

# EXHIBIT 3

**CITY OF OAKLAND**  
**CEQA THRESHOLDS OF SIGNIFICANCE GUIDELINES**  
**OCTOBER 28, 2013**

**PURPOSE:** To help clarify and standardize analysis and decision-making in the environmental review process in the City of Oakland, the City has established these CEQA Thresholds of Significance Guidelines (which have been in general use since at least 2002). These Thresholds are offered as guidance in preparing all environmental review documents (including Initial Studies and EIRs). Where possible, these Thresholds should be used unless the location of the project or other unique factors warrants the use of different thresholds. In those situations where different thresholds are proposed, justification must be provided and the City Planning and Zoning Division must approve the use of such. These Thresholds are intended to implement and supplement provisions in the CEQA Guidelines for determining the significance of environmental effects, including sections 15064, 15064.4, 15064.5, 15064.7, 15065, 15382, and Appendix G, and form the basis of the City’s Initial Study and Environmental Review Checklist.<sup>1</sup> The Thresholds should be used to evaluate the potential primary effects of a project and should be considered when evaluating the potential secondary effects of a project, including the potential effects of mitigation measures.

When incorporating the Thresholds into environmental documents, include the bracketed notes from this Thresholds document in the environmental document. Do not include the footnotes from this Thresholds document in the environmental document, unless otherwise indicated; the footnotes are generally intended to provide guidance to the preparer of the environmental document and not intended for the eventual reader of the final environmental document.

These Thresholds are to be used in conjunction with the City’s Standard Conditions of Approval (contained in a separate document), which are

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<sup>1</sup> Thresholds that pertain to the effect of the environment on the project (as compared to the project’s impact on the environment) are not required to be analyzed under CEQA but are nevertheless included and should be evaluated to provide information to decision-makers and the public. Insert the following language into the CEQA document: “CEQA requires the analysis of potential adverse effects of the project on the environment. Potential effects of the environment on the project are legally **not** required to be analyzed or mitigated under CEQA. However, this document nevertheless analyzes potential effects of the environment on the project in order to provide information to the public and decision-makers. Where a potential significant effect of the environment on the project is identified, the document, as appropriate, identifies City Standard Conditions of Approval and/or project-specific non-CEQA recommendations to address these issues.”

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incorporated into projects regardless of a project's environmental determination, pursuant, in part, to CEQA Guidelines sections 15183 and 15183.3. As applicable, the Standard Conditions of Approval are adopted as requirements of an individual project when the project is approved by the City and are designed to, and will, substantially mitigate environmental effects. In reviewing project applications, the City determines which of the Standard Conditions of Approval are applied, based upon the project's characteristics and location, zoning district, applicable plans, and type(s) of permit(s)/approvals(s) required for the project. For example, Standard Conditions related to creek protection permits are applied to projects on creekside properties.

The Standard Conditions of Approval were initially and formally adopted by the City Council on November 3, 2008 (Ordinance No. 12899 C.M.S.), pursuant to Public Resources Code section 21083.3 and CEQA Guidelines section 15183 (and now section 15183.3), and incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code, and Uniform Fire Code, among others), which have been found to substantially mitigate environmental effects. Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Standard Conditions, the City will determine whether there are feasible mitigation measures to reduce the impact to less-than-significant levels in the course of appropriate CEQA review (mitigated negative declarations or EIRs).<sup>2,3</sup>

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<sup>2</sup> Insert this discussion concerning the City's Standard Conditions of Approval into the environmental document.

<sup>3</sup> Note that certain technical studies required by the Standard Conditions of Approval are required to be performed during the CEQA process (and the results of such studies incorporated into the CEQA documents themselves) rather than after project approval.

