

Location:	Howard Terminal at the Port of Oakland 1 Market Street (APN's: 018-0405-001-00; -002-00; & -004-00; -003-01; & -003-02 and 018-0410-001-04; -001-05; -003-00; -004-00; -005-00; -006-01; -006-02; -007-00 & -008-00)
Proposal:	Public Hearing to consider providing a recommendation to the City Council regarding the Certification of the EIR for The Oakland Waterfront Ballpark District Project, which would construct: a new open-air waterfront multi-purpose Major League Baseball (MLB) ballpark with a capacity of up to 35,000-persons; mixed use development including up to 3,000 residential units, up to 1.5 million square feet of office, and up to approximately 270,000 square feet of retail uses; an approximately 50,000 square-foot indoor performance center with capacity of up to 3,500 individuals; up to 400 hotel rooms; and a network of approximately 18.3 acres of publicly-accessible open spaces. The proposed Project may also include one or more variants, which include: <ul style="list-style-type: none"> • <u>Peaker Plant Variant</u>: Implementation of the planned conversion of the existing Oakland Power Plant (referred to as the "Peaker Power Plant" in the EIR) in the historic PG&E Station C facility from using jet fuel to battery storage, modifications to the wings of the building, and removal of the fuel tank and replacement with a new mixed-use building; • <u>Aerial Gondola Variant</u>: Construction of a new aerial gondola above and along Washington Street, extending from a station located at 10th and Washington Streets in downtown Oakland to a station located at Water and Washington Streets in Jack London Square.
Applicant:	Oakland Athletics Investment Group, LLC
Contact Person:	Noah Rosen – (510) 746-4406
Owners:	City of Oakland Duke Energy Oakland LLC
Planning Permits Required:	While not under consideration for this hearing, the City is currently reviewing development application filings for the Project consisting of: a Planned Unit Development, General Plan Amendment, Rezoning, Tentative Tract Map and Development Agreement.
General Plan:	General Industry EPP – Retail Dining & Entertainment - 1
Zoning:	IG M-40
Environmental Determination:	Draft Environmental Impact Report was published for a 45-day review period from February 26, 2021 to April 12, 2021, and then extended to 60 days ending on April 27, 2021. The Final EIR, including the Response to Comments, was published on December 17, 2021
Historic Status:	Designated Historic Property (DHP), survey rating A1+, PG&E Station C - Area of Primary Importance (API)
City Council District:	3
Action to be Taken:	Public Hearing to consider providing a recommendation to the City Council regarding the Certification of the EIR.
Staff Recommendation:	Provide recommendation to the City Council to Certify the EIR.
Finality of Decision:	Recommendation to City Council for Decision
For further information:	Contact case planner Peterson Vollmann at 510 238-6167 or by e-mail at pvollmann@oaklandca.gov .

SUMMARY

The item before the Planning Commission is the Oakland Waterfront Ballpark District Project EIR, which is being pursued by the Oakland Athletics Investment Group, LLC (Oakland A's). The purpose of this report and of the January 19, 2022 public hearing is to provide information and to solicit comments on the adequacy of the Final Environmental Impact Report on the Oakland Waterfront Ballpark District Project, and for the Planning Commission to consider a motion to recommend that the EIR be forwarded to the City Council for certification.

The Oakland A's have filed permit applications with the City of Oakland ("City") for a Planned Unit Development, Tentative Tract Map, General Plan Amendment and Rezoning as well as a Development Agreement to govern the development of the Oakland Waterfront Ballpark District Project. Pursuant to Planning Code Section 17.130.080, given the legislation required as part of the project entitlements, the City Council is the approving body for the entire development application, and the Planning Commission acts in an advisory role in the form of providing a recommendation to the City Council. In addition, the Project site is within the jurisdictional authority of both the Port Board of Commissioners ("Port Board") and the City Council. As such, for the City to process and approve the foregoing Project entitlements, the City Council must accept a request from the Port Board of Commissioners, to assume the relevant additional jurisdictional responsibilities for the Project through an ordinance (the "Jurisdictional Ordinance").

However, this hearing is not intended for receipt of comments on the merits of the Project as it pertains to all of the Project entitlements. At this stage, the only Project-related action that will be considered for approval by the City Council, in addition to the EIR certification, is the adoption of the Jurisdictional Ordinance. The remainder of the Project applications will come before the Planning Commission at a later date, after consideration by and certification of the EIR and adoption of the Jurisdictional Ordinance by the City Council.

BACKGROUND

In April 2018, the Port of Oakland ("Port") entered into an Exclusive Negotiating Agreement (ENA) with the Oakland A's so they could explore the possibility of developing a new ballpark and mixed-use development at the Howard Terminal property.

The City is the Lead Agency pursuant to the California Environmental Quality Act (CEQA) and has the responsibility to prepare the Environmental Impact Report (EIR) for the Project. In November 2018, the Oakland A's filed a request for environmental review application with the City to begin review and consideration of a proposal for the Oakland Waterfront Ballpark District Project.

Staff published a Notice of Preparation (NOP) of an EIR on November 30, 2018. A scoping session was held before the Landmarks Preservation Advisory Board on December 17, 2018, and the Oakland Planning Commission on December 19, 2018.

The EIR for the Project was prepared subject to the California Assembly Bill (AB) 734 judicial streamlining legislation (California Environmental Quality Act: Oakland Sports and Mixed-Use Project) that added provisions to CEQA as Public Resources Code Section 21168.6.7 for the Project.

In May 2019, the Board of Port Commissioners unanimously approved an Exclusive Negotiating Term Sheet Agreement ("Term Sheet") with the Oakland A's in order for the team to pursue a new ballpark and mixed-use development at Howard Terminal. The Port Resolution approving the Term Sheet also contemplated that the City Council would approve a General Plan amendment and residential use within the Project site pursuant to the City Charter, and in addition, approved that the City Council accept additional jurisdictional responsibilities for the proposed Project, including the negotiation and approval of a Development Agreement, zoning amendments, and design review.

In furtherance of the Port Resolution, on January 21, 2020, the City Council authorized the City Administrator to execute a non-binding Memorandum of Understanding Between City and Port Regarding Howard Terminal Oakland A's Ballpark Project through the adoption of Resolution No. 87998 C.M.S and, in February 2020, the City and Port executed such Memorandum of Understanding (the "**City-Port MOU**"). Amongst other provisions, the City Port-MOU contemplates that, upon effectuation through appropriate final action by the City Council, the City accept responsibility for processing of the planning and zoning development applications. Subsequently, the Oakland A's filed the development applications with the City, including the Planned Unit Development, Tentative Tract Map, and Development Agreement along with the request for the General Plan Amendment and Rezoning.

On February 26, 2021, the City published the Draft EIR along with the Notice of Availability beginning a 45-day public comment period, which was extended for 15 additional days through April 27, 2021. Hearings on the Draft EIR were held before the Landmarks Board on March 22, 2021, and before the Planning Commission on April 21, 2021.

In July 2021, the City Council adopted a Resolution approving the non-binding terms of a Development Agreement between the City and the Oakland A's.

On December 17, 2021, the City published the Final EIR/ Response to Comments Document along with the Notice of Availability and hearing on consideration of EIR Certification.

The purpose of this meeting is to take any remaining public testimony concerning the EIR and to consider making a recommendation to the City Council on the Adoption of the attached Findings for Certification of the EIR.

SITE DESCRIPTION

The Project site includes approximately 55 acres that comprise the Charles P. Howard Terminal (Howard Terminal) and certain adjacent properties located at the Port along the Inner Harbor of the Oakland-Alameda Estuary (Estuary). Howard Terminal is owned by the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners. The adjacent properties that the Athletics Investment Group, LLC (Project sponsor) seeks to secure are currently owned by Dynegy Oakland, LLC, a Delaware limited liability company. The site is bound generally by the Oakland Estuary Middle Harbor on the south; Jack London Square on the east; Union Pacific railroad tracks and Embarcadero West on the north; and the heavy metal recycling center, Schnitzer Steel, on the west.

Used as a container shipping terminal until January of 2014, the Howard Terminal portion of the Project site is approximately 50 acres and is currently leased by the Port to short-term tenants for maritime support uses. Howard Terminal is not open to the general public. Existing uses on Howard Terminal include, but are not limited to, truck parking, loaded and empty container storage and staging, longshoreperson training facilities, and berthing vessels for maintenance and storage. Howard Terminal is designated as Berths 67 through 69 within the Port. Berths 67 and 68 were constructed in the early 1980's, and Berth 69 was constructed in the mid 1990's. Four container cranes are located on Howard Terminal and were used to load and unload ships when the terminal was in active use as a shipping facility.

The Project site also encompasses the Port-owned surface parking lot at Embarcadero West and Clay Street, and the existing Oakland Fire Station located approximately at Clay and Water Streets. Water Street is the east-west pedestrian corridor through Jack London Square.

The Project site also includes the approximately 2.5-acre historic Pacific Gas & Electric (PG&E) Station C facility, owned by Vistra (Duke Energy Oakland LLC), located on the south side of Embarcadero West as a project variant,

referred to throughout the Draft EIR as the “Peaker Power Plant” given its function to supply power to the electric grid at times of peak demand.

Existing regional access to the Project Site exists via both Interstate 880 and Interstate 980, with on-ramps to each within one mile of the Project Site. The Project Site is located about one mile (a 20- to 25-minute walk) from three BART stations including West Oakland, 12th Street Downtown, and Lake Merritt. Railroad tracks are adjacent to the north boundary of the Project Site and there are several at-grade crossings of the railroad tracks nearby, including two directly into the Project Site. There is also an Amtrak / Capital Corridor train station about one-half mile from the Project Site, transit bus service is within one-quarter mile, and the Jack London Ferry Terminal is immediately adjacent to the east of the Project Site.

