown and West Oakland. The analysis also considers how new development in the Plan Area may affect resources (protected under CEQA) within and adjacent to the Plan Area such as historic resources, as well traffic, wind, and shadows, as the comment suggests. To summarize, the Draft EIR studies the impacts that implementation of the Plan and its associated development would have on all areas surrounding the Plan Area including Chinatown and areas within the Plan Area for the following as applicable to each environmental topic:

Plan and Associated Development + Existing Conditions (as of December 2018) considering both construction and operational impacts.

Plan and Associated Development + Existing Conditions (as of December 2018) + Approved and Planned Development considering both construction and operational impacts.

Response B-10.2 While the impacts that commenter suggests are important, they are not considered impacts under CEQA (physical impacts on the environment), which are discussed within each topical area in the Draft EIR. Some examples of topical areas include land use, air quality, aesthetics, and biology. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-10.3 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-10.4 It is unclear from this comment what specific aspects of the analysis the commenter is referring to, and what inadequacies the commenter is suggesting in their comment.

Response B-10.5 As discussed under Mitigation Measure CULT 1-F: on both page 24 and on page 358: Independent of the Specific Plan, the City shall consider a measure

for promoting graffiti abatement by including additional abatement trips, extend trips, and prioritize graffiti abatement on prominent historic buildings, and raise awareness of non-destructive graffiti abatement methods.

In addition to addressing commenters concerns, SCA #17, Graffiti Control, has been added to the Aesthetics section, changing the subsequent numbering of current SCA's in the chapter.

Page 383, heading (4) City of Oakland SCAs and Uniformly Applied Development Standards Imposed as SCAs, is revised as follows:

SCA-AES-1: Graffiti Control (#17)

Requirement:

a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:

i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.

ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.

iii. Use of paint with anti-graffiti coating.

iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.

b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours.

Appropriate means include:

i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.

ii. Covering with new paint to match the color of the surrounding surface.

iii. Replacing with new surfacing (with City permits if required).

SCA-AES-~~12~~: Landscape Plan (#18).....

SCA-AES-~~23~~: Lighting (#19).....

SCA-AES-~~34~~: Underground Utilities (~~#8385~~).....

Page 396, third paragraph of the Draft EIR is revised as follows:

.... Future development would be required to align with and incorporate General Plan policies and SCAs relevant to visual quality as described in the Regulatory Setting above: ~~SCA-AES-1: Graffiti Control (#17)~~; ~~SCA-AES-12: Landscape Plan (#18)~~ ~~SCA-AES-23: Lighting (#19)~~; and SCA-AES-~~34~~: Underground Utilities (~~#8385~~). These policies and conditions, as well as the design review process, would ensure that development within the Plan Area is consistent with applicable plans and design guidelines, is of high visual quality, and compatible with surrounding development, thus avoiding any adverse impact to the visual character of existing development or conditions within the Plan Area.

Page 397, first paragraph of the Draft EIR, is revised as follows:

.... Individual projects would be required to implement SCA-AES-~~23~~: Lighting ~~Plan~~ (~~#19~~), which would further minimize potential impacts resulting from lighting and ensure that lighting and glare effects remain less than significant.

Response B-10.6 The Draft EIR analyzed potential shadow impacts associated with the Specific Plan implementation starting on page 397. See Impact AES-1. As described starting on page 397 to page 399; given the sheer size of the Plan Area and amount of new development anticipated under the Plan, preparing a detailed shadow analysis was not feasible, but the Draft EIR does summarize shadow trends in the Plan Area as result of new development and addressed general trends related to increased shadows on adjacent buildings, as well as decreased sunlight and brightness on public or quasi-public parks, lawns, gardens, or open space. Sidewalks, bus stops, and rest areas are not included under the thresholds of significance related to shadows.

Response B-10.7 The Draft EIR analyzed wind impacts associated with the Specific Plan implementation starting on page 400, see Impact AES-2: Wind Analysis. As described on page 400, development under the Specific Plan could be tall enough to result in adverse wind conditions. These impacts would remain significant and unavoidable.

Response B-10.8 The Draft EIR assesses negative impacts to utility and services and provides a detailed discussion of each. Related to utilities and infrastructure, this is

discussed starting on page 627. Based on the CEQA significance criteria/thresholds, the analysis found significant impacts related to stormwater (see Impact UTL-1 page 655) For the other utilities and services, the potential adverse impacts would not exceed the significance thresholds. This is not to say that there would not be some adverse impacts; such impacts just would not be considered significant under CEQA.

Additional information has been added to a discussion of the sanitary sewer and wastewater collection system.

Page 629, first paragraph of the Draft EIR, is revised as follows:

...22-year period of the agreement. Some of these include rehabilitating 13 miles of sewer pipes per year, cleaning 140 miles of sewer pipes per year, inspecting 92 miles of sewer pipes per year, and eliminating high priority storm water inflow sources within two years wherever found.⁹ In addition, the City of Oakland Public Works Department initiated a sanitary sewer master planning process in February 2020. This effort will include an update of the hydraulic capacity and its long-term sewer demands. This will also include an assessment of how sewer mitigation fees are determined.

Response B-10.9 In 2017, the City of Oakland established new thresholds for CEQA impacts documented in the City's Transportation Impact Review Guidelines dated April 2017. The current thresholds are different than those used for the Lake Merritt Station Area Plan EIR. The primary difference is that level of service (LOS) is no longer a threshold. The thresholds are now based on additional VMT per capita, per service population, or other appropriate efficiency measure as well as substantially inducing additional automobile travel by increasing physical roadway capacity in congested areas. The Lake Merritt Station Area Plan EIR was completed under the previous CEQA Thresholds based on motor vehicle delay and associated LOS at intersections. As a result, it is not possible to do a side-by-side comparison.

Response B-10.10 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-10.11 See Response B-10-5.

Response B-10.12 It is unclear from this comment what specific aspects of the analysis the commenter is referring to, and what inadequacies the commenter is suggesting in their comment. Pertaining to homelessness: See Master Response 2: Residential Displacement and Affordability.

Response B-10.13 Pertaining to homelessness: See Master Response 2: Residential Displacement and Affordability.

Response B-10.14 *Chapter V.L, Population and Housing*, of the Draft EIR does evaluate the impact of new additional units as a result of the Plan specific to the following thresholds:

- *Induce substantial population growth in a manner not contemplated in the General Plan, either directly (for example, by proposing new homes and business) or indirectly (for example, through extension of roads and other infrastructure), such that additional infrastructure is required but the impacts of such were not previously considered or analyzed.*
- *Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.*
- *Displace substantial number of people, necessitating the construction of replacement housing elsewhere, in excess of that contained in the City's Housing Element.*

It is also noted that increased intensity/density would not be instantaneous as the projected development is over a 20-year period of time.

Response B-10.15 Impacts of on-street parking maneuvers on vehicle movements, deliveries, buses, emergency vehicles, pedestrians, and bike riders are not a CEQA topic. There is no difference in on-street parking maneuvering whether the parking is located adjacent to a curb or adjacent to a bike lane. The effects of on-street parking maneuvers are more dependent on the roadway cross-section width and the transportation elements within that cross-section.

Response B-10.16 See Response B-10-5.

Response B-10.17 The Draft EIR analyzes the Plan's proposed General Plan amendments and changes to development intensity, including FAR, density, and height. Specific zoning changes are not included in the Plan. The City will prepare these separately as an immediate implementation step. The proposed Planning Code and Zoning Map changes will be consistent with the General Plan development intensity. Aesthetic impacts (i.e., impacts to views, and shadow) pertaining to intensity changes have been analyzed in *Chapter V.F, Aesthetics*, of the Draft EIR. More specifically views are discussed both under criteria (1) Public Scenic Vistas starting on page 386, as well as under criteria

(3) Visual Character starting on page 389. A discussion of the Lake Merritt Office District which includes the Lakeside Drive Area visual character changes is discussed starting on page 390 of the Draft EIR.

Shadow impacts are discussed starting on page 397 of the Draft EIR. The Draft EIR analyzed shadow based on a 3D Height Model and is a generalized study which should be used as a guiding framework but is by no means intended to replace the City's review of individual development project proposals and the design review process, where potential project-level effects related to shadow would be determined according to the City's significance criteria, to the extent the City is permitted to analyze individual shadow impacts under the law due to recent State Housing laws requiring objective standards in reviewing project impacts.

We understand the commenter's use of the phrase "residential density" to mean increase population and density within downtown and specifically within the Lakeside Drive Area. Impacts to population and housing are analyzed in the Draft EIR (*Chapter V.L*), as well as on public services, facilities, and recreation (*Chapter V.M*), and utilities (*Chapter V.N*).

Traffic impacts as a result of the Specific Plan are discussed start on page 211 of the Draft EIR under (4) Impacts to the Regional CMP Roadway Segments, and as identified by Impact TRANS-3, the development under the Specific Plan would contribute to the significant degradation of several CMP or MTS segments in 2020.

Response B-10.18 Homelessness is an issue addressed in the Plan. While homeless encampments may bring accompanying pollution to the Estuary Channel this relationship does not necessary imply a causation as a result of the Specific Plan.

Response B-10.19 As discussed under Criterion 11 of the hydrology section, analysis of the effects of inundation associated with sea level rise is not required under CEQA because these would represent impacts of the environment on the project. Therefore, no significance determination is made based upon the analysis and mitigation measures are not provided under this criterion. In addition, it is unclear why the commenter appears to indicate that residential buildings are more susceptible to sea level rise than other types of land uses (e.g., commercial, industrial) and should be treated differently.

Response B-10.20 See Master Response 2: Residential Displacement and Affordability.



*inspiring people to protect
Bay Area birds since 1917*

Ms. Alicia Parker
Planner III
Department of Planning and Building
City of Oakland
aparker@oaklandca.gov

November 8, 2019

Re: Downtown Oakland Specific Plan draft Environmental Impact Report (dEIR)

Dear Ms. Parker,

On behalf of Golden Gate Audubon Society (GGAS), please accept these comments on the Downtown Oakland Specific Plan draft Environmental Impact Report (dEIR). The Golden Gate Audubon Society (GGAS) is a 102 year old non-profit organization with over 7,000 members who are dedicated to protecting native bird populations and their habitats.

1

GGAS supports Goal 5: Provide vibrant public spaces and a healthy environment that improve the quality of life downtown today and for generations to come. And Goal 6: Develop downtown in a way that contributes to community needs and preserves Oakland’s unique character.

General concerns and questions about the Plan

Biodiversity is an urgent issue with the loss of 3 billion birds in the U.S.¹. Are native plants from the Oakland area being planned for landscaping to connect people with the butterflies and birds and other wildlife that are part of the natural heritage of this area? Where possible, native plants are preferred over non-native plants. The Black-crowned Night Heron is the official city bird and the Oak tree is the symbol of Oakland. These can be incorporated into the planning for this proposed project.

2

How is sea level rise being considered and addressed in the buffers from the channel to and around Lake Merritt? How will this impact the existing or planned parks and open space?

3

Are living roofs and walls and bus shelters being recommended to replenish the water table and clean the water that flows into the channel, Lake Merritt and San Francisco Bay? Plazas are part of the proposal but do they include permeable pavers or other materials to cleanse and replenish water?

4

How are the historic resources reflecting the natural history and Native American history of this area²?

5

There is a plan for increased parking spaces, will these be electric? What is the plan for safe bicycle parking and other transportation that does not increase air pollution in this area which has suffered polluted air?

6

7

¹ Decline of North American Avifauna https://abcbirds.org/wp-content/uploads/2019/10/Bird-Decline-paper_Science-formatted_final.pdf?eType=EmailBlastContent&eld=f470c3a5-e0f1-419b-bc43-e1137a58c787

² Shellmounds of the Sand Francisco Bay Region N.C. Nelson, Berkeley University Press <https://digitalassets.lib.berkeley.edu/anthpubs/ucb/text/ucp007-006-007.pdf>

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Biological Resources Impact Analysis Inadequate

GGAS applauds that Bird Collision Reduction Measures are included as a Standard Condition of Approval for project proponents. The analysis in the Biological Resources section, however, is inadequate to conclude that an increased intensity of buildings has no significant impacts to migratory birds. The plan proposes to increase the intensity of building height, density, and floor area ratio in the Lake Merritt Office District near the northwest side of Lake Merritt, the Laney College area that envelopes the Lake Merritt Channel, and the Jack London District at the Oakland Estuary and part of the Lake Merritt Channel. As discussed in the dEIR, these waters are critical linkages on the Pacific Flyway and provide important habitat for resident and migratory birds. San Francisco Bay is a site of Western Hemispheric importance to shorebirds and over a million waterbirds spend the winter here.²

8

There is no substantiation to the statements in the dEIR that “the adoption and implementation of the Specific Plan is expected to have less-than-significant impacts on existing biological resources due to a history of urbanized development, regular human disturbance, condition of existing habitat in the Plan Area, and general avoidance of the landscaped margins that serve as buffers around Lake Merritt and the Lake Merritt Channel” or that “species potentially impacted by adoption and development under the Specific Plan are likely to have adapted to the continuously evolving environments by which this portion of Oakland is defined.”

1. Cumulative impact of increased building size and density not addressed

Although the existing setting is a developed area, this does not preclude that further development could have significant impacts on wildlife. While bird safe building standards can reduce the impacts of individual buildings, there was no cumulative impact analysis on the overall future condition. The plan will increase the size of buildings by hundreds of feet in certain areas and lead to an overall increase in collision obstacles, lights, and noise, which could alter the ability of birds to use Lake Merritt, the channel, and the estuary. The Lake Merritt channel serves as a riparian corridor and affords additional consideration of how migratory animals could be impacted by increased development and changes in land use.

9

2. Increase in regular human disturbance not addressed

There was no analysis of the projected increase in regular human disturbance and its potential impact on wildlife. Species have different thresholds of tolerance to disturbance. The report should analyze the amount that human disturbance expected to increase and if certain species may be sensitive to this change.

10

3. Buffers around sensitive areas not analyzed

There was no analysis of the size of the landscape buffers around Lake Merritt and the channel. The report should compare the size of the existing and future buffer space and discuss if the future buffer size is sufficient to maintain the movement of wildlife without interference. The buffer space should be analyzed three dimensionally (i.e., include height of buildings). The 2010 San Francisco Standards for Bird Safe considers buildings to be location-related hazards if they are within 300 feet to open spaces two acres or greater that are predominately vegetated or are wetlands or waterways.

11

4. Migration corridor use not analyzed

The report should discuss the current migratory patterns within the area – including species, abundance, and flyway patterns in relation to the size and location of future buildings.

12

⁴https://whsrn.org/whsrn_sites/san-francisco-bay/

5. Impacts of shading not addressed

An increased intensity of buildings will increase shading, potentially impacting vegetation growth in sensitive areas (such as Lake Merritt and the Lake Merritt Channel). While shading can result in both positive (cooling effects for fish and amphibians) and negative (blocking light for vegetation) effects, the dEIR should discuss this new permanent impact on a cumulative level for biological impacts. It is noted that shading is addressed only under aesthetics.

13

Aesthetics Analysis Inadequate

6. Lighting and Glare

Light and Glare is a significant impact and must be mitigated. Saving natural resources and energy is important³. Light pollution has negative impacts to people and wildlife⁴. The increased density of buildings will result increased lighting, however, the dEIR provides inadequate discussion of possible impacts. A lighting and glare study should be conducted to disclose if a *net* increase in lighting and glare caused by the Plan implementation of the Plan, and what these impacts are on adjacent land uses (including Lake Merritt, the Channel, and the Waterfront). In addition to SCA-AES-2: Lighting and SCA-AE-3: Underground Utilities, the dEIR should discuss how siting locations, natural screening and landscaping, and other light restrictions would be implemented.

14

7. Wind

Oakland is a windy area and the proposed high rises can create more wind tunnels. Trash blowing into the water is an ongoing issue at Lake Merritt and into the channel. With this proposed increase in population and visitors how will trash management be improved? Will there be wildlife proof trash containers?

15

Hydrology and Water Quality

Threats from increased building intensity include watershed runoff and point discharges. How are these threats being addressed in the proposed project?

16

Thank you for considering these comments. We look forward to envisioning a healthy, equitable, and biodiverse future for Oakland. Please notify us of any actions or materials pursuant to this dEIR.

17

Sincerely,



Pam Young
Executive Director
Golden Gate Audubon Society

cc: Laura Cremin and Michael Strom
Co-Chairs, GGAS East Bay Conservation Committee

Noreen Weeden
Director, GGAS Volunteer Programs

³ <https://www.darksky.org/light-pollution/energy-waste/>

⁴ Ecological Consequences of Artificial Night Lighting , Catherine Rich and Travis Longcore, Iland Press 2006

Letter B-11

Golden Gate Audubon Society
Pam Young, Executive Director
November 8, 2019

Response B-11.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-11.2 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-11.3 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-11.4 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-11.5 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-11.6 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-11.7 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-11.8 *Chapter V.G, Biological Resources*, of the Draft EIR provides an assessment of the potential impacts on sensitive biological resources, including a discussion of potential impacts on wildlife habitat conditions and increased risk of bird strikes as a result of increases in the intensity of building height, density, and FAR. As discussed under Criterion 4 (see page 433), the Specific Plan development program proposes increasing the intensity of residential, industrial, and office uses in parts of the Plan Area. However, birds and other wildlife associated with the nearby habitats of Lake Merritt, the Lake Merritt Channel, and the Oakland Estuary are already acclimated to the light, noise, and other disturbance from human activity, and would acclimate to the additional levels of disturbance associated with development under the Specific Plan.

A broad band of open space would be retained along the Lake Merritt Channel through the Plan Area. The Lake Merritt Channel would continue to serve as a corridor for aquatic and bird species moving between the lake and Inner Harbor. However, movement opportunities along the channel are already impeded by existing structures, such as the Embarcadero, I-880, 7th Street, and Lake Merritt Boulevard overcrossing, and existing structures along the fringe of the corridor, which birds and other wildlife have become

acclimated to in their movement patterns. Similarly, the western edge of Lake Merritt that forms the northeastern boundary of the Plan Area is already developed with existing structures that influence wildlife habitat values and movement activities. As described above, the corridor along the Lake Merritt Channel is already compromised by the bridge overcrossings and existing structures that come well within 300-foot buffer distances from the channel.

New buildings anticipated under the Specific Plan would have to comply with measures designed to minimize bird collision with larger buildings, which would address the risk to birds colliding with buildings as they fly over and through the Plan Area. The City's SCA-BIO-1: Bird Collision Reduction Measures (#~~2829~~) calls for minimizing the number of antennas and other rooftop structures, avoiding the use of mirrors in landscape design or bird-friendly attractants, applying bird-friendly glazing treatments on windows, reducing light pollution, and implementing operation and management activities that promote bird safety. As described in the paragraphs above, birds and other wildlife common in urbanized areas would continue to utilize trees and other habitat features within the Plan Area, and no substantial interference with native resident or migratory wildlife is anticipated.

Response B-11.9 Refer to Response B-11.8. A discussion of cumulative impacts on Biological Resources is provided under Subsection 3.c on page 436 of the Draft EIR. Adoption of, and anticipated development under, the Specific Plan, as well as other future projects within the cumulative geographic context of the Plan Area, would be required to comply with local, State, and federal laws and policies and all applicable permitting requirements of the regulatory and oversight agencies intended to address potential impacts on sensitive biological resources. See Responses B-11.8.

Because the City's SCAs would serve to reduce any potential biological impacts within the Plan Area to a less-than-significant level, the Specific Plan would not make a cumulatively considerable contribution to any significant cumulative impacts on special-status species, sensitive natural communities, or regulated waters. The impacts associated with implementation of the Specific Plan and its associated development would not contribute to a cumulative reduction of important wildlife habitat or impede wildlife movement opportunities. Therefore, cumulative impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to biological resources.

Response B-11.10 *Chapter V.G, Biological Resources*, of the Draft EIR provides a description of the existing urbanized conditions in the Plan Area, and an assessment of the potential impacts on sensitive biological resources associated with implementation of the Specific Plan. As discussed under Criterion 4 on pages 433 and 434 of the Draft EIR, birds and other wildlife associated with the nearby habitats of Lake Merritt, the Lake Merritt Channel, and the Oakland Estuary are already acclimated to the light, noise, and other disturbances from human activity, and would acclimate to the additional levels of disturbance associated with development under the Specific Plan.

Response B-11.11 As indicated in Figure III-4: Proposed Land Use Character Areas, Figure III-6: Proposed General Plan Land Use Designation Amendments, and Figure III-11: Proposed Height Change Areas, among other figures in the Draft EIR showing land use changes proposed under the Specific Plan, a band of open space would be retained along the Lake Merritt Channel through the Plan Area. In addition, there would be a buffer for new development on either side of the Lake Merritt Channel to protect and enhance its function as a wildlife movement corridor between Lake Merritt and the Oakland Inner Harbor. The general buffer zone shall be used for public access, passive recreation, and wildlife habitat enhancement. Landscaping guidelines shall be developed for the general buffer zone which emphasize the use of native upland and wetland plantings to enhance wildlife habitat values and filter pollutants from stormwater runoff that could enter the Lake Merritt Channel. The Lake Merritt Channel would continue to serve as a movement corridor for aquatic and bird species moving between the lake and Inner Harbor. Movement opportunities for birds, fish and other wildlife are already impeded by existing structures, such as the Embarcadero, I-880, 7th Street, and Lake Merritt Boulevard overcrossing, and existing structures along the fringe of the corridor, which birds and other wildlife have become acclimated to in their movement patterns. Similarly, the western edge of Lake Merritt that forms the northeastern boundary of the Plan Area is already developed with existing structures that influence wildlife habitat values and movement activities. The corridor along the Lake Merritt Channel is already compromised by the bridge overcrossings and existing structures that come well within 300 foot buffer distances from the channel.

As discussed under Criterion 4 in *Chapter V.G, Biological Resources* of the Draft EIR, the Specific Plan development program proposes increasing the intensity of residential, industrial, and office uses in parts of the Plan Area. However, birds and other wildlife associated with the nearby habitats of Lake

Merritt, the Lake Merritt Channel, and the Oakland Estuary are already acclimated to the light, noise, and other disturbances from human activity. New buildings anticipated under the Specific Plan would have to comply with measures designed to minimize bird collision with larger buildings, which would address the risk to birds colliding with buildings as they fly over and through the Plan Area. The City's SCA-BIO-1: Bird Collision Reduction Measures (~~#2829~~) calls for minimizing the number of antennas and other rooftop structures, avoiding the use of mirrors in landscape design or bird-friendly attractants, applying bird-friendly glazing treatments on windows, reducing light pollution, and implementing operation and management activities that promote bird safety. Birds and other wildlife common in urbanized areas would continue to utilize trees and other habitat features within the Plan Area, and no substantial interference with native resident or migratory wildlife is anticipated. Based on existing conditions and the controls provided under the applicable SCAs, potential impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to sensitive or special status species that may be associated with the remaining natural areas, as well as more common bird species protected under the Migratory Bird Treaty Act and California Fish and Game Code. No revisions to the Draft EIR are considered necessary in response to this comment.

Response B-11.12 Chapter V.G, Biological Resources of the Draft EIR provides a description of the existing urbanized conditions in the Plan Area, and an assessment of the potential impacts on biological resources associated with implementation of the Specific Plan. As described in the Setting of *Chapter V.G, Biological Resources*, the majority of the Plan Area is developed and characterized by urban land uses. Developed urban areas provide little to no habitat for most native wildlife and plants due to the conversion of natural habitat to roads and buildings, with only limited areas of vegetative cover in parks and landscape plantings. Wildlife species found in urban areas are tolerant of ongoing disturbances and human presence and are often considered pests capable of utilizing limited food sources. Birds and other wildlife associated with the nearby habitats of Lake Merritt, the Lake Merritt Channel, and the Oakland Estuary are already acclimated to the light, noise, and other disturbance from human activity.

As discussed on page 404 of the Draft EIR, Lake Merritt serves as one of many stopovers along the Pacific Flyway for migratory birds and was designated in

1870 as the first wildlife refuge in the United States. However, data on specific migratory patterns requested by the commenter, including species, abundance, and flyway patterns in relation to the size and location of future buildings, is not available. Although existing structures in the Plan Area may impede opportunities for passage by migratory birds, they do not form an impenetrable barrier. New buildings anticipated under the Specific Plan would have to comply with measures designed to minimize bird collision with larger buildings, which would address the risk to birds colliding with buildings as they fly over and through the Plan Area.

Response B-11.13 No substantial adverse effects on growth of vegetation along the Lake Merritt Channel, Lake Merritt, and the Oakland Estuary are anticipated as a result of shading from new buildings constructed within the Plan Area due to the fact that the Plan's allowed height will be stepped down toward the Channel on the Laney College parking lot (height decreased from 275 feet to 175 feet); and making only minor modifications to the allowed height for the portion of the Laney College campus along the Channel (height increased from 85 feet to 175 feet). The Plan will be establishing new height limits in the Victory Court area along the Channel where height is currently unlimited; however, nonresidential intensity is also regulated by FAR. FAR would increase from 5.0 to either 20.0 or 12.0 in the Victory Court Area.

In addition, for there to be a substantial change to vegetation, shadows would have to be for a long enough time during the day where plants would not be able to receive direct sunlight. The sun changes location over the course of the day and seasons, so the shadowing would have to be formidable, and occur during the most highly productive months (spring and summer) to preclude plant growth.

As described in the shadow discussion starting on page 397 of the Draft EIR, winter shadow is the longest, and thus, during the winter months, some new shadow would extend the length of a full block or more, with the highest buildings casting the greatest amount of new shadow especially during winter mornings around 9:00 a.m. and winter afternoons around 3:00 p.m. Shadows would only cross Lake Merritt during the winter months in the afternoons around 3:00pm, and minor shading would occur along the channel in the winter mornings.

While there will be some height increases in the Victory Court area along the channel, as described on page 436 of the Draft EIR, the cumulative potential impacts of the Specific Plan on biological resources tend to be site-specific,

and the overall cumulative effects would be dependent on the degree to which significant vegetation and wildlife resources are present on a particular site, and if present, the degree to which they are avoided or potential impacts are addressed through various forms of mitigation. As discussed above, shading over Lake Merritt and the channel would be minimal and would occur during the winter months when growth would be minimal.

Response B-11.14 As described on page 387 of the Draft EIR, individual projects would be subject to standard project review and approval processes as required by the City of Oakland and may require additional design review pertaining to light and glare. Assessment and discussion of siting locations, natural screening, and landscaping, as well as other light restrictions would occur during project review.

Response B-11.15 As discussed on page 504 of the Draft EIR, to address trash impairment, the City of Oakland prepared a Long-Term Load Reduction Plan and Assessment Strategy and submitted it to the Regional Water Board. The Long-Term Plan includes specific provisions to address trash problems in the Downtown Oakland area where the combination of transit hubs, high pedestrian traffic, and high-density land uses results in an elevated trash problem. The Long-Term Load Reduction Plan calls for evaluation of pilot activities including trash containment, cigarette butt receptacles, installation of automatic retractable screens and full-capture installation. In addition, on pages 504-505 of the Draft EIR, the Plan Area may be recommended for operation modifications that provide increased efficiency and/or possible installation of automatic screens in key locations. Wildlife proof trash containers are not part of the policies relevant to this Plan, but this could be decided independently of the Specific Plan EIR process.

The City is also required to meet trash reduction compliance goals outlined in section C.10 of its Municipal Regional Stormwater NPDES Permit (MRP). Per these requirements, the City is undertaking a series of management actions designed to meet compliance targets of reducing trash in waterways from 2009-calculated baseline levels. Specifics of compliance are detailed in the City's 2019 Annual Report on MRP compliance to the San Francisco Regional Water Quality Control Board. As appropriate, the City will amend Standard Conditions of Approval (SCAs) for private development to be consistent with these State regulations.

Response B-11.16 Impacts related to degradation of water quality are discussed under Criterion 1 of the hydrology section. Impacts related to increased runoff that

could potentially, if not properly managed, result in erosion and siltation are discussed under Criterion 3 of the hydrology section. Compliance with the SCA/MMRP requirements and City's SCAs would ensure that receiving water quality is protected to the maximum extent practicable, and the associated impacts would be reduced to less-than-significant levels.

Response B-11.17 These concluding comments are noted.

November 8, 2019

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PVollmann@oaklandca.gov

Submitted Electronically at plandowntownoakland@oaklandca.gov

Re: Comment Letter on Draft EIR for Downtown Oakland Specific Plan

Dear Mr. Vollmann:

I. Introduction.

These comments are submitted on the draft environmental impact report (“DEIR”) for the proposed Downtown Oakland Specific Plan (“DTOSP”) by the undersigned parties who are concerned about the DEIR’s insufficient analysis of the adverse environmental impacts of allowing significant new residential and mixed use development in close proximity to waterfront industrial uses and transportation systems in and near the Port of Oakland (“Port”). These comments focus on proposed land use changes in the 16-block area west of Jack London Square,¹ including changes under the DTOSP’s base proposal for future land uses in this area (“Base Case”), as well as those associated with the Howard Terminal (“HT”) Option² and the related Howard Terminal Waterfront Ballpark District for a new baseball complex and residential, commercial and office uses on the Howard Terminal site immediately across the Embarcadero (“HT Mixed-Use Project”).

Under the Base Case scenario, the DTOSP would allow significant new residential and mixed-use development in 8 of the 16 blocks where today almost no residential use is permitted or exists, creating inevitable land use conflicts and related environmental impacts.³ The Base Case would introduce high-intensity mid-rise housing into a critical buffer zone area which currently serves to protect both Port-related industrial activities and sensitive receptors by separating residential land uses from Port industrial uses that are permitted and encouraged under long-standing plans and policies. As described herein, the significant environmental effects associated with allowing such large-scale, encroaching residential development are neither analyzed nor mitigated in the DEIR for the Base Case scenario.

Under the HT Option, these adverse impacts would be greatly exacerbated. The HT Option would open up all 16 blocks of the current buffer zone area to residential development, while also significantly impacting the form and character of the historic area west of Jack London Square.⁴

¹ See DEIR, p. 46, Fig. III-5 (area bounded by the Embarcadero, Clay, Fifth and Brush Streets).

² DEIR, pp. 45, 49, 83 (discussing the HT Option).

³ DEIR, p. 47.

⁴ DEIR, p. 45.

Both the DTOSP and the DEIR fail to provide specific information on the level of development allowed under either the Base Case or the HT Option. However, a closer look at both scenarios shows that massive new development would be permitted in this area.⁵ For example, expert consulting firm AES has calculated that the Base Case development could reach almost 7,000 new units with over 13,000 new residents;⁶ and the HT Option development could exceed 12,000 new units and over 23,000 new residents in this limited area.⁷ This significant new development -- when coupled with the 4,000 new residential units proposed with the HT Mixed-Use Project⁸ -- *would allow over 16,000 new units and almost 31,000 new residents in the area.*⁹

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The DEIR fails to provide any detail regarding this massive potential increase in residential and office development intensity. It is not quantified in the DEIR, nor are its significant impacts or environmental implications sufficiently addressed. The proposed levels of development under both scenarios would result in numerous adverse effects, including land use conflicts, inconsistency with existing plans, traffic congestion and circulation hazards, public safety impacts, exposure of sensitive receptors to potentially hazardous air quality conditions, and others that are not sufficiently covered in the DEIR. Some of these impacts, such as those associated with increased parking demand, would occur not only within the immediate area, but elsewhere within the larger DTOSP boundaries.

In addition, the DEIR fails to address the potential problems that would be caused by eliminating a vital industrial buffer zone for the Port of Oakland and the industrial businesses located there. It completely ignores numerous comments submitted during the scoping process that the DEIR should include an alternative to retain existing land use designations and restrict residential development in this area.¹⁰

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To redress the deficiencies outlined in these comments, the City should modify the DTOSP and withdraw the current DEIR for revision and recirculation. The City should modify the DTOSP to more accurately reflect existing conditions, eliminate both the Base Case and the HT Option for the subject 16-block area, and maintain the current limits on residential uses within that area. The City should revise and recirculate the DEIR in order to comply with CEQA and the CEQA Guidelines in light of these comments before giving consideration to the DTOSP itself.

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⁵ See Analytical Environmental Services (“AES”) Memorandum, November 8, 2019, *DTOSP Existing and Proposed General Plan Designations* (“AES Report”), p. 2, enclosed herewith as Ex. A. AES is an expert consulting firm with extensive experience in EIR preparation and analyses.

⁶ AES Report, p. 2, Table 3.

⁷ AES Report, p. 3, Table 4.

⁸ See DEIR, p. 127, Table V.A-4.

⁹ AES Report, p. 4, Table 6.

¹⁰ The DEIR acknowledges receipt of scoping comments concerned with “housing on the 3rd Street corridor; it is too close to industrial uses,” and with interference with the flow of industrial traffic on the 3rd Street designated heavy truck route, pedestrian safety issues, and negative “impacts on industrial freight and rail movement.” See DEIR, p. 14. However, these comments are erroneously dismissed as “non-CEQA” comments on the DTOSP’s merits that need not be addressed in the DEIR. *Id.*, p. 13. On the contrary, as discussed in this comment letter, these are environmental issues properly considered under the California Environmental Quality Act (“CEQA”), Pub. Res. Code § 21,000 et seq., and the State CEQA Guidelines (“CEQA Guidelines”), 15 Cal. Code Regs (“CCR”) § 15,000 et seq.

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II. Interests of Commenting Parties.

The parties submitting this letter represent a large and diverse group with significant interests in ensuring the continued success and vitality of the Port's maritime-related industrial uses, including transportation and union-related interests. The signatories here in connection with their work and facilities at the Oakland Seaport contribute significantly to the economy and institutions in the City in a myriad of ways.

The signatories include the AMERICAN WATERWAYS OPERATORS, the CALIFORNIA TRUCKING ASSOCIATION, the CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF NORTHERN CALIFORNIA, DEVINE INTERMODAL, GSC LOGISTICS, the HARBOR TRUCKING ASSOCIATION, INTERNATIONAL LONGSHORE & WAREHOUSE UNION – LOCAL 10, INLANDBOATMEN'S UNION, MARITIME DIVISION – ILWU, the PACIFIC MERCHANT SHIPPING ASSOCIATION, QUIK PICK EXPRESS, LLC, SCHNITZER STEEL, INC., SSA MARINE, the TRANSPORTATION INSTITUTE, and UNION PACIFIC RAILROAD.

The signatories here represent the marine terminal operators, ocean carriers, and tug and harborcraft which are the maritime industry service providers at, near, and in the Port of Oakland, the motor carriers and primary rail carrier which transport intermodal containers to and from the businesses at and near the Port of Oakland, the longshore and on-water unions which represent the overwhelming majority of waterfront labor at the Port of Oakland, and the brokers and forwarders which represent the cargo interests whose products are moved through the Port of Oakland.

Each of the signatories has a significant business interest in the development of the Downtown Oakland Specific Plan, operates within or transports within or operates or transports cargo contiguous to or in relation to the Downtown Oakland Specific Plan. The signatories represent the majority of the transportation providers necessary to facilitate the local, regional and State-wide economic importance of the Port's industrial and transportation-related operations.

The economic impacts of the signatories' represented activities are critical to the overall economic success of the Port of Oakland. These economic impacts are well documented,¹¹ and as a result:

“In 2017, the Seaport supported 520,328 jobs in the state of California. Of these jobs, 11,393 jobs are directly created by Seaport activities, while another 10,507 induced jobs, are generated in the Bay Area as a result of local purchases made by those directly employed due to Seaport activity. There are 5,831 indirect jobs supported in the Bay Area as the result of \$546 million of local purchases made by directly dependent firms. In addition, the cargo moving via the Seaport supports 492,597 related jobs throughout the state of California.”¹²

¹¹ See *Impacts of the A's Proposed Howard Terminal Stadium on the Operation and Economics of the Oakland Seaport* (September 2019), enclosed as Ex. B. See also Libby Schaaf and Ces Butler, *Oakland's Effort to Blend a Ballpark and the Port on the Waterfront*, San Francisco Chronicle, Nov. 4, 2019 (attached as Ex. C). Note that while a recent statement by the Mayor of Oakland and the President of the Port Board of Commissioners recognizes the importance of the Port and maintaining industrial buffer zones, that statement ignores the serious land use conflicts and environmental impacts and the long-term threat to Port operations – not sufficiently addressed in the DEIR -- that would be caused under the Base Case and HT Option scenarios.

¹² “2017 Economic Impact of the Port of Oakland Seaport: Executive Summary” Port of Oakland (January 2019), pg. ES-3. Accessible at <https://www.portofoakland.com/wp-content/uploads/Economic-Impact-Report-2019-EXECUTIVE-SUMMARY.pdf> (accessed 11/8/2019)

III. The DEIR Fails to Address the Major Development in the Critical Buffer-Zone Area for Port Operations That Would be Permitted under the DTOSP.

The entire swath of area west of Broadway and south of the 880 freeway, across both the DTOSP and the West Oakland Specific Plan, and including the Howard Terminal, provides a critical buffer zone for industrial operations at the Port of Oakland. It also serves as a support area for Port-related and maritime ancillary truck, transloading, equipment, storage and other industrial uses.

Figure III-5 in the DEIR depicts the current General Plan designations¹³ for all this area west of Broadway including the 16-block area of concern. This also includes the Third Street heavy truck corridor that serves as a designated major artery for truck traffic associated with industrial operations at the Port. These current designations allow only very minor residential use and there is no meaningful residential development there at present.¹⁴

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This is in keeping with the fact that this area, along with the Howard Terminal itself, has functioned, and continues to function, as a significant buffer zone against potential noise, air emissions, and other operational effects associated with ongoing Port industrial operations, including the roadway system and railroad operations located west and north of Jack London Square.

Under the Base Case “Maker District” scenario, half of this 16-block area would be changed to designations allowing significant residential use.¹⁵ However, the DEIR fails to include any numerical description or analysis of the magnitude of the residential uses proposed in this scenario. Accordingly, it is impossible for the DEIR to assess the significant impacts of the Base Case scenario, compare and contrast those impacts to the City’s existing policies, or propose any appropriate mitigation measures.

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Nonetheless, by applying the City’s published guidelines to the proposed land use designation changes, AES estimated the allowable number of residential units and residents in both the Base Case and the HT Option scenarios.¹⁶ These estimates demonstrate that:

¹³ These are Land Use and Transportation Element (“LUTE”) Business Mix, Estuary Policy Plan (“EPP”) Light Industry 1 and EPP Off-Price Retail. See AES Report, p. 2.

¹⁴ AES Report, pp. 1-2. As shown in Table 2, a maximum of only 293 residential units, with an estimation of 556 residents, would be permitted under current General Plan designations and applicable zoning provisions.

TABLE 2
Existing Allowable Residential Density – 16 Block Area

Land Use	Blocks	Acreage ¹	Max Density ²	Max Residential Units	Potential Residents ³
LUTE Business Mix	0/16	0.00	0	0	0
EPP Light Industry 1	1/16	2.44	30	73.13	138.94
EPP Off-Price Retail	3/16	7.31	30	219.38	416.81
Total				293	556

¹⁵ DEIR, p. 47, Fig. III-6 (LUTE Business Mix District and Central Business District 2).

¹⁶ The AES estimates represent the maximum allowable residential intensity, consistent with CEQA § 21157(b) and CEQA Guidelines §15176(b). To the extent the DTOSP only presents the “reasonably foreseeable” estimates instead of the maximum allowable residential intensity this is a deficiency, especially since there is neither basis for nor explanation of any application of an alternative estimate of intensity of usage for an urban infill plan with a 20-year horizon where it is logical to estimate maximum buildout. Additionally, because the DTOSP identifies the area in question as subject to a “Zoning Incentive Program” meant to incentivize maximum buildout intensity, any City estimates for new residential units would be misleading if they did not capture maximum densities thereto.

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- The Base Case scenario would allow almost 7,000 residential units and over 13,000 residents within the 16-block area, dubbed as the “Jack London Maker District”.¹⁷
- The HT Option scenario¹⁸ would allow over 12,000 units and 23,000 residents.¹⁹

The HT Option must also account for the reasonably foreseeable impacts from adjacent HT Mixed-Use Project impacts. When that development is included, the total numbers climb to an estimated 16,248 residential units and almost 31,000 residents.²⁰

This critical information was not provided in the DEIR, so that Oakland residents and other readers would be properly advised of the magnitude and import of these changes in use allowed under the DTOSP in this area of Oakland, much less the full environmental consequences associated with such major changes.²¹

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¹⁷ See AES Report, p. 2, Table 3:

TABLE 3

Proposed DOSP Base Case Allowable Residential Density – 16 Block Area					
Land Use	Blocks	Acreage ¹	Max Density ²	Max Residential Units	Potential Residents ³
EPP Mixed Use District	5/16	12.19	300	3,656.25	6,946.88
LUTE Central Business District 2	3/16	7.31	375	2,742.19	5,210.16
EPP Light Industry 1	8/16	19.50	30	585	1,111.50
Total				6,983	13,269

¹⁸ DEIR, pp. 48-49, Photo 2. The DEIR provides confusing and conflicting descriptions regarding the HT Option, referring to it inconsistently as the HT Mixed-Use Project in some places, and in relation only to the 16-block area in others. See discussion *infra*. It is clear from the DEIR that these areas are tied together under the HT Option for purposes of the DTOSP and therefore must be analyzed together for maximum potential impacts under CEQA.

¹⁹ See AES Report, p. 3, Table 4:

TABLE 4

Proposed DOSP HT Option Allowable Residential Density – 16 Block Area					
Land Use	Blocks	Acreage ¹	Max Density ²	Max Residential Units	Potential Residents ³
EPP Mixed Use District	13/16	31.69	300	9,506.25	18,061.88
LUTE Central Business District 2	3/16	7.31	375	2,742.19	5,210.16
EPP Light Industry 1	0	0.00	30	0	0
Total				12,248	23,272

²⁰ See AES Report, p. 3, Table 6:

TABLE 6

Summary of Allowable Residential Density - 16 Block Area and Howard Terminal		
Scenario	Max Residential Units	Potential Residents
Existing Land Use Designations	293	556
DTOSP Base Case Land Use Designations	6,983	13,269
DTOSP HT Option Land Use Designations	12,248	23,272
DTOSP HT Option plus Howard Terminal	16,248	30,872

²¹ CEQA requires that an EIR “include sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises.” *Sierra Club v. County of Fresno*

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To put the magnitude of these changes into perspective, in the last U.S. Census the City of Emeryville had a population of 10,080.²² The DEIR does not inform the public that the HT Option would result in the creation of a new residential district with nearly 3 times the population of the City of Emeryville within a much smaller geographic footprint, and all within 0.25 miles of the industrial uses in the Port of Oakland. The DEIR, likewise, does not analyze the impacts this proposal would bring about which are clearly significant.

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For purposes of CEQA, the analysis of long-term planning documents requires the City to analyze the impact of development at maximum levels permitted under the proposed Plan. This requirement cannot be avoided by suggesting it is unknown how many projects in fact would be approved. The City has failed to do this, and as a result, the DEIR does not meet the requirements of CEQA and the CEQA Guidelines in a number of important respects, as discussed more fully below.

IV. The DEIR Fails to Adequately Describe the Project.

A. The Definition of the HT Option is Conflicting and Confusing.

The DEIR's treatment of the HT Option is inconsistent both in analysis and use of terminology. By one definition, the HT Option consists of a change in land use designations solely within the DTOSP:

“The City is currently reviewing a proposed project to reuse the Howard Terminal site for a new baseball stadium, waterfront open space, and mixed-use development. If the City approves this project and it moves forward, the Plan proposes to amend the General Plan Land Use designations from LUTE Business Mix, EPP Light Industry 1, and EPP Off-Price Retail District to EPP Mixed Use District in the adjacent blocks between Brush, Clay, 2nd, and 4th streets to support more intense development. ***This is referred to as the Howard Terminal Option.***” DEIR, p. 49 (emphasis added)

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However, by another definition, the HT Option consists of a ballpark, residential and other uses at the Howard Terminal site itself:

“The City is currently reviewing a proposed project to reuse the Howard Terminal site for a new baseball stadium, waterfront open space, and mixed-use development, ***which is referred to as the Howard Terminal Option*** throughout this document.” DEIR, p. 112 (emphasis added)

Moreover, in the Alternatives discussion, the “Howard Terminal Option” is treated as separate from, rather than including, the land use changes within the 16-block area:

“The Reduced Office alternative would not include the Howard Terminal Option. ***In addition***, the land use changes as a result of the Howard Terminal Option would not occur such that the area between Brush, Clay, 2nd and 4th streets would not become Mixed Use Flex. All other aspects of the Specific Plan would remain. *See* DEIR, p. 699 (emphasis added).

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(2018), 6 Cal 5th 502, 510 (citing *Laurel Heights Improvement Ass'n. v. Regents of University of California* (1988) 47 Cal. 3d 376, 405).

²² U.S. Census Bureau. <http://data.census.gov>. (accessed November 5, 2019).

Accordingly, it is unclear to reviewers whether the HT Option is considered as only a change in General Plan land use designations within a 16-block area inside the DTOSP boundary; whether it refers only to the mixed-use project at the Howard Terminal site; or whether it is a combination of both. The definition of the HT Option is inconsistent throughout the DEIR and it must be revised and recirculated to accurately describe the project actually being proposed and address the impacts of that proposal based on a consistent basis.

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B. The HT Option Omits Other Changes Within the DTOSP Area that Would Result from the HT Mixed-Use Project.

Even assuming the HT Option is intended to represent only changes within the DTOSP area in the event the HT Mixed-Use Project is approved, it is artificially constrained to just the 16-block area and fails to include major changes within the DTOSP that would also result from the ballpark project – such as ballpark parking, ballpark transit and rideshare users, the gondola, and displacement of Howard Terminal truck storage. This has broader consequences in several ways, including impacts on transportation throughout Jack London Square and downtown Oakland, access to Alameda and regional mobility on Interstate 880, significant air quality impacts, and especially potential safety hazards at railroad right-of-way crossings.

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While the DEIR is inconsistent on the question of including or excluding the HT Mixed-Use Project from the HT Option, one thing is clear: within the DTOSP area itself, the HT Option is limited to the increased intensity of development in the subject 16-block area bounded by Brush Street, Clay Street, 5th Street and Embarcadero West.²³ However, this artificially constrained footprint for the HT Option cannot be reconciled with the plans for the HT Mixed-Use Project, which encompass not just the on-site project at Howard Terminal, but also major off-site changes to the transportation system throughout the DTOSP area. If in fact the HT Mixed-Use Project were to be approved and proceed, the resulting impacts within the DTOSP area will extend far beyond those 16 blocks. Having elected to tie the HT Mixed-Use Project together with the HT Option in the DTOSP, the DEIR should have presented a full and accurate picture of all the environmental consequences that could occur under the HT Option scenario throughout the DTOSP area.

For example, according to an analysis prepared by consultant Fehr & Peers,²⁴ these impacts include the following (all numbers for peak hour during weekend evening baseball games):

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- 10,100 pedestrians walking to games through the DTOSP area, including BART and bus riders and persons who arrived by motor vehicle and parked within the DTOSP area.
- 3,300 pedestrians walking through the DTOSP area and crossing the railroad right of way via at-grade crossings at Market Street and Martin Luther King Way.
- Large numbers of ride share vehicles delivering game-goers:
 - 400 vehicles driving through the DTOSP area and crossing the railroad right of way to the Howard Terminal site.

²³ DEIR, p. 45.

²⁴ See Ex. D, Fehr & Peers, *Proposed Transportation Infrastructure – Howard Terminal Ballpark District* (June 2019).

- 920 vehicles arriving within the DTOSP area (200 vehicles inside the “geo-fenced” area and 400 vehicles outside it) with two parking lots of 160 spaces each.
- 3,700 vehicles parking within DTOSP area; these vehicles will be driving within the DTOSP area, and their drivers and passengers will walk through the DTOSP area and cross the railroad right of way to the ballpark.
- 3,400 vehicles driving through the DTOSP area and crossing the railroad right of way to reach parking on the Howard Terminal site, with 2,200 vehicles crossing at Market Street and 1,200 vehicles crossing at Martin Luther King Way.

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While inadequate parking supply, in itself, is no longer considered a significant environmental impact under CEQA, an EIR still must consider potentially significant secondary impacts related to air quality, noise, safety, and any other impacts associated with transportation, including parking.²⁵ For many projects, such secondary impacts may represent only a minor addition to the project’s direct impacts. However, the Fehr & Peers analysis indicates very large numbers of vehicles driving to and looking for parking within the DTOSP area to reach the ballpark, suggesting that the contribution of secondary impacts cannot be assumed to be minor. Yet the DEIR discussion of the HT Option contains no analysis or even mention of these environmental consequences.

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In addition, the public record indicates that the HT Mixed-Use Project EIR will also consider multiple “variants” with DTOSP components, impacts, and issues, but none of these variants are reflected in the DTOSP or this DEIR. These variants include new pedestrian overcrossings and at-grade crossing improvements, and an “aerial tram or gondola above Washington Street extending from downtown Oakland near 12th Street BART to Jack London Square.”²⁶ These variants are located within the DTOSP area, not on the Howard Terminal site. Moreover, though they would be installed to serve the HT Mixed-Use Project, large numbers of people other than game-goers can be expected to use the gondola and crossing improvements to access the Jack London Square area, further altering patterns of transportation from those analyzed in the DTOSP both within and far beyond the 16 blocks of the HT Option. The gondola in particular would represent a significant change to the transit system, yet the DTOSP ignores the prospect of the gondola and its potential impacts in the HT Option analyses.

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Another consequence of the HT Mixed-Use Project will be elimination of the maritime ancillary uses for intermodal trucks, including equipment and container staging and transloading, for which the Howard Terminal site is currently utilized. The current estimate for usage of this location for these purposes is that over 325,000 gate moves at Howard Terminal annually. It is reasonably foreseeable that many of the displaced trucks, serving businesses near their current preferred parking at the Howard Terminal, will seek to park in the same vicinity within the DTOSP area, increasing local congestion, emissions, delays, and safety considerations. The alternative is that these trucks will be forced out of the Port area, be required to travel greater distances for moves which are currently intra-port staged drays, and create millions of additional VMT,²⁷ hours of new regional highway delay, and tons of unnecessary Greenhouse Gas emissions, criteria pollutants, and toxic air contaminants.

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²⁵ See Pub. Res. Code § 21099.

²⁶ See Ex. E, City of Oakland, *Notice of Preparation (NOP) of a Draft Environmental Impact Report for the Oakland Waterfront Ballpark District Project* (November 30, 2018).

²⁷ Vehicle Miles Traveled (“VMT”) refers to the “amount and distance of automobile travel attributable to a project” under SB 743 and the City’s VMT guidelines. See DEIR, p 161.

Despite tying together and conditioning the HT Option on the approval of the HT Mixed-Use Project, the DEIR presents a fictitious version of the HT Option which is artificially constrained to the 16-block area. Yet obviously both the changes within the 16 blocks and the massive influx of vehicle traffic, parking and foot traffic generated by the HT Mixed-Use Project will inextricably occur together if the latter is approved. In no circumstances will the changes described as the “HT Option” in the DEIR occur without the larger changes described in the Fehr & Peers analysis. The “limited” HT Option as described in the DEIR thus represents a scenario that *will not occur* and its presentation in the DEIR is misleading to the public and decision-makers.

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Finally, the cumulative impact analyses in the DEIR must consider the impact of the DTOSP together with past, present and reasonably foreseeable future projects. The DEIR acknowledges the Waterfront Ballpark District as a reasonably foreseeable future project included in cumulative impact analysis for traffic and transportation.²⁸ In fact, the HT Mixed-Use Project is recognized as contributing to one significant and unavoidable cumulative impact:

“The cumulative development includes ... the Howard Terminal development.

“Cumulative Impact TRANS-1: Development under the Specific Plan together with cumulative development, would generate additional multi-modal traffic traveling across the at-grade railroad crossings that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.” DEIR, p. 214.²⁹

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Having acknowledged one such cumulative impact with respect to Transportation, the DEIR cannot turn a blind eye to the cumulative impact and disregard others. Accordingly, even if the HT Option is limited to the 16-block area, the DEIR must consider the contribution of the HT Mixed-Use Project, including its components within the DTOSP, to all environmental impact categories – air quality, noise, traffic including railroad crossing safety, etc. – in its cumulative impact analyses. Yet the HT Mixed-Use Project is not discussed in the DEIR’s cumulative impact analysis for any other impact, nor are the environmental consequences of the HT Option within the DTOSP area but outside the 16-block area.³⁰

²⁸ DEIR, p. 127, Table V.A-4.

²⁹ Since elevating the pedestrian crossing over the railroad tracks is treated as a “variant” in the Notice of Preparation for the HT Mixed-Use Project EIR, it must be assumed that all pedestrians walking to games will cross at grade at Market Street and Martin Luther King, Jr. Way in the base case for that project. The variant does not propose grade-separated vehicle crossings, so all vehicles driving to the Howard Terminal site would also cross at grade on the same two streets, even under the variant. *See* Ex. E, p. 4.

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³⁰ The cumulative contribution of the HT Mixed-Use Project is included in projections of roadway segment congestion, although this information is buried in an appendix table. *See* DEIR, Appendix F, “Transportation and Circulation Supplemental Information”, table of Two-Way Road Segment Traffic Volume Forecasts. It is unclear whether impacts to roadway segment Levels of Service (LOS) are treated as CEQA impacts. The DEIR cites CEQA Guidelines changes that eliminated LOS as a significance metric, yet includes a threshold of significance and makes significance findings for such impacts. *See* DEIR, pp. 183-184, 212-216. In any case, the DEIR does include the HT Mixed-Use Project in the cumulative modeling of roadway segment LOS, but inconsistently omits that project from other cumulative analyses. In addition, it is unclear whether the HT Option is included in the roadway segments cumulative analysis. From the column headings in the Appendix F table, it appears that the cumulative scenario may represent the Base Case DTOSP plus the HT Mixed-Use Project – a scenario which will not occur, since the HT Option occurs with the HT Mixed-Use Project. *See* DEIR, Appendix F.

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C. The DEIR Fails to Treat the HT Option on a Consistent Basis.

For many impact areas, the DEIR fails to carry out any analysis of the HT Option. In some cases, it is not clear if the impacts being disclosed would occur under the Base Case scenario, the HT Option, or both.

Impacts associated with the HT Option are called out only in a few instances, e.g., under Aesthetics (visual impact of increased building height, floor area ratio and density in the 16 block area) and Cultural Resources (loss of the Jack London Maker District).³¹ Otherwise, the DEIR is silent on the consequences of the HT Option.

Page 112 of the DEIR states that “A discussion of the HT Option is presented only where the impacts of the proposed project would be substantially different from the Plan,” but no justification is given for proceeding in this manner. This approach makes it impossible for a reader or decision-maker to identify whether the HT Option may have been mistakenly left out of a particular subject-matter analysis, or whether the reader must assume (but with no analysis to support the assumption) that the outcomes would be the same under both the HT Option and the Base Case. The DEIR should be revised to include analysis on the HT Option for each impact section, regardless of whether impacts are claimed to be similar to those of the Base Case or not.

In addition, there are many instances throughout the DEIR where the HT Option would plainly have greater environmental consequences than the Base Case, but no distinction is drawn. For example, Chapter V.A (Land Use and Planning) states: “The areas where the most significant changes in land use are proposed include: areas south of I-880 within Jack London District including Oak Street and Victory Court and areas adjacent to Howard Terminal...”³² While an impact analysis for the Jack London District (the Base Case) is included, no impact analysis is provided for the HT Option, despite recognizing that the area adjacent to Howard Terminal is an area where the most significant changes in land use would occur as a result of the HT Option.

Impact TRANS-2, the transportation safety hazard from additional pedestrian and vehicle traffic at the at-grade railroad crossings, is an impact which clearly would be affected by greatly increased development in the vicinity of those crossings under the HT Option. Yet the discussion of Impact TRANS-2 does not address the HT Option.³³ The DEIR concludes that Impact TRANS-2 is significant and unavoidable even under the Base Case, due to the uncertainty of mitigation measure implementation.³⁴ However, that conclusion does not excuse its failure to consider the additional risk to crossing safety under the HT Option, which should be disclosed and discussed. Under Existing Conditions, the DEIR notes the risk of pedestrian injuries by trains, but reports that none have occurred at most of the crossings in the past five years.³⁵ How many more incidents can be expected with the introduction of over 23,000 nearby residents under the HT Option?³⁶ The DEIR does not say.

