

CHAPTER 2

Updated Project Information

2.0 Introduction

The Project applicant has not submitted any changes to the proposed Project or variants analyzed in the Draft EIR. However, this section discusses new or updated information that has been added to the public record by the Project applicant, the City, or the Port of Oakland (“Port) that the City has determined relates to the proposed Project, related approvals or requirements, or other information mentioned in the Draft EIR. Although none of the updates discussed here are changes to the proposed Project or the Draft EIR that could result in changes to the environmental analysis in the Draft EIR under CEQA, the City has decided that these changes warrant disclosure in this Response to Comments document for informational purposes for the public and decision-makers of the Project. Certain updates included in this chapter also address topics raised often by the public that are comprehensively addressed in Chapter 4, *Consolidated Responses*, of this document.

None of the information in this chapter is considered “significant new information” defined in State CEQA Guidelines Section 15088.5 and requiring recirculation of any part of this Final EIR (see Chapter 1, *Introduction*).

2.1 Updates Related to the Project

2.1.1 Affordable Housing

The Draft EIR analyzes a Project in which 3,000 dwelling units would be constructed on the Project site and this has not changed. However, when the Draft EIR was prepared, it was not known how the Project sponsor would address requirements for affordable housing, and the Project Description indicated a variety of options. As discussed in more detail in Consolidated Response 4.12, *Affordable Housing*, in Chapter 4 of this document, and in accordance with the Development Agreement Term Sheet that the City Council adopted in July 2021, the Project would be required to include an affordable housing program that would make 450 of the on-site dwelling units affordable units and would also provide a financial commitment of 50 million dollars to support a combination of new (off-site) units, preservation and/or renovation of existing units, and/or down payment assistance. The Project would also provide anti-displacement tenant services.

The location of any off-site development resulting from this commitment is currently unknown, and development at as-yet unidentified sites would require separate environmental review and entitlement, although those units would be consistent with the City’s zoning and General Plan, and would therefore fall within the overall cumulative growth forecast used in the analyses

contained in this EIR. (See more detail regarding the definition and analysis of affordable housing for the Project in the Draft EIR in Consolidated Response 4.1, *Project Description*, and Consolidated Response 4.12, *Affordable Housing*, in Chapter 4 of this document.)

2.1.2 Fishing Pier Request

In response to a collective request that a fishing pier be incorporated into the proposed Project's design to be consistent with Bay Plan Recreation policies, City staff considered the Project's proposed open space (Waterfront Park) along the wharf and consulted relevant regulatory and oversight agencies to determine the viability of the requested pier structure and fishing activity from the Project site.

As currently designed, the proposed Project would not physically prohibit recreational fishing activities from Waterfront Park along the wharf. However, to summarize Response to Comment A-12-59 in Chapter 5 of this document, the City's initial consultation with the U.S. Army Corps of Engineers, U.S. Coast Guard, and Port of Oakland regarding activity in the federal navigation channel (estuary) and Inner Harbor Turning Basin, determined that (1) no separate fishing pier structures could be developed; (2) fishing activity (including casting of lines) would be limited to approximately 128 feet out from the face of the wharf, which is the existing edge of the federal navigable waterway and a distance subject to change; (3) fishing from the southeast edge of the wharf could be prohibited as to not interfere with existing emergency use vessels (of the Oakland Police and Fire departments), the U.S.S. *Potomac* and U.S. Lightship *Relief* museum ships, and existing State Water Emergency Transportation Authority (WETA) ferry activities; and (4) fishing from the western edge of the wharf would be prohibited because it is the Inner Harbor Turning Basin. In response to these comments and input received from relevant agencies, the Project sponsor could install signs along portions of Waterfront park indicating where fishing is allowed and where it is prohibited.

2.1.3 At-Grade Railroad Safety Improvements

As described in detail in Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation*, in Chapter 4 of this document, many commenters on the Draft EIR raised concern that the at-grade rail safety requirements in Mitigation Measure TRANS-3a (Implement At-Grade Railroad Crossing Improvements) only extended from the Project site's frontage starting at the Schnitzer Steel boundary and along Embarcadero to include the crossings at Market Street, Martin Luther King Jr. Way, Clay Street, Washington Street and Broadway. Commenters requested that the at-grade rail safety requirements should extend further through the Jack London District. With this Final EIR, Mitigation Measure TRANS-3a is expanded such that the proposed Project would install at-grade railroad crossing improvements along Embarcadero, beyond Broadway, to include Franklin Street, Webster Street, and Oak Street. See the proposed text edits to Mitigation Measure TRANS-3a in Consolidated Response 4.6, *Rail Safety, Rail Crossing, and Grade Separation*, and Chapter 7, *City-Initiated Updates and Errata to the Draft EIR*, in this document. As explained on Draft EIR p. 4.15-239, implementation of this mitigation measure is within the jurisdiction of another agency.