Historic Resources

PG&E Station C facility (“Peaker Power Plant”), on the southern side of Embarcadero West, has an Oakland Cultural Heritage Survey (OCHS) rating of A1+, and is also located within the Area of Primary Importance (API) for the same facility that also includes structures on the north side of Embarcadero West.

The Project Site includes four shipping cranes. The City received two studies with differing conclusions on the historic significance of Crane X-422, which is the crane located at the westernmost portion of the wharf; the Lead Agency will make the determination on whether or not Crane X-422 is a historical resource under CEQA as part of its findings at the time of Project approval. Out of an abundance of caution and supported by a motion of the Landmarks Board on March 22, 2021, the EIR treats Crane X-422 as an historic resource for CEQA purposes.

PROJECT DESCRIPTION

The proposed Project would construct: a new open-air waterfront multi-purpose Major League Baseball (“MLB”) ballpark with a capacity of up to 35,000-persons; mixed-use development including up to 3,000 residential units, up to 1.5 million square feet of office (which could include a range of commercial uses, including but not limited to general administrative and professional offices and life sciences/research); up to approximately 270,000 square feet of retail uses; an approximately 50,000 square-foot indoor performance center with capacity of up to 3,500 individuals; up to 400 hotel rooms; a network of approximately 18.3 acres of privately-owned, publicly-accessible open spaces; and a maximum of 8,900 total parking spaces at full buildout. Approximately 2,000 parking spaces would be shared by the ballpark and the performance center, and the remaining 6,900 parking spaces would serve residential and commercial uses on the site.

The proposed Project would demolish all existing buildings and structures on the Howard Terminal site except for the four existing shipping container cranes in order to develop the proposed multiple phased development of the Project. Existing structures on other parcels within the Project site would also be removed, with the exception of the Peaker Power Plant. Although the Project does not propose to demolish the four existing shipping container cranes or Fire Station 2, the DEIR analyzes the potential effects in the event that they are to be demolished. The demolition of the shipping container cranes are analyzed for removal given that it may be infeasible to retain them, and the Fire Station #2 may potentially be demolished and relocated as a means of enhancing the pedestrian approach to the ballpark along Water Street.

The ballpark would be located on the eastern portion of the site, closest to Jack London Square, and would be surrounded by pedestrianized streets (intended primarily for pedestrians, with vehicle access limited to emergency, service, delivery, and maintenance vehicles) which would connect to new publicly-accessible open space areas around and within the ballpark and along the waterfront.

A range of land uses would be developed in phases around and west of the ballpark on developable blocks that range in size from 0.2 to 2.75 acres, and block lengths ranging from approximately 200 to 450 feet. Maximum building heights for the proposed development blocks range from 50 to 600 feet tall.

The proposed Project would extend Market Street and Martin Luther King Jr, Way south onto the Project site, and also extend Water Street (a pedestrian street that is also accessible to and used by motor vehicles between Clay and Washington Streets) west from Jack London Square into the Project site. The site itself would have new north-south streets that align with those in the Acorn Industrial area immediately north of the site, and east-west streets creating a grid pattern.

The proposed Project would be developed in multiple phases: Phase 1 followed by the remaining development of the site, which together is “Buildout”. Phase 1 would generally include the area east of Market Street and is expected to take a minimum of 2 years to construct. Phase 1 is expected to include the ballpark, up to 540 residential dwelling units, 250,000 square feet of commercial office space, 30,000 square feet of retail and restaurant uses, 400 hotel rooms, and approximately 12.7 acres of publicly-accessible open space. Once the ballpark is constructed in Phase 1, the Project sponsor would relocate all Oakland A’s baseball operations from the existing RingCentral Coliseum to the new facility. No physical changes are proposed at the RingCentral Coliseum site as part of the Project.

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

A “Maritime Reservation Scenario” is being considered for the Project, which involves an alternative site plan for the proposed Project. In accordance with the Term Sheet for Howard Terminal between the Project sponsor and the Port dated May 13, 2019, the Port would have the right, between May 2024 and May 2029, to terminate the Project sponsor’s development rights to various portions of the Project site totaling approximately 10 acres, generally located in the southwestern corner of the site, if the Port deems those areas necessary to accommodate the expansion of the turning basin that is used to turn large vessels within Oakland’s Inner Harbor. If that occurs, the Project site plan would be modified, and the proposed development would be denser, fitting the same development program (i.e. the ballpark and mix of other uses proposed) onto the smaller site, with less park/open space area.

The Project includes a transportation program that includes a Transportation Management Plan (TMP) for game and event days, and a Transportation and Parking Demand Management Program (TDM) that would allow the Project to achieve the 20 percent Vehicle Trip Reduction (VTR) requirement of AB 734. The proposed Project would also include transportation infrastructure improvements (onsite and offsite) to improve pedestrian and bicycle access and address onsite and offsite circulation prior to and after ball games or other peak events, as well as for the ancillary mixed-use development.

The proposed Project would produce no net additional greenhouse gas emissions through a combination of measures and would be designed and constructed to receive Leadership in Energy and Environmental Design (LEED) Gold certification for the ballpark and nonresidential construction and achieve LEED Gold or GreenPoint equivalent rating for residential uses, as required by AB 734.

The proposed Project may also include one or more variants, which are optional Project elements that may or may not become part of the Project for particular reasons. Two variants are analyzed in a separate section of the Draft EIR:

- **Peaker Power Plant Variant:** Implementation of the planned conversion of the existing Oakland Power Plant (referred to as the “Peaker Power Plant” in the Draft EIR because of its role in supplying power to the electric grid to meet peak demands) in the historic PG&E Station C facility from using jet fuel to battery storage, modifications to the western wing of the building, and removal of the fuel tank and replacement with a new mixed-use building.
- **Aerial Gondola Variant:** Construction of a new aerial gondola above and along Washington Street, extending from a station located at 10th and Washington Streets in downtown Oakland to a station located at Water and Washington Streets in Jack London Square.

While one of these variants would include new mixed-use buildings, it would not increase the amount of development proposed under the Project but rather re-allocate the proposed amount of building square footage and number of residential units.

ENVIRONMENTAL REVIEW PROCESS

The City is the Lead Agency pursuant to CEQA and has the responsibility to prepare the EIR for the Project, under the requirements of CEQA, pursuant to Public Resources Code Section 21000 *et. seq.* An Initial Study was not prepared for the Project, as authorized under Section 15060(d) of the CEQA Guidelines.

As noted above, the EIR for the Project was prepared pursuant to AB 734, which added provisions to CEQA as Public Resources Code Section 21168.6.7 for the Project.

In addition to the above and consistent with the procedural requirements of Section 21168.6.7, the Draft EIR and all other documents submitted to or relied upon by the lead agency in the preparation of the Draft EIR could also be accessed and downloaded from the following website: <http://www.waterfrontballparkdistrict.com>. In addition, any document prepared by the lead agency or submitted by the applicant after the date of the release of the Draft EIR that is a part of the record of proceedings, and comments received on the Draft EIR, are available to the public on this same website in a readily accessible electronic format within the timeframes specified by Section 21168.6.7.

Publication and Distribution of the DEIR

A Notice of Preparation was issued on November 30, 2018 and a scoping session held before the Landmarks Board on December 17, 2018 and the Planning Commission on December 19, 2018. The Oakland Waterfront Ballpark District Project DEIR was prepared and released on February 26, 2021, beginning a 45-day public comment period, which was extended to 60 days. Consistent with the procedural requirements of Section 21168.6.7, the City conducted an informational workshop within 10 days after the release of the Draft EIR on March 8, 2021 to inform the public of the key analyses and conclusions of the Draft EIR. The DEIR was heard before the Landmarks Board on March 22, 2021 and at the Planning Commission on April 21, 2021. The public review and comment period ended on April 27, 2021.

The following environmental topics were addressed in detail in the Draft EIR:

- Aesthetics, Shadow and Wind
- Land Use, Plans and Policies

- Air Quality
- Biological Resources
- Cultural and Tribal Cultural Resources
- Energy
- Geology, Soils, and Paleontological Resources
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise and Vibration
- Population and Housing
- Public Services
- Recreation
- Transportation and Circulation
- Utilities and Service Systems

Potentially Significant Impacts Identified in the Draft EIR

All impacts and Mitigation Measures identified in the Draft EIR were summarized in Table 2-1 at the end of Chapter 2 (Summary) of the Draft EIR. Table 2-1 also identified the level of significance of the impact after recommended Mitigation Measures are implemented. Other than the impacts discussed below, all of the environmental effects of the Project can be reduced to less than significant levels through implementation of recommended Mitigation Measures. Some of the mitigation measures in the Draft EIR were modified in the Final EIR in response to comments. The revised mitigation measures are set forth in the Final EIR in Chapter 7 *City Initiated Updates and Errata to the DEIR* (which includes a revised summary Table 2-1) and the Draft Mitigation Monitoring and Reporting Program included as an appendix to the Final EIR.