Chapter V.G (Biological Resources) also lacks analysis associated with the HT Option, such as potential indirect impacts to the estuary and associated species that could occur from waterfront development and increased visitation, and consultation with NOAA. Chapter V.I (Hazards and Hazardous Materials) lacks

³¹ See DEIR, pp. 352, 395.

³² DEIR, p. 131.

³³ See DEIR, pp. 210-211.

³⁴ *Id.*

³⁵ See DEIR, pp. 154-155.

³⁶ AES Report, p.4.

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analysis of the HT Option, despite the Howard Terminal being listed on the Department of Toxic Substances Control's Cortese list.³⁷ In contrast, Section 5.L (Population and Housing) includes analysis regarding the HT Option in the form of the Downtown Jack London Square area.

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More examples of this hit-and-miss treatment of the HT Option throughout the DEIR include the analysis of land use conflicts, discussion of consistency with other City plans and policies (in particular the West Oakland Specific Plan), and the discussion of impacts to historic resources. These issues are discussed in more detail in the comments below.

But the fact remains that analysis of the HT Option is inconsistent across DEIR sections, and in most cases appears to be absent altogether. The DEIR should be revised to fully define and evaluate the impacts that would result under the HT Option in every impact area, so that significant impacts can be identified, and appropriate mitigation measures can be developed. Any assumptions that the Base Case and the HT Option impacts would be the same for a particular subject, and the reasoning for such assumptions, must be disclosed and exposed to scrutiny by DEIR readers and decision-makers, and not avoided through a general statement or vague and conflicting project descriptions.

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V. The DEIR Fails to Adequately Address Land Use Conflicts

As explained above, the DTOSP would introduce extensive residential development and greatly increased density within the area bounded by Brush Street, Clay Street, 5th Street and Embarcadero West, where current residential use is almost non-existent. Under existing conditions, this 16-block area functions as an effective industrial buffer zone, maintaining separation between incompatible residential and heavy industrial/freight land uses at and adjacent to the Port of Oakland. Current land use designations for the parcels within this area (LUTE Business Mix, EPP light Industry, EPP Off-Price Retail District) strictly limit residential development and prevent introduction of incompatible uses.³⁸ This industrial buffer area allows for only low-density development, ranging from 2.0 to 4.0 FAR.³⁹

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Under the Base Case scenario, the DTOSP would eliminate the buffer area and promote encroachment by residential and commercial uses in proximity to Port-related industrial uses. Specifically, the Base Case would re-designate the four parcels closest to the Howard Terminal (i.e. between Brush Street, Clay Street, Embarcadero, and 2nd Street) to EPP Mixed-Use District (EPP-MUD).⁴⁰ The EPP-MUD District encourages "development of nontraditional higher density housing (work/live, lofts, artist studios)."⁴¹ Additionally, the Base Case would re-designate the three parcels between Castro, Clay, 4th and 5th Streets to the Central Business District-2 designation, which allows high-density urban residential uses.⁴² As a result, the Base Case alone under the DTOSP would dramatically increase the overall density within the current buffer area.⁴³

Also, of note, because residential intensity would increase in the southern part of the Jack London District east of Broadway as well,⁴⁴ the impacts that those residents will have by placing additional pressure on

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³⁷ https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=01440006 (accessed 11/8/2019)

³⁸ DTOSP, Figure LU-12 and AES Report, pp. 1-2, Tables 1 and 2.

³⁹ DTOSP, Figure LU-9.

⁴⁰ DTOSP, Fig. LU-13a.

⁴¹ See EPP, p. 133.

⁴² See General Plan, p. 155.

⁴³ See DTOSP, Fig. LU-9 and LU-10a; and AES Report, p. 2, Table 3.

⁴⁴ DEIR, Fig. III-6.

the 16-block buffer zone area of concern must be identified, analyzed and mitigated. These development pressures will increase congestion, create additional intensity of uses and public safety risks, and thus underscore the reasons for retaining non-residential use west of Broadway.

Under the HT Option, the increase in density in this buffer zone area would be even more dramatic. The HT Option would place residential uses within every part of the 16-block area, designating all parcels between Embarcadero, Fourth Street, Brush Street and Clay Street as EPP-MUD and the remaining parcels as CBD2.⁴⁵ As a result, the HT Option would further increase development intensity within the Third Street Corridor between Brush, Clay, Second and Fourth Streets, increasing the FAR from 2.0 to 12.0 and eliminating the lower-density “Maker District” proposed to be retained under the Base Case.⁴⁶ As City staff have elsewhere stated, these and other land use changes proposed in the Jack London District represent “a massive transition from industrial to mixed use commercial and residential zones.”⁴⁷

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Yet the degree of this transition is largely concealed from reviewers of the DEIR. The DEIR does very briefly acknowledge that the DTOSP “would result in a higher density and intensity of mixed use within the Plan area,” and states generally that the Jack London District including the area adjacent to the Howard Terminal is among the areas subject to “the most significant changes in land use.”⁴⁸ But there is no detail or analysis for understanding or judging this impact; in fact, despite these “significant changes,” the DEIR presents only a vague and conclusory description of the resulting land use conflicts:

Residential uses adjacent or in close proximity to heavy industrial uses can be difficult to harmonize. People living near industries may experience higher levels of noise, pollution, and truck traffic, and less visually attractive conditions. Industrial uses can experience greater regulatory controls over their activities and, despite a facility’s location in an industrial zone, complaints may force the facility to change its operations.⁴⁹

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This cursory paragraph does not meaningfully account for the land use conflicts that would inevitably result from eliminating the industrial buffer zone and greatly increasing residential density, as well as significantly increasing pedestrian and vehicular traffic, in the area near the Howard Terminal. Nor does it allow readers of the DEIR “to understand and to consider meaningfully” the magnitude of the changes and their import. The increased residential development in this area would introduce conflicts with existing industrial sources of pollution, odors, noise and vibration, and nighttime lighting in and surrounding the Port area. Introduction of residential uses, even only as proposed in the DTOSP’s Base Case, would bring heavier traffic to the area, creating safety hazards for heavy-duty vehicles, long-haul truck traffic, motorists, pedestrians, and freight and passenger rail operations on the railroad right of way. Each of these effects would be exacerbated by the higher residential density of the HT Option and, cumulatively, the DTOSP taken together with the HT Mixed-Use Project. Nor are any of these impacts adequately analyzed in the corresponding impact sections of the DEIR.

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The minimal narrative provided in the DEIR does not constitute sufficient analysis and disclosure to satisfy CEQA, even had the DEIR forthrightly acknowledged there would necessarily be significant land use conflict impacts. But in fact, the DEIR does not recognize a significant impact; instead, the DEIR

⁴⁵ DTOSP, Fig. LUI-13b; DEIR, p. 49.

⁴⁶ DTOSP, Fig. LU-10b.

⁴⁷ See Email from Ryan Russo, Director, Oakland Dept. of Transportation, to Gwen Litvak, Bay Area Council (May 29, 2019), enclosed as Ex. E.

⁴⁸ DEIR, p. 131.

⁴⁹ DEIR, p. 137.

finds that impacts of the DTOSP, by itself and cumulatively with foreseeable development, “would be less than significant related to conflict with adjacent land uses.”⁵⁰ That conclusion is unsupported by evidence and is facially implausible, given the magnitude of the changes in the subject 16-block area with resulting increase to up to 13,000 new residents in proximity to heavy industrial and Port activities under the Base Case; over 23,000 new residents with the HT Option; and, in the cumulative impact analysis, nearly 31,000 new residents with the HT Mixed-Use Project included.

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By introducing this intensity of residential development and eliminating the buffer zone separating industrial from residential and commercial uses, the DTOSP will create extensive land use conflicts between existing industry and new residents, resulting in impacts that require greater scrutiny in the DEIR in at least the following areas:

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Transportation

The DEIR does not address the transportation-related land use conflicts which will result from the introduction of intense new residential uses, generating increased pedestrian, bicycle and vehicular traffic onto the current heavy truck routes designated to serve existing industrial uses. The City and the Port have designated heavy truck routes allowing truck access to the Port area utilizing sections of Market Street, Martin Luther King, Jr. Way, Third Street, Brush Street, Castro Street, and Embarcadero West.⁵¹ These heavy truck routes also serve the more than 25,000 annual truck transactions occurring at the Howard Terminal. As the DEIR notes, two of the rail crossings, at Market Street and Martin Luther King Jr. Way, are designated truck routes, and the Market Street crossing provides truck access to Howard Terminal and Schnitzer Steel.⁵²

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The DEIR also identifies the Third Street truck route as an Area of Controversy/issue to be resolved from scoping comments. DTOSP Policy M-3.9 calls for preserving existing truck routes “to, from, and within the Jack London [sic] to facilitate safe and efficient goods movement from industrial and warehousing facilities.”⁵³ Presumably, then, the City and Port do not contemplate re-routing truck routes away from the increased residential development planned for the Jack London District. Yet the DEIR contains no analysis of conflicts between the truck routes, preserved pursuant to DTOSP Policy M-3.9, and the additional vehicle and pedestrian traffic introduced into the same corridor by the DTOSP’s proposed land use changes. Deviations from this policy will result in trucking diversions, increasing VMTs, congestion, and truck idling, which will in turn have inevitable environmental impacts that need to be assessed in the DEIR.

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The higher volume of vehicular and pedestrian traffic would also increase hazards at the at-grade rail crossings at Market Street, Martin Luther King Way, and Clay Street, increasing the potential for accidents at these crossings. The HT Option itself would not only create further land use incompatibility issues within the Third Street Corridor by encouraging residential development surrounding Third Street, but would introduce massive new transportation impacts on broader Downtown Oakland, which are also not evaluated in the DEIR.

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⁵⁰ DEIR, pp. 139, 141

⁵¹ See Ex. G, “City of Oakland Truck Routs and Prohibited Streets” (Map); “Port of Oakland Maritime Facilities” (Map); OMC 10.52.120 (Local Truck Routes).

⁵² DEIR, p. 154.

⁵³ DTOSP, p. 131.

Air Quality

The DEIR also fails to address the land use conflicts between the new residential uses and existing heavy industrial uses arising from air emissions (especially particulate emissions) generated by industrial uses. Beyond the brief narrative quoted above, the DEIR notes only that future projects that might generate “odors” in the DTOSP area, but nonetheless concludes this “would generally be consistent with existing land uses” and is not expected to generate a substantial number of complaints; therefore, such impacts from new sources would be less than significant.⁵⁴

Thus, the DEIR fails to discuss the significant air quality impacts of land use conflicts from a major increase in residential and commercial uses with nearby existing heavy industrial uses with respect to any threshold other than odors. This is a significant oversight, as the DTOSP would both create new emissions and impacts with respect to criteria pollutants, air toxics including diesel particulate matter, and Greenhouse Gas emissions. All of these impacts must be evaluated in the DEIR.⁵⁵

However, the DEIR fails to discuss land use conflicts from a major increase in residential and commercial uses in nearby existing heavy industrial uses that can be sources of emissions and odors.

Hazardous Materials

The DEIR fails to assess the potential land use conflicts arising from introducing residential and commercial uses adjacent to industrial sites affected by hazardous materials. The DEIR notes that “some commercial businesses (e.g., dry cleaners) and flex industry uses could use substantial quantities of hazardous material,” and that improper handling and accidents involving these substances “could expose workers, the public, and the environment to hazardous materials.”⁵⁶ Furthermore, the DEIR notes that intensification of land uses under the DTOSP “could result in the increased use of hazardous household and commercial materials, and thereby create a cumulative increase in risk associated with accidental release of hazardous materials into the environment.”⁵⁷ However, the DEIR concludes that no significant impacts related to hazards and hazardous materials would occur with implementation of the City’s Standard Conditions of Approval.⁵⁸ The DEIR thus fails to discuss the reasonably foreseeable land use conflicts arising from existing industrial facilities’ use of hazardous materials directly adjacent to new residential or commercial uses allowed under the DTOSP.

Noise and Vibration

The DEIR’s noise and vibration analysis similarly omits any substantive discussion of noise or vibration impacts resulting from land use conflicts between new residential uses and existing heavy industry and transportations systems. The DEIR notes that the highest traffic noise increase would occur along Embarcadero West, between Market Street and Martin Luther King Jr. Way—an area where residential uses would be allowed under the DTOSP—and predicts that future residential projects could be exposed

⁵⁴ See DEIR, pp. 246-247.

⁵⁵ See also discussion regarding WOCAP, VMT and LOS impacts at FN 75 and FN 80.

⁵⁶ DEIR, p. 481.

⁵⁷ DEIR, p. 489.

⁵⁸ DEIR, p. 28.

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to noise levels rated “normally unacceptable” for residential land uses.⁵⁹ The DEIR also states that impacts related to vibration from proximity to railroad trains would potentially exceed Federal Transit Administration (FTA) criteria for ground-borne vibrations.⁶⁰ Despite these findings, the DEIR concludes that impacts from operational noise and vibration for future projects under the DTOSP would be reduced to less than significant levels with implementation of the City’s Standard Conditions of Approval.⁶¹ Even under the Base Case, the DTOSP would allow residential use in the parcels immediately adjacent to the rail corridor along Embarcadero West, exposing residents to substantial noise and vibration.

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Additionally, new residential uses that would be allowed adjacent to the City and Port heavy truck routes along Brush, Castro, Second and Third Streets, and Martin Luther King, Jr. Way would be exposed to heavy truck traffic and attendant noise and vibration. These impacts are not sufficiently studied in the Noise section of the DEIR.

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In sum, there is insufficient analysis for the general assertions that “no significant land use impacts related to land use incompatibility would occur as a result” of DTOSP adoption and resulting development.⁶² The DEIR fails to analyze DTOSP consistency with General Plan policies purportedly discouraging incompatible development, and presents no evidence to support its conclusion that the “impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to conflict with adjacent land uses.”⁶³

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In lieu of actual analysis, the DEIR’s cumulative impacts analysis is conclusory. While acknowledging that the DTOSP “would change designated parcels from Light Industry to Mixed-Use,” it does not acknowledge that this would result in a cumulatively considerable contribution to the City-wide loss of industrial land.⁶⁴ Indeed, notwithstanding that the DTOSP-enabled land use changes in the vicinity of industrial and Port activities which would all but eliminate the industrial buffer zone, the DEIR suggests to readers that the buffer zone will actually be maintained:

“[T]he Plan would not result in a significant land use impact by potentially physically dividing an established community; or conflicting with adjacent or nearby land uses; or conflicting with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Although the Specific Plan would change designated parcels from Light Industry to Mixed-Use, *the Plan would maintain an industrially-zoned buffer area* between Brush and Market Streets to support the City’s Industrial Land Use Policy in the adjacent West Oakland area....”⁶⁵ (Emphasis added.)

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However, the “industrially-zoned buffer area” being “maintained” is only a single block wide between Brush and Market Streets. Adjacent to, but outside that small buffer area, is the 16-block area east of Brush Street, including parcels on which residential use is currently prohibited, which the DTOSP will convert to significant residential and office uses under both the Base Case and the HT Option. The DEIR fails to consider that, far from maintaining a sufficient buffer area consistent with the City’s Industrial

⁵⁹ See DEIR, Table V.K-4; DEIR, pp. 562-563.

⁶⁰ DEIR, p. 567.

⁶¹ DEIR pp/ 561-567.

⁶² DEIR, p. 139.

⁶³ DEIR, pp. 139-140

⁶⁴ DEIR, p. 141.

⁶⁵ DEIR, p. 141.

Land Use Policy, the DTOSP is actually proposing to destroy the buffer zone by introducing massive residential development in closer proximity to industrial uses, under both the Base Case and the HT Option.⁶⁶

As such, the DEIR's conclusion that, by maintaining a one-block-wide buffer area, the DTOSP "would not result in a significant land use impact by... conflicting with adjacent or nearby land uses" is not supported by information and analysis in the DEIR, and is contrary to the facts and common sense.

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VI. The DEIR Fails to Recognize Conflicts with Existing Plans and Policies.

CEQA requires an EIR to discuss a project's inconsistencies with applicable local land use plans and policies. CEQA Guidelines § 15125(d). The DEIR concludes that the DTOSP would not conflict with applicable adopted land use policies, plans or regulations because it proposes amendments to the General Plan that supposedly would correct any such conflict.⁶⁷ However, the DEIR fails to acknowledge inconsistencies, or proposed amendments to resolve inconsistencies, between the DTOSP and already-adopted plans and policies, namely, General Plan Land Use and Transportation Element ("LUTE") Policy N5.2, the West Oakland Specific Plan ("WOSP"), and the City's Industrial Land Use Policy ("ILUP").

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A. Inconsistency with General Plan LUTE Policy N5.2.

The DEIR states that:

"Conformance to the General Plan, including Land Use and Transportation Element (LUTE) policies listed below, would discourage development of incompatible land uses or land uses that would result in a division within an established community....

Policy N5.2: Residential areas should be buffered and reinforced from conflicting uses through the establishment of performance-based regulations, the removal of non-conforming uses and other tools." DEIR, pp. 137-138.

The DEIR immediately goes on to acknowledge the potential for impacts from introducing housing in proximity to heavy industrial uses and other sources of air emissions and noise. However, rather than reach the logical conclusion that this presents a potentially significant conflict, the DEIR states that the DTOSP "would not result in a significant land use impact by... conflicting with applicable land use plans, policies, or regulations."⁶⁸

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Thus, the DEIR fails to address the inconsistency between LUTE Policy N5.2 (as well as any other purportedly relevant General Plan policies) and the introduction of new high-density residential development in proximity to conflicting land uses. Introducing massive new residential development in an incompatible area and concluding there would be no conflict because the residential use should then be buffered (while eliminating that buffer), is facially inconsistent with this City policy.

Nor does the DEIR purport to modify LUTE Policy N5.2 in order to accommodate new residential development in the 16-block area. Instead, the DEIR expressly relies on LUTE Policy N5.2 remaining in effect and continuing to "discourage development of incompatible land uses" as support for the

⁶⁶ See Section VI.C, *infra*, for discussion of inconsistency with the ILUP.

⁶⁷ DEIR, p. 140.

⁶⁸ DEIR, p. 141.

conclusion of less-than-significant conflict with applicable land use plans and policies. That conclusion cannot be reconciled with the magnitude of high-density residential development that would be brought into close proximity with conflicting uses under the Base Case, much less even higher density development associated with the HT Option.

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B. Inconsistency with West Oakland Specific Plan.

The DEIR asserts that the DTOSP is “generally consistent” with the WOSP.⁶⁹ However, the DEIR fails to acknowledge significant inconsistencies between the two plans.

The DTOSP intersects with a portion of the WOSP between Market Street and Castro Street.⁷⁰ Specifically, the westernmost four parcels of the DTOSP, between Market and Castro, are within the “3rd Street Opportunity Area” of the WOSP, which generally covers the area south of 5th St. and east of Adeline.

As provided in the WOSP, the 3rd St. Opportunity Area “will continue to support industrial and business activities and jobs, capitalizing on its proximity to the Port of Oakland and its access to the regional freeway network,” while maintaining the “continued prohibition on residential development in this area.” WOSP, p. 4-59. The discussion of consistency with the WOSP identifies the area where the DTOSP and WOSP overlap.⁷¹ The DEIR asserts that the DTOSP and WOSP land uses are “generally consistent” (p. 94), despite the fact that the DTOSP would increase development density and height. The DEIR also notes, without analysis, that under the HT Option where the HT Mixed-Use Project is approved, development intensity in the area of concern would increase dramatically.

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Regarding the overlapping 3rd Street Opportunity Area, the DEIR states:

“South of I-880 between Martin Luther King Jr. Way and Brush Street, the Specific Plan would re-designate parcels to focus light industrial uses along 3rd Street and provide a mix of uses on the periphery of the industrial core (i.e., along 4th Street and Embarcadero). The change in uses would not conflict with the WOSP, which envisions 3rd Street as an opportunity area that celebrates ‘its unique historic commercial and industrial structures’ and welcomes light industrial uses that contribute to a high-quality environment.”⁷²

To apply this logic to the Base Case scenario, the DEIR must ignore the fact that the WOSP prohibits residential development in the 3rd Street Opportunity Area, an unacknowledged land use plan inconsistency.

Further, the DEIR lacks any discussion of consistency of the HT Option scenario with the WOSP. The DEIR briefly summarizes the HT Option, but provides no discussion of whether and how this Option is or is not consistent with the WOSP.⁷³ This is significant because the HT Option is directly in conflict with the WOSP policy that light industrial uses would be focused along 3rd Street – since under the HT Option

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⁶⁹ DEIR, p. 94.

⁷⁰ See DEIR, p. 34, Fig. III (although the DEIR later incorrectly states (p. 94) that this intersection between the plans occurs between Brush and Martin Luther King, Jr. Way).

⁷¹ See DEIR Fig. III-2 and pp. 93-94 (although the DEIR elsewhere incorrectly indicates that the WOSP “abuts” rather than overlaps with the DTOSP, see pp. 32, 115, 128).

⁷² DEIR, p. 94.

⁷³ DEIR, p. 95

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these properties would no longer be industrial. Again, the DEIR’s conclusion that the DTOSP “would not result in a significant land use impact by... conflicting with applicable land use plans, policies, or regulations”⁷⁴ is contradicted by the facts, and there is no basis for the DEIR to conclude that the DTOSP is consistent with the WOSP.⁷⁵

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C. Inconsistency with Industrial Land Use Policy.

The DEIR also fails to address inconsistency between the DTOSP and the City’s ILUP. As noted before, the DEIR states that the DTOSP would “maintain an industrially-zoned buffer area between Brush and Market Streets to support the City’s Industrial Land Use Policy in the adjacent West Oakland area.”⁷⁶ This statement is misleading as the DTOSP would eliminate nearly the entirety of the existing buffer zone and maintain only a one-block-wide strip between Market Street and Brush Street. Only three unusually narrow parcels in that strip could retain their current zoning of CIX-1B/T (West Oakland Plan Area Commercial Industrial Mix 1B/Transport and Warehousing Combining Zone), which allows a “wide variety of transportation facilities, warehousing and distribution, and similar and related supporting uses.”⁷⁷

However, the industrial buffer identified in the ILUP – Subarea 17, for which the policy is “Keep Industrial” – extends beyond Brush Street to Martin Luther King Jr. Way, encompassing eight additional standard-size parcels.⁷⁸ Consistent with the ILUP, seven of these eight parcels currently are zoned CIX-1B (West Oakland Plan Area Commercial Industrial Mix-1B—Low Intensity Business) or M-30 (General Industrial Zone). Both CIX-1B and M-30 zoning generally support industrial uses and prohibit residential uses, which must be modified to introduce residential uses consistent with the DTOSP’s proposed land use designations.⁷⁹

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Thus, the DTOSP is at best only consistent with the ILUP in a narrow one-block wide strip, but conflicts with the ILUP’s “Keep Industrial” policy in the larger area from Brush Street to Martin Luther King, Jr. Way. The DEIR fails to acknowledge this inconsistency. On the contrary, the DEIR’s claim to maintain the current industrial buffer zone in the DTOSP, when in fact it is eliminating the buffer except in the Market-Brush strip, is inaccurate and leads to the erroneous finding of no conflict with adopted land use policy. And again, the DEIR lacks any discussion at all of the inconsistency of the HT Option with the ILUP.

⁷⁴ DEIR, p. 141.

⁷⁵ Significantly, the elimination of industrial zoning along the 3rd Street Corridor and the current buffer zone generally extending west from Broadway and south of I-880 is also inconsistent with the West Oakland Community Action Plan recently adopted by the Bay Area Air Quality Management District and developed in order to implement AB 617. (See <http://www.baaqmd.gov/community-health/community-health-protection-program/west-oakland-community-action-plan>) Deviation from the WOSP in this regard may also have significant Air Quality impacts which are also not analyzed in the DEIR.

⁷⁶ DEIR, p. 141.

⁷⁷ See Oakland Municipal Code (OMC) 17.73.010.B.

⁷⁸ DEIR, Figure III-6.

⁷⁹ Residential use currently is permitted only in the parcel furthest from the waterfront, between Castro and MLK Way, Fourth and Fifth, which is zoned C-40 (Community Thoroughfare Commercial Zone).

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VII. The DEIR Also Lacks Sufficient Analysis in Several Important Impact Areas.

A. Traffic, Transportation, Parking and Public Safety.

a. Trip Generation Rates are underestimated.

The trip generation estimates for the DTOSP (Table V.B-4, p. 185) contain several errors and erroneous assumptions that result underestimates of vehicle trips⁸⁰ that affect other analyses that depend on these inputs including Greenhouse Gas emissions and noise. Specific issues include the following:

- The trip generation for residential projects assumed an average project size of about 500 units. The Institute of Transportation Engineers (“ITE”) data used to determine trip generation has an average size of approximately 220 units and most recent residential developments in Oakland are not larger than 250 units. Assuming an average project size of 500 units may lead to an underestimate of vehicle trips being generated by the DTOSP.
- The trip generation for retail land uses does not estimate a typical size of retail establishments, but instead combines all retail for the DTOSP into one trip generation estimate. This significantly underestimates the trips generated by the retail component. When retail is treated as one large project, trip generation per square foot decreases as a project gets larger. However, the DTOSP retail is likely to consist of many smaller projects spread out over a large area. Therefore, a decline in trip generation per square foot is not anticipated as one might expect at a large mall.
- Trip generation for office projects assumed an average project size of about 500,000 square feet. The ITE data used to determine trip generation has an average size of about 171,000 square feet with few studies of developments near 500,000 square feet. The assumption of 500,000 square feet is too large for an average office building and this also affects total vehicle trip generation.
- Trip generation for the industrial components assumed a single combined project. Like retail, a very large industrial project has fewer vehicle trips per square foot than a smaller one. Since the industrial uses are likely to be spread out over the entire plan area, calculating the trip generation as a single use has likely underestimated the total number of trips.
- The calculations for pass-by reduction of the retail component of retail do not appear to be correct. For example, 63,740 daily retail vehicle trips adjusted for non-auto reductions and assuming a pass-by reduction of 17% should result in about 5,082 pass-by trips (63,740 x 46.9% x 17%) but 5,750 is reported in the table. Similarly, the PM peak hour also takes a higher

⁸⁰ In 2017, the City changed its transportation impact guidelines to align with SB 743 requirements to use the VMT approach, rather than roadway and intersection Level of Service (“LOS”) analysis, and the DEIR asserts that the DTOSP project would meet two of three VMT screening criteria and thus have no significant impact. DEIR, pp. 182-183, 189, 192. However, the Alameda County Congestion Management Program continues to use LOS as a metric for consistency with the County’s traffic Congestion Management Program, and LOS-related impacts are therefore included and analyzed in the DEIR, Appendix F. See DEIR, pp. 183. The analysis in Appendix F shows significant congestion and adverse impacts would result from introducing high-density residential growth into the 16-block area of concern and surrounding roadways, especially in concert with the HT Mixed-Use Project. DEIR, pp. 212-216.

reduction than what the calculations would suggest (7,095 x 46.9% x 34% = 1,131 and not 1,281 as reported).

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cont.

b. The analysis of safety impacts and mitigation are insufficient.

The DEIR's discussion of safety impacts does not disclose the full extent of the consequences resulting from the introduction of nearly 30,000 new residents and pedestrians in an area with frequent heavy-duty truck and freight train traffic. Pedestrian safety and circulation are briefly addressed at pages 193-196 of the DEIR. The DTOSP includes several policies aimed at improving pedestrian safety along with specific improvements identified. The DEIR generally concludes that the plan and associated development would result in a less than significant impact on pedestrians because the DTOSP identifies a list of projects that would enhance pedestrian access and safety.⁸¹

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While the list of projects identified in Figure V.B-5 of the DTOSP propose many improvements to high injury network locations, there are many streets in the high injury network that show no improvements even though the DTOSP development would increase pedestrian activity significantly throughout the area. The DEIR should contain more discussion about how streets such as 14th Street, Grand Avenue, and Lakeside Drive (which are on the high injury network) would not have a significant impact from the additional pedestrian activity without updating the pedestrian infrastructure on these streets.

Impact TRANS-2 and Cumulative Impact TRANS-1 state that "Development under the Specific Plan together with cumulative development, would generate additional multi-modal traffic traveling across the at-grade railroad crossings that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard." While the DEIR identifies increased railroad crossing activity as a significant impact, the DEIR needs to provide more analysis to quantify and disclose the multimodal safety impacts along the railroad corridor at at-grade crossings and between crossings. Even when an EIR concludes that an impact is significant and unavoidable, it must disclose and explain the implications of the impact, which is especially critical here, where the foreseeable outcome associated with safety would be an increase in pedestrian, bicyclist and vehicle accidents with injuries or fatalities. Additional disclosure is warranted regarding current collision rates and hotspot locations; existing substandard infrastructure conditions; and a quantification of future conditions and the anticipated increase in accidents if appropriate mitigations are not implemented.

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Moreover, Mitigation Measure TRANS-2, which requires the City to undertake a Diagnostic Study to identify an unspecified "suite of improvements" to railroad crossing safety, does not satisfy the requirements for deferred mitigation under CEQA. CEQA Guidelines § 15126.4(a)(1)(B) provides that specific details of a mitigation measure may be developed after project approval when it is impractical or infeasible to include those details in the EIR, but *only* if the lead agency adopts specific performance standards that the mitigation measure will achieve, *and* identifies types of potential actions that can feasibly achieve that performance standard. Presenting both performance standards and identified types of candidate actions in an EIR is essential in order to demonstrate that, while the precise form of mitigation remains to be selected, feasible mitigation is available and reasonably likely to be effective. However, Mitigation Measure TRANS-2 as described in the DEIR (pp. 210-211) meets neither of these criteria. It specifies no performance standard which must be met by improvements to be determined through the future Diagnostic Study. As for candidate actions, the only possibility identified in Mitigation Measure TRANS-2 for consideration in the Diagnostic Study is "elements necessary for a Quiet Zone through Jack London District." The DEIR does not explain what those "elements" might be or

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⁸¹ DEIR, pp. 193-196, 210.

how they could feasibly achieve a performance standard. A “Quiet Zone” is not itself a safety improvement, but rather a crossing where trains need not sound their horns because some other safety improvements – not identified in the DEIR – have been implemented.

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The stated mitigation should also include consideration of additional grade-separated crossings that would decrease the potential exposure of pedestrians and bicyclists. At a minimum, the reference to the Diagnostic Study should state that additional grade-separated crossings will be investigated. Further, the stated mitigation should address the funding for the Diagnostic Study, since that is within the City’s control (unlike the implementation of the recommended safety improvements, which will require the participation of Union Pacific Railroad and the California Public Utilities Commission, both of which have expressed significant concerns).

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B. Air Quality and Health Risks.

The introduction of residential uses within the 16-block area adjacent to Howard Terminal could result in elevated health risks for future residents and would be inconsistent with numerous City policies and requirements related to health risk, including:

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- General Plan Policy CO-12. This policy requires the separation of land uses that are sensitive to air pollution (such as residential uses) from sources of air pollution. The City should eliminate residential uses within the 16-block area or fully discuss and explain in the DEIR how these uses will be found to be consistent with General Plan Policy CO-12.1.
- Standard Condition of Approval SCA-AIR 4. The City has not presented a Health Risk Assessment, prepared by a qualified air quality consultant, to determine the health risk associated with exposure of new residential uses allowed under the Base Case or the HT Option to existing sources of air emissions. To the extent that the City believes such a requirement is the responsibility of subsequent project developers, and not a requirement for the DTOSP, the City should explicitly state that any project that proposes to introduce residential uses within the 16-block area adjacent to Howard Terminal must comply with Condition of Approval SCA-AIR 4.
- City’s Plan-Level Significance Threshold for Air Quality. The City has not established a special overlay zone containing goals, policies, and objectives to minimize potential Toxic Air Contaminant (“TAC”) impacts in this area, which is near existing sources of TACs and within 500 feet of freeways containing 100,000 or more average daily vehicle trips.
- City’s Project-Level Significance Threshold for Air Quality. The City has not presented the results of a Health Risk Assessment that confirms that new residences in this area would not be exposed to: a cancer risk level greater than 100 in a million; a non-cancer risk (chronic or acute) hazard index greater than 10.0; or annual average PM2.5 concentrations greater than 0.8 micrograms per cubic meter.⁸² To the extent the City believes that such a requirement would be the responsibility of future project developers, and not a requirement for the DTOSP, the City should explicitly require that any project which proposes residential uses within the 16-block area

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⁸² The City has constructive and actual notice of elevated, localized cancer risks in this area due to the recent publication of the West Oakland Community Action Plan by the Bay Area AQMD, reinforcing the need for preservation of the existing industrial buffer zone and avoidance of both the Base Case and the HT Option’s introduction of dense residential development into the 3rd Street Corridor. See: <http://www.baaqmd.gov/community-health/community-health-protection-program/west-oakland-community-action-plan>

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adjacent to Howard Terminal prepare such an analysis and make the required demonstrations.

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cont.

The DEIR's discussion and analysis of impacts associated with health risk from TAC and Criteria Air Pollutant ("CAP") emissions is inadequate and dismissive. For comparison purposes, the EIR certified by the City for the WOSP identifies the siting of new receptors near existing TAC sources as significant and unavoidable for gaseous TACs. *See* WOSP EIR, p. 4.2-45, 50. However, this same effect is identified as less than significant for the DEIR for the DTOSP, despite the fact that the concentration of industrial uses within and adjacent to the DTOSP area is far greater than within the WOSP, and despite the fact that the WOSP actually required a partial no-residential zone buffer within the 16-block area adjacent to the Port.

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Additionally, while the DEIR does identify emissions of CAPs resulting from the DTOSP as significant and unavoidable even with mitigation, there is no attempt to explain the relationship between this significant and unavoidable impact and human health effects, as required under CEQA.⁸³

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C. Historic Resources.

The DEIR states that

"The City is currently undertaking a study to reuse the Howard Terminal site for a new baseball stadium, waterfront open space, and mixed-use development. There is also potential for a second transbay tube crossing and BART station that could be placed in the current I-980 alignment. If these changes move forward, the land use and character of surrounding blocks, could be changed as follows:

- Area between Brush, Clay, 2nd and 4th Streets can become Mixed Use Flex meaning the form and character of the proposed Jack London Maker District (along 3rd Street) is not preserved in this option.
- General Plan Amendments for this same area would change to EPP Mixed Use District."⁸⁴

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The DTOSP conflicts with the WOSP Development Objectives for the Jack London District and the Oakland General Plan's Historic Preservation Element, which identify specific resources which could be visually impacted by changing some land use designations to Mixed-Use Flex as proposed in the DTOSP. The Jack London District is a mix of older low-scale, masonry commercial buildings and warehouses that retains its industrial character through adaptive reuse for office conversion, arts uses, or leasing to small-scale industrial users.⁸⁵

The Waterfront Warehouse Historic District (listed on the National Register of Historic Places ("NRHP")) and the Wholesale Produce Market (potentially eligible for NRHP listing) are both Areas of Primary Importance that are located within this sub-area. In addition, the NRHP-listed Oakland Iron Works and Remillard Brick Company sites are nearby, as is the NRHP-eligible Wempe Bros.-Western Paper Box Co. site. There are also Areas of Secondary Importance (considered worthy of preservation) within the Jack London District, as well as the Southern Pacific Railroad Industrial District, an Area of Secondary Importance immediately to the west.

⁸³ *Sierra Club v. County of Fresno*, *supra*, 6 Cal.5th at 510.

⁸⁴ DEIR, p. 210.

⁸⁵ DEIR, p. 351.

The Base Case in the DEIR (Figure III-4) would introduce a Mixed-Use Flex development area surrounding a Flex Industry core to allow for a wider range of flexible ground floor uses in the District. The DEIR notes impairment or loss of designated historic resources that would result from development, identifying these changes as both individually and cumulatively significant and unavoidable.

However, there is minimal discussion of adaptive re-use; this could provide a way to minimize impacts and allow some development, even if not as much as proposed. The mitigation measures in the DEIR are too broad and general as they only recommend a few programs that would not ameliorate significant impacts, such as reinstating and promoting Oakland's Downtown Façade Improvement Program, expanding public outreach to encourage adherence with the California Historical Building Code, updating the Oakland Cultural Heritage Survey, and providing interpretive signage in Jack London Square. The DEIR should present specific mitigation for impacts to historic-era resources rather than just referring to general provisions of local ordinances.

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Mitigation Measure CULT-1A (iii) suggests that within three years of the adoption of the DTOSP, the City should adopt an adaptive reuse ordinance to encourage preservation of historic buildings. This timeline should be shortened, as the three-year window provides too much opportunity for demolition of historic structures felt to impede particular development projects. Also, adherence to the Secretary of Interior's Standards of Historic Properties and Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings is included as a suggestion; this should be strengthened, citing particular development types as most suitable and recommending design criteria that would, to some degree, reflect the past uses of the area.

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In connection with historic resources, the DEIR briefly mentions the HT Option, presenting a figure (p. 45) that indicates elimination of the Flex Industry Designation, and conversion of the entire area north and northeast of the Howard Terminal to Mixed-Use Flex. Because the HT Option would eliminate the Flex Industrial Designation along the 3rd Street Corridor -- the area within the Jack London District that contains the most historic era buildings -- it would result in proportionally greater impacts to historic properties and the character of the Jack London District. As currently presented, it is unclear if the cultural resources assessment even takes into account the proposed change in zoning along 3rd Street under the HT Option. The DEIR should develop a specific and detailed analysis of impacts to historic properties under the HT Option, and cumulatively with the related HT Mixed-Use Project as a reasonably foreseeable future project. This analysis should include impacts to property associated with the Port of Oakland, historic uses of that portion of the Port, and the identification of or potential for prehistoric and historic archaeological resources.

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The DEIR also lacks any detailed aesthetics/visual analysis focused on historic resources in general and the Jack London District in particular. Highway I-880 divides most of Oakland from the general project region, and therefore nothing would change to the north. However, views within the District would change radically if Mixed-Use Flex development introduces a large residential element into an area with an industrial character, such as the 16-block area, as well as the Howard Terminal site. There is no analysis of the change to the viewshed from the Jack London District or the historic sites listed above, many of which would be changed radically under the HT Option and/or by placing a sports stadium and 4,000 new high-rise residential units at the Howard Terminal site, completely altering the visual character of the area. Significant visual impacts such as these would conflict with Oakland General Plan policies, and development of the HT Option in particular would conflict with the City of Oakland Thresholds of Significance for aesthetics; however, there is no analysis of this subject in the DEIR.

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According to the Aesthetics section of the DEIR, views from Jack London District are typically limited due to the surrounding low-rise development and I-980 and I-880 freeways as well as several mid-rise structures such as the Glenn Dyer Detention Facility.⁸⁶ However, the Jack London District does provide some high-quality views, primarily along the southern Oakland shoreline. Views along the shore include the Oakland Inner Harbor, which spans from east to west. Views south towards the City of Alameda's harbor are also accessible along the coast, and block views of the San Francisco Bay. Views to the east include the Oakland shipping yards, including Howard Terminal, with the iconic shipping container cranes as shown in photo 27. Beyond the Oakland Inner Harbor, the San Francisco skyline can be seen far off in the distance as well.

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The DEIR should be revised to clarify the extensive and adverse visual effects that would occur to views, and the visual setting of historic resources, as a result of substantially changing the character of the Jack London industrial area District from its historic roots, as a working waterfront and transportation hub for over a century, to essentially a mid-rise residential neighborhood. The DEIR should also clarify the increase in magnitude of aesthetic effects to historic resources that would occur under the HT Option (both with and without the HT Mixed-Use Project) when compared to the Base Case scenario.

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VIII. The DEIR Fails to Address Indirect and Growth-Inducing Effects.

As noted in the October 2, 2019 public meeting staff report, Item 2, p. 6, City staff has acknowledged that the DTOSP will “set the stage” for a “stadium at Howard Terminal (and adjacent development).”

However, the DEIR, Section 8.A (Growth Inducing Effects) indicates that the DTOSP is “Unlikely to Induce Substitutional Additional Growth Outside the Plan Area.”⁸⁷ Because the DTOSP as currently proposed does not incorporate sufficient industrial land use buffers or other measures to preserve the existing industrial character along the 3rd Street Corridor, the shift in allowable land use types in this area would remove or reduce impediments to growth at the Howard Terminal Site. The DEIR should be revised to clarify that the DTOSP will result in infrastructure and land use changes that would enable growth in areas outside of the plan, especially at Howard Terminal and adjacent areas.

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Several industrial companies are located within and around the HT site. As discussed previously, both the Base Case and the HT Option would introduce additional conflicts with existing industrial operations, such as residential uses and an overall significant increase in visitors and traffic. According to the DEIR, “Industrial uses can experience greater regulatory controls over their activities and, despite a facility's location in an industrial zone, complaints may force the facility to change its operations.”⁸⁸ Additionally, the 1998 Oakland General Plan Land Use and Transportation Element (p. 124) states that “...Some areas will transform from one single use to new uses...some areas have industrial/housing conflicts that will be resolved through strategies to phase out one use or the other...” Therefore, it is reasonably foreseeable that under these policies, existing industrial uses in the area may be at risk to undergo significant changes, including likely displacement or elimination, as a result of the substantial increase in residential density directly adjacent to the Port proposed under the DTOSP. This will be especially significant and impactful under the HT Option. The DEIR should assess the likely direct and indirect consequences to industrial operations and businesses in the Port, and the inevitable associated environmental effects, that would result from the elimination of long-standing industrial uses that may be forced to change or cease operations as a result of encroaching residential uses allowed under the DTOSP.

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⁸⁶ DEIR, p. 377.

⁸⁷ DEIR, p. 708.

⁸⁸ DEIR, p. 137.

IX. The DEIR Fails to Address Reasonable Alternatives.

Multiple comments were submitted during scoping for the DEIR stating that an alternative should be analyzed that maintains the buffer zone needed to prevent land use conflicts that would arise when residential uses are permitted encroach closer to long-standing industrial uses. For example, comment letters suggested that the DTOSP land use map should be revised to designate areas located between Embarcadero and 3rd Street and Brush Street and Clay Street as Flex Industry. Not only does the DEIR fail to address this reasonable alternative, no justification is provided for its dismissal. This alternative, which would avoid numerous impacts under the DTOSP in this area, must be added to the EIR and analyzed in comparison to both the Base Case and the HT Option. For example, this alternative would avoid or reduce impacts to the character of the Jack London District and would avoid or reduce significant and unavoidable effects to certain historic structures as identified in the EIR. Further, this alternative would reduce or avoid significant and unavoidable impacts not currently identified in the EIR associated with land use compatibility, health risk and exposure of sensitive receptors to elevated levels of pollutants in violations of the City's land use policies (*see* discussion of Air Quality effects above). Additionally, the DEIR should analyze an alternative that is consistent with the WOSP land use designations and policies in the overlapping plan area.

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X. Conclusion.

In their recent statement, the Mayor of Oakland and the President of the Board of Port Commissioners indicated that impacts on the "buffer zone between residential and industrial land uses [and] truck routes" represent significant issues, while promising to address them at a later date through measures to be developed by the Port for the HT Mixed-Use Project. *See* Ex. C. On the contrary, it is the DTOSP itself, under both the Base Case and HT Option, that will eliminate the buffer zone and impact the truck routes (though the ballpark project will certainly worsen the cumulative consequences of doing so). It is the duty of the current DEIR under CEQA to provide sufficient, in-depth analysis and mitigation for the resulting significant impacts, which cannot be left to "future" Port measures.

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For the reasons provided herein, the City should modify the proposed DTOSP to (i) eliminate the HT Option and (ii) revise the Base Case to limit residential uses within the subject 16-block area in the Jack London District to existing designations and conditions. In addition, the City must revise and recirculate the DEIR in order to comply with CEQA in light of the comments submitted herein.

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Respectfully Submitted By, For, and On behalf of all the following Organizations:

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CALIFORNIA TRUCKING ASSOCIATION

CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF NORTHERN CALIFORNIA

DEVINE INTERMODAL

GSC LOGISTICS

HARBOR TRUCKING ASSOCIATION

INTERNATIONAL LONGSHORE & WAREHOUSE UNION – LOCAL 10

INLANDBOATMEN’S UNION, MARITIME DIVISION – ILWU

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Exhibit A



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MEMORANDUM

DATE: 11/7/2019

RE: DTOSP Existing and Proposed GP Designations - Maximum Number of New Residential Uses allowed in Primary Area of Concern (16 block area west of Jack London Square)

Downtown Oakland Specific Plan - Residential Intensity

The Downtown Oakland Specific Plan (DTOSP) would significantly increase residential uses and pedestrian activity in proximity to industrial uses in the Port of Oakland. The proposed general plan and zoning amendments under the DTOSP would increase residential uses near the Port under both the “base case” plan scenario and the “Howard Terminal (HT) Option” scenario, which assumes that the City approves the Ballpark/Mixed Use Project at Howard Terminal.

The primary area of concern with respect to conflicts between new residential uses and Port industrial uses and transportation systems is a 16-block area from Brush Street to Clay Street, and 5th Street to Embarcadero West, directly across from Howard Terminal. The DTOSP and the DEIR do not provide information on the calculation or magnitude of the changes that would be allowed in this area. This memorandum and the tables below address permitted residential uses, including estimated numbers of residential units and new residents in the area, in the following scenarios: (i) current land use regulations, (ii) the Base Case scenario, and (iii) the HT Option scenario both with and without the HT Ballpark/Mixed Use Project.

Maximum Allowed Residential Density

Table 1 below summarizes the maximum allowed residential intensity for both existing and proposed land use classifications within the 16-block area.

TABLE 1

Land Use Classifications		Maximum Allowed Residential Intensity			
		Minimum Square Feet of Site Area per Principal Unit ¹	Maximum Density in Principal Units per Net Acre ²	Assumed Net-to-Gross Ratio	Maximum Density in Principal Units per Gross Acre ²
Existing	LUTE Business Mix	NA	NA	75%	NA
	EPP Light Industry 1	1,089	40		30
	EPP Off-Price Retail	1,089	40		30
Proposed	EPP Mixed Use District	109	400		300
	LUTE Central Business 2	87	500		375

Notes: Values in italics were calculated.

Source: 1) Table III-2, Downtown Oakland Specific Plan Draft Environmental Impact Report, 2019.

2) Table 3A, City of Oakland Guidelines for Determining Project Conformity With the General Plan and Zoning Regulations, 1998.

Existing Scenario

Under the existing City of Oakland General Plan land use designations, the 16-block area contains: 4 blocks designated as LUTE Business Mix, 4 blocks designated as EPP Light Industrial 1, and 8 blocks designated as EPP Off-Price Retail. **Table 2** below provides an estimate of the maximum allowed residential units and residents under existing General Plan land use designations. It should be noted that while the current General Plan allows for residential development on 12 of the 16 blocks, existing zoning regulations further restrict residential development in this area to only 4 of the 16 blocks.

TABLE 2

Existing Allowable Residential Density – 16 Block Area					
Land Use	Blocks	Acreage ¹	Max Density ²	Max Residential Units	Potential Residents ³
LUTE Business Mix	0/16	0.00	0	0	0
EPP Light Industry 1	1/16	2.44	30	73.13	138.94
EPP Off-Price Retail	3/16	7.31	30	219.38	416.81
Total				293	556
Notes: 1) Based on estimated total area of 39.0 acres. 2) Maximum Density in Principal Units per Gross Acre. 3) Based on average household size of 1.9 residents per unit (DTOSP EIR pg. 584). Source: Google Earth, 2019. Oakland, 1998. Oakland, 2019b.					

Base Case Scenario

Under the Base Case proposed land use designations, the 16 block area would contain: 5 blocks designated as EPP Mixed Use, 3 blocks designated as LUTE Central Business District 2, and 8 blocks designated as EPP Light Industrial 1. **Table 3** below provides an estimate of the maximum allowed residential units and residents under proposed land use designations.

TABLE 3

Proposed DOSP Base Case Allowable Residential Density – 16 Block Area					
Land Use	Blocks	Acreage ¹	Max Density ²	Max Residential Units	Potential Residents ³
EPP Mixed Use District	5/16	12.19	300	3,656.25	6,946.88
LUTE Central Business District 2	3/16	7.31	375	2,742.19	5,210.16
EPP Light Industry 1	8/16	19.50	30	585	1,111.50
Total				6,983	13,269
Notes: 1) Based on estimated total area of 39.0 acres. 2) Maximum Density in Principal Units per Gross Acre. 3) Based on average household size of 1.9 residents per unit (DTOSP EIR pg. 584). Source: Google Earth, 2019. Oakland, 1998. Oakland, 2019b.					

HT Option Scenario

Under the HT Option scenario, the 16 blocks area would contain: 13 blocks designated as EPP Mixed Use, 3 blocks designated as LUTE Central Business District 2, and 0 blocks designated as EPP Light Industrial 1. Table 4 below provides an estimate of the maximum allowed residential units and residents under HT Option land use designations.

TABLE 4

Proposed DOSP HT Option Allowable Residential Density – 16 Block Area					
Land Use	Blocks	Acreage ¹	Max Density ²	Max Residential Units	Potential Residents ³
EPP Mixed Use District	13/16	31.69	300	9,506.25	18,061.88
LUTE Central Business District 2	3/16	7.31	375	2,742.19	5,210.16
EPP Light Industry 1	0	0.00	30	0	0
Total				12,248	23,272
Notes: 1) Based on estimated total area of 39.0 acres. 2) Maximum Density in Principal Units per Gross Acre. 3) Based on average household size of 1.9 residents per unit (DTOSP EIR pg. 584). Source: Google Earth, 2019. Oakland, 1998. Oakland, 2019b.					

Ballpark/Mixed Use Project at Howard Terminal

In addition to the potential increased residential intensity within the DTOSP area described above, approval of the Ballpark/Mixed Use Project at Howard Terminal would introduce approximately 4,000 additional residential units adjacent to industrial uses in the Port of Oakland (DTODP EIR, p. 127, Table V.A-40). **Table 5** below summarizes the maximum residential units and residents from the Ballpark District Project.

TABLE 5

Scenario	Residential Units	Potential Residents
Ballpark District Project	4,000	7,600
Notes: Based on average household size of 1.9 residents per unit (DTOSP EIR pg. 584).		

Summary

Table 6 below summarizes the maximum allowed residential units and residents under all scenarios.

TABLE 6

Summary of Allowable Residential Density - 16 Block Area and Howard Terminal		
Scenario	Max Residential Units	Potential Residents
Existing Land Use Designations	293	556
DTOSP Base Case Land Use Designations	6,983	13,269
DTOSP HT Option Land Use Designations	12,248	23,272
DTOSP HT Option plus Howard Terminal	16,248	30,872

References

- City of Oakland (Oakland), 1998. *City of Oakland Guidelines for Determining Project Conformity With the General Plan and Zoning Regulations*. Adopted: May 6, 1998. Available online at: <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak031702.pdf>.
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Exhibit B

The Economics of Land Use



Final Report

Impacts of the A's Proposed Howard Terminal Stadium on the Operations and Economics of the Oakland Seaport

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1. INTRODUCTION AND SUMMARY OF FINDINGS

The Oakland Seaport plays a vital role in the local, regional and statewide economy. Serving as the primary intermodal exchange point of goods for Northern California, its operations are crucial to the businesses and households it serves through a balanced mix of imports and exports. With two on-site rail yards, 6 container terminals, and the ability to transfer goods between ship, truck and rail transport, the Oakland Seaport is the third largest port on the West Coast and one of the most efficient in operations. Over the last two decades, shipping has increased by almost 70 percent, and the Seaport has the potential to grow its business for years to come if it can continue to expand upon its efficiencies and ability to handle larger container vessels.

The Oakland A's baseball team has proposed a new ballpark and mixed-use project for the Howard Terminal, a 50-acre shipping terminal located at the eastern end of the Seaport. The introduction of the Stadium Mixed-Use Project to the Port ecosystem raises serious questions about the compatibility of a major sports/recreational facility, thousands of new residential units, a hotel, retail and commercial and other uses with adjacent maritime and industrial activities.

This report examines trends in the maritime industry and the role of the Oakland Seaport as a vital part of that goods movement ecosystem. It then describes the Ballpark and Mixed-Use project proposed for Howard Terminal by the Oakland A's, what it means for the Howard Terminal itself, as well as the numerous conflicts the Project will create for operations at the Oakland Seaport. The purpose of this analysis is to provide a clear perspective of the value and importance of the Oakland Seaport, and to highlight the myriad issues that are raised by the prospect of using Howard Terminal for a very dense, mixed-use development rife with inherent conflicts with the operational requirements of the Seaport.

Summary of Findings

The Maritime Industry and the Oakland Seaport

- The Oakland Seaport is vital to the commerce of northern California and generated \$160 million in operating revenue in FY2018.¹ This represents 42 percent of the revenues for the Port of Oakland, which also includes the Oakland Airport and a Commercial Real Estate division. The Oakland Seaport is the third largest port in California, and eighth largest in the nation.
- The Port of Oakland holds the Seaport land in trust for the State under the State Tidelands Trust and is bound by law to utilize the land for maritime uses and uses that promote public access and enjoyment of the waterfront. Trust land cannot be sold in fee, but can be developed for Trust-consistent uses on ground leases not to exceed 66 years. Residential uses cannot be built on Trust land.

¹ "By the Numbers." *Port of Oakland*, 2019, www.portofoakland.com/year-review-2018/by-the-numbers/.

- The Oakland Seaport primarily serves the greater northern California region, but also reaches national markets. About 80 percent of outgoing containerized goods originate in the Bay Area and northern California, and about 85 percent of containerized imports are consumed in the region.
- As detailed in a recent economic impact study, about 11,400 people are employed directly as a result of activity at the Oakland Seaport. These employees received about \$641 million in wages in 2017, with annual salaries averaging about \$56,275. Another approximately 16,300 jobs (indirect and induced) are supported by the activity at the Seaport resulting in an additional \$333 million in wages and \$1.5 billion of re-spending and local consumption.
- Local businesses received \$2.2 billion of revenue from providing services to the ocean cargo activity at the Seaport. As a result of this cargo activity, a total of \$281 million of state and local tax revenue was generated.
- The cargo moving via the Seaport supports almost 500,000 related jobs throughout the state of California, with the total economic value related to the Seaport measured at \$60.3 billion.
- Goods movement through US Ports is a significant component of the national economy and has been expanding significantly over the last several decades. Cargo throughput over the last 17 years increased 74 percent in California ports, including a 69 percent increase in the Oakland Seaport.
- Nevertheless, during that time, Oakland Seaport lost market share to ports that had better positioned themselves to take advantage of changes in maritime industry, dropping from fifth to eighth busiest port in the nation. For Oakland Seaport to remain competitive and continue to contribute to the local and regional economy, it will need to take steps to expand its cargo throughput and related maritime activities.
- Significant investments have been made by the Oakland Seaport in recent years, including raising gantry cranes to serve larger vessels, procuring additional cranes, consolidating operations to make them more efficient, and extending gate hours, in some cases as late as 3 a.m., to reduce congestion and wait time for truck movements.
- Investments have also been made to improve environmental sustainability, with hybrid, near-zero-emission cargo handling equipment, cleaner fuels and engines for trucks, tugs and ships, and expanded use of shore power for ships docked at the terminals. In 2018, the Oakland Seaport plugged in more ships to shore power while at-berth than any other port in the world.
- A critical element for the long-term competitiveness of the Port is the ability to handle the much larger container ships that are increasingly the maritime industry norm. Higher cranes and larger turning basins are necessary to service these ships. It is critical to be able to turn these large ships around in the shipping channel to properly align them with the terminals.
- The crucial Inner Harbor Turning Basin is adjacent to the Howard Terminal, and it is likely that a portion of the Howard Terminal will need to be demolished in order to widen the turning basin. This portion of the Terminal overlaps with the proposed Oakland A's Ballpark and Mixed-Use Project, and potentially brings them into direct conflict.

