

RESPONSE TO COMMENTS DOCUMENT AND FINAL ENVIRONMENTAL IMPACT REPORT

GILMAN GATEWAY REZONE PROJECT
BERKELEY, CALIFORNIA
SCH# 2022120549



LSA

March 2025

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**GILMAN GATEWAY REZONE PROJECT
BERKELEY, CALIFORNIA
SCH# 2022120549**

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- C: WRITTEN COMMENTS

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LIST OF ABBREVIATIONS AND ACRONYMS

$\mu\text{g}/\text{m}^3$	micrograms per cubic meter
AAA	All Ages and Abilities
AB	Assembly Bill
AUP	Administrative Use Permit
CTC	County Transportation Commission
BAAQMD	Bay Area Air Quality Management District
BMC	Berkeley Municipal Code
BMPs	best management practices
CPUC	California Public Utilities Commission
California Register	California Register of Historical Resources
Caltrans	California Department of Transportation
CAP	Climate Action Plan
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CHRIS	California Historical Resources Information System
City	City of Berkeley
CMP	Congestion Management Program
conceptual development project	Potential Berkeley Forge Development
COA	Condition of Approval
DOT	Department of Transportation
DRC	Design Review Committee
DTSC	Department of Toxic Substances Control
EBMUD	East Bay Municipal Utility District
EIR	Environmental Impact Report
EHD	Environmental Health Division

EV	electric vehicle
GHG	greenhouse gas
HRA	Health Risk Assessment
HRE	Historical Resources Evaluation
LOS	level of service
LCI	Land Use and Climate Innovation
LID	Low Impact Design
M	Manufacturing
M-RD	Manufacturing - Research and Development
MRP	Municipal Regional Stormwater Permit
National Register	National Register of Historic Places
NOP	Notice of Preparation
NOA	Notice of Availability
NWIC	Northwest Information Center
OSHA	U.S. Department of Labor Occupational Safety and Health Administration
PCB	polychlorinated biphenyl
PM ₁₀	particulate matter less than 10 microns in size
PM _{2.5}	particulate matter less than 2.5 microns in size
proposed project	Gilman Gateway Rezone Project
Proposed TDM Plan	Transportation Demand Management Plan for the Gilman Gateway Rezone Project
R&D	research and development
RCRA	Resource Conservation and Recovery Act
RTC Document	Response to Comments Document
SB	Senate Bill
TAC	toxic air contaminant
TDM	Transportation Demand Management
TIA	Transportation Impact Analysis
UP	Use Permit
USA North 811	Underground Service Alert
VMS	vapor intrusion mitigation system
VMT	vehicle miles traveled

VOC	volatile organic compound
WSA	Water Supply Assessment

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1.0 INTRODUCTION

1.1 PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Draft Environmental Impact Report (EIR) prepared for the proposed Gilman Gateway Rezone Project (herein referenced as the “proposed project”), and a conceptual project (herein referred to as the “Potential Berkeley Forge Development” or “conceptual development project”). The Draft EIR identifies the likely environmental consequences associated with development of the proposed project and conceptual development project and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments Document (RTC Document) provides responses to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, resulting from those comments or to clarify material in the Draft EIR. This document, together with the Draft EIR, constitutes the Final EIR for the project.

1.2 ENVIRONMENTAL REVIEW PROCESS

According to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

On December 21, 2022, the City of Berkeley (City) circulated a Notice of Preparation (NOP) notifying responsible agencies and interested parties that an EIR would be prepared for the proposed project and indicated the environmental topics anticipated to be addressed in the EIR. The NOP was mailed to public agencies, organizations, and individuals likely to be interested in the potential impacts of the proposed project. The NOP was also submitted to the State of California Governor’s Office of Land Use and Climate Innovation State Clearinghouse, formerly known as the Office of Planning and Research, the State’s repository for distribution of environmental documents. Scoping sessions were held as public hearings before the Berkeley Planning Commission on February 1, 2023, and the Landmarks Preservation Commission on February 2, 2023, to solicit feedback regarding the scope and content of the EIR. Verbal comments received during the scoping session from the Planning Commission, Landmarks Preservation Commission, members of the public attending commission meetings, and the three written comment letters provided by agencies and organizations on the NOP were considered during preparation of the EIR. Copies of the NOP, the comment letters, and a summary of the verbal comments received are included in Appendix A of the Draft EIR.

The Draft EIR was made available for public review on October 21, 2024, and was distributed to local and State responsible and trustee agencies. The Notice of Availability (NOA) for the Draft EIR was provided to all individuals and organizations who made a written request for notice and was filed with the Alameda County Clerk-Recorder’s Office.

The NOA stated that the review period would take place over a duration of 45 days, as mandated by CEQA and specified that the review period would close on December 5, 2024. The City held a public hearing on the Draft EIR with the Planning Commission on November 6, 2024 and the project was presented to the Landmarks Preservation Commission on November 7, 2024. The City received a total of five comment letters from State and local agencies, organizations, and individuals during the

comment period. Copies of all written comments received during the comment period and transcripts of the verbal comments received at the public hearings are included in Appendices A through C of this document.

1.3 DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

- **Chapter 1.0: Introduction.** This chapter discusses the purpose and organization of this RTC Document and the Final EIR, and summarizes the environmental review process for the project.
- **Chapter 2.0: List of Commenters.** This chapter contains a list of agencies, organizations, and individuals who submitted written comments during the public review period or provided verbal comments at the public hearings on the Draft EIR.
- **Chapter 3.0: Comments and Responses.** This chapter presents written responses for each CEQA related comment received during the public review period. Each response is keyed to the corresponding comments included in the appendices.
- **Chapter 4.0: Draft EIR Text Revisions.** This chapter contains corrections and edits to the Draft EIR that are necessary in light of the comments received and responses provided or are necessary to amplify or clarify material in the Draft EIR. Double underlined text represents language that has been added to the Draft EIR; text with ~~strikeout~~ has been deleted from the Draft EIR.
- **Appendices.** Appendix A includes verbal comments given at the Planning Commission hearing on November 6, 2024, Appendix B includes verbal comments given at the Landmarks Preservation Commission hearing on November 7, 2024, and Appendix C includes all written comments submitted on the Draft EIR.

2.0 LIST OF COMMENTERS

This chapter presents a list of comment letters received during the public review period and describes the organization of the letters and comments that are addressed in this document.

2.1 ORGANIZATION OF COMMENT LETTERS AND RESPONSES

This section lists all public agencies, organizations, and individuals who submitted comments on the Draft Environmental Impact Report (EIR), including those that provided verbal comments at the public hearings held on November 6, and 7, 2024.

Table 2.A lists the names of the commenters, along with the corresponding commenter codes used in Chapter 3.0, Comments and Responses, to denote each set of comments received by category and the date they were received by the City of Berkeley. Verbal comments given at the Planning Commission hearing on November 6, 2024, are included in Appendix A, and verbal comments given at the Landmarks Preservation Commission hearing on November 7, 2024, are included in Appendix B. All written comments submitted on the Draft EIR are included in Appendix C.

- Comments from public agencies are designated by “A-” and the agency's name or acronym.
- Comments from organizations are designated by “O-” and number.
- Comments from individuals are designated by “I-” and number.

Table 2.A: Persons Commenting on the Draft EIR

Comment Letter Code	Name and Title of Commenter	Commenter Affiliation	Comment Format	Comment Date
Public Agencies				
A-GHOSH	Vice Chair Ghosh	Planning Commission	Transcript	November 6, 2024
A-MONT	Chair Montgomery	Landmarks Preservation Commission	Transcript	November 7, 2024
A-FIN	Vice Chair Finacom	Landmarks Preservation Commission	Transcript	November 7, 2024
A-ORB	Commissioner Orbuch	Landmarks Preservation Commission	Transcript	November 7, 2024
A-EBMUD	David J. Rehnstrom, Manager of Water Distribution Planning	East Bay Municipal Utility District (EBMUD)	Letter	December 2, 2024
A-CTC	Colin Dentel-Post, Principal Transportation Planner	Alameda County Transportation Commission (CTC)	Letter	December 4, 2024
A-Caltrans	Yunsheng Luo, Branch Chief, Local Development Review, Office of Regional and Community Planning	California Department of Transportation (Caltrans) District 4	Letter	December 5, 2024
Organizations				
O-1	Allan C. Moore	Law Office of Allan Moore, A.P.C.	Letter	December 2, 2024

Table 2.A: Persons Commenting on the Draft EIR

Comment Letter Code	Name and Title of Commenter	Commenter Affiliation	Comment Format	Comment Date
Individuals				
I-1	Public Speaker 1	–	Transcript	November 6, 2024
I-2	Public Speaker 2	–	Transcript	November 6, 2024
I-3	Public Speaker 3	–	Transcript	November 6, 2024
I-4	Allan Moore	–	Transcript	November 6, 2024
I-5	Scott Robinson	–	Transcript	November 6, 2024
I-6	Tim Southwick	–	Transcript	November 6, 2024
I-7	Jai Jai Noire	–	Letter	December 5, 2024

3.0 COMMENTS AND RESPONSES

3.1 INTRODUCTION

Pursuant to Public Resources Code (PRC) Section 21091(d) and *State CEQA Guidelines* Section 15088, a Lead Agency is required to evaluate comments received during the noticed comment period and prepare a written response for each comment relating to any significant environmental issues raised in the Draft Environmental Impact Report (EIR). This chapter provides written responses to the comment letters received on the Draft EIR during the public review and comment period. Verbal comments given at the Planning Commission hearing on November 6, 2024, are included in Appendix A and verbal comments given at the Landmarks Preservation Commission hearing on November 7, 2024, are included in Appendix B. All written comments submitted on the Draft EIR are included in Appendix C. The comments and responses are organized by subject and generally appear in the same order as presented in the Draft EIR. Table 3.A shows the order of the comments and responses in this chapter, along with the corresponding section number, the prefix to the topic code, and the page numbers of this chapter on which the comments and responses begin.

Table 3.A: Comment Organization

Section	Topic	Topic Code	Page No.
3.2	EIR Organization and Content	EIR	3-2
3.3	Project Description	PROJ	3-8
3.4	Cultural Resources	CUL	3-9
3.5	Transportation	TRA	3-13
3.6	Air Quality	AIR	3-16
3.7	Greenhouse Gas Emissions	GHG	3-19
3.8	Hazardous Materials	HAZ	3-20
3.9	Hydrology and Water Quality	HYD	3-23
3.10	Biological Resources	BIO	3-24
3.11	Geology and Soils	GEO	3-24
3.12	Population and Housing	POP	3-25
3.13	Utilities and Service Systems	UTL	3-27
3.14	Alternatives	ALT	3-29
3.15	Non-CEQA	NON	3-30

Within each topic, similar comments are grouped together under subheadings, designated by a topic code and sequential number. For example, the comments in Section 3.4, Cultural Resources, coded as “CUL,” are organized under subheading CUL-1.

Under each subheading, the applicable comments are listed by comment code, as described in Chapter 2.0, List of Commenters, with the full comment letters provided in Appendix A. A comprehensive response is provided to address environmental issues raised in the comments and clarify or augment information in the Draft EIR, as appropriate. Response numbers correspond to the topic code (e.g., the response to Comment CUL-1 is presented under Response CUL-1). The responses may clarify the Draft EIR text or revise or add text to the Final EIR.

New or revised text, including text changes initiated by City of Berkeley (City) staff, is double underlined; deleted material is shown in ~~strikethrough~~ (also refer to Chapter 4.0, Draft EIR Text Revisions).

3.2 EIR ORGANIZATION AND CONTENT

The comments and corresponding responses in this section cover the Draft EIR organization and content. The comment topics relate to:

- **EIR-1:** Size of the Proposed Project and EIR
- **EIR-2:** Proposed Project vs. Conceptual Development Project
- **EIR-3:** Conceptual Development Project Analyzed as a Reasonably Foreseeable Project
- **EIR-4:** Environmental Setting
- **EIR-5:** Mitigation Measures

3.2.1 Comment EIR-1: Size of the Proposed Project and EIR

This response addresses the following comment:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-2, EIR-1)

3.2.1.1 Response EIR-1

The project described in Chapter 3.0, Project Description, of the Draft EIR consists of two elements: (1) the proposed Gilman Gateway Rezone Project (proposed project), which is evaluated at a programmatic level, and (2) the Potential Berkeley Forge Development (conceptual development project), which is evaluated at a project level to the extent feasible. Refer to pages 3-1 through 3-2 of the Draft EIR, which clearly describe the potential actions and future project improvements and activities evaluated in the Draft EIR and to what level of detail those elements are analyzed.

The proposed project would aim to facilitate the future development of the entire 11.54-acre project site, up to 1,005,266 square feet of non-residential space. The Potential Berkeley Forge Development consists of a conceptual future development plan, which would be facilitated by adoption and implementation of the Gilman Gateway Rezone Project and would develop 10.26 acres of the project site.

The Draft EIR evaluates the maximum development potential of the project site as facilitated by the proposed new zoning district (i.e., up to 1,005,266 square feet of nonresidential space) to ensure that all potential impacts of future projects facilitated by the proposed project would be analyzed. Under the California Environmental Quality Act (CEQA), evaluating the maximum development scenario of a project is essential to ensure a comprehensive understanding of its potential environmental impacts. This approach aligns with CEQA's mandate to disclose significant environmental effects and to mitigate those impacts to the extent feasible. Specifically, analyzing the maximum development scenario allows lead agencies to ensure full disclosure of potential impacts, avoid piecemeal review, and allow for review of future phases that are reasonably

foreseeable.¹ As such, the Draft EIR made certain assumptions regarding development scenarios and includes mitigation measures that would allow for future phasing.

Because the Potential Berkeley Forge Development is reasonably foreseeable and would be facilitated by the proposed rezoning, the Draft EIR also evaluates the potential impacts of this project to the extent that project details are known, in order to streamline future environmental review of this project once the development application is submitted to the City. The Draft EIR differentiates between the impacts of the programmatic rezoning project and the conceptual development project. Refer to Table 2.A, Summary of Impacts and Mitigation Measures from the EIR, in Chapter 2.0, Summary, of the Draft EIR (pages 2-7 through 2-18).

3.2.2 Comment EIR-2: Proposed Project vs. Conceptual Development Project

This response addresses the following comments:

- Allan Moore, Planning Commission Transcript, 11/6/24 (I-4-2, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-6, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-9, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-11, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-15, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-17, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-20, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-22, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-25, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-27, EIR-2)
- Allan Moore, Letter, 12/2/24 (O-1-32, EIR-2)

3.2.2.1 Response EIR-2

As discussed in Chapter 1.0, Introduction, of the Draft EIR, the Draft EIR is both a “program EIR” and a “project EIR.” Implementation of the proposed zoning district, rezoning action, General Plan amendment, and West Berkeley Plan amendment (which is referred to throughout as the “Gilman Gateway Rezone Project” or the “proposed project”) is evaluated at a program level. The reasonably foreseeable conceptual development project (which is referred to throughout as the “Potential Berkeley Forge Development” or the “conceptual development project” is evaluated at a project level (refer to Draft EIR pages 1-1 through 1-2). The Draft EIR describes the potential environmental impacts of both elements of the project, including (1) the proposed new zoning district, rezoning, General Plan amendment, West Berkeley Plan amendment, and (2) the reasonably foreseeable conceptual development project.

Potential impacts associated with the new zoning district, rezoning action, General Plan amendment, and West Berkeley Plan amendment are discussed at the programmatic level, meaning the maximum buildout potential for the project site based on the development standards of the

¹ *South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321 (“*South of Market*”).

new zoning district is analyzed. Later activities in the program (i.e., future development at the project site facilitated by the proposed rezoning action) must be examined in light of the program EIR at the time a development project application is submitted for future projects to determine whether additional environmental review is required. The conceptual development project is evaluated at a project level. The City received a conceptual plan, referred to as the conceptual development project, with the zoning map amendment application. The conceptual development project is consistent with the Gilman Gateway Rezone Project; however, no formal development application has been submitted as of the date of Draft EIR publication. Thus, detailed project plans and supporting documentation are not available.

The conceptual development project, as presented in the conceptual plan included in the zoning map amendment application, is described in Section 3.4.2 of the Draft EIR. This section explains that the conceptual development project would “include the redevelopment of a 10.26-acre portion of the project site with up to 900,000 square feet of a mix of light manufacturing, research and development (R&D), laboratory, and office uses, consistent with the uses allowed in the proposed Manufacturing - Research and Development (M-RD) zoning district” (refer to Draft EIR page 3-45). The Draft EIR then describes the approximate area of development; conceptual open space and landscaping; conceptual access, circulation, and parking; utilities and infrastructure; and demolition, grading and construction work (refer to Draft EIR pages 3-46 through 3-47).

It is anticipated that, once a development project application is submitted for the conceptual development project, the City would conduct an environmental evaluation of the project after accepting the application as complete and determining that the project is subject to CEQA, pursuant to *State CEQA Guidelines* Section 15060. The evaluation process will include consideration of a tiering approach, as described in *State CEQA Guidelines* Section 15168. As provided in *State CEQA Guidelines* Section 15168, a program EIR may be prepared on a series of actions that can be characterized as one large project and are related. The concept plan for the conceptual development project was included as part of the zoning map amendment application, which is consistent with the Gilman Gateway Rezone project. As the City has determined the conceptual development project is a known and reasonably foreseeable project, and is consistent with the Gilman Gateway Rezone project, the conceptual development project can be considered ready for review and consideration by the City, and thus it is appropriate to evaluate the potential effects of the conceptual development project to the extent feasible in this program EIR pursuant to CEQA.

As described in Draft EIR, Section 3.5 Permits and Approvals, the proposed zoning and General Plan/West Berkeley Plan amendments are subject to action by the City’s Planning Commission and City Council (refer to Draft EIR at page 3-47). If the proposed project is approved, future development projects, including the conceptual development project, would be evaluated for consistency with the newly established zoning and General Plan/West Berkeley Plan designation and for consistency with the development assumptions evaluated in this EIR. Future development projects could be subject to further environmental review, which would be determined at the time that individual applications are received. Any future development project application, including for the conceptual development project, is subject to approval by the Zoning Adjustments Board and is appealable to the City Council.

The Draft EIR defines the scope of both the proposed project and the conceptual development project in Chapters 1.0, Introduction, 2.0, Summary, and 3.0, Project Description, and re-defines these elements at the beginning of each section of the Draft EIR. In addition, where potential impacts differ between the proposed project and the conceptual development project, the Draft EIR includes separate impact statements and mitigation measures, as necessary (see Draft EIR pages 4.2-19 through 4.2-23 where the potential cultural resource impacts of the Gilman Gateway Rezone project are evaluated separately from the potential impacts of the conceptual development project and a different significance determination is reached for each).

Proper use of the terms “proposed project” and “conceptual development project” are implemented throughout the Draft EIR. In addition, the fourth, fifth, sixth, and seventh columns of Table 2.A, Summary of Impacts (page 2-7 of the Draft EIR), identify whether the proposed mitigation measure would be applicable to the Gilman Gateway Rezone Project and/or the Potential Berkeley Forge Development. The Draft EIR clearly defines the project and clearly differentiates the resulting impacts and mitigation measures that apply to each element of the project. Specifically, impacts and mitigation measures are identified for either the proposed project or conceptual development project, or as applicable to both, and are further identified as applicable to either the construction or operational phases, where necessary.

3.2.3 Comment EIR-3: Conceptual Development Project Analyzed as a Reasonably Foreseeable Project

This response addresses the following comments:

- Allan Moore, Planning Commission Transcript, 11/6/24 (I-4-4, EIR-3)
- Allan Moore, Letter, 12/2/24 (O-1-10, EIR-3)
- Allan Moore, Letter, 12/2/24 (O-1-26, EIR-3)

3.2.3.1 Response EIR-3

As discussed in Chapter 3.0, Project Description, although the City has not received a formal application for the conceptual development project, the City anticipates the submittal of a formal application once the proposed Gilman Gateway Rezone Project is approved and the Final EIR is certified.