The Draft EIR identified the following **Significant and Unavoidable** environmental impacts considered under CEQA:

- **Impact AES-5:** The Project would create winds that exceed 36 mph for more than one hour during daylight hours during the year.
- **Impact AES-1.CU:** The Project, combined with cumulative development in the Project vicinity and citywide, would result in significant cumulative wind impacts.
- **Impact AIR-1:** Demolition and construction associated with the Project would result in average daily emissions that would exceed the City's construction significance thresholds of 54 pounds per day of NO_x.
- **Impact AIR-2:** Operation of the Project (and combined overlapping construction and operation) would result in operational average daily emissions of more than 54 pounds per day of ROG and NO_x and 82 pounds per day of PM₁₀; or result in maximum annual emissions of 10 tons per year of ROG and NO_x, and 15 tons per year of PM₁₀.
- **Impact AIR-1.CU:** The Project, combined with cumulative development in the Project vicinity and citywide, would contribute to cumulative regional air quality impacts associated with criteria pollutants.
- **Impact AIR-2.CU:** The Project, combined with cumulative development would contribute to cumulative health risk impacts on sensitive receptors.
- **Impact CUL-4:** The proposed Project would result in a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5 related to potential removal of Crane X-422.

- **Impact CUL-1.CU:** The Project, combined with cumulative development in the Project vicinity as a result of the Downtown Oakland Specific Plan and citywide, would contribute to cumulative adverse impacts on historical resources.
- **Impact NOI-1:** Construction of the proposed Project would result in substantial temporary or periodic increases in ambient noise levels in the Area in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.
- **Impact NOI-2:** Construction of the proposed Project would expose persons to or generate groundborne vibration that exceeds the criteria established by the Federal Transit Administration (FTA).
- **Impact NOI-3:** Operation of the proposed Project would result in generation of noise resulting in a 5-dBA permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project, or generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code section 17.120.050) regarding operational noise.
- **Impact NOI-1.CU:** Construction activities of the proposed Project combined with cumulative construction noise in the project area would cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity during construction.
- **Impact NOI-2.CU:** Operation of the proposed Project when considered with other cumulative development would cause a substantial permanent increase in ambient noise levels in the project vicinity.
- **Impact TRANS-3:** The Project would generate additional multimodal traffic traveling across the at-grade railroad crossings on Embarcadero that would expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.
- **Impact TRANS-6:** The Project traffic volumes would cause the significant degradation of two CMP or MTS segments in 2020:
 - Posey Tube in the eastbound direction between the City of Alameda and the City of Oakland.
 - Webster Tube in the westbound direction between the City of Oakland and the City of Alameda.
- **Impact TRANS-3.CU:** The Project would contribute to cumulative volumes of multimodal traffic traveling across the at-grade railroad crossings on Embarcadero that would cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.
- **Impact TRANS-6.CU:** The Project would contribute to congestion on CMP Roadway Segments, including degradation from LOS E or better to LOS F or an increase the v/c ratio by 0.03 or more for segments already projected to operate at LOS F on the following CMP or MTS segments in 2040:
 - I-880 in the northbound direction between 23rd Avenue and Embarcadero.
 - SR 24 in the eastbound direction between Broadway and State Route 13.
 - Posey Tube in the eastbound direction between the City of Alameda and the City of Oakland.
 - Webster Tube in the westbound direction between the City of Oakland and the City of Alameda.
 - Market Street in the northbound direction between 12th Street and 14th Street
 - Market Street in the southbound direction between Grand Avenue and 18th Street

Significant and Unavoidable Impacts Related to Project Variants

- **Impact CUL-8:** The proposed Project, with the Peaker Power Plant Variant, would directly impact a historical resource through removal of portions of the east and west wings of the building at 601 Embarcadero West.
- **Impact CUL-10:** The proposed Project, with the Aerial Gondola Variant, would result in indirect impacts to the Old Oakland API.
- **Impact CUL-3.CU:** The Project, in combination with the Peaker Power Plant Variant, would contribute to a citywide cumulative impact on cultural and historic resources identified in the Downtown Oakland Specific Plan EIR through the loss of the historic wings of the Peaker Power Plant.
- **Impact CUL-4.CU:** The proposed Project, in combination with the Aerial Gondola Variant, would contribute to a citywide significant cumulative impact on cultural and historic resources identified in the DOSP EIR through changes to the setting of the Old Oakland API.

Project Alternatives

Chapter 6 of the Draft EIR included the analysis of four alternatives, including the “*No Project Alternative*”, to the Proposed Project that meet the requirements of CEQA, which included a reasonable range of alternatives to the Project that (aside from the No Project Alternative) may feasibly attain most of the Project’s basic objectives, and potentially avoid or substantially lessen many of the Project’s significant environmental effects. The CEQA alternatives analyzed in Chapter 6 included:

- **Alternative 1: The No Project Alternative.** Under the No Project Alternative, the proposed Project would not be approved, none of the Project variants would be implemented, and no physical changes would occur. Howard Terminal would remain in use by short-term tenants of the Port for maritime support uses. The Oakland A’s would continue to use the Oakland Coliseum until the end of their current lease in 2024. In the longer term, it is a likely possibility that the A’s would have to build a new ballpark, either in Oakland or somewhere else.
- **Alternative 2: The Off-Site (Coliseum Area) Alternative.** Under this alternative, Howard Terminal would remain in its current use and the Oakland A’s would construct a new ballpark and mixed-use development at the site of the Oakland Coliseum. No physical changes would occur at Howard Terminal, which would remain in use by short-term tenants of the Port for maritime support uses. None of the Project variants analyzed in Chapter 5 would be implemented with the Off-Site (Coliseum Area) Alternative.
- **Alternative 3: The Proposed Project with Grade Separation Alternative.** Under this alternative, the proposed Project would be constructed at the Project site and would be revised to include construction of a grade-separated crossing of the railroad tracks for vehicles accessing the site as well as the pedestrian and bicycle bridge included as mitigation in Section 4.15, *Transportation and Circulation*. Alternative 3 may or may not include implementation of other Project variants.
- **Alternative 4: The Reduced Project Alternative.** Under this Alternative, site preparation and phased construction of a new ballpark and other uses would occur, however commercial and residential development would be at lower densities than with the proposed Project. The site plan for Alternative 4 would be the same as for the proposed Project, with commercial, residential, and mixed-use development. All buildings other than the ballpark and the hotel would be no taller than 60 or 70 feet and both the amount of construction and the intensity of use of the site would be less than with the proposed Project.

The DEIR concluded that the No Project Alternative is the environmentally superior alternative. In instances where the No Project Alternative is the environmentally superior alternative, CEQA requires that an environmentally superior alternative be identified from the remaining alternatives. The Reduced Project Alternative is identified as the most environmentally superior alternative from the remaining alternatives because it would reduce the air pollutant emissions and health-related consequences of the proposed Project and all of the other alternatives.

Response to Comments/ Final EIR Document

The Response to Comments/ Final EIR was published, along with the Notice of Availability, on December 17, 2021. The Response to Comments (RTC)/Final EIR document (which together with the DEIR make up the EIR) includes written responses to all comments received during the public review period on the DEIR and at the public hearings on the DEIR held by the Landmarks Board and the Planning Commission. Due to the COVID-19 pandemic, the City's administrative offices, including the Bureau of Planning, remains closed to the public. Therefore, hard copies of the document are not available for public review. Therefore, pursuant to the Governor's Executive Order N-80-20, the City is following an alternative process for providing access to the Final EIR. Consistent with the Executive Order, the Final EIR has been uploaded to the State Clearinghouse CEQAnet portal (<https://ceqanet.opr.ca.gov/>). And, the Final EIR may be viewed or downloaded from the City's website: <https://www.oaklandca.gov/documents/oakland-as-waterfront-ballpark-district-at-howard-terminal-environmental-impact-report-documents-case-file-number-er18-016>.

Response to Comments/Final EIR Content and Summary

- The RTC/Final EIR runs about 3,500 pages plus appendices & incorporates the Draft EIR by reference. Introductory information is provided in Chapter 1
- Includes update to Project information (Chapter 2)
- Includes a list of all commenters (Chapter 3)
- Includes 23 "consolidated responses" responding to comments raised by multiple commenters (Chapter 4)
- Includes all public agency comments, and responses to the comments (Chapter 5.1)
- Includes all organization comments and responses to the comments (Chapter 5.2)
- Includes all individual comments and responses to the comments (Chapter 5.3)
- Includes all comments at public hearings and responses to the comments (Chapter 6)
- Includes City-initiated updates and errata to the Draft EIR, including approximately 300 pages of specific edits to various sections of the Draft EIR (Chapter 7)
- Contains a draft Mitigation Monitoring and Reporting Program as an Appendix 02 as well as the following appendices: Public Resources Code Section 21168.6.7 and AB 1191 (Appendix 01); Public Hearing Transcripts (Appendix 03); Biological Resources Supporting Information (revised) (Appendix 04); Cultural Resources Supporting Information (revised) (Appendix 05); and Sea Level Rise-Related Supporting Information (Appendix 06)
- Does not contain "significant new information" per State CEQA Guidelines Section 15088.5 requiring recirculation prior to certification

Updated Project Information - Addressed in Chapter 2 of the RTC/Final EIR

- Affordable housing program consistent with term sheet adopted by the City Council in July 2021
- Allowance for fishing from portions of the Waterfront Park wharf (no separate fishing pier is feasible due to the federal navigation channel)
- Proposed at-grade railroad safety improvements extended east to Oak Street (rather than ending at Broadway)
- Preparation of a Draft Remedial Action Plan (RAP) rather than a Removal Action Workplan (RAW) for review by the Department of Toxic Substances Control (DTSC)
- Project applications and proposed design guidelines now available
- Peaker Power Plant Variant modifications to preserve the east wing (only the west wing would be partially removed)
- Non-CEQA updates (continued negotiations regarding the development agreement and community benefits; Port discussions regarding seaport compatibility measures, which will incorporate Final EIR mitigation measures plus non-CEQA items)