- The Howard Terminal has a long history of industrial use going back to the beginning of the 20th Century. Many of these uses left various toxic substances in the soil. The existing deed restriction imposed by the State Department of Toxic Substances Control (DTSC) provides that the only use for the property that does not present an unacceptable threat to human safety or the environment is when the site is capped and undisturbed in its current use as a marine terminal, and housing and other specified development on this site are explicitly prohibited. These contaminants would have to be remediated and the deed restriction would need to be eliminated or modified for new development to take place on the site.
- While Howard Terminal's ship-to-shore gantry crane capacity is not currently operational, the marine terminal is being used for maritime services, including for chassis, container, equipment, and truck staging, transloading and devanning loads, and allowing shorter truck trips to load and unload vessels. These functions are in addition to the Terminal's use as a training facility and as a location for temporary vessel berthing. This capacity is very helpful to the efficiency of the Port, enhancing off-peak travel, and diminishing truck traffic, congestion, and emissions in surrounding neighborhoods.
- Moreover, Howard Terminal may be needed for future growth of maritime activities and it is one of a very limited number of deep-water marine terminal sites in the Bay Area, making it difficult if not impossible to replace.

The Oakland A's Proposed Ballpark and Mixed-Use Project

- In May of 2019, the Port of Oakland entered into a non-binding Term Sheet and four-year Exclusive Negotiating Agreement (ENA) with the Oakland A's to explore the feasibility of a new ballpark and adjacent residential and commercial uses on the Howard Terminal site.
- The proposed development program includes: a 35,000-seat baseball park; up to 3,000 residential units, 1.5 million square feet of office space; and 270,000 square feet of retail, commercial and civic uses; a 3,500-seat performance center; a 400-room hotel; and a network of public open spaces.
- This very substantial amount of non-maritime, non-ballpark uses would be sandwiched between the ballpark, an active rail line, the current Inner Harbor Turning Basin, and Schnitzer Steel, a 24/7 metals recycling facility, and would overlap with areas designated as potentially required for the expansion of the Inner Harbor Turning Basin.
- The Oakland A's have stated that their project would be entirely privately financed. It is apparent that they are relying on revenue generation from ancillary development to finance much of the cost of the project, despite the enormous challenges of entitling and marketing the aggressive land use program that has been proposed. The City's support of special state legislation for creating a tax increment financing district for the project (SB 293 (Skinner)) suggests that the City does intend to invest tax revenues in this project.
- A recent report on the proposed development at Howard Terminal confirmed that only a small portion (approximately 7%) of the economic impact of the development directly comes from the new ballpark, with about 85% of the economic impact due to office development

and the balance from residential and other mixed uses.² This report significantly overstates the potential economic benefits of the Howard Terminal development as it ignores the economic activity associated with the current stadium, does not distinguish what development would be truly additive as compared to displacing development that could occur elsewhere in Oakland, and does not account for the potential significant negative economic impacts on the Seaport operations discussed below.

- The project faces substantial hurdles to entitlement, including; approvals by the State Lands Commission on consistency with the Tidelands Trust, or approval of land swaps to free portions of the site from the Trust; a finding by the Bay Conservation and Development Commission of consistency with the San Francisco Bay Plan; elimination or modification of the current deed restriction and certification of site remediation by DTSC; certification of a Final EIR by the City of Oakland; adoption of CEQA findings by the Port Commission; and approval of an amendment to the City's General Plan.
- In the event the project is found to be financially feasible, achieves all of its entitlements, and goes forward, it has the potential to create a myriad of conflicts with the operations of the Oakland Seaport.

Potential Conflicts Between the A's Ballpark Mixed-Use Project and the Operations of the Oakland Seaport

- The proposed project presents numerous conflicts with maritime industrial uses at the Oakland Seaport. Collectively, these conflicts could undermine the competitiveness of the Seaport, and threaten its long-term viability as an operating container port. Potential conflicts are outlined below.
- As shown in the land use diagram attached to the ENA, portions of the Howard Terminal site are designated as "maritime reservation" or "variant lands", indicating they are likely essential or may be needed for the expansion of the Inner Harbor Turning Basin. The design, approval, and financing of an expanded turning basin is a complex and time-consuming exercise which requires numerous permits and approvals from state and federal authorities, and once approved is likely to take a number of years to fund and complete.
- Yet, the ENA Term Sheet sets limits on the time frame in which the Port can elect to utilize this portion of the site for the expansion of the basin—10 years for the maritime reservation land, and 5 years for the variant lands, from the initial Term Sheet approval date, not ultimate agreement on the project. The potential expiration of the Port's ability to use this land to expand the turning basin and additional costs to reacquire these lands could jeopardize the expansion. If the turning basin is not expanded, the Seaport's ability to

² "Economic Impact of Howard Terminal Developments." *Bayareaeconomy.org*, Bay Area Council Economic Institute, May 2019, www.bayareaeconomy.org/files/pdf/Howard_Terminal_Methodology_2019.pdf.

handle larger vessels at the OICT and other terminals would be severely limited, threatening the competitiveness of the Oakland Seaport to serve these larger vessels.

- Howard Terminal currently serves as a staging area for container loads that are being distributed to truck, train, or ship loading. This function increases the efficiency of the Seaport, and reduces truck traffic and environmental impacts in surrounding neighborhoods. This functionality would be lost if the Terminal is developed with the A's proposed project.
- Residential, office, hotel and other non-maritime uses are incompatible with the adjacent Schnitzer Steel operations, as well as trucking and shipping activities at nearby marine terminals. To the extent that conflicts with these uses impair the industrial and maritime uses at the Seaport, there are no comparable sites in the Bay Area where the maritime uses could go. The loss of industrial and maritime jobs at the Port would likely be permanently irreplaceable.
- Location of a ballpark and ancillary uses on the Howard Terminal would cause numerous transportation, land use, and maritime operational conflicts, and result in substantial safety and health risks.
- About 40 trains per day pass the Howard Terminal on the Union Pacific tracks, and assembly of trains in the UP and BNSF railyards routinely back up into Jack London Square. These rail movements will inevitably create auto and pedestrian conflicts as A's fans attempt to get to the ballpark, and other residents and employees cross the rail line to access residential and commercial uses.
- The Embarcadero is one of only three access points for trucks servicing the Seaport. Heavy congestion and modal conflicts are likely to result as truckers, private autos, Uber/Lyft drivers, buses, and pedestrians converge on limited roadway. This congestion will impact the efficiency of the Seaport, and create higher risks of accidents and injuries.
- Light pollution from the ballpark could interfere with ship docking during night games. Docking is controlled by independent Bar Pilots, who are very conservative in undertaking any risks with ship berthing. International shipping is not subject to being timed to avoid such conflicts so ships might be required to anchor in the Bay overnight, increasing costs, or shipping lines could choose other ports to avoid the risk of such conflicts.
- To the extent that ballgames or other activities on the Howard Terminal site attract kayakers or small crafts to the area, boaters could be endangered by ship movements, or conversely, ship movements could be disrupted.

2. THE MARITIME INDUSTRY AND THE OAKLAND SEAPORT

The Port of Oakland was established in 1927 as an independent department of the City of Oakland. It has evolved to encompass three underlying divisions: the Seaport, Airport and Commercial Real Estate businesses. As of fiscal year 2018, the Port had operating revenue of \$381.0 million, operating expense of \$317.6 million and net operating income of \$63.4 million. In terms of Port sources of funds, aviation revenues account for 43 percent, maritime revenues are 33 percent, commercial real estate revenues are 4 percent, and the remaining revenues are attributed to grants, interest income and other facility charges.³ The Oakland Seaport is an important source of revenue for the Port of Oakland, and a vital conduit for commerce serving the greater Northern California region.

Oakland Seaport

The Seaport division of the Port includes a total of 1,300 acres of seaport operations, which includes 6 marine terminals, 33 ship-to-shore cranes, and 21 shipping lines.⁴ The Seaport moves more than 2.4 million twenty-foot equivalent units (TEUs) annually, qualifying it as the nation's eighth busiest container port,⁵ and 76 globally.⁶ It is the third largest port on the west coast, after the very large, nation-serving ports of Los Angeles and Long Beach.

Figure 1 is a map of the Oakland Seaport and the adjoining neighborhoods of West Oakland. Port land is principally granted lands held in trust for the State of California subject to oversight via the State Lands Commission. Like on other urban waterfronts, the Port of Oakland is a grantee which serves as a trustee for the land and is free to lease it for maritime and waterfront uses, consistent with the Tidelands Trust. The Tidelands Trust preserves waterfront land in California for maritime uses, as well as those uses which promote public access and enjoyment of the waterfront.

The Port of Oakland is classified as a "landlord" port. As such, it finances, builds and maintains terminal infrastructure and provides major capital equipment, and leases improved terminals to

³ "By the Numbers." *Port of Oakland*, 2019, www.portofoakland.com/year-review-2018/by-the-numbers/.

⁴ "Your Port, Your Partner." *Oakland Seaport*, www.oaklandseaport.com/.

⁵ U.S. Department of Transportation, Bureau of Transportation Statistics, Port Performance Freight Statistics Annual Report to Congress 2018 (Washington, DC: 2018). <https://doi.org/10.21949/1502601>

⁶ *Lloyd's List One Hundred Ports 2018*. Maritime Intelligence, 2019, *Lloyd's List One Hundred Ports 2018*, transportationstore.informa.com/wp-content/uploads/woocommerce_uploads/2018/09/LL-Top-Ports-sampler.pdf.

operators for marine shipping activities.⁷ In response to the Great Recession, maritime activities at the Port have been consolidated to be more efficient, creating high demand for space to accommodate future expansion as the economy has been recovering. Currently active terminals and their operators include:

- Oakland International Container Terminal, operated by SSA Marine
- Matson Terminal, operated by SSA Marine
- TraPac Terminal, operated by TraPac
- Everport Terminal, operated by Everport Terminal Services

In addition to these marine terminals, there are two active intermodal railyards in the Seaport, one operated by Burlington Northern Santa Fe (BNSF) and another by Union Pacific. Additional facilities include a cold-storage warehouse recently built on the former Army Supply Center land that came to the Port after its closing in the BRAC process, as well as former military warehouses dating back to WWII that are still in use. The City of Oakland also received a part of the former Army Supply Center which houses additional logistics uses. The Howard Terminal, which is discussed further later in this report is under a number of short-term leases and serves as an important staging area for truck operations serving the port, as well as a training site for ILWU longshore workers. On the waterside, there are two turning basins, which are critical to Port operations as areas for turning around the ships coming in to dock at the marine terminals.

Unlike the ports of Los Angeles and Long Beach, which serve the wider U.S. economy through an overwhelmingly large volume of imports distributed widely throughout the United States, the Oakland Seaport is in relative import-export balance and serves a more local catchment due to proximity to producers in California's Central, Napa and Salinas Valleys. According to estimates from an economic impact report for the Port of Oakland, nearly 80 percent of the containerized cargo exported via the Seaport originates in the Bay Area and Northern California. Additionally, 85 percent of the containerized imports are estimated to be consumed in the region. These imports are primarily consumer retail products such as beverages, furniture, glassware, and sound and television equipment.⁸ For export containers, key commodities include beverages and wine, cereal, and food products such as frozen beef, fresh vegetables, fruits and nuts. In terms of scale, the Seaport moves 97 percent of all US wine shipped to China.⁹ The Oakland Seaport is a crucial link in the cool supply chain for California agricultural exporters, which allows fresh produce to be shipped in an unbroken refrigerated chain from field to final destination. According to Port staff, Oakland also is the best west coast port for productivity, as measured by

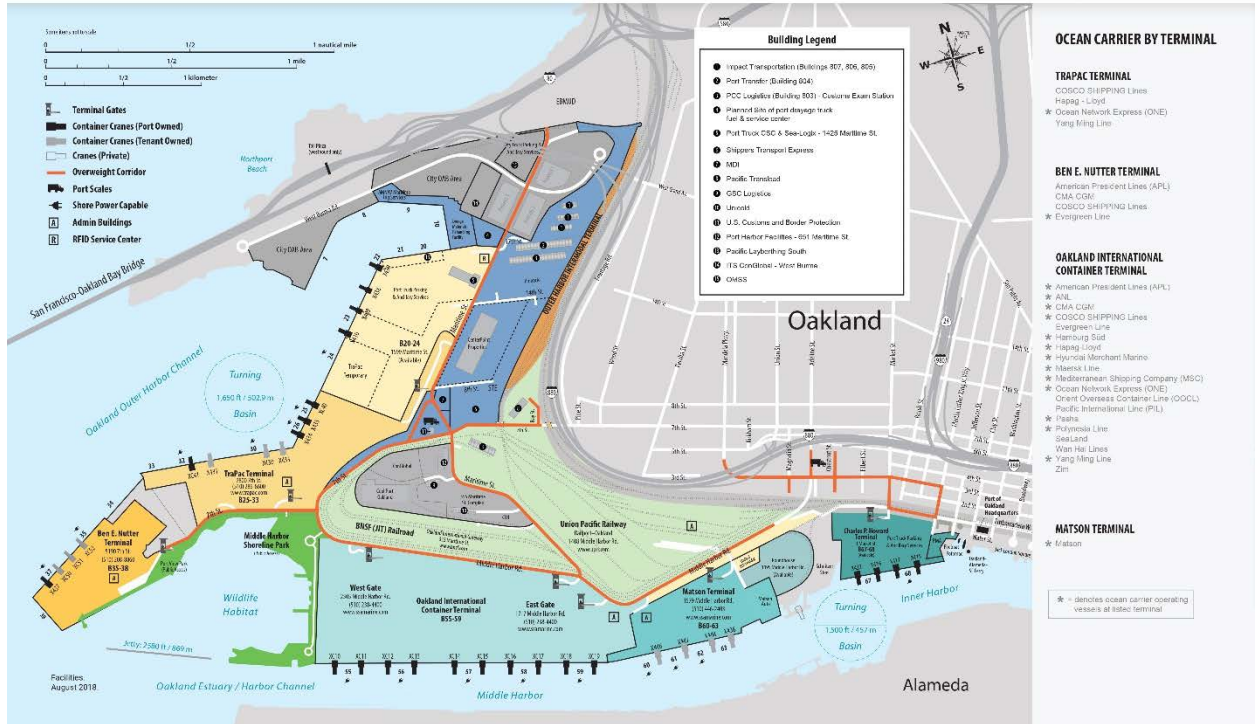
⁷ U.S. Department of Transportation, Bureau of Transportation Statistics, Port Performance Freight Statistics Annual Report to Congress 2018 (Washington, DC: 2018).

⁸ Martin Associates. *The Economic Impact of the Port of Oakland*. Port of Oakland, 2018, *The Economic Impact of the Port of Oakland*, www.portofOakland.com/wp-content/uploads/Economic-Impact-Report-2019-FULL-REPORT.pdf.

⁹ Dupin, Chris. "U.S. Farm Products Targeted by Chinese Tariffs." *American Shipper*, 6 Apr. 2018, www.americanshipper.com/news/us-farm-products-targeted-by-chinese-tariffs?autonumber=71015&infrom=left.

moves per hour per crane, and maintains a very balanced import/export operation. In contrast, Los Angeles and Long Beach Ports are heavily weighted to imports, primarily from China and other parts of Asia.

Figure 1 Seaport Facilities



In addition to its vital role in northern California commerce, the Port generates significant jobs and economic benefits for Oakland and the region. As detailed in the 2017 economic impact study conducted by Martin Associates, 11,393 direct jobs were generated by the cargo handled at the marine terminals.¹⁰ These direct jobs include jobs with the ILWU, truckers serving the marine terminals, rail crew, yardmen and dispatchers moving the containers by rail to and from the marine terminals, terminal operators, steamship agents, freight forwarders, chandlers, warehouse operators, container repair and leasing companies, pilots, tug operators, and other maritime trades. Many local and national trucking firms serve the marine terminals, as do numerous individual owner/operators. The 11,393 individuals directly employed as a result of activity at the Oakland Seaport received \$641 million in wages and salaries, for an average annual salary of \$56,275. Beyond these direct jobs, approximately 16,300 indirect and induced jobs are further supported through the Seaport activity, for a total of 27,732 jobs across all categories. The effects on personal income and local consumption from these direct, induced and indirect sources totals to nearly \$2.5 billion. Looking more broadly across the state of California, the cargo moving via the Seaport supports almost 500,000 related jobs, with the total economic

¹⁰ Martin Associates. *The Economic Impact of the Port of Oakland*. Port of Oakland, 2018, *The Economic Impact of the Port of Oakland*, www.portofoakland.com/wp-content/uploads/Economic-Impact-Report-2019-FULL-REPORT.pdf.

value related to the Seaport measured at \$60.3 billion. Due to this value of the Oakland Seaport, local businesses received \$2.2 billion in direct business revenue, resulting in \$281 million of state and local tax revenue generation.

Cargo Shipping Trends

The movement of goods into and out of U.S. ports is a significant component of the national economy. The San Francisco Bay Area goods movement system supports global supply chains and regional industries. Over the past 17 years, the major California ports have seen a dramatic increase in cargo throughput growth and associated goods movement. Waterborne foreign container trade cargo processed at California's primary ports, measured in "Twenty Foot Equivalent Units" (TEUs), increased by more than 74 percent over this period.¹¹ However, as shown in **Figure 2**, this cargo growth has not occurred uniformly across California's ports. The Port of Los Angeles is the most significant port in the United States and throughput there has increased dramatically in absolute and percentage terms since 2000. In the Bay Area, the Port of San Francisco has seen dramatic declines in shipping since the industry's transition to containerized goods movement in the 1960s, and has very little maritime shipping activity remaining.

As shown in **Figure 3**, trade at the Port of Oakland grew 69 percent between 2000 and 2017, from approximately 989,000 TEUs to nearly 1.7 million TEUs in 2017. As detailed in the Martin economic impact study, while the Port of Oakland forecasts steady growth in future years it faces competition from other West Coast ports, growing local congestion, community opposition to industrial development, and environmental concerns. In recent years, the Port of Oakland has lost market share to other ports which have better positioned themselves to take advantage of evolving trade patterns. The recently expanded Panama Canal has influenced cargo activity in the Eastern United States and Gulf Coasts. Since 2010, the Port of Oakland has slipped from being the fifth busiest port to eighth, falling behind the Port of Virginia and the Port of Houston.

¹¹ The Twenty Foot Equivalent Unit is a standard unit of cargo capacity that refers to a 20-foot-long intermodal container. Data from the US Department of Transportation, Maritime Administration, U.S. Waterborne Foreign Container Trade by U.S. Customs Ports (2000 - 2017), Total Trade - Loaded Containers Only.

Figure 2 California Major Ports Import-Export Activity (TEUs), 2000-2017

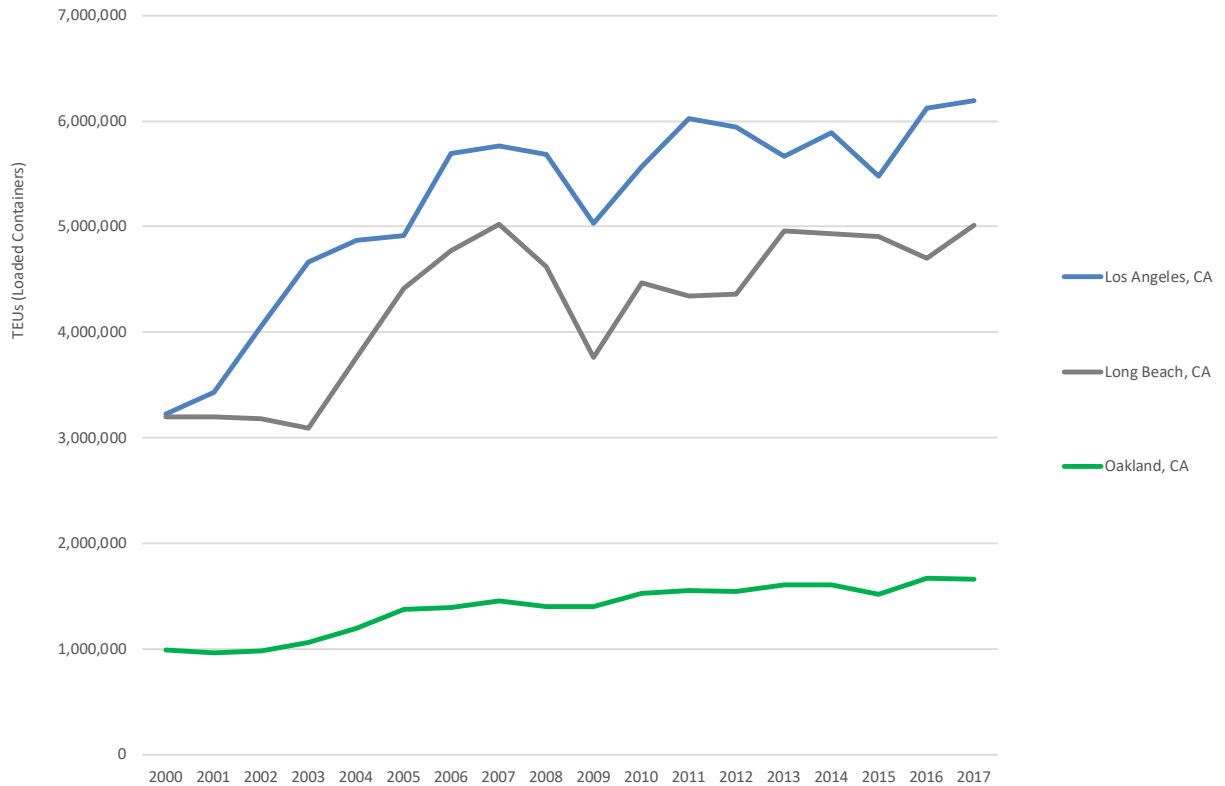


Figure 3 Growth in Shipping in California Ports

California Ports	2000	2010	2017	2000-2017		2010-2017	
				Change	% Change	Change	% Change
Long Beach, CA	3,203,555	4,466,075	5,009,490	1,805,935	56%	543,415	12%
Los Angeles, CA	3,227,743	5,570,485	6,189,161	2,961,418	92%	618,676	11%
Oakland, CA	988,773	1,526,030	1,666,100	677,327	69%	140,069	9%
Port Hueneme, CA	9,344	24,446	72,089	62,745	671%	47,644	195%
San Diego, CA	12	51,339	65,343	65,331	532442%	14,004	27%
San Francisco, CA	<u>35,918</u>	<u>20</u>	<u>62</u>	<u>-35,856</u>	<u>-100%</u>	<u>42</u>	<u>207%</u>
Total	7,465,346	11,638,395	13,002,245	5,536,900	74%	1,363,850	12%

Development and Improvement of the Oakland Seaport

As noted in the Martin report, "For the Port's marine terminals to continue to increase its economic contribution to the Bay Area economy as well as the state, it is important for the Port to grow its ocean carrier service, and to work to expand its cargo throughput and associated maritime activity. In order for the Port of Oakland Seaport to grow its business, it is critical that the Port continually invest in and/or encourage terminal upgrades in order to accommodate container volume growth. Along with the expansion of marine terminals, it is equally necessary to enhance and improve the efficiency of intermodal facilities and rail connections in order to increase the Port's intermodal share of West Coast container traffic and stimulate distribution center development near the Port's marine terminals."

There have been a number of recent upgrades implemented at the Port to yield increased efficiency and capacity. These have included raising gantry cranes at Oakland International Container Terminal (OICT) to be able to serve larger vessels calling at the port. On top of this investment, SSA, the terminal operator, plans to purchase four more cranes to further expand capacity and further solidify their position as the Port's busiest terminal. Another improvement has been the extending of longer gate hours at more terminals, providing widespread operational relief.

TraPac marine terminal added a new full-service night gate for harbor truckers, accelerating cargo flow and reducing wait time for trucks. The night gate is open from 6:00 p.m. to 3:00 a.m. Monday through Thursday. A new night gate at the SSA Marine terminal at OICT began operations in 2018 as well. The night gate is designed to accommodate steady cargo growth over the next decade. As a result of night gate operations, truck transaction times are reported to be down to an average of 60 to 90 minutes.¹²

The California Air Resources Board granted \$9 million to the Port of Oakland for clean cargo equipment, including five zero-emission yard trucks to shuttle containers within the Matson marine terminal operated by SSA. The Port of Oakland also continues to build up its clean energy infrastructure. According to the Port, use of shoreside electricity at berth reached an all-time high of 78 percent of container vessels visiting Oakland in July 2018. While connected, vessels switched off diesel engines that typically power onboard systems during port stays.¹³

In addition to expanding hours of operation, and adopting environmental improvements, the future success of the Oakland Seaport depends on the ability to accommodate ever larger container ships. **Figures 4 and 5** below illustrate changes in maritime shipping at the Oakland Seaport. **Figure 4** shows that cargo volumes have gone up, even as the number of carriers stayed about the same, and the number of terminals decreased. This correlates with the almost tripling in size of the largest container ship handled, from 8,000 TEUs to 21,000 TEUs. **Figure 5**

¹² "Port of Oakland Doing More Work at Night than Ever Before." *Port of Oakland*, 4 Apr. 2018, www.portofoakland.com/press-releases/port-oakland-work-night-ever/.

¹³ "Port of Oakland Shore Power Use Hit All-Time High Last Month." *Port of Oakland*, 31 Aug. 2018, www.portofoakland.com/seaport/port-oakland-shore-power-use-hit-time-high-last-month/.

shows how cargo volumes have changed over the last six years and are projected to continue to grow as the recovery from the economic collapse of 2018 continues. **Figure 6** illustrates the trend toward larger vessel size in the maritime shipping industry as a whole.

Figure 4 Changes in Cargo Handling at Oakland Seaport

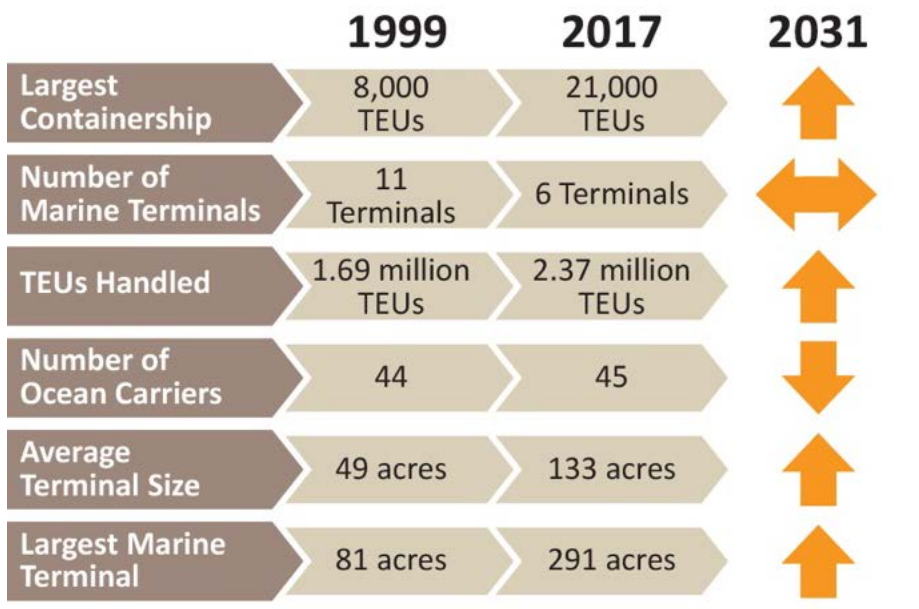


Figure 5 Historic and Projected Container Volumes in Oakland Seaport

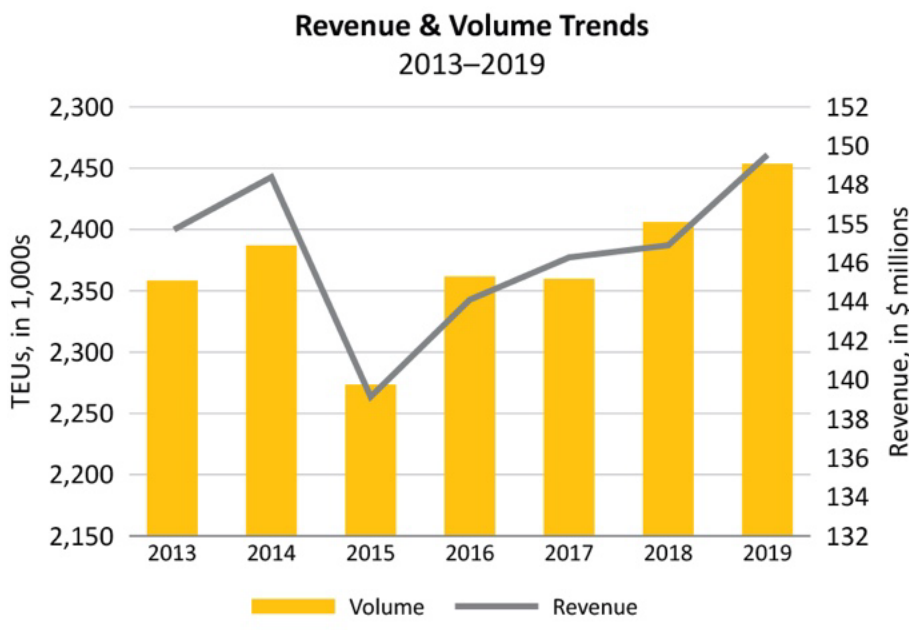
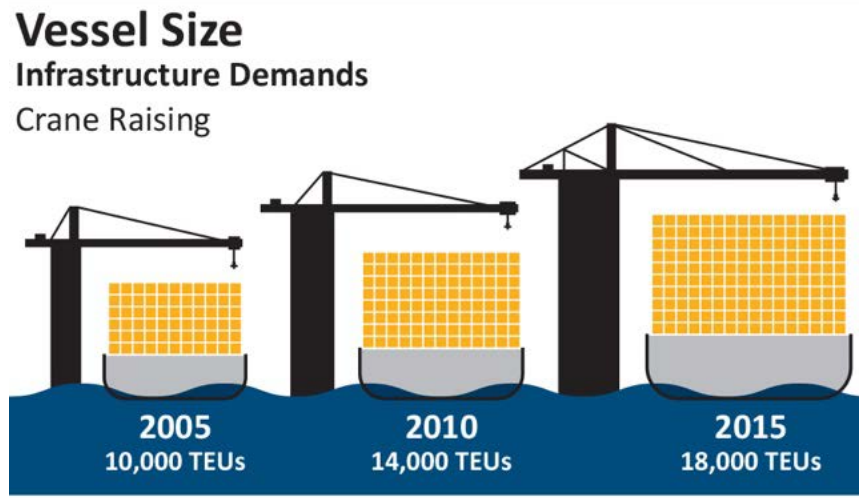


Figure 6 Trends in Container Vessel Size



Howard Terminal: Role in Growth of Oakland Seaport

Howard Terminal is a 50-acre site owned by the Port of Oakland. Separated from the rest of the seaport by Schnitzer Steel to the west, it is also bordered by the UP railroad and Embarcadero West to the north, a power plant and Clay street to the east, and the Inner Harbor to the south. Adapting to the trend toward larger container ships in order to sustain Oakland Seaport's productivity will require expanding the inner harbor turning basin to allow these larger vessels to be turned and serviced at OITC and other port terminals. This expansion likely will require demolition of a part of the Howard Terminal given the narrow width of the Oakland Estuary. Thus, Howard Terminal is a key element of maintaining the viability and growth potential of the Oakland Seaport in the years ahead.

The Port is fully aware that their future depends on increasing efficiencies and expanding capacities, with land in the area a very finite resource. Current trajectories put the Port at needing to expand to Ports America by 2030 to 2035, and by 2040 they would need to be utilizing Howard Terminal or fill land for further growth. While it is currently being utilized for maritime uses not dependent on the ship-to-shore gantry cranes, there has always been strong interest in maintaining Howard as an intermodal marine terminal, and it has demonstrated its value in this role in the past.

According to Port staff, Howard Terminal remains suitable for vessel loading/unloading activities given its deep-water berths access to a wide and deep-water federal navigation channel, and relatively square geometric configuration. However, because of its relatively small size (50.3 acres) relative to other modern container terminals, older container gantry cranes, and limited room for expansion, Howard Terminal is not desirable for loading and unloading of the larger container ships that call the Port. Therefore, Howard Terminal is better suited to container operations for smaller vessels that currently call other terminals; bulk operations; break-bulk operations; and ro-ro operations. However, it currently serves an important role in staging of container loads, increasing the efficiency and throughput at other terminals.

History of Site

Howard Terminal has been an active industrial site since 1900, when the Terminal was used as a private railway station and coal storage area. It stayed private until it came under Port jurisdiction in 1978. Before its development as a container terminal, Howard Terminal has accommodated a number of industrial activities, including oil storage tanks, a manufactured gas plant, a briquette plant where compressed charcoal blocks were made, a coal tramway, an asphalt paving plant and a blacksmith.¹⁴ Consequently, the site has several generations of toxic materials under its asphalt surface. The existing deed restriction encumbering the site imposed by the DTSC provides that the only use for the property that does not present an unacceptable threat to human safety or the environment is when the site is capped and undisturbed in its current use as a marine terminal, and housing and other specified development on this site are explicitly prohibited. Development of the site would require remediation of contaminants and elimination or modification of the deed restriction.

Current Use

Marine terminal operations under SSA Terminals were formerly located on the site until they relocated to a larger site in 2014. Since that time, Howard Terminal has been serving a number of different purposes through several separate leases. One of these is as a storage and staging area for trucks moving goods within the Port. Having this location adjacent to the major active marine terminals as well as rail and truck transport operations serves an important purpose, as it allows trucks a central location to stage loads, reducing travel time, emissions, and truck traffic in the areas of West Oakland adjacent to the Port. This also increases the capacity of independent truckers to move goods quickly and at off-peak travel times, which increases their income because they are paid by the load.

The Pacific Maritime Association (PMA) also leases a portion of the Terminal. The principal business of the PMA is to negotiate and administer maritime labor agreements with the International Longshore and Warehouse Union (ILWU). The Howard Terminal site serves as a training facility for these union maritime jobs, facilitating certification of maritime workers for longshore jobs of various types.

Development of the Howard Terminal for the A's Stadium and housing, office and other uses would displace these port-related functions and impact the efficiency of Port operations. Furthermore, the development of the site for non-port uses would have a number of additional impacts on the Port that could threaten its competitiveness and viability over the long term. This point is expanded upon in Section 4 of the report.

¹⁴ Veklerov, Kimberly. "Oakland A's Ballpark Plan: Howard Terminal's Industrial Past Poses Challenges." *San Francisco Chronicle*, San Francisco Chronicle, 15 Feb. 2019, www.sfchronicle.com/bayarea/article/Howard-Terminal-s-industrial-past-poses-13618156.php?psid=rJiY.

Figure 7 Aerial View of Howard Terminal



3. THE OAKLAND A'S PROPOSED PROJECT

The Oakland A's have been exploring the possibility of building a new stadium for a number of years, first engaging with the Port of Oakland regarding interest a potential baseball stadium development at the Howard Terminal site in 2014. After early termination of a previous Exclusive Negotiating Agreement (ENA) with the Port, the A's entered into a new four-year ENA in May of 2019. The ENA includes as an attachment a Term Sheet, which specifies key business terms and principles that will be incorporated in the final agreements. The land use program for the site, which accompanies the ENA are shown in **Figure 8** below. The uses include the following:

- A new open-air waterfront multi-purpose Major League Baseball ballpark with a capacity of up to 35,000-persons that will serve as the new home to the Oakland A's, including a 'green roof' that would provide public access on non-game days with views of the Bay;
- Up to 3,000 residential units, 1.5 million square feet of office, and up to 270,000 square feet of mixed retail, cultural and civic uses that would be developed in blocks throughout the Project site west of the ballpark;
- An approximately 3,500-seat performance center;
- An approximately 280,000 square-foot 400 room hotel; and
- A network of public open spaces located throughout the site that would connect the pedestrian and bicycle network along the Oakland waterfront to the site, and would provide two large-scale open spaces.

This is a very substantial amount of non-ballpark development, located between the stadium and active Port maritime operations.

According to an Economic Impact Report published by the Bay Area Council, the non-ballpark uses delineated above would in fact be the main drivers of impact at Howard Terminal, yielding 93 percent of the cited yearly increase in output. ¹⁵ Referencing \$902 million of total increase in output, with the ballpark contributing \$65 million of this, the Bay Area Council's analysis significantly overstates the potential economic benefits of the Howard Terminal development as it ignores the economic activity associated with the current stadium, failing to distinguish what development would be truly additive as compared to displacing development that could occur elsewhere in Oakland.

¹⁵ "Economic Impact of Howard Terminal Developments." *Bayareaeconomy.org*, Bay Area Council Economic Institute, May 2019, www.bayareaeconomy.org/files/pdf/Howard_Terminal_Methodology_2019.pdf.

Additionally, the new development is immediately adjacent to Schnitzer Steel, a 24/7 metals recycling facility, and proximate to the Port's largest marine terminal, all of which generate the significant noise, day and night, light, air quality, truck, train and other environmental impacts that are characteristic of heavy industrial operations. While the Port of Oakland controls much of this industrial property, Schnitzer Steel and Union Pacific Railroad own their sites in fee and have invested substantial capital in equipment, machinery, environmental controls, and infrastructure.

There are many regulatory and process hurdles to be overcome before this development can be approved, including sign-off from the State Lands Commission that the uses are consistent with the Tidelands Trust or authorizing land swaps to free portions of the site from the Trust; approvals from BCDC on consistency with the San Francisco Bay Plan; elimination or modification of the current deed restriction and certification of site remediation by the DTSC; certification of an Environmental Impact Report, adoption of the CEQA findings by the Port Board of Commissioners; and approval of amendments to the City's General Plan, among others.

The A's have indicated that their project will be 100 percent privately financed. Among the costs the A's have stated they will finance privately are:

- Remediation of the site;
- Raising of the site to protect against sea level rise;
- Construction of all backbone, horizontal infrastructure;
- Construction of the ballpark and related open space improvements;
- A gondola system connecting the 12th Street BART station with the site;
- Environmental Impact mitigation measures required as a result of CEQA analysis; and
- Entitlement and Pre-development costs.

4. *POTENTIAL CONFLICTS BETWEEN THE A'S BALLPARK AND MIXED-USE DEVELOPMENT AND THE OAKLAND SEAPORT*

The project proposed by the A's entails numerous conflicts with maritime and industrial uses at the Port. To the extent these conflicts cannot be adequately mitigated, they cumulatively represent a threat to the long-term competitiveness and viability of the Oakland Seaport. Likely conflicts are enumerated briefly below.

1. Provisions in the Term Sheet for the acquisition of portions of the Howard Terminal site needed for expansion of the Turning Basin could jeopardize the potential to accomplish the expansion, putting maritime operations at the Oakland International Terminal and the Matson Terminal at risk, and threatening the long-term viability of the Port of Oakland.
 - The term sheet imposes time limits on the Port's ability to elect to use portions of the Howard Terminal site for expansion of the Inner Harbor Turning Basin, including 10 years for the Maritime Reservation lands, which comprise a six-acre portion of the Terminal that likely is essential to the expansion of the turning basin, and 5 years for additional Variant Lands that may prove to be needed to adequately expand the turning basin. Given the lead time for engineering, permitting and financing the expansion of the turning basin, these time frames may obviate the potential to accomplish the expansion, putting the ability of the Port to service larger ships permanently at risk, and jeopardizing the viability of the Port as a whole.
 - The additional provision to allow reacquisition of a portion of the site that may already have been developed as part of the A's mixed-use plan would require the Port to reimburse the A's for any horizontal infrastructure built on the site. This provision would apply to the Reacquisition Lands for 10 years, and to the Variant Lands for 5 years. Bearing the cost of reimbursing the A's for infrastructure that has been built would increase the cost of reacquiring these lands, and potentially could have disruptive effects on the horizontal infrastructure serving the remainder of the site.
 - The need for and feasibility of expanding the turning basin will be studied by the Port, and the Port will request a feasibility and scoping study by the United States Army Corp of Engineers. It is anticipated that the Army Corp study would take 3 to 5 years to complete after commencement of the ENA. If the study takes 5 years, it will exceed the 4-year term of the ENA. The lack of a completed study during the course of the ENA would make execution of transaction documents during that time frame risky in terms of the ability to adequately plan for expansion of the turning basin.
2. Howard Terminal is currently used for staging of containers, reducing truck movement times and distance, and corresponding traffic in surrounding communities, and improving the productivity of independently owned truckers serving the Port. Redevelopment of the terminal would displace this use and its benefits to maritime activities and the environmental quality of surrounding West Oakland neighborhoods.

3. The introduction of residential and office uses immediately adjacent to industrial and maritime uses presents a host of conflicts that are likely to diminish the viability of such uses at the Port, where there are no comparable alternatives for such activities in the Bay Area. These conflicts, however avoidable or unreasonable, unexpected or previously mitigated, may materialize in numerous forms ranging from public nuisance litigation, inability to obtain EIR approvals for future port projects, future city or Port general planning and zoning exercises, to complaints to regulators against standard and normal industrial operations.
4. The most obvious conflict would be between high end residential towers being built immediately adjacent to Schnitzer Steel, whose 24-hour operations involve shredding auto bodies and moving scrap metal, which generate significant noise and other impacts.
5. The loading and unloading of ships, with attendant noise and light impacts, also are incompatible with adjacent residential uses.
6. The loss of industrial and maritime jobs at the Port would likely be permanently irreplaceable.
7. Location of a ballpark on the Howard Terminal would cause numerous transportation, land use, and maritime operational conflicts, and create numerous safety and health risks.
 - Approximately 40 trains per day pass the Howard Terminal daily. Additionally, assembly of trains in the Union Pacific and BNSF rail yards back up past the terminal and along the Embarcadero. Inevitably, these rail operations will come into conflict with auto and pedestrian movements to the ballpark and ancillary uses.
 - Railroads are federally regulated and schedules are dictated by national goods movement and passenger train schedules. Thus, it would be virtually impossible to alter the scheduling of these movements to mitigate interference with game day crowds, or pedestrian or auto trips generated by the residential, office, hotel, retail, and recreational uses proposed in the A's development. Because of this the UP railroad and California Public Utilities Commission have already advised the A's development that their current site plan is incompatible with their existing right of way due to a lack of vehicle-crossing grade separations.
 - The Embarcadero is one of three truck access points to the Port. The heavy congestion and traffic conflicts generated by the A's project would severely impact this access for port-related trucking.
 - The proposal to fence off a portion of the Embarcadero and close it to auto and truck traffic would further impede needed access, and could likely shift truck traffic to Third and Fifth Streets.
 - Modal incompatibilities and thus increased risk of accidents will be inevitable, as truckers, bicycles, Lyft/Ubbers, buses, and vehicles converge on limited roadway.
 - The increased pedestrian and train conflicts is likely to result in an increase in fatal accidents as pedestrians attempt unsafe crossing to get to a ballgame or other activity on the site.

- Light pollution from night games at the ballpark could interfere with ship docking. Determination of the safety of docking is determined by independent Bar Pilots, who will be very conservative in their assessment of the risk associated with turning and docking ships. Like train movements, shipping is not subject to being timed to avoid conflicts with game days.
- To the extent baseball games or other activities on the site attract kayakers or small crafts to the area, small boaters could be endangered by ship movements, or alternatively, ship movements could be disrupted to avoid conflicts with such craft.

The removal of Howard Terminal from Port jurisdiction and subsequent development of the Stadium Mixed Used Project would jeopardize operations at the Port of Oakland in a variety of ways in the short and long term. The ballpark alone will present numerous conflicts related to transportation and pedestrian safety. Introducing residential, commercial, and recreational land uses into a heavily industrial zone will result in many more incompatibilities for interests on both sides of the table are inevitable. Cumulatively, these conflicts threaten the long-term competitiveness of the Oakland Seaport, and its viability as a working port.

Exhibit C

Oakland's effort to blend a ballpark and the port on the waterfront

By Libby Schaaf and Ces Butner | Nov. 4, 2019 | Updated: Nov. 4, 2019 9:51 a.m.

Oakland is the Bay Area's hub of industry and transportation. Workers who build, lift, drive, steer and move goods make up a large percentage of the region's workforce. The city and the Port of Oakland are proud of our roots as an industrial port city, and we intend to build on that foundation.

More than 84,000 Northern Californians — nearly 20,000 of them in Oakland — have jobs that depend on the Port of Oakland. They are dockworkers, warehouse technicians, airport baggage handlers, truckers, and retail and restaurant workers. The average annual salary of workers at port-related industries is \$45,342. Their contributions are central to the port's estimated \$130 billion economic value to the region.

The Board of Port Commissioners is charged with the responsibility to operate and grow the port, and the city helps to plan for responsible growth of the port. We know that job opportunities expand every time we add a flight at Oakland International Airport, add a new commercial attraction at Jack London Square, or lift more cargo with the port's iconic cranes. Success is not only continuing business as usual; success also requires innovation for efficiency and to capture opportunities.

There is a possible new opportunity for the port and people of Oakland. The Oakland Athletics are proposing a 35,000-seat baseball stadium and a mixed-use development at Jack London Square, as well as repurposing the Oakland Coliseum stadium site. The proposed ballpark project is on a 50-acre cargo terminal site — commonly known as Howard Terminal — that has not been an active terminal for the past six years due to its small size and shallow water depth. The Howard Terminal site is separated from the rest of the active seaport by a private recycling plant. The proposed ballpark would be located adjacent to Jack London Square — the port's commercial and retail area — and could greatly increase commercial activities and add civic vibrancy to the waterfront area that is Oakland downtown's gateway to the Pacific Coast, Asia and the world.

The city, the port and the A's are working together to find solutions where all can succeed. As part of that process, the Board of Port Commissioners and A's have signed an Exclusive Negotiation Term Sheet. It gives the A's up to four years to gain public agency approvals for their plan before any real estate deal can be consummated with the port. The city would be central to the approval process in the following areas:

- Environmental Impact Report certification;
- A General Plan amendment; and
- Related land use entitlements.

As we continue to consider the A's proposal, we consistently ask ourselves: Can baseball and shipping mix? We believe the answer is yes when critical safeguards are included. The ballpark has intriguing potential: increased port visibility, more Jack London Square visitors and a boost for Oakland business. And it's a new, diversified source of revenue and jobs. We also need to be certain the port's maritime activity continues to thrive and grow as a hub of industry that provides amazing jobs for Oakland and the Bay Area.

Everyone is doing their homework.

The port is conducting one-on-one meetings, focus groups and large-group summits with maritime industry constituents. The port, the city and the A's are working with these stakeholders to address issues, for example, investigating a buffer zone between residential and industrial land uses, truck routes and separation of fan traffic. In this way, the port is developing seaport compatibility measures that will become part of any future approvals.

A guiding principle during the conversations between the port, the A's and the city is to strengthen the port and maritime industry, add to the vibrancy of our waterfront, and create jobs. The final deal will ensure everyone — the city, the port and the A's — is able to continue to thrive.

Above all, the A's Howard Terminal proposal is prompting important discussions among the city, the port and stakeholders about better planning and transportation infrastructure to support both the seaport and the neighborhoods surrounding it. The city and the port are committed to coordinated efforts that grow our industrial job base and promote the health and well-being of residents. Though the A's stadium proposal at Howard Terminal is still in review, we are all proud that everyone has come together to prioritize responsible management of a priceless Oakland asset, the Port of Oakland.

Libby Schaaf is mayor of Oakland; Ces Butner is president of the board of commissioners for the Port of Oakland.
<https://www.sfchronicle.com/opinion/openforum/article/Oakland-s-effort-to-blend-a-ballpark-and-the-14806478.php>



Illustration of proposed new Oakland A's ballpark at Howard Terminal featuring a rooftop park.
Photo: Oakland Athletics / Bjarke Ingels Group

Exhibit D

PROPOSED TRANSPORTATION INFRASTRUCTURE

HOWARD TERMINAL BALLPARK DISTRICT

June, 2019

TRANSPORTATION PLAN

Howard Terminal Ballpark District

GOALS THAT GUIDE THE PROCESS

- Respect existing and future neighborhood transportation needs
- Ensure safe and efficient movement of people and goods in the area
- Encourage pedestrian, bicycle, and transit use
- Reduce peak loads on transportation network
- Achieve Oakland's trip reduction goals
- Provide great ballpark fan experience

TRANSPORTATION PLAN

Howard Terminal Ballpark District

CONSTRAINTS WE WORK WITHIN

- Limited access options
- Small block-size network in Jack London District
- Discontinuous neighborhood streets
- Limited through connections to downtown
- Given congestion, walking to BART is faster than taking the bus

MODE SHARE CONCLUSIONS

Calculated Mode Share – With Transportation Plan

	Weekday Evening	Weekday Day	Weekend
Drive	50%	39%	50%
BART	31%	38%	31%
TNC	13%	15%	14%
Walk	3%	4%	3%
Bike	1%	2%	1%
Ferry	1%	<1%	<1%
Bus	1%	2%	1%
Existing Coliseum			
Drive	70%	71%	74%
BART	23%	22%	19%
TNC	7%	7%	7%

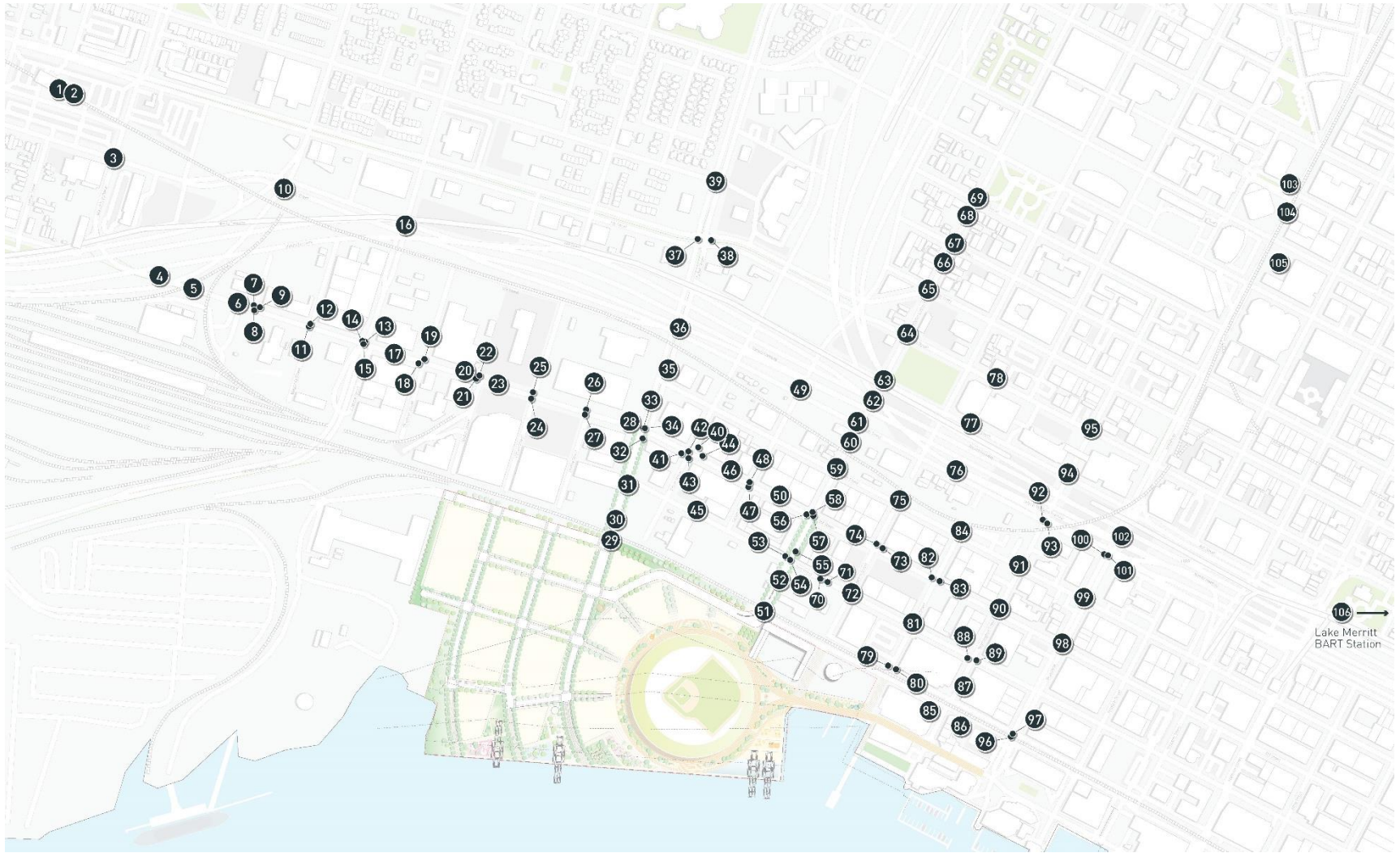
WHAT ARE PLAN COMPONENTS?

Transportation Plan for Howard Terminal

PRIMARY PLAN COMPONENTS ARE . . .

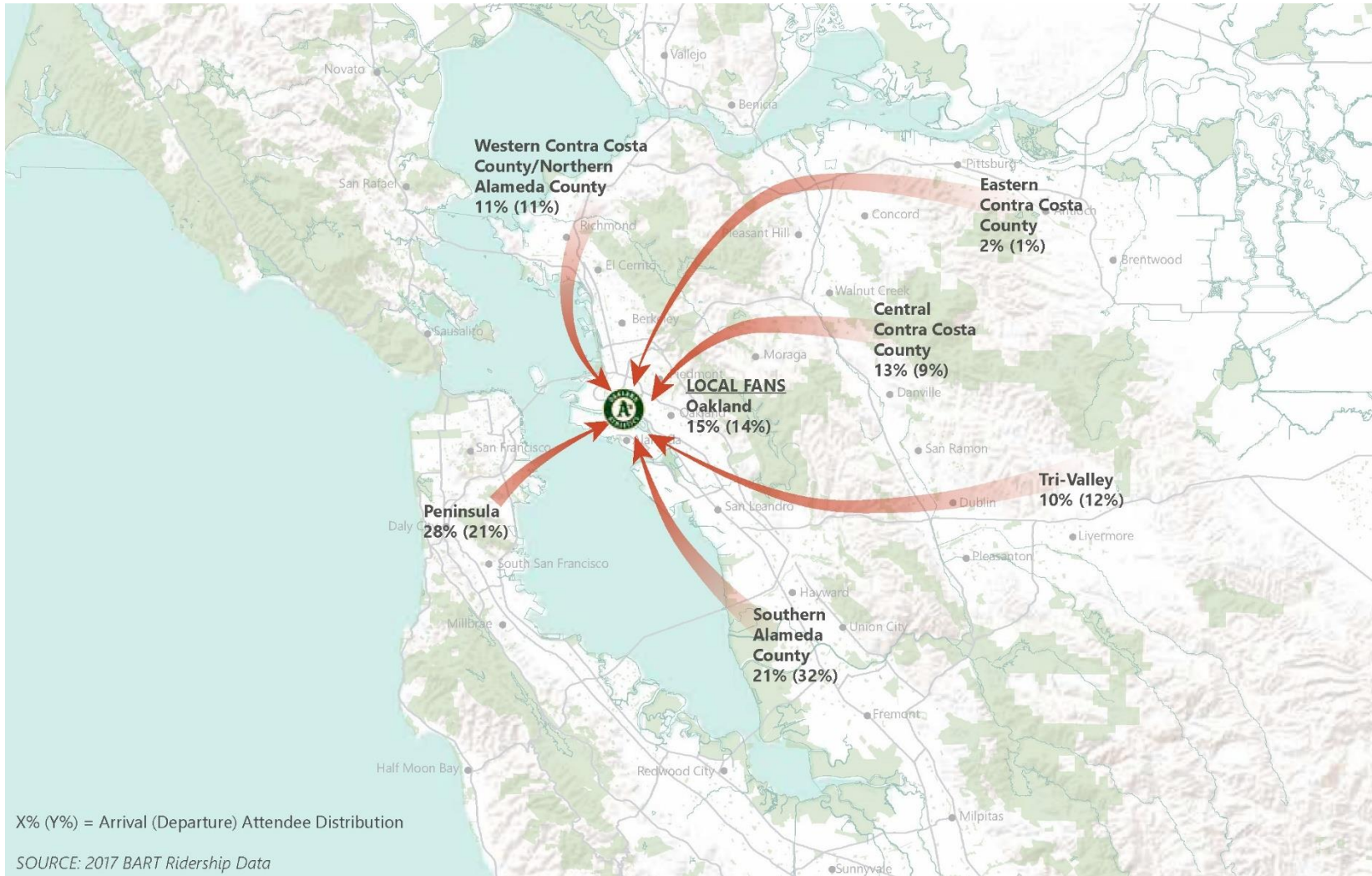
Mode	Strategy
Walk	Provide safe and desirable pedestrian routes to the site
Bike/Micro-mobility	Improve bike infrastructure to create safe routes to the ballpark
BART	Station crowd management when needed
Bus	Provide accessible and legible transit service to the site
Drive	Limit on- and off-site parking through supply and pricing
Other	Explore other modes to diversify options: gondola, ferry, etc

OFF-SITE STREET INFRASTRUCTURE



BALLPARK ATTENDEES WHO BART

Weekday Evening Games – Arrival and Departures



X% (Y%) = Arrival (Departure) Attendee Distribution

SOURCE: 2017 BART Ridership Data

WHAT BART STATION DO I USE?