A “project” is defined as a “whole action” subject to a public agency's discretionary funding or approval that has the potential to either (1) cause a direct physical change in the environment or (2) cause a reasonably foreseeable indirect physical change in the environment (*State CEQA Guidelines* Section 15378). As described in Response EIR-2, above, as the City anticipates the submittal of a formal application for the conceptual development project and implementation of the conceptual development project would cause a reasonably foreseeable indirect physical change in the environment, it is a reasonably foreseeable project and is evaluated in the Draft EIR at the project level to the extent feasible.

The concept plan for the conceptual development project was included as part of the zoning map amendment application, which is consistent with the Gilman Gateway Rezone project. As is typical of zoning map amendment applications, this application, which is currently under review by the City,

did not include a detailed site plan, specific locations of proposed buildings, or a circulation plan. The purpose of a zoning map amendment application is to request an amendment to the zoning ordinance, while a development project application is used to request a change to a land use, existing structure, or to construct a new building. A zoning map amendment application is often submitted prior to the submittal of a development project application.

As described in Response EIR-2 above, once a formal application is submitted for the conceptual development project, or any other project that would seek approval within the project area, the City will determine whether additional environmental review is needed pursuant to the relevant CEQA provisions and guidelines.

3.2.4 Comment EIR-4: Environmental Setting

This response addresses the following comment:

- Public Speaker 3, Planning Commission Transcript, 11/6/24 (I-3-4, EIR-4)

3.2.4.1 Response EIR-4

When evaluating the proposed project and conceptual development project, the Draft EIR considered the existing environmental setting within which the project area is located, including the specific geographic context of the project site, including the project site's geologic, biologic, and cultural sensitivity, hazardous conditions, proximity to transit facilities, including the Union Pacific Railroad and Amtrak heavy rail corridor to the east, and the surrounding land uses. These conditions form the baseline environmental setting of the project area, against which the impacts of the project are evaluated in the Draft EIR, as required by CEQA. In addition, project site-specific technical studies were prepared, including a Cultural Resources Evaluation, Historical Resources Evaluation, Transportation Impact Analysis, noise measurements, numerous hazardous site assessments, and air quality, energy, and greenhouse gas emission analyses. As such, the Draft EIR considered the geographic conditions and scope of potential changes that would be facilitated by approval of the proposed project that are specific to the project site.

3.2.5 Comment EIR-5: Mitigation Measures

This response addresses the following comments:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-3, EIR-5)
- Vice Chair Finacom, Landmarks Preservation Commission Transcript, 11/7/24 (A-FIN-1, EIR-5)
- Commissioner Orbuch, Landmarks Preservation Commission Transcript, 11/7/24 (A-ORB-2, EIR-5)

3.2.5.1 Response EIR-5

When imposing mitigation measures, lead agencies must ensure that there is a “nexus” and “rough proportionality” between the required mitigation measure and the significant environmental effect of the project (*State CEQA Guidelines* Section 15126.4(a)(4)(A-B). Mitigation measures cannot be required when a significant impact has not been identified based on the established significance thresholds. The City may decide to impose additional conditions of approval separately from the

environmental review process (i.e., not required or authorized under CEQA), but the need for these conditions must also be supported by evidence in the record, such as demonstrated requirements for compliance with City standards, policies, and regulations and to support making the findings required by the municipal code for project approval. The mitigation measures described in the Draft EIR have been recommended to reduce the identified potential physical environmental impacts of the project to the extent feasible and as authorized under CEQA.

As previously discussed, no formal application was submitted for the Potential Berkeley Forge Development; as such, phasing information is not yet available. Therefore, the analysis did not assume phasing, as it would be speculative. Furthermore, evaluation of a single phase of development is the conservative approach, as potential impacts would be concentrated into a single phase and not spread out among phases. As provided in *State CEQA Guidelines* Section 15145, lead agencies must make a reasonable effort to assess potential impacts based on available data. If there is insufficient information to evaluate a particular environmental impact, CEQA does not require agencies to conduct a speculative evaluation. Project phasing information will be submitted as part of a future development application. Because there is no “essential nexus” between a potential project impact and project phasing, the City cannot prescribe a mitigation measure requiring specific project phasing.

The historic eligibility evaluation performed as part of the Historical Resources Evaluation indicated that only one property, 1306 Third Street, meets the criteria for listing in the California Register and as a City of Berkeley Landmark. Therefore, only this property meets the definition of a historical resource pursuant to CEQA, while the remainder of the properties on the project site are not considered historic resources for the purposes of this analysis or otherwise. There is thus no basis under CEQA to impose mitigation measures (such as Historic American Building Survey-like documentation) for the other industrial buildings that could be demolished as a result of the project.

The Draft EIR has prescribed all feasible mitigation measures to address potential significant impacts with implementation of the proposed project, including the conceptual development project, pursuant to *State CEQA Guidelines* Section 15126.4.

3.3 PROJECT DESCRIPTION

The comments and corresponding responses in this section cover Chapter 3.0, Project Description, of the Draft EIR. The comment topics relate to:

- **PROJ-1:** Proposed Development Standards

3.3.1 Comment PROJ-1: Proposed Development Standards

This response addresses the following comment:

- Allan Moore, Letter, 12/2/24 (O-1-23, PROJ-1)

3.3.1.1 Response PROJ-1

Section 3.4.1, Proposed Manufacturing, Research and Development Zoning District of the Draft EIR, states that the “maximum building height within the M-RD zoning district would be 55 feet, unless a modification is sought via a Use Permit (UP), in which case the maximum building height would be 105 feet.” Table 3.E explicitly states the proposed height standards of 55 feet and the allowance of building heights up to 105 feet, the increase in building heights proposed as part of the project is disclosed and properly evaluated in the Draft EIR (Chapter 4.0, Draft EIR Text Revisions, of this RTC document).

3.4 CULTURAL RESOURCES

The comments and corresponding responses in this section cover Section 4.2, Cultural Resources, of the Draft EIR. The comment topics relate to:

- **CUL-1:** Other Cultural Resources at the Project Site
- **CUL-2:** Native American Resources
- **CUL-3:** Impacts on Historic Resources (1306 Third Street)

3.4.1 Comment CUL-1: Other Cultural Resources at the Project Site

This response addresses the following comment:

- Chair Montgomery, Landmarks Preservation Commission Transcript, 11/7/24 (A-MONT-1, CUL-1)

3.4.1.1 Response CUL-1

To characterize the setting for cultural resources at the project site, in-person records searches of the California Historic Resources Information System archives were conducted at the Northwest Information Center (NWIC), geotechnical borings and soil samplings were completed to identify the potential presence of buried cultural resources, and the existing buildings on the project site were evaluated to determine their eligibility for listing in the National Register of Historic Places (National Register), California Register of Historical Resources (California Register), and the City of Berkeley Landmark and Structure of Merit criteria. The NWIC database indicates there are no previously recorded cultural resource studies of the project site. In addition, few cultural resources, primarily consisting of modern and historic material found within disturbed/artificial fill nearest the ground surface, were noted during boring recovery and field analysis. No trace of intact or disturbed midden, or any other conclusively prehistoric cultural materials were identified during boring excavation. One fragment of burned bone of potential prehistoric-period archaeological interest was recovered. However, in the absence of any cultural context or association, the bone fragment cannot be interpreted as a cultural resource. Coal and charcoal associated with the adjacent midden deposits were sampled from fill layers and it was determined that the recovered coal and charcoal have no prehistoric cultural associations.

The eligibility evaluation performed as part of the Historical Resources Evaluation (HRE) indicated that only one property, 1306 Third Street, meets the criteria for listing in the California Register and

as a City of Berkeley Landmark. Therefore, only this property meets the definition of a historical resource pursuant to CEQA.

The commenter included a reference to the potential presence of a workshop for Pete Engelhart on the project site. Based on the research conducted for the proposed project, and as presented in the HRE and the Draft EIR, no such resource was identified at the project site.

Therefore, the Draft EIR identified all existing cultural resources, including historical resources, at the project site.

3.4.2 Comment CUL-2: Native American Resources

This response addresses the following comment:

- Vice Chair Finacom, Landmarks Preservation Commission Transcript, 11/7/24 (A-FIN-2, CUL-2)

3.4.2.1 Response CUL-2

Sections 4.2, Cultural Resources, and 4.3, Tribal Cultural Resources of the Draft EIR, discuss the project site's sensitivity for tribal cultural (i.e., Native American) resources (refer to Draft EIR pages 4.3-2 through 4.2-7 and 4.3-1 through 4.3-3). As previously discussed under Response to CUL-1, above, the NWIC database indicates there are no previously recorded cultural resource studies of the project site. In addition, no trace of intact or disturbed midden or any other conclusively prehistoric cultural materials were identified during boring excavation. Even though no trace of intact or disturbed midden, or any other conclusively prehistoric cultural materials have been identified on the project site, the project site is close to the Schoolhouse Creek site and West Berkeley Shellmound complex, both of which are considered highly significant precontact resources. Given the project site's proximity to known sites, including a midden site, the Schoolhouse Creek site, and the West Berkeley Shellmound complex, and the project site's location atop alluvial deposits, the project site is considered sensitive for buried prehistoric cultural resources and undiscovered tribal cultural resources. Therefore, the proposed project could result in a potentially significant impact to tribal cultural resources if previously undiscovered tribal cultural resources were to be unearthed during ground-disturbing activity, including human remains of Native American origin. Therefore, the proposed project and conceptual development project shall implement Mitigation Measures CUL-2a through CUL-2d, which require an archaeological testing plan, sensitivity training, and cultural resources monitoring plan for future site development and detailed procedures for the accidental discovery of resources.

In addition to Mitigation Measures CUL-2a through CUL-2d, the proposed project would be required to comply with *COA: Archaeological Resources* and *COA: Human Remains*, which have been revised to incorporate recommendations provided by the Confederated Villages of Lisjan Nation during the consultation process as required by Assembly Bill (AB) 52 and Senate Bill (SB) 18. Implementation of prescribed mitigation measures and compliance with City Conditions of Approval would ensure that (1) if tribal cultural resources are identified during excavation, and avoidance is not feasible, a mitigation plan shall be prepared and outline appropriate treatment of the resource in coordination with the consulting tribe and, if applicable, a qualified archaeologist, and (2) human remains would be treated in a culturally appropriate manner and in accordance with the consulting tribe.

Therefore, implementation of these mitigation measures would reduce potential impacts to tribal cultural resources to less than significant with mitigation.

3.4.3 Comment CUL-3: Impacts on Historical Resources (1306 Third Street Building)

This response addresses the following comments:

- Allan Moore, Planning Commission Transcript, 11/6/24 (I-4-3, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-3, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-4, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-7, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-8, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-13, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-14, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-16, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-18, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-19, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-21, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-29, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-30, CUL-3)
- Allan Moore, Letter, 12/2/24 (O-1-33, CUL-3)

3.4.3.1 Response CUL-3

As discussed in Section 4.2, Cultural Resources of the Draft EIR, the Rosebloom Building at 1306 Third Street meets the criteria for listing in the California Register for Historical Resources, the criteria for designation as a City of Berkeley Landmark, and the definition of an historical resource pursuant to *State CEQA Guidelines* Section 15064.5. For the proposed project to have “a substantial adverse change” in the significance of a historical resource, it would have to demolish, destroy, relocate, or alter the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired (*State CEQA Guidelines* Section 15064.5(b)). Generally, for purposes of CEQA, the significance of a historical resource is materially impaired when a project demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register of Historical Resources (California Register) or an officially recognized local register of historical resources, or its identification in a historical resources survey meeting the requirements of PRC Section 5024.1(g). According to the HRE prepared for the proposed project, the existing building at 1306 Third Street meets the criteria for listing in the California Register and as a City of Berkeley Landmark due only to its association with American master artist and sculptor Peter Voulkos. Potential impacts to the building due to loss of light and air, and those related to aesthetics, noise, and transportation, would not “alter[...] the physical characteristics” of the Rosebloom Building at 1306 Third Street in a way that would undermine its connection to Peter Voulkos, and therefore would not affect its eligibility as a historical building. As a result, such impacts would not result in “a substantial adverse change” in the significance of the Rosebloom Building as a historical resource. Further, because the conceptual development project would redevelop the surrounding parcels with light industrial uses, which are similar to the existing

industrial uses present on the parcels, implementation of the conceptual development project would not affect the setting of the Rosebloom Building and thus would result in less than significant impacts to the Rosebloom Building as a historical resource. As such, the Draft EIR does not defer analysis of these impacts on the building's eligibility for listing.

The proposed project would not result in any physical alterations to the project site; however, implementation of the proposed rezoning could facilitate future development of the entire project site, including the Rosebloom Building at 1306 Third Street. No application to demolish the Rosebloom Building has been submitted to the City and implementation of the proposed project as described in the Draft EIR would not directly result in the demolition of the building. Nevertheless, it is reasonable to assume that changing the zoning for the site of 1306 Third Street could eventually result in the future demolition of the Rosebloom Building. As provided in *State CEQA Guidelines* Section 15144, a lead agency must use its best efforts to find out and disclose all that it reasonably can. Because it is reasonable to assume that a future project sponsor could acquire the 1306 Third Street property and redevelop the parcel consistent with the proposed project, it is reasonable to assume that demolition of the Rosebloom Building at 1306 Third Street could take place. The Draft EIR analyzes this maximum buildout scenario on the project site, even if the maximum buildout scenario never occurs.

The conceptual development project would not include redevelopment of the 1306 Third Street property and therefore would not have the potential to result in the demolition of the existing historical building. The significance of a historical resource is "materially impaired" when a project demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register or an officially recognized local register of historical resources, or its identification in a historical resources survey meeting the requirements of PRC Section 5024.1(g). According to the HRE prepared for the proposed project, the existing building at 1306 Third Street meets the criteria for listing in the California Register and as a City of Berkeley Landmark due only to its association with American master artist and sculptor Peter Voulkos. As such, the aesthetic character of the surrounding area will have no impact on the building's association with Peter Voulkos and therefore will not affect the property's eligibility for listing. Therefore, redevelopment of the surrounding parcels would not substantially affect the Rosebloom Building or its eligibility for listing in the California Register. Further, because the conceptual development project would redevelop the surrounding parcels with light industrial uses, which are similar to the existing industrial uses present on the parcels, implementation of the conceptual development project would not affect the setting of the Rosebloom Building and thus would result in less than significant impacts to the Rosebloom Building as a historical resource.

The potential impacts of the conceptual development project are analyzed and discussed throughout the Draft EIR consistent with the level of detail provided for the conceptual development project. This project-level analysis is based on information provided in the conceptual development plan included as part of the zoning map amendment application submitted to the City for the conceptual development project. As discussed in Chapter 1.0, Introduction, of the Draft EIR, future development at the project site facilitated by the proposed project, including the conceptual development project, must be examined in light of the program EIR to determine whether an

additional environmental document must be prepared. Once a formal application is submitted for the conceptual development project, or any other project that would seek approval in the project area, the City will determine whether additional environmental review is needed pursuant to the relevant CEQA provisions and guidelines (refer to Draft EIR page 1-2).

The Draft EIR also analyzes the potential impacts of full build out of the project site that would be facilitated by the proposed project on the Rosebloom Building and prescribes Mitigation Measure CUL-1, which requires documentation of the historic resource in accordance with the Historic American Building Survey standards, which would reduce, but not avoid, adverse impacts to the historical resource. Implementation of Mitigation Measure CUL-1 would require documenting this resource, but it would not avoid demolition of the resource. Therefore, any future development facilitated by the proposed project that would demolish the Rosebloom Building would “materially impair” the building as a historic resource and impacts to built-environment historic resources as defined in *State CEQA Guidelines* Section 15064.5 would be significant and unavoidable. As such, the Draft EIR adequately discusses potentially significant impacts of the proposed project and the conceptual development project on the Rosebloom Building and proposes appropriate mitigation to retain information about the Rosebloom Building in the event there is an application to demolish the structure in the future.

The Draft EIR does not propose to include new setback requirements as mitigation for either the proposed project or the conceptual development project. As discussed above, allowing development consistent with the proposed project adjacent to 1306 Third Street would not have significant cultural resource impacts for two reasons: (1) the building is eligible for listing solely due to its association with the artist and sculptor Peter Voulkos and (2) redeveloping the adjacent area with light industrial uses would not change the setting for the building. Moreover, as provided in Table 3.E, Manufacturing, Research and Development Zoning District Development Standards, of the Draft EIR (page 3-43 of the Draft EIR), Berkeley Municipal Code (BMC) Section 23.304.030, Setbacks, provides supplemental development standards applicable to the proposed M-RD zoning district, including setbacks for development adjacent to residential uses. Because the development standards for the proposed M-RD zoning district are included as part of the new zoning district and the rezoning of the project site, no mitigation measure related to buffers or setbacks from the Rosebloom Building are required. Further, potential impacts to light and air would be evaluated as part of the City’s development review process when a formal development application is received. Specifically, the findings for approval of any zoning permit required in BMC Chapter 23.406 include non-detriment.

3.5 TRANSPORTATION

The comments and corresponding responses in this section cover Section 4.4, Transportation, of the Draft EIR. The comment topics relate to:

- **TRA-1:** Vehicle Miles Traveled (VMT) and Transportation Demand Management (TDM) Measures
- **TRA-2:** Bicycle, Pedestrian, and Transit Planning
- **TRA-3:** Cumulative Transportation Impacts

3.5.1 Comment TRA-1: VMT and TDM Measures

This response addresses the following comments:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-6, TRA-1)
- Alameda County Transportation Commission (CTC), Letter, 12/4/24 (A-CTC-3, TRA-1)
- Alameda CTC, Letter, 12/4/24 (A-CTC-4, TRA-1)
- California Department of Transportation (Caltrans), Letter, 12/4/24 (A-Caltrans-3, TRA-1)
- Caltrans, Letter, 12/4/24 (A-Caltrans-4, TRA-1)
- Caltrans, Letter, 12/4/24 (A-Caltrans-5, TRA-1)
- Public Speaker 1, Planning Commission Transcript, 11/6/24 (I-1-3, TRA-1)

3.5.1.1 Response TRA-1

The vehicle miles traveled (VMT) analysis for the proposed project, including the conceptual development project, used the latest version of the Alameda CTC Travel Demand Model and was undertaken in a manner consistent with the State of California Governor's Office of Planning and Research's Technical Advisory. Based on the significance thresholds adopted by the City, impacts related to VMT would be considered significant if the project would generate home-work VMT that is higher than 15 percent below the regionwide average home-work VMT per worker of 18.1 in 2040, or 18.2 in 2040, which would require a home-work VMT per worker of 15.4 in 2020 and 15.5 in 2040. Although the home-work VMT per worker for the proposed project, including the conceptual development project, is estimated to be 16.1 under both 2020 and 2040 conditions, which exceeds the adopted VMT threshold, implementation of the Proposed Transportation Demand Management (TDM) Plan would reduce the average daily VMT per employee for the proposed project to between 14.5 and 15.1, which is below the threshold of significance of 15.4. The Alameda CTC VMT Reduction Estimator Tool was used to calculate VMT reductions derived from the implementation of different strategies detailed in the Proposed TDM Plan.

Future development of the project site facilitated by the proposed project would be required to implement the Proposed TDM Plan with similar measures, as required by Mitigation Measure TRA-1, which as added to the Draft EIR and replaces the City's *Condition of Approval: Transportation Demand Management* as explained in Chapter 4.0, Draft EIR Text Revisions, of this RTC Document. Implementation of the Mitigation Measure TRA-1 would include measures that would reduce the usage of personal vehicles and VMT impacts consistent with the Alameda CTC VMT Reduction Estimator Tool. One of the identified TDM measures would require future development of project site facilitated by the proposed project to provide shuttle service between the project site, the North Berkeley BART station, and the Berkeley Amtrak station during weekday peak commute periods (6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m.).

Therefore, with implementation of Mitigation Measure TRA-1, future development facilitated by the proposed project, including the conceptual development project, would result in a less than significant impact associated with VMT.

As requested by Caltrans, the City will require annual monitoring reports during project operation to ensure that the proposed VMT reduction measures detailed in Mitigation Measure TRA-1

adequately reduce the average daily VMT per employee for the proposed project to between 14.5 and 15.1. If the annual monitoring reports determine that the proposed TDM measures cannot adequately mitigate the project’s VMT impact to below the established threshold, the City will consider other VMT mitigation options, such as the VMT-based Transportation Impact Fee program, VMT Mitigation Exchange program, and VMT Mitigation Bank. Such measures would supplement the TDM measures put in place as required by Mitigation Measure TRA-1 to ensure that the threshold is not exceeded.