Consolidated Responses - Issues Raised by Multiple Commenters & Addressed in Chapter 4 of the RTC/Final EIR

- Project Description
- Formulation, Effectiveness and Enforceability of Mitigation Measures
- Recirculation of the Draft EIR
- Port Operations & Land Use Compatibility
- Truck Relocation
- Rail Safety, Grade Crossings, & Grade Separation
- Parking
- Chinatown
- Range of Grade Separation Alternatives
- The Off-Site (Coliseum Area) Alternative
- Quiet Zone
- Affordable Housing
- Gentrification and Indirect Displacement
- Environmental Justice
- Urban Decay
- Remediation Plans, Land Use Covenants, and Human Health and Ecological Risk Assessments
- Bird Impacts from Fireworks Displays

- Effects of Light and Glare on Maritime Operations and Safety
- BART Station Capacity
- AC Transit Congestion Impacts
- Transportation and Parking Demand Management Plans and Transportation Management Plan Considerations
- General Non-CEQA

Updates and Errata to the Draft EIR - Addressed in Chapter 7 of the RTC/Final EIR

- Updates to the Hazards section of the Draft EIR to reflect the A's decision to prepare a Remedial Action Plan (RAP) rather than a Remedial Action Workplan (RAW) for review by DTSC.
 - A RAP better reflects the cost/size of the undertaking and will require a public hearing.
 - The A's expect to submit their draft RAP to DTSC early in 2022.
- An expanded explanation of health risks and the remediation process is provided in Final EIR Consolidated Response 4.16.
- Updates to air quality mitigation in response to comments from BAAQMD, CARB, and others. For example:
 - Narrow exception to Tier 4 construction equipment requirement (MM AIR-1b & 1c)
 - Require use of electrical hook-ups for transportation refrigeration units (TRUs) at the ballpark (MM AIR-2d)
 - Require documentation of emissions and emission reduction measures rather than requiring a plan be prepared (MM AIR-2e)
 - Specify required on-site emission reduction measures plus potential offsite reduction measures, new technologies, and use of emission offsets (MM AIR-2e)
 - Require building electrification per City ordinance, EV charging beyond what is required, and maximum feasible vehicle trip reductions (i.e. beyond the 20% requirement of AB 734) (MM AIR- 2e)
 - Reference additional WOCAP measures that can be implemented to reduce cumulative health risks (MM AIR-2.CU)
- Inclusion of additional information about the Ohlone and added provisions regarding notification of Native American representatives in MM CUL-4a and 4b
- Text additions and edits requested by BCDC
- Clarification of mitigation requiring an adaptive management and contingency plan related to sea level rise (MM HYD-3). The plan would be based on monitoring of flooding events/sea level rise/groundwater levels, and would establish triggers for management actions and for implementation of adaptation measures.
- Refinements to the description of rail safety improvements (fencing) along Embarcadero West in response to comments from UPRR and CPUC. The final suite of at-grade crossing improvements will be established through the GO 88-B Request (Authorization to Alter Highway Rail Crossings) process. (MM TRANS-3a)

- Identify specific required and optional measures to achieve 20 percent vehicle trip reduction for non-ballpark uses (MM TRANS-1a)
- Identify additional, specific measures required to achieve 20 percent vehicle trip reduction for the ballpark (MM TRANS-1b)
- Edits to Alternatives section in response to comments about grade separation and the Coliseum site.

PENDING LAND USE APPROVALS AND LOCAL AUTHORITY

City and Port Shared Jurisdictional Authority

Pursuant to Article VII of the City Charter, including Sections 706(23), 708, 713, and 727, development of the Proposed Project will require discretionary approvals from both the City and the Port.

In May 2019, in its Resolution approving the Term Sheet, the Port Board also contemplated that the City Council would approve a General Plan amendment and residential use within the Project site pursuant to the City Charter, and in addition, approved that the City Council accept additional jurisdictional responsibilities for the proposed Project, including the negotiation and approval of a Development Agreement, zoning amendments, and design review.

In furtherance of the Port Resolution, on January 21, 2020, the City Council authorized the City Administrator to execute a non-binding Memorandum of Understanding Between City and Port Regarding Howard Terminal Oakland A's Ballpark Project through the adoption of Resolution No. 87998 C.M.S and, in February 2020, the City and Port executed the City-Port MOU. Amongst other provisions, the City Port-MOU contemplates that, upon effectuation through appropriate final action by the City Council, the City accept responsibility for processing planning and zoning development applications. Subsequently, the Oakland A's filed the development applications with the City including the Planned Unit Development, Tentative Tract Map, and Development Agreement, along with the request for the General Plan Amendment and Rezoning.

General Plan

The General Plan's Land Use and Transportation Element (LUTE) classifies the project site as being located in the *General Industrial and Transportation* land use classification area. The *General Industrial and Transportation* land use classification is intended to recognize, preserve, and enhance areas of the City for a wide variety of businesses and related establishments that may have the potential to create off-site impacts such as noise, light/glare, truck traffic, and odor. These areas are characterized by sites with good freeway, rail, seaport, and/or airport access. The area east of Jefferson Street is located within the General Plan's Estuary Policy Plan (EPP) Area and is designated as a *Retail, Dining and Entrainment 1* Area, which is an extension of Jack London Square. Approval of a General Plan Amendment would be necessary to allow for the mixed development currently being proposed as part of the Project. The applicant has requested an amendment from the LUTE *General Industrial and Transportation* land use classification to the LUTE *Regional Commercial* classification, and an amendment from the EPP *Retail Dining and Entertainment -1* land use classification to the EPP *Retail Dining and Entertainment - 2* classification.

Zoning

The Project Site is located within the IG, General Industrial Zone, and the portion east of Jefferson Street is located within the M-40, Heavy Industrial Zone. These zones allow heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses. It is anticipated that the Project approvals will include adoption of a new site-specific PUD Zoning for the proposed mixed-use

development of the site. The zoning framework would control uses within development parcels post construction while the maximum allowed density and intensity along with all development standards would be applied through the Preliminary Development Plan and Design Guidelines of the PUD application.

Forthcoming Project Entitlement Applications

As mentioned earlier in this report, pursuant to the City-Port MOU, the Oakland A's have filed permit applications with the City for a Planned Unit Development, Tentative Tract Map, and Development Agreement along with applications for a General Plan Amendment and Rezoning to govern the development of the Oakland Waterfront Ballpark District Project. The City is currently reviewing those development application submittals and upon Certification of the EIR and adoption of the Jurisdictional Ordinance by the City Council, those development applications will come back before the Planning Commission for a recommendation to the City Council for consideration and approval.

Key Required Project Approvals by Outside Responsible Agencies (Non-City)

Upon Certification of the EIR for the Project (and in most instances only after any Project approval by the City), the Project will also require a number of key approvals from other Responsible Agencies as identified in the EIR, which may be reviewed concurrently or subsequent to the City development applications cited above. The agencies and permits include but are not limited to the following:

Board of Port Commissioners

- Approval of Option Agreement and related transaction documents (e.g., Operations and Management Agreement, parcel lease and conveyance agreements)
- Approval of a Trust Settlement and Exchange Agreement addressing public trust issues affecting the Project site
- Port Building Permits (sometimes referred to as a Port Development Permit)

State Lands Commission

- Approval of a Trust Settlement and Exchange Agreement addressing public trust issues affecting the Project site

Bay Conservation Development Commission (BCDC)

- Major Permit
- Amendment to the BCDC and Metropolitan Transportation Commission (MTC) Seaport Plan, Amendment to the BCDC Bay Plan

Department of Toxic Substances Control (DTSC)

- Oversight of proposed site remediation to allow proposed uses (including a Remedial Action Plan)
- Amendments to proposed Covenants to Restrict Use of Property that current apply to the Project site

California Public Utilities Commission (CPUC)

- Review and approval of all affected railroads and obtaining all necessary permits/approvals, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings) (Applies to all improvements to existing at-grade rail crossings including all new grade separated crossings)

KEY ISSUES

Seaport Compatibility

Many comments submitted on the Draft EIR raised the issue of the proposed Project's land use compatibility with Port operations. Although fundamental land use conflicts are no longer included in the State CEQA Guidelines Appendix G checklist, this topic remains an adopted CEQA significance threshold for the City. Thus, the potential for fundamental land use conflicts was evaluated in Section 4.10, *Land Use, Plans, and Policies*, of the Draft EIR. For CEQA analysis purposes, a *fundamental conflict with adjacent or nearby land uses* means that the character of activities associated with one land use is in fundamental conflict with the uses of adjacent land, or the characteristics of one land use disrupts or degrades adjacent land uses to such a degree that the functional use of the adjacent land for its existing or planned purpose is imperiled. The Draft EIR included mitigation measures to address potential land use conflicts.

The comments regarding land use compatibility were primarily addressed in Chapter 4 of the Response to Comments/Final EIR under Consolidated Response 4.4 which focuses on Port-related land use compatibility, including Seaport road and rail access, recreational watercraft and maritime navigation, and the Seaport Compatibility Measures (further discussed below).