Weekday Evening + Weekend Games – Peak Hour Buildout (~ 67 days/year)



WHAT BUS DO I USE?

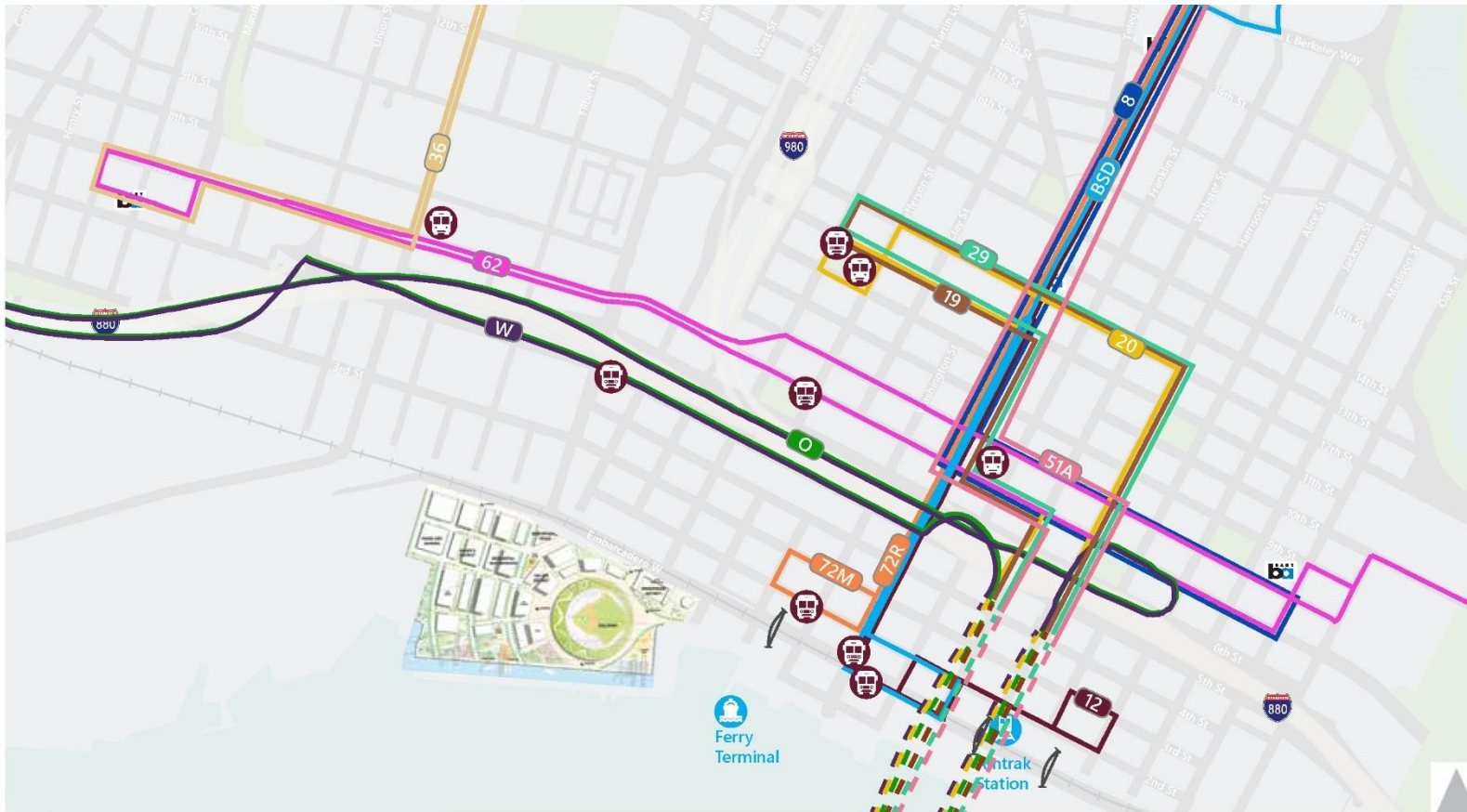
Weekday Evening Games

APPROACH TO BUS SERVICE

- Extend existing bus lines
- Potentially augment service on game days (no game-day specific routes)
- Explore bus-only lanes on Broadway and MLK/7th
- Evaluate cost-effectiveness of bus service options (\$/rider)

WHAT BUS DO I USE?

Weekday Evening Games – Existing Service

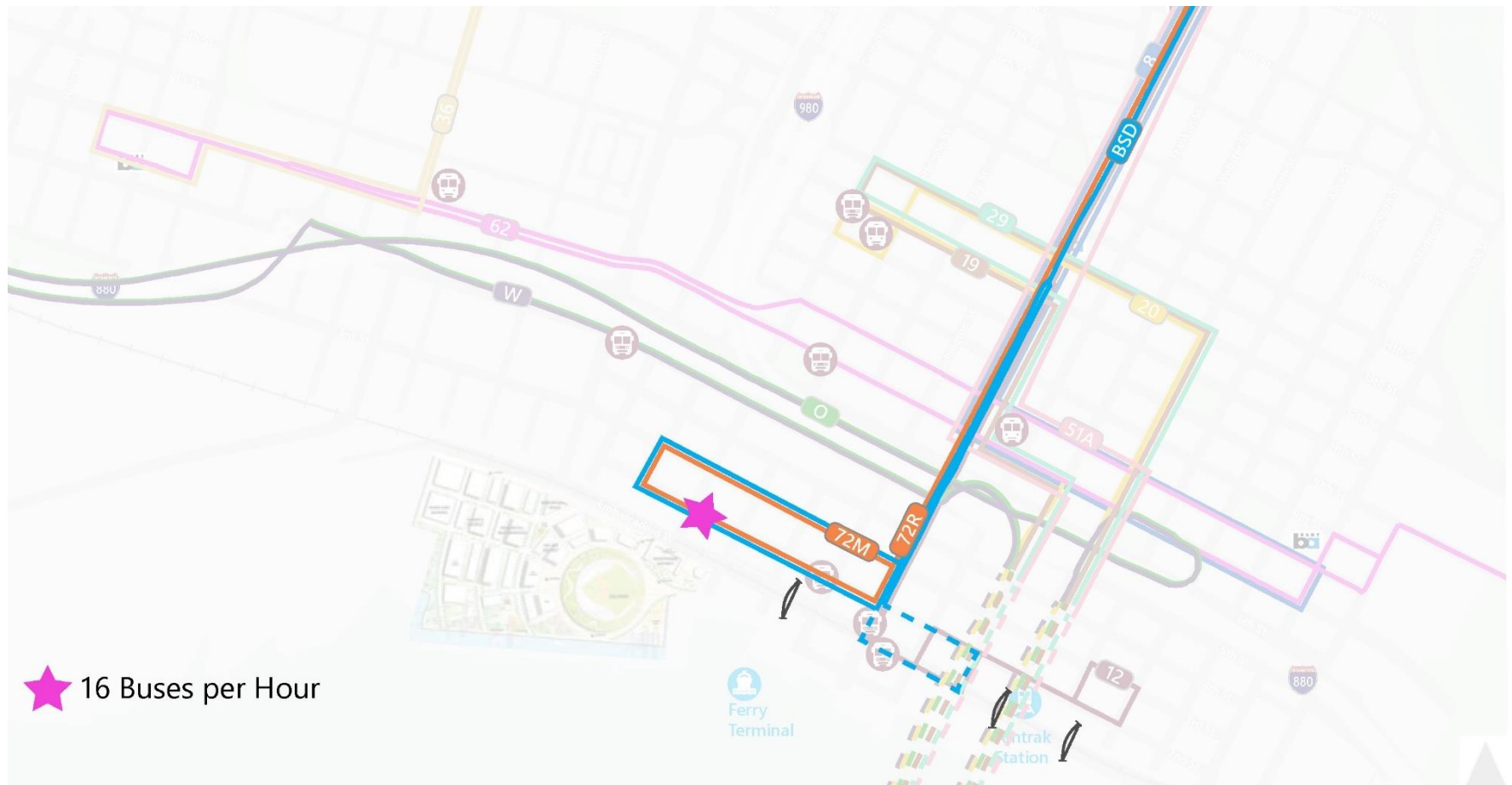


- | | | | |
|----------|-----------|--------------------|--------------------------------|
| Route 8 | Route 29 | Route 72, 72M, 72R | Bus Stop |
| Route 12 | Route 36 | Route O | Existing Pedestrian Connection |
| Route 19 | Route 51A | Route W | Project Study Area Boundary |
| Route 20 | Route 62 | Broadway Shuttle | |

TRANSIT ACCESS IMPROVEMENTS

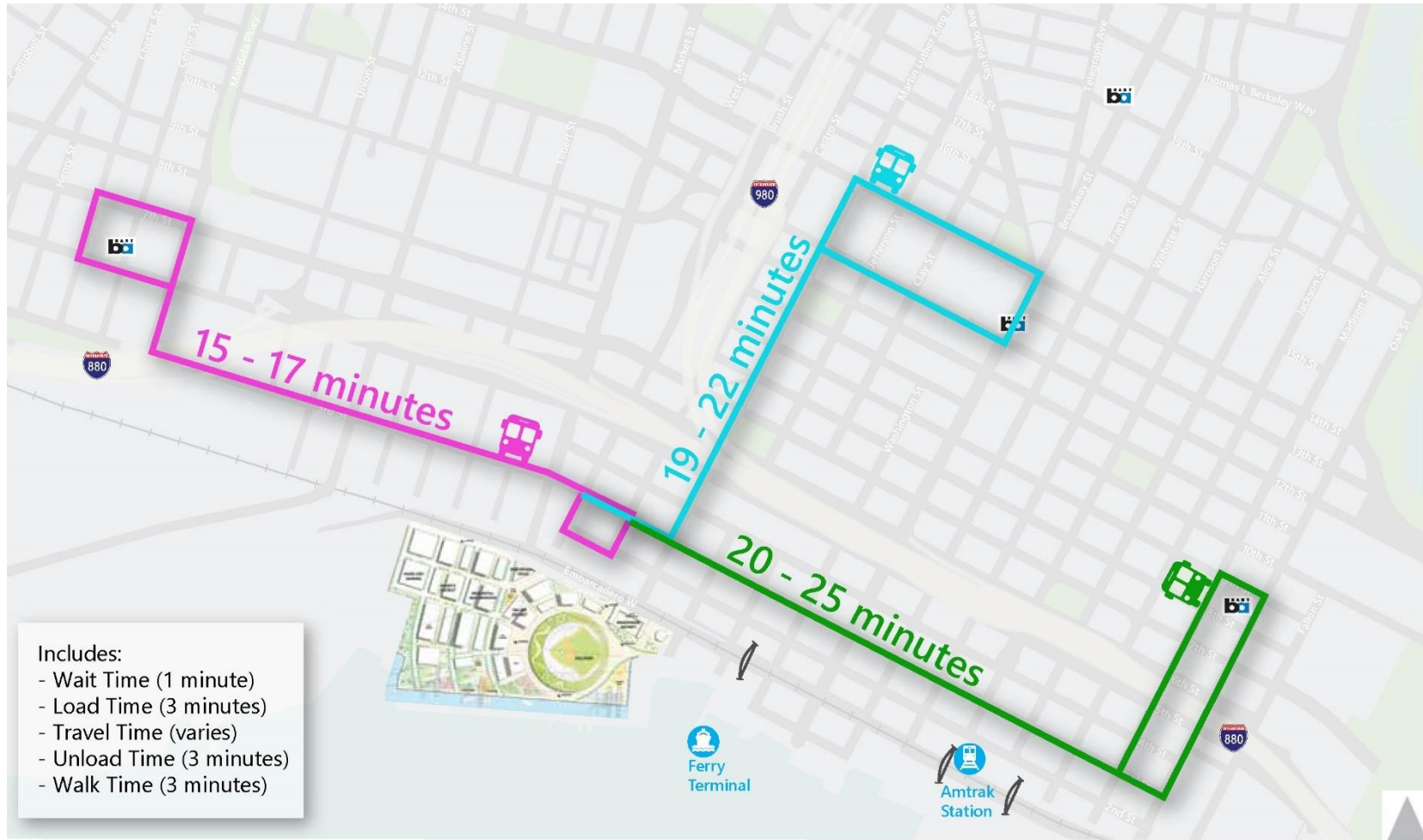
Permanent Change

POTENTIAL BUS SERVICE OPTION



TRANSPORTATION PLAN CONSIDERATIONS

Weekday Evening Game – Shuttle Buses



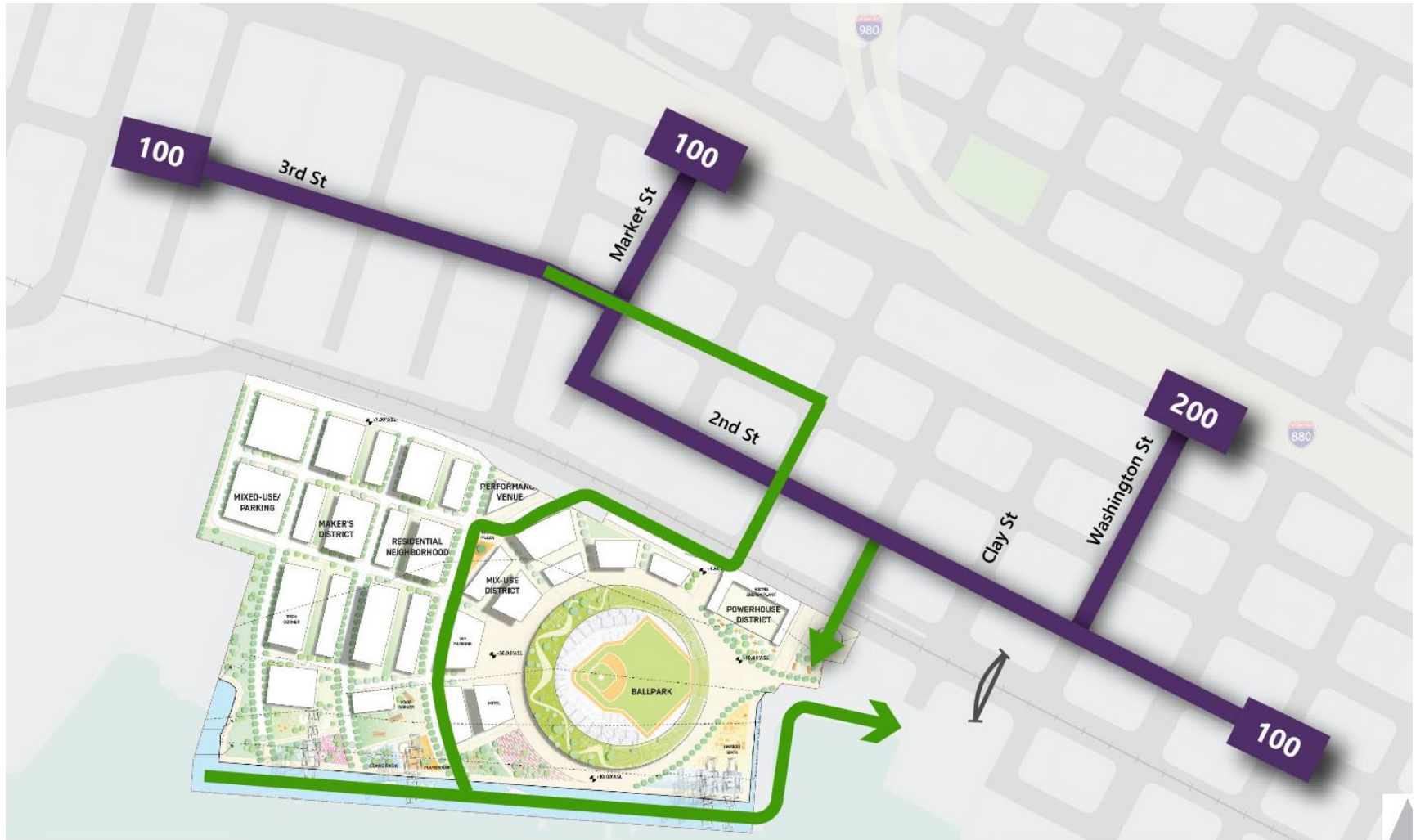
HOW DO I ARRIVE BY WALKING?

Weekday Evening Game – Peak Hour Buildout after Parking Plus BART



HOW DO I ARRIVE BY WALKING/BIKING?

Weekday Evening Games – Peak Hour Buildout



RIDE SOURCING OPTIONS?

Weekday Evening Games – Peak Hour Vehicles



BALLPARK ATTENDEES WHO DRIVE

Weekday Evening Games -- Arrivals



PARKING MANAGEMENT HIGHLIGHTS

All Ballpark Events

- Parking Reservation System at Ticket Purchase
 - Driver pays in advance for reserving a parking space
 - Guaranteed parking space available at designated time
 - Includes on-site and participating off-site parking facilities
- On-street Parking Management
 - Maintain parking for area businesses and residents

END

WHAT ARE THE PLAN COMPONENTS

Transportation Plan for Howard Terminal

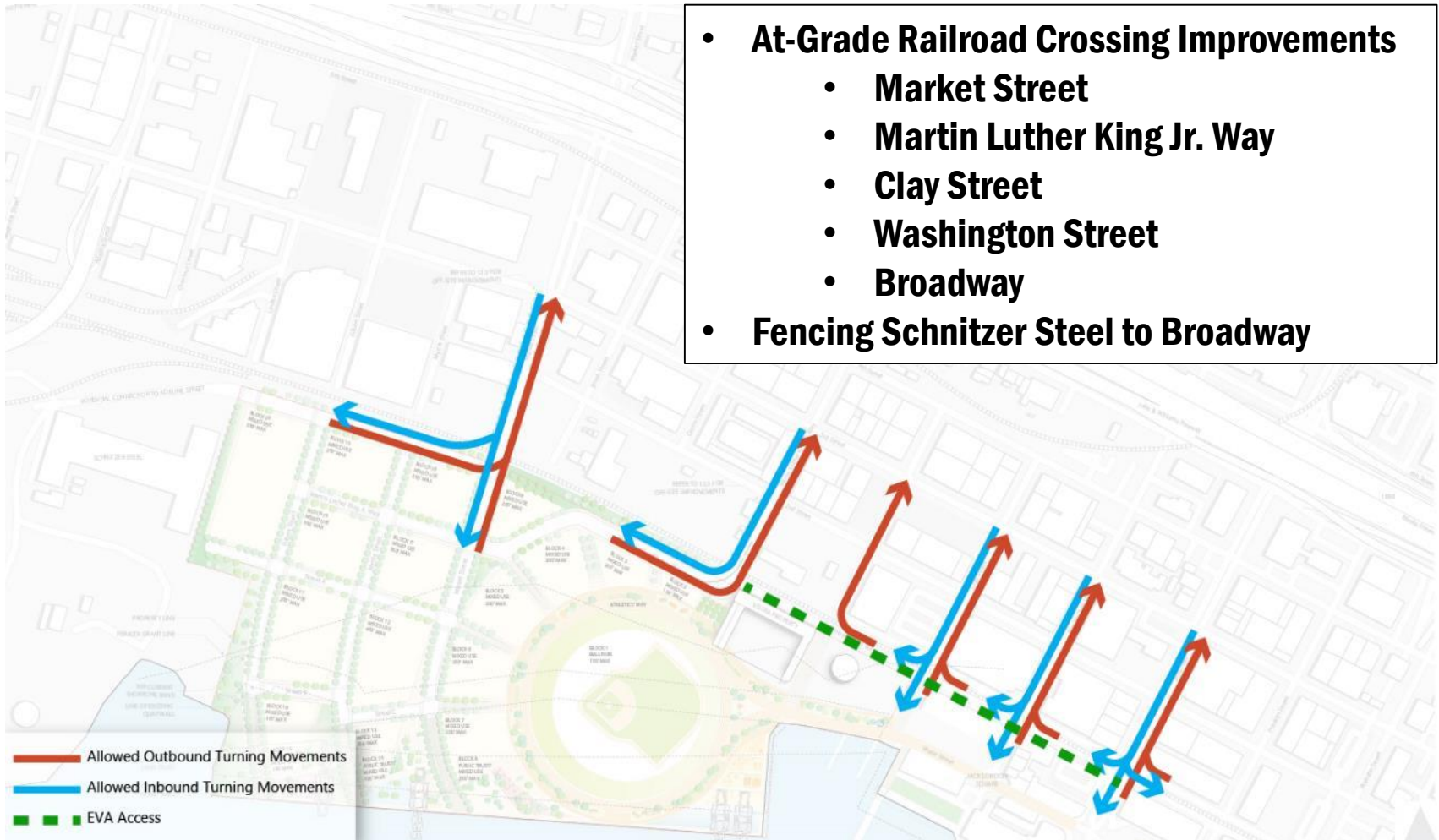
OVER 50 TRANSPORTATION INFRASTRUCTURE PROJECTS SUPPORTING . . .

- Parking management and reservation system (all events)
- BART station crowd management (when needed)
- Ride source management and dedicated areas (all events)
- ➔ ▪ Washington Street as a pedestrian street (large events)
- ➔ ▪ Event traffic control to manage people and motor vehicles (when needed)
- Extend and adjust AC Transit bus Lines (permanent)
- Pedestrian and bike bridge(s) (permanent)
- Railroad corridor improvements (permanent)

CIRCULATION CHANGES AT RAILROAD

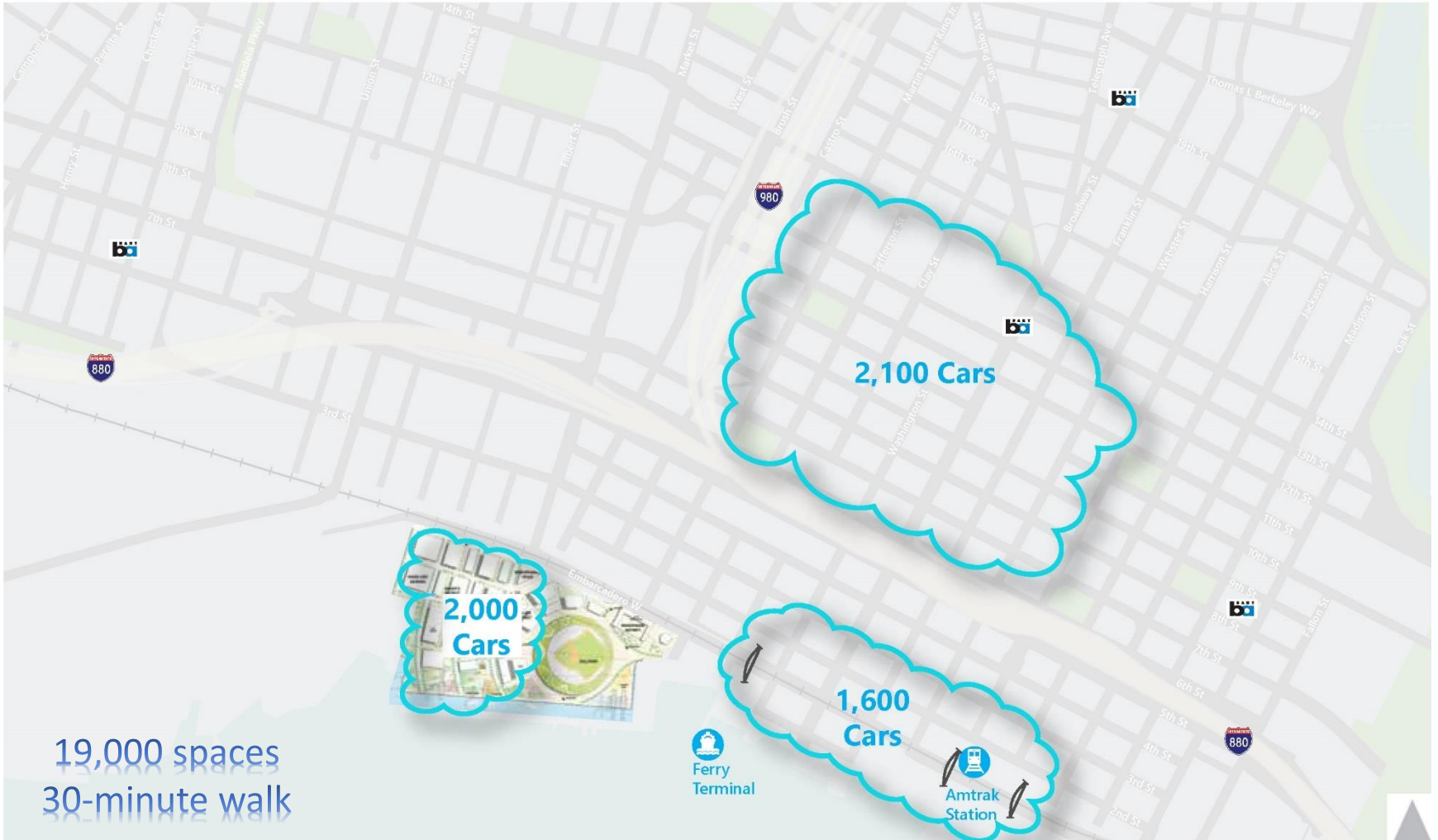
Permanent Change – Subject to CPUC Approval

- **At-Grade Railroad Crossing Improvements**
 - **Market Street**
 - **Martin Luther King Jr. Way**
 - **Clay Street**
 - **Washington Street**
 - **Broadway**
- **Fencing Schnitzer Steel to Broadway**



WHERE DO I PARK?

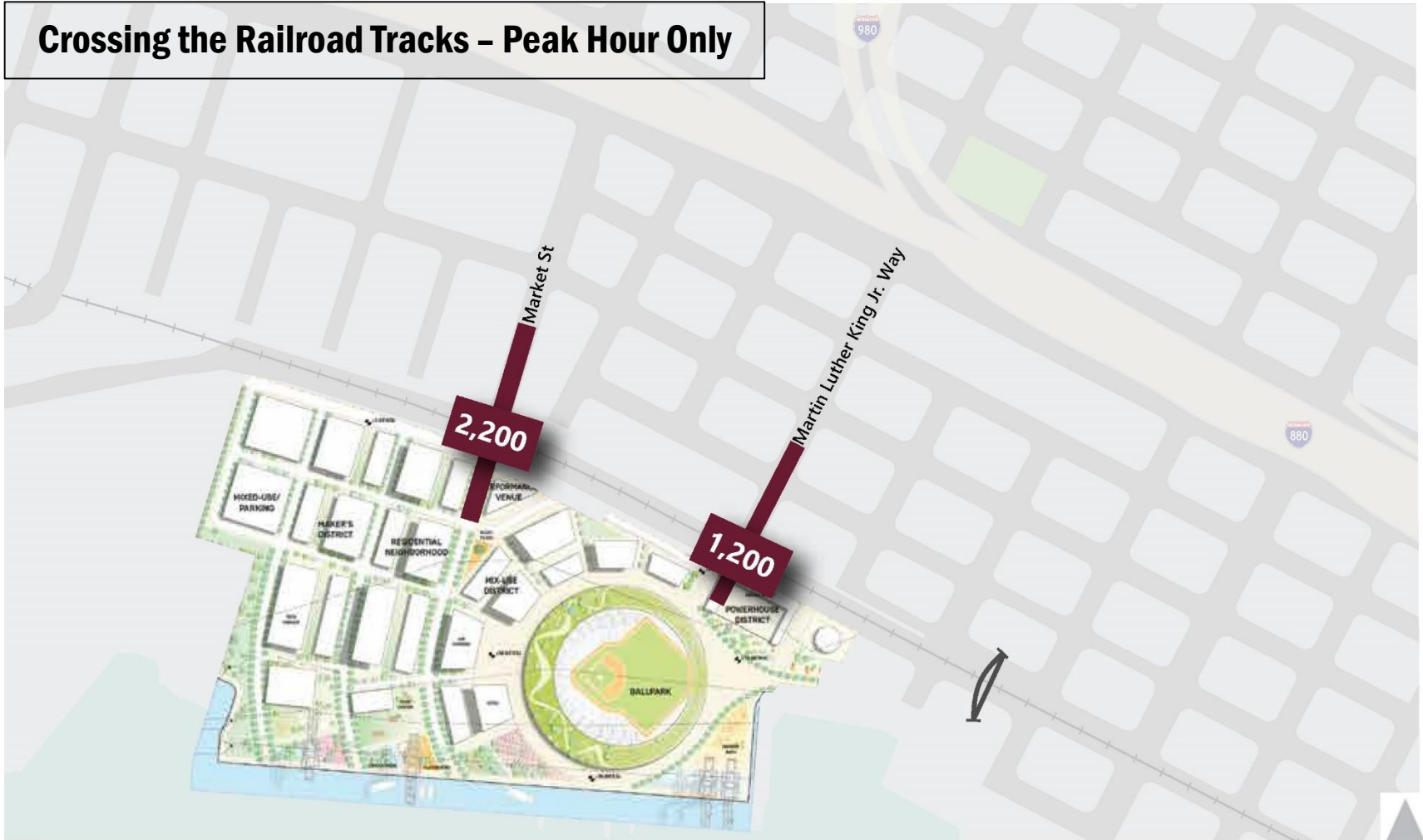
Weekday Evening Games – Parking Reservations at Buildout



VEHICLE CROSSINGS AT RAILROAD

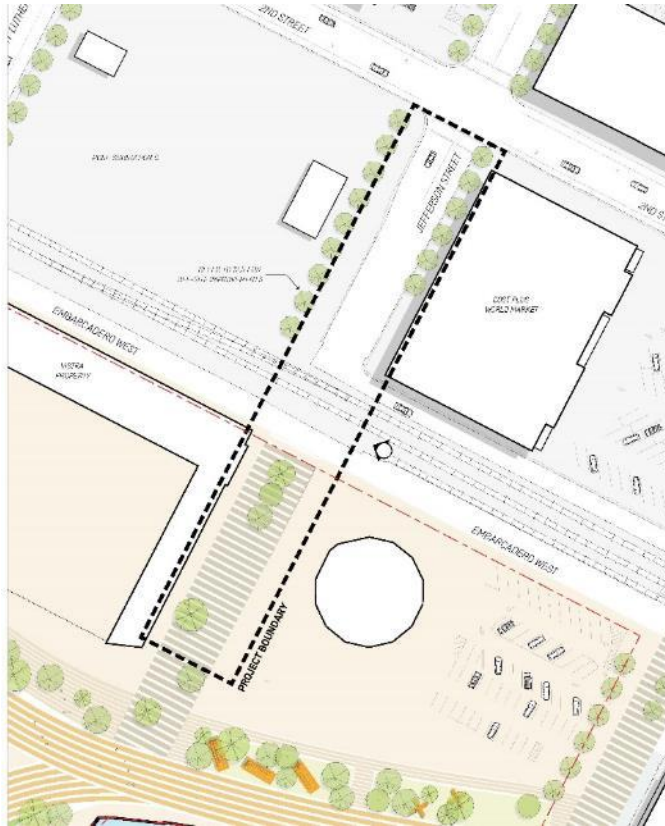
Weekday Evening Game – Peak Hour Buildout Crossings

Crossing the Railroad Tracks – Peak Hour Only

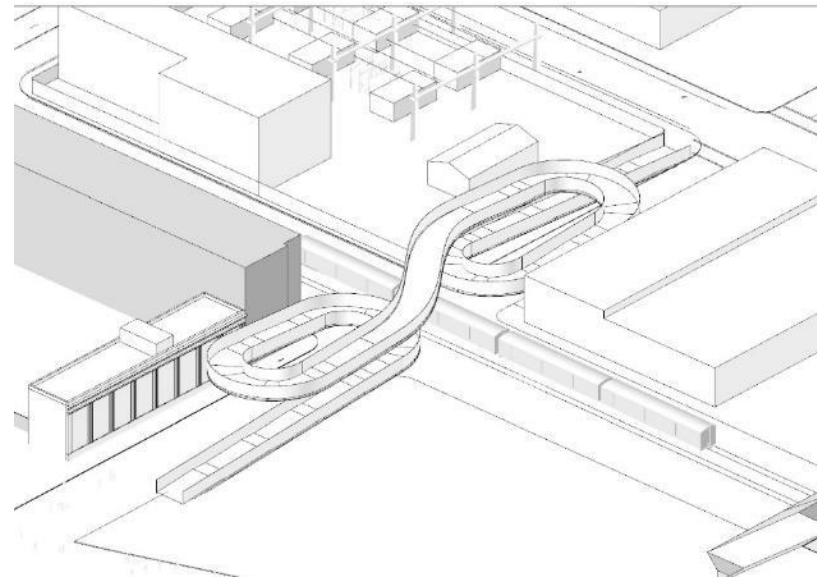


PEDESTRIAN AND BIKE BRIDGE

Permanent Change – Subject to CPUC Approval



Variant in CEQA Document



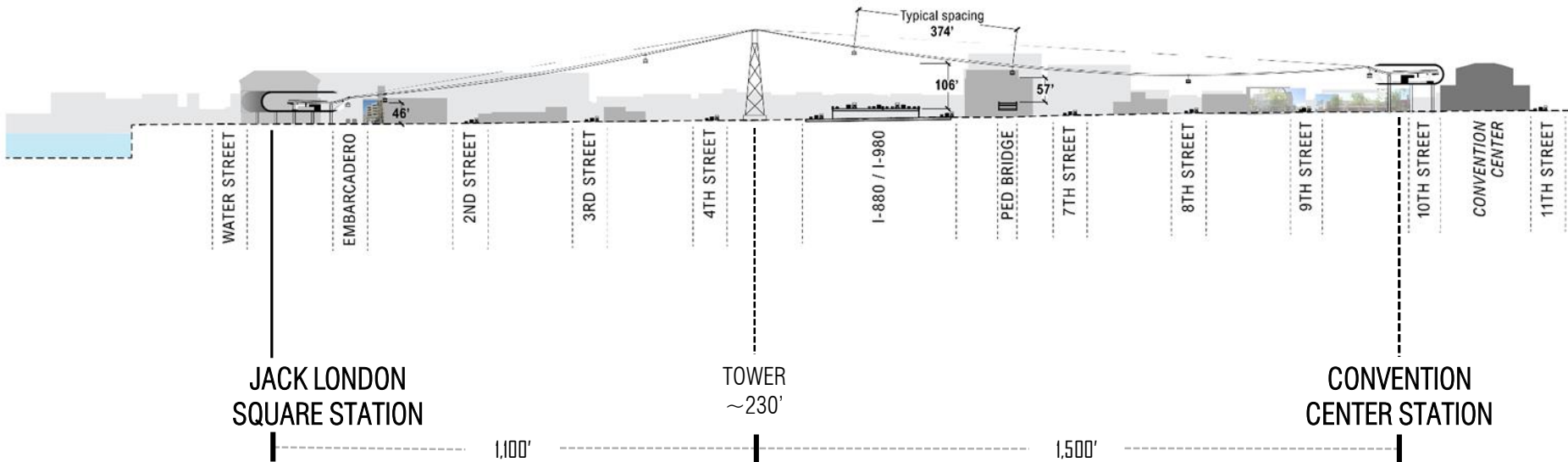
Potential locations –

- Jefferson Street (shown) or
- Clay Street

GONDOLA

Permanent Change – Subject to CPUC Approval

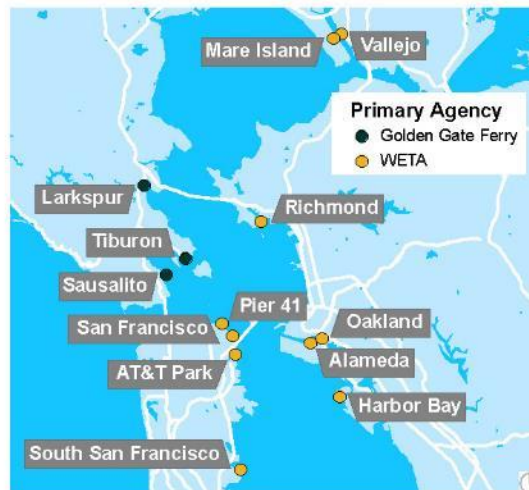
Variant in CEQA Document



TRANSPORTATION PLAN CONSIDERATIONS

Ballpark District

**FERRY /
WATER TAXI
SERVICE**



POTENTIAL FERRY RIDERSHIP

Up to 1,200 ballpark patrons (based on Giants ridership)



FERRY CAPACITY

Up to 400 passengers per ferry



TRAVEL TIME FROM SAN FRANCISCO FERRY BUILDING

35 minutes (30 min ferry, 5 minute walk)

Exhibit E



CITY OF OAKLAND

Bureau of Planning

250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612-2032

NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE OAKLAND WATERFRONT BALLPARK DISTRICT PROJECT

The City of Oakland's Bureau of Planning is preparing an Environmental Impact Report ("EIR") for the Oakland Waterfront Ballpark District Project ("Proposed Project") at Howard Terminal. The City is requesting comments on the scope and content of the EIR. A description of the Proposed Project and its location, together with a summary of the probable environmental effects that will be addressed in the EIR are included herein. Pursuant to California Environmental Quality Act Guidelines §15063(a), the City has **not** prepared an Initial Study.

The EIR for the Proposed Project is being prepared in compliance with the California Environmental Quality Act (CEQA) (California Public Resources Code §§21000 et. seq.) and the State CEQA Guidelines (Guidelines) (California Code of Regulations, Title 14, Division 6, Chapter 3, §§15000 et. seq.). The EIR for the Proposed Project is also being prepared under the new California Assembly Bill 734 judicial streamlining legislation (California Environmental Quality Act: Oakland Sports and Mixed-Use Project) that added new provisions to CEQA as Public Resources Code § 21168.6.7 for the Proposed Project. The City of Oakland is the public agency that would consider approval of an amendment to the Oakland General Plan required for the Proposed Project, and as such, it is the Lead Agency for the Proposed Project. Pursuant to Guidelines §15082(a), upon deciding to prepare an EIR, the City as lead agency must issue a Notice of Preparation (NOP) to inform the Governor's Office of Planning and Research, trustee and responsible agencies, and the public of that decision.

The purpose of the NOP is to provide information describing the project and its potential environmental effects to those who may wish to comment regarding the scope and content of the information to be included in the EIR. Guideline §15082(b) states: "... [E]ach responsible and trustee agency and the Office of Planning and Research shall provide the lead agency with specific detail about the scope and content of the environmental information related to the responsible or trustee agency's area of statutory responsibility that must be included in the draft EIR. The response at a minimum shall identify: (A) The significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the Office of Planning and Research, will need to have explored in the Draft EIR; and (B) Whether the agency will be a responsible agency or trustee agency for the project." This notice is being sent to responsible or trustee agencies and other interested parties. Responsible and trustee agencies are those public agencies, besides the City of Oakland, that have a role in considering approval and/or carrying out the project. The City encourages responsible and trustee agencies and the Office of Planning and Research to provide this information to the City, so that the City can ensure that the Draft EIR meets the needs of those agencies. Once the Draft EIR is published, it will be sent to all responsible or trustee agencies and to others who respond to this NOP or who otherwise indicate that they would like to receive a copy. The Draft EIR will also be available for review at the City of Oakland at the address identified immediately below.

SUBMITTING COMMENTS IN RESPONSE TO THIS NOP: The City encourages comments to be submitted electronically via the following link: <http://comment-tracker.esassoc.com/tracker/oaklandsportseir/>. Comments that address the scope of the Draft EIR may also be directed in writing to: Peterson Vollmann, Planner IV, City of Oakland Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2214, Oakland, CA 94612, by hand

delivery or mail, by email to PVollmann@oaklandca.gov, or by fax to (510) 238-4730. Mr. Vollmann may be reached by phone at (510) 238-6167. Time limits mandated by State law require that the City must receive comments within 30 days after publication of this notice; however, the City will receive comments through January 7, 2019, 38 days after publication of this notice. Responses to the NOP must be received via the above web address, mailing or e-mail address or fax by 5:00 p.m. on **Monday, January 7, 2019**. Please reference Case File Number **ER18-016** in all correspondence. Comments and suggestions as to the appropriate scope of analysis in the EIR are invited from all interested parties and will be received at the EIR Scoping Meetings to be held before the City Planning Commission, as noticed below.

Commenters should focus comments on potential impacts of the Proposed Project on the physical environment. Commenters are encouraged to identify ways that potential adverse effects resulting from the Proposed Project might be minimized and to identify reasonable alternatives and mitigation measures to the Proposed Project.

EIR SCOPING MEETINGS:

The **City of Oakland Planning Commission** will conduct a public scoping meeting on the EIR for the Oakland Waterfront Ballpark District Project on **Wednesday December 19, 2018 at 6:00 p.m.** in the Council Chambers in **Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, CA.**

The **City of Oakland Landmarks Preservation Advisory Board** will conduct a public scoping meeting on the historic and cultural resource aspects of the Proposed Project on **Monday December 17, 2018 at 6:00 p.m.** in the Council Chambers, **Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, CA.**

PROJECT TITLE: Oakland Waterfront Ballpark District Project (Case File No. **ER18-016**)

PROJECT LOCATION: Approximately 55 acres that comprises the Charles P. Howard Terminal and adjacent parcels, located at the Port of Oakland along the Inner Harbor of the Oakland-Alameda Estuary (See Figure 1, Site Location). The site is bound generally by the Oakland Estuary Middle Harbor on the south; Jack London Square on the east; Union Pacific railroad tracks and the Embarcadero on the north; and the heavy metal recycling center, Schnitzer Steel, on the west (see Figure 2, Site Boundary and Context).

PROJECT SPONSOR: Oakland Athletics Investment Group, LLC d/b/a The Oakland Athletics

PROJECT SITE OWNERS: City of Oakland acting by and through the Port of Oakland, Dynegy Oakland, LLC, and PG&E

EXISTING CONDITIONS: Maritime support uses for short term tenants. Existing uses and activities include but are not limited to: truck parking, loaded and empty container storage and staging, and longshore training facilities. The Project Site was previously used as a maritime container terminal until 2014. Howard Terminal is designated as Berths 67 through 69 within the Port of Oakland. Berths 67 and 68 were constructed in the early 1980's, and Berth 69 was constructed in the mid 1990's. The site includes a marginal wharf structure approximately 75' wide. A below grade rock dike sits adjacent to the Oakland Inner Harbor as the site's shoreline. The remaining site is

understood to be on grade pavement. Four cranes are located on Howard Terminal that were used to load/unload ships when the area was an active shipping facility. Howard Terminal is currently used by short term tenants.

Existing regional access to the Project Site exists via both Interstate 880 and Interstate 980, with on-ramps to each within one mile of the Project Site. The Project Site is located about one mile, a 20- to 25-minute walk, from three BART stations including West Oakland, 12th Street Downtown, and Lake Merritt. Railroad tracks are adjacent to the north boundary of the Project Site and there are several at-grade crossings of the railroad tracks nearby, including two directly into the Project Site. There is an Amtrak / Capital Corridor train station about one-half mile from the Project Site, transit bus service is within one-quarter mile, and the Jack London Ferry Terminal is immediately adjacent to the east of the Project Site.

The City of Oakland, acting by and through the City Council, controls the General Plan designation of the Project Site, which currently has a land use designation of “General Industrial” and the “Industrial General (IG)” zoning designation. In addition, areas of Howard Terminal fronting the Oakland Estuary (to the south) are designated within the Bay Conservation and Development Commission (BCDC) jurisdiction and are State Public Trust lands.

The Project Site is included in the list of Hazardous Waste and Substances sites in the Department of Toxic Substances Control (DTSC) EnviroStor database, one of the lists meeting the “Cortese List” requirements (<http://www.calepa.ca.gov/sitecleanup/corteselist/>, accessed October 2018).

PROJECT DESCRIPTION: The Project Sponsor proposes to develop the Howard Terminal property with the following key initial plan elements:

- Demolish existing buildings on the Project Site, except the existing power plant and the existing container cranes, which may be retained;
- Address any hazardous materials that may be present on the Project Site;
- Construct:
 - A new privately funded, open-air, approximately 35,000 person capacity Major League Baseball park;
 - Up to 4,000 residential units of varying affordability and types
 - Approximately 2.27 million square feet of adjacent mixed use development, including retail, commercial, office, cultural, entertainment, flex light industrial/manufacturing, and recreational uses;
 - A performance venue with a capacity of up to 3,500 individuals;
 - A 300 to 400-room hotel;
 - New and expanded utility infrastructure; and
 - New signage and lighting;
- Construct/provide improved access from the surrounding neighborhood and regional transportation networks, which could include, but may not be limited to:
 - an expanded shuttle and/or bus service (“rubber-tire trams”); and

- a new network of public streets and sidewalks that provide connectivity to and through the Project Site, and pathways that lead directly to the waterfront and related amenities.
- Construct/provide new waterfront public access, enhanced water views, and on-site open space;
- Comply with AB 734 regarding implementation of sustainability measures, development of a LEED Gold ballpark, and no net increase of greenhouse gas (GHG) emissions; and
- Phase development of the Proposed Project, with a target completion date of Spring 2023 for construction of Phase 1, including the ballpark, associated infrastructure, and potentially some ancillary development.

The Proposed Project may also consider one or more variants or options, potentially including but not limited to:

- New elevated pedestrian connections over the railroad tracks and improvements to existing at-grade crossings;
- An aerial tram or gondola above Washington Street extending from downtown Oakland near 12th Street BART to Jack London Square;
- Development of a portion of an existing power plant and removal of adjacent tanks;
- Altered edge configuration of the existing wharf to enhance public views and provide additional boat access/active water uses; and/or
- Extension of Embarcadero West to Middle Harbor Road and a new ramp from the existing Adeline Street overpass for new direct access to the Project Site.

ANTICIPATED ENTITLEMENTS AND APPROVALS: Discretionary approvals required for development of the Proposed Project are anticipated to include, but may not be limited to, the following:

- City Council approval of amendments to the General Plan and Planning Code after recommendation by the Planning Commission;
- Board of Port Commissioners approval of project transactional documents (e.g. leases and conveyance agreements);
- All necessary development permits and entitlements from the City & the Port;
- Port and State Lands Commission approval of a Trust Settlement and Exchange Agreement addressing public trust issues affecting the Project Site; and
- Bay Conservation and Development Commission (BCDC) Major Permit and Amendment to the BCDC and Metropolitan Transportation Commission (MTC) Seaport Plan.

PROBABLE ENVIRONMENTAL EFFECTS AND PROPOSED SCOPE OF THE EIR: The EIR will analyze and disclose the direct and indirect potentially significant impacts that would result from construction and operation of the Proposed Project under Existing Plus Project and Cumulative conditions (Guidelines §§15126.2, 15130), in addition to other analysis scenarios that may be appropriate for the EIR. Where significant impacts are identified, the EIR will describe potentially feasible mitigation measures that could minimize significant adverse impacts (Guidelines §15126.4). It is anticipated that the Proposed Project may have environmental impacts on aesthetics, air quality, biological resources, cultural resources, hazards, land use, noise and vibration, population and housing, public services, public utilities, transportation and circulation, hydrology and water quality, and growth inducement. It is anticipated that the Proposed Project would have no impact or less-than-significant impacts on


agricultural and forestry resources. Nevertheless, the EIR will evaluate the full range of environmental issues contemplated for consideration under CEQA and the CEQA Guidelines, including but not limited to the following:

- Aesthetics, Shadow and Wind (including Light, and Glare)
- Agricultural and Forestry Resources
- Air Quality
- Biological Resources
- Cultural and Historic Resources (including Tribal Cultural Resources)
- Geology and Soils (including Geological and Seismic Hazards)
- Greenhouse Gas Emissions /Global Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise and Vibration
- Population and Housing (including Growth Inducement)
- Public Services (including Police Services, Fire Protection Services, Parks and Schools);
- Recreation
- Transportation and Circulation
- Public Utilities and Service Systems (including Energy Demand and Conservation)

The Draft EIR will evaluate cumulative impacts of the Proposed Project, including the effects of other past, present, and reasonably foreseeable projects in the vicinity (Guidelines §15130).

The Draft EIR will also identify and examine a range of reasonable alternatives to the Proposed Project, including, but not limited to, a No Project Alternative (Guidelines §15126.6) and an alternative site (e.g. the Oakland Coliseum site).

November 30, 2018
Case File Number: **ER18-016**

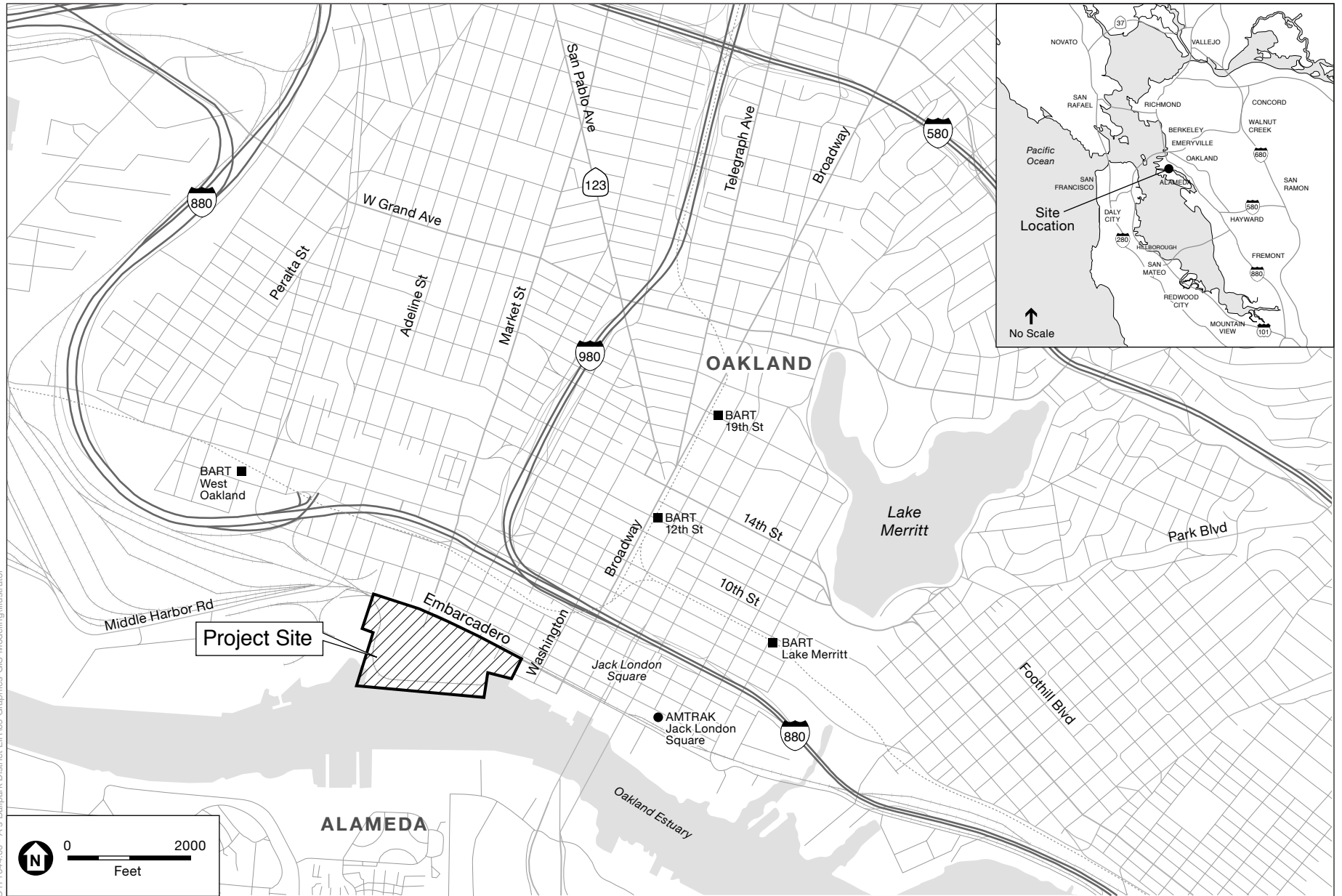


Ed Manasse, Bureau of Planning
Environmental Review Officer

Attachments:

- Figure 1, Project Location Map
- Figure 2, Site Boundary and Context

D:\71044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator



SOURCE: ESA, 2018

Figure 1
Project Location





SOURCE: City of Oakland, Bureau of Planning

Figure 2
Site Boundary and Context

Exhibit F

Re: Follow-Up and Update on FASTER

MLS

Tue 6/25/2019 3:04 PM

To: Russo, Ryan <RRusso@oaklandca.gov>; Landreth, Sabrina <SLandreth@oaklandca.gov>

Cc: Lake, Betsy <ELake@oaklandca.gov>; Sawicki, Mark <MSawicki@oaklandca.gov>

Please let them know these were your initial thoughts but you'll be meeting with the Mayor to finalize a list.

Let's meet about this ASAP.

Sent from my iPhone

On Jun 24, 2019, at 2:01 PM, Russo, Ryan <RRusso@oaklandca.gov> wrote:

Ryan Russo
Director, OakDOT
(510) 238-2967
rrusso@oaklandca.gov

From: Russo, Ryan

Sent: Wednesday, May 29, 2019 11:30 AM

To: Gwen Litvak <glitvak@bayareacouncil.org>

Cc: Jason Baker <jbaker@svlg.org>; Ferrara, Nicole <[NFerrara@oaklandca.gov](mailto:N Ferrara@oaklandca.gov)>

Subject: RE: Follow-Up and Update on FASTER

Dear Gwen,

We're looking forward to meeting with you today to discuss the Megameasure and how we can improve our transportation system for all Bay Area residents. In advance of our meetings, I want to share a few key principles and priorities.

Principles:

- 1) **Values:** The City of Oakland will work to ensure that the measure reflects our values as a City, many of which are shared with other cities throughout the Bay Area:
 - a. **Equity:** reversing systemic inequities that have persisted in our transportation systems for generations, including inequitable access to safe streets and a variety of mobility options, as well as authentically engaging communities of concern in planning processes
 - b. **Safety:** targeting areas with the highest numbers of severe and fatal crashes for infrastructure improvements, calming speeds through improved street design
 - c. **Sustainability:** creating a transportation system where the most affordable, most reliable and fastest way to get around is also the most environmentally sustainable

- d. **Responsible governance:** transparent processes that include accountability measures and metrics, and build the public's confidence in government's ability to spend their dollars wisely and responsibly
- 2) **Funding source:** as Bay Area transportation leaders consider funding sources for the megameasure, we are committed to ensuring that the funding source is guided by our values:
- a. **Sales taxes** are regressive and don't align with our equity value. There is also no link between sales taxes and transportation. We discourage you from considering this funding source option.
 - b. **Parcel taxes** are less regressive, but also aren't clearly linked to transportation and the Bay Area is already grappling with an immense housing crisis, and raising housing costs seems inopportune. While this is more acceptable than a sales tax, we are interested in funding sources with a better nexus.
 - c. **Vehicle License Fee & Regional Gas Taxes** are either more progressive measure, provide an incentive to the outcomes we want and/or have an obvious direct link to the improvements we're seeking. We strongly encourage you to seek state legislation to allow Bay Area residents to significantly increase their VLFs and/or allow for a regional gas tax to pay for transportation infrastructure

Priorities:

As the Megameasure takes shape, we're including a preliminary list of priority projects. This is not a comprehensive list, and the projects below are at varying stages in the project development process:

- **Regional Connectivity:**
 - **Second tube** from San Francisco to Oakland
 - **Sustainable estuary crossing** between Oakland and Alameda. Some initial planning has begun on a pedestrian/bicycle bridge, and other considerations include a Transit bridge/tunnel and Gondola.
 - **Multi-modal Bay Bridge Connections:**
 - Fully funding the partially funded **LINK project** to get people walking and biking from West Oakland to the East Span of the Bay Bridge
 - **West span of Bay Bridge pedestrian/bike path**
 - **Priority transit access** to the Bay Bridge from the East Bay, and potentially on the Bay Bridge
 - **I-580 general purpose lane to HOV/Express Lane conversion:** ACTC project through Oakland portion of the I-580
 - **I-980 tear-down**, converting freeway to housing and rebuilding the street network and connectivity between Downtown and West Oakland
 - **Infill stations along BART**
 - Potential Oakland Locations: 98th Ave, High St, Howard Terminal/Jack London Square, Children's Hospital
 - **Jack London railroad track undergrounding:** the current railroad alignment along Embarcadero West through Jack London Square makes for one of the highest injury and delay areas along the Amtrak network, and it results in noise pollution in an area undergoing a massive transition from industrial to mixed use commercial and residential zones. Undergrounding the railroad, perhaps in alignment with a second tube and the A's Howard Terminal development, creates an opportunity to increase reliability of Amtrak and the development of a new East Bay transit hub.