2.1.4 Status of Draft Remedial Action Plan (RAP)

The Draft EIR described that the proposed Project would prepare a Removal Action Workplan (RAW) as the remediation plan. As discussed in Consolidated Response 4.16, *Remediation Plans, Land Use Covenants, and Human Health and Ecological Risk Assessment*, subsequent to the publication of the Draft EIR, the Project sponsor conservatively elected to prepare a Remedial Action Plan (RAP) for the entire Project site. The Draft RAP is anticipated to be submitted to the Department of Toxic Substances Control (DTSC) in early 2022. See Consolidated Response 4.16, which discusses more information about the nature of RAWs versus RAPs, text modifications made to the Draft EIR, and the DTSC review process that will ensure that the remedial action be protective of construction workers, the public, and the environment.

2.1.5 Project Applications and Proposed Design Guidelines

Since publication of the Draft EIR, the Project sponsor submitted revisions to the City on July 19, 2021, and October 8, 2021, with a forthcoming revisions anticipated in December 2021, to complete the project applications and supporting materials for the Planned Unit Development (PUD) to establish a comprehensive plan for the entire site. Pursuant to PUD procedures, the application revisions specifically included the required Preliminary Development Plan (PDP) and Tentative Tract Map (TTM) components of the PUD. The Project sponsor submitted the *Oakland Athletics Howard Terminal Ballpark District Masterplan Preliminary Development Plan Submittal* which includes the site layout including public streets and development sites, publicly accessible open spaces, as well as the proposed density and commercial floor area allowances within the development, the general parameters of future building envelopes. Part of the PUD application is the draft *Oakland Athletics Howard Terminal Ballpark District Design Guidelines*.

The City held a special public meeting of the Design Review Committee (DRC) of the Oakland City Planning Commission on September 8, 2021, which provided comment and direction to the Project sponsor and City Planning staff regarding aspects of the proposed Project's preliminary design, as presented in the PUD, separate from considerations of the Project's environmental effects under CEQA. City staff and the Project sponsor continue to refine the PDP and Design Guidelines pursuant to comments and direction received from the DRC and City staff.

While the PUD application may include more specificity or refinements to these design characteristics of the Project than was available to describe in the Draft EIR, the information is consistent with all aspects of the proposed Project described and analyzed in the Draft EIR. No new information presented in the PUD would change any of the environmental analysis or findings in the Draft EIR.

2.1.6 Peaker Power Plant Variant

In the supporting materials for the PUD application for the proposed Project (described under 2.1.5 above), the Project sponsor disclosed changes to the Peaker Plant Variant, specifically changes to the exterior modifications proposed to the U-shaped building at 601 Embarcadero West. As described and analyzed in Chapter 5, *Project Variants*, in the Draft EIR, under the Peaker Plant Variant, the majority of the building would remain intact and would be rehabilitated

according to the Secretary of the Interior’s Standards if the variant is implemented. This includes retaining the primary building mass along the Embarcadero (601 Embarcadero West) and portions of the east and west wings. Specifically, as described in detail in Draft EIR Section 5.1.2, the Peaker Plant Variant would remove the southern portion of the west wing at 64 MLK Jr. Way, as well as the southern portion of the east wing at 51 Jefferson Street (as show in DEIR Figure 5-7).

The Peaker Power Plant Variant is modified such that no portion of the east wing would be removed. The east wing would instead be retained, and the south portion of the west wing would continue to be removed as originally proposed. These wing alterations are consistent with the Peaker Plant Variant plans shown in Figures 5-3, *Peaker Power Plant Variant Site Plan*, and Figure 5-6, *Proposed Battery Energy Storage System Layout Plan*, in the Draft EIR, which remain unchanged and consistent with exhibits in the PUD application. The modified Peaker Power Plant building would retain its U-shape plan and central courtyard. It would continue to face and accommodate Athletics’ Way, one of the major pedestrian gateways into the new ballpark and the adjoining development.

All applicable Draft EIR text revisions reflecting this reduction in scope for the east wing of the Peaker Power Plant are shown in Chapter 7, *City-Initiated Updates and Errata to the Draft EIR*, in this document. However, this change to not remove any part of the east wing does not reduce or otherwise change the variant’s significant impacts (Impacts CUL-8 and CUL-3.CU) that are predicated on removal of any part of the building. The changes to the variant do not require modifications to the actions required in the original mitigation measures (Mitigation Measures CUL-6a and 6b). Since portions of the west wing would still be removed under the variant, the impact is not reduced.

2.2 Certain Non-CEQA Updates

In addition to the physical changes to the Project listed above, the Project applicant and the City have continued to negotiate the business terms that will be included in the Development Agreement (including the Community Benefits Agreement) that is presented to the City Council for their consideration following certification of the Final EIR. Because the business terms concern funding and do not alter the physical scope or components of the Project, they are not discussed further in this chapter. Similarly, potential seaport compatibility measures that may be developed to address aspects of Port operations would fall outside the bounds of CEQA and are not discussed further. Any potential seaport compatibility measures that could address or result in environmental impacts have already been considered in the EIR as mitigation (e.g., Mitigation Measure LUP-1a and Mitigation Measure TRANS-1b), and are proposed for adoption as part of the Project. See Section 4.4.1.4 in Consolidated Response 4.4, Port Operations and Land Use Compatibility, for further discussion of Seaport Compatibility Measures and see Section 4.22, *General Non-CEQA*, for further discussion of non-CEQA topics that do not require analysis in the EIR.