3.5.2 Comment TRA-2: Bicycle, Pedestrian, and Transit Planning

This response addresses the following comments:

- Allan Moore, Letter, 12/2/24 (O-1-7, TRA-2)
- Allan Moore, Letter, 12/2/24 (O-1-29, TRA-2)
- Alameda CTC, Letter, 12/4/24 (A-CTC-5, TRA-2)
- Alameda CTC, Letter, 12/4/24 (A-CTC-6, TRA-2)

3.5.2.1 Response TRA-2

Future development at the project site facilitated by the proposed project would improve the circulation network within the project vicinity by providing sidewalks along the project frontages as well as connections to the existing pedestrian facilities in the project area. Project sponsors for future development at the project site would coordinate with the Alameda CTC to ensure implementation of high-quality bike access from surrounding bicycle facilities to the project site, which would adhere to the All Ages and Abilities guidelines adopted by the Alameda CTC for recommended bicycle facilities that include target speed limit, traffic volume, and other operational considerations. In addition, project sponsors for future development at the project site would coordinate with AC Transit to either extend existing bus service or provide new bus service through or near the project, if feasible, as provided in the Proposed TDM Plan and required by Mitigation Measure TRA-1.

In addition, future development on the project site, including the conceptual development project, would be required to implement Mitigation Measure TRA-2, which requires a circulation plan be prepared and approved by the City to ensure that future development would not substantially increase hazards due to a design feature. Implement of Mitigation Measure TRA-2 would also ensure that access to the 1306 Third Street building would not be substantially impeded.

3.5.3 Comment TRA-3: Cumulative Transportation Impacts

This response addresses the following comment:

- Alameda CTC, Letter, 12/4/24 (A-CTC-7, TRA-3)

3.5.3.1 Response TRA-3

As discussed in Section 4.4, Transportation of the Draft EIR, the proposed project, in combination with cumulative projects, would have a less than significant cumulative impact with respect to conflicts with applicable plans, VMT, hazards, and emergency access with implementation of

prescribed mitigation measures (Mitigation Measure TRA-1 and TRA-2) see Draft EIR pages 4.4-26 through 4.4-27.

3.6 AIR QUALITY

The comments and corresponding responses in this section cover Section 4.5, Air Quality, of the Draft EIR. The comment topics relate to:

- **AIR-1:** Cumulative Air Quality Impact
- **AIR-2:** Sensitive Receptors
- **AIR-3:** Odors

3.6.1 Comment AIR-1: Cumulative Air Quality Impact

This response addresses the following comment:

- Public Speaker 1, Planning Commission Transcript, 11/6/24 (I-1-1, AQ-1)

3.6.1.1 Response AIR-1

Section 4.5, Air Quality, of the Draft EIR presents a project-specific air quality analysis that provides an evaluation of potential air quality impacts associated with construction and operation of the proposed project, including the conceptual development project. This air quality analysis included evaluation of potential air quality impacts associated with vehicle emissions based on the anticipated number of vehicle trips to and from the project suite during construction and operation.

As discussed in Section 4.5, Air Quality, of the Draft EIR, with implementation of Mitigation Measures AIR-1 and AIR-2 (which require the implementation of Bay Area Air Quality Management District [BAAQMD] enhanced best management practices [BMP]s for future development located within 500 feet of sensitive receptors and limits architectural coatings to 50 grams per liter or less of volatile organic compounds [VOCs]), future development envisioned under the proposed project and the conceptual development project would not generate construction or operational emissions that exceed established thresholds (refer to Draft EIR pages 4.5-29 through 4.5-33). As shown in the project-specific air quality impacts discussion in Section 4.5, which includes analysis of potential air quality impacts from vehicle emissions, the proposed project would not result in individually significant impacts and cumulative regional air quality impacts of the proposed project would also be less than significant.

However, even with the implementation of Mitigation Measure AIR-3 (which describes off-road construction equipment requirements), health risk levels to nearby residents (i.e., residents from the 1306 Third Street building) from construction-related emissions of toxic air contaminants (TACs) associated with construction of the conceptual development project or any future projects that would not include the demolition of the structure at 1306 Third Street would exceed the BAAQMD's thresholds. In addition, because information regarding operational characteristics of future specific development projects and the associated emissions cannot be determined at the time of this analysis, it is assumed that cumulative growth within the city could result in potential TAC health risks that could cumulatively contribute to elevated health risks in the city. Therefore, in an

abundance of caution, potential TAC health risks are considered a significant impact, even with implementation of mitigation measures. Therefore, the Draft EIR determined cumulative TAC health risk impacts would be significant and unavoidable.

It should be noted that Mitigation Measure AIR-4 requires the project sponsors of future development that does not include demolition of the structure at 1306 Third Street include detailed construction plans and submit a project-specific technical Air Quality Assessment and a Health Risk Assessment (HRA) evaluating construction-related air quality impacts. If the HRA determines that construction-related criteria air pollutants would expose sensitive receptors at 1306 Third Street to pollutant concentrations in exceedance of the cancer risk threshold established by the BAAQMD in effect at the time of recalculation, then the project sponsor shall be responsible for offering and paying for moving and relocation assistance to the residential occupants of the four dwelling units at 1306 Third Street.

3.6.2 Comment AIR-2: Sensitive Receptors

This response addresses the following comment:

- Public Speaker 3, Planning Commission Transcript, 11/6/24 (I-3-5, AQ-2)

3.6.2.1 Response AIR-2

According to the California Air Resources Board (CARB), residents, schoolchildren, the elderly, and hospital patients are all considered sensitive receptors.² The Draft EIR analyzes potential impacts, including those associated with air quality, on all sensitive receptors; however, a focus has been placed on sensitive receptors immediately adjacent or in close proximity to the project site as air quality impacts are typically localized in nature. As more distance is placed between the source of the air pollutant and the sensitive receptor, the impacts of the air pollutant are diffused, reducing the severity of the impact.

As described in Chapter 4.5, Air Quality, Section 4.5.2.1 Significance Criteria, the following criteria were used to determine the area of study for sensitive receptors in the project area:

- Local Community Risk:
 - Be subject to but not comply with a qualified risk reduction plan;
 - Result in an excess cancer risk level of more than 10 in 1 million, or a non-cancer (i.e., chronic or acute) hazard index greater than 1.0 within a 1,000-foot radius; or
 - Result in an incremental increase of greater than 0.3 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual average particulate matter less than 2.5 microns in size ($\text{PM}_{2.5}$) within a 1,000-foot radius.

² California Air Resources Board (CARB). 2025. Sensitive Receptor Assessment. Website: <https://ww2.arb.ca.gov/capp/cst/rdi/sensitive-receptor-assessment> (accessed February 2025).

- In combination with other projects within a 1,000-foot radius of the project site, would result in the exposure of sensitive receptors to TACs resulting in an increased cancer risk greater than 100 in 1 million, an increased non-cancer risk of greater than 10 on the hazard index (chronic), or an ambient PM_{2.5} increase greater than 0.8 µg/m³ on an annual average basis.

In addition, Mitigation Measure AIR-1, BAAQMD Enhanced Best Management Practices for Future Development Projects Located within 500 Feet of Sensitive Receptors, outlines BAAQMD's enhanced best management practices to control fugitive dust emissions for any sensitive receptors within 500 feet of a construction site. Adherence to BAAQMD's air quality thresholds for sensitive receptors, as required by Mitigation Measure AIR-1, is a best industry practice and was prescribed in the Draft EIR.

3.6.3 Comment AIR-3: Odors

This response addresses the following comment:

- Public Speaker 3, Planning Commission Transcript, 11/6/24 (I-3-1, AQ-3)

3.6.3.1 Response AIR-3

As discussed in Section 4.5, Air Quality, of the Draft EIR, Mitigation Measure AIR-6 would require an odor control plan for future development that would include any odor-generating uses, such as Wastewater Treatment Facilities, Wastewater Pumping Facilities, Sanitary Landfill, Transfer Station Composting Facility, Petroleum Refinery, Asphalt Batch Plant, Chemical Manufacturing, Fiberglass Manufacturing, Painting/Coating Operations (e.g., auto body shop), Rendering Plant, Coffee Roaster, Food Processing Facility, Confined Animal Facility/Feed Lot/Dairy, Green Waste and Recycling Operations, or Metal Smelting Plants (refer to Draft EIR page 4.5-52). With implementation of Mitigation Measure AIR-6, the proposed project, including the conceptual development project, would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

If there is an odor during project operation, residents of West Berkeley would be able to report the issue to the applicable regulatory authorities (e.g., the City or BAAQMD). Potential odor violations are investigated and violators are subject to fines and other regulatory sanctions, if necessary. In addition, the City's Environmental Health Division (EHD) oversees various programs to protect public health, which may encompass addressing complaints related to odors, especially if they pose health risks. Residents and business owners are encouraged to report concerns related to odors or other environmental health issues to the EHD. The division provides consultation and inspection services to address these concerns and works collaboratively with the community to resolve issues that may pose health risks. Contact information for the EHD is available on the City of Berkeley's official website.

3.7 GREENHOUSE GAS EMISSIONS

The comments and corresponding responses in this section cover Section 4.6, Greenhouse Gas Emissions, of the Draft EIR. The comment topics relate to:

- **GHG-1:** Mitigation Related to Greenhouse Gas (GHG) Emissions

3.7.1 Comment GHG-1: Mitigation Related to Greenhouse Gas (GHG) Emissions

This response addresses the following comment:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-5, GHG-1)

3.7.1.1 Response GHG-1

GHG emission impacts are inherently cumulative, as individual projects contribute incrementally to the global concentration of GHGs in the atmosphere. Unlike localized air quality impacts, which can be attributed to a specific project's direct emissions in a confined geographic area, GHG emissions have a diffuse, global effect on climate change. Therefore, under CEQA, the evaluation of GHG emissions is based on a project's contribution to the cumulative global emissions rather than a localized threshold of significance.

No single project, by itself, can produce GHG emissions on a scale large enough to result in a significant and unavoidable impact on global climate change. Instead, CEQA analysis focuses on whether a project's GHG emissions, when combined with other sources, cumulatively contribute to climate change in a way that would conflict with state or regional reduction goals established under AB 32, SB 32, and Executive Order S-3-05.

When determining significance, *State CEQA Guidelines* Section 15064.4 directs lead agencies to consider whether the project's GHG emissions are consistent with an applicable Climate Action Plan (CAP), regional GHG reduction plan, or other regulatory framework designed to meet GHG reduction targets. Projects that align with these plans are typically considered to have a less-than-significant cumulative impact, as they contribute to an overall strategy for reducing GHG emissions on a regional or state level.

As described in Chapter 4.6, Greenhouse Gas Emissions, of the Draft EIR, the proposed project, including the conceptual development project, would not include electric vehicle charging stations. Therefore, it would not comply with BAAQMD standards of "achieving compliance with electric vehicle requirements in the most recently adopted version of CALGreen Tier 2." As such, Mitigation Measure GHG-1 requires future development facilitated by the proposed project, including the conceptual development project, to meet all electric vehicle charging requirements. In addition, Mitigation Measure TRA-1, which requires implementation of a TDM Plan, would reduce VMT impacts such that the proposed project and the conceptual development would meet the BAAQMD's recommended project design thresholds related to VMT.

Due to the proposed use of the project site as research and development campus, it is reasonable to assume that future development at the project site facilitated by the proposed project could

propose natural gas usage. Therefore, the proposed project would not be consistent with the BAAQMD design threshold recommending natural gas prohibition, because natural gas may be included in the project design for certain uses allowed under the proposed M-RD zoning district. The City has determined that requiring compliance with the BAAQMD design threshold that completely prohibits natural gas usage is infeasible due to cost-effectiveness considerations, based in part on 2022 studies conducted by the California Public Utilities Commission and the California Energy Commission.³ Furthermore, in 2023 and again in 2024, the Ninth Circuit Court of Appeals held that a City ordinance prohibiting natural gas infrastructure in new construction was preempted by the federal Energy Policy and Conservation Act and was therefore unlawful.⁴ For these reasons, the City, as lead agency for the environmental review of the proposed project, has found that requiring mitigation to prohibit the usage of natural gas in future projects is not feasible. If future development under the proposed project includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would therefore generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. Therefore, the Draft EIR found this impact to be significant and unavoidable.

Based on information provided by the project sponsor for the conceptual development project, the Draft EIR assumes that the conceptual development project would be all electric, and therefore would meet the BAAQMD design thresholds related to electric building standards and electric vehicle (EV) infrastructure requirements.

3.8 HAZARDOUS MATERIALS

The comments and corresponding responses in this section cover Section 4.9, Hazards and Hazardous Materials, of the Draft EIR. The comment topics relate to:

- **HAZ-1:** Risk of Release of Hazardous Materials
- **HAZ-2:** Sea Level/Groundwater Rise and Remediation Methods

3.8.1 Comment HAZ-1: Risk of Release of Hazardous Materials

This response addresses the following comments:

- Public Speaker 1, Planning Commission Transcript, 11/6/24 (I-1-4, HAZ-1)
- Public Speaker 3, Planning Commission Transcript, 11/6/24 (I-3-1, HAZ-1)

3.8.1.1 Response HAZ-1

Section 4.9, Hazards and Hazardous Materials, discusses and addresses potential impacts associated with the risk of release of hazardous materials with implementation of the proposed project and conceptual development project. Future demolition or renovation activities associated with the proposed project, including the conceptual development project, may result in the release of

³ Southern California Edison (SCE). 2022. *2019 Reach Code Cost-Effectiveness Analysis. Full Service and Quick-Service Restaurants*. February.

⁴ United States Court of Appeals for the Ninth Circuit. Filed April 17, 2023. *California Restaurant Association v. City of Berkeley*, (9th Cir. 2023) 65 F. 4th 1045, amended and superseded by (9th Cir. 2024) 89 F.4th 1094. <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/04/17/21-16278.pdf> (accessed June 2024).

polychlorinated biphenyls (PCBs) into the environment from potential PCB contaminated concrete. Subsurface hazardous materials may also be released into the environment during construction and operation associated with future development of the project site, including the conceptual development project. However, adherence to *COA: Toxics* would require that a hazardous building materials survey be conducted and that plans for hazardous waste or hazardous materials removal, reuse, or disposal procedures be prepared by a qualified professional. In addition, implementation of Mitigation Measure HAZ-1 would require that sampling and analysis for PCBs in concrete in certain areas of the project site be included in the hazardous building materials survey. Implementation of Mitigation Measures HAZ-2a through HAZ-2f, which require additional site characterizations and the development of a response plan, detail requirements for vapor mitigation systems (VMS) and utility designs and require avoidance of petroleum fuel pipelines, would control the risk of releasing hazardous materials into the environment during construction and operation. In addition, compliance with *COA: Toxics* and existing regulations, including Occupational Safety and Health Administration and California Occupational Safety and Health Administration regulations, the California Fire Code, the California Health and Safety Code Division 20, Chapter 6.5, California Code of Regulations, Department of Transportation, Resource Conservation and Recovery Act, and other federal, State, regional, and local regulations, would ensure that potential impacts related to spills, leaks, or improper disposal of hazardous materials that would be routinely handled during construction and operation of the proposed project, including the conceptual development project, would be less than significant. Therefore, the Draft EIR addressed the risk of release of hazardous materials associated with future development on the project site and determined that impacts would be less than significant.

3.8.2 Comment HAZ-2: Sea Level/Groundwater Rise and Remediation Methods

This response addresses the following comments:

- East Bay Municipal Utility District (EBMUD), Letter, 12/2/24 (A-EBMUD-6, HAZ-2)
- Public Speaker 1, Planning Commission Transcript, 11/6/24 (I-1-6, HAZ-2)
- Public Speaker 2, Planning Commission Transcript, 11/6/24 (I-2-2, HAZ-2)

3.8.2.1 Response HAZ-2

As discussed in Section 4.9, Hazards and Hazardous Materials, of the Draft EIR, a Response Plan will be prepared for future development on the project site to address the existing hazardous conditions (see Draft EIR page 4.9-5). The Response Plan is anticipated to rely on a number of different remedial and mitigation approaches to protect future users of the project site from environmental exposure, including source reduction (e.g., excavation and off-site disposal, in-situ groundwater treatment, and use of a pugmill or other temporary treatment unit to stabilize environmental constituents in soil), engineering controls (e.g., capping of residual soil contamination and vapor intrusion mitigation systems), and institutional controls (e.g., land use covenants, operational and maintenance plans, and agreements and associated financial assurance) to ensure the long-term protectiveness of the environmental remedy. Once drafted, the Response Plan would require that Department of Toxic Substances Control (DTSC) review and approval prior to issuance of any permit approvals by the City for demolition and construction on the conceptual development project site.

As such, remediation at the project site would not only rely on “capping” as a site remediation method.

Section 4.9 of the Draft EIR also indicates that groundwater contamination in areas of known free product⁵ may undergo treatment that would likely involve excavation to expose free product and then pumping free product from the excavation for disposal and subsequent application of oxygen release compound to facilitate source reduction (see Draft EIR page 4.9-43). The risk of vapor intrusion into future buildings would be mitigated by a passive VMS that is capable of functioning as an active system, if necessary. The passive VMS would allow sub-surface vapors from beneath the building slab to be vented outside the building, and would be composed of a vapor barrier membrane, crushed rock venting layer, a network of vapor collection piping, fresh air inlet vents at the perimeter of each building to facilitate air flow, and ventilation risers that would terminate and exhaust at the roof level. If required, the passive VMS could be converted to an active system with the addition of inline, electric blowers.

Groundwater has been identified to be as shallow as 1.5 feet below the ground surface at the project site, and there is anecdotal evidence of Second Street flooding during periods of intense rainfall. Sea level rise could contribute to a rise in the already shallow groundwater levels at the project site and could also increase the flooding risks at the project site. The design of a VMS typically includes sub-slab venting systems; however, shallow groundwater and flooding could interfere with the functionality of a VMS, because a sub-slab venting system would not function properly if it is beneath groundwater or flooded by surface water. If the shallow groundwater conditions and potential for flooding at the project site are not accounted for in the design of a VMS, then future occupants of the project site could be exposed to vapor intrusion, which would be a potentially significant impact. As required by Mitigation Measure HAZ-2d, any development on the project site that includes a VMS as a component of a Response Plan for remediation of the site shall account for potential shallow groundwater and flooding conditions in the VMS design. With preparation of a Response Plan as discussed above in this response, future development would adequately address the risk of release of hazardous materials associated with sea level and groundwater rise.

As discussed above, mitigation measures have been prescribed that require additional testing (Mitigation Measure HAZ-1) and site characterization of the project site to determine the extent of on-site contamination (Mitigation Measures HAZ-2a and HAZ-2b), and the implementation of a Response Plan (including a Vapor Mitigation System) that would be approved by the DTSC (Mitigation Measures HAZ-2c through HAZ-2e). All known information regarding soil and groundwater quality and the DTSC-approved Response Plan will be submitted to EBMUD.

⁵ Free product is a term used to describe a separate phase liquid (typically petroleum products) that floats on top of the groundwater surface.

3.9 HYDROLOGY AND WATER QUALITY

The comments and corresponding responses in this section cover Section 4.10, Hydrology and Water Quality, of the Draft EIR. The comment topics relate to:

- **HYD-1:** Stormwater

3.9.1 Comment HYD-1: Stormwater

This response addresses the following comments:

- Caltrans, Letter, 12/4/24 (A-Caltrans-6, HYD-1)
- Caltrans, Letter, 12/4/24 (A-Caltrans-7, HYD-1)

3.9.1.1 Response HYD-1

Section 4.10, Hydrology and Water Quality, provides a discussion of stormwater management with implementation of the proposed project. Stormwater runoff during operation of future development facilitated by the proposed project, including the conceptual development project, would be subject to the requirements of the San Francisco Bay Municipal Regional Stormwater Permit (MRP). Any development on the project site that would replace more than 5,000 square feet of impervious surfaces would be required to implement post-construction stormwater management and treatment measures to reduce pollutant loads in runoff in accordance with Provision C.3 of the MRP, which would include the use of Low Impact Design (LID) measures that may include bio-retention treatment areas; flow-through planters; tree wells with media filters; open spaces; catch basin filters; rainwater harvesting, with on-site re-use; and green streets, to reduce runoff pollutant loads. As such, all stormwater runoff from future development at the project site facilitated by the proposed project that may discharge to State Drainage Systems or Facilities in the project area would be treated and managed such that runoff is reduced to preconstruction levels. In addition, future development at the project site facilitated by the proposed project that may discharge stormwater runoff to State Drainage Systems or Facilities in the project area would prepare a drainage design memo that would be provided to Caltrans.