- Regional Express Bus Transit: using regional system of managed lanes, provide for high frequency, high quality regional express transit
- **Undergrounding BART in East & West Oakland:** undergrounding BART in East & West Oakland creates a great opportunity for new parcels to be designed for transit oriented development and can right historic injustices
- Major pedestrian/bicycle infrastructure projects
 - **Coliseum BART to Bay Trail connection:** this creates a class IV pedestrian and bicycle path between the Coliseum BART station in East Oakland to the Bay Trail, linking BART riders and East Oakland community members to an incredible open space/active transportation resource that's fairly inaccessible. It requires extensive I-880 interchange reconstruction. The project is on Caltrans' PID list.
 - **East Bay Greenway:** this project has been designed and requires construction dollars to build & maintenance resources
 - (Also see LINK Project and West Span of Bay Bridge above)
- Programmatic Categories:
 - **Transit capital improvements:** implementation of surface transit investments (bus only lanes, BRT projects) in coordination with AC Transit
 - **Transit operations:** increasing frequency of AC Transit buses, expanding routes, reducing fares
 - **Shared mobility & parking:** planning, management, upgrading to "smart" infrastructure, e-charging stations, etc.
 - **Pedestrian and bicycle safety and maintenance:** flexible dollars to both build new safety projects and maintain existing infrastructure and paths
 - **Roadway maintenance and operations:** for signals, lighting, pavement, concrete, and ADA retrofits

We're looking forward to our initial discussion, and fleshing out these ideas further over the coming months.

Sincerely,

Ryan

Ryan Russo
Director, OakDOT
(510) 238-2967
russo@oaklandca.gov

From: Gwen Litvak [<mailto:glitvak@bayareacouncil.org>]
Sent: Thursday, May 9, 2019 5:15 PM
To: Russo, Ryan <RRusso@oaklandca.gov>
Cc: Jason Baker <jbaker@svlg.org>
Subject: Follow-Up and Update on FASTER

Hi Ryan,

I hope this email finds you well.

The FASTER coalition is reaching out to a number of transportation leaders and we'd love to meet ASAP and hear about your ideas for a possible regional transportation measure.

Please see the attached for more information for discussion- no need to respond in writing; we plan to discuss these live during our meeting!

Any chance you are free Friday the 17th after 2:30pm to discuss? If not, I can provide some dates and times the following week that may work.

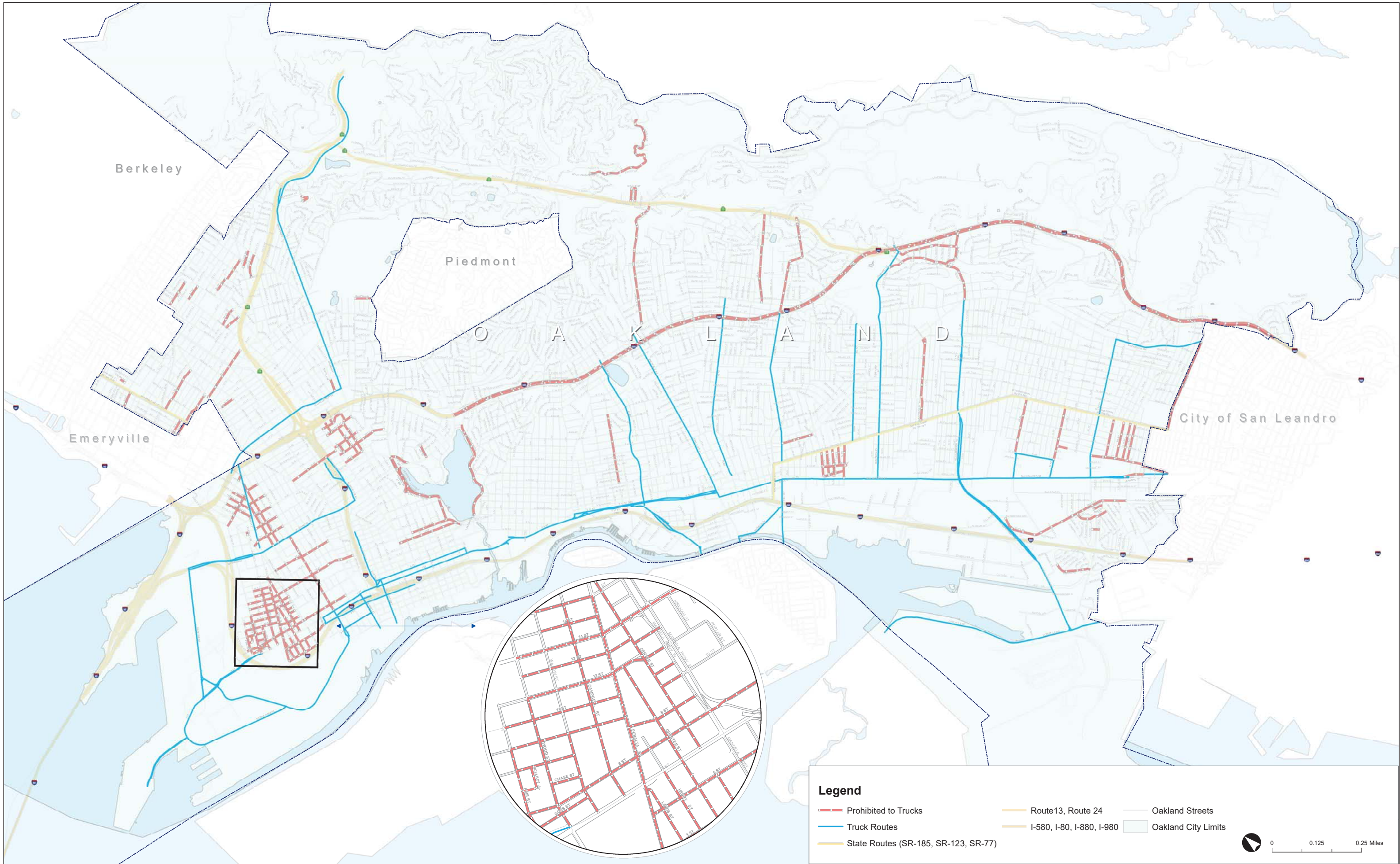
Thanks so much,
Gwen Litvak

Gwen Litvak | Senior Vice President, Public Policy | BAYAREA COUNCIL
353 Sacramento Street, 10th Floor | San Francisco, CA 94111 | 415-946-8706
glitvak@bayareacouncil.org | www.bayareacouncil.org | twitter: [@bayareacouncil](https://twitter.com/bayareacouncil)

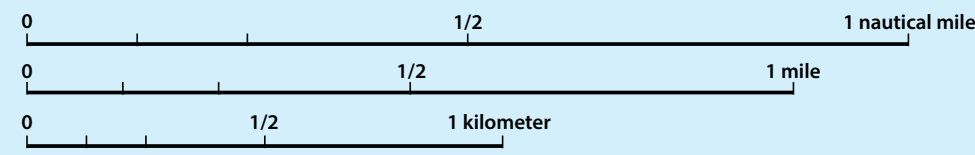
<FASTER Follow-Up Discussion.pdf>

Exhibit G

City of Oakland Truck Routes and Prohibited Streets

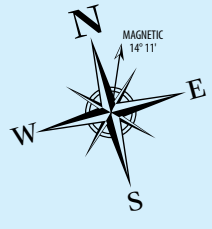


Port of Oakland Maritime Facilities



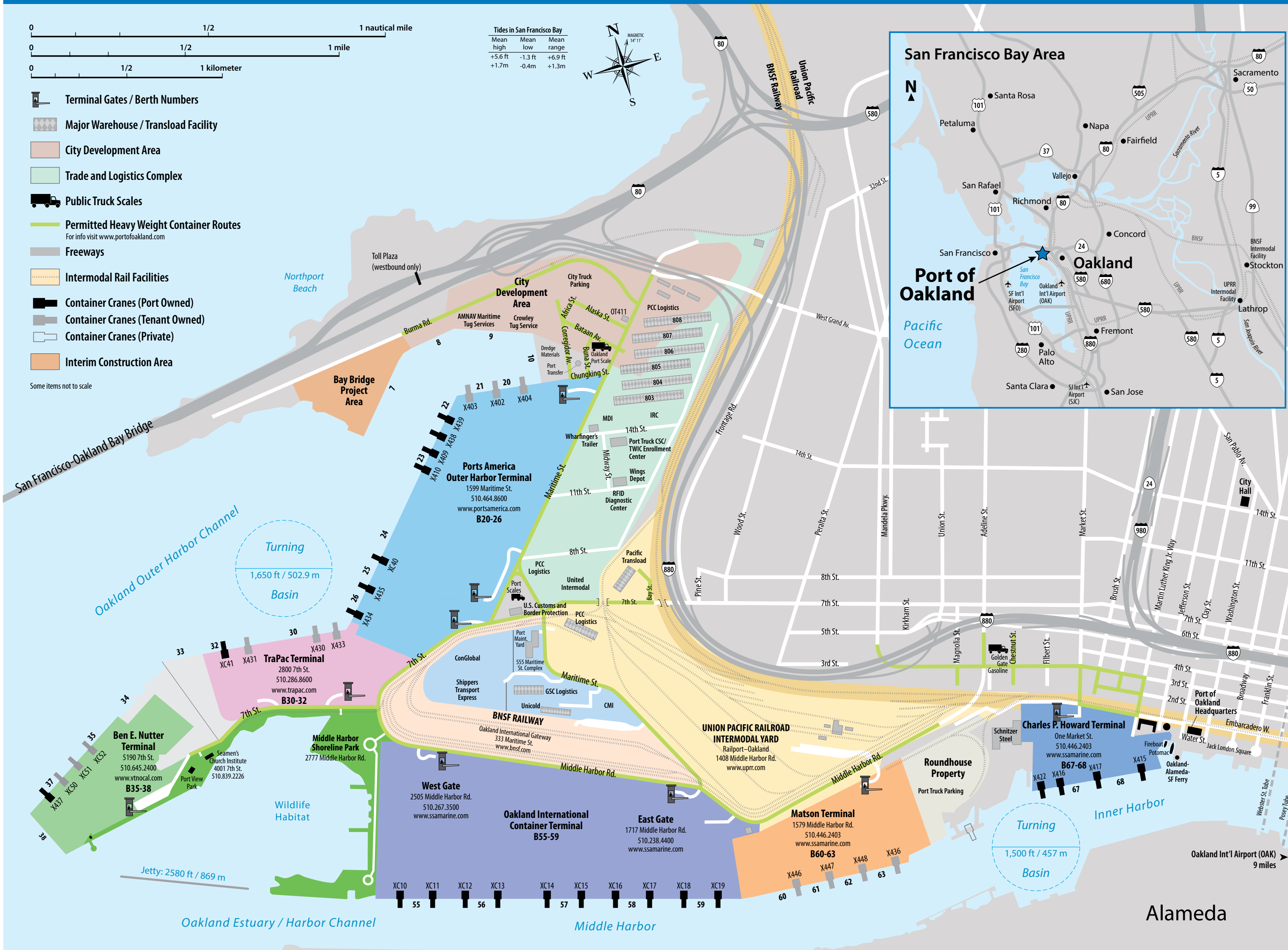
Tides in San Francisco Bay

Mean high	Mean low	Mean range
+5.6 ft	-1.3 ft	+6.9 ft
+1.7m	-0.4m	+1.3m



- Terminal Gates / Berth Numbers
- Major Warehouse / Transload Facility
- City Development Area
- Trade and Logistics Complex
- Public Truck Scales
- Permitted Heavy Weight Container Routes
For info visit www.portofoakland.com
- Freeways
- Intermodal Rail Facilities
- Container Cranes (Port Owned)
- Container Cranes (Tenant Owned)
- Container Cranes (Private)
- Interim Construction Area

Some items not to scale



Berths Terminal

20-26 Ports America Outer Harbor Terminal
Operator: Ports America
Carriers: CCNI, Hamburg Süd, Hapag-Lloyd, K-Line, Maersk, MSC, Polynesia, Yang Ming

30-32 TraPac Terminal
Operator: TraPac Inc.
Carriers: MOL, APL, Hyundai

35-38 Ben E. Nutter Terminal
Operator: Seaside Transportation Services (STS)/Evergreen
Carriers: Evergreen, COSCO, China Shipping, Hanjin

55-59 Oakland International Container Terminal
Operator: Stevedoring Services of America, Inc. (SSA)
Carriers: APL, China Shipping, COSCO, Hanjin, Hapag-Lloyd, Hyundai, Maersk, MOL, MSC, NYK, OOCL, UASC, Wan Hai, Zim

60-63 Matson Terminal
Operator: Stevedoring Services of America, Inc. (SSA)
Carriers: Matson

67-68 Charles P. Howard Terminal
Operator: Stevedoring Services of America, Inc. (SSA)
Carriers: Matson
Available for Lease in 2014

Port of Oakland
 Headquarters
 530 Water Street
 Oakland, CA 94607 USA
 510.627.1000
www.portofoakland.com



PORT OF OAKLAND

Revision 17DEC 2013

Port of Oakland Maritime Facilities

	Marine Terminals	Address	Operator	Terminal type	Berth					FIRMS Code	Cranes									
					Berths	Length	Water depth (MLLW)	Reefer capacity/ outlet type	Total terminal area		Port ID#	Type	Manufacturer	Boom type	Capacity	Overall height	Net outreach from face of fender	Lifting height above dock		
Outer Harbor	Ports America Outer Harbor Terminal	1599 Maritime Street	Ports America	Container	20-21 (in line)	1,355ft / 413m	42ft / 12.8m	592 outlets 480v	166.1ac/ 67.2ha	W297	X402	Panamax	Paceco	Non-Articulating	30LT	221.8ft / 67.6m	105ft / 32.0m	76ft / 23.1m		
					X403	Panamax	Paceco	Non-Articulating	30LT		221.8ft / 67.6m	103.5ft / 31.5m	76ft / 23.1m							
					X404	Panamax	Paceco	Non-Articulating	30LT		221.8ft / 67.6m	105ft / 32.0m	76ft / 23.1m							
					22-24 (in line)	3,129ft / 954m	50ft / 15.2m				X439	Post-Panamax	ZPMC	Non-Articulating	50LT	320.2ft / 97.6m	154ft / 46.9m	110ft / 33.5m		
											X438	Post-Panamax	ZPMC	Non-Articulating	50LT	320.2ft / 97.6m	154ft / 46.9m	110ft / 33.5m		
											X409	Post-Panamax	KSEC	Articulating	50LT	222.8ft / 67.9m	137ft / 41.7m	100ft / 30.4m		
											X410	Post-Panamax	KSEC	Articulating	50LT	222.8ft / 67.9m	137ft / 41.7m	100ft / 30.4m		
					25-26 (in line)	1,138ft / 347m	50ft / 15.2m	242 outlets 480v	44.3ac/ 17.9ha		X440	Super Post-Panamax	ZPMC	Non-Articulating	65LT	379ft / 115.5m	186ft / 56.6m	132ft / 40.2m		
											X435	Post-Panamax	ZPMC	Non-Articulating	55LT	330ft / 100.6m	161ft / 49.0m	112ft / 34.1m		
					X434	Post-Panamax	ZPMC	Non-Articulating	55LT	330ft / 100.6m	161ft / 49.0m	112ft / 34.1m								
Seventh Street	TraPac Terminal	2800 7th Street	TraPac Inc.	Container	30-32 (in line)	2,172ft / 662m	50ft / 15.2m	388 outlets 480v	65.7ac/ 26.6ha	Y549	X430	Post-Panamax	Mitsui-Paceco	Articulating	40LT	275ft / 83.8m	148.3ft / 45.1m	124ft / 37.7m		
	Berth 33	3050 7th Street	Available	Container / Bulk / Breakbulk	33	701ft / 214m	50ft / 15.2m		18.5ac/ 7.5ha		None									
	Berth 34	3050 7th Street	Temporarily Unavailable	Ro-Ro / Bulk / Breakbulk	34	720ft / 219m	37ft / 11.3m		4.1ac/ 1.7ha		None									
	Ben E. Nutter Terminal (STS/Evergreen)	5190 7th Street	Seaside Transportation Services, LLC (STS) / Evergreen	Container	35-37 (in line)	2,157ft / 657.4m + 100ft / 30.4m dolphin	50ft / 15.2m	346 outlets 480v	73.9ac/ 29.9ha		Y738	X437	Post-Panamax	ZPMC	Articulating	50LT	293ft / 89.3m	156.7ft / 47.7m	110ft / 33.5m	
									XC50	Super Post-Panamax		ZPMC	Non-Articulating	50LT	390.8ft / 119.1m	199.6ft / 60.8m	131ft / 39.9m			
									XC51	Super Post-Panamax		ZPMC	Non-Articulating	50LT	390.8ft / 119.1m	199.6ft / 60.8m	131ft / 39.9m			
									XC52	Super Post-Panamax		ZPMC	Non-Articulating	50LT	390.8ft / 119.1m	199.6ft / 60.8m	131ft / 39.9m			
Middle Harbor	Oakland International Container Terminal	West Gate 2505 Middle Harbor Road	Stevedoring Services of America Terminals, Inc. (SSA)	Container	55-56 (in line)	2,400ft / 731.5m	50ft / 15.2m	605 outlets 480v	120ac/ 48.6ha	Z855	XC10	Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m		
												XC11	Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m	
													XC12	Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m
													XC13	Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m
		East Gate 1717 Middle Harbor Road	Stevedoring Services of America Terminals, Inc. (SSA)	Container	57-59 (in line)	3,600ft / 1,091m	50ft / 15.2m	898 outlets 480v	150ac/ 60.6ha	Z985	XC14	Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m		
									XC15		Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m			
									XC16		Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m			
									XC17		Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m			
									XC18		Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m			
									XC19		Super Post-Panamax	ZPMC	Non-Articulating	65LT	365.9ft / 111.5m	188ft / 57.3m	115ft / 35.0m			
Matson Terminal	1579 Middle Harbor Road	Stevedoring Services of America Terminals, Inc. (SSA)	Container	60-63 (in line)	2,743ft / 836m	42ft / 12.8m	257 outlets 480v	80ac/ 32.1ha	W578	X436	Post-Panamax	Noell	Non-Articulating	50LT	327ft / 99.7m	152ft / 46.3m	110ft / 33.5m			
										X446	Post-Panamax	Mitsubishi	Articulating	40LT	189.5ft / 57.7m	132ft / 40.2m	105ft / 32.0m			
										X447	Post-Panamax	Mitsubishi	Articulating	40LT	189.5ft / 57.7m	132ft / 40.2m	105ft / 32.0m			
										X448	Post-Panamax	Mitsubishi	Articulating	40LT	189.5ft / 57.7m	132ft / 40.2m	105ft / 32.0m			
Inner Harbor	Charles P. Howard Terminal	1 Market Street	Stevedoring Services of America Terminals, Inc. (SSA)	Container / Autos	67-68 (in line)	1,946ft / 593m + 70ft / 21.3m dolphin	42ft / 12.8m	204 outlets 480v	50.3ac/ 20.4ha	W614	X415	Panamax	Hitachi	Articulating	40LT	213ft / 64.9m	108ft / 32.9m	102.5ft / 31.2m		
											X416	Panamax	Hitachi	Articulating	40LT	213ft / 64.9m	108ft / 32.9m	102.5ft / 31.2m		
											X417	Post-Panamax	KSEC	Articulating	50LT	195ft / 59.4m	115.5ft / 35.2m	90ft / 27.4m		
											X422	Panamax	Paceco	Shuttle	40LT	130ft / 39.6m	105.5ft / 32.2m	100ft / 30.5m		

Other Facilities	Address	Operator	Terminal type	Total terminal area
Roundhouse Property	1195 Middle Harbor Road	Available	Multi-Use Facility	39.5ac/ 15.9ha
Transportation & Logistics Center	Oakland Army Base	Port	Rail, Warehouse, Bulk, Project Cargo, Cold Storage	160ac/ 64.7ha

Railroad Terminals	Address	Operator	Class	Truck Gates	Double space car spots	Parking spots	Total terminal area	FIRMS Code
Joint Intermodal Terminal	333 Maritime Street	BNSF	1	8	41	1,245	87ac/ 35.2ha	Z944
RailPort Oakland	1408 Middle Harbor Road	Union Pacific	1	12	70	2,800	110ac/ 44.5ha	W581



PORT OF OAKLAND

10.52.120 - Local truck routes.

The following truck routes are established for the movement of motor trucks and trucking combinations as defined in Section 10.52.070:

Street	From	To
23rd Avenue	East 12th Street	29th Avenue
29th Avenue	23rd Avenue	Alameda City Limits
85th Avenue	San Leandro Street	G Street
92nd Avenue	San Leandro Street	G Street
3rd Street	Market Street	Adeline Street
7th Street	Fallon Street	Port of Oakland
8th Street	Fallon Street	Nelson Mandela Parkway
East 8th Street	Fallon Street	14th Avenue
East 12th Street	14th Avenue	Fruitvale Avenue
Adeline Street	8th Street	Middle Harbor Road
Alameda Avenue	High Street	Fruitvale Avenue
Castro Street	7th Street	12th Street
Doolittle Drive	County Line	Alameda City Limits
Fruitvale Avenue	Alameda Avenue	Alameda City Limits
G Street	85th Avenue	92nd Avenue
Hegenberger Road	East 14th Street	Doolittle Drive

High Street	San Leandro Street	Alameda City Limits
MacArthur Freeway	Distribution Structure	Grand Avenue
MacArthur Freeway	Edwards Avenue Interchange	Warren Freeway (State Route 13 Interchange)
MacArthur Freeway	Warren Freeway (State Route 13 Interchange)	Edwards Avenue Interchange
Maritime Street	7th Street	West Grand Avenue
Martin Luther King, Jr. Way	8th Street	Port of Oakland
Middle Harbor Road	Adeline Street	Naval Supply Depot
Nelson Mandela Parkway	8th Street	7th Street
Northgate Avenue	West Grand Avenue	27th Street
Peralta Street	12th Street	Emeryville City Limits
San Francisco-Oakland Bay Bridge and Approach	Distribution Structure	Oakland-San Francisco Boundary
San Pablo Avenue	Berkeley City Limits	Emeryville City Limits
West Grand Avenue	Maritime Street	Northgate Avenue

When authorized signs are in place giving notice thereof, the operator of any motor truck or trucking combination as defined in [Section 10.52.070](#), shall drive on such route or routes and none other except when necessary to traverse another street or streets to a destination for the purpose of loading or unloading, but only then by such deviation from the nearest truck route as is reasonably necessary.

(Ord. No. 13323, § 4, 7-21-2015; Ord. 12701 §§ 2—3, 2005; Prior traffic code § 205)

Letter B-12
Pacific Merchant Shipping Association, et al.
Michael Jacob
November 8, 2019

Response B-12.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-12.2 The Howard Terminal option has been eliminated from the Plan.

The Plan has also been amended to maintain the full extent of the existing industrial-designated buffer area in the West Oakland Specific Plan. In addition, the Plan has been revised to **increase** the amount of industrially designated area in the Estuary Policy Plan by re-designating the three blocks defined by Martin Luther King Jr. Way, Embarcadero West, Jefferson, and 4th Street as 'Light Industry' in the General Plan. Therefore, with the changes proposed, the Downtown Oakland Specific Plan will be consistent with the full extent of industrially designated areas in the West Oakland Specific Plan and increase the amount of industrial designated area in the Estuary Policy Plan.

Response B-12.3 See Response B-12.2.

Response B-12.4 See Response B-12.2 regarding the Howard Terminal Option as well as a discussion of the industrial buffer area. Regarding recirculation, a lead agency is required to recirculate an EIR when significant new information is added to an EIR after public notice is given regarding the availability of the draft EIR for public review. Information can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to avoid such an effect. Recirculation is not required when the new information added the EIR merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR. The amendments of the plan discussed above in Response B-12.2 as well as the amendments discussed in *Chapter II, Plan Revisions and Draft EIR Project Description* does not rise to the level needed for recirculation based on this standard.

- Response B-12.5** See Response B-12.2.
- Response B-12.6** This comment discusses the interests of commenting parties and does not present any information on the adequacy of the Draft EIR. No further response is necessary.
- Response B-12.7** See Response B-12.6.
- Response B-12.8** See Response B-12.2.
- Response B-12.9** See Response B-12.2.
- Response B-12.10** There is a maximum development program that cannot be exceeded.
- Response B-12.11** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.12** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.13** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.14** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.15** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.16** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.17** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.18** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.19** The Howard Terminal option has been eliminated. See Response B-12.2.
- Response B-12.20** The roadway segment forecasts provided to the analysis for the Air Quality, Greenhouse Gas Emissions, and Noise analysis incorporated cumulative traffic from proposed development at Howard Terminal.

As noted in the discussion of Cumulative Impact TRANS-1, the Downtown Specific Plan Policy M-1.5 calls for linking the downtown neighborhoods with the waterfront including the Estuary. This policy requires people to cross the railroad tracks and because of this policy the mitigation measure has been identified. The cumulative impact and mitigation measure is not related to or dependent on development at Howard Terminal.

As discussed in Response B-12.2 – B-12.19 the Howard Terminal option has been removed.

Response B-12.21 The Howard Terminal option has been eliminated.

Response B-12.22 The Howard Terminal option has been eliminated.

Response B-12.23 The Howard Terminal option has been eliminated.

Response B-12.24 The Howard Terminal option has been eliminated.

Response B-12.25 The Howard Terminal option has been eliminated.

Response B-12.26 The Howard Terminal option has been eliminated.

Response B-12.27 The Howard Terminal option has been eliminated.

Response B-12.28 The Howard Terminal option has been eliminated.

Response B-12.29 The 16-block area referred to in this comment represents areas west of Broadway in the Jack London District that are currently zoned Industrial. However, not all of this same 16-block area is designated as Industrial in the General Plan, which is the superseding regulatory authority. In fact, only 10 of these 16 blocks are currently designated Industrial in the General Plan; the other six are designated as 'Off-Price Retail' in the Estuary Policy Plan.

The Final Draft Plan has been amended to *increase* the overall number of blocks to seven that are designated Industrial west of Broadway in the General Plan. This is accomplished by maintaining the full extent of the existing industrially-zoned blocks defined by Market Street, Embarcadero West, Martin Luther King Jr. Way, and 5th Street; and adding the three blocks defined by Martin Luther King Jr. Way, Embarcadero West, Jefferson, and 4th Street as 'Light Industry.'

Response B-12.30 See Response B-12.29. The Howard Terminal option has been eliminated.

Response B-12.31 See Response B-12.29. The Howard Terminal option has been eliminated.

Response B-12.32 The commenter indicates that the Draft EIR fails to sufficiently evaluate and disclose land-use conflicts related to air pollution, odors, and noise and vibration associated with increased residential development in proximity to industrial sources in and surrounding the Port of Oakland area. Local air

pollution concerns associated with residential development near the Port of Oakland are addressed in Response B-8.36. Noise and vibration concerns associated with residential development near the Port of Oakland are addressed in Response B-12.39. As discussed in Section V.C.3.c.(3) of the Draft EIR, odors associated with implementation of the Specific Plan, and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant.

Response B-12.33 See Response B-12.29.

Response B-12.34 Specific to the railroad crossings, the Draft EIR does establish a significant transportation impact due to increased multimodal crossings of the railroad tracks, in part, because of the Downtown Specific Plan Policy M-1.5 which calls for linking the downtown neighborhoods with the waterfront including the Estuary. This policy requires people to cross the railroad tracks and because of this policy Mitigation Measure TRANS-2 and Cumulative Mitigation Measure TRANS-1 have been identified.

Response B-12.35 The Downtown Oakland Specific Plan will directly reference and ensure consistency with the West Oakland Truck Management Plan.

Response B-12.36 The Howard Terminal option has been eliminated.

Response B-12.37 According to the BAAQMD's CEQA Air Quality Guidelines, emissions of TACs, PM_{2.5}, and carbon monoxide can pose a health risk and hazard to local communities. Consistent with BAAQMD guidance, these pollutants were analyzed at the local level in the Draft EIR under Sections V.C.3.c.(2) and V.C.3.c.(6) and the impact was found to be less than significant. As discussed in Response B-8.36, the impact of existing sources of TACs and PM_{2.5} emissions (e.g., heavy industrial land uses) on a project's future users or residents is not a CEQA concern. However, future project developers will be able to reduce health risks associated with exposure to DPM and PM_{2.5} from industrial land uses and other sources in the vicinity of the Downtown Specific Plan Area by complying with SCA-AIR-4 (see Response B-8.36).

With the exception of carbon monoxide, the BAAQMD recommends evaluating the adverse effects of criteria air pollutant and GHG emissions at the regional level, because these pollutants do not pose an immediate health risk and hazard to adjacent land uses. Consistent with BAAQMD guidance, these pollutants were analyzed at the regional level in the Draft EIR under Sections V.C.3.c.(4), V.C.3.c.(5), V.D.3.c.(1), and V.D.3.c.(2).

Response B-12.38 This response assumes that the statement “affected by hazardous materials” refers to industrial sites affected by hazardous materials releases. Residential and commercial uses adjacent to existing industrial sites with subsurface contamination could only be affected by hazardous materials if there is a viable route of exposure from the contamination to the off-site land use. Section V.I.1.a.(1), Overview of Contaminated Sites, of the Draft EIR (pages 463-464) describes the hazardous materials release sites within the Plan Area, which are also presented in Figure V.I-1. This section also notes that there are numerous hazardous materials release sites in the vicinity of the Plan Area, and that contaminants from these sites could migrate (with groundwater flow) into the Plan Area. The impact analysis under Section V.I.3.b.(1), Transport, Use, or Disposal of Hazardous Materials (pages 484-486) describes the existing regulatory framework and standard conditions of approval governing the site investigation and remediation actions that must be performed under regulatory oversight prior to any new development within the Plan Area, and concludes that compliance with these regulations and standard conditions of approval would reduce the risks from hazardous materials contamination in soil and groundwater to reasonably foreseeable development within the Plan Area to a less-than-significant level. No additional mitigation is required to ensure residential and commercial uses are not exposed to hazardous materials contamination on industrial sites.

Section V.I.3.b.(1), Regulatory Framework (pages 469-479) and Section V.I.3.b.(1), Transport, Use, or Disposal of Hazardous Materials (pp. 481-482) describe the regulatory programs and standard conditions of approval applicable to industrial uses that handle hazardous materials near and within the Plan Area.

The impact analysis describes how these requirements would be implemented to reduce risks to sensitive receptors from the transport, use, and disposal of hazardous materials to a less-than-significant level. No additional mitigation is required.

The potential for land use conflicts arising from locating existing industrial facilities adjacent to new residential or commercial uses is analyzed in Land Use Section V.A.3.b.(2), Conflict with Adjacent Land Uses (pages 131-140). This analysis notes that the General Plan contains substantial policy requirements pertaining to compatibility of land uses that must be implemented throughout all the City’s neighborhoods, including those within the Plan Area. The analysis concludes that conformance with the General

Plan during the land use transitions that would occur under the Specific Plan would discourage development that could result in conflict between industrial facilities that use, transport, and store hazardous materials and more sensitive proposed uses, and that the impact would be less than significant. No additional mitigation is required.

Response B-12.39 Impacts related to exposure of persons to significant noise were discussed under Criteria 5-7. As discussed in the noise section of the Draft EIR (pages 562-563), if future residential projects under the Specific Plan are in a noise environment that is characterized as “normally unacceptable,” SCA-NOI-6: Exposure to Community Noise (#67) would require noise reduction measures to be incorporated into building design. These noise control measures are required to be submitted to the City for review and approval and would ensure that interior noise levels would be reduced to 45 dBA Ldn to the maximum extent practicable. Implementation of SCA-NOI-6 would ensure that potential exposure of future residents to unacceptable noise levels would be less than significant, as described in the Draft EIR on page 563.

Impacts related to exposure of persons to significant vibration are discussed under Criterion 8 of the Draft EIR. As discussed in the Draft EIR noise section (page 567), a Vibration Reduction Plan would be required per SCA-NOI-8: Exposure to Vibration (#69) if future projects under the Specific Plan are located adjacent to active railroad or BART facilities. The Vibration Reduction Plan would contain vibration reduction measures to reduce ground-borne vibration to acceptable levels per FTA standards. Therefore, the Draft EIR appropriately concludes that this vibration impact would be less than significant, and no text change in response to this comment is required.

Response B-12.40 Noise from existing heavy truck traffic was considered when developing the ambient noise contours. Impacts related to exposure of persons to significant noise were discussed under Criteria 5-7. In areas where new residential uses would be located in an unacceptable noise environment, SCA-NOI-6: Exposure to Community Noise (#67) would require noise reduction measures to be incorporated into building design. These noise control measures are required to be submitted to the City for review and approval and would ensure that interior noise levels to be reduced to 45 dBA Ldn to the maximum extent practicable. Therefore, the Draft EIR appropriately concludes that this potential impact is less than significant. Vibration from truck traffic on roadways is rarely perceptible because trucks are rubber tired.

Response B-12.41 See Response B-12.29 pertaining to loss of industrial land.

- Response B-12.42** See Response B-12.29 pertaining to loss of industrial land.
- Response B-12.43** See Response A-5.2 regarding the LUTE and West Oakland Specific Plan consistencies. Regarding the City's Industrial Land Use Policy see Response B-12.29.
- Response B-12.44** See Response B-12.29 pertaining to the loss of industrial land. The Howard Terminal option has been eliminated.
- Response B-12.45** See Response A-5.2 regarding the West Oakland Specific Plan consistencies. The Howard Terminal option has been eliminated.
- Response B-12.46** The Howard Terminal Option has been eliminated.
- Response B-12.47** See Response B-12.45.
- Response B-12.48** See Response B-12.29 pertaining to the loss of industrial land. The Howard Terminal option has been eliminated.
- Response B-12.49** See Response B-12.29 pertaining to the loss of industrial land.
- Response B-12.50** See Responses B-12.51 to B-12.56 regarding trip generation.
- Response B-12.51** The rates in the trip generation manual (ITE) reflect suburban projects. The average project size, 500 units, was intended to reflect projects in Downtown Oakland where city blocks may be redeveloped. Using the residential size of 220 units noted by the commenter would not change the total residential trip generation for the Plan Area.
- Response B-12.52** The rates in the trip generation manual reflect suburban projects where people drive and park at retail centers. Retail trip generation is highly dependent not only on size as noted by the commenter, but also the land use mix in the area. For example, existing retail in Downtown Oakland is highly dependent on shared trips from adjacent commercial and residential uses. Thus, based on professional judgement and consultation with the City, trip generation in the Draft EIR reflects the substantial synergy that exists between the mixture of land uses in a large transit-oriented downtown such as Downtown Oakland and combining the retail square footage reflects that synergy.
- Response B-12.53** The rates in the trip generation manual reflect suburban projects. The average project size of 500,000 square feet was intended to reflect projects in

Downtown Oakland where city blocks may be redeveloped. Using the office size of 171,000 square feet noted by the commenter would not change the total office trip generation rates.

Response B-12.54 The rates in the trip generation manual reflect suburban projects where people drive and park and like retail uses, we wanted to capture the synergy that occurs when land uses coexist in the same geographic area. In addition, there is very little industrial use planned as part of the Plan. The industrial trips represent 0.25 percent of the total daily trips, 0.3 percent of AM peak hour trips, and 0.19 percent of PM peak hour trips. Industrial trips would have a negligible effect on trip generation even if the trips were increased 2 or 3 times over that calculated in the transportation chapter.

Response B-12.55 The correct calculation is $(63,740 \times (1 - 0.469) \times 0.17) = 5,753$ which rounds to 5,750. Similarly, $(7,095 \times (1 - 0.469) \times 0.34) = 1,281$.

Response B-12.56 The impacts on the regional CMP road segments presented in the Downtown Oakland Specific Plan Draft EIR (page 211-213 for Year 2020 and pages 214-216 for Year 2040) include the land use changes associated with the Downtown Oakland Specific Plan and identify the impact to regional roadways associated with 29,100 residential units, 3,220 thousand square feet (ksf) retail, 18,150 ksf office, and 260 ksf industrial. The Year 2040 analysis incorporates land uses consistent with Plan Bay Area and while the land uses do not specifically call out the Howard Terminal Project, the land uses are consistent with regional forecasted land use growth in the area.

Response B-12.57 The projects, plans and policies in the Downtown Oakland Specific Plan, combined with those in the City's 2019 Bike Plan and the City's 2017 Pedestrian Master Plan, identify a comprehensive set of physical improvements as well as policies and programs to enhance safety for pedestrians and bike riders throughout Downtown and citywide.

Response B-12.58 Refer to Response B-7.6 which expands on the Mitigation Measure TRANS-2 including railroad crossings improvement measures such as fencing along the railroad corridor to prohibit pedestrians, bicyclists and drivers from crossing the tracks between intersecting streets as well as both vehicle and pedestrian gate systems at all four crossing quadrants to prohibit crossing the railroad tracks when the gates are down. As noted in the mitigation measure, the impact is identified as potentially significant and unavoidable because the improvements need to be reviewed and approved by the CPUC and as a

result the City must rely on inter-agency coordination to ensure implementation.

Pursuant to Mitigation Measure Trans-2, the City will also undertake a diagnostic study for the potential for a Quiet Zone.

Response B-12.59 First, the City has conservatively identified the impact as significant and unavoidable, and thus recognizes that the impact cannot be feasibly mitigated at this time to a level of less than significant. Notwithstanding this, the City has committed upfront, through Mitigation Measure Trans-2, to mitigate the impact to the greatest extent practicable by developing a Diagnostic Study that will set forth definite implementation measures and performance standards. See Response B-7.6 which details the recommendation for improving the railroad crossing safety through Jack London District.

As a matter of law, where the lead agency has evaluated significant impacts and identified measures that will mitigate them, it does not have to commit to any particular identified mitigation measure as long as it commits to mitigate the impacts through performance standards. The details of exactly how mitigation will be achieved under the identified measures can properly be deferred pending completion of a future study. (See *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884.)

Here, through Mitigation Measure Trans-2, the City has committed to undertake a complete Diagnostic Study that will identify a "suite of improvements" that will enhance multi-modal safety along the railroad tracks. The City's commitment to the future Diagnostic Study and implementing its required improvements as a defined set of performance criteria satisfies the CEQA requirement that the City commit to mitigating the impact through set performance standards.

Response B-12.60 The Standard Condition of Approval (SCA-TRANS-7: Railroad Crossing (~~#8082~~) (page 178) lists several elements that are required as part of the Diagnostic Review including "Installation of grade separations at crossings." Refer to Response B-7.6 for a description of the at-grade crossing improvements being considered by the City of Oakland to improve railroad crossing safety through the Jack London District. As noted in Response B-7.6, these improvements have been incorporated into Mitigation Measure TRANS-2.

Response B-12.61 This comment is addressed under the Responses B-8.36 and B-12.62 through B-12.65.

Response B-12.62 As discussed in Sections V.C.3.c.(2) of the Draft EIR and response B-8.36 above, at present the majority of the Plan Area is located in an area with elevated air pollution (Figure V.C-1, as updated by BAAQMD), and future project developers will be required to prepare a detailed HRA and/or incorporate health risk reduction measures into the project design. Most of the proposed residential developments in the Plan Area, including the 16-block area near Howard Terminal, would be subject to these requirements and would be required to demonstrate that exposure of future residents to existing sources of air pollution would not result in significant health risk.

Response B-12.63 All residential developments in the Plan Area that are in an area of elevated air pollution, including the 16-block area near Howard Terminal, must comply with the requirements of SCA-AIR 4 (see Response B-8.36 above). Specific development areas requiring preparation of a detailed HRA and/or incorporate health risk reduction measures under SCA-AIR 4 are not explicitly identified in the Draft EIR because local air quality conditions are expected to change over time. Examples of this include the closure of an existing stationary polluting source.

Response B-12.64 As stated in Section V.C.3.c.(2) of the Draft EIR, the BAAQMD's Planning Healthy Places map of local air pollution (Figure V.C-1, as updated by BAAQMD) and the City's SCAs related to TACs and PM_{2.5} emissions function as an overlay zone with specific requirements for proposed new development to reduce the generation TACs and PM_{2.5}, as well as reduce the exposure of existing and future sensitive receptors to substantial concentrations of TACs and PM_{2.5} (e.g., by requiring high-efficiency filtrations systems in new buildings). The BAAQMD's map of local air pollution includes existing stationary sources and identifies areas within 500 feet of a freeway. As part of the BAAQMD's Planning Healthy Places guidance, the BAAQMD will maintain and update the mapping of local air pollution over time.

Response B-12.65 See Responses B-8.36 and B-12.63.

Response B-12.66 See Response B-8.36.

Response B-12.67 The primary TACs and criteria air pollutants of concern in the Plan Area, including the existing sources and levels of local air pollution, are discussed under Section V.C.1.b. These pollutants were evaluated relative to the City of

Oakland's established thresholds of significance. Therefore, the analysis of TACs and criteria air pollutants in the Draft EIR is not inadequate or dismissive.

In the Bay Area, the adverse air quality impacts on public health from TACs are predominantly from DPM, not gaseous TACs. The estimated cancer risk from exposure to diesel exhaust is much higher than the risk associated with any other TACs routinely measured in the region. As described in Response B-8.36 above, additional text has been added to the Draft EIR to clarify this point. Future development projects proposed in the Plan Area near a source of particulate and/or gaseous TACs (e.g., an example of a gaseous TAC source would be a gasoline service station) would be required to prepare a detailed HRA and/or incorporate health risk reduction measures in accordance with SCA-AIR 4. If a project developer cannot demonstrate that the health risks posed by the gaseous source of TACs would be below acceptable levels, then the City would not approve the construction-related permits. This finding would not necessarily preclude future development at a specific location, because air quality conditions can improve over time (e.g., closure of a gasoline station). Therefore, the impact related to the exposure of future receptors to TACs was appropriately found to be less than significant in the Draft EIR.

Response B-12.68 Additional text has been added to the Draft EIR to provide more meaningful context regarding the pollutants of concern and the associated local health risks.

Page 248, second paragraph after Impact AIR-1 of the Draft EIR, is revised as follows:

The BAAQMD CEQA Guidelines include screening criteria to determine if operational emissions of ROG, NO_x, and exhaust PM₁₀ and PM_{2.5} from a project could potentially exceed the BAAQMD's thresholds of significance, which have been adopted by the City of Oakland and incorporated into its ~~their~~ significance criteria. A project that exceeds the screening criteria would require a detailed air quality assessment to determine whether emissions would exceed the City's significance thresholds and result in a cumulatively considerable net increase of criteria air pollutants for which the region is in nonattainment. The screening criteria for land uses expected in the Plan Area are shown in Table V.C-5. As shown in Table V.C-5, emissions of ozone precursors (NO_x and ROG) are the predominant pollutants of concern that could result in a potential exceedance of the BAAQMD's thresholds of

significance. Exposure to ground-level ozone, which is formed in the atmosphere through reactions of ROG and NOx, can result in various respiratory illnesses.

Page 250, Mitigation Measure AIR-1 last paragraph of the Draft EIR, is revised as follows:

Mitigation Measure AIR-1:

The feasibility or effectiveness of Mitigation Measure AIR-1 is unknown at this time. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be conservatively significant and unavoidable with mitigation. It should be noted that most future development projects in the Plan Area are not expected to exceed the BAAQMD's operational screening criteria (Table V.C-5, as updated by the BAAQMD) and therefore the identification of this significant impact does not preclude the finding of future less-than-significant impacts for subsequent projects that comply with applicable screening criteria or meet the City's significance thresholds for operational emissions of criteria air pollutants. It should also be noted that if a future development project exceeds the City's significance thresholds for operational emissions of criteria air pollutants after implementation of Mitigation Measure AIR-1, the emissions could substantially contribute to and exacerbate existing air quality conditions in the region (specifically ozone), but unlike toxic air contaminants (TACs), would generally not pose a health risk that is specific to the local community. (SU)

Response B-12.69 See Response B-12.70.

Response B-12.70 Staff does not propose changing areas on edges of the 3rd Street corridor. Mitigation Measure CULT-1-iii is revised as follows:

Page 355 and Chapter II, Summary table, page 20, Mitigation Measure CULT-1A.iii of the Draft EIR, is revised as follows:

Mitigation Measure CULT-1:

- iii. ~~Adopt an~~ Encourage Adaptive Reuse Ordinance, within three years of Plan adoption, ~~Elements~~ that would encourage preservation of historic buildings within the Plan Area will be included in the package of proposed

Planning Code amendments that include FAR, height limits, residential density changes, and other zoning changes proposed in the Plan, and potentially the other Specific Plan areas. The City of Los Angeles has adopted a highly successful similar program adopted an overlay in 1999 for downtown that was extended into other communities across LA in 2003 through the Adaptive Reuse Incentive Area Specific Plan. Other elements of the ordinance Elements should include a means to expedite project approvals height limitations for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities. It should also delineate areas, design standards and delineation of which historic buildings or areas in downtown are eligible for provisions to encourage reuse, with a focus on designated Landmarks, buildings within National Register-listed historic districts, and buildings within APIs and ASIs. Provisions to encourage reuse could include but not be limited to reduced permitting costs, ways to accommodate existing floor area ratios, and reduced parking and open space requirements, when necessary to achieve project goals. ~~Other provisions could include~~ The City will develop expedited review for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities, as well as expedited review of the use of the California Historical Building Code (CHBC) and ways to encourage projects to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Pertaining to other mitigation measures the Draft EIR put forth, see Response B-1c.12

Response B-12.71 See Response B-12.70

Response B-12.72 The Howard Terminal Option has been eliminated.

Response B-12.73 The Howard Terminal Option has been eliminated and therefore discussion pertaining to impacts of the Howard Terminal Option do not need to be addressed since they are no longer part of the project. As described on page 365 of the Draft EIR, under CEQA Section 21099 (d) this Draft EIR does not consider aesthetics in determining the significance of potential impacts under CEQA because it meets all three of the criteria under Section 21099 (d). Nevertheless, aesthetics are described for informational purposes. Views to and through the Plan Area are described starting on page 375 and views from the Plan Area are described starting on page 376 including views from Jack

London Square on page 377. Specifically, changes to views from the shoreline of Jack London Square are discussed on page 388 of the Draft EIR. As described on page 388, although taller new buildings would be noticeable to residents, workers and visitors in the immediate vicinity of individual development projects, these developments would not result in substantial changes to the overall urban scale surrounding the existing variable nature of the buildings height and volumes through the Plan Area and surrounding neighborhoods.

Response B-12.74 This comment is a summary of existing conditions presented in the Draft EIR. No further comment is necessary.

Response B-12.75 See Response B-12.74.

Response B-12.76 See Response B-12.29 pertaining to the loss of industrial land.

Response B-12.77 See Response B-12.29 pertaining to the loss of industrial land.

Response B-12.78 See Response B-12.29 pertaining to the loss of industrial land and the industrial buffer zone. The Howard Terminal Option has been eliminated.

Response B-12.70 See Response B-12.29 pertaining to the loss of industrial land and the industrial buffer zone. The Howard Terminal Option has been eliminated.

Response B-12.80 See Response B-12.29 pertaining to the loss of industrial land and the industrial buffer zone. The Howard Terminal Option has been eliminated.

Attachments A, B, C, and D: This attachment is footnoted in Comment B-12.2. See Response B-12.2.

Attachment E: This attachment is footnoted in Comment B-12.17. See Response B-12.17. The Downtown Oakland Specific Plan Draft EIR considers cumulative impacts, which are discussed in each technical topic section. The methodology used for assessing cumulative impacts typically varies depending on the specific topic being analyzed. For example, the noise and aesthetics cumulative impacts are more localized than air quality and transportation impacts, which are more regional in nature. The parameters of the respective cumulative analysis in this document are determined by the degree to which impacts from this project are likely to occur in combination with other development projects. Cumulative impacts considered the Howard Terminal Project.

Attachment F: This attachment is footnoted in Comment B-12.30. See Response B-12.30.

Attachment G: This attachment is footnoted in Comment B-12.34. See Response B-12.34. In addition, see Response A-5.8 for an additional discussion of Truck Routes as well as a discussion of revised Figure V.B-2, and Figure V.B-3 showing Local Truck Routes.



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November 8, 2019

VIA EMAIL (aparker@oaklandca.gov)

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**Re: Comments on Draft Environmental Impact Report – Downtown Oakland
Specific Plan – Case # ER18-020**

Dear Ms. Parker:

This comment letter is submitted on behalf of our client, Metrovation LLC, an owner of multiple properties in Oakland’s Jack London District. The purpose of this letter is to provide comments on the Draft Environmental Impact Report (“DEIR”) analyzing the proposed Downtown Oakland Specific Plan (the “Plan”) (Case Number ER18-020). While our client understands the enormous and complicated task before the City in establishing a comprehensive Plan, they feel the DEIR is inadequate in a number of ways and that additional environmental review should be conducted to address and rectify the deficiencies set forth below.

As an initial matter, the Plan proposes to significantly decrease the existing maximum allowable heights for development throughout the Jack London District and selectively maintains the current density and FAR levels for specific pockets of the District, while greatly increasing the allowable density and maximum FARs for neighboring parcels. These proposed zoning and planning decisions, and their potential impacts, have not been adequately analyzed in the DEIR.

Specifically, our client’s comments on the DEIR are as follows:

- Neither the Plan nor the DEIR provides a persuasive rationale for the establishment of the “Maker District,” an island of low intensity parcels in the heart of the Jack London District proposed as part of the Plan. We feel establishment of this intensity-restricted District would stifle commercial and residential development of this area and be contrary to the overall goals of the Plan. Moreover, the various impacts of establishing this new District have not been properly analyzed.
 - The proposed Maker District would restrict the height, density, and maximum FAR of properties in this four block by two block area to a maximum of 55 feet in height, FAR of 3.5, and density of 300 SF.
 - In contrast, properties immediately adjacent to the proposed Maker District, several of which are identified as “publicly-owned,” along both 880 to the north

and the railroad tracks to the south, would be permitted as much as 275 feet in height, FARs as high as 17.0, and maximum densities of 90 SF and 110 SF respectively.

3,
cont.

○ The DEIR fails to study alternatives for development of the properties in this Maker District consistent with the significant height and intensity allowances proposed for the adjacent parcels both to the north and south.

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○ Our client feels, and would ask the City to address, that the creation of the proposed Maker District would be inappropriate for the highest and best uses of the properties in this area of the Jack London District, especially considering the Plan's stated desire to maintain truck routes along 3rd Street.

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• The DEIR briefly references the "Howard Terminal Option" whereby the proposed Maker District would be discarded and allowable intensity for development of the parcels in this area would be increased in conjunction with the construction of the proposed Oakland Athletics ballpark. However, the DEIR fails to study this option or its potential impacts. The environmental impacts of the Howard Terminal Option, as well as the potential development of the nearby Maker District, should be studied irrespective of whether the ballpark is approved to be built at Howard Terminal.

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• While the DEIR states that the Jack London District is to be a node for "intense development" and the area of the City with the greatest number of expected future residential units, the Plan proposes islands of restricted intensity along 3rd Street on both sides of Webster Street. The DEIR contains little explanation for, analysis of, or evidence supporting the proposed maximum height, FAR, and density restrictions for these islands of properties.

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Along with the issues set forth above, we request that further environmental review with respect to the Plan include a study of alternatives for development of the Maker District and along 3rd and 4th Street consistent with adjacent parcels throughout the Jack London District, including alternatives allowing for significantly greater height and density for both commercial and residential uses. We further request that future iterations of the DEIR and Plan include evidence supporting any intensity restrictions for specific areas of the Jack London District.

8

Very truly yours,

WENDEL ROSEN LLP



R. Zachary Wasserman

cc: Metrovation LLC

Letter B-13

Wendel Rosen LLP, on behalf of Metrovation LLC

R. Zachary Wasserman

November 8, 2019

Response B-13.1 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-13.2 These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.

Response B-13.3 The proposed "Maker District" in the Jack London District has been eliminated.

Response B-13.4 The proposed "Maker District" in the Jack London District has been eliminated.

According to Section 15126.6 of the CEQA Guidelines, an EIR shall describe 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. An EIR need not consider every conceivable alternative to a project. The comment is suggesting an alternative on the merits of the Plan and not to lessen or avoid significant effects. As such, the comment does not relate to the adequacy of the Draft EIR.

Response B-13.5 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. The proposed "Maker District" in Jack London District has been eliminated.

Response B-13.6 See Response B-12.29 pertaining to loss of industrial land and the buffer zone. The Howard Terminal Option has been eliminated.

Response B-13.7 See Response B-13.3. An EIR evaluated adverse physical impacts based on established significance criteria. As a result, providing an explanation for, analysis of, or evidence **supporting** *[emphasis added]* the proposed maximum height, FAR, and density restriction is not within the scope of CEQA. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response B-13.8 See Response B-13.4. The proposed "Maker District" in the Jack London District has been eliminated.

From: [Tiffany Eng](#)
To: [Naomi Schiff](#); [Amanda Monchamp](#); [Jonathan Fearn](#); [Tom Limon](#); [Clark Manus](#); [Manasse, Edward](#); [Nischit Hegde](#); [Kaminski, Laura](#); [Jahmese Myres](#); [DowntownSpecificPlan](#); [Parker, Alicia](#); [sahar shirazi](#); [Merkamp, Robert](#); [Gilchrist, William](#)
Cc: [Ken Lupoff](#)
Subject: [EXTERNAL] Parks in the EIR
Date: Friday, November 8, 2019 5:00:24 PM
Attachments: [image.png](#)

CAUTION: This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hello!

I represent Friends of Lincoln Square Park <http://friendsoflincolnsquarepark.org> (FLSP), a group of Oakland Chinatown leaders and Park advocates working to build a recreation center that downtown Oakland desperately needs and deserves. Members of our steering committee have participated in the CAG and the related Working Group.

1

Friends of Lincoln Square Park supports the recommendations of the working group but wanted to provide additional feedback on section m and parks and recreational facilities in particular.

The EIR does not do nearly enough to address the urgent need to accommodate more indoor recreation space that is publicly accessible to the residents of Oakland downtown. Recreation centers are the heart of the community, especially at Lincoln Square Park and bring together residents from all walks of life and of all ages. Parks with staff and programming are key to a healthier city and thriving public spaces.

2

The EIR downplays the potential impacts that are already being felt at Lincoln Square Park and attempts to address future impacts by creating new outdoor open park spaces that may not have the resources to be maintained over the long run.

3

Please acknowledge that new parklets, alleys, and open spaces are not the same as a larger, higher capacity public indoor recreational center. As the population grows, so must our ability to provide indoor space for every generation and resident in order to avoid displacement and contested public spaces. Like our libraries, these rec centers are central gathering places and allow for a wide range of mixing, social interaction and community building. Recreation centers are staffed by long-time and caring adults who nurture and build community through affordable and free programming, both formal and informal.

4

Please make an effort to better to understanding the impact of growth on our only downtown recreation center and prioritize a larger recreation center at Lincoln Square Park. The current EIR does not adequately address this concern or the predictable adverse effects that will ensue without further mitigations and assurances.