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**AESTHETICS, SHADOW AND WIND**<sup>4</sup>

The project would have a significant impact on the environment if it would:

1. Have a substantial adverse effect on a public scenic vista [**NOTE**: Only impacts to scenic views enjoyed by members of the public generally (but not private views) are potentially significant.];
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, located within a state or locally designated scenic highway;
3. Substantially degrade the existing visual character or quality of the site and its surroundings;<sup>5</sup>
4. Create a new source of substantial light or glare which would substantially and adversely affect day or nighttime views in the area;
5. Introduce landscape that would now or in the future cast substantial shadows on existing solar collectors (in conflict with California Public Resource Code sections 25980-25986);
6. Cast shadow that substantially impairs the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors;
7. Cast shadow that substantially impairs the beneficial use of any public or quasi-public park, lawn, garden, or open space;
8. Cast shadow on an historic resource, as defined by CEQA Guidelines section 15064.5(a),<sup>6</sup> such that the shadow would materially impair the resource's historic significance by materially altering those physical characteristics of the resource that convey its historical significance and that justify its inclusion on or eligibility for listing in the National Register of Historic Places, California Register of Historical Resources, Local Register of historical resources, or a historical resource survey form (DPR Form 523) with a rating of 1-5;
9. Require an exception (variance) to the policies and regulations in the General Plan, Planning Code, or Uniform Building Code, and the exception causes a fundamental conflict with policies and regulations in the General Plan, Planning Code, and Uniform Building Code

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<sup>4</sup> See Appendix E for guidance on the cumulative analysis.

<sup>5</sup> For projects requiring design review, briefly evaluate the project's consistency with the applicable design review criteria. Projects consistent with the design review criteria will generally be found to result in a less than significant impact.

<sup>6</sup> See Appendix A for the definition of an historic resource.

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addressing the provision of adequate light related to appropriate uses; or

10. Create winds that exceed 36 mph for more than one hour during daylight hours during the year. [NOTE: The wind analysis only needs to be done if the project's height is 100 feet or greater (measured to the roof) **and** one of the following conditions exist: (a) the project is located adjacent to a substantial water body (i.e., Oakland Estuary, Lake Merritt or San Francisco Bay); or (b) the project is located in Downtown. Downtown is defined in the Land Use and Transportation Element of the General Plan (page 67) as the area generally bounded by West Grand Avenue to the north, Lake Merritt and Channel Park to the east, the Oakland Estuary to the south and I-980/Brush Street to the west. The wind analysis must consider the project's contribution to wind impacts to on- and off-site public and private spaces. Only impacts to public spaces (on- and off-site) and off-site private spaces are considered CEQA impacts. Although impacts to on-site private spaces are considered a planning-related non-CEQA issue, such potential impacts still must be analyzed.]

**AGRICULTURE AND FOREST RESOURCES**<sup>7</sup>

The project would have a significant impact on the environment if it would:

1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use;
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract;
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g));
4. Result in the loss of forest land or conversion of forest land to non-forest use; or

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<sup>7</sup> In determining whether impacts to agricultural resources are significant environmental effects, refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation. In determining whether impacts to forest resources, including timberland, are significant environmental effects, refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

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5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use.

**AIR QUALITY**<sup>8,9</sup>

The project would have a significant impact on the environment if it would:

**NOTE:** The thresholds below that pertain to the effect of the environment on the project (as compared to the project's impact on the environment) are not legally required to be analyzed under CEQA but are nevertheless evaluated in order to provide information to decision-makers and the public.

**PROJECT-LEVEL IMPACTS**

**NOTE:** The thresholds below related to criteria air pollutants (thresholds 1 through 3) pertain to impacts that are, by their nature, cumulative impacts because one project by itself cannot generate air pollution that would violate regional air quality standards. Thresholds 1 through 3 pertain to a project's contribution to cumulative impacts but are labeled "Project-Level Impacts" here to be consistent with the terminology used by BAAQMD.