As referenced above, the Term Sheet for Howard Terminal between the Oakland A's and the Port requires the parties to negotiate Seaport Compatibility Measures as part of the business and operational terms for the real estate transaction. The Port has held numerous meetings with Seaport and maritime stakeholders to discuss the concerns and potential Seaport Compatibility Measures that could address the concerns raised. The Port followed up in July 2021 with a letter to the City Council that included a summary list that identified several potential Seaport Compatibility Measures that would incorporate elements of CEQA mitigation measures from the Draft EIR identified to reduce CEQA impacts related to land use, transportation/circulation, aesthetics, noise, and air quality. The final Seaport Compatibility Measures may potentially include other measures not related to CEQA impacts; these are business terms for the transaction, which were therefore not covered in the EIR.

Transportation and Parking Impacts on Surrounding Neighborhoods

As would be expected for a project of this magnitude, numerous concerns were raised by communities in neighborhoods surrounding the Project site regarding traffic and parking concerns. In particular, many concerns were raised by the West Oakland and Chinatown communities.

Traffic congestion or measures of vehicular delay is not a significant environmental impact under CEQA and therefore, cannot be used as a significance criterion in CEQA documents, according to State CEQA Guidelines Section 15064.3. In addition, parking is not a significance criterion in the *City of Oakland Transportation Impact Review Guidelines*. Also, CEQA Section 21099(d) states that parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment. The CEQA threshold primarily focuses on Vehicle Miles Traveled (VMT), which is addressed by the Mitigation Measures implementing the TDM which applies to the non-ballpark development and the TMP which applies to the ballpark facility.

While traffic intersection level of service and parking are not CEQA issues, many of the parking and traffic concerns raised by the surrounding communities regarding the ballpark events would be addressed through the TMP as it addresses the CEQA VMT issue as well as overall traffic and parking management on game days.

The TMP outlines operational strategies to optimize access to and from the ballpark within the constraints inherent to a large public event. Its primary goal is to ensure safe and efficient access for all people traveling to and from the site, with a focus on promoting pedestrian, bicycle, and transit access, thereby reducing motor vehicle impacts

to the site and surrounding neighborhoods. Strategies to increase the use of and attractiveness of transit, walking, bicycling, and scooters are included, along with management techniques for attendee and employee traffic, and on ridesourcing (i.e., Lyft, Uber [transportation network companies [TNCs]] and taxis to reduce overall vehicle congestion in the area. The TMP also addresses railroad crossings, game day operations and communication, curb management, freight, and emergency vehicle access. It also includes a monitoring program with a process for making refinements to the plan to achieve identified performance standards. The TMP for the ballpark would include elements recommended for implementation in coordination with the City of Oakland Department of Transportation (OakDOT). The TMP includes required measures, and also includes elements that could be implemented as needed in the future.

Also included within the TMP is the City's Parking Management Plan (PMP), which would enhance Residential Permit Parking (RPP). The RPP enhancement would address many concerns of the West Oakland community regarding on-street parking in residential neighborhoods by extending the hours of enforcement to prevent ballpark patrons from parking on nearby residential blocks. The PMP also would establish a parking reservation system for the numerous underutilized parking garages downtown so that ballpark patrons would pre-purchase a parking pass to one of the garages and drive directly to that location to prevent vehicles circulating in the area to find parking. This program is referred to as OakPark and would be similar to the SacPark program that was established in Sacramento to address game-day parking and traffic management for the new Kings arena. This in addition to the on-street metered parking plan to adjust pricing to reflect demand and would go towards addressing a number of concerns of the Chinatown community regarding availability of parking for local merchants and residents and vehicles circulating through the neighborhood to find parking. As required by the City Council Resolution for the non-binding Development Agreement Term Sheet in July 2021, City staff continues to work with Chinatown representatives to establish measures to incorporate into the TMP to address concerns regarding availability of parking to reach a desirable balance of maintaining available parking for merchants and residents while also allowing merchants to benefit from the numerous ballpark patrons that would be coming into the area on game days. Staff is also continuing to work to identify specific locations that would be appropriate to deploy traffic control officers to ensure safety for pedestrians in the area due to the increases in pedestrian and vehicular traffic that would occur on game days.

At-Grade Railroad Crossings

Many comments received on the Draft EIR expressed concerns about the adequacy of the proposed mitigation measures and project alternatives to address the impacts of the adjacent at-grade rail lines due to the additional demand for access to the site generated by the Project.

Of particular concern to many commenters located within the Jack London District is that the measures outlined in Mitigation Measure TRANS-3a (Implement At-Grade Railroad Crossing Improvements) did not extend to the railroad crossings along Embarcadero West on Franklin Street, Webster Street, and Oak Street. Through the analysis conducted for the DEIR, the most desirable corridors for walking between the BART stations and the ballpark were identified, one of which included the 8th Street corridor through Chinatown connecting the Lake Merritt BART station with the ballpark via Broadway and Water Street. Many commenters located within the Jack London District opined that (and some expressed a desire that) a number of ballpark attendees would choose to walk through the Jack London District from the Lake Merritt BART Station. Although the pedestrian route from Lake Merritt BART Station to the ballpark through the Jack London District would represent a longer walk with less active storefronts than along 8th Street, the City appreciates the commenters' desire for ballpark attendees to walk through the Jack London District between the Lake Merritt BART station and the Project site; and the associated rail safety at the at-grade railroad crossings along Embarcadero West at Franklin Street, Webster Street, and Oak Street. In response to these comments and suggestions, Mitigation Measure TRANS-3a was amended to include the at-grade crossing improvements to extend all the way down to Oak Street as suggested.

The City also received numerous comments with concerns about the Project Alternatives studied to address the adjacent railroad tracks. In particular, there were concerns as to why Project Alternative 3 (Grade Separation Alternative) was not a required mitigation measure as well as the limited range of grade separated crossings that were analyzed. These comments are addressed in detail in consolidated responses in Chapters 4.6 and 4.9 of the Response to Comments/ Final EIR document. In brief summary, the decision to include the vehicular grade separated crossing as an alternative in the Draft EIR, rather than as a mitigation measure, was based on the scale (size and cost) of the undertaking and how it would modify the proposed site plan. The Grade Separation Alternative also poses some private property condemnation issues due to overpassing properties not under site control by the applicant as well as the need to eliminate private driveway access for a number of properties. As to the limited range of grade separations studied as alternatives to the project, these were based upon the feasibility of additional proposals. For example, the City received comments suggesting a number of additional alternatives for study, including grade separations at both Market Street and MLK Jr. Way, new grade separated access to the site while also permanently closing existing at-grade crossings at the site and into Jack London Square, as well as depressing the existing railroad tracks. A grade separation into the site at both Market Street and MLK Jr. Way was rejected and not studied further due to the extensive condemnation issues for off-site properties in addition to the substantial impacts on the site plan layout due to the need for elevated roadways that would extend into the site impacting the site frontages of 11 of the 18 proposed development blocks, and even eliminating access to a number of the blocks. The permanent closure of existing at-grade crossings at the site and into Jack London Square were also rejected and not further studied for the same reasons as well as the impacts and condemnation issues on properties within and adjacent to Jack London Square by eliminating auto access to those properties. The recommendation for depressing the railroad tracks was rejected due to the extensive time and costs and additional impacts associated with such a project, which would be a future proposed project of regional significance and scale.

Site Remediation

A number of comments received on the DEIR expressed concern or posed questions regarding the site remediation plans to be prepared later as improper deferral of mitigation as well as questioned the overall remediation process with DTSC with regard to a Removal Action Workplan (RAW) versus a Remedial Action Plan (RAP).

The Draft EIR identified Mitigation measures HAZ-1a through HAZ-1d, which provide the framework for the required remediation of the project site to ensure that it is safe for residential uses and other proposed activities that are currently prohibited by the current Land Use Covenants (LUC's). The mitigations identified allow the City to ensure that the Project sponsor complies with state regulations regarding hazardous materials to the satisfaction of the California Department of Toxic Substances Control (DTSC), the agency with jurisdiction. Many comments argued that the specifics of the site remediation information and approvals should have been included in the Draft EIR, and by not doing so was improper deferral of mitigation. The Draft EIR identified a number of possible remediation activities that could be used to meet the regulatory requirements of DTSC; however, this is not an "impermissible deferral", but rather demonstrated that meeting the regulatory requirements would be feasible. Suggesting that the approved remediation plan should be provided as part of the EIR and that the Draft EIR is not adequate because the remediation plan is "deferred" represents a misunderstanding of the regulatory process since DTSC cannot legally approve a remediation plan until the Final EIR is certified. Potential impacts related to hazardous materials would be addressed by complying with requirements of state law to the satisfaction of DTSC, as set forth in the referenced mitigation measures, which is consistent with the State CEQA Guidelines.

As noted earlier, a number of comments raised concerns over the DEIR identification of the proposed RAW to be reviewed by DTSC and argued that this was the incorrect process since a RAP should instead be prepared. RAWs are prepared for remediation projects estimated to cost less than \$2 million, whereas RAPs are prepared for remediation projects estimated to cost more than \$2 million and include a more detailed evaluation and public meetings. At the time the DEIR was prepared, the applicant had assumed that a RAW would be required, and although the estimated cost of remediation is uncertain at this time, the Project sponsor has conservatively elected

to prepare a RAP for review and approval by DTSC. The Final EIR has been amended to address this change. However, this change does not alter the analysis, impact conclusions or required mitigation to address any potential impacts. More detail on this issue is provided in the Consolidated Responses Chapter 4.16 of the Response to Comments/ Final EIR document.

Affordable Housing

A number of comments received on the Draft EIR raised concerns that the document did not describe the affordability of residential units that would be developed as part of the proposed Project and that the lack of information about the affordability of the proposed residential units limits the ability of the public to understand the implications of the proposed Project on the neighborhoods and community near the Project site.