3.10 BIOLOGICAL RESOURCES

The comments and corresponding responses in this section cover Section 4.11, Biological Resources, of the Draft EIR. The comment topics relate to:

- **BIO-1:** Wildlife Protection

3.10.1 Comment BIO-1: Wildlife Protection

This response addresses the following comment:

- Public Speaker 2, Planning Commission Transcript, 11/6/24 (I-2-3, BIO-1)

3.10.1.1 Response BIO-1

Section 4.11, Biological Resources, discusses and addresses potential impacts of the proposed project and conceptual development project on wildlife. As discussed in Section 4.11, the project site is in an urban area of the city and is entirely developed with industrial buildings with manufacturing and warehouse uses. In addition, the project site is not considered an established native resident or migratory wildlife corridor. Common wildlife species that have adapted to urban environments would continue to use the project site after redevelopment. In addition, the project site does not contain any native wildlife nursery sites. Therefore, implementation of the proposed project, including the conceptual development project, would not create substantial interference with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or native wildlife nursery sites. In addition, implementation of Mitigation Measures BIO-1a through BIO-1f would address potential impacts on bats that may be present on the project site. Further, compliance with all applicable City requirements, including BMC Section 23.304.150 (bird safe building requirements) and *COA: Avoid Disturbance of Nesting Birds*, would ensure that all impacts on wildlife from future development on the projects site would be less than significant.

3.11 GEOLOGY AND SOILS

The comments and corresponding responses in this section cover Section 6.3.3, Geology and Soils, of the Draft EIR. The comment topics relate to:

- **GEO-1:** Geologic Hazards

3.11.1 Comment GEO-1: Geologic Hazards

This response addresses the following comments:

- Public Speaker 1, Planning Commission Transcript, 11/6/24 (I-1-5, GEO-1)
- Public Speaker 3, Planning Commission Transcript, 11/6/24 (I-3-2, GEO-1)
- Jai Jai Noire, Letter, 12/5/24 (I-7-2, GEO-1)

3.11.1.1 Response GEO-1

Section 6.3.3, Geology and Soils, of the Draft EIR discusses and addresses potential impacts of the proposed project and conceptual development project on people and structures related to fault rupture at the site (refer to Draft EIR pages 6-9 through 6-11). The project site is generally level with no steep slopes. Therefore, no impacts associated with the topography of the project site are anticipated to occur with development of the project site. The Preliminary Geotechnical Investigation identified the project site as within a liquefaction zone as designated by the California Geological Survey. Final grading, foundation, and building plans must be designed in accordance with the 2022 California Building Code (CBC). These designs would include measures that would address the potential for differential settlement related to liquefaction. Therefore, compliance with the CBC would ensure that the potential impacts associated with liquefaction would be less than significant. Therefore, the Draft EIR addressed impacts related to liquefaction on the project site and determined that impacts would be less than significant.

A significant earthquake on one of the regional faults near the project site, such as the Hayward, Calaveras, San Andreas, San Gregorio, Greenville or Monte Vista-Shannon faults, would likely produce strong to violent ground shaking during the life of the project. Accordingly, the Preliminary Geotechnical Investigation recommends that a site-specific study of how the ground at the project site would respond to seismic activity across a range of frequencies or periods be developed as part of the design-level geotechnical investigation. This would be used to tailor project specific seismic design parameters in accordance with the 2022 CBC. The design and construction of the proposed project is required to conform with, or exceed, current best standards for earthquake-resistant construction in accordance with the 2022 CBC and with the generally accepted standards of geotechnical practice for seismic design in Northern California. Therefore, compliance with the CBC would ensure that the potential impacts associated with ground shaking from an earthquake would be less than significant.

3.12 POPULATION AND HOUSING

The comments and corresponding responses in this section cover Section 6.3.5, Population and Housing, of the Draft EIR. The comment topics relate to:

- **POP-1:** Impacts to Housing

3.12.1 Comment POP-1: Impacts to Housing

This response addresses the following comment:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-4, POP-1)

3.12.1.1 Response POP-1

As described in the Chapter 3.0, Project Description, of the Draft EIR the project site is currently primarily occupied by industrial buildings with manufacturing and warehouse uses, the majority of which are vacant. However, the 1306 Third Street building currently contains seven non-conforming commercial tenant spaces and four non-conforming residential units, three of which are occupied by 11 individuals; the fourth is currently vacant. No other housing is within the project site or immediately adjacent to the project site. The dwelling units were constructed without proper zoning approvals or building permits. Implementation of the proposed project would facilitate development of the entire project site and the analysis in the Draft EIR assumes demolition of all existing structures on the project site. Therefore, implementation of the proposed project may result in the displacement of people and housing.

However, any future development that eliminates the non-conforming residential units would be required to facilitate the relocation of the current residents and would have to comply with City regulations addressing replacement of occupied residential structures as specified in BMC Chapter 23.326 (Demolition and Dwelling Unit Controls). As required by BMC Section 23.326.030(B), demolition of one or more residential units is allowed subject to approval of a Use Permit. To approve the Use Permit, the Zoning Adjustments Board must find that (1) the building containing the residential units is hazardous or unusable and is infeasible to repair, (2) the building containing the residential units will be moved to a different location in the city with no net loss of units and no

change in the rent levels of the units, or (3) the demolition is necessary to permit construction approved pursuant to Chapter 23.326 of at least the same number of residential units. However, BMC Section 23.326.030(B)(3) provides that, in the event of a demolition of a residential unit created without proper zoning approvals or building permits, as with the dwelling units at 1306 Third Street, the Building Official, Zoning Officer, or Fire Marshal may determine that the replacement of such a unit is infeasible and not required. The determination must include a finding that the replacement of the unit could not take place in compliance with the Zoning Code, Building Code, Fire Code, or other regulations related to public health and safety.

As required by BMC Section 23.326.030(E), the project sponsor shall provide all sitting tenants and the Rent Stabilization Board notice of the application to demolish the building, including notice of their rights under BMC Section 13.76 (Rent Stabilization and Eviction for Good Cause Program), Chapter 13.77 (Requirements, Procedures, Restrictions and Mitigations Concerning the Withdrawal of Residential Rental Accommodations from Rent or Lease), 13.79 (Tenant Protections: Automatically Renewing Leases and Buyout Agreements), and 13.84 (Relocation Services and Payments for Residential Tenant Households), and shall provide moving and relocation assistance equivalent to the requirements set forth in BMC Chapter 13.84 or Government Code section 66300.6(b)(4)(A), whichever requires greater relocation assistance to displaced tenants. The project sponsor shall subsidize the rent differential for a comparable replacement unit until the new units are ready for occupancy. Therefore, the proposed project would not result in the displacement of substantial numbers of people or housing requiring the construction of new housing elsewhere in the city, as the 11 existing residents at 1306 Third Street could be accommodated in the existing housing stock within the city. With compliance with City requirements found in the BMC, impacts related to the displacement of people and housing through demolition of the existing structure at 1306 Third Street would be less than significant.

The 1306 Third Street building is outside the boundaries of the conceptual development project; therefore, implementation of the conceptual development project would not include any removal or alteration of the existing building associated with 1306 Third Street. Consequently, demolition and construction associated with the conceptual development project would not displace any people or housing.

During construction of the conceptual development project and future projects that would not include the demolition of the structure at 1306 Third Street, health risk levels to residents from the 1306 Third Street building from construction-related emissions of TACs would exceed the BAAQMD's thresholds, even with the implementation of Mitigation Measure AIR-3 (which details off-road construction equipment requirements). It should be noted that Mitigation Measure AIR-5 requires the project sponsors of future development that meet certain thresholds to submit a project specific technical Air Quality Assessment and an HRA evaluating construction-related air quality impacts. If the HRA determines that construction-related criteria air pollutants would expose sensitive receptors to pollutant concentrations in exceedance of the cancer risk threshold established by the BAAQMD in effect at the time of recalculation, then the project sponsor shall be responsible for offering and paying for moving and relocation assistance to the residential occupants impacted.

3.13 UTILITIES AND SERVICE SYSTEMS

The comments and corresponding responses in this section cover Section 6.3.8, Utilities and Service Systems, of the Draft EIR. The comment topics relate to:

- **UTL-1:** Water Supply and Service
- **UTL-2:** Wastewater Service
- **UTL-3:** Natural Gas Infrastructure

3.13.1 Comment UTL-1: Water Supply and Service

This response addresses the following comments:

- EBMUD, Letter, 12/2/24 (A-EBMUD-3, UTL-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-4, UTL-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-5, UTL-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-9, UTL-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-10, UTL-1)

3.13.1.1 Response UTL-1

A Water Supply Assessment (WSA) was submitted and approved by EBMUD on May 23, 2023 (provided as Appendix K of the Draft EIR). The WSA indicated that EBMUD would have adequate water supply to provide water service to development facilitated by the proposed project, including the conceptual development project. Therefore, EBMUD's WSA requirement was met. Further, future users of the site would be required to comply with Policy EM-26 of the City's General Plan that promotes water conservation through City programs and requirements, including cooperation with EBMUD to make recycled water available for irrigation and other uses. Future development facilitated by the proposed project would comply with General Plan Policy EM-26 by incorporating water conservation measures into the design of future development facilitated by the proposed project, including the conceptual development project, which would ensure efficient use of water at the project site, and minimize the potential water demand. In addition, the individual project sponsors would also be required to comply with the *COA: Water Efficient Landscaping*, which requires compliance with the State's Model Water Efficient Landscape Ordinance and meets EBMUD requirements.

Water service to future development facilitated by the proposed project would be individually metered in compliance with Section 537 of California's Water Code and Section 1954.201-219 of California's Civil Code. Future development on the on the project site that would be subject to Section 537 of California's Water Code and Section 1954.201-219 of California's Civil Code would provide evidence to the EBMUD that these requirements would be met. In addition, project sponsors of future development at the project site would contact EBMUD's New Business Office once development plans are finalized to request a water service estimate and to determine conditions for the provision of water service.

3.13.2 Comment UTL-2: Wastewater Service

This response addresses the following comments:

- EBMUD, Letter, 12/2/24 (A-EBMUD-7, UTL-2)
- EBMUD, Letter, 12/2/24 (A-EBMUD-8, UTL-2)

3.13.2.1 Response UTL-2

As discussed in Section 4.9, Hazards and Hazardous Materials, of the Draft EIR, mitigation measures have been prescribed that require the Response Plan for remediation of the site prior to development of the project site to include procedures for installation of utilities through areas of subsurface contamination or elevated methane to create clean utility corridors (e.g., through remediation of subsurface contamination and placement of clean fill) (Mitigation Measure HAZ-2e). In addition, future development would not use any of EBMUD's wet weather treatment capacity and the property owners would be responsible for maintaining their private sewer laterals and site plumbing to ensure no water infiltration and inflow enters the sewer system pursuant to BMC Sections 17.24.030(A)(2), 17.24.030(A)(3), and 17.06.020. Further, all proposed construction activity within the Second Street right-of-way would be coordinated with EBMUD so that the integrity of the existing pipeline within the Second Street right-of-way is maintained, and no permanent acquisition of Second Street would be required. With implementation of Mitigation Measure HAZ-2e, EBMUD's mitigation requests have been met.

3.13.3 Comment UTL-3: Natural Gas Infrastructure

This response addresses the following comment:

- Public Speaker 3, Planning Commission Transcript, 11/6/24 I-3-3, UTL-3)

3.13.3.1 Response UTL-3

Future development at the project site would be required to provide connections to surrounding utility infrastructure, including natural gas, if proposed, and to demonstrate that development would not impact this existing infrastructure. Therefore, future development facilitated by the proposed project would not impact the existing gas line within the Eastshore Highway right-of-way. In addition, before undertaking any digging or excavation projects contractors would use the Underground Service Alert (USA North 811) service to prevent accidental damage to underground utilities such as gas, water, electrical, and telecommunication lines

3.14 ALTERNATIVES

The comments and corresponding responses in this section cover comments related to project alternatives. The comment topics relate to:

- **ALT-1:** Alternative Selection Process

3.14.1 Comment ALT-1: Wildlife Refuge Area

This response addresses the following comment:

- Jai Jai Noire, Letter, 12/5/24 (I-7-3, ALT-1)
- Commissioner Orbuch, Landmarks Preservation Commission, 11/7/24 (A-ORB-1, ALT-2)

3.14.1.1 Response ALT-1

Chapter 5.0, Alternatives, of the Draft EIR analyzed potential alternatives to the proposed project. PRC Section 21100(b)(4) states that an EIR shall include a detailed statement setting forth alternatives to the project. Under the *State CEQA Guidelines*, the range of alternatives to the proposed project should include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more significant effects. The following alternatives to the project were evaluated in the Draft EIR: No Action alternative, General Plan Compliant alternative, and Reduced Development alternative. These alternatives represent a reasonable range of potential alternatives to the proposed project in light of the objective of avoiding or reducing the severity of significant and unavoidable impacts and/or impacts identified as less than significant with mitigation. Four alternatives, including off-site locations, a reduced parking alternative, the relocation of the existing structure at 1306 Third Street, and a historic preservation alternative were considered but ultimately rejected from further analysis.

Under the *State CEQA Guidelines*, the Lead Agency must consider a reasonable range of alternatives that would feasibly attain all or most of the project objectives but would avoid or substantially lessen any of the significant impacts of the proposed project. An EIR need not consider *all* potential alternatives to the project. Rather, CEQA requires that the EIR discuss only a “reasonable range” of alternatives.

CEQA does not require that the EIR study every specific alternative proposed by the public or other agencies. The Lead Agency must make a good faith effort to identify and study a reasonable range of appropriate alternatives to the proposed project.

To summarize, the Draft EIR must include alternatives that are:

1. Potentially feasible,
2. Attain most of the basic objectives of the project, and
3. Avoid or substantially lessen any of the significant effects of the project.

Under CEQA, a Lead Agency may structure its alternatives analysis around a reasonable definition of a fundamental underlying purpose, and need not study alternatives that cannot achieve that basic purpose. An EIR need not consider alternatives that are infeasible (*State CEQA Guidelines* Section 15126.6).

CEQA establishes no legal imperative as to the scope of alternatives to be analyzed in an EIR, and there is no set number of alternatives that must be analyzed to fulfill the requirements of CEQA. Rather, as stated in Section 15126.6 of the *State CEQA Guidelines* and supported by abundant CEQA

case law, the range of alternatives required in an EIR is governed by the “rule of reason,” which requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.

In summary, the Draft EIR followed the requirements of CEQA in identifying a range of reasonable alternatives to the project, or to the location of the project, that feasibly attain the project’s basic objectives while avoiding or substantially lessening significant adverse environmental effects of the project for consideration by City decision-makers.

Regarding the suggestion that the site be considered for reclamation as a wildlife refuge, the site is currently zoned for industrial, manufacturing, and warehouse uses and the proposed project evaluates the potential environmental effects of rezoning the site to allow a different, but substantially similar type of use (R&D). Although the suggested alternative would presumably reduce or avoid some of the significant impacts of the project, including those related to project construction (building) activities, it would fail to meet all of the basic objectives of the project. Specifically, the project site would not be revitalized into a vibrant urban campus-like environment with in-demand industrial and heavy commercial uses consistent with the intent of the Manufacturing land use designation that add significantly to the City’s economic base and facilitate job creation.

3.15 NON-CEQA

The comments and corresponding responses in this section cover non-CEQA related comments. The comment topics relate to:

- **NON-1:** Introductions and Conclusions
- **NON-2:** Development Agreements for Future Development Projects
- **NON-3:** Need for Biotech Campuses in the City
- **NON-4:** Parking
- **NON-5:** Congestion Management Program (CMP) Analysis
- **NON-6:** Allowable Uses in the Proposed M-RD Zone

3.15.1 Comment NON-1: Introductions/Conclusions, Background of the Commentor, and Summary of the Project

This response addresses the following comments:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-1, NON-1)
- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-9, NON-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-1, NON-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-2, NON-1)
- EBMUD, Letter, 12/2/24 (A-EBMUD-11, NON-1)
- Alameda CTC, Letter, 12/4/24 (A-CTC-1, NON-1)
- Alameda CTC, Letter, 12/4/24 (A-CTC-8, NON-1)
- Caltrans, Letter, 12/5/24 (A-Caltrans-1, NON-1)
- Caltrans, Letter, 12/5/24 (A-Caltrans-2, NON-1)

- Caltrans, Letter, 12/5/24 (A-Caltrans-8, NON-1)
- Public Speaker 2, Planning Commission Transcript, 11/6/24 (I-2-1, NON-1)
- Public Speaker 2, Planning Commission Transcript, 11/6/24 (I-2-4, NON-1)
- Public Speaker 3, Planning Commission Transcript, 11/6/24 (I-3-6, NON-1)
- Allan Moore, Planning Commission Transcript, 11/6/24 (I-4-1, NON-1)
- Allan Moore, Planning Commission Transcript, 11/6/24 (I-4-5, NON-1)
- Scott Robinson, Planning Commission Transcript, 11/6/24 (I-5-1, NON-1)
- Tim Southwick, Planning Commission Transcript, 11/6/24 (I-6-1, NON-1)
- Jai Jai Noire, Letter, 12/5/24 (I-7-1, NON-1)
- Allan Moore, Letter, 12/2/24 (O-1-1, NON-1)
- Allan Moore, Letter, 12/2/24 (O-1-5, NON-1)
- Allan Moore, Letter, 12/2/24 (O-1-35, NON-1)

3.15.1.1 Response NON-1

These comments are introductory, provide the background information of the commenter, briefly summarize the proposed project, and conclude the comment or comment letter. As these comments do not contain any substantive comments or questions about the environmental analysis or conclusions contained in the Draft EIR, no further response is required.

3.15.2 Comment NON-2: Development Agreements for Future Development Projects

This response addresses the following comment:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-7, NON-2)

3.15.2.1 Response NON-2

As discussed in Section 3.3, Project Background and Objectives, of the Draft EIR, the City Council referred to the Planning Commission the creation of a zoning overlay at the project site to facilitate redevelopment that would contribute to the City's tax base and the vitality of the local economy (refer to Draft EIR pages 3-33 through 3-34). Accordingly, the City developed the proposed project to provide a new set of zoning regulations as part of a new district that meet the Council objective and revitalize the underutilized project site. Further, one objective of the proposed project is to establish an M-RD zoning district to retain a diversity of dense, high-quality employment opportunities in West Berkeley for people at all educational levels by allowing for a mix of industrial and heavy commercial uses, such as light manufacturing, R&D, laboratory, and office. Therefore, the proposed project evaluated in the Draft EIR would facilitate redevelopment of the site in furtherance of the project objectives and would require implementation of a TDM Plan (Mitigation Measure TRA-1), which includes shuttle service. The use of a Development Agreement⁶ as part of any future development project is at the discretion of the future project sponsors.

⁶ Berkeley Municipal Code Chapter 22.16.

3.15.3 Comment NON-3: Need for Biotech Campuses in the City

This response addresses the following comment:

- Vice Chair Finacom, Landmarks Preservation Commission Transcript, 11/7/24 (A-FIN-5, NON-3)

3.15.3.1 Response NON-3

The Draft EIR evaluated two project elements: the Gilman Gateway Rezone Project (proposed project), which would establish a new zoning district (M-RD), rezone the project site, and amend the Berkeley General Plan and West Berkeley Plan, and the Potential Berkeley Forge Development (conceptual development project), which could result in the development of a portion of the project site (conceptual development project site) with approximately 900,000 square feet of light manufacturing, R&D, laboratory, and/or office uses. Although the proposed project and conceptual development project could facilitate development of a new biotechnology campus on the project site, future development of the project site could consist of any of the identified allowable uses for the new M-RD zoning district, as provided in Table 3.C, Allowed Uses in Manufacturing Districts, in Chapter 3.0, Project Description, of the Draft EIR (refer to Draft EIR pages 3-40 through 3-42).