1. During project construction result in average daily emissions of 54 pounds per day of ROG,

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<sup>8</sup> The City's thresholds of significance pertaining to air quality are generally based on the thresholds adopted by the Bay Area Air Quality Management District (BAAQMD) in June 2010. In March 2012 the Alameda County Superior Court issued a judgment finding that BAAQMD had failed to comply with CEQA when the thresholds were adopted. In August 2013 the California Court of Appeal reversed the Superior Court's decision. Pursuant to CEQA, lead agencies must apply appropriate thresholds based on substantial evidence in the record. The City's thresholds rely upon the technical and scientific basis for BAAQMD's 2010 thresholds. Use of the City's thresholds is consistent with and authorized by CEQA Guidelines section 15064. The City's thresholds have not been challenged and remain in effect. The methodology for assessing air quality impacts (e.g., calculating air pollution emissions and potential health impacts) should be based on the latest version of BAAQMD's CEQA Guidelines and guidelines published by other regional, state, and federal regulatory agencies.

<sup>9</sup> BAAQMD maintains a PM<sub>2.5</sub>, NO<sub>x</sub>, and Ozone monitoring station in East Oakland along International Blvd. and data from this station should be obtained and used. The consultant must submit a public records request to BAAQMD to obtain this information. The form can be submitted via BAAQMD's website: [http://www.baaqmd.gov/adm/public\\_records\\_request.htm](http://www.baaqmd.gov/adm/public_records_request.htm)

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NO<sub>x</sub>, or PM<sub>2.5</sub> or 82 pounds per day of PM<sub>10</sub>;

2. During project operation result in average daily emissions of 54 pounds per day of ROG, NO<sub>x</sub>, or PM<sub>2.5</sub> or 82 pounds per day of PM<sub>10</sub>; or result in maximum annual emissions of 10 tons per year of ROG, NO<sub>x</sub>, or PM<sub>2.5</sub> or 15 tons per year of PM<sub>10</sub>;
3. Contribute to carbon monoxide (CO) concentrations exceeding the California Ambient Air Quality Standards (CAAQS) of nine parts per million (ppm) averaged over eight hours and 20 ppm for one hour [**NOTE**: Pursuant to BAAQMD CEQA Guidelines, localized CO concentrations should be estimated for projects in which (a) project-generated traffic would conflict with an applicable congestion management program established by the county congestion management agency or (b) project-generated traffic would increase traffic volumes at affected intersections to more than 44,000 vehicles per hour (or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited, such as tunnels, parking garages, bridge underpasses, natural or urban street canyons, and below-grade roadways). In Oakland, only the MacArthur Maze portion of Interstate 580 exceeds the 44,000 vehicles per hour screening criteria.];
4. For new **sources** of Toxic Air Contaminants (TACs), during either project construction or project operation expose sensitive receptors to substantial levels of TACs **under project conditions** resulting in (a) an increase in cancer risk level greater than 10 in one million, (b) a non-cancer risk (chronic or acute) hazard index greater than 1.0, or (c) an increase of annual average PM<sub>2.5</sub> of greater than 0.3 micrograms per cubic meter; or, **under cumulative conditions**, resulting in (a) a cancer risk level greater than 100 in a million, (b) a non-cancer risk (chronic or acute) hazard index greater than 10.0, or (c) annual average PM<sub>2.5</sub> of greater than 0.8 micrograms per cubic meter [**NOTE**: Pursuant to the BAAQMD CEQA Guidelines, when siting new TAC sources consider receptors located within 1,000 feet. For this threshold, sensitive receptors include residential uses, schools, parks, daycare centers, nursing homes, and medical centers. The cumulative analysis should consider the combined risk from all TAC sources.];
5. Expose new **sensitive receptors** to substantial ambient levels of Toxic Air Contaminants (TACs) resulting in (a) a cancer risk level greater than 100 in a million, (b) a non-cancer risk (chronic or acute) hazard index greater than 10.0, or (c) annual average PM<sub>2.5</sub> of greater than 0.8 micrograms per cubic meter [**NOTE**: Pursuant to the BAAQMD CEQA Guidelines, when siting new sensitive receptors consider TAC sources located within 1,000 feet including, but not limited to, stationary sources, freeways, major roadways (10,000 or greater

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vehicles per day), truck distribution centers, airports, seaports, ferry terminals, and rail lines. For this threshold, sensitive receptors include residential uses, schools, parks, daycare centers, nursing homes, and medical centers.]; or

6. Frequently and for a substantial duration, create or expose sensitive receptors to substantial objectionable odors affecting a substantial number of people [**NOTE:** For this threshold, sensitive receptors include residential uses, schools, daycare centers, nursing homes, and medical centers (but not parks).].