At the time the Draft EIR was prepared, the applicant had not proposed on-site affordable housing units or the development of off-site housing at any particular site as part of their development application. As such, the Draft EIR referenced the City's requirements under the Affordable Housing Impact Fee program which would require compliance through on-site affordable housing, payment of the impact fee, or housing at a yet to be determined off-site location. On July 20, 2021, the City Council adopted a term sheet for a Development Agreement for the Project which includes a requirement that 15 percent of the 3,000 units provided on-site be affordable, and that an additional \$50 Million in total funding be provided to support off-site displacement prevention strategies including a combination of new construction of units, preservation and/or renovation of existing units, down payment and senior assistance. As such, the Final EIR has incorporated this update into the Project description.

The updated affordable housing information added into the Project description does not impact the analysis or conclusions provided in the Draft EIR. From a CEQA perspective, the environmental impacts resulting for the development of housing as described in the Draft EIR would not change based on the affordability of the housing units and impacts of on-site housing proposed as part of the Project are addressed throughout the EIR. As stated in the Draft EIR, any off-site affordable units at not yet identified locations within the City would be required to undergo an independent CEQA analysis separate from this Project, but were still considered as part of the cumulative growth scenario for the City. More detail on this issue is provided in the Consolidated Responses Chapter 4.12 of the Response to Comments/ Final EIR document.

Air Quality

Comments received on the Draft EIR from both agencies like BAAQMD and CARB and from individuals and organizations with air quality concerns focused on the proximity of the site to West Oakland and the need to do everything possible to address air pollutant emissions.

The Draft EIR explained that – as with all very large projects – operations of the proposed project at Howard Terminal (and overlapping construction and operations) would result in regional criteria pollutant emissions above the City's threshold of significance. As a result, the Draft EIR included mitigation measures to reduce these emissions to the maximum extent feasible. Comments on the Draft EIR requested more specificity about required emission reduction strategies, and objected to the way Mitigation Measure AIR-2e was structured to require preparation of an emission reduction plan. In response to these comments, the text of Mitigation Measure AIR-2e was revised to specify required emission reduction strategies, allow use of other strategies that cannot be specified at this time (such as use of new technologies and offsets), and to require documentation of the implementation and effectiveness of the strategies that are implemented, rather than preparation of a plan. Other air quality mitigation measures addressing regional pollutants were also revised to address the comments and suggestions received on the Draft EIR. These changes can be seen in Consolidated Response 4.2 and in Chapter 7 of the Response to Comments/Final EIR document.

Localized air pollutant emissions, including emissions of toxic air contaminants (TACs), were analyzed in the Draft EIR and a Health Risk Assessment was conducted to assess increased cancer risk, non-cancer chronic health effects, and localized annual average PM_{2.5} concentrations from both construction and operational sources. This analysis concluded that the project with mitigation would result in a Less than Significant impact on sensitive receptors.

However, the City's threshold of significance for cumulative health risks is such that any increase over existing conditions in the vicinity of the site would be considered significant given that existing background levels already exceed the threshold, and thus the Draft EIR concluded that the cumulative health risk (Impact AIR 2.CU) would be significant and unavoidable. The analysis was conducted in two ways – using the standard BAAQMD approach, and using detailed modeling from the BAAQMD's West Oakland Community Action Plan (WOCAP) – and the resulting Mitigation Measure AIR-2.CU was expanded in response to comments received on the Draft EIR to reference additional strategies from the WOCAP that could be implemented as feasible to reduce this impact.

Construction Noise/Vibration

The EIR identified a number of impacts related to construction noise and vibration, that were determined to be significant and unavoidable.

For the construction noise impacts, the EIR analysis identified that the construction activities would exceed the allowable daytime noise levels in the Oakland Municipal Code (the City of Alameda exempts daytime construction noise). While the City of Oakland's significance criterion for construction noise allows for a project to periodically generate noise in violation of the City of Oakland Noise Ordinance when an acoustical analysis is performed that identifies recommended measures to reduce potential impacts, given the extensive duration and intensity of activities associated with the proposed Phase 1 ballpark construction involving impact compaction methodologies and multiple pile driving activities in particular, the impact of daytime Phase 1 construction activities were conservatively identified as significant and unavoidable even with incorporation of the mitigations for sound reduction measures.

The applicant has also proposed to include certain less intensive construction activities in the evening hours such as concrete pours and crane operations for lifting and placement of precast concrete. The City of Oakland sets evening receiving noise levels for residential uses at 45 decibels (or whatever the existing ambient levels are), and the City of Alameda sets the evening receiving noise level at 50 decibels. The EIR analysis concluded that construction noise levels from nighttime crane operations would be below existing ambient nighttime noise levels at all receptors within the City of Oakland and would be right at but not expected to exceed the 50-decibel limit in Alameda. However, because of the potential for prolonged activity during nighttime hours, nighttime concrete pours and crane operations were conservatively identified as a significant noise impact for receptors within the City of Oakland and Alameda.

In addition to noise impacts from construction activities, the EIR also identified impact from construction vibration on individuals residing within the live-work facility at 737 2nd Street (Phoenix Lofts). The site preparation activities for the project may include deep dynamic compaction which can generate vibration levels of 87VdB at 300 feet away and 78VdB for up to 750 feet away, whereas the daytime exposure levels for frequent events is 75VdB. The Phoenix Lofts are located approximately 30 feet from the UPRR tracks and are currently exposed to vibration levels of approximately 74 to 88 VdB from frequent locomotive operations, but nonetheless the established threshold regarding vibration would be exceeded on occasion with the use of deep dynamic compaction methods. The EIR included Mitigation Measure NOI-1e which would temporarily relocate impacted receptors during the above-mentioned construction activities, not all residents may be able (or desire) to be relocated and therefore this impact was considered to be significant and unavoidable.

CONCLUSION

During the Draft EIR comment period the City received in excess of 400 comments from public agencies, organizations and individuals. The Response to Comments/ Final EIR document fully responds to all of the comments received and included approximately 300 pages of revisions to the Draft EIR (Chapter 7: Errata) initiated by the City and in response to the public comments received. However, the numerous revisions to the Draft EIR did not result in “significant new information” per State CEQA Guidelines Section 15088.5 that would necessitate recirculation of the Draft EIR prior to certification. The EIR represents the independent judgment, review and analysis of the City and has been completed in compliance with CEQA. The EIR provides information to the decision-makers and the public on the environmental consequences of the proposed Project. The EIR adequately discusses the potential adverse environmental effects of the Oakland Waterfront Ballpark District Project, ways in which such effects might be mitigated, and alternatives to the project which would reduce or avoid the adverse effects.

As noted earlier in this report, the intent of the January 19, 2022 hearing before the Planning Commission is not intended to discuss the merits of the Project, and is solely for the purpose to provide the information on the EIR process and content and to receive a recommendation to the City Council for certification of the EIR. No actions at the January 19, 2022 hearing will result in any project approvals. After certification of the EIR numerous future public hearings will occur with a focus on discussion on the merits of the Project.

RECOMMENDATION

- 1) Recommend that the Planning Commission provide a recommendation to the City Council to adopt the attached Findings for Certification of the EIR on the Oakland Waterfront Ballpark District Project.

Prepared by:



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Reviewed by:



Catherine Payne, Development Planning Manager
Bureau of Planning

Approved for forwarding to the Planning Commission:



Ed Manasse, Deputy Director
Department of Planning and Building

Attachments:

- A. Certification Findings

ATTACHMENT A

PLANNING COMMISSION RECOMMENDATION ON FINDINGS FOR CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE OAKLAND A'S WATERFRONT BALLPARK DISTRICT AT HOWARD TERMINAL AT 1 MARKET STREET

I. INTRODUCTION

This recommendation to the City Council on findings certifying the Environmental Impact Report (EIR) is made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq (CEQA)), the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.), and the City CEQA Procedure and Guidelines (Chapter 17.158 of the Oakland Municipal Code) by the City of Oakland Planning Commission in connection with the Environmental Impact Report (EIR) prepared for the Oakland A's Waterfront Ballpark District at Howard Terminal at 1 Market Street (Case File Number ER18016), SCH# 2018112070 (Project). The EIR includes the Draft EIR and Response to Comments/Final EIR. The Response to Comments/Final EIR is referred to herein as the "Final EIR or FEIR".

These findings are based on substantial evidence in the entire administrative record, and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

II. EIR: PROJECT DESCRIPTION, VARIANTS, PROJECT OBJECTIVES AND ALTERNATIVES

EIR Project Description - As described in the EIR, the Oakland Waterfront Ballpark District Project (Project) would construct: a new open-air waterfront multi-purpose Major League Baseball (MLB) ballpark with a capacity of up to 35,000-persons; mixed-use development including up to 3,000 residential units, up to 1.5 million square feet of office, and up to approximately 270,000 square feet of retail uses; an approximately 50,000 square-foot indoor performance center with capacity of up to 3,500 individuals; an approximately 280,000 square-foot, 400 hotel rooms; and a network of approximately 18.3 acres of publicly accessible open spaces.

A full description of the proposed Project analyzed in the EIR is included in Chapter 3 of the Draft EIR with additional information provided in the Final EIR, including Chapter 2, Updated Project Information, all of which are incorporated herein by reference.