Under CEQA, the environmental review process focuses on evaluating the specific project as proposed by the applicant or lead agency. CEQA's purpose is to assess the potential environmental impacts of the project and to identify feasible mitigation measures or alternatives that can reduce or avoid significant impacts. However, CEQA does not dictate or require changes to the underlying land use or the proposed nature of the project, nor does it require agencies to approve or deny a project based on potential alternative uses.

The *State CEQA Guidelines* emphasize that the environmental review should analyze the project as defined by the applicant while ensuring that its impacts are fully disclosed and mitigated where feasible. This means CEQA evaluates how the project's design, scale, operations, and location interact with environmental factors such as air quality, water resources, biological resources, and traffic, rather than imposing specific mandates on what the project should be used for.

3.15.4 Comment NON-4: Parking

This response addresses the following comment:

- Public Speaker 1, Planning Commission Transcript, 11/6/24 (I-1-2, NON-4)

3.15.4.1 Response NON-4

As discussed in Section 4.4, Transportation, the proposed project would facilitate future development of up to 1,005,266 square feet of non-residential space. Based on comments received on the Draft EIR and proposed M-RD zoning district, the City has revised the M-RD zoning district standards to remove the minimum off-street parking requirement (refer to Chapter 4.0, Draft EIR Text Revisions, of this Final EIR). The conceptual development project would continue to result in up to 1,900 automobile parking spaces on an approximately 10.26-acre portion of the site.

Although the proposed M-RD district would no longer require off-street parking, it should be noted that the district would not include a maximum parking requirement, and future project sponsors would likely provide the amount of parking demanded by the type of use constructed. Even though the conceptual development project would exceed the minimum parking requirement in the M-RD zoning district, the additional parking would not result in any secondary environmental impacts beyond those described in this Draft EIR. With implementation of Mitigation Measure TRA-1, which requires implementation of the Proposed TDM Plan, and Mitigation Measure TRA-2, which requires project-specific circulation plans be developed for individual development projects in coordination with the City, the proposed project and the conceptual development project would result in a less than significant impact associated with secondary effects from parking implementation.

3.15.5 Comment NON-5: CMP Analysis

This response addresses the following comment:

- Alameda CTC, Letter, 12/4/24 (A-CTC-2, NON-5)

3.15.5.1 Response NON-5

Although VMT (not level of service [LOS]) is the only legally acceptable threshold for analyzing the transportation-related environmental impacts of land use projects pursuant to CEQA, the Alameda County CMP legislation requires project sponsors to evaluate the effects of the project on the CMP network of roads outside of CEQA. The CMP analysis performed as part of the Transportation Impact Analysis (TIA) used volume-to-capacity (V/C) ratios to assess the impact of vehicle volumes on roadway segments. The results of the CMP analysis determined that buildout of the conceptual development project would not result in a substantial effect on the analyzed CMP roadway segments because it would not result in any of the analyzed CMP segments to deteriorate from LOS E to LOS F or increase the V/C ratio by 0.03 or more on segments that operate at LOS F under existing conditions. The TIA can be found as Appendix E, Transportation Impact Analysis, of the Draft EIR.

3.15.6 Comment NON-6: Allowable Uses

This response addresses the following comments:

- Scott Robinson, Planning Commission Transcript, 11/6/24 (I-5-2, NON-6)
- Tim Southwick, Planning Commission Transcript, 11/6/24 (I-6-2, NON-6)
- Tim Southwick, Planning Commission Transcript, 11/6/24 (I-6-3, NON-6)
- Allan Moore, Letter, 12/2/24 (O-1-2, NON-6)
- Allan Moore, Letter, 12/2/24 (O-1-31, NON-6)

3.15.6.1 Response NON-6

The project site is currently designated as Manufacturing (M) in the City's General Plan. Table 3.C, Allowable Uses in Manufacturing Districts, lists the allowable uses within the existing M zoning district, the proposed M-RD zoning district, and other manufacturing zoning districts in the city. As shown in Table 3.C, vehicle wash is not permitted under the existing M district or the proposed M-RD district. In addition, standalone food service establishments under 20,000 square feet and

incidental food service establishments under 5,000 square feet would be allowed within the proposed M-RD district, subject to approval of an Administrative Use Permit, incidental food service establishments over 5,000 square feet would be allowed subject to approval of a Use Permit, and standalone food service establishments over 20,000 square feet would not be allowed. Although the proposed M-RD district would prohibit certain land uses, existing legal uses at the project site would be able to continue to operate under the proposed new zoning district pursuant to BMC Section 23.324.040, Nonconforming Uses, as they would have been lawfully established before the effective date of the M-RD zoning district.

3.15.7 Comment NON-7: Community Character

This response addresses the following comments:

- Vice Chair Ghosh, Planning Commission Transcript, 11/6/24 (A-GHOSH-8, AES-1)
- Allan Moore, Letter, 12/2/24 (O-1-28, AES-2)
- Allan Moore, Letter, 12/2/24 (O-1-34, AES-2)

3.15.7.1 Response AES-1

As stated in Section 6.3.1, Aesthetics, of the Draft EIR, an evaluation of aesthetic impacts, including the proposed project's potential impact related to community character, is not required under CEQA pursuant to PRC Section 21099(d)(1) as the proposed project, including the conceptual development project, meets the definition of an "employment center project" on an infill site within a transit priority area in an urbanized area (refer to Draft EIR page 6-8). Under CEQA, potential aesthetic impacts of projects in urbanized areas are determined by consistency with zoning or other regulations governing scenic quality, not views from private buildings (*State CEQA Guidelines* Appendix G, Aesthetics (c)).

Future development on the project site facilitated by the proposed project, including the conceptual development project, would obtain the proper zoning and design review permits, as required by BMC Chapter 23.406, Specific Permit Requirements, and would be subject to the applicable development standards and zoning requirements related to light and glare in the BMC, including a finding of non-detriment. For these reasons, redevelopment of the project site would not result in substantial impacts related to aesthetics, and the proposed project would be consistent with the surrounding community character, and the greater West Berkeley area.

3.15.8 Comment NON-8: Design Standards for the Proposed Project

This response addresses the following comments:

- Vice Chair Finacom, Landmarks Preservation Commission, 11/7/24 (A-FIN-3, AES-2)
- Commissioner Orbuch, Landmarks Preservation Commission, 11/7/24 (A-ORB-4, AES-2)
- Allan Moore, Letter, 12/2/24 (O-1-12, AES-2)
- Allan Moore, Letter, 12/2/24 (O-1-24, AES-2)

3.15.8.1 Response NON-8

As previously discussed under Response AES-1, an evaluation of aesthetic impacts is not required pursuant to PRC Section 21099(d)(1) as the proposed project, including the conceptual development project, meets the definition of an “employment center project” on an infill site within a transit priority area. Proposed project elements that relate to changes to aesthetic conditions at the project site and vicinity, such as proposed building heights, architecture, and the design of the development, among others, will, however, be considered as part of the zoning permit approval process, including through design review. Pursuant to BMC Section 24.406.070, the design review process ensures that new developments and significant remodels are consistent with the City's Design Guidelines and other applicable City design standards and guidelines. The Design Review Committee (DRC) conducts the process, which evaluates proposed projects for building and site design. Projects subject to design review typically include those located in commercial districts or subject to discretionary approvals. Public input is encouraged during the review process to promote transparency and community engagement. The DRC may suggest design changes or conditions to ensure that projects contribute positively to the city’s urban landscape.

3.15.9 Comment NON-9: Project Signage

This response addresses the following comments:

- Vice Chair Finacom, Landmarks Preservation Commission, 11/7/24 (A-FIN-4, AES-3)
- Commissioner Orbuch, Landmarks Preservation Commission, 11/7/24 (A-ORB-3, AES-3)

3.15.9.1 Response NON-9

As previously discussed, an evaluation of aesthetic impacts is not required pursuant to PRC Section 21099(d)(1), as the proposed project, including the conceptual development project, meets the definition of a “employment center project” on an infill site within a transit priority area. Proposed project elements that relate to changes to aesthetic conditions at the project site and vicinity, such as proposed size and location of signage, would, however, be considered as part of the planning approval process, including through design review. In addition, all future development at the project site would be subject to the provisions of Title 20, Signs, including Chapter 20.32, Manufacturing District Regulations, which include regulations related to the type, size and number of signs that can be constructed in Manufacturing districts.

4.0 DRAFT EIR TEXT REVISIONS

This chapter presents specific changes to the text of the Draft Environmental Impact Report (EIR) in response to comments on the Draft EIR that are being made to clarify and supplement materials in the Draft EIR. The revised text does not provide new information that would result in any new significant impact not already identified in the Draft EIR or a substantial increase in the severity of an impact identified in the Draft EIR that cannot be mitigated to a less than significant level with implementation of mitigation measures agreed to by the project sponsor. Thus, none of the text revisions would require recirculation pursuant to *State CEQA Guidelines* Section 15088.5. The Draft EIR and this response to comments document together constitute the Final EIR for the Gilman Gateway Rezone Project. In the revisions shown below, added text is indicated with double underlined text. Text deleted is shown in ~~strikeout~~.

4.1 REVISIONS TO CHAPTER 2.0, SUMMARY

Upon further review, the *City Condition of Approval (COA): Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the Gilman Gateway Rezone Project (proposed project), including the conceptual development project, could result in impacts related to vehicle miles traveled (VMT), or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, Mitigation Measure TRA-1, which requires the implementation of the proposed Transportation Demand Management Plan for the Gilman Gateway Rezone Project (Proposed TDM Plan), has been prescribed and the numbering of the mitigation measures has been revised.

Section 2.3.1, Significant Impacts, Page 2-3

- Transportation (VMT, transportation hazards and emergency access)

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR, Page 2-9

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
4.1: LAND USE AND PLANNING						
<p>Impact LU-2: The proposed project, including the conceptual development project, would not conflict with the provisions of applicable plans, policies, or regulations adopted for the purpose of avoiding or mitigation of an environmental effect, including those identified in the Berkeley General Plan, West Berkeley Plan, Zoning Ordinance, and Plan Bay Area 2050.</p>	<p><u>SLTS</u></p>	<p>No mitigation required. <u>Mitigation Measure TRA-1.</u> <u>(see below)</u></p>	<p><u>Yes-</u></p>	<p><u>LTSM-</u></p>	<p><u>Yes-</u></p>	<p><u>LTSM-</u></p>
4.4: TRANSPORTATION						
<p>Impact TRA-1: Implementation of the proposed project, including the conceptual development project, would not conflict with any program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.</p>	<p>LTS</p>	<p>No mitigation required.</p>	<p>-</p>	<p>-</p>	<p>-</p>	<p>-</p>
<p>Impact TRA-2: The proposed project, including the conceptual development project, would not could result in VMT impacts, or conflict or be inconsistent with <i>State CEQA Guidelines</i> Section 15064.3, subdivision (b).</p>	<p><u>SLTS</u></p>	<p>No mitigation required. <u>Mitigation Measure TRA-1: Transportation Demand Management Plan.</u> <u>Prior to occupancy, the project sponsor shall submit evidence to the City that the future development implements the proposed Transportation Demand Management Plan for the Gilman Gateway Rezone Project (Proposed TDM Plan). As detailed in the Proposed TDM Plan, the following TDM strategies shall be implemented:</u></p> <ul style="list-style-type: none"> • <u>Shuttle Service: Future development facilitated by the proposed project would be required to provide shuttle service between the project site, the North Berkeley BART station, and the Berkeley Amtrak station during weekday peak commute periods (6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m.). If feasible, the project would also coordinate the shuttle service with existing shuttle services, and/or other employers in West Berkeley.</u> 	<p><u>Yes-</u></p>	<p><u>LTSM-</u></p>	<p><u>Yes-</u></p>	<p><u>LTSM-</u></p>

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
		<ul style="list-style-type: none"> ● <u>Extend or Provide New Bus Service: If feasible, future development facilitated by the proposed project would be required to coordinate with AC Transit to either extend existing bus service or provide new bus service through or near the project area.</u> ● <u>Bicycle Storage, Lockers, Showers, and Repair Station for Cyclists: Future development facilitated by the proposed project would be required to provide bike lockers, showers, personal lockers, and a repair station on-site to encourage bicycling to the site.</u> ● <u>Bikeshare Station: Future development facilitated by the proposed project would be required to coordinate with the City and/or regional agencies to facilitate the potential installation of a bikeshare station in the project area.</u> ● <u>Carpool/Ride-Matching Service: Future development facilitated by the proposed project would be required to offer carpool/ride-matching services to pair employees interested in forming commute carpools.</u> ● <u>Free Parking for Carshare: Future development facilitated by the proposed project would be required to provide free parking to carshare companies.</u> ● <u>Preferential Parking for Carpools: Future development facilitated by the proposed project would be required to include free parking for carpoolers.</u> ● <u>Transit Subsidy: Future development facilitated by the proposed project would require tenants to provide full or partial transit subsidies to employers.</u> ● <u>Pre-tax Commuter Benefits: Future development facilitated by the proposed project would require tenants to provide pre-tax commuter benefits for employers.</u> 				

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
		<ul style="list-style-type: none"> <u>Ongoing Marketing and Information: Future development facilitated by the proposed project would be required to regularly provide tenants and employees information about various transportation options in the area and about the TDM strategies provided by the project. In addition, the project sponsor would be required to provide information on the Bay Area Commuter Benefits Program to all tenants. As of September 30, 2014, Bay Area employers with 50 or more full-time employees within the Bay Area Air Quality Management District (Air District) geographic boundaries are required to register and offer commuter benefits to their employees to comply with Air District Regulation 14, Rule 1, also known as the Bay Area Commuter Benefits Program. Employers must select one of four Commuter Benefit options to offer their employees: a pre-tax benefit an employer-provided subsidy, employer provided transit or an alternative commute benefit.</u> <p><u>On an annual basis for ten years thereafter, the project sponsor shall submit a report that demonstrates the project complies with the applicable requirements. After three years of timely compliant submittals, the City has the option to accept less frequent submittals (minimum one every three years).</u></p>				
<p>Impact TRA-3: Circulation modifications associated with future development of the project site, including the conceptual development project, have the potential to substantially increase hazards due to a design feature.</p>	S	<p>Mitigation Measure TRA-21: Circulation Plan. Project-specific circulation plans shall be developed for individual development projects in coordination with the City. The Circulation Plans shall be designed to meet City standards in order to preclude hazards due to design features and allow for improved emergency vehicle access. The Circulation Plans shall include details pertaining, but not limited, to potential street modifications, identification of new facility location,</p>	Yes	LTSM	Yes	LTSM

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
		ingress and egress for the project site as a whole and individual facilities like parking lots or loading docks, speed, turning movements, complex designs, substantial distance between street crossings, and sight lines. Prior to final project approvals, the project sponsor shall submit a final circulation plan for City approval.				
Impact TRA-4: Circulation modifications associated with future development of the project site, including the conceptual development project, have the potential to result in inadequate emergency access.	S	Mitigation Measure TRA-21. (see above)	Yes	LTSM	Yes	LTSM
4.5: AIR QUALITY						
Impact AIR-1: Implementation of the proposed project, including the conceptual development project would not conflict with or obstruct the implementation of the San Francisco Bay Area Clean Air Plan.	<u>S</u> LTS	No mitigation required. Mitigation Measure TRA-1. (see above)	<u>Yes</u> -	<u>LTSM</u> -	<u>Yes</u> -	<u>LTSM</u> -
4.6: GREENHOUSE GAS EMISSIONS						
Impact GHG-1a: If future development under the proposed project includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would therefore generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. The proposed project does not include a prohibition on the use of natural gas appliances or natural gas plumbing and therefore would not meet the project design thresholds recommended by the BAAQMD. As a result, it would therefore generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. The proposed project does not	S	Mitigation Measure GHG-1: Electric Vehicle Charging Requirements. Prior to the approval of building permits for future development envisioned under the Manufacturing, Research and Development (M-RD) zoning district, including the conceptual development project, in order to meet the Bay Area Air Quality Management District (BAAQMD) greenhouse gas (GHG) threshold requirements, the project sponsor shall present documentation to the satisfaction of the City of Berkeley Planning Department that the project shall provide electric vehicle charging capabilities that meet the requirements of the latest version of the California Green Building Standards Code (CALGreen Code) Tier 2 Voluntary Standards as part of the final project designs.	Yes	SU	Yes	SU

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
<u>comply with the CALGreen Tier 2 Voluntary Standards for electric vehicle parking spaces.</u>						
<p>Impact GHG-1b: The conceptual development project would meet the project design thresholds recommended by the BAAQMD and would therefore not generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. <u>The conceptual development project would not meet the CALGreen Tier 2 Voluntary Standards for electric vehicle charging requirements, nor the BAAQMD’s VMT threshold, and therefore could generate GHG emissions, either directly or indirectly, during operations that would have a significant effect on the environment. However, the conceptual development project would not include natural gas appliances or plumbing, and therefore would be consistent with the specific project design threshold recommended by the BAAQMD.</u></p>	S	<p>Mitigation Measure GHG-1. (see above)</p> <p>Mitigation Measure TRA-1. (see above)</p>	Yes	LTSM	Yes	LTSM
<p>Impact GHG-2a: If future development at the project site includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B 30-15, EO B 48-18, and AB 1279. Accordingly, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. <u>The proposed project does not include a prohibition on the use of natural gas appliances or natural gas plumbing</u></p>	S	<p>Mitigation Measure GHG-1. (see above)</p>	Yes	SU	Yes	SU

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
<p><u>and therefore would not meet the project design thresholds recommended by the BAAQMD and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets required in Assembly Bill (AB) 32, Senate Bill (SB 32), Executive Order (EO) B-30-15, EO B-48-18, and AB 1279. Accordingly, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. The proposed project does not comply with the CALGreen Tier 2 Voluntary Standards for electric vehicle parking spaces.</u></p>						
<p>Impact GHG-2b: The conceptual development project would meet the project design thresholds recommended by the BAAQMD and would therefore be considered consistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B-30-15, EO B-48-18, and AB 1279. Accordingly, the conceptual development project would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. <u>The conceptual development project would not meet the CALGreen Tier 2 Voluntary Standards for electric vehicle charging requirements, nor the BAAQMD's VMT threshold, and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B-30-15, EO B-48-18, and AB 1279. However, the conceptual development project would not include natural gas appliances or</u></p>	S	<p>Mitigation Measure GHG-1. (see above)</p> <p>Mitigation Measure TRA-1. (see above)</p>	Yes	LTSM	Yes	LTSM

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
<u>plumbing, and therefore would be consistent with that project design thresholds recommended by the BAAQMD.</u>						
4.7: ENERGY						
Impact EN-1: Implementation of the proposed project, including the conceptual development project, would not result in the wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.	<u>S</u> LTS	No mitigation required. Mitigation Measure TRA-1. <u>(see above)</u>	<u>Yes-</u>	<u>LTSM-</u>	<u>Yes-</u>	<u>LTSM-</u>
4.9: HAZARDS AND HAZARDOUS MATERIALS						
Impact HAZ-5: Circulation modifications associated with future development of the project site, including the conceptual development project, have the potential to impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	S	Mitigation Measure TRA-21. <u>(see above)</u>	Yes	LTSM	Yes	LTSM
Impact HAZ-2: Future demolition or renovation activities associated with the proposed project, including the conceptual development project, may result in the release of PCBs into the environment from potential PCB-contaminated concrete. Subsurface hazardous materials may also be released into the environment during construction and operation associated with future development of the project site, including the conceptual development project.	S	Mitigation Measure HAZ-2b: Additional Site Characterization For The Project Area Not Previously Characterized the Potential Berkeley Forge Development. <u>The project sponsor shall perform additional investigation to evaluate potential subsurface contamination associated with environmental concerns identified by Phase I and II ESAs, as attached to the Draft EIR, that have not been evaluated by subsurface investigations performed to date (e.g., railroad tracks on and adjacent to the conceptual development project site, the former truck service facility in the northeast corner of the Berkeley Forge and Tool properties, some former machine shops, an oil AST surrounded by staining in the western portion of the Berkeley Forge and Tool properties, former USTs in the eastern portion of the Berkeley Forge and Tool properties, and various pits/sumps and runoff/wastewater</u>	No <u>Yes</u>	LTSM	Yes	LTSM