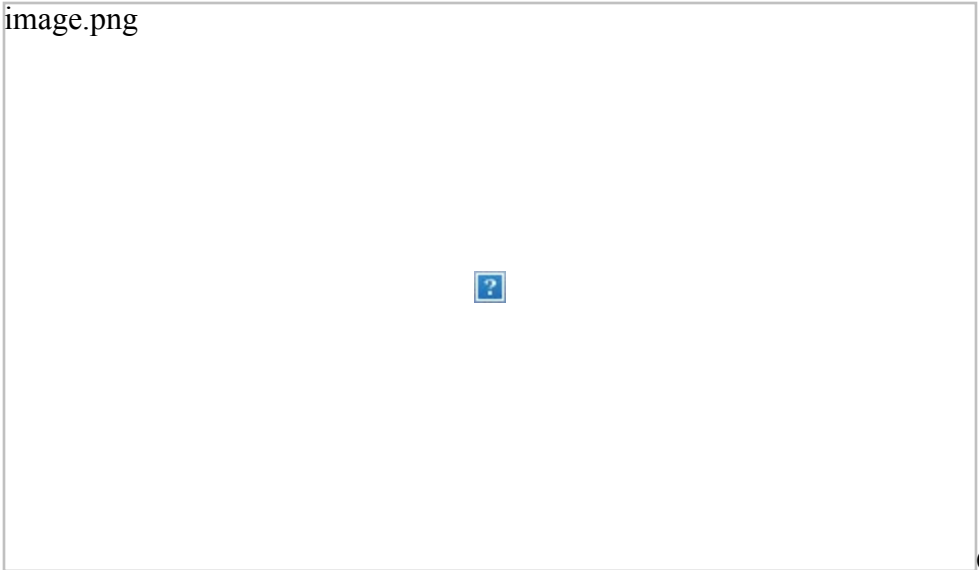
5

A few specific comments on the Draft Plan and EIR:

6

- P. 622:

image.png



6,
cont.

Comment: Why are the only policy proposals focused only on new park spaces? Why does the Webster Green get called out as a specific project, even though it is not on the City's CIP, but a larger and expanded Recreation Center at Lincoln Square Park, which is at the top of the CIP list, does not? Yes we need more open space to accommodate the 52,500 new residents downtown, but how will our only downtown recreation center that serves residents of all ages be able to handle the recreation needs without displacement of the existing community users?

- P. 623 "Prioritize new funds generated by development should be prioritized to serve undeserved communities, per future direction by the City Council." Comment: New funds should also be prioritized for existing facilities and CIP projects which were ranked through an equity lens. What assurances does the City have that "Impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to recreation with implementation of Mitigation Measure PUB-1." I have not seen any impact study on the INDOOR recreational needs of downtown Oakland and don't understand how we can possibly say there will be less than significant impact on the city's most heavily used park and recreation center. Architectural analysis paid for by Friends of Lincoln Square Park concluded we could more than double the indoor space just to accommodate existing demand.

7

Please let me know if you have any questions or would like to follow up on any of these issues in detail.

Tiffany Eng
Friends of Lincoln Square Park

Letter B-14
Friends of Lincoln Square
Tiffany Eng
November 8, 2019

- Response B-14.1** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-14.2** This comment does not provide a discussion of how the EIR is inadequate. The focus of this comment pertains to the goals of the Specific Plan. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-14.3** The Draft EIR recognizes that with the increases of population as a result of the Specific Plan, impacts would be significant and identifies a mitigation measure that would reduce impacts to a less-than-significant level. The two-part Mitigation Measure PUB-1 does more than the commenter suggests, as the first tier of the mitigation measure is to update the Capital Improvements Impact fees and/or implement a dedicated impact fee specific to parks and recreation which will help to ensure that new outdoor open spaces can be maintained over the long run.
- Response B-14.4** This comment is noted, and it is understood that parklets, alleys, and open spaces serve a different need than a higher capacity public indoor recreational center. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response B-14.5** See Response B-8.52 and B-14.3.
- Response B-14.6** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response B-14.7** As discussed in the Draft EIR on page 621, Impact PUB-1 describes that development under the Specific Plan could increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of that facility would occur or be accelerated or would require the construction or expansion of recreational facilities, which might have a substantial adverse physical effect on the environment. The Draft EIR does describe that the additional residents (52,600) would increase demand for, and use of, neighborhood and community parks in the area, and describes that the city would continue to fall short of its local-serving parkland goal of 4 acre per 1,000 residents and

offers a two-tier mitigation strategy. The comment notes that there has not been any impact study specifically on indoor recreation needs of downtown Oakland; however, in our analysis of parks and recreation facilities we considered indoor recreation facilities as they are integral part of recreational opportunities and are included within the significance criteria.

Page 612 of the Draft EIR presents capital improvement impact fees in Zone 1 by unit type as well as by square foot for non-residential. The Draft EIR recognizes that the current Capital Improvement fees are not enough in their current fee schedule to mitigate impacts to parks and recreation centers as a result of the increase in the additional residents to the Plan Area and provides a mitigation strategy to either update the Capital Improvement Impact fees, and/or implement a dedicated impact fee specific to parks and recreation. In March 2019; however, the voters passed Measure Q, which will increase funding for public parks, recreational facilities, and services through a Parcel Tax. In addition, Mitigation Measure PUB-1 also calls for the city to create a Privately Owned Public Spaces program, as well as an equity analysis as part of the study to explore strategies to encourage equitable access. As stated on page 623 of the Draft EIR, with the implementation of Mitigation Measure PUB-1, impacts would be less than significant.

C. COMMENTS AND RESPONSES FROM INDIVIDUALS

Alyssa Chung

From: Tiffany Eng <hidekoeng@gmail.com>
Sent: Tuesday, October 1, 2019 9:36 PM
To: Parker, Alicia
Subject: [EXTERNAL] Please clarify

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Is this supposed to say Chinatown? Page 367 of the EIR.
I think so.



AUGUST 2019

DOWNTOWN OAKLAND SPECIFIC PLAN
V. SETTING, IMPACTS, SCAS, AND MITIGATION MEASURES
E. CULTURAL AND HISTORIC RESOURCES

Chinatown

Existing Conditions

As noted in the Historical Setting section (2.d) above, the Chinese community has a long history in Downtown Oakland. A small Chinese neighborhood developed at the corner of 7th and Webster streets in the early 1870s, expanding to a multi-block area radiating from around this location and over to Madison Square by the time of the 1906 earthquake. Chinatown remains an active residential and commercial neighborhood. This area of downtown includes a large number of small-scale, early 20th-century commercial buildings, some with residential uses at the upper story.

Specific Plan Development Objectives for Old Oakland and Potential Historic Resources Conflicts

This sub-area of downtown was covered in the Lake Merritt Station Area Plan (LMSAP) EIR. As described in the LMSAP EIR, existing SCAs and regulations protecting historical resources, and proposed Plan policies outlined in the LMSAP EIR would mitigate any potential impact of overall redevelopment in the LMASP Planning Area, but would not be able to reduce the potential impact of demolition of Oakland Unified School District or County property to a level that is less than significant. If demolition or substantial alteration of historically-significant resources is identified by the City as the only feasible option for development in the LMASP Planning Area, the impact of development under the LMSAP would be considered significant and unavoidable. This finding should be viewed as conservative, as it is not certain that historic resources on opportunity sites would be demolished or otherwise impacted.

Jack London District

Existing Conditions

1

Letter C-1a
Tiffany Eng
October 1, 2019

Response C-1.a Page 351, second paragraph of the Draft EIR, is revised as follows:

*Specific Plan Development Objectives for ~~Old Oakland~~ Chinatown and Potential
Historic Resources Conflicts*

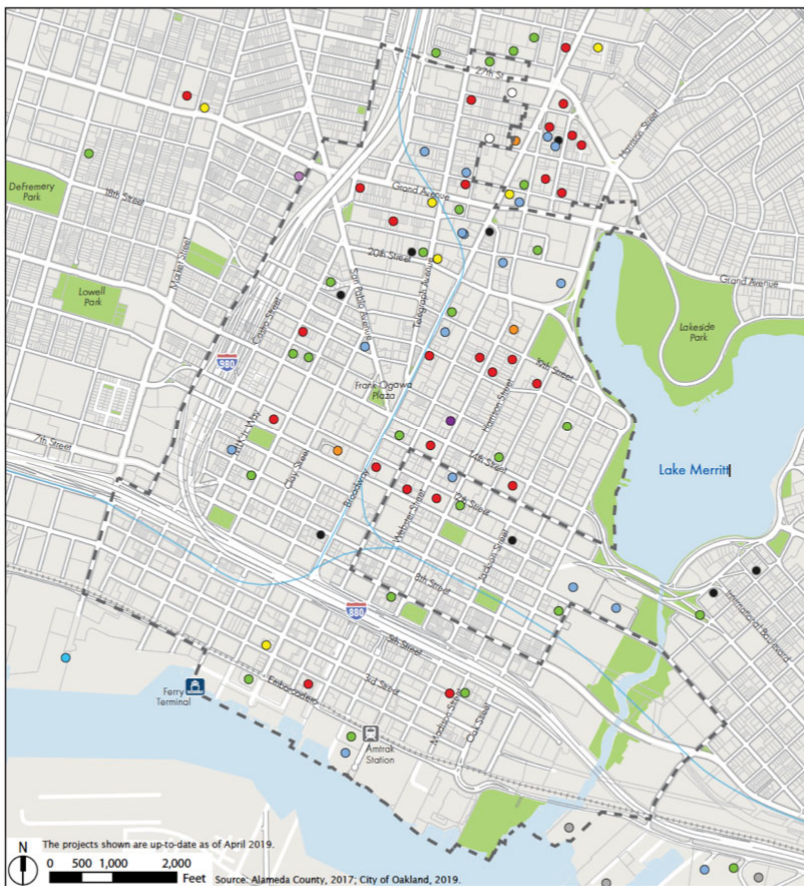
Alyssa Chung

From: Tiffany Eng <hidekoeng@gmail.com>
Sent: Tuesday, October 1, 2019 9:44 PM
To: Parker, Alicia; Winter, Joanna
Subject: [EXTERNAL] Planned projects

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Sorry for all the questions. On page 137-138 of the EIR...

Is this current or as of what date? It's not clear what date this is current as of as it says 2014 in the key but says Aug 2019 at the top of the page.



- The projects shown are up-to-date as of April 2019.
0 500 1,000 2,000 Feet Source: Alameda County, 2017; City of Oakland, 2019.
- | | | | |
|------------------------|--------------------------|------------------------|--------------------------------------|
| Legend | Parks | Application Approved | Building Permit Issued |
| Downtown Plan Boundary | Pre-Application | Revisions Under Review | Under Construction |
| BART Station | Preparing DEIR | Revisions Approved | Project Completed (as of April 2014) |
| BART Line | Application Under Review | Building Permit Filed | Other |
| Railroad | | | |

Downtown Oakland Specific Plan EIR

Figure V.A-2
Planned Projects

Letter C-1b
Tiffany Eng
October 1, 2019

Response C-1.b The projects that are shown as a black dot have been recently completed (with a cutoff date of projects completed after March 2014). The cutoff date is used as a reasonable collection of projects that have been completed.

The entire list of projects as a whole (planned, under construction, completed, etc.) was last updated by the City in April 2019 in Master Projects List. The title of the graphic has been changed to reflect the year of the planned projects instead.

Page 122, Figure V.A-2 of the Draft EIR, is revised and provided in *Chapter V, Text Revisions*.

From: [Emilie Wolfson](#)
To: [Winter, Joanna](#); [Lynette Dias](#)
Cc: [Parker, Alicia](#); [Kaminski, Laura](#); [Alyssa Chung](#)
Subject: RE: [EXT] FW: [EXTERNAL] Late comment to DEIR for Downtown Specific Plan
Date: Tuesday, November 12, 2019 9:51:50 AM
Attachments: [image001.png](#)

Received. Probably the first time I've seen a facebook post as a RTC, but we will fold in.

EMILIE WOLFSON

URBAN PLANNING PARTNERS, INC.

388 17th Street, Suite 230
Oakland, CA 94612
[510.251.8210](tel:510.251.8210)
up-partners.com | ewolfson@up-partners.com

From: Winter, Joanna <JWinter@oaklandca.gov>
Sent: Monday, November 11, 2019 5:18 PM
To: Emilie Wolfson <ewolfson@up-partners.com>; Lynette Dias <ldias@up-partners.com>
Cc: Parker, Alicia <AParker@oaklandca.gov>; Kaminski, Laura <LKaminski@oaklandca.gov>
Subject: [EXT] FW: [EXTERNAL] Late comment to DEIR for Downtown Specific Plan

Not sure how to fold this otter photo into the EIR, but hey, it's cute and exciting!


From: Naomi Schiff <Naomi@17th.com>
Sent: Saturday, November 9, 2019 8:04 PM
To: Parker, Alicia <AParker@oaklandca.gov>; Manasse, Edward <EManasse@oaklandca.gov>; Winter, Joanna <JWinter@oaklandca.gov>; Kaminski, Laura <LKaminski@oaklandca.gov>
Cc: Jennie Gerard <jeжерard@pacbell.net>; John Kirkmire <john@lakemerritt.org>; Mary Ellen Navas <maryellen.navas@gmail.com>; Kat Ferreira <kathryn.ferreira@gmail.com>
Subject: [EXTERNAL] Late comment to DEIR for Downtown Specific Plan


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Please consider accepting this as a comment to the Downtown Oakland DEIR, or in any event, please send on to whoever is doing the wildlife part. This post is from today, Nov. 9, 2019. Thank you!

 **Mitch Jeserich** ▸ Lake Neighbors
3 hrs · 🌐



An otter in the lake.



   You, Annalee Allen, Kat Ferreira and 67 others 12 comments 1 share

 Like  Comment  Share

View 1 more comment

 **Kat Ferreira** Omg this is HUGE! **Congrats!** I dont think there's been an otter sighting near that part of the lake since 2013.  1

1,
cont.

Naomi Schiff
238 Oakland Avenue
Oakland, CA 94611
510-835-1819

Cell: 510-910-3764

Email: Naomi@17th.com

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Letter C2
Naomi Schiff
November 9, 2019

Response C-2 This comment does not discuss the inadequacy of the EIR; it simply presents a photo image of an otter in Lake Merritt. The Draft EIR discusses impacts to sensitive or special status species as well as impacts to riparian habitats or other sensitive natural communities and impacts to State or federally protected wetlands. As discussed on page 432 of the Draft EIR, species potentially impacted by adoption and development under the Specific Plan are likely to have adapted to the continuously evolving environments by which this portion of Oakland is defined (including Lake Merritt).

D. COMMENTS FROM PUBLIC HEARINGS

Landmarks Preservation Advisory Board Comment Summary

September 23, 2019

Board Member Klara Komorous

- Please clarify what an adverse cumulative impact means versus significant and unavoidable which is described in the presentation. 1
- The Partially Mitigated Alternative is not as fine grained as other specific plans and it seems to have been done haphazardly. 2
- Opportunity areas seems to have been chosen for maximum impacts, others are empty lots. When would impacts on historic resources be analyzed if they are on opportunity sites? 3
- TDR should be included in Specific Plan to protect historic resources, not added 3 years afterwards. 4
- The Plan should consider a reduction in by-right intensities. 5
- The Plan and EIR should have a review of opportunity sites related to historic resources. 5

Board Member Vince Sugrue

- Oakland already has a downtown façade program and has an issue with the “if reestablished” language in the mitigation measure. What does that mean? What are the steps needed? 6
- Plan Comment: Are PDR flex industry and why are we using both terms? 7
- Reduce existing by-right intensity. 8

Board Member Marcus Johnson

- Why is the library and court house an opportunity site? 9
- Why are there historic sites on opportunity sites

Board Member Peter Birkholz

- Has any new survey or historic analysis of development of maps to identify historic resources? 10
- Please clarify national registry districts. Are they the same as API? 11
- Plan Comment: How were the number of jobs and number of units decided? 12
- Plan Comment: On Policy LU-2.4: Clarification on whether it would be easier to demolish edges of APIs and ASIs? Is it intended to preservation of ASI or to support increased density? 13
- Is the Alameda access project studied in this DEIR? 14
- There are some inconsistencies between DEIR and Draft Plan. Can we provide comments discussing discrepancies in maps? 15
- More consideration with ASI and APIs around intensity and density. 16

Naomi Schiff

- OHA strongly recommends continuing the discussion to October meeting. 17
- The EIR is not getting enough attention. 18
- We must reduce existing by-right zoning incentives and pair it with community benefits such as historic preservation, and affordable housing as well as other community benefits. If we are zoned too high there is no incentive for developers to provide community benefits. We need a consistent way to make this happen. 18
- The proposed maximum intensity map in black in white that staff gave is much more legible and readable. Some of these intensities are too high. We need to see a before and after comparison. 19
- We are advocating for two tiered intensity program and include intensities that are increased for community benefits. The zoning intensity study need to identify where reductions will help with community benefits and what overall impact there will be. We need to get a scope to study what the by-right intensity would be to get the best result to support cultural heritage, to support funding cultural arts districts and to provide historic preservation and other programs which would improve downtown. 20
- The Opportunity sites should be classified and subgrouped. It is inappropriate for the library and fire alarm building to be classified as opportunity sites. The main library is old enough to be considered a historic resource. There are some at the library who want to replace it, there are others that think that modernization is okay, but personally concerned that this public asset on a full block next to the lake will never be able to be publicly owned again if sold. 21
- The Lake Merritt Channel and Lake Merritt is where Oakland started here in 1852 and it is understudied in CEQA document. There is an API all around Lake Merritt as well. We need to have serious attention payed paid because this is eastern border of downtown area and we put 100 million dollars in Measure DD money into it. 22
- The façade improvements program rose as a mitigation measure under the 250 Frank Ogawa Plaza EIR when it replaced a historic building. There is a long history for funding façade improvements as mitigation fees. If there are major historic impacts we should look to the façade improvement program and that specific EIR for advice. 23
- Our parks are understudied and undertreated, especially Lafayette Square. In the transportation section there is discussion on how there should be more bus parking at Lafayette square. We should not have buses on three edges of the parks, there are health concerns here. Lafayette Square is necessary for quality of life in downtown Oakland. 24

Daniel Levy

- Echo concerns to extend deadline 25
- The Plan is unfriendly to historic resources. The Produce Market is being upzoned to 45 feet with a 2.0 FAR. Lower Broadway ASI which contains 6 of Oakland’s oldest historic structures, has an FAR of 7.5 which is tall and encourages those buildings to be demolished. The Old Oakland API has some ambiguity as to whether height limit is 45 feet or 55 feet. The Lakeside Apartment district also has some concerns. Posey Tube Roadway height is proposed at 175 feet, and people need to look at this with more scrutiny. 26

Kurt Peterson

- Avoid get rid of edges of historic districts by encouraging more shell buildings with high rises growing out of them. We need to encourage strengthen historic edges and call that preservation instead.

27

Thomas J Towey

- We need more effective graphics, such as cross sections.
- Need to understand the existing baseline of people living here.
- Want to understand what the cost benefit ratio is and what is the actual benefit of this development.
- Need to better articulate what the impacts to parks, transportation, and aesthetics impacts with all the new development will be.
- Oakland has an aesthetics that should be preserved.

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Letter D1
Landmarks Preservation Advisory Board Meeting
September 23, 2019

Response D-1.1 As stated on page 112 of the Draft EIR, CEQA defines cumulative as "two or more individual effects which, when considered together, are considerable, or which can compound or increase other environmental impacts. Cumulative considerable, or an adverse cumulative impact as the commenter asks about, means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

As stated on page 9 of the Draft EIR, a significant and unavoidable impact would apply if the Specific Plan would result in an adverse effect that exceeds the established significance criteria, and there is no feasible mitigation available to fully reduce the impacts to a less-than-significant level.

Response D-1.2 According to Section 15126.6(d) of CEQA Guidelines, an EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. If an alternative would cause more significant effects in addition to those that would be caused by projects as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed. The Partially Mitigated Alternative provides meaningful evaluation, analysis, and comparison with the proposed project. The level of detail may not be as fine grained as other specific plans, as the commenter mentioned; however, it fulfills the role of an alternative analysis according to the CEQA Guidelines.

Response D-1.3 The Draft EIR provides this information on pages 341-353.

Response D-1.4 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.5 The Draft EIR provides this information on pages 341-353.

Response D-1.6 See Response B-1c.3.

Response D-1.7 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.8 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

- Response D-1.9** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.10** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.11** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.12** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.13** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.14** The Alameda CTC (ACTC) is undertaking detailed traffic operation studies associated with the Oakland Alameda Access Project. This project is not considered in this EIR analysis because a design alternative has not been established, its schedule for design and construction is unknown, and it does not have an environmental document.
- Response D-1.15** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.16** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.17** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.18** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.19** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.20** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.21** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.22** The commenter suggests that Lake Merritt and its channel are understudied in the Draft EIR but does not point to specific examples or provide detail on the inadequacy of the Draft EIR. See Responses B-11.8 through B.11-12 for a discussion of biological resources surrounding Lake Merritt.
- Response D-1.23** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.24** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.25** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-1.26** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.27 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.28 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.29 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.30 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-1.31 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Planning Commission Meeting Comment Summary

October 2, 2019

Planning Commissioner Nischit Hegde

- How was Chinatown addressed in the EIR? Would be helpful if Chinatown could be incorporated into studies like traffic 1
- Please clarifying intention of pursuing a health impact assessment (page 13 of DEIR) 2
- Clarify how substantive comments on the draft EIR will be incorporated into the Plan and future drafts of the EIR 3
- Recommend that we keep the comment period of the EIR open for longer 4
- Clarify shade/shadow and wind findings related to Lake Merritt (as related to the Plan and to future projects) 5
- Clarify legal concerns related to downzoning—this would be a good opportunity to study as part of the zoning incentives study 6

Planning Commissioner Jonathan Fearn

- How was the Partially Mitigated alternative reached? 7
- Regarding housing numbers, I assume you did an average size for estimate. What was the population density of the units? 8
- Does the maximum number of units contemplated in the EIR acknowledge the zoning incentives program (i.e. the maximum zoning in the Plan)? 9
- Support having an additional hearing on the EIR 9
- The incentive zoning piece is missing from the Plan. Needs to be a clear community benefits program that makes sense. 10

Planning Commissioner Tom Limon

- Is the economics firm looking at zoning incentives program? If so, what’s the timing on that? 11

Planning Commissioner Clark Manus

- Why doesn’t the zoning incentive program get reflected in the EIR? 12
- Is the Climate Action Plan associated with the EIR? It was identified, but there’s no discussion of what it would mean in relation to impacts. 12
- Need a greater understanding of the tools that are going to implemented (e.g., incentive zoning and TDRs). Oakland has a unique opportunity to look at what tools have been effective in the Downtown. 13
- Seconded Commissioner Hegde comments regarding concerns about integration of Chinatown in the Plan (a “hole in the middle” of the Plan) 14

- Need to continue the dialogue on the Plan

Planning Commissioner Jahmese Myres

- Support continuing the hearing in another meeting
- Echoing comments around reducing baseline zoning to incentivize community benefits. Developers and applicants wanting more consistency.
- Concerns about affordable housing targets (% in Plan reduces the target from what is existing).
- Lots of vague actions proposed – not a lot of concrete actions or numerical goals for affordable housing targeting

Klara Komorous, Landmarks Preservation Advisory Board Member

- Concerned about SU adverse impacts to historic resources
 - EIR mitigation measures should be incorporated into the Specific Plan
- Provided preliminary feedback from the Board:
 - Reduce baseline density in order to have incentives for a robust TDR program
 - Recommend that the TDR program be implemented immediately
 - Look closely at density/intensity being proposed in API and ASIs and other historic resources so as not to encourage removal of historic resources
 - Review the proposed opportunity sites—some of the opportunity sites have historic resources on them

Daniel Levy, Oakland Heritage Alliance

- Concerned about impacts to historic resources, particularly:
 - Produce Market – proposed FAR increase (also need clarification if increase is to 2.0/3.5)
 - Lower Broadway—contains six of Oakland’s oldest documented buildings
 - Old Oakland – need clarification on whether proposed height increase is to 45’ or 55’. Hoping the 45’/55’ designation can be split up, so we know which areas are proposed for each height
 - Lake Merritt API is proposed for upzoning
 - Posey Tube-- 175’ foot height limit is proposed
- The main library listed as opportunity site and should be retained and improved
- The fire alarm building should be retained and improved
- Proposed changes to the waterfront warehouse district need to be clarified/double-checked. The intensity map shows a different proposed change than line 20 of proposed General Plan Amendments table, which says it will be EPP Mixed Use District with FAR of 12

James Van, Coalition of Advocates for Lake Merritt, Oakland Tenants Unit, and Homelessness Advocacy Working Group

- Written comments have been submitted
- Race and equity affect every aspect of the Plan. Should not be one separate chapter, but integrated into each chapter
- Chapter “Housing Affordability” should be renamed “Housing and Homelessness” – homelessness needs considerable discussion in the Plan
- Sustainability and environmental stewardship should be a separate section and one of the most important topics
- Pay more attention to value capture, public land, inclusionary zoning, land banking, and community benefits

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LPAB Board Member, Culture + Arts Garage District

- Historic surveys need to be updated—the maps in the Plan are inadequate until more recent surveys are done. At minimum, surveying should be a mitigation measure.
- Noted that Hiroko Kirohawa submitted a written comment
- Retain light industrial and PDR zoning in the Arts + Cultural Garage District
- Lower the baseline density for FAR in the Garage District to gain benefits of the TDR program
- Implement the TDR program immediately

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Mary Ellen Navas, Shelter Oak

- Without robust arrangements for current homeless and at-risk, downtown will be crippled by inequity
- Provide specific zoning measures and incentives for furnishing housing for those with no to very-low income
- Plan should address homelessness in a coherent section
- Designate special zoning and land use designations at County-owned properties at 4th and Broadway for adaptive reuse as affordable housing
- Provide incentives for SROs to remain and for new ones
- Establish target numbers of homeless and at-risk populations to be housed in the downtown area

32

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David Simon, resident in Adams Point

- Concern about transportation around 980 and 880 and local transportation from those major routes
- Transportation should be considered in conjunction with Howard Terminal Project
- Howard field area is a large area with tons of development potential

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Theresa Hammond

- The Plan’s definition of affordability is broad and lacks specifics (accommodates a range of incomes, but doesn’t address the ‘truly poor’ in the community) | 37
- Disappointed that goals for affordable housing are so low and that there’s a lack of accountability and specificity |
- Plan only looks to 2040, and there’s no timeline goals along the way for affordable housing. The 25% “aspirational goal” is not concrete and doesn’t guarantee that the goal will be reached (specifically, ‘aspirational’ anticipates that it will not be reached) | 38
- Schedule another meeting to discuss contents of the Plan | 39
- Consider the environmental impact of displacement | 40

Marina Carlson

- Supports for Oakland Heritage Alliance and Landmarks Board to reduce baseline density in order to be able to ask for benefits through the TDR program | 41
- Concerned about what skyline will look like—not enough discussion about the design of buildings |
- EIR doesn’t address the skyline/design in the aesthetics section | 42

Alvina Wong, Asian-Pacific Environmental Network and Chinatown Coalition

- Still a lot of gaps in discussing Chinatown. Chinatown should be integrated into traffic studies, Howard Terminal ballpark scenario | 43
- Howard Terminal Project should be included in the EIR | 44
- The Lake Merritt Specific Plan EIR is now outdated, given new construction | 45
- There will be no capture of public benefits due to proposed by-right density/height increases | 46
- How are we prioritizing goods and infrastructure that already exists (not just incentivizing the new)? | 47
- Consider family-friendly affordable housing (make downtown more youth-friendly, as young people have previously said they felt excluded from downtown) | 48

Chris Roberts

- There needs to be a better beginning to the whole Plan and clearer goal for what we want Oakland to look like (e.g. skyline) and what the essence of Oakland is. Protect what is authentically Oakland. | 49
- EIR/Plan doesn’t have streetscape or analysis for what it would be like to walk amongst proposed development. Buildings should have more articulation (no big boxes) | 50
- Old Oakland is left off of most of the maps. The analysis combines Old Oakland with Chinatown, but they are separate/distinct areas. | 51
- Opposed to expanding park under the freeway (residents wouldn’t want it). New park investment should go into existing squares/parks | 52

Naomi Schiff, Oakland Housing Authority

- Provided preliminary OHA comments to the commissioners 53
- Discussion of Plan/EIR should continue October 16 and extend discussion of EIR (EIR is long)
 - Consider extending to a night when the A's aren't playing 54
- Include options for reduced by-right zoning and opportunities for increased zoning in the incentives program. There should be a clear comparison to show how the program will work 55
- Focus on robust changes (e.g. housing) vs. street improvements 56
- Remove or rewrite action steps 54 and 74, which conflict with Oakland's historic preservation approach 57
- Comments from Tom Towe: redirect staff to view historical resources as assets, not obstacles and capitalize on City's virtues 58
- Parks section of Plan and EIR are inadequate. Existing parks need capital improvement and should be higher priority than new open areas, and parks are historic resources. 59
- Lake Merritt and Channel are inadequately covered by EIR and shouldn't be intensely developed 60
- The TDR program should be expedited 61

Jennie Gerard, Measure DD Coalition

- Plan will have adverse impact on improvements around Lake Merritt:
 - Result in increased population in an under-parked area 62
 - No meaningful mitigation measure for parks maintenance
 - South side of the Plan gets short-shifted
- Plan/EIR doesn't pay attention to the Channel
 - Proposed height increases in Gold Coast neighborhood contradict the 55' height limit established in 2009 63

Adrian Cotter (DD)

- Lake Merritt Channel is life blood of the lake and unique resource
 - Preserve open space on both sides of channel—concerned about impact of development on parks 64
 - Height limits around the Channel should be lowered
 - Concerned about impact of increased housing/population around Channel (similar to previous concerns when the A's stadium was proposed)

Mark Brustman

- EIR aesthetics exemption shouldn't be applied to the entire downtown area. Plan area can't be broadly considered an infill site (there are both infill and non-infill sites) as it would preclude future development in downtown from needing to address aesthetics 65
- LMSAP does not include Lake Merritt – Lake Merritt is not included in any plan (an 'orphan') 66

Mike Jacob, Pacific Merchant Shipping

- Written comments forthcoming
- Inadequate review of impacts on industrial uses – concerned about consequences of proposed reversion of industrial zoning to mixed-use on businesses and City
- West Oakland Community Action Plan adopted by CARB (AB 617)
 - Affects components of the Plan, including Jack London Maker District and Howard Terminal
 - Problems with Howard Terminal are not reflected in the EIR
- Address industrial concerns and freight issues
 - Public health considerations underlying incompatible uses are not addressed in Plan

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Richard Sinkoff, Port of Oakland

- Port is currently conducting review of the Plan and DEIR
- Emphasis on economic opportunity and jobs growth in the Plan
 - The Port’s jobs analysis identified 84,000 regional jobs associated with activity at the Port
 - Continue these jobs and growth strategies
- Strengthening relationship between Port and City (discussion upcoming)

72

73

Tim Frank, Center of Sustainable Neighborhoods, Alameda County Construction and Trades Council

- Downtown is strategically important for residential and commercial construction
 - EIR alternatives don’t reflect that reduced development downtown will result in increased development in other neighborhoods (i.e., the citywide impacts of the Plan would be lower than if development was spread across the city)
- Plan should have a policy aimed at workforce development in the construction industry
- Support for benefit zoning over base zoning

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Jeff Levin, EBHO

- Need to hold an additional hearing on the Plan and EIR
- Need to look at incentive zoning. Look at economics of downzoning and maximizing incentives
- Plan shouldn’t be so intensely focused on moderate income housing (existing market-rate development is meeting/exceeding current RHNA allocations)
- Plan doesn’t meet equity goals. 50-25% aspirational goal for affordable housing will reduce the share of affordable housing overall. Per page 94 of the Plan, “affordable” includes moderate income housing and only 15% of housing will actually be affordable

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Christopher Buckley, OHA

- OHA in process of reviewing Plan and EIR, providing preliminary comments

80

- Consider continuing review of Plan to at least October 16. Should wait until the zoning incentives study is completed, because it will have major input on the proposed density | 81
- Three points not included in letter: | 82
 - OHA confirmed that by-right density in SF is 9.0 (C-3 zone)
 - Clarify comments regarding state barriers to downzoning. Does this refer to SB 330? We're proposing increasing residential density elsewhere, which would balance lower intensity in downtown. SB 330 doesn't differentiate between by-right and incentive zoning. | 83
 - Discrepancy between General Amendment Plan and the Intensity Map. Clarify the differences between the two maps (pg. 225 – intensity is very high) | 84
- Recommendations from written letter: | 85
 - OHA is providing a recommended height map. Support previous concerns about intensity and ASI/APIs
 - Regarding two-tier development intensity framework with community benefits (including TDR). Intensity area should be expanded. Recommending that any area outside API/ASIs be considered for greater bonus intensity
 - Zoning study needs to be amended to look at reducing by-right intensities. Study should provide recommendations for the Plan, not just describe the Plan as proposed.
- OHA looking at value-capture programs, including Los Angeles Measure JJJ and SF Eastern Neighborhoods Program | 86

Paul Bicmore

- Plan is all about tradeoffs. Given housing and sustainability, parking and traffic shouldn't be given consideration. EIR has to give it consideration, but the City should not | 87
- Plan is limited in terms of housing (particularly regarding the number of office opportunity sites). Leave the option open for office opportunity sites, with conditions for higher impact fees/community benefits/affordability | 88
- Support for incentive zoning. But the goal should be to build taller building (e.g. around Lake Merritt)—determine how much developers are willing to take before it affects housing | 89
- Support for incentive zoning. But the goal should be to build taller building (e.g. around Lake Merritt)—determine how much developers are willing to take before it affects housing | 90

Derek Sagehorn, East Bay for Everyone

- Supportive of proposed two-way streets and bike infrastructure | 91
- Concerned about distribution of housing across the Plan (proposed residential areas are concentrated around Victory Court vs. Golden Coast low downzoning). Housing should be shared more equitably across all of the Plan (reduce risk). | 92
- Value-capture strategies need to be more focused (specific strategies for specific areas) | 93
- Need to prioritize very low-income housing | 94

Tara Parker-Essig

- Support preservation of historic sites/buildings in Oakland | 95
- Affordable housing of no to very low-income residents | 96
- Walkability/bike-ability | 97

Letter D2
Planning Commission Meeting
October 2, 2019.

- Response D-2.1** See Response B-10.1.
- Response D-2.2** The commenter is referring to a NOP comment which suggested including a Health Impact Assessment. As stated on page 13 of the Draft EIR, this is beyond the scope of the analysis in the EIR. The NOP comments were considered independent of the CEQA process and as a part of the City's review of the Specific Plan process.
- Response D-2.3** The Response to Comments (RTC) document has been prepared to provide written responses to comments received on the Draft EIR prepared for the Downtown Oakland Specific Plan. The RTC document includes the comments received on the Draft EIR, and responses those comments, and text revisions to the Draft EIR in response to the comments received and/or to amplify or clarify material in the Draft EIR. The RTC document, together with the Draft EIR, constitutes the Final EIR for the Downtown Oakland Specific Plan. If significant new information is added to an EIR after a notice of public review has been given, but before final certification of the EIR, the Lead Agency must issue a new notice and re-circulate the Draft EIR for further comments and consultation. None of the corrections or updates to the Draft EIR identified in this document constitutes significant new information pursuant to Section 15088.5 of CEQA Guidelines. As appropriate, the City may incorporate revisions to the August 2019 Public Review Draft Plan into the Final Draft Plan prior to adoption to address or incorporate the mitigation measures from the EIR.
- Response D-2.4** The comment period was extended to 70 days.
- Response D-2.5** The Draft EIR considers shade/shadow and wind findings on Lake Merritt as well as cumulative impacts. It is unclear what the commenter means by clarify findings related to the Plan.
- Response D-2.6** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.7** See Response D-1.2. In addition, under the rule of reason, CEQA Guidelines Section 15126.6 (f), the range of alternatives required in an EIR is governed by

a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice, and that the alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effect of the project. The goal of the Partially Mitigated Alternative, and of all alternatives, is to lessen or avoid significant effect of the project while meeting the project objectives. As described in *Chapter VII, Alternatives*, of the Draft EIR, the Partially Mitigated Alternative would reduce impacts to Transportation, as well as Cultural and Historic Resources impacts.

Response D-2.8 The residential density assumed under the Draft EIR was 1.9 residents per unit. As discussed on page 584 of the Draft EIR, this ratio differs from the citywide ratio of 2.59 persons per household in 2018. The 1.9 persons per household ratio is used because the housing units anticipated by the development under the Plan would be smaller on average than existing single-family homes citywide (the expected average unit size for the Plan Area is 750 square feet).

The opportunity sites that assume development is included in the Zoning Incentive Program. As discussed in the Draft EIR, development could also take place on non-opportunity site areas. It is difficult to project the exact amount and location of future development with any precision. The CEQA analysis is based on the maximum development quantities set forth in the Development Program which acknowledges the Zoning Incentive Program. The intent of the Specific Plan and the EIR is to provide as much flexibility as is feasible in terms of the precise mix of newly developed land uses and their location within the Plan Area while conforming to CEQA analysis thresholds.

Response D-2.9 An additional hearing was conducted. See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-2.10 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-2.11 See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Response D-2.12 The General Plan amendments and intensity changes in the Plan have informed the Zoning Incentive Program, which is one aspect of the new zoning that will be adopted as part of the Downtown Oakland Specific Plan. The Energy and Climate Action Plan (ECAP) is a separate plan and process, which the City adopted, and which was updated in 2018. The ECAP identified strategies to achieve a reduction in GHG emissions of 36 percent over eight

years (the 2020 Plan). Future development in the Plan Area would comply with the ECAP and Specific Plan policies for GHG reductions.

- Response D-2.13** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.14** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.15** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.16** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.17** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.18** This comment does not address the adequacy of the Draft EIR.
- Response D-2.19** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.20** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.21** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.22** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.23** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.24** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.25** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.26** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.27** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.28** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.29** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.30** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.31** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.32** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.33** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

- Response D-2.34** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.35** The roadway segment forecasts provided to the analysis for the Air Quality, Greenhouse Gas Emissions and Noise analysis incorporated cumulative traffic from development at Howard Terminal. Impacts to the Regional CMP Roadway Segments (Criterion 4) which include roadways in the vicinity of the Plan Area including I-980, and I-880 are discussed starting on page 211 of the Draft EIR.
- Response D-2.36** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.37** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.38** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.39** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.40** See Master Response 3: Residential Displacement and Affordability.
- Response D-2.41** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.42** See Response B-1c.10.
- Response D-2.43** See Response B-10.1.
- Response D-2.44** The commenter's desire to have the Howard Terminal area included in the Draft EIR is noted. There is a separate CEQA process independent of this EIR that specifically analyzes impacts on the environment as a result of the Howard Terminal Project—a project being proposed independent of the Specific Plan. Within the cumulative discussion of the Draft EIR, surrounding projects including the Howard Terminal project are considered.
- Response D-2.45** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.46** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.47** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.48** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.49** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

- Response D-2.50** The CEQA analysis presented in the Draft EIR is based on the development quantities set forth in the Development Program, but the intent of the Specific Plan and the Draft EIR is to provide as much flexibility as is feasible related to the precise mix of newly developed land use and their location within the Plan Area (within the envelop of the development program) while conforming to the CEQA analysis and thresholds. The comment is correct in that the Specific Plan does not go into detail of specific buildings to be built in the Plan Area, as the goal of this Specific Plan is programmatic in nature in that it sets broad policies and goals intended for a geographic area. As stated in Section 15168 (c) of the CEQA Guidelines for a Program EIR, subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.
- Response D-2.51** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.52** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.53** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.54** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.55** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.56** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.57** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.58** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.59** As part of the Draft EIR on page 623, Mitigation Measure PUB-1, requires the city to update the Capital Improvement Impact Fee, and/or implement a dedicated impact fee specific to parks and recreation.
- Response D-2.60** The commenter does not give specific descriptions on what aspects of the Draft EIR are lacking relative to the Channel. A discussion of impacts of the Plan related to biological resources specifically around Lake Merritt and the Channel is found in *Chapter V.G, Biological Resources*, as well as *Chapter V.J, Hydrology and Water Quality*, of the Draft EIR.
- Response D-2.61** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

- Response D-2.62** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.63** Related to proposed height increase in the Gold Coast neighborhood; see Master Response 1: Specific Plan Merits and Related Non-CEQA Topics. The commenter does not give specific descriptions on what aspects of the Draft EIR are lacking relative to the Channel. A discussion of impacts of the Plan related to biological resources specifically around Lake Merritt and the Channel is found in *Chapter V.G, Biological Resources*, as well as *Chapter V.J, Hydrology and Water Quality*, of the Draft EIR. Also, see Responses B-11.8-13.
- Response D-2.64** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.65** For a discussion of infill site exemption, see Response B-1c.13.
- Response D-2.66** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.67** These introductory comments are noted. The comment does not address the adequacy of the Draft EIR; no further response is necessary.
- Response D-2.68** See Response B-12.
- Response D-2.69** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.70** See Response D-2.44.
- Response D-2.71** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.72** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.73** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.74** The alternative that reflects reduced development is the Partially Mitigated Alternative which reduces total development by 25 percent for residential units and commercial square footage to levels more similar to those anticipated in the downtown/Jack London Square (DJL) Priority Development Area. It is speculative to assume that a reduction in growth in the Plan Area would lead to growth in other parts of the city, or that growth would not happen independent of the Plan.
- Response D-2.75** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.76** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

- Response D-2.77** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.78** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.79** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.80** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.81** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.82** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.83** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.84** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.85** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.86** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.87** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.88** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.89** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.90** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.91** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.92** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.93** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.94** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.95** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.96** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-2.97** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Landmarks Preservation Advisory Board Comment Summary

October 14, 2019

Helen Block (OHA)

- Expansion/modernization of library needed
- Remove action step 111
- Library = historic resource (wernecke); fire alarm – no position on zoning uses for opportunity zones – operations/all options for library remain available until feasibility study complete

1

Daniel Levy (OHA)

- Page 340, library missing; pages 344/345 EIR (discrepancies in opportunity sites – library/greyhound bus station)
- How is “opportunity site” defined?

2

3

Victoria Barbero

- Does not support step 111
- Library resources need to be expanded (help achieve equity)
- OPL should be action item on capital improvement plan

4

Naomi Schiff, Working Group

- Summarizing letter sent in
- Resiliency regarding soft story buildings, historic structures; discussion dealing with historic structures/upgrading them
- Item in action steps mentions specific plan implementation committee – any thought on how that will be formed/who will be on it (Recommend member of public and landmarks representative)
- Provide list of addresses/statuses for historic projects
- Would be great in EIR to discuss (for carbon and historic structures) and provide carbon capture calculation
- Regarding EIR text on transfer of development rights, would like to change mitigation measure to implement the TDR from “within 3 years” to an earlier time frame
- The plan is a good development plan, but not a good preservation/cultural plan

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Motions made:

- Recommending reduced post baseline density (both height and FAR)
- Delete action step 74 and 54 (third bullet)
- Classify opportunity sites into discrete categories and exclude historic sites from opportunity sites

10

- Adopt mitigation measures Cult 1A through 1F as part of the Plan
- Review discrepancies between Plan and EIR maps

| 11
| 12

Letter D3
Landmarks Preservation Advisory Board Meeting
October 14, 2019

- Response D-3.1** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.2** These discrepancies have been rectified for Plan figure revisions. See *Chapter V, Text Revisions*.
- Response D-3.3** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.4** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.5** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.6** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.7** This comment is unclear. It is possible that the commenter is recommending a calculation of carbon sequestered in the plant-based building materials (e.g., wood) of historic buildings. These buildings materials contain carbon that was sequestered from the atmosphere prior to being processed into buildings materials. Demolition of these buildings could result in the eventual release of carbon that was stored in the materials back into the atmosphere as the materials breakdown; however, the amount of carbon that would be released is not readily quantifiable.
- Response D-3.8** See Response B-1c.3.
- Response D-3.9** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.10** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.11** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-3.12** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

Planning Commission Meeting Comment Summary

November 6, 2019

<ul style="list-style-type: none"> December 11—zoning update framework; zoning update committee 	1
<i>Vince Sugrue, LPAB</i>	
<ul style="list-style-type: none"> MM Cult a-1 and a-f into specific plan 	2
<i>Kenya Wheeler, BPAC</i>	
<ul style="list-style-type: none"> Make sure plan is consistent with updated bike and ped plan 	3
<i>Mark Brustman</i>	
<ul style="list-style-type: none"> Calling entire site an infill site—cheating on aesthetic section Every tall building cuts a slice of the light on the lake 	4 5
<i>Derek Sagehorn, East Bay for Everyone</i>	
<ul style="list-style-type: none"> Relying on brownfields for majority of housing doesn't make sense from an equity or environmental standpoint 	6
<i>Adriana Bargas</i>	
<ul style="list-style-type: none"> Every environmental impact should take into account the need for a community to commute without being close to transit; make Oakland dense and livable 	7
<i>Mike Jacob, Pacific Merchant Shipping Association</i>	
<ul style="list-style-type: none"> Elimination of current buffer zone; concerns DOSP—for upzoning; base proposal that doesn't involve howard terminal Redesign of area near howard terminal Not well described in EIR for transition Have issues with the base case—problematic with current business 	8 9 10 11
<i>Ben Keller</i>	
<ul style="list-style-type: none"> View corridors; shadows and site lines—they don't rise to the existential crisis of climate change 	12

Daniel Levy, OHA

- Produce market, lower Broadway, old Oakland; lower zoning

13

Tim Frank, Center for Sustainable Neighborhoods

- Buffer zone: 3rd street tension—what the mitigation would be; and have a visual on that

14

Planning Commissioner Nischit Hegde

- have a visual buffer on the 3rd street buffer

15

Letter D₄
Planning Commission Meeting
November 6, 2019

- Response D-4.1** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.2** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.3** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.4** For a discussion of infill site exemption, see Response B-1c.13.
- Response D-4.5** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.6** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.7** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.8** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.9** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.10** See Response B-12.29 pertaining to loss of industrial land and buffer zone. The Howard Terminal option has been eliminated.
- Response D-4.11** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.12** Comment does not address adequacy of the Draft EIR; no further response required.
- Response D-4.13** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.
- Response D-4.14** See Response B-12.29 pertaining to loss of industrial land and buffer zone. The Howard Terminal option has been eliminated.
- Response D-4.15** See Master Response 1: Specific Plan Merits and Related Non-CEQA Topics.

V. TEXT REVISIONS

This RTC document presents specific revisions to the text of the Draft EIR that were initiated by City staff for the purpose of clarifying material in the Draft EIR as well as in response to commenters questions and concerns that related to the adequacy of the Draft EIR. Where revisions to the main text are called for, the page and paragraph are noted, followed by the appropriate revision. Added text is indicated with double underlined text. Deletions to text in the Draft EIR are shown with ~~strikeouts~~. Page numbers correspond to the page numbers of the Draft EIR. Revisions presented in this RTC document do not significantly alter the conclusions or findings of the Draft EIR.

Standard Conditions of Approval (SCA) references used throughout the Draft EIR are updated by reference as shown below to the new City of Oakland SCA numbers (updated December 2020):

SCA-TRANS-1: Construction Management Plan (~~#13~~)
SCA-TRANS-2: Construction Activity in the Public Right-of-Way (~~#7576~~)
SCA-TRANS-3: Bicycle Parking (~~#7677~~)
SCA-TRANS-4: Transportation Improvements (~~#7778~~)
SCA-TRANS-5: Transportation and Parking Demand Management (~~#7879~~)
SCA-TRANS-6: Transportation Impact Fee (~~#7980~~)
SCA-TRANS-7: Railroad Crossings (~~#8082~~)
SCA-TRANS-8: Plug-In Electric Vehicle (PEV) Charging Infrastructure (~~#8183~~)

SCA-AIR-1: Dust Controls – Construction Related (~~#2021~~)
SCA-AIR-2: Criteria Air Pollutant Controls – Construction Related (~~#2122~~)
SCA-AIR-3: Diesel Particulate Matter Controls-Construction Related (~~#2223~~)
SCA-AIR-4: Exposure to Air Pollution (Toxic Air Contaminants) (~~#2324~~)
SCA-AIR-5: Stationary Sources of Air Pollution (Toxic Air Contaminants) (~~#2425~~)
SCA-AIR-6: Truck-Related Risk Reduction Measures (Toxic Air Contaminants) (~~#2526~~)
SCA-AIR-7: Asbestos in Structures (~~#2627~~)

SCA-GHG-1: Greenhouse Gas (GHG) Reduction Plan (~~#42~~)
SCA-GHG-2: Transportation and Parking Demand Management (~~#7879~~)

SCA-CULT-1: Archaeological and Paleontological Resources – Discovery During Construction (~~#3233~~)
SCA-CULT-2: Archaeologically Sensitive Areas – Pre-Construction Measures (~~#3334~~)

SCA-CULT-3: Human Remains – Discovery During Construction (~~#3435~~)

SCA-CULT-4: Property Relocation (~~#3536~~)

SCA-AES-1: Graffiti Control (#17)

SCA-AES-~~21~~: Landscape Plan (#18)

SCA-AES-~~32~~: Lighting (#19)

SCA-AES-~~43~~: Underground Utilities (~~#8385~~)

SCA-BIO-1: Bird Collision Reduction Measures (~~#2829~~)

SCA-BIO-2: Tree Removal during Bird Breeding Season (~~#2930~~)

SCA-BIO-3: Tree Permit Required/Tree Protection during Construction/and Tree Replacement Plantings (~~#3031~~)

SCA-GEO-1: Construction-Related Permit(s) (~~#3637~~)

SCA-GEO-2: Soils Report (~~#3738~~)

SCA-GEO-3: Seismic Hazards Zone (Landslide/Liquefaction) (~~#3940~~)

SCA-HAZ-1: Hazardous Materials Related to Construction (#43)

SCA-HAZ-2: Hazardous Building Materials and Site Contamination (#44)

SCA-HAZ-3: Hazardous Materials Business Plan (#45)

SCA-HYD-1: Erosion and Sedimentation Control Measures for Construction (#48)

SCA-HYD-2: Erosion and Sedimentation Control Plan for Construction (#49)

SCA-HYD-3: State Construction General Permit (#50)

SCA-HYD-4: Site Design Measures to Reduce Stormwater Runoff (#52)

SCA-HYD-5: Source Control Measures to Limit Stormwater Pollution (#53)

SCA-HYD-6: NPDES C.3 Stormwater Requirements for Regulated Projects (#54)

SCA-HYD-7: NPDES C.3 Stormwater Requirements for Small Projects (#55)

SCA-HYD-8: Architectural Copper (#56)

SCA-HYD-9: Vegetation Management on Creekside Properties (#57)

SCA-HYD-10: Creek Protection Plan (#58)

SCA-HYD-11: Creek Dewatering/Diversion (#59)

SCA-HYD-12: Structures in a Flood Zone (#60)

SCA-HYD-13: Bay Conservation and Development Commission (BCDC) Approval (#61)

SCA-NOI-1: Construction Days/Hours (#62)

SCA-NOI-2: Construction Noise (#63)

SCA-NOI-3: Extreme Construction Noise (#64)

SCA-NOI-4: Project-Specific Construction Noise Reduction Measures (#65)

SCA-NOI-5: Construction Noise Complaints (#66)

SCA-NOI-6: Exposure to Community Noise (#67)

SCA-NOI-7: Operational Noise (#68)
 SCA-NOI-8: Exposure to Vibration (#69)
 SCA-NOI-9: Vibration Impacts on Adjacent Historic Structures or Vibration-Sensitive Activities (#70)

SCA-POP-1: Jobs/Housing Impact Fee (#71)
 SCA-POP-2: Affordable Housing Impact Fee (#72)
 SCA-POP-3: Residential Tenants (#~~9273~~)

SCA-PUB-1: Compliance ~~Conformance~~ with Other Requirements (#3)
 SCA-PUB-2: Fire Safety Phasing Plan (#46)
 SCA-PUB-3: Capital Improvements Impact Fee (#~~7374~~)

SCA-UTL-1: Compliance with Other Requirements (#3)
 SCA-UTL-2: Construction Management Plan (#13)
 SCA-UTL-3: Erosion and Sedimentation Control Plan for Construction (#~~4849~~)
 SCA-UTL-4: State Construction General Permit (#50)
 SCA-UTL-5: Site Design Measures to Reduce Stormwater Runoff (#52)
 SCA-UTL-6: Source Control Measures to Limit Stormwater Pollution (#53)
 SCA-UTL-7: Construction and Demolition Waste Reduction and Recycling (#~~8284~~)
 SCA-UTL-8: Underground Utilities (#~~8385~~)
 SCA-UTL-9: Recycling Collection and Storage Space (#~~8486~~)
 SCA-UTL-10: Green Building Requirements (#~~8587~~)
 SCA-UTL-11: Green Building Requirements: Small Projects (#~~8688~~)
 SCA-UTL-12: Sanitary Sewer System (#~~8789~~)
 SCA-UTL-13: Storm Drain System (#~~8890~~)
 SCA-UTL-14: Recycled Water (#~~8991~~)
 SCA-UTL-15: Water Efficient Landscape Ordinance (WELO) (#~~9092~~)

Pages 108, 375, 566, 567, 568 and 734 of the Draft EIR are revised:

Reference to ~~Oakland Municipal Code~~ are revised to Oakland Planning Code when referring specifically to Title 17.

Page 15, Summary Table, in its entirety, is updated as follows to show updates to the Draft EIR as detailed in this chapter.