EIR Variants - The proposed Project may also include one or more variants, which include:

1. Peaker Plant Variant: Implementation of the planned conversion of the existing Oakland Power Plant (referred to as the "Peaker Power Plant" in the Draft EIR) in the historic PG&E Station C facility from using jet fuel to battery storage, modifications to the wings of the building, and removal of the fuel tank and replacement with a new mixed-use building;
2. Aerial Gondola Variant: Construction of a new aerial gondola above and along Washington Street, extending from a station located at 10th and Washington Streets in downtown Oakland to a station located at Water and Washington Streets in Jack London Square.

EIR Project Objectives - The EIR describes the objectives for the proposed Project as follows:

1. Construct a state-of-the-art, multi-purpose waterfront ballpark and event center in Oakland that meets Major League Baseball (MLB) requirements for sports facilities, can be used year-round for sporting events and entertainment and convention purposes with events ranging in capacity up to 35,000, and expands opportunities for the City's tourist, hotel and convention business.
2. Provide sufficiently dense, complementary mixed-use development with a range of flexible uses, including residential, office/commercial, retail, and entertainment, to create a vibrant local and regional visitor-serving waterfront destination that is active year round, complements the waterfront ballpark, expands tourism and visitor activity and interest even when the ballpark is not in use, increases housing at a range of affordability levels, and provides increased business and employment opportunities.
3. Construct a new ballpark for the Oakland Athletics on Oakland's waterfront, designed and sited to respond to local conditions, including wind and sun and thermal conditions, while maximizing water views, with the goal of optimizing player and fan experiences of the ballpark, the waterfront and the Project site.
4. Create a lively, continuous waterfront district with strong connections to Jack London Square, West Oakland, and Downtown Oakland by extending and improving existing streets, sidewalks, bicycle facilities and multi-use trails through and near the Project site to maximize pedestrian and nonmotorized mobility and minimize physical barriers and division with nearby neighborhoods.
5. Complete construction of the new ballpark, together with any infrastructure required to serve the ballpark, within a desirable timeframe and to maintain the Oakland Athletics' competitive position within Major League Baseball.
6. Construct high-quality housing with enough density to contribute to year-round active uses on the Project site while offering a mix of unit types, sizes, and affordability to accommodate a range of potential residents and to assist Oakland in meeting its housing demand.
7. Develop a financially feasible project that is responsive to market demands; has the ability to attract sources of public and private investment in an amount sufficient to fund all costs of the proposed Project, including the construction and long term maintenance of required infrastructure; provide a market rate return on investment; and supports a comprehensive package of benefits, which may include local employment and job training programs, local business and small business policies, public access and open space, affordable housing, transportation infrastructure, increased frequency of public transit and transit accessibility, and sustainable and healthy development measures for the surrounding community.
8. Design a project that minimizes interference with the Port's existing or reasonably anticipated use, operation and development of Port facilities, or the health and safety of Port tenants and workers, and is consistent with the continued operation and future growth of the Port.
9. Increase public use and enjoyment of the waterfront by opening the south and southwestern shores of the Project site to the public with a major new waterfront park and inviting waterfront promenade featuring multiple public open spaces that are usable and welcoming in all seasons, extending access to the Oakland waterfront from Jack London Square, West Oakland and Downtown Oakland through design of a bicycle, pedestrian, and transit-oriented community with well-designed parks, pedestrian-friendly streets, walkable blocks, and links to open spaces, taking advantage of the Project site's unique proximity to Jack London Square, the waterfront and downtown.
10. Construct a project that meets high-quality urban design and high-level sustainability standards, including but not limited green building design and construction practices, walkability features, and sea level rise adaptability standards.
11. Optimize opportunities for sustainable transportation by encouraging walking, bicycling, and transit use, and discouraging automobile use.

EIR Alternatives - The EIR describes and evaluated the environmental impacts of the following alternatives in the EIR: (1) No Project Alternative, (2) The Off-Site (Coliseum Area) Alternative, (3) The Proposed

Project with Grade Separation Alternative, and (4) The Reduced Project Alternative. These are described and analyzed in Chapter 6 of the Draft EIR and are briefly described below.

No Project Alternative: The No Project Alternative assumes that the Project site conditions and uses would remain in their current state. The existing conditions are characterized in the Project Description Chapter of the EIR. Under the No Project Alternative, the Oakland A's would not relocate to Howard Terminal, which would not be redeveloped with a mix of new uses and would remain in use by the Port for maritime uses. For the foreseeable future, uses and activities at Howard Terminal would continue to include truck parking, loaded and empty container storage and staging, longshoreperson training facilities, and occasional berthing of vessels for repair or storage. There would continue to be no public access to the Bay from Howard Terminal, and on- and off-site park and open space improvements proposed as part of the Project would not be constructed. No changes would be made to the regulatory documents governing site uses and maintenance given hazardous materials in the soil and groundwater; no changes would be made to address stormwater runoff; and there would be no increased demand for potable water, wastewater treatment, or public services. The turning basin could be expanded if desired and permitted in the future as a separate Port project independent from the proposed Project.

Neither of the Project variants would be implemented, and the Peaker Power Plant, located in the historic Pacific Gas and Electric Company (PG&E) Station C facility on the northern portion of the Project site, would continue operation as a jet fuel power generation facility in accordance with the Reliability Must Run designation by the California Independent System Operator (ISO).

Under this alternative, the Oakland A's would continue to use the Oakland–Alameda County Coliseum (Oakland Coliseum) until the end of their current lease in 2024. In the longer term, the A's would likely have to build a new ballpark, either in Oakland or in some other location.

Alternative 2: The Off-Site (Coliseum Area) Alternative: Under this alternative, Howard Terminal would remain in its current use, and the Oakland A's would construct a new ballpark and their proposed mixed-use development at the site of the Oakland Coliseum. No physical changes would occur at Howard Terminal, which would remain in use by the Port for maritime uses. Uses and activities at Howard Terminal would continue to include truck parking, loaded and empty container storage and staging, longshoreperson training facilities, and occasional berthing of vessels for repair or storage. There would continue to be no public access to the Bay from Howard Terminal, and on-site park and open space improvements proposed as part of the Project would not be constructed. No changes would be made to the regulatory documents governing site uses and maintenance given hazardous materials in the soil and groundwater, no changes would be made to stormwater runoff, and there would be no increased demand for potable water, wastewater treatment, or public services.

Neither of the Project variants analyzed in Chapter 5, Project Variants, would be implemented with the Off-Site (Coliseum Area) Alternative, and the Peaker Power Plant, located in the historic PG&E Station C facility on the northern portion of the Howard Terminal site, would continue operation as a jet fuel power generation facility in accordance with the Reliability Must Run designation by the California ISO.

At the Oakland Coliseum site, this alternative would remove the existing Coliseum building and replace it with a new ballpark, retain the existing Oakland Arena, and develop the same mix and density of uses that are proposed with the Project. This mix and density of uses would be slightly different than anticipated in the City's adopted Coliseum Area Specific Plan (CASP), for which an EIR was prepared and certified in 2015. As a result, a CASP amendment would be required. Characteristics of the Off-Site (Coliseum Area) Alternative would be most similar to those analyzed for the Coliseum District in the CASP EIR Alternative 2C, which included construction of a new stadium and retention of the existing arena, although the Off-Site

Alternative would occur on a smaller site than the 253-acre “Coliseum District” analyzed in CASP EIR Alternative 2C.

Alternative 3: The Proposed Project with Grade Separation Alternative: Alternative 3 would construct the proposed Project at the Project site and include the construction of a grade-separated crossing over the railroad tracks for vehicles accessing the site. This alternative would also include the pedestrian and bicycle overcrossing and other off-site improvements required as mitigation in Section 4.15, Transportation and Circulation, to address safety of at-grade railroad crossings.

There are two potential locations for the grade-separated vehicular overcrossing under this alternative, one at Market Street and one at Brush Street. With both the Market Street and Brush Street alignments, Alternative 3 would primarily be located within the public right-of-way and the railroad corridor; however, in each case property acquisition(s) would be required. Examples of acquisition needed would be where the alignment would intrude onto a privately-owned parcel or publicly owned parcel. The Brush Street alignment could also require real property acquisitions to accommodate termination of 2nd Street in a cul-de-sac (rather than a T-intersection with Brush Street). These alignments are discussed in Chapter 6 of the EIR.

In both overcrossing options, this alternative assumes that the grade crossing would be for vehicles only (i.e., no pedestrian or bicycle use) and would utilize a 9 percent vertical profile (slope), a 250-foot horizontal radius for the roadway curve, and 4-foot-wide shoulders, which would require certain variances.

With both the Market Street and Brush Street alignments, Alternative 3 would also restrict existing driveway access to some parcels where the roadway rises to go over the railroad tracks. In these instances, the Project sponsor would work with affected property owners to relocate driveways and potentially reconfigure vehicle, bicycle, and pedestrian access and parking. Substantial utility relocations also would be required for both options.

Alternative 4 – Reduced Density Alternative: Alternative 4, the Reduced Project Alternative, would include site preparation and phased construction of a new ballpark and other uses; however, commercial and residential development would be at lower densities than with the proposed Project. The site plan for Alternative 4 would be the same as for the proposed Project, with commercial, residential, and mixed-use development. However, only the ballpark and the hotel(s) would be taller than 100 feet tall and both the amount of construction and the intensity of use of the site would be less than with the proposed Project. **Table 6-3** in the Draft EIR provides a summary of development under Alternative 4 compared to the proposed Project. In summary, the Reduced Density Alternative would include the following development: a new open-air waterfront multi-purpose Major League Baseball (MLB) ballpark with a capacity of up to 35,000-persons; mixed-use development including up to 700 residential units, up to 350,000 square feet of office, and up to approximately 63,000 square feet of retail uses; an approximately 50,000 square-foot indoor performance center with capacity of up to 3,500 individuals; an approximately 280,000 square-foot, 400-room hotel; and a network of approximately 18.3 acres of privately owned, publicly accessible open spaces.