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
		<p><u>collection/conveyance systems – all as identified in previous Phase I and II ESAs), as well as the past use of the Clearflow Valves facility and eastern adjacent building as machine shops.</u></p> <p>The project sponsor of the conceptual development project shall provide the Department of Toxic Substances Control (DTSC) with all available Phase I Environmental Site Assessments (ESAs) prepared for properties within <u>the conceptual development project site</u> that have not previously been provided to DTSC for review. The findings of all available Phase I and Phase II ESAs shall be accounted for in the investigation and <u>characterization of future development projects.</u> the conceptual development project if determined to be necessary by DTSC, additional investigation and characterization of the conceptual development project site shall be performed prior to preparation of a Response Plan. As part of the environmental clearance required for the conceptual development project by COA: <i>Toxics (C)</i>, the project sponsor shall provide the City with evidence of DTSC approval of additional investigation and characterization activities prior to the City issuing any demolition or construction related permits for any ground disturbing activities.</p>				

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
	S	<p>Mitigation Measure HAZ-2c: Subsurface PCBs Contamination at the Potential Berkeley Forge Development Project Site. The Response Plan for conceptual development project <u>any future development</u> shall address the previous detections of PCBs in shallow soil at concentrations exceeding commercial/industrial screening levels in the area identified as PCB Spill 2, in addition to other known contamination and potential unidentified contamination at the Potential Berkeley Forge Development project <u>project</u> site. As part of the environmental clearance required for any the conceptual development <u>future development</u> by COA: Toxics (C), the project sponsor shall provide the City with evidence of DTSC approval of the Response Plan prior to the City issuing demolition or construction related permits for any ground disturbing activities, and implementation of the Response Plan and establishment of any necessary institutional controls prior to the City issuing a certificate of occupancy.</p>	No <u>Yes</u>	LTSM	Yes	LTSM
4.10: Hydrology and Water Quality						
<p>Impact HYD-3: Alteration of drainage patterns that could occur with the conceptual development project could exceed the capacity of stormwater drainage systems and result in flooding. <i>(Less than Significant with Mitigation)</i></p>	S	<p>Mitigation Measure HYD-3: Hydraulic Study of Drainage during Construction and Operation for the Proposed Project and the Potential Berkeley Forge Development. The project sponsor for the conceptual development project <u>and any other future development on the project site that has the potential to alter drainage patterns at the project site</u> shall prepare a hydraulic study to evaluate whether the existing and proposed stormwater drainage systems that would receive runoff from the project site would be capable of conveying 10-year peak runoff from the project site. The hydraulic study shall evaluate stormwater runoff patterns and proposed temporary and permanent stormwater conveyance systems during all construction and operational phases of <u>future projects</u>, including surface runoff flow directions,</p>	No <u>Yes</u>	LTSM	Yes	LTSM

Table 2.A: Summary of Impacts and Mitigation Measures from the EIR

Environmental Impacts	Level of Significance Without Mitigation	Mitigation Measures	Mitigation Measure Applicable to Gilman Gateway Rezone	Level of Significance after Mitigation for Gilman Gateway Rezone	Applicable to Potential Berkeley Forge Development	Level of Significance after Mitigation for Potential Berkeley Forge Development
		estimated discharge rates, and temporary rerouting of flows during construction. The hydraulic study shall evaluate the capacity of existing and proposed storm drains. If the hydraulic study finds that <u>future projects</u> would not meet the required stormwater conveyance conditions above (i.e., conveying 10-year peak runoff within the storm drain system), <u>future projects</u> design shall be modified to the satisfaction of the City to meet these drainage performance standards. Such design modifications could include additional stormwater retention systems, such as swales or underground cisterns/storage pipes with metered outlets, and/or changing the size and location of proposed storm drain systems on the project site. The hydraulic study shall be submitted to the City for review and approval prior to the City issuing a grading or building permits.				

Source: Compiled by LSA (2024).

AB = Assembly Bill
 AST = above-ground storage tank
 BAHF = Bureau of Architecture and Historic Preservation
 BAAQMD = Bay Area Air Quality Management District
 BMC = Berkeley Municipal Code
CALGreen = California Green Building Standards Code
 CEQA = California Environmental Quality Act
 City = City of Berkeley
 CHRIS = California Historical Resources Information System
 dBA = A-weighted decibels
 DTSC = California Department of Toxic Substances Control
 EBP = Santa Clara Valley Groundwater Basin, East Bay Plain
 EIR = Environmental Impact Report
 EO = Executive Order
 ESA = Environmental Site Assessment
 GHG = greenhouse gas

LTS = Less Than Significant
 LTSM = less than significant with mitigation incorporated
 NWIC = Northwest Information Center
 PCB = polychlorinated biphenyls
 PM₁₀ = particulate matter 10 microns or less in diameter
 PRC = Public Resources Code
 project = Gilman Gateway Rezone Project
 S = Potentially Significant
 SB = Senate Bill
 SGMP = Soil and Groundwater Management Plan
 SU = Significant and Unavoidable
 TAC = toxic air contaminant
 TMD = City of Berkeley Toxics Management Division
 UST = underground storage tank
VMT = vehicle miles traveled

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4.2 REVISIONS TO CHAPTER 3.0, PROJECT DESCRIPTION

Based on comments received, the City has revised the proposed Manufacturing, Research and Development (M-RD) zoning district to remove the off-street parking requirement.

Section 3.4.1, Proposed Manufacturing, Research and Development Zoning District, Page 3-39

While the proposed rezoning and General Plan/West Berkeley Plan amendments would not result in any physical alterations to the project site, implementation of the proposed M-RD zoning district would facilitate development of the entire project site and assumes demolition of all existing structures on the site. Chapter 23.206 of the BMC would be amended to include the proposed M-RD zoning district to establish regulations for any potential redevelopment project. Accordingly, Table 23.206-1 and Table 23.206-2 of the BMC would be amended as shown in double-underlined text below in Table 3.C. As shown in Table 3.C, the M-RD zoning district would permit a variety of uses, including office, industrial and heavy commercial, laboratory, light manufacturing, and R&D.

As shown in Table 3.G, with a 2.0 floor area ratio, full buildout of the project site would allow up to 1,005,266 square feet of non-residential space, which would not also require any approximately ~~1,300~~ off-street automobile parking spaces. Approximately 470 bicycle parking spaces would be required. The maximum building height within the M-RD zoning district would be 55 feet, unless a modification is sought via a Use Permit (UP), in which case the maximum building height would be 105 feet.

Table 3.E: Manufacturing, Research and Development Zoning District Development Standards, Page 3-43

Table 3.E: Manufacturing, Research and Development Zoning District Development Standards

Basic Standards		Supplemental Standards
Lot Area, Minimum	No minimum	BMC Section 23.304.020 – Lot Requirements
Usable Open Space Per Dwelling Unit, Minimum	N/A	–
Floor -Area Ratio, Maximum	2.0	–
<u>Main Building Height, Maximum</u>	<u>55 ft.</u> <u>105 ft. [1]</u>	<u>BMC Section 23.204.050 – Building Height</u>
Lot Line Setbacks, Minimum		BMC Section 23.304.030 - Setbacks
Front	No minimum	
Rear	No minimum	
Interior Side	No minimum	
Street Side	No minimum	
Building Separation, Minimum	No minimum	–
Lot Coverage, Maximum	80 percent	BMC Section 23.304.120 - Lot Coverage
<u>Off-Street Parking, Minimum</u>	<u>No minimum</u>	<u>BMC Section 23.322.040 – General Requirements</u>
Non-Residential Bicycle Parking	1 per 2,000 sf	BMC Section 23.322.090 - Bicycle Parking

Source: City of Berkeley (2024).

Note: [1] Maximum Main Building Height of 105 feet may be allowed pursuant to Section 23.206.100(D)(1) (Modification of Development Standards on Large Sites).

BMC = Berkeley Municipal Code sf = square feet

N/A = not applicable

Table 3.F: Manufacturing, Research and Development Zoning District Development Off Street Parking Standards, Page 3-44

Table 3.F: Manufacturing, Research and Development Zoning District Off-Street Parking Standards

Land Use	Minimum Required Parking Spaces
Non-Residential Uses	
All non-residential uses except uses listed below	1 per 1,000 sf
Art/Craft Studio	1 per 1,000 sf
Food Service Establishment	1 per 300 sf
Laboratories	1 per 1,000 sf
Manufacturing	1 per 1,000 sf for spaces less than 10,000 sf; 1 per 1,500 sf for spaces 10,000 sf or more
Storage, warehousing, and wholesale trade	1 per 1,000 sf for spaces less than 10,000 sf; 1 per 1,500 sf for spaces 10,000 sf or more

Source: City of Berkeley (2024).
sf = square feet

4.3 REVISIONS TO CHAPTER 4.0, SETTING, IMPACTS, AND MITIGATION MEASURES

Figure 4-1, which provides a map of the cumulative projects has been revised to match the list of projects provided in Table 4.A.

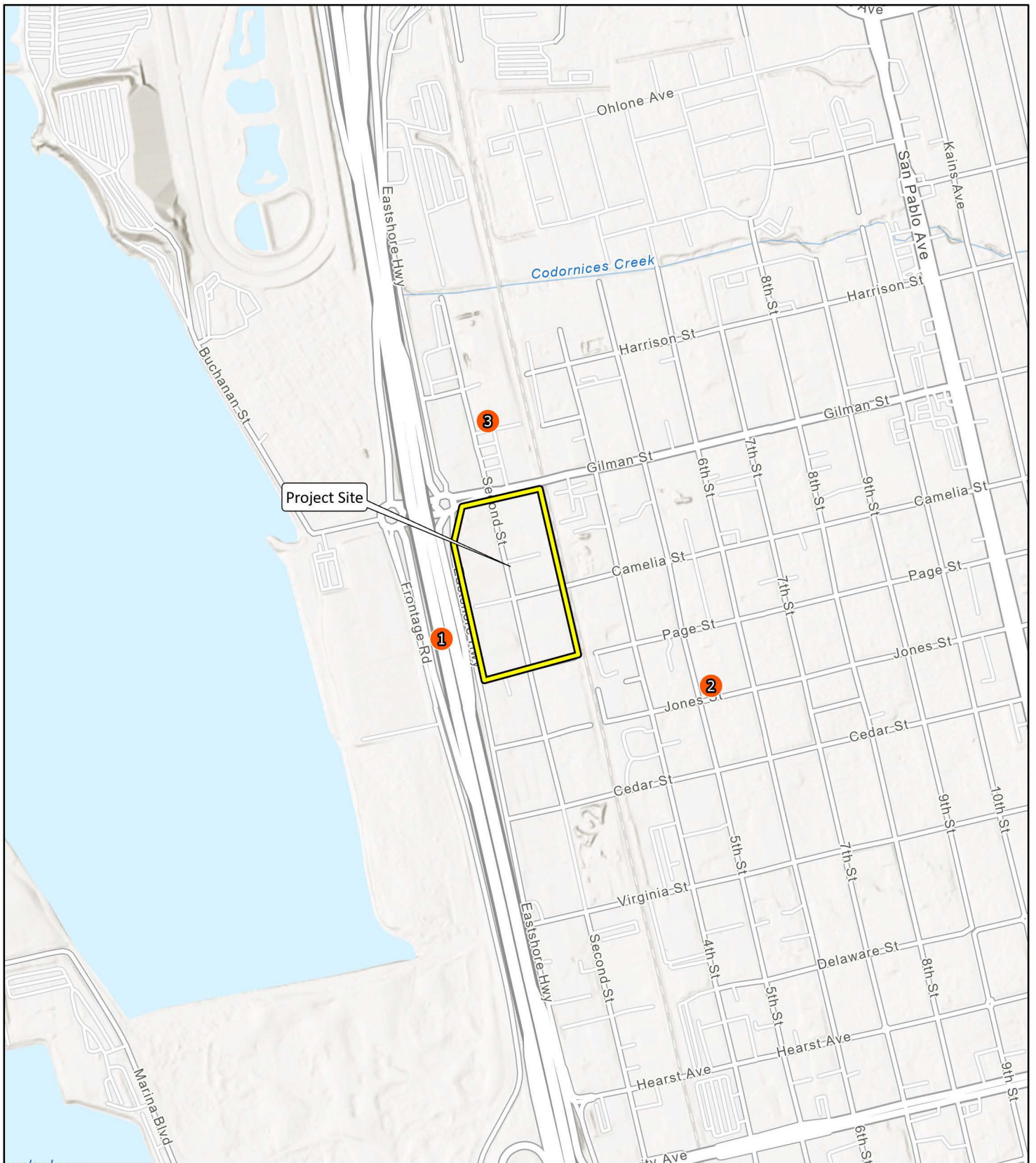





FIGURE 4-1

LSA

 Project Site

Cumulative Projects

-  I-80 Gilman Interchange Improvement
-  805 Jones Street
-  1201 Second/669 Gilman Transfer Station



SOURCE: Esri World Terrain Base (2024)

I:\C\CBE1906.09\GIS\Pro\Gilman Gateway Rezone Project EIR\Gilman Gateway Rezone Project EIR.aprx (1/13/2025)

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4.4 REVISIONS TO SECTION 4.1, LAND USE AND PLANNING

City Condition of Approval (COA): Transportation Demand Management does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan, has been prescribed and the discussion under Impact LU-2 has been revised to reference Mitigation Measure TRA-1. As further discussed in Section 4.1.4, below, because Mitigation Measure TRA-1 outlines the same requirements as *COA: Transportation Demand Management* that were presented in the Draft EIR, and provides the same amount of VMT reduction, there is no change in the information provided in the Draft EIR and this is not a substantially different mitigation measure and does not require recirculation of the Draft EIR pursuant to *State CEQA Guidelines* Section 15088.5.

Section 4.1.2.2, Project Impacts, Page 4.1-10

Impact LU-2: The proposed project, including the conceptual development project, would not conflict with the provisions of applicable plans, policies, or regulations adopted for the purpose of avoiding or mitigation of an environmental effect, including those identified in the Berkeley General Plan, West Berkeley Plan, Zoning Ordinance, and Plan Bay Area 2050. (*Less than Significant with Mitigation*)

The proposed project, including the conceptual development project, would be generally consistent with the land use and planning related policies in the City's General Plan, and no adverse physical environmental effects would result from any policy inconsistencies. The proposed project would be generally consistent with the policies found in the Land Use Element by maintaining the community character of the surrounding (predominantly industrial) area consistent with Policy LU-1 and Objective 4, encouraging infill development consistent with Policy LU-3, and undergoing discretionary review consistent with Policy LU-4, and would be generally consistent with the policies found in the Transportation Element because compliance with the City's COAs and implementation of Mitigation Measure TRA-1 requiring implementation of the Proposed TDM Plan, as described further in Section 4.4, would encourage the use of alternative transportation and transit consistent with Policy T-10, ~~including a transportation demand management program~~, and would encourage the maintenance of streets, sidewalks, and other public infrastructure to reduce long term replacement costs consistent with Policy T-25. Encouraging improvements to transit, bicycle, disabled, and pedestrian access in the vicinity of the project site consistent with Policy T-29 would also render the proposed project generally consistent with the Open Space Element and maintaining the community character of the area and site would render the proposed project generally consistent with the Urban Design and Preservation Element. The proposed project would also be generally consistent with the policies found in the Disaster Preparedness and Safety Element through identifying, avoiding, and minimizing natural and human-caused hazards in the development of property consistent with State and local building regulations, and would be generally consistent with the policies found in the Environmental Management Element through compliance with City and State-mandated Green Building Standard Codes and federal, State and local regulations protecting groundwater water quality. Therefore, with implementation of Mitigation Measure TRA-1, impacts related to consistency with General Plan policies adopted to

~~mitigate adverse environmental impacts the proposed project and the conceptual development project would be result in a less than significant with mitigation. impact related to consistency with General Plan policies adopted to mitigate adverse environmental impacts.~~

Impact LU-2 Summary: With implementation of Mitigation Measure TRA-1, ~~The the~~ proposed project, including the conceptual development project, would be consistent with the Berkeley General Plan, West Berkeley Plan, Zoning Ordinance, and Plan Bay Area 2050. Therefore, impacts associated with potential conflicts with the provisions of applicable plans, policies, or regulations adopted for the purpose of avoiding or mitigation an environmental effect would be **less than significant with mitigation.**

4.5 REVISIONS TO SECTION 4.4, TRANSPORTATION

City COA: *Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, *COA: Transportation Demand Management* has been removed from the regulatory setting, Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan, has been prescribed, and the numbering of the mitigation measures has been revised. The addition of this mitigation measure does not meet the thresholds outlined in *State CEQA Guidelines* Section 15088.5, which sets forth the rules for recirculating a Draft EIR when “significant new information” is added after the draft has been released for public review but before the final EIR is certified. If changes—such as the presentation of a markedly different alternative or mitigation measure—alter the environmental analysis in a way that could affect public understanding and comment, the lead agency must recirculate the revised portions of the EIR. However, if the changes only clarify or make minor adjustments to the existing analysis, recirculation isn’t required. As Mitigation Measure TRA-1 outlines the same requirements as *Condition of Approval (COA): Transportation Demand Management* that were presented in the Draft EIR, and provides the same amount of VMT reduction, there is no change in the information provided in the Draft EIR and this is not a substantially different mitigation measure.

In addition, the City has revised the provisions of the proposed M-RD zoning district to remove the minimum off-street parking requirement.

Section 4.4.1.2, Regulatory Setting, Page 4.4-16

~~COA: Transportation Demand Management (at all times). A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).~~

Section 4.4.2.2, Project Impacts, Page 4.4-20

Impact TRA-2: The proposed project, including the conceptual development project, would not could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b). (*Less than Significant with Mitigation*)

Based on the significance thresholds adopted by the City, impacts related to VMT would be considered significant if the project would generate home-work VMT that is higher than 15 percent below the regionwide average home-work VMT per worker of 18.1 in 2020, or 18.2 in 2040, which would require a home-worker VMT per worker of 15.4 in 2020 and 15.5 in 2040.

Proposed Transportation Demand Management Plan. The proposed creation of a new zoning district would not result in any physical development on the project site but would facilitate future development consistent with the new zoning district, including the conceptual development project. The project sponsor for a future development project, including the conceptual development project, would be required to implement the proposed TDM Plan for the Gilman Gateway Rezone Project (Proposed TDM Plan) in an effort to reduce project-generated vehicle trips and VMT and encourage travel by other modes. Based on the VMT analysis presented below, both the 2020 and 2040 home-work VMT per worker for the proposed project would be above the threshold of significance (i.e., 15 percent below the regionwide Bay Area average) by about 5 percent, without a TDM Plan. Accordingly, any future development, including the conceptual development project, would be required to implement the Proposed TDM Plan described in Mitigation Measure TRA-1.

Table 4.4.C summarizes the VMT estimates for the proposed project, including the conceptual development project under 2020 and 2040 conditions as estimated by the Alameda CTC Model. Under both 2020 and 2040 conditions, the home-work VMT per worker for the proposed project, including the conceptual development project, is estimated to be 16.1. The proposed project's TDM Plan as required by COA: Transportation Demand Management and described below, would achieve a reduction in VMT between 6 and 10 percent. Because the VMT estimates for the proposed project, including the conceptual development project, would exceed the City's thresholds, impacts would be potentially significant. Therefore, Mitigation Measure TRA-1, which requires future development at the project site implement of the proposed TDM Plan for the Gilman Gateway Rezone Project (Proposed TDM Plan), is prescribed.

Mitigation Measure TRA-1:

Transportation Demand Management Plan. Prior to occupancy, the project sponsor shall submit evidence to the City that future proposed development implements the proposed Transportation Demand Management Plan for the Gilman Gateway Rezone Project (Proposed TDM Plan). As detailed in the Proposed TDM Plan, the following TDM strategies shall be implemented:

- Shuttle Service: Future development facilitated by the proposed project would be required to provide shuttle service between the project site, the North Berkeley BART station, and the Berkeley Amtrak station during weekday

peak commute periods (6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m.). If feasible, the project would also coordinate the shuttle service with existing shuttle services, and/or other employers in West Berkeley.