**PLAN-LEVEL IMPACTS<sup>10</sup>**

7. Fundamentally conflict with the primary goals of the Bay Area Clean Air Plan (CAP);
8. Fundamentally conflict with the CAP because the plan does not demonstrate reasonable efforts to implement control measures contained in the CAP or the plan conflicts with or obstructs implementation of any control measures in the CAP;
9. Not include special overlay zones containing goals, policies, and objectives to minimize potential Toxic Air Contaminant (TAC) impacts in areas located (a) near existing and planned sources of TACs and (b) within 500 feet of freeways and high-volume roadways containing 100,000 or more average daily vehicle trips;<sup>11</sup> or
10. Not identify existing and planned sources of odors with policies to reduce potential odor impacts.

**NOTE:** See the Greenhouse Gas Emissions/Global Climate Change thresholds and the Hazards and Hazardous Materials thresholds for additional thresholds related to air emissions.

**BIOLOGICAL RESOURCES**

The project would have a significant impact on the environment if it would:

1. Have a substantial adverse effect, either directly or through habitat modifications, on any

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<sup>10</sup> The plan-level thresholds should be applied to long-range planning documents, such as general plans, redevelopment plans, specific plans, area plans, and community plans.

<sup>11</sup> Pursuant to BAAQMD Guidelines, the size of the overlay zones should be based upon the recommended buffer distances contained within the California Air Resources Board's (CARB's) 2005 Land Use Handbook.

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species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
3. Have a substantial adverse effect on federally protected wetlands (as defined by section 404 of the Clean Water Act) or state protected wetlands, through direct removal, filling, hydrological interruption, or other means;
4. Substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
5. Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan;
6. Fundamentally conflict with the City of Oakland Tree Protection Ordinance (Oakland Municipal Code (OMC) Chapter 12.36) by removal of protected trees under certain circumstances [**NOTE:** Factors to be considered in determining significance include the number, type, size, location and condition of (a) the protected trees to be removed and/or impacted by construction and (b) protected trees to remain, with special consideration given to native trees.<sup>12</sup> Protected trees include *Quercus agrifolia* (California or coast live oak) measuring four inches diameter at breast height (dbh) or larger, and any other tree measuring nine inches dbh or larger except eucalyptus and *Pinus radiata* (Monterey pine); provided, however, that Monterey pine trees on City property and in development-related situations where more than five Monterey pine trees per acre are proposed to be removed are considered to be protected trees.]; or
7. Fundamentally conflict with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect biological resources. [**NOTE:** Although there are no specific, numeric/quantitative criteria to assess impacts, factors to be considered in determining significance include whether there is substantial degradation of riparian and/or aquatic

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<sup>12</sup> Oakland Planning Code section 17.158.280(E)(2) states that “Development related” tree removal permits are exempt from CEQA if no single tree to be removed has a dbh of 36 inches or greater **and** the cumulative trunk area of all trees to be removed does not exceed 0.1 percent of the total lot area.

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habitat through (a) discharging a substantial amount of pollutants into a creek, (b) significantly modifying the natural flow of the water, (c) depositing substantial amounts of new material into a creek or causing substantial bank erosion or instability, or (d) adversely impacting the riparian corridor by significantly altering vegetation or wildlife habitat.]

**CULTURAL AND HISTORIC RESOURCES**<sup>13</sup>

The project would have a significant impact on the environment if it would:

1. Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines section 15064.5.<sup>14</sup> Specifically, a substantial adverse change includes physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be “materially impaired.” The significance of an historical resource is “materially impaired” when a project demolishes or materially alters, in an adverse manner, those physical characteristics of the resource that convey its historical significance **and** that justify its inclusion on, or eligibility for inclusion on an historical resource list (including the California Register of Historical Resources, the National Register of Historical Resources, Local Register, or historical resources survey form (DPR Form 523) with a rating of 1-5);
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines section 15064.5;
3. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
4. Disturb any human remains, including those interred outside of formal cemeteries.