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
A. Land Use and Planning			
<i>Implementation of the project would not result in any significant land use impacts</i>			
B. Traffic and Transportation			
TRANS-1: The bus-only lanes proposed in the Specific Plan may overlap with the Specific Plan’s proposed low stress bike network potentially generating transportation conflicts between bicycle and transit along corridors where both are proposed.	S	TRANS-1: The Specific Plan shall include an implementation measure that requires the City of Oakland as part of the planning and design process for bicycle or transit improvements to collaborate with AC Transit and other stakeholders to address multimodal impacts on streets and corridors where both low stress bike facilities and bus-only lanes are being considered. that The Plan shall establish the prioritized transportation modes; consider the corridor’s physical characteristics and expected land use; incorporate input from the community; evaluate multi-modal safety, travel markets, transportation and land use compatibility, and stakeholder inputs; and identify. The design features that support the prioritized transportation modes prior to beginning final design.	LTS
TRANS-2: Development under the Specific Plan would generate additional multi-modal traffic traveling across the at-grade railroad crossings that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.	SU	TRANS-2: The Specific Plan shall include an implementation measure that requires the City of Oakland within the near-term (1 to 5 years) to undertake and complete a Diagnostic Study as outlined in SCA-TRANS-7: Railroad Crossing (#8082) to identify and implement the suite of improvements to enhance multi-modal safety along the railroad tracks including the elements necessary for a Quiet Zone through Jack London District. The study shall identify the schedule and potential funding for implementing the suite of improvements resulting from the study and the City as the lead agency would design and construct the improvements, <u>relying on outside agency funding</u> . Any proposed improvements must be coordinated with California Public Utility Commission (CPUC) and affected railroads; and all necessary permits/approvals <u>must be</u> obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings).	SU
TRANS-3: The development under the Specific Plan would contribute to the significant degradation of several CMP or MTS segments in 2020.	SU	TRANS-3: No other feasible mitigation measures, beyond TDM measures, are available to reduce the effect development under the Specific Plan would have on the adversely affected roadway segments.	SU
Cumulative Impact TRANS-1: Development under the Specific Plan together with cumulative development, would generate additional multi-modal traffic traveling across the at-grade railroad crossings that	SU	Cumulative Mitigation Measure TRANS-1 Implement Impact TRANS-2.	SU

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.	SU	Cumulative Mitigation Measure TRANS-2: No other feasible mitigation measures, beyond TDM measures, are available to reduce the effect development under the Specific Plan would have on the adversely affected roadway segments.	SU
C. Air Quality			
AIR-1: Operation of some large development projects under the Specific Plan could result in a cumulatively considerable net increase of criteria air pollutants for which the region is in nonattainment.	S	<p>AIR-1: Reduce Operational Emissions. Proposed projects that would exceed the current BAAQMD’s screening criteria for operational criteria air pollutant emissions shall retain a qualified air quality consultant to quantify criteria air pollutant emissions and identify measures, as needed, to reduce the project’s average daily emissions below 54 pounds per day for ROG, NO_x, and PM_{2.5} and 82 pounds per day for PM₁₀, and reduce the maximum annual emissions below 10 tons per year for ROG, NO_x, and PM_{2.5} and 15 tons per year for PM₁₀. Quantified emissions and identified reduction measures shall be submitted to the City (and the Air District if specifically requested) for review and approval prior to the issuance of building permits. Such measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> ▪ For any proposed refrigerated warehouses or large (greater than 20,000 square feet) grocery retailers, provide electrical hook-ups for diesel trucks with Transportation Refrigeration Units at the loading docks. ▪ Use low- and super-compliant VOC architectural coatings in building construction and when maintaining buildings. “Low-VOC” refers to paints that meet the more stringent regulatory limits in South Coast Air Quality Management District Rule 1113; however, many manufacturers have reformulated to levels well below these limits. These are referred to as “Super-Compliant” architectural coatings. ▪ Other measures that are shown to effectively reduce criteria air pollutant emissions on-site or off-site if emissions reductions are realized within the SFBAAB. Measures to reduce emissions on-site are preferable to off-site emissions reductions. 	SU
The feasibility or effectiveness of Mitigation Measure AIR-1 is unknown at this time. Therefore, impacts associated with implementation of the			

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
<p>Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be conservatively significant and unavoidable with mitigation. It should be noted that <u>most future development projects in the Plan Area are not expected to exceed the BAAQMD’s operational screening criteria (Table V.C-5, as updated by the BAAQMD) and therefore</u> the identification of this significant impact does not preclude the finding of future less-than-significant impacts for subsequent projects that comply with applicable screening criteria or meet the City’s significance thresholds for operational emissions of criteria air pollutants. <u>It should also be noted that if a future development project exceeds the City’s significance thresholds for operational emissions of criteria air pollutants after implementation of Mitigation Measure AIR-1, the emissions could substantially contribute to and exacerbate existing air quality conditions in the region (specifically ozone), but unlike TACs would generally not pose a health risk that is specific to the local community.</u></p>			
<p>D. Greenhouse Gas Emissions</p>			
<p>GHG-1: Construction and operation of development projects under the Specific Plan would generate GHG emissions that could have a significant impact on the environment.</p>	<p>S</p>	<p>GHG-1: Reduce GHG Emissions. Projects to be built before 2030 shall demonstrate compliance with a certified Qualified GHG Reduction Plan (if available) or the 2030 GHG efficiency threshold of 0.61 MTCO₂e/SP. Projects to be built between 2030 and 2050 shall demonstrate compliance with a certified Qualified GHG Reduction Plan (if available) or the 2040 GHG efficiency threshold of 0.34 MTCO₂e/SP. To demonstrate compliance with the applicable GHG efficiency threshold, the project applicant shall retain a qualified air quality consultant to quantify the project-specific non-transportation GHG emissions and consider implementing the following measures, as applicable and feasible, to reduce non-transportation GHG emissions below the GHG efficiency threshold. Such measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> ▪ Carbon-Free Energy. 100 percent of electricity purchased shall be from carbon-free sources (e.g., nuclear, renewable, and hydroelectric). ▪ Natural Gas. Fossil natural gas shall not be used in all new or modified buildings. ▪ Alternative Fuels for Diesel-Powered Construction Equipment. All diesel-powered construction equipment shall use renewable diesel fuel 	<p>LTS</p>

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
<p>that meets California’s Low Carbon Fuel Standards and is certified by CARB Executive Officer.</p> <ul style="list-style-type: none"> ▪ Energy Efficiency for Multi-Family Residential Buildings. New multi-family residential buildings shall be designed to achieve a 15 percent reduction in grid energy use versus a standard Title 24 code-compliant building by following the energy efficiency performance standards set forth in Tier 2 of the 2016 California Green Building Standards Code, Section A4.203.1.2.1. These reductions shall be achieved by employing energy-efficient design features and/or solar photovoltaics at the time of building permit issuance. ▪ Energy Efficiency of Non-Residential Buildings. Newly constructed non-residential buildings shall be designed to achieve a 10 percent or greater reduction in grid energy use versus a standard Title 24 code-compliant building through energy efficiency measures consistent with Tier 2 of the 2016 California Green Building Standards Code, Section A5.203.1.2.1. Alternatively, this measure can be met by installing on-site renewable energy systems that achieve equivalent reductions in building energy use at the time of building permit issuance. ▪ Outdoor Electrical Receptacles. Electrical receptacles shall be included on the exterior of walls of all newly constructed buildings and accessible for purposes of charging or powering electric landscaping equipment and providing an alternative to using fossil fuel-powered generators. ▪ Electric Forklifts and Associated Charging Stations. All loading docks and truck loading areas shall include a dedicated charging station for electric forklifts. ▪ Electric Connections for Transportation Refrigeration Units. All new loading docks for retail, light industrial, or warehouse uses shall be equipped to provide electric power from the grid, including connections for Transportation Refrigeration Units. Signage shall be posted adjacent to loading docks requiring use of electrification and prohibiting engine idling for more than 5 minutes. 			
E. Cultural and Historic Resources			
<p>CULT-1: Implementation of the Specific Plan and its associated development is anticipated to result in the demolition, destruction, or</p>	<p>SU</p>	<p>CULT-1: The following mitigation measures shall be implemented to the extent feasible to minimize impacts to historic resources in the Plan Area</p>	<p>SU</p>

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
relocation of some historical resources either as individual resources and/or as contributors to historic districts.		<p>and its vicinity. The mitigation measures are identified in order of priority. As many of the measures as feasible shall be implemented:</p> <p>CULT-1A: The Plan shall be revised <u>when funding becomes available</u> to include the following implementation measures focused on minimizing impacts to historic resources:</p> <ol style="list-style-type: none"> <li data-bbox="1020 553 1759 899">i. <u>Seek additional resources to fund Reinstated and promote the City Downtown Façade Improvement Program</u>⁵² consistent with Action 3.8.1(g) of the Historic Preservation Element of the City of Oakland General Plan for both commercial and residential properties including SROs. The program shall require financial contribution to this fund when historical resources are impacted <u>and unable to be mitigated</u> by future development projects in the Plan Area, and potentially the other Specific Plan areas, based on a formula established by the City. <u>In addition, the City shall seek other sources for funding, such as grant opportunities, as part of reinstating the program.</u> If reestablished, <u>the Façade Improvement Program</u> fund shall be used to implement the additional mitigation measures identified below, as appropriate. <li data-bbox="1020 915 1759 1404">ii. <u>Revise the City Transfer of Development Rights (TDRs) Ordinance Program. Draft and include TDR amendments within three years of Plan adoption in the package of Planning Code amendments needed to implement the Plan including floor area ratio (FAR), height limits, residential density changes, and other zoning changes proposed in the Plan to encourage the retention of the smaller-scale buildings that are prevalent in downtown and are at high risk for redevelopment and demolition. The revised ordinance Planning Code should be accompanied by include a specific TDR program for building owners and project sponsors within the Plan Area, and potentially the other Specific Plan areas.</u> This program should include identifying potential properties to participate and outreach to these owners so they understand the benefits as well as how this program could fit into a menu of preservation incentives. The transfer enables the owner of the receiving site to develop additional gross floor area, above and beyond what would otherwise be allowed. The use of this <u>TDR</u> program shall be considered <u>when evaluating the current height changes proposed in</u> 	

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
		<p><u>Downtown Oakland</u>. into the current height changes proposed downtown. A good <u>One</u> model for this program has been on-going ongoing in San Francisco.</p> <p>iii. Adopt an <u>Encourage Adaptive Reuse Ordinance</u>, within three years of Plan adoption, Elements that would eEncourage preservation of historic buildings within the Plan Area <u>through Planning Code amendments</u> and potentially the other Specific Plan areas. The City of Los Angeles has <u>adopted</u> a highly successful similar program <u>adopted an overlay</u> in 1999 for downtown that was extended into other communities across LA in 2003 <u>through the Adaptive Reuse Incentive Area Specific Plan</u> that can serve as a model. Other elements of the ordinance <u>Elements should include a means to expedite project approvals</u> <u>height limitations</u> for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities. It should also delineate <u>areas, design standards and delineation of</u> which historic buildings <u>or areas</u> in downtown are eligible <u>for provisions to encourage reuse</u>, with a focus on designated Landmarks, buildings within National Register-listed historic districts, and buildings within APIs and ASIs. Provisions <u>to encourage reuse</u> could include but not be limited to reduced permitting costs, ways to accommodate existing floor area ratios, and reduced parking and open space requirements, when necessary to achieve project goals. Other provisions could include <u>The City will develop expedited review for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities, as well as</u> expedited review of the use of the California Historical Building Code (CHBC) and ways to encourage projects to meet the Secretary of the Interior’s Standards for the Treatment of Historic Properties.</p> <p>iv. Formulate an oral history program for the cultural groups that have played an important role in downtown. Numerous cultural groups and cultural traditions have influenced the development of downtown and its communities. Engage in a public outreach program to formulate a list of groups and stakeholders, key community individuals who can take</p>	

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
		<p>leadership roles, and develop a program that will inform the oral history project. Partnerships with the Oakland Public Library, Laney College and StoryCorps could bolster this program. The City should strive to be an instigator in this program.</p>	
		<p>CULT-1B: Expand public outreach and implementation of the California Historical Building Code (CHBC) for projects that qualify under State law. Dovetail use of the CHBC with the Adaptive Reuse Ordinance as it is implemented. Provide professional development training to the City’s building officials and inspectors on the use of the CHBC so that they can implement project review for qualified buildings within reasonable timeframes. Appoint a Senior Building Official as the CHBC-liaison between the Planning Department Bureau, the Chief Fire Official and the Building Department Bureau so that projects are reviewed with consistency and clarity. Encourage City staff to schedule a seminar with the Office of Historic Preservation’s member of the State Historical Safety Board to provide a thorough background of how the code is implemented.</p>	
		<p>CULT-1C: Further the Planning Code protections for SROs hotels with additional façade protections for these buildings, perhaps by deeming this specific historic building type eligible for participation in the Mills Act program or by documenting these resources as a thematic <u>grouping of buildings</u>, rather than geographically based API. While Planning Code Chapter 17.153 Demolition, Conversion and Rehabilitation Regulations for Residential Hotels, was adopted in 2018, and provides some protections, additional incentives or protections would further ensure the viability of these resources and mitigate further losses of both their historic use and character.</p>	
		<p>CULT-1D: As part of the implementation of Plan Policy LU-2-4 that revises the City’s Demolition Findings Requirements to facilitate new compatible development near the outer edges of fragmented APIs and ASIs, require <u>tailored objective design standards guidelines</u> to help ensure architectural compatibility. The <u>standards guidelines</u> should illustrate treatments for rehabilitation of the historic commercial buildings typical in these historic districts, as well as provide strategies for new construction both within and on the immediate periphery or edge of these significant areas. New construction in these areas should take into consideration the historic</p>	

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
		<p>parcel pattern; assembling lots and creating bulkier building footprints changes the character of the street rhythm. These <u>standards guidelines</u> will help mitigate the impacts of future development on these sensitive areas of downtown. example for this mitigation best practices from other cities is the Historic Downtown Los Angeles Design Guidelines completed in July 2002 by the Los Angeles Conservancy and three downtown Business Improvement Districts (BIDs).</p>	
		<p>CULT-1E: The City shall also consider incorporating the following additional mitigation measures as implementation policies or guidelines in the Plan prior to its adoption, although these have a lower priority than Mitigation Measures CULT-1A – CULT-1D.</p> <ul style="list-style-type: none"> i. Study the feasibility of raising the Mills Act tax loss limits for properties within the Specific Plan, Lake Merritt Station Area Plan and Broadway Valdez Specific Plan boundaries, which would encourage more participation in the program. Currently, Oakland has six Mills Act properties within the Plan Area. ii. Provide City support of efforts at the State level to create a State Historic Tax Credit. This could take the form of pro-active encouragement of state legislation that would enact the tax credit. iii. Update the Oakland Cultural Heritage Survey and as part of that effort include elements that focus on: (1) Downtown’s built environment associated with the Modern Movement or the Recent Past to determine methods to more completely understand the types of resources present and their historic significance. This could take the form of a funded Historic Context Statement for Modern Buildings and Landscapes in downtown or a site-specific survey of resources built between 1940 and 1975; and/or a focused review of the banking cluster near the Lake Merritt office district, venues related to food and entertainment, mid-century courtyard apartments, as well as older commercial buildings in downtown that may have been remodeled to reflect the Modern aesthetic. In recent years, Sacramento, San Francisco, Fresno and Pasadena have invested in this type of preservation planning tool with great success and community interest. Downtown’s streetscape 	

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
		<p>includes historic parks that are used to determine methods to more completely understand the types of resources present along the streetscape and in downtown’s parks. This could take the form of a funded Cultural Landscape Inventory to document and categorize resources. Good models for this are the City of San Francisco Civic Center Cultural Landscape Inventory and the Market Street Cultural Landscape Inventory.</p> <p>iv. As part of any redevelopment or expansion of the Laney College Campus, require <u>to the extent permitted by law</u> that a full historic resources evaluation be conducted to fully understand the potential historic resources associated with this educational institution and to understand the significance of the campus within the body of work of Skidmore, Owings & Merrill.</p> <p>v. Prepare and implement an interpretive program of signage within the Webster Green in Jack London Square to inform users of this new greenway of the historic industrial character of the surrounding urban fabric. This could be an extension of the signage already present in the Waterfront Warehouse District.</p>	
		<p>CULT-1F: Independent of the Specific Plan, the City shall consider the following measures:</p> <p>i. Promote graffiti abatement by including additional abatement trips. Currently, only one “courtesy” abatement trip can be scheduled for private property, due to City staffing issues. Extend this to additional abatement trips, per year, within the Specific Plan area boundary. Further, prioritize graffiti abatement in the Specific Plan Area within the Public Realm, especially on prominent historic buildings. Additionally, understand that sometimes graffiti can acquire a cultural significance as well and encourage a graffiti arts program with partner building owners to engage local artists and deter graffiti. Also, raise awareness of non-destructive graffiti abatement methods so historic materials like brick and terra cotta are not destroyed.</p> <p>ii. Improve vacant building security through partnerships with the Planning, Building and Police Departments to collaborate on maintaining a list of vacant buildings so that Police Officers know which</p>	

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
<p>CULT-2: Alterations to Historic Buildings that could occur under the Specific Plan could change the significance and character of historic resources as a result of the Specific Plan.</p>	SU	<p>buildings might be at risk of vandalism or other illegal activity. This would mean an investment in a vacant building inventory in the Specific Plan area.</p> <p>iii. Maintain a list of vacant parcels to assist with building relocation assistance. Additionally, a relocation fund could be established and paid into by projects that demolish historic resources. This could result in the salvage of stand-alone historic resources, especially smaller resources that sit on large lots, which face fierce development pressure. This is more appropriate in areas that are not considered historic districts or groupings of buildings. This can be facilitated via CEQA review by making known Historic Preservation Element Action 3.8.1.2, allowing buildings to be moved to a location consistent with its historic or architectural character.</p> <p>iv. Study the feasibility of amending the Downtown Oakland National Register Historic District to provide a means for more property owners to use the Federal Rehabilitation Tax Credits. The amendment should evaluate an extended boundary and additional contributors, to include more of downtown’s significant historic buildings. This would provide a means for more property owners to use the Federal Rehabilitation Tax Credit as owners of resources within a National Register-listed historic district.</p> <p>Implementation of Mitigation Measures CULT-1A – CULT-1F would lessen this impact but it would remain significant and unavoidable.</p>	SU
<p>Cumulative Impact CULT-1: Implementation of the Specific Plan and its associated development, combined with cumulative development in the Plan Area and citywide, including past, present, existing, approved, pending, and reasonably foreseeable future development, would contribute to a significant and unavoidable adverse cumulative impact to cultural and historical resources.</p>	SU	<p>Cumulative Impact CULT-1: Implement Mitigation Measures CULT-1A – CULT-1F.</p>	SU

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
F. Aesthetics			
<p>AES-1: Shadow. Implementation of the Downtown Specific Plan and development that may occur under the Plan may result in substantial new shadow that would shade solar collectors, passive solar heaters, public open space, or historic resources, or otherwise result in inadequate provision of adequate light.</p>	SU	<p><u>No mitigation identified.</u></p> <p>AES-1: Shadow. To help ensure shadows associated with new development under the Plan are lessened, the City shall adopt a new SCA or incorporate a policy into the Specific Plan that requires project sponsors, on a project-by-project basis to complete a site-specific shadow evaluation at the time that individual projects are proposed if any of the following conditions exist:</p> <ul style="list-style-type: none"> • At or adjacent to buildings and structures that meet the definition of "historical resources" contained in Section 15064.5 of the CEQA Guidelines • At or adjacent to a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors • At or adjacent to a public or quasi-public park, lawn, garden or other open space <p>If a shadow study is required it shall address the following:</p> <ul style="list-style-type: none"> • If at or adjacent to historic building, an evaluation of how shadow would affect the building or structure which conform to the <i>Secretary of Interior's Standards of Historic Properties and Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings (1995)</i>. The Standards require the preservation of character-defining features which convey a building's historical significance, and offers guidance about appropriate and compatible alterations to such structures. This evaluation should be carried out by a professional who meets the Secretary of the Interior's Standards for Architectural History. The results of the evaluation shall be submitted as a Historic Architectural Assessment Report to the City of Oakland. Once the report is reviewed and approved by the City, a copy of the report shall be submitted to the Northwest Information Center (NWIC). • If at or adjacent to a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors an evaluation of how shadow would affect the productivity of the solar units (in terms of how much of the year solar collectors are shaded and what portion of the solar units are shaded). 	SU

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
<p>AES-2: Wind Analysis. Implementation of the Downtown Specific Plan and development that may occur under the Plan may result in adverse wind conditions.</p>	SU	<p><u>No mitigation identified.</u></p> <p>AES-2: Wind Analysis. Project sponsors proposing buildings 100 feet tall or taller within the entire Plan Area boundary shall conduct a detailed wind study to evaluate the effects of the project. The current definition of downtown within the CEQA Thresholds of Significance defines it as bounded by West Grand Avenue to the North, Lake Merritt and Channel Park to the east, and Oakland Estuary to the south and I-980/Brush street to the west. If the wind study determined that the project would create winds exceeding 36 miles mph for more than one hour during daylight hours during the year, the project sponsor would incorporate, if feasible, measures to reduce such effects, as necessary, until a revised wind analysis demonstrates that the proposed project would not create winds in excess of this threshold. Examples of measures that such projects may incorporate, depending on the site specific conditions, include structural and landscape design features and modified tower designs: wind protective structures or other apparatus to redirect downwash winds from tall buildings, tree plantings or dense bamboo plantings, arbors, canopies, lattice fencing, etc. It is also noted that the City's threshold is very</p>	SU

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
		<p>stringent. The City may modify this threshold in the future and if it does, it would be applicable to the Specific Plan Area, however, it is possible that a significant and unavoidable impact may still occur. At this time, however, there are not sufficient details available to analyze specific impacts and it cannot be known with certainty that a project redesign would eliminate the potential for new adverse wind impacts. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be conservatively deemed significant and unavoidable related to wind.</p>	
<p>Cumulative AES-1: Implementation of the Downtown Specific Plan and development that may occur under the Plan may, in combination with other past, present, and reasonably foreseeable future projects within and around the Plan Area, result in significant cumulative wind and shadow impacts.</p>	SU	<p><u>No mitigation identified.</u> Cumulative AES-1: Implement Mitigation Measures AES-1 and AES-2.</p>	SU
G. Biological Resources			
<i>No significant impacts related to biology would occur with implementation of the City's SCA's.</i>			
H. Geology and Soils			
<i>No significant impacts related to geology and soils would occur with implementation of the City's SCA's.</i>			
I. Hazards and Hazardous Materials			
<i>No significant impacts related to hazards and hazardous materials would occur with implementation of the City's SCA's.</i>			
J. Hydrology and Water Quality			
<i>No significant impacts related to hydrology and water quality would occur with implementation of the City's SCA's.</i>			
K. Noise			
<i>No significant impacts related to noise would occur with implementation of the City's SCA's.</i>			
L. Population and Housing			
<i>No significant impacts related to population and housing would occur with implementation of the City's SCA's.</i>			

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
M. Public Services, Facilities, and Recreation			
<p>PUB-1: Development under the Specific Plan could increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of that facility would occur or be accelerated, or would require the construction or expansion of recreational facilities which might have a substantial adverse physical effect on the environment.</p>	S	<p>PUB-1: Part 1) Requires the City to update <u>shall explore updating</u> the Capital Improvement Impact fees, and/or implement a dedicated impact fee specific to parks and recreation. <u>Dedicating a portion of the impact fee to fund green stormwater infrastructure in public spaces should be explored.</u> Part 2) Requires The City shall study the city to create feasibility of creating a Privately Owned Public Spaces (POPOS) program so that outdoor and indoor spaces can be provided for public enjoyment by private owners in exchange for bonus floor area or waivers. <u>An equity analysis will be conducted as part of the study to explore strategies to encourage equitable access.</u></p>	LTS
<p>Cumulative PUB-1: Development under the Specific Plan, and reasonably foreseeable future projects could increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of that facility would occur or be accelerated, or would require the construction or expansion of recreational facilities which might have a substantial adverse physical effect on the environment.</p>	S	<p>Cumulative PUB-1: Implement Mitigation Measure PUB-1</p>	LTS
N. Utilities			
<p>UTL-1: The City’s stormwater collection system is aging and will require improvements to continue to serve the development in the downtown area that may occur in association with the Specific Plan.</p>	S	<p>UTL-1: Part 1) The City of Oakland shall adopt a new SCA and/or revise existing SCA/s that includes the following: New development as a result of the implementation of the Specific Plan shall determine the adequacy and condition of the existing storm drainage infrastructure impacted by the project. The project watershed shall be analyzed for post-construction impacts to drainage within the watershed, accounting for the condition of the existing infrastructure. For any identified adverse impacts, mitigation measures shall be proposed and implemented as part of the project.</p> <p>Part 2) All future projects under the Specific Plan shall require the installation of full trash capture device at priority storm drain inlets in the project area and within a 100-foot buffer around the project boundary.</p> <p>Part 3) Establish <u>Consider establishing</u> a dedicated impact fee specific to stormwater to address the aging system that is in addition to the citywide</p>	LTS

TABLE II-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impacts	Level of Significance Before Mitigation Measure	Mitigation Measure	Level of Significance with Mitigation Measure
<p>Cumulative UTL-1: The City’s stormwater collection system is aging and will require improvements to continue to serve the development in the downtown area that may occur in association with the Specific Plan, and reasonably foreseeable future projects within and around the Plan Area, resulting in significant cumulative stormwater impacts.</p>	S	<p>Cumulative UTL-1: Implement Mitigation Measure UTL-1.</p>	LTS

Pages 43 and 45, first eight bullet headings of the Draft EIR, are revised as follows:

~~Flex Industry~~ Mixed-Use, Downtown Core would....
~~Mixed Residential~~ Mixed-Use Pedestrian Corridor would....
~~Mixed-Use Waterfront/Entertainment~~ would....
~~Mixed-Use Flex~~ Mixed-Use Urban Residential would....
~~Mixed-Use Urban Residential~~ Mixed-Use Flex would....
~~Mixed-Use Institutional~~ Flex Industry would....
~~Mixed-Use Pedestrian Corridor~~ Mixed-Use Institutional would....
~~Mixed-Use Downtown Core~~ Mixed Residential would....

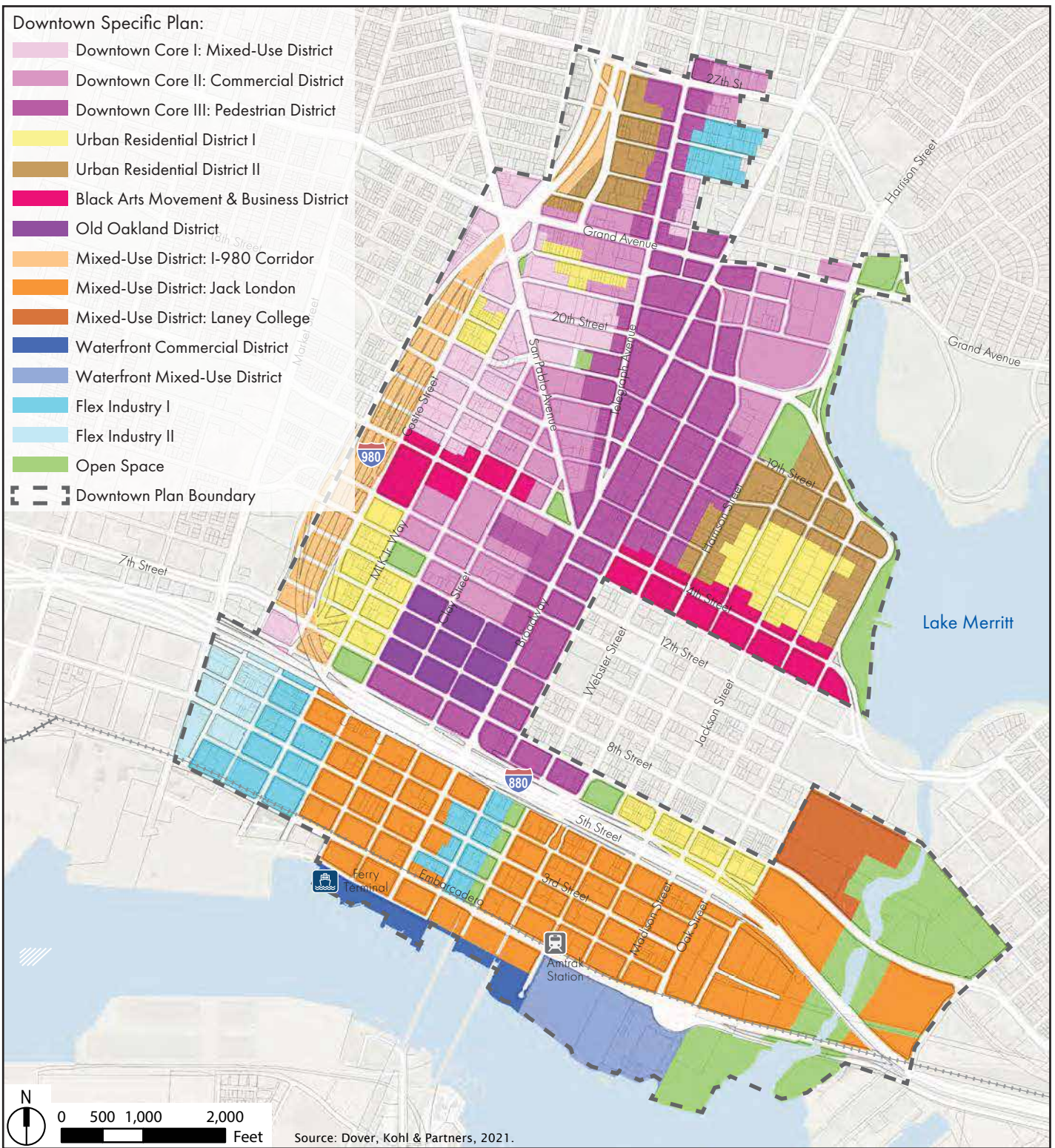
Page 44, Figure III-4 (shown following) of the Draft EIR, the figure key is revised to represent an updated legend.

Page 97, second paragraph under c. Housing Element of the Draft EIR is revised as follows:

On April 1, 2019, the City released the 2018 Housing Element Annual Progress Report. During the process of creating the 2019 Housing Element Progress Report, it was discovered then there was an error in identifying the last year's numbers. On May 14, 2020, Planning and Building staff submitted a revised report to the Department of Housing and Community Development and the Governor's Office of Planning and Research. During 2018, citywide 4,044 housing units were proposed, 1,456 of which have been approved thus far. 5,673 units housing units were entitled and building permits issued for ~~4,617~~ 9,706 housing units. Additionally, ~~687~~ housing units received certificates of occupancy and are open to tenants. This includes ~~46~~ housing units, ~~40~~ of which are income restricted, within the Plan Area boundaries. Of the 10,290 ~~16,066~~ housing units that have been entitled, ~~started construction, or completed, or received building permits,~~ 87 percent are for very-low-income households, 45 percent for low-income, 0.54 percent for moderate-income, and 87 percent are market-rate.

Page 100, (2) Consistency of the Draft EIR, is revised as follows:

The Specific Plan is consistent with Historic Preservation Element policies; however, there are other goals that given the City's priorities, may be a higher priority. The City is always balancing multiple conflicting priorities and goals. The Specific Plan is careful to emphasize the importance of preserving historic resources to the extent feasible. One example of this is Goal 6, which states: Develop downtown in a way that contributes to community needs and preserves Oakland's unique character. Under Goal 6 is Land Use Outcome LU-2: Oakland's extensive array of historic buildings, cultural enclaves, civic organizations, and culture keepers are preserved within downtown's built environment.



The Specific Plan values the preservation and reuse of historic buildings as an essential element to maintaining community character. The Specific Plan includes policies to preserve and adapt historic buildings downtown, ~~explore the development of~~ develop an updated Transfer of Development Rights program to assist preservation efforts and expand the City's online Cultural Asset map. The Specific Plan also proposes creating a Cultural Districts Program to establish new cultural districts. The Black Arts Movement and Business District (BAMBD) was the first adopted district. Potential additional districts could include a Chinatown Heritage District and an Art & Garage District in Koreatown/Northgate (KONO), ~~and a Jack London Maker District.~~

While the Specific Plan puts forward many policies that would be beneficial to historic and cultural resources in the downtown area, other policies that may be beneficial in other Plan realms, such as economic opportunity or affordable housing, would potentially impact historic and cultural resources, as they encourage new construction in areas that likely include historical resources within the downtown built environment.

Page 122, Figure V.A-2 of the Draft EIR, is revised as shown on the following page to reflect a correction in the legend.

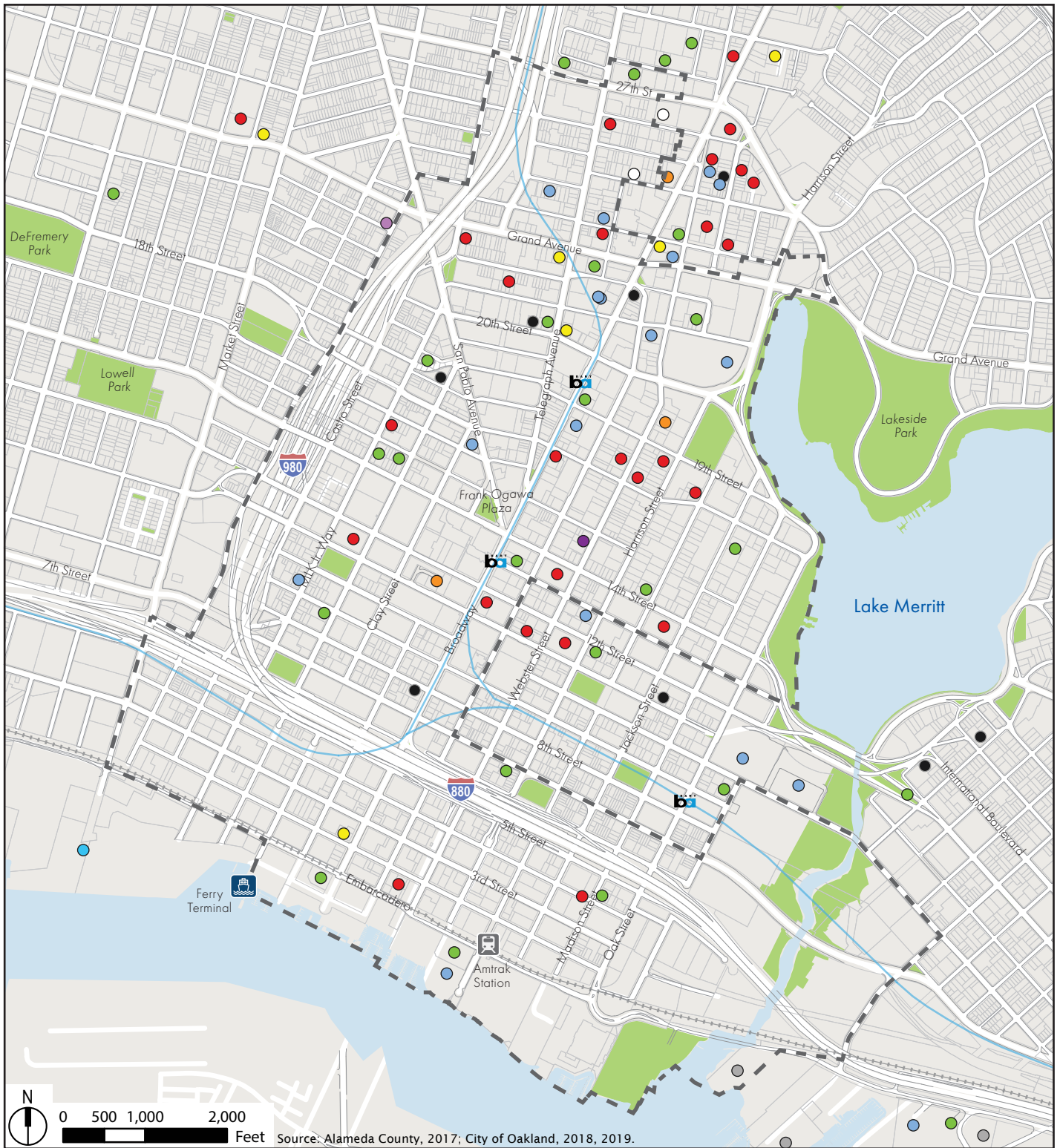
Page 126, Table V.A-3, row 5 of the Draft EIR, is revised as follows:

~~W-12 Phase 2 285 12th Street Mixed Use 7 77 0 1,500~~

Page 140, first paragraph under (3) Conflict with Land Use Policy (Criterion 3) of the Draft EIR, is revised as follows:

The Downtown Specific Plan does not recommend any changes to the General Plan's existing industrial land use designations within the portion of the West Oakland Specific Plan (WOSP) area that overlaps the Downtown Oakland Specific Plan area (between Castro and Market Street from Embarcadero West to I-880). As described further in *Chapter IV, Policy* of the Draft EIR, the Downtown Oakland Specific Plan is consistent with the WOSP.

The Plan is a regulatory program and, if adopted, would result in new planning policies and controls for land use to accommodate additional jobs and housing. Potential land use policy conflicts are described in detail in *Chapter IV, Policy*. Conflicts or inconsistencies with a general plan or adjacent specific plans such as the Lake Merritt Station Area Plan (LMSAP) or the West Oakland Specific Plan (WOSP), do not inherently result in a significant effect on the environment within the context of CEQA. As stated in Section 15358(b) of the CEQA Guidelines, "Effects analyzed under CEQA must be related to a physical change."



Legend

- | | | | |
|------------------------|--------------------------|------------------------|--------------------------------------|
| Downtown Plan Boundary | Parks | Application Approved | Building Permit Issued |
| BART Station | Pre-Application | Revisions Under Review | Under Construction |
| BART Line | Preparing DEIR | Revisions Approved | Project Completed (as of April 2014) |
| Railroad | Application Under Review | Building Permit Filed | Other |

Downtown Oakland Specific Plan EIR

Figure V.A-2
Planned Projects as of April 2019 [Revised]

Section 15125(d) of the CEQA Guidelines states that EIRs shall discuss any inconsistencies between the project and applicable general plans in the Setting section of the document (not under Impacts). Further, Appendix G of the CEQA Guidelines (Environmental Checklist Form) explicitly focuses on environmental policies and plans, asking if the project would “conflict with any applicable land use plan, policy, or regulation ...adopted for the purpose of avoiding or mitigating an environmental effect.” Even a response in the affirmative, however, does not necessarily indicate the project would have a significant effect, unless a physical change would occur. To the extent that physical impacts may result from such conflicts, such physical impacts are analyzed in this Draft EIR in the section that most aptly applies to that impact (e.g., Noise).

Page 141, last paragraph of the Draft EIR, is revised as follows:

As described throughout this section, the Plan would not result in a significant land use impact by potentially physically dividing an established community; or conflicting with adjacent or nearby land uses; or conflicting with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. ~~Although the~~The Downtown Oakland Specific Plan would ~~change designated parcels from Light Industry to Mixed Use, the Plan would~~ maintain an industrially-designated buffer area between Martin Luther King Jr. Way ~~Brush~~ and Market Streets to support a the City's Industrial Land Use Policy in for the adjacent West Oakland Specific Plan area and would therefore not result in a cumulative considerable contribution to the city-wide loss of industrial land supply. Thus, the Plan would not be combined with or add to any potential adverse land use impacts that may be associated with other cumulative development. A review of cumulative development in the area, including past, present, existing, pending, and reasonably foreseeable future development, does not reveal any significant adverse cumulative impacts in the area. Cumulative development in the area consists of residential, commercial, office, and other typical urban uses.

Page 149, Figure V.B-2 (shown following) of the Draft EIR is revised to show the local truck routes.

Page 158, Figure V.B-3 (shown following) of the Draft EIR is revised to show the local truck routes.



Downtown Oakland Specific Plan EIR

Figure V.B-2
Transit Services [Revised]



- Legend**
- Downtown Plan Boundary
 - BART Station Locations
 - Railroad
 - Parks
 - Class 1 Bike Lane
 - Class 2 Bike Lane
 - Class 3A Bike Lane
 - Class 3B Bike Lane
 - Class 4 Bike Lane
 - Proposed Bike Lane
 - Designated Truck Routes
 - Prohibited Truck Routes

Downtown Oakland Specific Plan EIR

Figure V.B-3
Existing and Planned Bicycle Facilities [Revised]

Page 165, eighth bullet of the Draft EIR, the following paragraph is added:

- 27th Street. Class 4 Protected Bicycle Lanes between Grand Avenue and Broadway and Class 2 Bicycle Lane west of Broadway. This project would not be assumed in the EIR analysis because it is not funded. Alameda CTC, in cooperation with the City of Alameda and the City of Oakland, is conducting a feasibility study for extending a pedestrian and bicycle bridge across the Estuary. The Alameda CTC feasibility study is evaluating several potential alignments generally between Howard Terminal and the Lake Merritt Channel. This project, while identified in the City's Bike Plan, is not considered in the Downtown Specific Plan EIR because a preferred alignment has not been identified and there is no funding for the crossing's design, environmental studies, or construction.

Page 182, new section (3) Alameda CTC Goods Movement Study of the Draft EIR, is added as follows:

(3) Alameda CTC Goods Movement Study

Home to the Port of Oakland, Oakland International Airport, and miles of rail and interstate infrastructure, Alameda County is critical to the region's goods movement. The Alameda CTC Goods Movement Plan explores opportunities and strategies the County may pursue to reach multiple goals related to goods movement, including economic prosperity, quality of life, interconnectedness and multimodal operations, safety and reliability, and innovation. Related to these goals, the Alameda CTC has explored opportunity areas to increase and improve the county's goods movement, some of which may interact with the development at Howard Terminal. Implementation of the project and its associated infrastructure improvements may affect the following opportunity areas:

- *Increase Safety and Reliability: Improve time-of-day controls, signal coordination, street design features, and truck routing to reduce hindrances to truck movements. Improve at-grade rail crossings and implement quiet zones so that rail traffic may increase to meet future demands while minimizing safety and noise concerns.*
- *Design for Complete Streets: Design streets to be inclusive of all modes, including incorporating goods movement. Similarly, design to minimize queueing and congestion at intersections, freeway ramps, and Port access locations.*
- *Improve Connectivity: Improve the road network and reevaluate the overweight truck network to better connect industrial areas to the I-880 corridor.*
- *Implement Technology to Improve Operations: Implement queue detection technology and changeable message signs to reduce congestion and improve safety.*

- Modernize Goods Movement Infrastructure: Modernize the road network in industrial corridors, improve safe access to industrial corridors and facilities, and improve last-mile truck routes and rail connections.

Sustainably Increase Global Competitiveness: Continue to be a global leader in goods movement while addressing community impacts, including separating truck activity from sensitive populations and environments, implementing rail quiet zones, and update zoning to preserve and further implement buffer zones along freight corridors.

- Continue to Work Collaboratively: Ensure key stakeholders are actively engaged in decision making processes that may impact goods movement in the County.

These opportunity areas align with the five main goals in Metropolitan Transportation Commission's document San Francisco Bay Area Goods Movement Plan which identifies five key goals for the Plan including:

- Increase economic growth and prosperity.
- Reduce environmental and community impacts and improve the quality of life in communities most affected by goods movement.
- Provide safe, reliable, efficient, and well-maintained freight movement facilities.
- Promote innovative technology strategies to improve efficiency.
- Preserve and strengthen a multi-modal system that supports freight movement and is coordinated with passenger transportation systems and local land-use decisions.

Page 194, Figure V.B-4 (shown following) of the Draft EIR is revised.

Page 195, Figure V.B-5 (shown following) of the Draft EIR is revised.

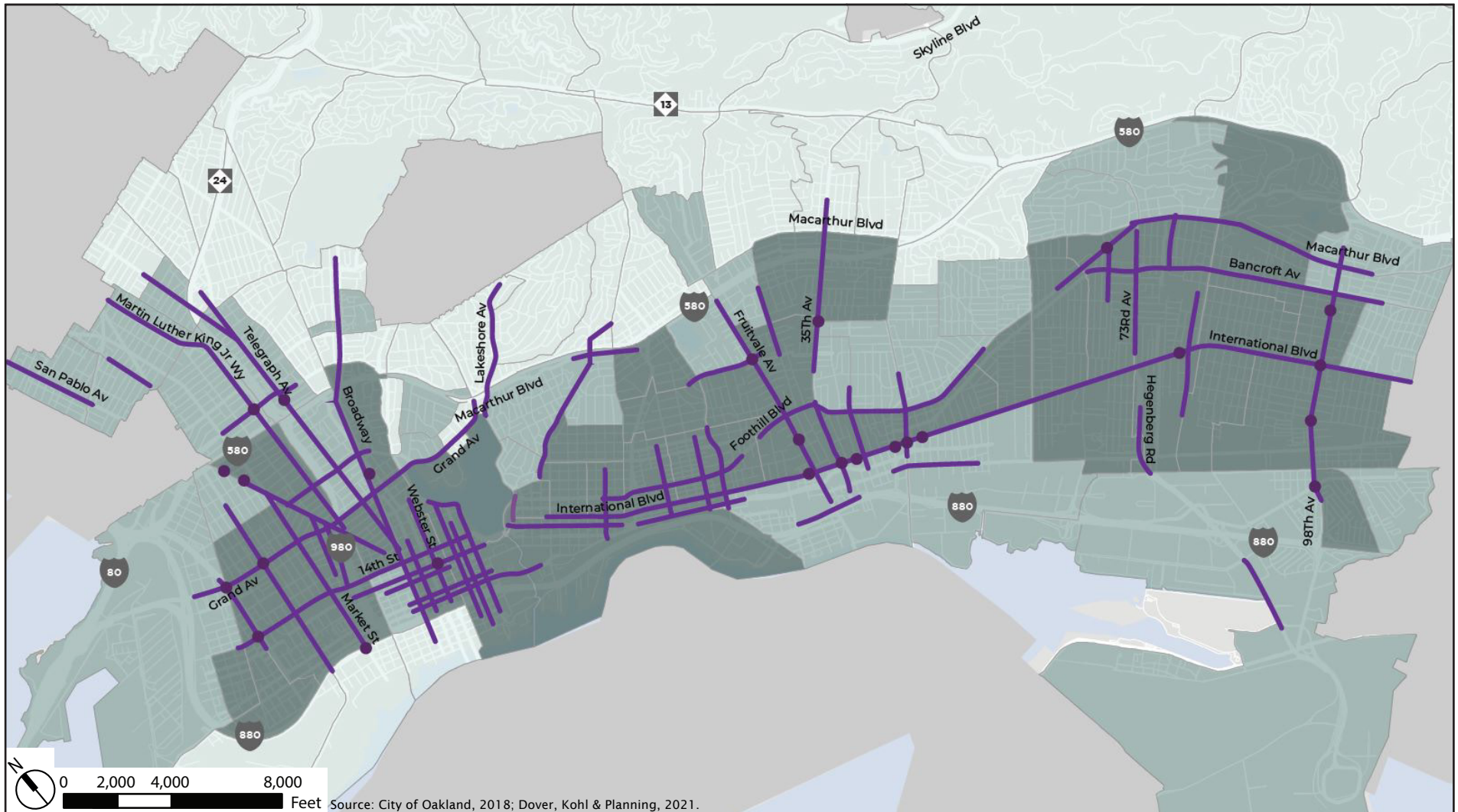
Page 198, Figure V.B-6 (shown following) of the Draft EIR is revised.

Page 201, Figure V.B-7 (shown following) of the Draft EIR is revised.

Page 202 of the Draft EIR is revised as follows:

Policy M-2.5: The City of Oakland is supportive of BART's ongoing efforts to maintain reliable, ADA accessible access to transit stations (i.e., BART elevators and escalators), and find opportunities to increase the number of elevators. BART shall address all access needs identified in previous BART planning efforts for the 19th Street Station and 12th Street/City Center Station.

Page 204, Figure V.B-8 (shown following) of the Draft EIR is revised.

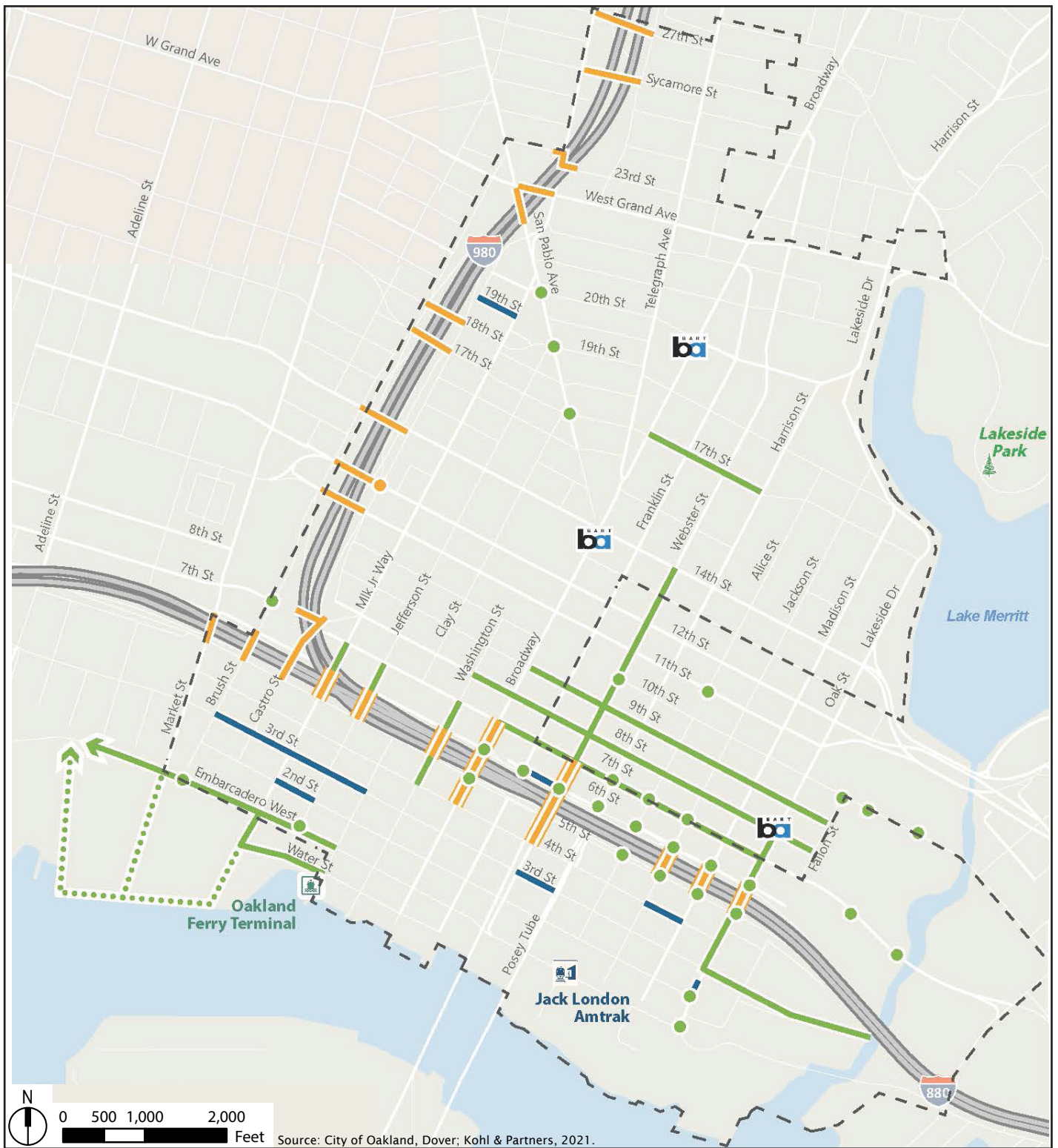


Legend

- 2018 High Injury Network
- High Injury Intersections
- Community of Concern (2018 Census Tracts)**
- Low
- Medium
- High

Downtown Oakland Specific Plan EIR

Figure V.B-4
High Injury Network Corridors [Revised]



- Legend**
- Downtown Plan Boundary
 - Connectivity Improvement
 - Freeway Crossing Improvement
 - Sidewalk Closure Gap
 - ba BART Station Locations

Downtown Oakland Specific Plan EIR

Figure V.B-5
Proposed Pedestrian Connectivity and Access Improvements [Revised]

The Oakland Athletics are currently proposing to relocate their ballpark to Howard Terminal. The unique nature of this proposed project may necessitate adjustments to this Bicycle Network to balance competing game-day demands on surrounding streets, including but not limited to Broadway, Market Street, Martin Luther King Jr. Way, Embarcadero West, and 3rd Street. While precise street segments on the Bicycle Network may change to accommodate these demands, high quality bicycle facilities to and from the ballpark will be incorporated in both the Howard Terminal project design and any revisions to the network envisioned herein to ensure safe and sustainable transportation to and from the waterfront.



Legend

- Downtown Plan Boundary
- BART Station Locations
- Low-stress Short-Term Network
- Low-stress Vision Network
- Shared-use path
- Potential Shared-use path connection through Howard Terminal
- Proposed Estuary Crossing
- Existing Bike Lane (outlined in white)
- Existing Signed Route

Downtown Oakland Specific Plan EIR

Figure V.B-6
Proposed Low Stress Vision Bicycle Network [Revised]



Downtown Oakland Specific Plan EIR

Figure V.B-7
Proposed Bus Transit Network [Revised]



Page 209, top of page right before Impact TRANS-1 of the Draft EIR, discussion text is added as follows:

Truck Routes

Development under the Specific Plan would generate additional multi-modal traffic including auto, truck, bus, pedestrian, bicycle, and other micromobility users. The Specific Plan M-3.1 implements the City's adopted Complete Streets Policies with a focus on reconfiguring public streets with excess capacity to other modes such as bicycles, pedestrians, and transit. To implement this policy, there are pedestrian improvements under Policies M-1.1 through M-1.3; bicycle improvements under Policy M-1.10; and transit improvements under policies in Outcome M-2. These policies are also aligned with the opportunity areas in the Alameda CTC Goods Movement Plan including Design for Complete Streets: Design streets to be inclusive of all modes, including incorporating goods movement. Similarly, design to minimize queueing and congestion at intersections, freeway ramps, and Port access locations.

Examples where these policies yield positive results on designated truck routes include 3rd Street through Jack London District where the Specific Plan calls for Class 4 Parking Protected Bike Lanes. These lanes physically separate bike users from faster moving motor vehicle traffic including truck traffic. The physical separation reduces modal conflicts and increases sight lines between bike riders and motor vehicle drivers while slowing turning traffic at intersections where modal turning conflicts occur. The pedestrian improvements envisioned in the Specific Plan improve sight lines between pedestrians and motor vehicle drivers as well as bicyclists at intersecting streets and close sidewalk gaps such as 3rd Street where pedestrians must walk in the street where there are gaps in the sidewalk. The continuous sidewalks physically separate pedestrians from faster moving motor vehicle and bicycle traffic. Similar design solutions are proposed in the Specific Plan for Martin Luther King Jr. Way and Market Street where there is a mix of modal traffic. The 7th Street corridor, currently a multi-lane one-way street, is another example where the Specific Plan calls for potentially converting the street to two-way and providing high-quality transit infrastructure including bus-only lanes.

Seventh Street is an example where transit amenities and one-way to two-way street conversion would potentially slow motor vehicle drivers. Speeds would be more in line with 25 miles per hour which would provide a safer environment for local businesses and residents who work and live along these streets while also maintaining reliable and reasonable speeds along the corridor for motor vehicle drivers. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be less than significant related to Plan Consistency.

Page 210 and Chapter II, Summary, page 15, Mitigation Measure TRANS-2 of the Draft EIR, is revised as follows:

Mitigation Measure TRANS-2: The Specific Plan shall include an implementation measure that requires the City of Oakland within the near-term (1 to 5 years) to undertake and complete a Diagnostic Study as outlined in SCA-TRANS-7: Railroad Crossing (#8082) to identify and implement the suite of improvements to enhance multi-modal safety along the railroad tracks including the elements necessary for a Quiet Zone through Jack London District. The study shall identify the schedule and potential funding for implementing the suite of improvements resulting from the study and the City as the lead agency would design and construct the improvements, relying on outside agency funding. Any proposed improvements must be coordinated with California Public Utility Commission (CPUC) and affected railroads; ~~and~~ all necessary permits/approvals must be obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings). (SU)

The Alameda CTC has undertaken many studies to address railroad safety in Alameda County as part of the Alameda County Rail Safety Enhancement Program. The work was completed in February 2020 and the agency is now soliciting proposals to retain a consultant team to design and deliver railroad crossing improvements throughout Alameda County that will include railroad crossing improvements in the Jack London District. The memorandum Oakland Rail Corridors and Crossings (August 22, 2018) documents recommendations for improving rail safety through the Jack London District from west of Market Street to east of Webster Street. The identified improvements include:

- Eliminate eastbound travel on Embarcadero and convert one lane of roadway into a pedestrian esplanade.
- Retain the westbound travel lane for one-way traffic; eastbound traffic would need to use 2nd or 3rd Street.
- Reopen Jefferson to replace access to Howard Terminal lost by converting Embarcadero to one-way street.
- Eliminate left turning movements from westbound Embarcadero across the tracks at all crossings.
- Install a 4-foot decorative barrier parallel to the tracks between the crossings to deter pedestrians from crossing tracks between crossings.
- Install pedestrian crossing gates and refuge islands at all crossings.
- Add additional street lighting at select locations.
- Install improved wayfinding signage on nearby roadway to direct visitor to the District.

- Install new pavement markings and striping at crossings.

The Alameda CTC study noted that the capital cost for these improvements was \$16,500,000. As noted in the Alameda CTC memorandum, the site assessments and recommendations described above do not replace the formal consultation process required by the California Public Utilities Commission (CPUC) under General Order 88-b: Modifications to Existing Crossings. The Alameda CTC-commissioned study is also consistent with the City-commissioned study completed in 2011 which studied the rail corridor improvements necessary to support a Quiet Zone operation through the Jack London District. The City expectation is that because the Alameda CTC procurement includes both design and construction the necessary consultation process per General Order 88-b and construction will occur.

Given that funding for the Diagnostic Study has not yet been identified design and construction of the rail safety improvements would occur through Alameda CTC, which is an outside agency, and the implementation of any resulting recommendations would likely require approval by agencies outside of the City of Oakland (CPUC or and UPRR), this impact is conservatively deemed significant and unavoidable under CEQA Criterion #2.

Page 220, fifth paragraph, continuing to page 221, first paragraph of the Draft EIR, is revised as follows:

DPM and PM_{2.5} from diesel-powered engines are a complex mixture of soot, ash particulates, metallic abrasion particles, volatile organic compounds, and other components that can contribute to a range of health problems. In 1998, the CARB identified DPM from diesel-powered engines as a TAC based on its potential to cause cancer and other adverse health effects.⁴ While diesel exhaust is a complex mixture that includes hundreds of individual constituents, under California regulatory guidelines, DPM is used as a surrogate measure of exposure for the mixture of chemicals that make up diesel exhaust as a whole. More than 90 percent of DPM is less than 1 micron in diameter, and thus is a subset of PM_{2.5}.⁵ The estimated cancer risk from exposure to diesel exhaust is much higher than the risk associated with any other TAC routinely measured in the region. For example, in West Oakland a detailed study of air quality in 2017 found that over 90 percent of the cancer risk from local air pollution is from DPM.⁶

⁶ Bay Area Air Quality Management District (BAAQMD) and West Oakland Environmental Indicators Project, 2019. Owning Our Air: The West Oakland Community Action Plan — A Summary, October.