- Extend or Provide New Bus Service: If feasible, future development facilitated by the proposed project would be required to coordinate with AC Transit to either extend existing bus service or provide new bus service through or near the project area.
- Bicycle Storage, Lockers, Showers, and Repair Station for Cyclists: Future development facilitated by the proposed project would be required to provide bike lockers, showers, personal lockers, and a repair station on-site to encourage bicycling to the site.
- Bikeshare Station: Future development facilitated by the proposed project would be required to coordinate with the City and/or regional agencies to facilitate the potential installation of a bikeshare station in the project area.
- Carpool/Ride-Matching Service: Future development facilitated by the proposed project would be required to offer carpool/ride-matching services to pair employees interested in forming commute carpools.
- Free Parking for Carshare: Future development facilitated by the proposed project would be required to provide free parking to carshare companies.
- Preferential Parking for Carpools: Future development facilitated by the proposed project would be required to include free parking for carpoolers.
- Transit Subsidy: Future development facilitated by the proposed project would require tenants to provide full or partial transit subsidies to employers.
- Pre-tax Commuter Benefits: Future development facilitated by the proposed project would require tenants to provide pre-tax commuter benefits for employers.
- Ongoing Marketing and Information: Future development facilitated by the proposed project would be required to regularly provide tenants and employees information about

various transportation options in the area and about the TDM strategies provided by the project. In addition, the project sponsor would be required to provide information on the Bay Area Commuter Benefits Program to all tenants. As of September 30, 2014, Bay Area employers with 50 or more full-time employees within the Bay Area Air Quality Management District (Air District) geographic boundaries are required to register and offer commuter benefits to their employees to comply with Air District Regulation 14, Rule 1, also known as the Bay Area Commuter Benefits Program. Employers must select one of four Commuter Benefit options to offer their employees: a pre-tax benefit an employer-provided subsidy, employer provided transit or an alternative commute benefit.

On an annual basis for ten years thereafter, the project sponsor shall submit a report that demonstrates the project complies with the applicable requirements. After three years of timely compliant submittals, the City has the option to accept less frequent submittals (minimum one every three years).

Table 4.4.C Vehicle Miles Traveled Summary

Geographic Area	Home-Work VMT Per Worker (2020)	Home-Work VMT Per Worker (2040)
Bay Area Regionwide Average ¹	18.1	18.2
Bay Area Regionwide Average minus 15% (i.e., threshold of significance)	15.4	15.5
Project (TAZ 79) ¹	16.1	16.1
Below Threshold without TDM?	No	No
Project with TDM ²	14.5 to 15.1	14.5 to 15.1
Below Threshold with TDM?	Yes	Yes

Source: Fehr & Peers (2022).

¹ Based on the results of the Alameda CTC Countywide Travel Demand Model.

² See Table 4.4.D for TDM Plan details and effectiveness.

TDM = Transportation Demand Management

VMT = vehicle miles traveled

Proposed Transportation Demand Management Plan. The proposed creation of a new zoning district would not result in any physical development on the project site but would facilitate future development consistent with the new zoning district, including the conceptual development project. The project sponsor for a future development project, including the conceptual development project, would be required to implement the proposed TDM Plan for the Gilman Gateway Rezone Project (Proposed TDM Plan) in an effort to reduce project-generated vehicle trips and VMT and encourage travel by other modes. Based on the VMT analysis presented below, both the 2020 and 2040 home-work VMT per worker for the proposed project would be above the threshold of significance (i.e., 15 percent below the regionwide Bay Area average) by about 5 percent, without a

~~TDM Plan. Accordingly, any future development, including the conceptual development project, would be required to implement the Proposed TDM Plan.~~

The potential effectiveness of the TDM measures for the proposed project was evaluated using the Alameda CTC VMT Reduction Calculator Tool, which is a tool that accounts for the particular location of a development project and quantifies the effects of various strategies in reducing VMT consistent with the research compiled in the *Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, Designed for Local Governments, Communities, and Project Developers* prepared by the California Air Pollution Control Officers Association (CAPCOA).¹ The quantification methods provided in the CAPCOA report are based on an extensive literature review and are appropriate for use in this project-level analysis. Based on this assessment, the Proposed TDM Plan could reduce the project-generated VMT by between 6 and 10 percent ~~as Proposed TDM measures are described below and~~ summarized in Table 4.4.D.

Table 4.4.D: Preliminary TDM Plan VMT Reduction Estimates

TDM Strategy	Description	Estimated VMT Reduction ¹
BART Shuttle	Provide peak commute period shuttle service to BART and Amtrak.	3%–6%
Bus Service Extension	Extend AC Transit bus service into the project area.	N/A ²
Bicycle Amenities	Provide secure bicycle parking, showers and lockers, and repair station.	< 1%
Bike Share	Allow and facilitate installation of a potential bikeshare station in the project area.	
Carpool and Ride-Matching Assistance	Assist project area employees in forming carpools and provide preferential carpool parking spaces.	1%
Carshare Parking Spaces	Dedicate on-site carshare parking spaces.	< 1%
Transit fare Subsidy	Require tenants to provide transit subsidies.	1%–2% ³
Pre-Tax Commuter Benefits	Require tenants to provide pre-tax commuter benefits.	
Marketing and Education	Active marketing and education of employees on various commuting options.	N/A ⁴
Total Estimated Vehicle Trip Generation Reduction		6%–10%

Source: Fehr & Peers (2024).

¹ Primarily based on the results on the Alameda CTC VMT Reduction Calculator Tool.

² Since the characteristics of a potential bus service extension, such as service frequency and/or destinations served, cannot be known at this time, effectiveness of this strategy cannot be quantified at this time.

³ Assuming a transit subsidy of about \$2.50 per day per employee (value to transit user and not necessarily the cost) available to all employees.

⁴ The effectiveness of this strategy cannot be quantified at this time. This does not necessarily imply that the strategy is ineffective. It only demonstrates that existing literature does not provide a robust methodology for calculation of its effectiveness. In addition, many of the strategies referenced in Table 4.4.E are complementary to each other and isolating their specific effectiveness may not be feasible.

AC Transit = Alameda-Contra Costa Transit District

Alameda CTC = Alameda County Transportation Commission

BART = Bay Area Rapid Transit

TDM Plan = Transportation Demand Management Plan

VMT = vehicle miles traveled

¹ California Air Pollution Control Officers Association. 2021. *Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, Designed for Local Governments, Communities, and Project Developers*. December.

- ~~**Shuttle Service:** Future development facilitated by the proposed project would be required to provide shuttle service between the project site, the North Berkeley BART station, and the Berkeley Amtrak station during weekday peak commute periods (6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m.). If feasible, the project would also coordinate the shuttle service with existing shuttle services, and/or other employers in West Berkeley.~~
- ~~**Extend or Provide New Bus Service:** If feasible, future development facilitated by the proposed project would be required to coordinate with AC Transit to either extend existing bus service or provide new bus service through or near the project area.~~
- ~~**Bicycle Storage, Lockers, Showers, and Repair Station for Cyclists:** Future development facilitated by the proposed project would be required to provide bike lockers, showers, personal lockers, and a repair station on-site to encourage bicycling to the site.~~
- ~~**Bikeshare Station:** Future development facilitated by the proposed project would be required to coordinate with the City and/or regional agencies to facilitate the potential installation of a bikeshare station in the project area.~~
- ~~**Carpool/Ride Matching Service:** Future development facilitated by the proposed project would be required to offer carpool/ride matching services to pair employees interested in forming commute carpools.~~
- ~~**Free Parking for Carshare:** Future development facilitated by the proposed project would be required to provide free parking to carshare companies.~~
- ~~**Preferential Parking for Carpools:** Future development facilitated by the proposed project would be required to include free parking for carpoolers.~~
- ~~**Transit Subsidy:** Future development facilitated by the proposed project would require tenants to provide full or partial transit subsidies to employers.~~
- ~~**Pre-tax Commuter Benefits:** Future development facilitated by the proposed project would require tenants to provide pre-tax commuter benefits for employers.~~
- ~~**Ongoing Marketing and Information:** Future development facilitated by the proposed project would be required to regularly provide tenants and employees information about various transportation options in the area and about the TDM strategies provided by the project. In addition, the project sponsor would be required to provide information on the Bay Area Commuter Benefits Program to all tenants. As of September 30, 2014, Bay Area employers with 50 or more full-time employees within the Bay Area Air Quality Management District (Air District) geographic boundaries are required to register and offer commuter benefits to their employees to comply with Air District Regulation 14, Rule 1, also known as the Bay Area Commuter Benefits Program. Employers must select one of four Commuter Benefit options to offer their employees: a pre-tax benefit an employer provided subsidy, employer provided transit or an alternative commute benefit.~~

As shown in Table 4.4.D, implementation of the Proposed TDM Plan, as required by Mitigation Measure TRA-1, would reduce the average daily VMT per employee for the proposed project to between 14.5 and 15.1, which is below the threshold of significance of 15.4. Future development of project site facilitated by the proposed project would be required to prepare and implement the Proposed TDM Plan with similar measures. Therefore, with implementation of ~~the Proposed TDM Plan~~ Mitigation Measure TRA-1, future development facilitated by the proposed project, including the conceptual development project, would not conflict or be inconsistent with State CEQA Guidelines Section 15064.3, subdivision (b). ~~result in a~~ Impacts would be less than significant impact with mitigation associated with VMT rates.

Impact TRA-2 Summary: With implementation the Proposed TDM Plan, future development facilitated by the proposed project, including the conceptual development project, would not result in VMT impacts or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b). Impacts would be **less than significant with mitigation**.

Section 4.4.2.2, Project Impacts, Page 4.4-24

Impact TRA-3: Circulation modifications associated with future development of the project site, including the conceptual development project, have the potential to substantially increase hazards due to a design feature. (Less than Significant with Mitigation)

However, future project operations would potentially propose changes to the existing circulation system. If the circulation plans include proposed changes that would result in hazardous traffic conditions, project impacts would be **potentially significant**. Therefore, Mitigation Measure TRA-~~21~~, Circulation Plan shall be required.

Mitigation Measure TRA-~~21~~: **Circulation Plan.** Project-specific circulation plans shall be developed for individual development projects in coordination with the City. The Circulation Plans shall be designed to meet City standards in order to preclude hazards due to design features and allow for improved emergency vehicle access. The Circulation Plans shall include details pertaining, but not limited, to potential street modifications, identification of new facility location, ingress and egress for the project site as a whole and individual facilities like parking lots or loading docks, speed, turning movements, complex designs, substantial distance between street crossings, and sight lines. Prior to final project approvals, the project sponsor shall submit a final circulation plan for City approval.

Impact TRA-3 Summary: With implementation of Mitigation Measure TRA-~~21~~, which requires project-specific circulation plans be developed in coordination with the City, circulation modifications associated with future development facilitated by the proposed project, including the conceptual development project, would not substantially increase hazards due to a design feature or incompatible use. Impacts would be **less than significant with mitigation**.

Section 4.4.2.2, Project Impacts, Page 4.4-25

Impact TRA-4: Circulation modifications associated with future development of the project site, including the conceptual development project, have the potential to result in inadequate emergency access. (*Less than Significant with Mitigation*)

If proposed circulation changes would result in inadequate emergency access, Mitigation Measure TRA-~~21~~, as detailed above, shall be required. In addition, as part of the City's project approval process, the proposed project and the conceptual development project would be required to comply with existing regulations, including General Plan and West Berkeley Plan policies and zoning regulations that have been prepared to minimize impacts related to emergency access.

As required in Mitigation Measure TRA-~~21~~, the conceptual development project and any additional development that would be facilitated by the proposed project would be required to implement the recommendations provided in the proposed circulation plan as refined as part of the future application submittal. Implementation of project-specific recommendations relating to emergency access would ensure that implementation of the proposed project and the conceptual development project would not result in inadequate emergency access and impacts to emergency vehicle access would be **less than significant with mitigation**.

Impact TRA-4 Summary: With implementation of Mitigation Measure TRA-~~21~~, which requires project-specific circulation plans be developed in coordination with the City, circulation modifications associated with future development facilitated by the proposed project, including the conceptual development project, would not result in inadequate emergency access, and impacts to emergency vehicle access would be **less than significant with mitigation**.

Section 4.4.3.2, Parking Assessment, Page 4.4-31

Even though the conceptual development project would exceed the parking requirements in the BMC, the additional parking would not result in any secondary environmental impacts beyond those outlined in this Draft EIR. With implementation of Mitigation Measures and TRA-1 and 2, ~~as well as the COA: Transportation Demand Management~~, the proposed project and the conceptual development project would result in a **less than significant** impact associated with secondary effects from parking implementation.

4.6 REVISIONS TO SECTION 4.5, AIR QUALITY

City COA: *Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan, has been prescribed and the discussion under Impact AIR-1 has been revised to reference Mitigation Measure TRA-1. As discussed in Section 4.1.4, above, because Mitigation Measure TRA-1 outlines the same requirements as COA: *Transportation Demand Management* that were presented in the Draft EIR, and provides the same amount of VMT reduction, there is no change in the information provided in

the Draft EIR and this is not a substantially different mitigation measure and does not require recirculation of the Draft EIR pursuant to *State CEQA Guidelines* Section 15088.5.

Section 4.5.2.2 Project Impacts, Page 4.5-23

Impact AIR-1: Implementation of the proposed project, including the conceptual development project would not conflict with or obstruct the implementation of the San Francisco Bay Area Clean Air Plan. (*Less than Significant with Mitigation*)

Transportation Control Measures. The BAAQMD identifies Transportation Measures as part of the Clean Air Plan to decrease emissions of criteria pollutants, TACs, and GHGs by reducing demand for motor vehicle travel, promoting efficient vehicles and transit service, decarbonizing transportation fuels, and electrifying motor vehicles and equipment. The proposed zoning and General Plan/West Berkeley Plan amendments would not result in any physical development on the project site; however, future development, including the conceptual development project, would be required to comply with the development standards of the newly created M-RD district that would require 470 bicycle parking spaces to be located on the site. In addition, as discussed in Section 4.4, Transportation, any future development project would be subject to the proposed Transportation Demand Management Plan for the Gilman Gateway Rezone Project, as required by Mitigation Measure TRA-1, to reduce project-generated vehicle trips and VMT and encourage travel by other modes. Transit service in the vicinity of the project site is provided by the Alameda-Contra Costa Transit District (AC Transit) and Bay Area Rapid Transit (BART) and passenger rail services along the Union Pacific Railroad (UPRR) corridor is provided by Amtrak. These public transit services in the project area help to reduce the demand for travel by single-occupancy vehicles. Therefore, the project would promote BAAQMD initiatives to reduce vehicle trips and VMT and would increase the use of alternate means of transportation.

Impact AIR-1 Summary: With implementation of Mitigation Measure TRA-1, implementation of the proposed project and the conceptual development project would not conflict with or obstruct the implementation of the San Francisco Bay Area Clean Air Plan. Therefore, impacts would be **less than significant with mitigation**.

4.7 REVISIONS TO SECTION 4.6, GREENHOUSE GAS EMISSIONS

City COA: *Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, COA: *Transportation Demand Management* has been removed from the discussion under Impact GHG-1b and Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan, has been prescribed. As discussed in Section 4.1.4, above, because Mitigation Measure TRA-1 outlines the same requirements as COA: *Transportation Demand Management* that were presented in the Draft EIR and provides the same amount of VMT reduction, there is no change in the information provided in

the Draft EIR; this is not a substantially different mitigation measure and does not require recirculation of the Draft EIR pursuant to *State CEQA Guidelines* Section 15088.5.

Section 4.6.2.2 Project Impacts, Page 4.6-17

Impact GHG-1a: ~~If future development under the proposed project includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would therefore generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. The proposed project does not include a prohibition on the use of natural gas appliances or natural gas plumbing and therefore would not meet the project design thresholds recommended by the BAAQMD. As a result, it would therefore generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. The proposed project does not comply with the CALGreen Tier 2 Voluntary Standards for electric vehicle parking spaces. (Significant and Unavoidable)~~

Impact GHG-1b: ~~The conceptual development project would meet the project design thresholds recommended by the BAAQMD and would therefore not generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment. The conceptual development project would not meet the CALGreen Tier 2 Voluntary Standards for electric vehicle charging requirements, nor the BAAQMD's VMT threshold, and therefore could generate GHG emissions, either directly or indirectly, during operations that would have a significant effect on the environment. However, the conceptual development project would not include natural gas appliances or plumbing, and therefore would be consistent with the specific project design threshold recommended by the BAAQMD. (Less than Significant with Mitigation)~~

Vehicle Miles Traveled. To meet the BAAQMD's VMT threshold, the proposed project must achieve a reduction in project-generated VMT below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted SB 743 VMT target, reflecting the recommendations provided in the OPR's Technical Advisory on Evaluating Transportation Impacts in CEQA. As discussed in Section 4.4, Transportation, based on the significance thresholds adopted by the City, impacts related to VMT would be considered significant if the project would generate home-work VMT that is higher than 15 percent below the regionwide average home-work VMT per worker.

As explained in Section 4.4, Transportation, under both 2020 and 2040 conditions, the home-work VMT per worker for the proposed project, including the conceptual development project, is estimated to be 16.1. As discussed in Section 4.4, Transportation, future projects envisioned under the proposed project, including the conceptual development project, would implement a Transportation Demand Management Plan (TDM Plan), as required by City COA: ~~Transportation Demand Management~~ Mitigation Measure TRA-1, which would achieve a reduction in VMT between 6 and 10 percent. Implementation of ~~the~~ TDM Plan described in Mitigation Measure TRA-1 would reduce the average daily VMT per employee for the proposed project to between 14.5 and 15.1, which is below the threshold of significance of 15.4. Therefore, with implementation of Mitigation Measure TRA-1, a TDM Plan, the VMT generated by the proposed project and conceptual

development project would result in a **less than significant** impact. Accordingly, the proposed project and conceptual development project would be consistent with this design element.

With implementation of Mitigation Measure GHG-1 and Mitigation Measure TRA-1, the proposed project and conceptual development project would be consistent with the BAAQMD's project design elements related to energy, VMT, and electric vehicles.

Impact GHG-1 Summary: If future development at the project site facilitated by the proposed project includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and impacts related to the generation of GHG emissions, either directly or indirectly, that may have a significant effect on the environment would be **significant and unavoidable**, even with implementation of Mitigation Measure GHG-1 and Mitigation Measure TRA-1.

As the conceptual development project would be all electric, the conceptual development project would meet the project design thresholds recommended by the BAAQMD. Therefore, with implementation of Mitigation Measure GHG-1 and Mitigation Measure TRA-1, impacts related to the generation of GHG emissions, either directly or indirectly, that may have a significant effect on the environment would be **less than significant with mitigation**.

Impact GHG-2a: ~~If future development at the project site includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B 30-15, EO B 48-18, and AB 1279. Accordingly, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. The proposed project does not include a prohibition on the use of natural gas appliances or natural gas plumbing and therefore would not meet the project design thresholds recommended by the BAAQMD and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets required in Assembly Bill (AB) 32, Senate Bill (SB 32), Executive Order (EO) B-30-15, EO B-48-18, and AB 1279. Accordingly, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. The proposed project does not comply with the CALGreen Tier 2 Voluntary Standards for electric vehicle parking spaces. (Significant and Unavoidable)~~

Impact GHG-2b: ~~The conceptual development project would meet the project design thresholds recommended by the BAAQMD and would therefore be considered consistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B 30-15, EO B 48-18, and AB 1279. Accordingly, the conceptual development project would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. The conceptual development project would not meet the CALGreen Tier 2 Voluntary Standards for electric vehicle charging requirements, nor the BAAQMD's VMT threshold, and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B-30-15, EO B-48-18, and AB 1279. However, the conceptual development project would not include natural gas appliances or plumbing, and therefore would be consistent with the project design thresholds recommended by the BAAQMD. (Less than Significant with Mitigation)~~

Transportation and Motor Vehicle Measures. The goal of transportation and motor vehicle measures is to develop regional GHG emissions reduction targets for passenger vehicles. Specific regional emission targets for transportation emissions would not directly apply to the proposed project. The second phase of Pavley standards will reduce GHG emissions from new cars by 34 percent from 2016 levels by 2025, resulting in a 3 percent decrease in average vehicle emissions for all vehicles by 2020. The majority of vehicles traveling to the project site would comply with the Pavley II (LEV III) Advanced Clean Cars Program. Therefore, the proposed project and conceptual development project would comply with applicable transportation and motor vehicle measures.