**GEOLOGY AND SOILS**

The project would have a significant impact on the environment if it would expose people or structures to geologic hazards, soils, and/or seismic conditions so unfavorable that they could not be overcome by special design using reasonable construction and maintenance practices. Specifically,

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<sup>13</sup> See Appendix E for guidance on the cumulative analysis.

<sup>14</sup> See Appendix A for the definition of an historic resource.

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1. Expose people or structures to substantial risk of loss, injury, or death involving:
  - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map or Seismic Hazards Map issued by the State Geologist for the area or based on other substantial evidence of a known fault [**NOTE:** Refer to California Geological Survey 42 and 117 and Public Resources Code section 2690 et. seq.];
  - Strong seismic ground shaking;
  - Seismic-related ground failure, including liquefaction, lateral spreading, subsidence, collapse; or
  - Landslides;
2. Result in substantial soil erosion or loss of topsoil, creating substantial risks to life, property, or creeks/waterways;
3. Be located on expansive soil, as defined in section 1802.3.2 of the California Building Code (2007, as it may be revised), creating substantial risks to life or property;
4. Be located above a well, pit, swamp, mound, tank vault, or unmarked sewer line, creating substantial risks to life or property;
5. Be located above landfills for which there is no approved closure and post-closure plan, or unknown fill soils, creating substantial risks to life or property ; or
6. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.

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**GREENHOUSE GAS EMISSIONS / GLOBAL CLIMATE CHANGE**<sup>15</sup>

The project would have a significant impact on the environment if it would:

1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, specifically:

**PROJECT-LEVEL IMPACTS**<sup>16</sup>

[NOTE: Greenhouse gas impacts are, by their nature, cumulative impacts because one project by itself cannot cause global climate change. These thresholds pertain to a project's contribution to cumulative impacts but are labeled "Project-Level Impacts" here to be consistent with the terminology used by BAAQMD.]

- a. For a project involving a stationary source, produce total emissions of more than 10,000 metric tons of CO<sub>2</sub>e annually [NOTE: Stationary sources are projects that require a BAAQMD permit to operate.].
- b. For a project involving a land use development, produce total emissions of more than 1,100 metric tons of CO<sub>2</sub>e annually **AND**<sup>17</sup> more than 4.6 metric tons of CO<sub>2</sub>e per service

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<sup>15</sup> The City's thresholds of significance pertaining to greenhouse gas / global climate change are generally based on the thresholds adopted by the Bay Area Air Quality Management District (BAAQMD) in June 2010. In March 2012 the Alameda County Superior Court issued a judgment finding that BAAQMD had failed to comply with CEQA when the thresholds were adopted. In August 2013 the California Court of Appeal reversed the Superior Court's decision. Pursuant to CEQA, lead agencies must apply appropriate thresholds based on substantial evidence in the record. The City's thresholds rely upon the technical and scientific basis for BAAQMD's 2010 thresholds. Use of the City's thresholds is consistent with and authorized by CEQA Guidelines section 15064. The City's thresholds have not been challenged and remain in effect. The methodology for assessing greenhouse gas / global climate change impacts (e.g., calculating emissions) should be based on the latest version of BAAQMD's CEQA Guidelines and guidelines published by other regional, state, and federal regulatory agencies.

<sup>16</sup> For projects that involve both a stationary source and a land use development, calculate each component separately and compare to the applicable threshold.

<sup>17</sup> The BAAQMD CEQA Guidelines state that the project would have a less-than-significant impact if CO<sub>2</sub>e emissions do not exceed the 1,100 metric tons threshold OR the 4.6 metric tons per service population threshold. Because Oakland's thresholds are structured to indicate when a project would have a significant impact, the thresholds are presented here such that the project would have a significant impact if it exceeded the 1,100 metric tons threshold AND the 4.6 metric tons per service population threshold.