Alternative 4 would provide the same amount of open space as the proposed Project, and parking would be provided within parking structures, on street, and within mixed-use buildings, as envisioned with buildout of the proposed Project. The Maritime Reservation Scenario and one or both of the Project variants could also be implemented in conjunction with the Reduced Project Alternative. Figure 6-5 and Figure 6-6 in the Draft EIR illustrate development phasing and overall building densities associated with the Reduced Project Alternative with and without the Maritime Reservation Scenario.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

Pursuant to CEQA and the CEQA Guidelines, the City published a Notice of Preparation (NOP) on November 30, 2018, pursuant to State CEQA Guidelines Section 15082 (Notice of Preparation and Determination of Scope of EIR), indicating that an EIR would be prepared for the Oakland Waterfront Ballpark District Project and inviting comments on the scope of the Draft EIR. A 45-day public scoping period for the Draft EIR ended on January 14, 2019. Public scoping sessions were conducted by the Oakland Landmarks Preservation Advisory Board (LPAB) on Monday, December 17, 2018, and the Oakland Planning Commission on Wednesday, December 19, 2018. The NOP was sent to property owners within 300 feet of the Project site, responsible and trustee agencies, organizations, and other interested parties. A notice was published in the newspaper, and a copy of the NOP was sent to the State Clearinghouse to solicit statewide agency participation in determining the scope of the EIR, and to the County Clerk, who posted the NOP for public notice. All comments received on the NOP are included in Appendix NOP of the DEIR.

The City issued a Notice of Availability/Notice of Completion (NOA/NOC) of the Draft EIR on February 26, 2021, announcing the availability of the Draft EIR for public review and comment (DEIR or Draft EIR). The NOA/NOC noticed a 45-day public review and comment period on the Draft EIR, starting February 26, 2021, and ending April 12, 2021, and the City subsequently extended the period an additional 15 days to April 27, 2021.

During the public review and comment period on the Draft EIR, the City conducted an informational workshop on Saturday, March 6, 2021, pursuant to California Assembly Bill (AB) 734 (discussed below). A public meeting on the Draft EIR was also held by the Oakland Landmarks Preservation Advisory Board (LPAB) on Monday, March 22, 2021, and a public hearing at the Oakland City Planning Commission was held on Wednesday, April 7, 2021. The date of the public hearing was set in compliance with AB 734, which requires that a public hearing on the Draft EIR occur within the last 10 days of the comment period. Consistent with Alameda County's Shelter in Place Orders and guidance from the Governor's Office of Planning and Research, the Draft EIR was made available in digital form and public hearings on the Draft EIR were held remotely.

The City encouraged agencies and interested parties to submit written comments on the Draft EIR electronically via the following link: <https://comment-tracker.esassoc.com/oaklandsportseir/index.html>. Written comments could also be submitted to the City of Oakland Bureau of Planning by email or by fax. The City received some letters by U.S. mail, and in most cases, the commenter also submitted its correspondence electronically.

By the end of the (extended) comment period, the City received oral or written comments from a total of 498 commenters (including commenters who commented multiple times). A list of the commenters is provided in Chapter 3, Roster of Commenters, of the Final EIR.

The City has prepared written responses to comments received during the public review and comment period for the Draft EIR. These comments and the "Response to Comments" are provided in the Final EIR. Chapter 4 of the Final EIR provides "Consolidated Responses" that respond collectively to comments received from many commenters. Chapter 5 of the Final EIR provides all written comments (submitted by email, via the electronic comment tracker, by mail, or by hand) together with individual responses to comments not addressed in Chapter 4. Chapter 6 of the Final EIR provides all oral comments received at the meeting of the Landmarks Preservation Advisory Board and at the hearing conducted by the Oakland City Planning Commission.

In addition to providing the comments and responses to comments on the Draft EIR, the Final EIR includes necessary updates and other modifications and clarifications to the text and exhibits in the Draft EIR in

Chapter 7, City-Initiated Updates and Errata to the Draft EIR. Due to the large volume of text contained in the Draft EIR and its appendices, the Final EIR does not contain the full text of the Draft EIR, which remains available in a separate volume. Both the Draft EIR and Final EIR are incorporated herein by reference.

The Draft EIR and Final EIR, and all supporting technical documents under City of Oakland Case # ER18-016, and all of the documents submitted to or relied on by the City in preparation of the Draft EIR and Final EIR (i.e., Record of Proceedings), can be found at <https://www.waterfrontballparkdistrict.com>, consistent with the requirements of AB 734. Project-related documents are also available to view at the City's website:

<https://www.oaklandca.gov/topics/oakland-waterfront-ballpark-district>, and
<https://www.oaklandca.gov/documents/oakland-as-waterfront-ballpark-district-at-howard-terminal-environmental-impact-report-documents-case-file-number-er18-016>.

Public Resources Code Section 21081.6 and State CEQA Guidelines Section 15097 (Mitigation Monitoring or Reporting) require public agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of specified environmental findings related to an EIR. Accordingly, as Lead Agency, the City has prepared a Draft MMRP for the proposed Project; the Draft MMRP is included as Appendix 02 to the Final EIR. The intent of the MMRP is to track and successfully implement the mitigation measures identified within the EIR and the MMRP will be adopted as part of the Project to avoid or mitigate significant effects on the environment. The MMRP is designed to ensure compliance with the mitigation measures during and after Project implementation.

Notice of and access to the Final EIR was provided to those state and local agencies who commented on the NOP and Draft EIR, submitted electronically to the State Clearinghouse CEQAnet web portal, posted on the Project site, mailed to property owners within 300 feet of the Project site, and mailed to individuals who have requested to specifically be notified of official City actions on the Project. Notice of and access to the Final EIR was also provided to City officials, including the Planning Commission and Landmarks Preservation Advisory Board, and made available for public review on the City's website. Pursuant to CEQA Guidelines, responses to public agency comments on the Draft EIR have been published and made available to all commenting agencies at least 10 days prior to the final certification hearing. The Planning Commission has had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR.

IV. THE ADMINISTRATIVE RECORD

The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

- a. The EIR and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by City staff to the Landmarks Preservation Advisory Board and Planning Commission relating to the EIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Landmarks Preservation Advisory Board and Planning Commission by the environmental consultant and sub-consultants who prepared the EIR or incorporated into reports presented to the Planning Commission and Landmarks Preservation Advisory Board.
- d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.
- e. All final applications, letters, testimony, reports, studies, memoranda, maps, and presentations presented by the Project sponsor and its consultants to the City in connection with the Project.

- f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.
- g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, all documents referenced in and relied upon in such environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- h. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The City has relied on all of the documents listed above in reaching its decisions on the proposed Project even if not every document was formally presented to City decision-making bodies or City Staff as part of the City files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the City decision-making bodies were aware in approving the Project. (See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.) Other documents influenced the expert advice provided to City Staff or consultants, who then provided advice to the City decision-making bodies for the Project. For that reason, such documents form part of the underlying factual basis for the City's decisions relating to approval of the Project. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866.).

The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of City Planning, Department of Planning and Building, Bureau of Planning, or his/her designee. Consistent with the procedural requirements of Section 21168.6.7, the EIR and all other documents submitted to or relied upon by the City in the preparation of the EIR can be accessed and downloaded from the following website: <https://waterfrontballparkdistrict.com/>

V. NO RECIRCULATION REQUIRED DUE TO ABSENCE OF SIGNIFICANT NEW INFORMATION

The Planning Commission recognizes that the FEIR incorporates information obtained and produced after the DEIR was completed, and that the FEIR contains additions, clarifications, and modifications. The Planning Commission has reviewed and considered the FEIR and all of this information. The new information added in the FEIR merely clarifies and makes insignificant changes to an adequate DEIR, and does not add significant new information to the DEIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of a previously identified significant environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the Project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the DEIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the DEIR. Thus, recirculation of the EIR is not required.

The Planning Commission finds that the changes and modifications made to the EIR after the DEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or CEQA Guidelines section 15088.5. (See Consolidated Response regarding recirculation of the DEIR in Chapter 4.3 of the FEIR)

VI. CERTIFICATION OF THE EIR

In accordance with CEQA, the Planning Commission recommends that the City Council certify the EIR based on the following findings:

1. That the EIR has been completed in compliance with CEQA, the CEQA guidelines, and the City CEQA procedures.
2. The Planning Commission has independently reviewed and considered the record and the EIR prior to making its recommendation to certify the EIR.
3. The EIR represents the independent judgment, review and analysis of the City and the Planning Commission.
4. The EIR provides information to the decision-makers and the public on the environmental consequences of the proposed Project.
5. The EIR adequately discusses the potential adverse environmental effects, ways in which such effects might be mitigated, and alternatives to the Project which would reduce or avoid the adverse effects.

The Planning Commission recognizes that the EIR may contain clerical errors. The Planning Commission reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

The Planning Commission finds that the EIR is adequate to support all actions in connection with the approval of the Oakland Waterfront Ballpark District Project and all other actions and recommendations necessary for approval of the Project. The Planning Commission finds that the EIR is adequate to support approval of the Project, with or without the variants described in the EIR, approval of any alternatives to the Project, and any minor modifications to the Project, variants or alternatives described in the EIR.