The proposed creation of a new zoning district and General Plan/West Berkeley Plan amendments would not result in any physical development on the project site but would facilitate future development consistent with the new zoning district, including the conceptual development project. As discussed above, the project sponsor would implement Mitigation Measure TRA-1 ~~the proposed TDM Plan~~ as part of the conceptual development project in an effort to reduce project-generated vehicle trips and VMT and encourage travel by other modes. Therefore, the project would support the ability of employees and visitors to use alternative modes of transportation. In addition, all future development facilitated by the proposed project would be required to implement a similar TDM Plan, as required by Mitigation Measure TRA-1 ~~COA: Transportation Demand Management~~.

Plan Bay Area 2050. As described above, Plan Bay Area 2050 is a State-mandated, integrated long-range transportation and land use plan. Plan Bay Area 2050 includes 11 goals and 35 performance targets covering four broad areas: housing, economics, transportation, and environment. These targets enable the plan to be evaluated by its performance in areas identified as key regional concerns, including equitable access, economic vitality, and transportation system effectiveness. Table 4.6.C includes an evaluation of the proposed project's consistency with Plan Bay Area 2050 goals and performance targets related to GHG emissions. The project site is not in a Priority Development Area (PDA) or Transit Priority Area (TPA) as identified by Plan Bay Area 2050.

As described in Table 4.6.C, the proposed project would be consistent with the applicable strategies identified in Plan Bay Area 2050.

Table 4.6.C: Project Consistency with Plan Bay Area 2050

	Strategy	Project Consistency
<p>Reduce Climate Emissions</p>	<p>EN7. Expand commute trip reduction programs at major employers. Set a sustainable commute target for major employers as part of an expanded Bay Area Commuter Benefits Program, with employers responsible for funding incentives and disincentives to shift auto commuters to any combination of telecommuting, transit, walking and/or bicycling.</p>	<p>Consistent (with Mitigation Measure TRA-1). As discussed in Section 4.4, Transportation, future projects envisioned under the proposed project and the conceptual development project would <u>be required to implement Mitigation Measure TRA-1, which requires implementation of a TDM Plan to provide trip reduction measures and reduce vehicle traffic in and around the project site. Accordingly, the TDM measures would encourage employees and visitors to use other transportation options and rely less on driving alone, consistent with the intent of this strategy. With implementation of Mitigation Measure TRA-1, the proposed project would be consistent with this strategy.</u></p>
	<p>EN9. Expand transportation demand management initiatives. Expand investments in programs like vanpools, bikeshare, carshare and parking fees to discourage solo driving.</p>	<p>Consistent (with Mitigation Measure TRA-1). Future projects envisioned under the proposed project and the conceptual development project would <u>be required to implement Mitigation Measure TRA-1, which requires implementation of a TDM Plan to provide trip reduction measures and reduce vehicle traffic in and around the project site. Accordingly, the TDM measures would encourage employees and visitors to use other transportation options and rely less on driving alone, consistent with the intent of this strategy. With implementation of Mitigation Measure TRA-1, the proposed project would be consistent with this strategy.</u></p>

Sources: Metropolitan Transportation Commission and Association of Bay Area Governments (2021); LSA (March 2024).

AC Transit = Alameda-Contra Costa Transit District

BART = Bay Area Rapid Transit

CALGreen Code = California Green Building Standards Code

City = City of BerkeleyM-RD = Manufacturing, Research and Development

PDA = Priority Development Area

R&D = research and development

TDM Plan = Transportation Demand Management Plan

City of Berkeley Climate Action Plan. As discussed above, the City adopted a CAP in 2009 with the goal of reducing communitywide GHG emissions by 80 percent below 2000 levels by 2050. The core recommendation strategies and actions of the CAP are based on the following topics: Sustainable Transportation and Land Use, Building Energy Use, Waste Reduction and Recycling, Community Outreach and Empowerment, and Preparing for Climate Change Impacts. Although the CAP is not considered a “qualified greenhouse gas reduction plan” for the purposes of streamlining GHG emissions analysis under CEQA, the City actively uses it for guiding GHG emission reduction efforts. Table 4.6.D includes an evaluation of the proposed project’s consistency with the City’s CAP.

Table 4.6.D: Project Consistency with City of Berkeley CAP

	Goal	Project Consistency
Sustainable Transportation & Land Use	1. Goal: Increase density along transit corridors.	Consistent (with Mitigation Measure TRA-1). The proposed zoning and General Plan/West Berkeley Plan amendments would facilitate revitalization of the primarily vacant and underutilized infill project site with up to 1,005,266 square feet of mixed light manufacturing, R&D, and laboratory, or office uses along the Gilman Street frontage and within close proximity to active transit, including the North Berkeley Bay Area Rapid Transit (BART) Station, 1.06 miles to the east. In addition, as discussed in Section 4.4, Transportation, future projects envisioned under the proposed project and the conceptual development project would <u>be required to implement Mitigation Measure TRA-1, which requires implementation of a</u> TDM Plan in an effort to reduce project-generated vehicle trips and VMT and encourage travel by other modes. In addition, future development, including the conceptual development project would provide bicycle and pedestrian facilities, which would also help to reduce the demand for travel by single occupancy vehicles. Therefore, <u>with implementation of Mitigation Measure TRA-1,</u> the project would support the ability of employees and visitors to use alternative modes of transportation, consistent with the intent of this key attribute.
	2. Goal: Increase and enhance urban green and open space, including local food production, to improve the health and quality of life for residents, protect biodiversity, conserve natural resources, and foster walking and cycling.	Not Applicable. This is a community policy-based goal; therefore, this measure would not be applicable to the project. However, future development of the project site would be required to comply with City open space standards. In addition, the conceptual development project would provide open space between the buildings. A total of approximately 130,000 square feet of open space would be provided throughout the project site. The open spaces would include approximately 97,000 square feet of walkways, concrete curbs and hardscape, approximately 24,000 square feet of landscaping (including trees) and a portion of the 31,092 square foot existing building at 1331 Eastshore Highway would be reconstructed as an amenity space on the conceptual development project site. In addition, the proposed project would be required to implement Mitigation Measure TRA-1, <u>which requires implementation of develop</u> a TDM plan to provide trip reduction measures and reduce vehicle traffic in and around the project site. Accordingly, the TDM measures would encourage employees and visitors to utilize other transportation options and rely less on driving alone, consistent with the intent of this goal.
	7. Goal: Enhance and expand car sharing and ridesharing programs.	Consistent (with Mitigation Measure TRA-1). The proposed project would <u>be required to implement Mitigation Measure TRA-1, which requires implementation of a</u> TDM Plan to provide trip reduction measures and reduce vehicle traffic in and around the project site. Accordingly, the TDM measures would encourage employees and visitors to use other transportation options and rely less on driving alone, consistent with the intent of this strategy.

Sources: City of Berkeley (2009); LSA (February 2024).

BART = Bay Area Rapid Transit

CALGreen Code = California Green Building Standards Code

CAP = Climate Action Plan

City = City of Berkeley

R&D = research and development

TDM Plan = Transportation Demand Management Plan

VMT = vehicle miles traveled

Impact GHG-2 Summary: Because future development facilitated by the proposed project may include the use of natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would be considered inconsistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B-30-15, EO B-48-18, and AB 1279. Therefore, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions and impacts would be **significant and unavoidable**, even with implementation of Mitigation Measure GHG-1 and Mitigation Measure TRA-1. As the conceptual development project would be all-electric, the conceptual development project would meet the project design thresholds recommended by the BAAQMD and would therefore be considered consistent with the long-term State GHG reduction goals and emission targets required in AB 32, SB 32, EO B-30-15, EO B-48-18, and AB 1279. Therefore, with implementation of Mitigation Measure GHG-1 and Mitigation Measure TRA-1, the conceptual development project would be consistent with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions and impacts would be **less than significant with mitigation**.

4.8 REVISIONS TO SECTION 4.7, ENERGY

City COA: *Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan, has been prescribed and the discussion under Impact EN-1 has been revised to reference Mitigation Measure TRA-1. As discussed in Section 4.1.4, above, because Mitigation Measure TRA-1 outlines the same requirements as COA: *Transportation Demand Management* that were presented in the Draft EIR, and provides the same amount of VMT reduction, there is no change in the information provided in the Draft EIR; this is not a substantially different mitigation measure and does not require recirculation of the Draft EIR pursuant to *State CEQA Guidelines* Section 15088.5.

Section 4.7.2.2 Project Impacts, Page 4.7-14

Impact EN-1: Implementation of the proposed project, including the conceptual development project, would not result in the wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation. (*Less than Significant with Mitigation*)

Additionally, as discussed in Section 4.4, Transportation, the project sponsor of future development facilitated by the proposed project would be required to implement a Transportation Demand Management Plan (TDM Plan), as prescribed in Mitigation Measure TRA-1, in an effort to reduce project-generated vehicle trips and VMT and encourage travel by other modes. The project sponsor for the conceptual development project would implement the proposed TDM Plan for the Gilman Gateway Rezone Project as part of the conceptual development project. In addition, public transit facilities serve the project area, including Alameda-Contra Costa Transit District, and the conceptual development project would provide bicycle and pedestrian facilities, which would also help to reduce the demand for travel by single-occupancy vehicles. Therefore, the proposed project and the conceptual development project would support the ability of employees and visitors to use alternative modes of

transportation. As such, with implementation of Mitigation Measure TRA-1, fuel consumption associated with vehicle trips generated by future operations would not be considered inefficient, wasteful, or unnecessary in comparison to other similar developments in the region and this impact would be **less than significant with mitigation**.

Impact EN-1 Summary: Construction activities associated with future development facilitated by the proposed project, including the conceptual development project, would have a negligible effect on local and regional energy supplies and would not cause or result in the need for additional energy facilities or an additional or expanded delivery system. Energy usage associated with future operations facilitated by the proposed project, including the conceptual development project, would not be considered inefficient, wasteful, or unnecessary in comparison to other similar developments in the region and would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency, as all future development would be required to adhere to all federal, State, and local requirements for energy efficiency, including the latest Energy Code and locally adopted amendments, as required by BMC Chapters 19.36 and 19.37. Therefore, with implementation of Mitigation Measure TRA-1, future development facilitated by the proposed project, including the conceptual development project, would not result in the wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation. Impacts would be **less than significant with mitigation**.

4.9 REVISIONS TO SECTION 4.9, HAZARDOUS MATERIALS

After further review, the City, as the lead agency modified the titles and applicability of Mitigation Measures HAZ-2b and HAZ-2c, to ensure that subsurface contamination and methane in soil vapor on the project site would be properly investigated and remediated for all projects that would propose development on the project site and not just the conceptual development project. Similar to the introduction of Mitigation Measure TRA-1, the title change of these two mitigation measures does not meet the thresholds outlined in *State CEQA Guidelines* Section 15088.5 for recirculation of the Draft EIR.

In addition, City COA: *Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, the numbering of the transportation mitigation measures has been revised under Impact HAZ-5.

Section 4.9.2.3 Project Impacts, Page 4.9-46

Mitigation Measure HAZ-2b

Additional Site Characterization for the Project Area ~~the Potential Berkeley Forge Development~~. The project sponsor shall perform additional investigation to evaluate potential subsurface contamination associated with environmental concerns identified by Phase I and II ESAs, as attached to the Draft EIR, that have not been evaluated by subsurface investigations performed to date (e.g., railroad tracks on and adjacent to the conceptual development project site, the

former truck service facility in the northeast corner of the Berkeley Forge and Tool properties, some former machine shops, an oil AST surrounded by staining in the western portion of the Berkeley Forge and Tool properties, former USTs in the eastern portion of the Berkeley Forge and Tool properties, and various pits/sumps and runoff/wastewater collection/conveyance systems – all as identified in previous Phase I and II ESAs), as well as the past use of the Clearflow Valves facility and eastern adjacent building as machine shops.

The ~~project sponsor of the conceptual development project~~ shall provide the Department of Toxic Substances Control (DTSC) with all available Phase I ~~Environmental Site Assessments (ESAs)~~ prepared for properties within the ~~conceptual development project site~~ that have not previously been provided to DTSC for review. The findings of all available Phase I and Phase II ESAs shall be accounted for in the investigation and characterization of future projects, ~~the conceptual development project~~. ~~If if determined~~ to be necessary by DTSC, additional investigation and characterization of the ~~conceptual development project site~~ shall be performed prior to preparation of a Response Plan. As part of the environmental clearance required for the conceptual development project by *COA: Toxics (C)*, the project sponsor shall provide the City with evidence of DTSC approval of additional investigation and characterization activities prior to the City issuing any demolition or construction related permits for any ground disturbing activities.

Mitigation Measure HAZ-2c

Subsurface PCBs Contamination at the ~~Potential Berkeley Forge Development~~ Project Site. The Response Plan for conceptual development project any future development shall address the previous detections of PCBs in shallow soil at concentrations exceeding commercial/industrial screening levels in the area identified as PCB Spill 2, in addition to other known contamination and potential unidentified contamination at the project ~~Potential Berkeley Forge Development~~ site. As part of the environmental clearance required for any ~~the conceptual development~~ future development by *COA: Toxics (C)*, the project sponsor shall provide the City with evidence of DTSC approval of the Response Plan prior to the City issuing demolition or construction related permits for any ground disturbing activities, and implementation of the Response Plan and establishment of any necessary institutional controls prior to the City issuing a certificate of occupancy.

Section 4.9.2.3 Project Impacts, Page 4.9-51

As discussed above, the designated evacuation routes near the project site include Gilman Street, and the TIA indicates that the project would result in a substantial effect to traffic movement at the - Gilman Street (currently under construction) interchange roundabouts during AM and PM peak-hour periods. The TIA indicates that that this substantial effect would be triggered when about 65 percent of the project (corresponding to approximately Phases 1 and 2 of the Potential Berkeley Forge Development) is occupied. At buildout, the project is estimated to add about 296 AM -peakhour and 313 PM -peakhour trips to the Gilman Street/Interstate 80 ramps/West Frontage Road intersection (the west roundabout) and about 660 AM -peakhour and 676 PM -peakhour trips to the Gilman Street/Interstate 80.¹ If evacuation from the project site would be required, vehicle trips could be concentrated within a shorter time frame than the AM or PM peak-hour periods, and could therefore result in longer delays in traffic movement. As indicated in the EOP, the Berkeley Police Department would lead evacuations operations with support from the Public Works Department to help designate evacuation routes, and the Berkeley Fire Department would also provide support for evacuations due to fires or hazardous materials incidents² This can allow for faster movement of traffic compared to normal circumstances, as traffic signals and stop signs could be bypassed and movement of traffic could be prioritized in certain directions as needed. However, the final circulation plan under the proposed project is not yet known; therefore, implementation of the proposed project, including the conceptual development project, could include physical changes to the roadway network that would interfere with an adopted emergency response plan or emergency evacuation plan. This impact would be **potentially significant**. Therefore, Mitigation Measure TRA-~~21~~, Circulation Plan as identified in Section 4.4, Transportation, shall be required.

Mitigation Measure TRA-~~21~~: Circulation Plan. (Refer to Section 4.4, Transportation)

Implementation Mitigation Measure TRA-~~21~~ would require future projects facilitated by the proposed project, including the conceptual development project, to prepare and implement a Circulation Plan that meets City standards. Implementation of project-specific Circulation Plan relating to emergency access would ensure that implementation of the proposed project, including the conceptual development project, would not result in inadequate emergency access. Refer to Section 4.4, Transportation, for further discussion of potential impacts associated with emergency access.

Based on the minimal delay to emergency vehicle response time that the proposed project and conceptual development project would cause and the City's ability and responsibility to assist in evacuation operations and with implementation of Mitigation Measure TRA-~~21~~, the potential impacts of the proposed project and conceptual development project related to impairing or interfering with an emergency evacuation or response plan would be **less than significant with mitigation**.

Impact HAZ-5 Summary: Compliance with COA: *Transportation Construction Plan* and implementation of Mitigation Measure TRA-~~21~~ would ensure that the construction and operation of

¹ California Air Pollution Control Officers Association. 2021. *Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity, Designed for Local Governments, Communities, and Project Developers*. December.

² City of Berkeley, 2016. Emergency Operations Plan, Base Plan.

future development facilitated by the proposed project, including the conceptual development project, would not impair or interfere with an emergency evacuation or response plan. Impacts would be **less than significant with mitigation**.

4.10 REVISIONS TO SECTION 4.10, HYDROLOGY AND WATER QUALITY

After further review, the City, as the Lead Agency, modified the titles and applicability of Mitigation Measures HYD-3 to ensure that potential impacts related to exceeding storm drain capacity or on- or off-site flooding due to altering drainage patterns at the project site would be less than significant with mitigation for all projects that would propose development on the project site and not just the conceptual development project. Similar to the introduction of Mitigation Measure TRA-1, the title change of these two mitigation measures does not meet the thresholds outlined in *State CEQA Guidelines* Section 15088.5 for recirculation of the Draft EIR.

Section 4.10.2.2 Project Impacts, Flooding from Increase Runoff and Storm Drain Capacity, Page 4.10-33

Mitigation Measure HYD-3

Hydraulic Study of Drainage during Construction and Operation for the Proposed Project and the Potential Berkeley Forge Development. The project sponsor for the conceptual development project and any other future development on the project site that has the potential to alter drainage patterns at the project site shall prepare a hydraulic study to evaluate whether the existing and proposed stormwater drainage systems that would receive runoff from the project site would be capable of conveying 10-year peak runoff from the project site. The hydraulic study shall evaluate stormwater runoff patterns and proposed temporary and permanent stormwater conveyance systems during all construction and operational phases of future projects, including surface runoff flow directions, estimated discharge rates, and temporary rerouting of flows during construction. The hydraulic study shall evaluate the capacity of existing and proposed storm drains. If the hydraulic study finds that future projects would not meet the required stormwater conveyance conditions above (i.e., conveying 10-year peak runoff within the storm drain system), future projects design shall be modified to the satisfaction of the City to meet these drainage performance standards. Such design modifications could include additional stormwater retention systems, such as swales or underground cisterns/storage pipes with metered outlets, and/or changing the size and location of proposed storm drain systems on the project site. The hydraulic study shall be submitted to the City for review and approval prior to the City issuing a grading or building permits.

4.11 REVISIONS TO CHAPTER 6.0, CEQA-REQUIRED CONCLUSIONS

City COA: *Transportation Demand Management* does not apply to the proposed project or the conceptual development project. Therefore, the proposed project, including the conceptual development project, could result in VMT impacts, or conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) without mitigation. As such, Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan, has been prescribed and Section 6.2.3 has been revised to reference Mitigation Measure TRA-1, which requires the implementation of the Proposed TDM Plan. As discussed in Section 4.1.4, above, because Mitigation Measure TRA-1 outlines the same requirements as COA: *Transportation Demand Management* that were presented in the Draft EIR and provides the same amount of VMT reduction, there is no change in the information provided in the Draft EIR and this is not a substantially different mitigation measure and does not require recirculation of the Draft EIR pursuant to *State CEQA Guidelines* Section 15088.5.

Section 6.2.3, Consumption of Non-Renewable Resources, Page 6-7

Additionally, as discussed in Section 4.4, Transportation, Mitigation Measure TRA-1 would require the implementation of a Transportation Demand Management Plan (TDM Plan) ~~would be implemented~~ for the proposed project in order to reduce project-generated vehicle trips and vehicle miles traveled and encourage travel by other modes. In addition, public transit facilities serve the project area and bicycle and pedestrian facilities would be required to conform to City standards, which would also help to reduce the demand for travel by single-occupancy vehicles. Therefore, with implementation of Mitigation Measure TRA-1, fuel consumption associated with vehicle trips generated by operation of future development facilitated by the proposed project, including the conceptual development project, would not be considered inefficient, wasteful, or unnecessary in comparison to other similar developments in the region and this impact would be **less than significant with mitigation**.

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