Page 222, second paragraph of the Draft EIR, is revised as follows:

In 2005, the average excess cancer risk within the Plan Area from DPM emissions associated with Port activities ranged from about 125 to 200 in a million.⁸ In March 2008, the Port's Board of Port Commissioners approved a Maritime Air Quality Policy Statement that sets a goal of reducing the

average excess cancer risk in West Oakland from DPM emissions associated with the Port’s maritime operations by 85 percent from 2005 to 2020. Based on the Port’s 2017 Seaport Emissions Inventory, DPM emissions at the Port have decreased by ~~84~~ 80 percent since 2005⁹ and are projected to meet the 85 percent reduction goal in 2020.⁹¹⁰ Based on the Port’s 2020 projection of an 85 percent reduction in DPM emissions, the current excess cancer risk in the Plan Area from DPM emissions associated with Port maritime activities would also be 85 percent lower than 2005 and ranges from about 20 to 30 cases in a million. As shown by the blue areas in Figure V.C-1, the BAAQMD recommends further study to assess local health risks from air pollution for future developments located near the Port. The BAAQMD also recommends additional studies for future developments located adjacent to existing gas stations.

⁹ Port of Oakland, 2019. Errata for the Port of Oakland 2017 Seaport Air Emissions Inventory Final Report. Dated August 28, 2018.

⁹¹⁰ Port of Oakland, 2018. Revised Draft Seaport Air Quality 2020 and Beyond Plan, December 14.

Page 243, Table V.C-4 the Draft EIR, is revised as follows:

TABLE V.C-4 SUMMARY OF EXISTING AND FUTURE VEHICLE MILES TRAVELED AND POPULATION

	2020 Existing Conditions	2040 Conditions with Specific Plan	Net Increase Change
Residential Population	24,636 ^a	64,400 ^b	261%
Employment	93,381 ^a	79,800 ^b	85%
Service Population	118,017 ^a	144,200 ^b	122%
Vehicle Miles Traveled ^c	1,528,306	2,420,209 <u>1,370,460</u>	+58% <u>90%</u>

^a Based on MTC Travel Demand Model for TAZ 945, 946, 966, 967, 968, 969, 970, and 971.

^b Based on projected growth under the Specific Plan (see Chapter, III Project Description, Table III-6 (Active Development + Plan Future Development)).

^c Based on VMT per capita and VMT per worker reported for TAZ 945, 946, 966, 967, 968, 969, 970, and 971 (see Chapter V.B, Traffic and Transportation).

Page 244, (1) Plan- and Project-Level Generation... heading number and any references to this section of the Draft EIR is corrected as follows:

~~(1)~~ (2) Plan- and Project-Level Generation and Exposure to Toxic Air Contaminants (Criteria 3, 8, and 9)

Page 246, (2) Plan- and Project-Level Sources of Odors... heading number and any references to this section of the Draft EIR is corrected as follows:

~~(2)~~ (3) Plan- and Project-Level Sources of Odors (Criteria 4 and 10)

Page 247, (3) Project-Level Construction Emissions of Criteria Air Pollutants.... heading number and any references to this section of the Draft EIR is corrected as follows:

~~(3)~~ (4) Project-Level Construction Emissions of Criteria Air Pollutants (Criterion 5)

Page 245, second paragraph of the Draft EIR, is revised as follows:

The City's SCA-AIR-4, Exposure to Air Pollution (Toxic Air Contaminants) (~~#2324~~), would apply to residential development in areas mapped by BAAQMD with elevated air pollution (Figure V.C-1, as updated by BAAQMD). Prior to approval of a construction permit in areas with elevated air pollution, the project applicant must either prepare a detailed HRA and/or incorporate health risk reduction measures into the project, such as the installation of high-efficiency air filtration systems rated MERV-13 or higher to reduce cancer risks from exposure to DPM and PM_{2.5}. The predominant source of cancer risk from TACs in the Plan Area is from DPM emissions. The installation of high-efficiency air filtration systems rated MERV-13 or higher can reduce levels of indoor DPM and PM_{2.5} by at least 85 percent relative to the incoming outdoor air.¹⁸

¹⁸ South Coast Air Quality Management District, 2009. Pilot Study of High-Performance Air Filtration for Classrooms Applications, October.

Page 248, second paragraph after Impact AIR-1 of the Draft EIR, is revised as follows:

The BAAQMD CEQA Guidelines include screening criteria to determine if operational emissions of ROG, NO_x, and exhaust PM₁₀ and PM_{2.5} from a project could potentially exceed the BAAQMD's thresholds of significance, which have been adopted by the City of Oakland and incorporated ~~them~~ into its significance criteria. A project that exceeds the screening criteria would require a detailed air quality assessment to determine whether emissions would exceed the City's significance thresholds and result in a cumulatively considerable net increase of criteria air pollutants for which the region is in nonattainment. The screening criteria for land uses expected in the Plan Area are shown in Table V.C-5. As shown in Table V.C-5, emissions of ozone precursors (NO_x and ROG) are the predominant pollutants of concern that could result in a potential exceedance of the BAAQMD's thresholds of significance. Exposure to ground-level ozone, which is formed in the atmosphere through reactions of ROG and NO_x, can result in various respiratory illnesses.

Page 250 and Chapter II, Summary, page 17, Mitigation Measure AIR-1, last paragraph of the Draft EIR, is revised as follows:

Mitigation Measure AIR-1:

The feasibility or effectiveness of Mitigation Measure AIR-1 is unknown at this time. Therefore, impacts associated with implementation of the Specific Plan and reasonably foreseeable development expected to occur in the Plan Area over the next 20 years would be conservatively significant and unavoidable with mitigation. It should be noted that most future development projects in the Plan Area are not expected to exceed the BAAQMD's operational screening criteria (Table V.C-5, as updated by the BAAQMD) and therefore the identification of this significant impact does not preclude the finding of future less-than-significant impacts for subsequent projects that comply with applicable screening criteria or meet the City's significance thresholds for operational emissions of criteria air pollutants. It should also be noted that if a future development project exceeds the City's significance thresholds for operational emissions of criteria air pollutants after implementation of Mitigation Measure AIR-1, the emissions could substantially contribute to and exacerbate existing air quality conditions in the region (specifically ozone), but unlike TACs would generally not pose a health risk that is specific to the local community. (SU)

Page 265, third paragraph of the Draft EIR, is revised as follows:

On May 15, 2018, the City passed Resolution No. 87189 to adopt an interim GHG reduction goal of 56 percent below 2005 levels by 2030. The City has conducted an in-depth GHG analysis using the Climate Action for Urban Sustainability (CURB) planning tool to help identify critical actions needed for the City to achieve their long-term GHG reduction goals for 2030 and 2050.¹ ~~These actions will be outlined and prioritized in the next update to the ECAP, which will be adopted in 2020.~~ In July 2020, via Resolution 88267, Oakland City Council adopted the 2030 ECAP, a comprehensive plan to achieve the 2030 GHG reduction target and increase Oakland's resilience to the impacts of the climate crisis, through a deep equity lens.² The City of Oakland, therefore adopted citywide GHG emission targets for 2020 and 2030 of 36 percent below 2005 levels and 56 percent below 2005 levels respectively. Alongside the 2030 ECAP, Council also adopted a goal to achieve community-wide carbon neutrality no later than 2040³. Achieving carbon neutrality will require a complete decarbonization (ensuring that all mechanical systems run on clean electricity) of Oakland's building sector.

¹ Bloomberg Associates, 2018. Pathways to Deep GHG Reductions in Oakland: Final Report, March.

² City of Oakland 2020, *2030 Equitable Climate Action Plan. Adopted June 20, 2020*

³ City of Oakland, 2020, Resolution No. 88268. Resolution Approving Preliminary Planning Targets for Development of the Draft Oakland Energy and Climate Action Plan. June 20, 2020.

The 2030 ECAP includes a set of 40 actions projected to result in a 60 percent reduction in GHG emissions by 2030, relative to Oakland’s 2005 emission levels. Actions are split into several sectors:

- Transportation and Land Use
- Buildings
- Material Consumption and Waste
- Adaptation
- Carbon Removal
- City Leadership
- Port of Oakland

Page 267, second paragraph of the Draft EIR, is revised as follows:

~~(7) General Plan~~ **(7) All-Electric-Construction In Newly Constructed Buildings**

On December 15, 2020, the Oakland City Council adopted an Ordinance creating Oakland Municipal Code Chapter 15.37, “All-Electric Construction In Newly Constructed Buildings.” The new regulations in this ordinance require all newly constructed buildings, as defined in the Ordinance, to meet the definition of an “All-Electric Building.” As a result, to be in compliance with the Ordinance, any newly proposed buildings proposed after December 15, 2020 will be required to be designed to use a permanent supply of electricity as the source of energy for all operational functions including, but not limited to, space heating, water heating, cooking appliances, and clothes drying appliances, and will be prohibited from having natural gas or propane plumbing installed in the newly constructed building. Designing the building to use a permanent supply of electricity will reduce the estimated annual operational greenhouse gas (GHG) emissions from energy emission sources of the project.

Page 267, second paragraph of the Draft EIR, is revised as follows:

~~(8) General Plan~~ **(8) General Plan**

Page 268, first paragraph of the Draft EIR, is revised as follows:

~~(8) General Plan~~ **(9) Standard Conditions of Approval**

Page 272, second paragraph of the Draft EIR, is revised as follows:

Because the Specific Plan includes development through the horizon year 2040, the following long-term GHG reduction goals adopted by the City are considered in this Draft EIR:⁴

1. 56 percent below 2005 levels by 2030; and
2. 83 percent below 2005 levels by 2050.⁵

The City's 2030 GHG reduction goal is more aggressive than the statewide goal of reducing GHG emissions 40 percent below 1990 levels based on SB 32; therefore, a project that supports that City's 2030 GHG reduction goal would also support the statewide 2030 GHG reduction goal.

~~In the absence of an adopted ECAP update that is a certified Qualified GHG Reduction Plan (per CEQA Guidelines section 15183.5), interim project specific thresholds of significance have been developed for this Draft EIR. While these interim thresholds can serve to evaluate the significance of GHG emissions from construction and operation of future development projects within the Plan Area, these significance thresholds do not necessarily set precedent for all future City projects.⁶ The interim significance thresholds for future development projects in the Plan Area are described below.~~

Page 277, c. Project Analysis and Findings, is revised as follows:

c. Project Analysis and Findings³⁴

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³⁴ The analysis contained herein is viewed as conservative since the actual emissions generated from the Plan will in fact be much lower due to the electrification requirement for newly constructed buildings pursuant to the All-Electric Construction in Newly Constructed Buildings Ordinance, as well as the requirement that each applicant satisfy the recently adopted ECAP consistency checklist, or otherwise prepare a GHG Reduction Plan, which was not in place during the publication of the Notice of Preparation (NOP).~~

⁴ On May 15, 2018, the City passed Resolution No. 87189 to adopt an interim GHG reduction goal of 56 percent below 2005 levels by 2030.

⁵ Resolution Approving Preliminary Planning Targets for Development of the Draft Oakland Energy and Climate Action Plan, City of Oakland, Public Works Agency, June 23, 2009.

⁶ Project-specific thresholds are not required to be formally adopted because the requirement for formal adoption of thresholds under 14 Cal Code Regs Section 15064(b) applies only to thresholds of general application. In addition, a lead agency has discretion to accept a threshold of significance developed by the experts preparing the EIR (*Mount Shasta Bioregional Ecology Ctr. v County of Siskiyou* [2012] 2010 CA4th 184, 204) and the threshold of significance may be tailored to the project reviewed in the EIR (*Save Cuyama Valley v County of Santa Barbara* [2013] 2013 CA 4th 1059, 1068).

Page 279, first paragraph after Impact GHG-1 of the Draft EIR, is revised as follows:

The non-transportation GHG emissions for buildout of the Plan Area in 2040 are summarized in Table V.D-6. The results from CalEEMod estimate that non-transportation GHG emissions for buildout in 2040 are 1.01 metric tons of carbon dioxide equivalents per service population (MTCO_{2e} /SP), which exceeds the interim 2040 GHG efficiency threshold of 0.34 MTCO_{2e} /SP. The largest GHG contributions are from energy use (electricity and natural gas), which account for approximately 73 percent of the overall GHG emissions.

Page 281, first paragraph of the Draft EIR, is revised as follows:

The actions identified in the CURB report ~~will~~ serve as the focus for policy priorities in the ~~next ECAP 2020 update to be adopted in 2020~~. In addition, California's energy efficiency laws will continue to drive significant improvements in building efficiency, particularly for new buildings. ~~These~~

These GHG reduction measures were not included in the CalEEMod assumptions for estimating unmitigated GHG emissions, because they were ~~are~~ considered speculative at this time of the Draft EIR. Furthermore, the estimate of unmitigated GHG emissions does not account for beneficial reductions in GHG emissions associated with the replacement of older buildings that are less energy efficient, nor does it account for potential increases in GHG emissions associated with stationary sources (e.g., diesel generators) or haul trips to transport soil and demolition debris during construction. However, based on the results of calculations summarized in Table V.D-6, non-transportation GHG emissions associated with buildout under the Specific Plan, considering current conditions, available information, and building code requirements, would exceed the interim 2040 GHG efficiency threshold and could result in a potentially significant impact on the environment.

The following mitigation measure is applicable to all future projects in the Plan Area.

Mitigation Measure GHG-1: Reduce GHG Emissions. Projects to be built before 2030 shall demonstrate compliance with a certified Qualified GHG Reduction Plan (if available) or the 2030 GHG efficiency threshold of 0.61 MTCO_{2e} /SP. Projects to be built between 2030 and 2050 shall demonstrate compliance with a certified Qualified GHG Reduction Plan (if available) or the 2040 GHG efficiency threshold of 0.34 MTCO_{2e} /SP. To demonstrate compliance with the applicable GHG efficiency threshold, the project applicant shall retain a qualified air quality consultant to quantify the project-specific non-transportation GHG emissions and consider implementing the following measures, as applicable and feasible, to reduce non-transportation GHG emissions below the GHG efficiency threshold. Such measures may include, but are not limited to, the following as permitted by Federal and/or State law:

- **Carbon-Free Energy.** 100 percent of electricity purchased shall be from carbon-free sources (e.g., nuclear, renewable, and hydroelectric).
- **Natural Gas-Free Project.** Fossil natural gas shall not be used in all new or modified buildings. Stipulated as part of the City's newly adopted natural gas ban (Ordinance 13632)⁷ for new residential and commercial buildings.

Page 283, second paragraph of the Draft EIR under 2) Greenhouse Gas Plans, Policies, or Regulations is revised as follows:

The project is consistent with and would not hinder the green planning policies of the General Plan because it would promote land use patterns and densities that help improve regional air quality conditions, as demonstrated by its compliance with the preferred development scenario for Plan Bay Area 2040. The project would also be required to comply with the City's Green Building Ordinance, which supports the goals, policies, and actions of the current ECAP and General Plan. As explained in the regulatory section above, under local regulations, the City of Oakland has adopted citywide emission targets for 2020 and 2030 of 36 below 2005 levels and 56 percent below 2005 levels, respectively.

Future development projects under the Specific Plan would be subject to the City's SCAs, some of which reduce GHG emissions. These include but are not limited to preparation and implementation of SCA-GHG-1: Greenhouse Gas (GHG) Reduction Plan (#42) and SCA-TRANS-5: Transportation and Parking Demand Management (#79).

The City adopted a new SCA (#41) and a new CEQA threshold of significance in December 2020, which requires a project to complete an ECAP Consistency Checklist to determine whether the project complies with the City's ECAP and the GHG emissions reduction target for 2030.⁸ The ECAP Consistency Checklist includes topics such as consistency with the General Plan, parking limitations to reduce vehicle trip generation, electric vehicle charging infrastructure requirements, and all electric buildings (i.e., no natural gas connections). If a project can qualitatively demonstrate compliance with the ECAP Consistency Checklist items, or alternatively demonstrate to the City's satisfaction why an item is not applicable, then the project will be considered in compliance with the City's 2030 CEQA GHG threshold of significance.

⁷ City of Oakland, 2020, Resolution No. 13632, Resolution Approving Amending the Oakland Municipal Code to Add Building and Construction Code Chapter Entitled "All-Electric Construction in Newly Constructed Buildings; and Adopting CEQA Exemption Findings. December 16, 2020.

⁸ City of Oakland, 2020. Oakland City Planning Commission, Agenda. December 16.

Because the City's 2030 GHG reduction goal is more aggressive than the statewide reduction goal under SB 32, future development projects under the Specific Plan would also be consistent with and not fundamentally conflict with CARB's 2017 Scoping Plan.

Page 305, first paragraph of the Draft EIR, is revised to add the following sentence:

With an accessible harbor, Oakland was strategically located and easily reachable from inland agricultural areas via expanding rail service. A period of rapid population expansion and physical growth followed in the 1870s and 1880s, including the establishment of a civic core, commercial buildings, a working waterfront, and improved infrastructure. When the Oakland Free Public Library was established on November 7, 1878, in what is now the African American Museum and Library at Oakland building, it was the second free public library in the state. An 1888 map of Oakland provides a Victorian-era glimpse of Oakland's expansion at the time. Kellersberger's original city grid had exploded to the west, east, and north, with build-out of the downtown outpacing other areas. The map includes Kellersberger's two previously unnamed public squares that flanked Broadway, labeled Court House and Hall of Justice, while City Hall is marked at San Pablo Avenue and 14th Street.

Page 307, second paragraph of the Draft EIR, is revised as follows:

During the 19th century, California saw Chinatowns become part of the urban fabric. Los Angeles, Fresno, San Francisco, and Oakland each had multi-block areas with a focused enclave of Chinese residents and businesses. In Oakland, this is evidenced by notations on the 1889 Sanborn Map in the blocks east of Broadway and bounded by 7th, 9th, Webster, and Franklin streets.³² After the 1906 San Francisco earthquake, the enclave encompassed a much larger area of downtown, east of Broadway to Madison and from 7th Street extending to 11th and 12th streets. In addition, according to a dissertation by Willard Chow, there was also a Chinese settlement which had been located on the east side of San Pablo Avenue between 19th and 20th Street, which had been displaced in the 1870s due to the northward expansion of Oakland's central business district. While a scattering of Chinese artifacts was found adjacent to the area, there was nothing indicative of Chinese settlement in the vicinity of 20th Street and San Pablo Avenue.³³ Many Chinese residents, ~~burned out of fleeing the 1906 fire in~~ San Francisco's Chinatown, by the 1906 fire temporarily and permanently relocated to Oakland, adding to Oakland's Chinese population. By the turn of the twentieth century, Oakland was beginning to attract businesses and residents away from its more populous neighbor, San Francisco. This was fueled partially by the growing Key System of electric railways that connected the most densely populated areas of Oakland to the outlying suburbs of Berkeley and Alameda, as well as a ferry service to San Francisco's Ferry Building, started in 1903.

³³ Dr. Allen Pastron, Director of Archeo-Tech, 2020. Personal communication with Urban Planning Partners, February 25.

Page 311, opening text and first paragraph of the Draft EIR, is revised as follows:

....to redlining, or exclusionary lending and service-related practices based on race. Ultimately, discriminatory redlining ~~impacted~~ limited the economic benefits of the FHA ~~intended~~.

It was not until full-scale preparations for and the ~~outset~~ onset of World War II that Oakland entered its next era of intense industrial, commercial, and economic development. From 1940 to 1945, Oakland's population increased by one third, with a population of nearly 385,000 in 1950. Intensified shipbuilding and harbor activities, including the construction of the Oakland Army Base and the Naval Supply Center, provided much-needed employment for migrating newcomers and established Oakland residents alike.

Page 311, third paragraph of the Draft EIR, is revised as follows:

In the 1950s, the Port of Oakland sponsored a redevelopment plan to create a destination area ~~at~~ along the waterfront to compete with San Francisco's Fisherman's Wharf, including multiple restaurants and a Boatel, a hotel on the waterfront. The initial Jack London Square development was further enhanced and remodeled in the 1980s. The new development was a departure from the industrial uses that had been the mainstay of Oakland's waterfront. The Jack London Square development is adjacent to or near the Waterfront Warehouse Historic District and the Produce Market Historic District, both of which consist of masonry warehouses reflecting the industrial character of the pre-tourist-based waterfront, ~~are situated adjacent to the Jack London development.~~ In recent years, many of these older warehouses have been converted to housing, with some retail and restaurant uses as well.

Page 311, fourth paragraph, last sentence of the Draft EIR, is revised as follows:

.... The freeway alignment severed West Oakland from downtown, displaced residents, and resulted in the demolition of housing stock. During construction, Preservation Park, bounded by Castro Street, Martin Luther King Jr. Way, and 14th and 12th streets, was created by assembling a collection of historic, Victorian-era houses ~~impacted by~~ which were moved to accommodate the freeway's construction.

Page 312, first paragraph, fourth sentence of the Draft EIR, is revised as follows:

This was the result of fierce community organizing and opposition to the Federal Government's original proposal to reconstruct following the ~~same~~ pre-earthquake alignment.

Page 320, an additional paragraph is added regarding state tax credit to the Draft EIR above (5) California Historical Building Code (CHBC):

(5) California Historic Tax Credit

On October 9, 2019, Governor Gavin Newsom signed SB 451 to establish the California Historic Tax Credit. Implementation procedures for the program are still being worked out as of January 2020. However, SB 451 will provide an annual aggregate cap (\$50,000,000) on the tax credit program, with \$10 million set aside for residential and smaller projects. All eligible buildings must be listed on the California Register of Historic Places.

The California Historic Tax credit will become effective January 1, 2021 and has a sunset date of January 1, 2026. Between now and the effective date, the OHP must adopt regulations to implement the bill and work with the California Tax Credit Allocation Committee to establish a written application.

As proposed, the credit is equal to 20 percent of the qualified rehabilitation expenditures with respect to a certified historic structure. An additional 5 percent bonus is available for a certified historic structure that meets one of the following criteria as defined in existing law, such as structures located on government surplus property, in a designated census tract, or is part of a military base reuse authority. Rehabilitation of structures that include affordable housing, are part of a transit-oriented development with higher density, or mixed-uses also qualify for the additional 5 percent bonus.

The tax credit is available for qualified rehabilitation expenditures related to a taxpayer's qualified principal residence if the expenses are determined to rehabilitate the historic character and improve the structural integrity of the residence. In order to qualify for the residential tax credit, the taxpayer must have an adjusted gross income of \$200,000 or less and use the structure as his or her principal residence. The credit amount is not less than \$5,000 but does not exceed \$25,000.

Page 320, (5) California Historical Building Code (CHBC), heading number and any references to this section of the Draft EIR is corrected as follows:

(5)(6) California Historical Building Code (CHBC)

Page 320, (6) California Health and Safety Code of the Draft EIR, is revised as follows:

(6)(7) California Health and Safety Code

Page 321, (7) California Assembly Bill 52 of the Draft EIR, is revised as follows:

(7)(8) California Assembly Bill 52

Page 321, (8) Senate Bill 18 of the Draft EIR, is revised as follows:

~~(7)~~ **(8) Senate Bill 18**

Page 335, Policy E.2.7 quoted in the Draft EIR, is revised as follows:

Policy E-2.7: Ensure City policies and actions maintain sufficient industrial space downtown to.....

Page 337, second paragraph of the Draft EIR, is revised as follows:

While the Plan includes several policies to protect historic resources and neighborhood character, this must be balanced with the Plan's primary goals ~~are~~ to create opportunities for economic growth and economic security for all Oaklanders. The Plan promotes policies to ~~and~~ ensure sufficient housing is built and retained to meet the varied needs of current and future residents. ~~Development associated with achieving the Plan's economic growth and housing policies consequently could adversely impact individual historic resources and/or historic districts as discussed below.~~ The Plan accomplishes these growth and housing goals by increasing height limits and intensity in some areas and replacing existing General Plan designations. The Plan also identifies opportunity sites for future development. If these Plan goals and policies are implemented as envisioned, ~~then~~ they could result in significant unavoidable impacts to historic and cultural resources. ~~Although as~~ As is often the case with plan policies, many of the Plan's policies have the potential for both positive as well as adverse outcomes. This is reflected in some policies that appear in both the list above, ~~as well as the~~ those listed below, ~~as they may result in significant impacts to historic and cultural resources:~~

Page 351, second paragraph of the Draft EIR, is revised as follows:

Specific Plan Objectives for ~~Old Oakland~~ Chinatown and Potential Historic Resources Conflicts

Page 354 and the Chapter II, Summary, page 19, Mitigation Measure CULT-1A of the Draft EIR, are revised as follows:

CULT-1A: The Plan shall be revised when funding becomes available to include the following implementation measures focused on minimizing impacts to historic resources:

- i. Seek additional resources to fund ~~Reinstate and promote the City Downtown Façade Improvement Program~~⁵² consistent with Action 3.8.1(9) of the Historic Preservation Element of the City of Oakland General Plan for both commercial and residential properties including SROs. The program shall require financial contribution to this fund when historical resources are impacted and unable to be mitigated by future development projects in the Plan Area, and potentially the other Specific Plan areas, based on a formula established by the City. In addition, the City shall seek other sources for funding, such as grant opportunities. ~~as part of~~

reinstating the program. If reestablished, the Facade Improvement Program fund shall be used to implement the additional mitigation measures identified below, as appropriate.

- ii. **Revise the City Transfer of Development Rights (TDRs) Ordinance Program.** Draft and include TDR amendments within three years of Plan adoption in the package of Planning Code amendments needed to implement the Plan including floor area ratio (FAR), height limits, residential density changes, and other zoning changes proposed in the Plan to encourage the retention of the smaller-scale buildings that are prevalent in downtown and are at high risk for redevelopment and demolition. The revised ordinance Planning Code should be accompanied by include a specific TDR program for building owners and project sponsors within the Plan Area, and potentially the other Specific Plan areas. This program should include identifying potential properties to participate and outreach to these owners so they understand the benefits as well as how this program could fit into a menu of preservation incentives. The transfer enables the owner of the receiving site to develop additional gross floor area, above and beyond what would otherwise be allowed. The use of this TDR program shall be considered when evaluating the current height changes proposed in Downtown Oakland. into the current height changes proposed downtown. A good One model for this program has been on going ongoing in San Francisco.
- iii. **Adopt an Encourage Adaptive Reuse Ordinance,** within three years of Plan adoption, Elements that would encourage preservation of historic buildings within the Plan Area through Planning Code amendments, and potentially the other Specific Plan areas. The City of Los Angeles has adopted a highly successful similar program adopted an overlay in 1999 for downtown that was extended into other areas communities across LA in 2003 through the Adaptive Reuse Incentive Area Specific Plan that can serve as a model. Other elements of the ordinance Elements should include a means to expedite project approvals height limitations for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities. It should also delineate areas, design standards and delineation of which historic buildings or areas in downtown are eligible for provisions to encourage reuse, with a focus on designated Landmarks, buildings within National Register-listed historic districts, and buildings within APIs and ASIs. Provisions to encourage reuse could include but not be limited to reduced permitting costs, ways to accommodate existing floor area ratios, and reduced parking and open space requirements, when necessary to achieve project goals. Other provisions could include The City will develop expedited review for historic building rehabilitations that would convert vacant or underutilized properties to provide housing, SRO units, live-work units, or cultural activities, as well as expedited review of the use of the California Historical Building Code (CHBC) and ways to encourage projects to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Page 356 and Chapter II, Summary, page 21, Mitigation Measure CULT-1B of the Draft EIR, is revised as follows:

CULT-1B: Expand public outreach and implementation of the California Historical Building Code (CHBC) for projects that qualify under State law. Dovetail use of the CHBC with the Adaptive Reuse Ordinance as it is implemented. Provide professional development training to the City's building officials and inspectors on the use of the CHBC so that they can implement project review for qualified buildings within reasonable timeframes. Appoint a Senior Building Official as the CHBC-liaison between the Planning Department Bureau, the Chief Fire Official and the Building Department Bureau so that projects are reviewed with consistency and clarity. Encourage City staff to schedule a seminar with the Office of Historic Preservation's member of the State Historical Safety Board to provide a thorough background of how the code is implemented.

Page 356 and Chapter II, Summary, page 21, Mitigation Measure CULT-1C of the Draft EIR, is revised as follows:

Mitigation Measure CULT-1C: Further the Planning Code protections for SROs hotels with additional façade protections for these buildings, perhaps by deeming this specific historic building type eligible for participation in the Mills Act program or by documenting these resources as a thematic grouping of buildings, rather than geographically based API. While Planning Code Chapter 17.153 Demolition, Conversion and Rehabilitation Regulations for Residential Hotels, was adopted in 2018, and provides some protections, additional incentives or protections would further ensure the viability of these resources and mitigate further losses of both their historic use and character.

Page 356 and Chapter II, Summary, page 22, Mitigation Measure CULT-1D of the Draft EIR, is revised as follows:

Mitigation Measure CULT-1D: As part of the implementation of Plan Policy LU-2-4 that revises the City's Demolition Findings Requirements to facilitate new compatible development near the outer edges of fragmented APIs and ASIs, require ~~tailored~~ objective design standards guidelines to ~~help~~ ensure architectural compatibility. The standards guidelines should illustrate treatments for rehabilitation of the historic commercial buildings typical in these historic districts, as well as provide strategies for new construction both within and on the immediate periphery or edge of these significant areas. New construction in these areas should take into consideration the historic parcel pattern; assembling lots and creating bulkier building footprints changes the character of the street rhythm. These standards guidelines will help mitigate the impacts of future development on these sensitive areas of downtown. ~~example for this mitigation best practices from other cities is the Historic Downtown Los Angeles Design Guidelines completed in~~

~~July 2002 by the Los Angeles Conservancy and three downtown Business Improvement Districts (BIDs).⁵³~~

Page 357 and Chapter II, Summary, page 22, Mitigation Measure CULT-1E of the Draft EIR, is revised as follows:

CULT-1E: The City shall also consider incorporating the following additional mitigation measures as implementation policies or guidelines in the Plan ~~prior to its adoption~~, although these have a lower priority than Mitigation Measures CULT-1A – CULT-1D.

- i. **Study the feasibility of raising the Mills Act tax loss limits** for properties within the Specific Plan, Lake Merritt Station Area Plan and Broadway Valdez Specific Plan boundaries, which would encourage more participation in the program. Currently, Oakland has six Mills Act properties within the Plan Area.
- ii. **Provide City support of efforts at the State level to create a State Historic Tax Credit.** This could take the form of pro-active encouragement of state legislation that would enact the tax credit.
- iii. **Update the Oakland Cultural Heritage Survey** and as part of that effort include elements that focus on: (1) Downtown’s built environment associated with the Modern Movement or the Recent Past to determine methods to more completely understand the types of resources present and their historic significance. This could take the form of a funded Historic Context Statement for Modern Buildings and Landscapes in downtown or a site-specific survey of resources built between 1940 and 1975; and/or a focused review of the banking cluster near the Lake Merritt office district, venues related to food and entertainment, mid-century courtyard apartments, as well as older commercial buildings in downtown that may have been remodeled to reflect the Modern aesthetic. In recent years, Sacramento, San Francisco, Fresno and Pasadena have invested in this type of preservation planning tool with great success and community interest. Downtown’s streetscape includes historic parks that are used to determine methods to more completely understand the types of resources present along the streetscape and in downtown’s parks. This could take the form of a funded Cultural Landscape Inventory to document and categorize resources. Good models for this are the City of San Francisco Civic Center Cultural Landscape Inventory and the Market Street Cultural Landscape Inventory.
- iv. **As part of any redevelopment or expansion of the Laney College Campus, require to the extent permitted by law** that a full historic resources evaluation be conducted to fully understand the potential historic resources associated with this educational institution and to understand the significance of the campus within the body of work of Skidmore, Owings & Merrill.
- v. **Prepare and implement an interpretive program of signage within the Webster Green in Jack London Square** to inform users of this new greenway of the historic industrial character of the surrounding urban fabric. This could be an extension of the signage already present in the Waterfront Warehouse District.

Page 357, fourth paragraph of the Draft EIR, is revised as follows:

- ii. Provide City support of efforts at the State level to create a **Promote the California Historic Tax Credit** through This could take the form of pro-active encouragement of state legislation that would enact the tax credit property owners to apply for the credit through educational programs and outreach.

Page 363, second paragraph of the Draft EIR, is corrected as follows:

There is a possibility that if demolition or major ~~alternation~~ alteration of a historic resource occurs with adoption of and development under the Specific Plan, and if avoidance, adaptive reuse, and appropriate relocation as identified in SCA-CULT-4: Property Relocation (#~~3536~~) are not feasible, and the same circumstance occurs with other projects in the Plan Area vicinity that may likely affect potential historic resources, a significant and unavoidable cumulative impact could result, even with the application of recordation, public interpretation, and financial contributions as identified in all SCAs incorporated to all development projects.

Page 383, heading (4) City of Oakland SCAs and Uniformly Applied Development Standards Imposed as SCAs of the Draft EIR, is revised as follows:

SCA-AES-1: Graffiti Control (#17)

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.

The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include:

- i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
- ii. Covering with new paint to match the color of the surrounding surface.
- iii. Replacing with new surfacing (with City permits if required).

SCA-AES-~~12~~: Landscape Plan (#18).....
 SCA-AES-~~23~~: Lighting (#19).....
 SCA-AES-~~34~~: Underground Utilities (~~#8385~~).....

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~4~~. 1. Have a substantial adverse effect on a public scenic vista.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~5~~. 2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, located within a state or locally designated scenic highway.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~6~~. 3. Substantially degrade the existing visual character or quality of the site and its surroundings.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~7~~. 4. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the areas. (not a CEQA consideration).

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~8~~. 5. Introduce landscape that would now or in the future cast substantial shadows on existing solar collectors (in conflict with California Public Resource Code Sections 25980-25986).

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~9~~. 6. Cast shadow that substantially impairs the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~10~~. 7. Cast a shadow that substantially impairs the beneficial use of any public or quasi-public park, lawn, garden, or open space.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~11~~. 8. Cast shadow on an historic resource, as defined by CEQA Guidelines Section 15064.5(a), such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its inclusion on or eligibility for listing in the National Register of Historic Places,

California Register of Historical Resources, Local Register of historical resources, or a historical resource survey form (DPR Form 523) with a rating of 1-5.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~12- 9.~~ Require an exception (variance) to the policies and regulations in the General Plan, Planning Code, or Uniform Building Code, and the exception causes a fundamental conflict with policies and regulations in the General Plan, Planning Code, and Uniform Building Code addressing the provision of adequate light related to appropriate uses.

Page 384, (a) Thresholds of Significance of the Draft EIR, is revised as follows:

~~13- 10.~~ Create winds exceeding 36 mph for more than one hour during daylight hours during the year.

Page 396, third paragraph of the Draft EIR, is revised as follows:

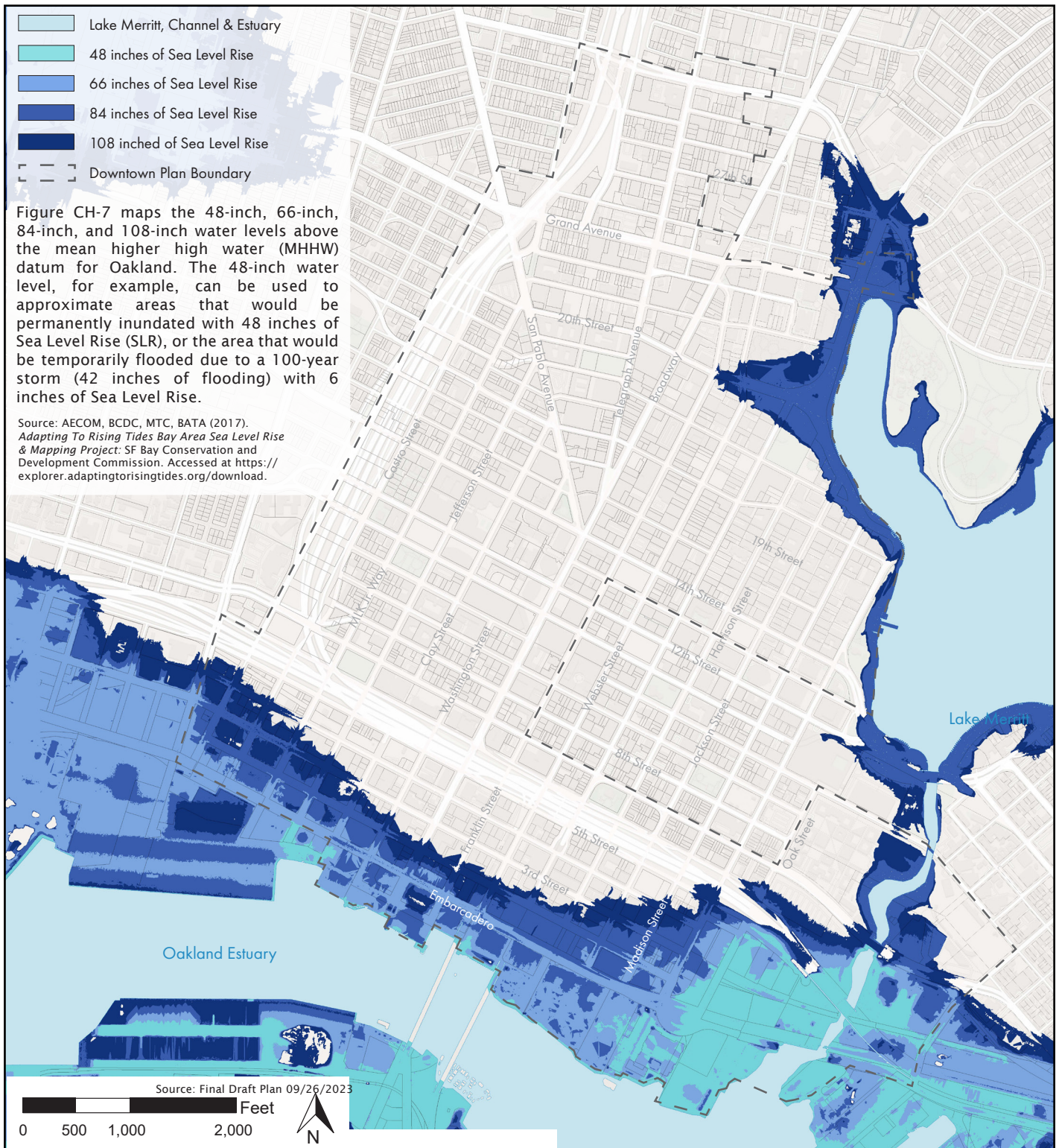
.... Future development would be required to align with and incorporate General Plan policies and SCAs relevant to visual quality as described in the Regulatory Setting above: SCA-AES-1: Graffiti Control (#17); ~~SCA-AES-12:~~ Landscape Plan (#18) ~~SCA-AES-23:~~ Lighting (#19); and ~~SCA-AES-34:~~ Underground Utilities (~~#8385~~). These policies and conditions, as well as the design review process, would ensure that development within the Plan Area is consistent with applicable plans and design guidelines, is of high visual quality, and compatible with surrounding development, thus avoiding any adverse impact to the visual character of existing development or conditions within the Plan Area.

Page 397, first paragraph of the Draft EIR, is revised as follows:

.... Individual projects would be required to implement ~~SCA-AES-23: Lighting Plan (#19)~~, which would further minimize potential impacts resulting from lighting and ensure that lighting and glare effects remain less than significant.

Pages 398 to 401 and Chapter II, Summary, pages 25 to 28, Mitigation Measures AES-1 Shadow and AES-2 Wind Analysis have been removed.

Page 497, Figure V.J-3 (shown following) of the Draft EIR is revised.



Note: This map is intended as a planning-level tool to illustrate the potential for coastal flooding as sea levels rise and does not represent the exact location or depth of projected flooding. The map is based on model outputs and does not account for all of the complex and dynamic Bay processes or future conditions.

Downtown Oakland Specific Plan EIR

Figure V.J-3
Sea Level Rise Overlay [Revised]

Page 498, (1) Seiche, heading number and any references to this section of the Draft EIR is corrected as follows:

~~(1)~~ (2) Seiche

Page 498, (2) Tsunami, heading number and any references to this section of the Draft EIR is corrected as follows:

~~(2)~~ (3) Tsunami

Page 499, (3) Extreme High Tides, heading number and any references to this section of the Draft EIR is corrected as follows:

~~(3)~~ (4) Extreme High Tides

Page 586, Table V.L-6 of the Draft EIR, is revised as follows:

Growth under the Specific Plan, 2040^a

^a See Table V.L-5, Downtown Future Development by Land Use. Note that population, households, and employment numbers do not include active development through April 2019, which are (Column 2 in Table III-5), or Existing Baseline (Column 1 in Table III-5) conditions.

Page 596, 1st paragraph of the Draft EIR, is revised as follows:

Fire Station 2 (47 Clay Street), located in the Jack London District, reopened in 2020 for use as a temporary fire station during planned remodels and fire station rebuilds that will be taking place in the City over the next 5 to 7 years. ~~is currently not in operation.~~ Station 2 was closed as a dispatch facility in 2003 due to budget cuts along with OFD's fireboat (the *Sea-Wolf*). ~~Station 2 is currently used for storage and training. It is planned to be re-opened later this year for use as a temporary fire station during planned remodels and fire station rebuilds that will be taking place in the City over the next 5 to 7 years.~~⁹ The reopened Station 2 is currently equipped with one Type 1 fire engine, a four-seat medical response golf cart (*Gator*) two inflatable rescue boat/trailers, a ridged-hull rescue boat (on the dock), a F350 water rescue squad in addition to *Sea Wolf* fire boat.¹⁰ ~~Station 2 is then planned to be demolished and a new station built as part of the Waterfront Ballpark District at Howard Terminal project, dependent on whether the Howard Terminal project is approved (expected approval late 2020).~~

⁹ Melinda Drayton, Deputy Chief. Oakland Fire Department, 2019. Personal communication with ESA regarding the Waterfront Ballpark District at Howard Terminal Project, February 4.

¹⁰ OFD, 2021. *Correspondence of Fire Station 2 Equipment Detail between Deputy Chief of Operations Nicholas Luby, Operations Bureau; and Pete Vollmann, Planner IV, Bureau of Planning*, February 2, 2021.

Page 599, 1st paragraph of the Draft EIR, is revised as follows:

OFD is planning a series of fire station remodels and construction projects using Measure KK Bond funds. Four fire stations will be remodeled including Station 10 (172 Santa Clara Avenue), Station 12 (mentioned above), Station 15 (455 27th Street), and Station 16 (3600 13th Avenue). These four remodels will require firefighters to relocate to another fire station while the work is being completed. In addition, to the four remodel projects, OFD has identified two stations that will be demolished and re-constructed at yet-to-be-finalized new locations in their respective fire districts. The two stations that will be shut down and re-constructed elsewhere are Station 4 (1235 International Boulevard) and Station 29 (1016 66th Avenue). As discussed above, Station 2 ~~will be re-opening~~ reopened in 2020 ~~in 2019~~ to be utilized as a temporary fire station during the remodels and construction projects.¹¹

Page 602, Figure V.M-3 of the Draft EIR, shown following, is revised to include definitions for school abbreviations such as PK, CDC, and TK.

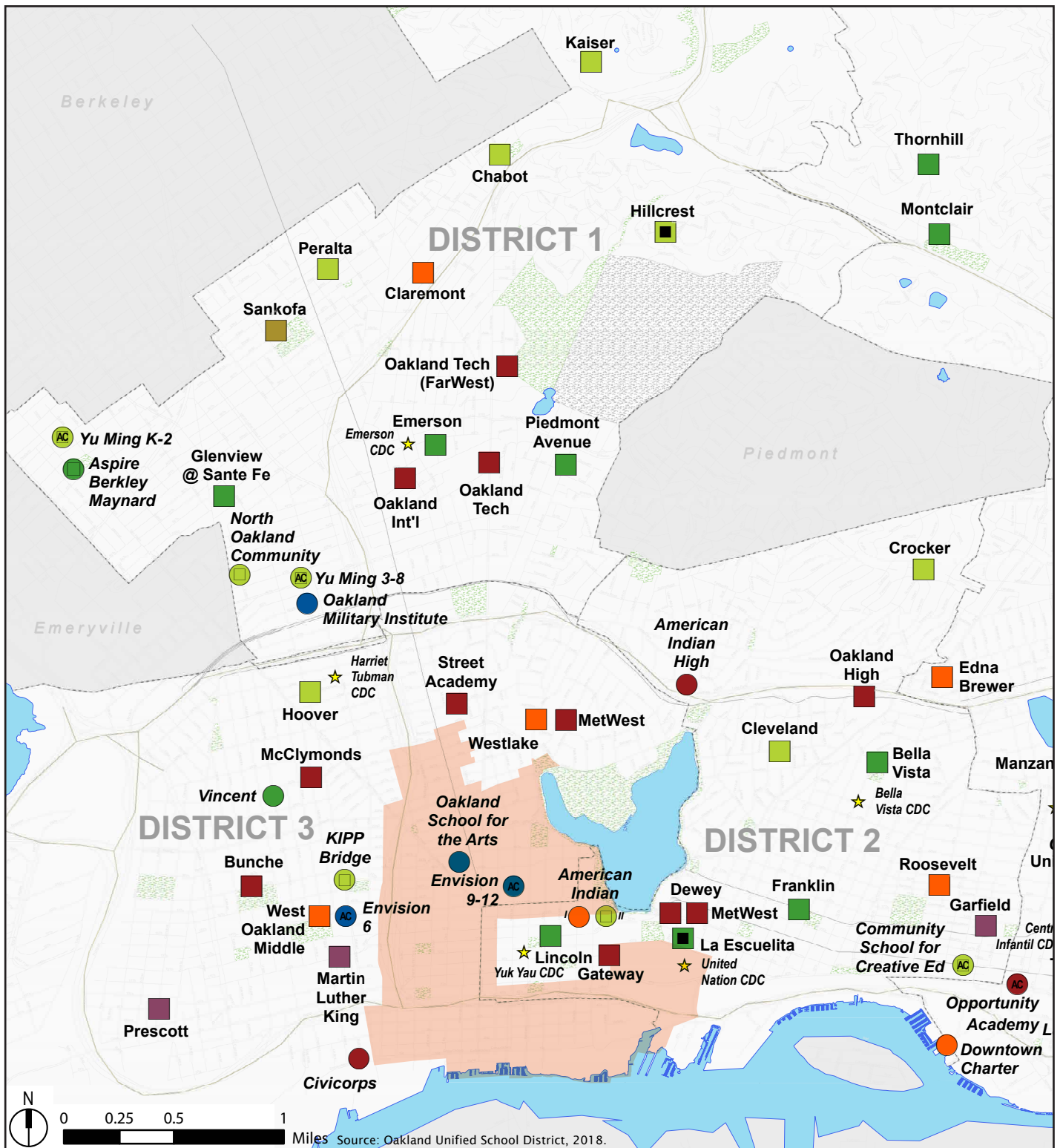
Page 604, first bullet point of the Draft EIR, is revised as follows:

Oakland Main Library. Located at 125 14th Street, the Main Library has 350,000 reference and circulating books and 33 computers with internet access, in addition to magazine, newspaper, sheet music, and map collections. The library provides many services including computer training, tax assistance, lawyer assistance, homework assistance, and ~~storytime~~ story time. The Main Library is also a federal repository library. This designation places limits on the storage and keeping of government documents. (Minimum of five years unless superseded). The Main Library's centralized services work as the main nerve center for the entire library system. Most deliveries and returns of materials pass through it. All new materials for the system are processed, billed, and catalogued at the Main and citywide outreach vehicles and materials are headquartered here.

Page 615, top of the page of the Draft EIR, is revised as follows:

OFD has also indicated that they frequently experience delays responding to waterfront incidents due to freight trains. While OFD maintains adequate response in the Downtown/Lake Merritt area, the increase in population that could occur as part of the Plan (29,100 new residential units) may increase response times within the area and cause delays south of the UPRR tracks with an increase in call volumes. In addition, as discussed in the setting subsection above, Fire Station 2, which is located in the Plan Area, reopened in 2020 ~~is scheduled to re-open in 2019~~ to serve as a

¹¹ Melinda Drayton, Deputy Chief. Oakland Fire Department, 2019. Personal communication with ESA regarding the Waterfront Ballpark District at Howard Terminal Project, February 4.



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Figure V.M-3
 Schools in Proximity to Plan Area [Revised]

temporary station during planned fire station remodels and construction projects in the City for an estimated 5- to 7-year duration but then is planned to be demolished.

~~A replacement fire station for Station 2 is planned as part of the Waterfront Ballpark District Howard Terminal EIR (Howard Terminal Project). The reopening and then eventual replacement of this station would improve service throughout the Plan Area, particularly within the DJL area and help ensure that the desired response times of within 7 minutes of notification 90 percent of the time can be maintained. With the reopening of fire station 2, response times would be under the 7 minutes of notification 90 percent of the time (4 minutes and 40 seconds for structure fire calls, and 6 minutes and 54 seconds for high priority medical calls) with the proposed population and employment under the Specific Plan.¹² In addition, future development projects that would occur under the Specific Plan would be required to meet all City of Oakland and California State Fire Code requirements for sprinkled systems, alarms, fire flow, access, and fire hydrant spacing, in accordance with SCA-PUB-1: Compliance with Other Requirements (#3) and SCA-PUB-2: Fire Safety Phasing Plan (#46).~~

Page 616, first paragraph of the Draft EIR, is revised as follows:

While development under the Plan would result in an increased demand for fire protection and emergency medical response services, ~~construction of a replacement fire station (as part of the proposed Howard Terminal Project),~~ it is anticipated that the planned facilities ~~independent of this project~~ would provide adequate facilities to serve services for future development (south of the UPPR tracks), independent of the construction of a permanent replacement fire station proposed as a part of the Howard Terminal Project. ~~In the event that the Howard Terminal Project is not approved does not move forward, an additional fire station may be needed to serve the Plan Area. Without the re-opening of fire station 2, response times for fire calls would be under the 7 minute notification 90 percent of the time (4 minutes and 56 seconds for structure fire calls). For high priority medical calls without the re-opening of fire station 2, response times would be at 7 minutes with the proposed population and employment under the Specific Plan and would result in seven additional seconds from current deployment.¹³ In addition, the increase in number of incidents per year would increase substantially for other fire stations in and around the Plan Area.~~ For the most part, any potentially adverse effects from new fire facilities would be similar to those anticipated by development under the Plan, such as noise, air quality impacts such as emissions of dust and air pollutants including diesel exhaust, and temporary street closures or other traffic obstructions. Furthermore, even if a fire facility was required to service

¹² Deccan International, 2019. Projected Response in Downtown with Downtown Oakland Specific Plan, August 2019, and correspondance with Chief Melinda Drayton, OFD on August 22, 2019.

¹³ Deccan International, 2019. Projected Response in Downtown with Downtown Oakland Specific Plan, August 2019, and correspondance with Chief Melinda Drayton, OFD on August 22, 2019.

the increased population or employees that result from development under the Specific Plan, the new facility would likely be developed on an infill parcel. Given the location of such a facility (in an infill area), environmental documents for fire construction or expansion are typically categorical exemptions or negative declarations. Overall, potential impacts associated with the construction of new fire facilities, should new facilities be required, would be similar to those associated with development under the Plan.

Page 620, second paragraph of the Draft EIR, is revised as follows:

LUTE Policy N2.2 states that provisions of services by civic and institutional uses should be distributed and coordinated to meet the needs of city residents. Adherence to this policy would reduce the potential impact on libraries to less than significant. There are currently no active plans to construct new or expanded facilities; however, the City Council has approved \$700,000 for a feasibility study for a new main library as well as a commitment to fund a feasibility study for the Hoover Durant Branch Library, which is just outside the Plan Area and would also serve downtown residents. ~~however, there is demand for the following: a new Main Library, a new branch in the Hoover-Foster neighborhood, a new branch in the San Antonio neighborhood, a permanent branch for Piedmont Avenue, a new location for the Tool Lending Library, and new or expanded Asian branch.~~

Page 621, first paragraph of the Draft EIR is revised as follows:

.... While the Specific Plan has policies that would encourage investment and improvements to libraries, as well as capital improvements that would be received as part of the development of projects pursuant to SCA-PUB-3: Capital Improvements Impact Fee (~~#7374~~), these fees would not be enough to provide expanded services, including those that may be triggered ~~be~~ by new development. In addition, there is normally a several year lag between the time a building is constructed and when new revenues are available.⁵⁹

⁵⁹ City of Oakland, 2019. Five Year Financial Forecast, 2019-2024. Available at: https://cao-94612.s3.amazonaws.com/documents/FY-2019-21-5yearfactsheet_final.pdf, accessed January 24, 2020.

Page 623 and Chapter II, Summary, page 29, Mitigation Measure PUB-1, is revised as follows:

Mitigation Measure PUB-1: Part 1) ~~Requires the~~The Ceity to update~~shall explore updating~~ the Capital Improvement Impact fees, and/or implement a dedicated impact fee specific to parks and recreation. Dedicating a portion of the impact fee to fund green stormwater infrastructure in public spaces should be explored. **Part 2)** ~~Requires The City shall study~~ the city to create feasibility of creating a Privately Owned Public Spaces (POPOS) program so that outdoor and indoor spaces can be provided for public enjoyment by private owners in exchange for bonus

floor area or waivers. An equity analysis will be conducted as part of the study to explore strategies to encourage equitable access. (LTS)

Page 627, last paragraph, and footnote #2 of the Draft EIR, is revised as follows:

... surrounding roadways.²

Sewer discharge from buildings within Oakland flows through lateral lines to the City's sewer network, which is mostly gravity fed. Currently, the City operates and maintains approximately ~~934.930~~ miles of sewer lines, 29,000 structures, and ~~10.7~~ pump/lift stations.³ Most of the City's wastewater collection system is 50 years old, with some of the existing infrastructure dated over 100 years.⁴ The sewer network is connected directly to trunk lines that convey sewage flows to EBMUD wastewater interceptors and finally to the Municipal Waste Water Treatment Plant.....

² City of Oakland, ~~2020~~2017. Public Works Infrastructure Map. Available at: <https://oakgis.maps.arcgis.com/apps/webappviewer/index.html?idoe31284217a840ff90d316ce021df792>, accessed February 1, 2020. ~~oakbec-53.amazonaws.com/MapLanding/maps/DEC.html#, accessed February 4, 2019.~~

Page 629, first paragraph of the Draft EIR, is revised as follows:

...22-year period of the agreement. Some of these include rehabilitating 13 miles of sewer pipes per year, cleaning 140 miles of sewer pipes per year, inspecting 92 miles of sewer pipes per year, and eliminating high priority storm water inflow sources within two years wherever found.⁹ In addition, the City of Oakland Public Works Department initiated a sanitary sewer master planning process in February 2020. This effort will include an update of the hydraulic capacity and its long-term sewer demands. This will also include an assessment of how sewer mitigation fees are determined

Page 650 of the Draft EIR is revised as follows:

SCA-UTIL-14: Recycled Water (#~~8991~~)

Requirement: Pursuant to Section 16.08.030 of the Oakland Municipal Code, the project applicant shall provide for the use of recycled water in the project for feasible recycled water uses ~~landscape irrigation purposes~~ unless the City determines that there is a higher and better use for the recycled water, the use of recycled water is not economically justified for the project, or the use of recycled water is not financially or technically feasible for the project. Feasible recycled water uses may include, but are not limited to, landscape irrigation, commercial and industrial process use, and toilet and urinal flushing in non-residential buildings. The project applicant shall contact the New Business Office of the East Bay Municipal Utility District (EBMUD) for a recycled water feasibility assessment by the Office of Water Recycling. If recycled water is to be provided in the project, the project drawings submitted for construction-related permits shall include the

proposed recycled water system and the project applicant shall install the recycled water system during construction.

Page 657 and Chapter II, Summary, page 30, Mitigation Measure UTL-1 of the Draft EIR, is revised as follows:

Mitigation Measure UTL-1: Part 1) The City of Oakland shall adopt a new SCA and/or revise existing SCA/s ~~that includes~~ to include the following: New development as a result of the implementation of the Specific Plan shall determine the adequacy and condition of the existing storm drainage infrastructure impacted by the project. The project watershed shall be analyzed for post-construction impacts to drainage within the watershed, accounting for the condition of the existing infrastructure. For any identified adverse impacts, mitigation measures shall be proposed and implemented as part of the project. **Part 2)** All future projects under the Specific Plan shall require the installation of full trash capture device at priority storm drain inlets in the project area and within a 100-foot buffer around the project boundary. Part 3) ~~Establish~~ Consider establishing a dedicated impact fee specific to stormwater to address the aging system that is in addition to the citywide Capital Improvements Impact Fee. Recommended fees should be calculated by square footage.

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