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population annually [NOTE: Land use developments are projects that do not require a BAAQMD permit to operate. The service population includes both the residents and the employees of the project. The project's impact would be considered significant if the emissions exceed **BOTH** the 1,100 metric tons threshold and the 4.6 metric tons threshold. Accordingly, the impact would be considered less than significant if the project's emissions are below **EITHER** of these thresholds.]<sup>18</sup>

[NOTE: The project's expected greenhouse gas emissions during construction should be annualized over a period of 40 years and then added to the expected emissions during operation for comparison to the threshold. A 40-year period is used because 40 years is considered the average life expectancy of a building before it is remodeled with considerations for increased energy efficiency. The thresholds are based on the BAAQMD thresholds. The BAAQMD thresholds were originally developed for project operation impacts only. Therefore, combining both the construction emissions and operation emissions for comparison to the threshold represents a conservative analysis of potential greenhouse gas impacts.]

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<sup>18</sup> Refer to the City's Standard Conditions of Approval for conditions related to greenhouse gas emissions (GHG) and requirements to reduce project GHG emissions even for projects with emissions below either of these thresholds. Also refer to the screening criteria contained in the BAAQMD CEQA Guidelines. For residential development projects, refer to the City's 2007-2014 Housing Element EIR screening criteria. The Housing Element EIR's analysis showed that residential development projects of less than 172 units would not result in a significant climate change impact and, therefore, no project-specific GHG analysis is required for such projects. Under an alternative approach in the Housing Element EIR, the analysis found that **ANY** residential development project (including those containing 172 or more units) would not result in a significant climate change impact and that no project-specific GHG analysis would be required. For residential projects containing 172 or more units, please consult with City Planning staff and the City Attorney's office on the appropriate GHG review. For nonresidential development projects and mixed-use development projects, the nonresidential component of the project must be compared to the BAAQMD screening criteria, and the applicable threshold if the screening criteria are exceeded, independently from any residential component of the project.

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**PLAN-LEVEL IMPACTS<sup>19</sup>**

- a. Produce emissions of more than 6.6 metric tons of CO<sub>2</sub>e per service population annually.
  
2. Fundamentally conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing greenhouse gas emissions.

**HAZARDS AND HAZARDOUS MATERIALS**

The project would have a significant impact on the environment if it would:

1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
3. Create a significant hazard to the public through the storage or use of acutely hazardous materials near sensitive receptors [**NOTE:** Per the BAAQMD CEQA Guidelines, evaluate whether the project would result in persons being within the Emergency Response Planning Guidelines (ERPG) exposure level 2 for acutely hazardous air emissions either by siting a new source or a new sensitive receptor. For this threshold, sensitive receptors include residential uses, schools, parks, daycare centers, nursing homes, and medical centers];
4. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
5. Be located on a site which is included on a list of hazardous materials sites compiled

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<sup>19</sup> The BAAQMD CEQA Guidelines state that the plan-level threshold should only be applied to general plans. For other types of plans, such as redevelopment plans and specific Plans, the Guidelines state that the project-level thresholds should be used. The Guidelines do not state whether the plan-level threshold or the project-level thresholds should be used for individual general plan elements (as compared to revisions to the entire general plan). Therefore, the environmental analysis for individual general plan elements should use both the plan-level threshold/methodology and the project-level thresholds/methodology unless directed otherwise by City staff (see the 2007-2014 Housing Element Draft EIR as an example).

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pursuant to Government Code section 65962.5 (i.e., the “Cortese List”) and, as a result, would create a significant hazard to the public or the environment;<sup>20</sup>

6. Result in less than two emergency access routes for streets exceeding 600 feet in length unless otherwise determined to be acceptable by the Fire Chief, or his/her designee, in specific instances due to climatic, geographic, topographic, or other conditions;<sup>21</sup>
7. Be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and would result in a significant safety hazard for people residing or working in the project area;
8. Be located within the vicinity of a private airstrip, and would result in a significant safety hazard for people residing or working in the project area;
9. Fundamentally impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
10. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

**HYDROLOGY AND WATER QUALITY**

The project would have a significant impact on the environment if it would:

1. Violate any water quality standards or waste discharge requirements;
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or proposed uses for which permits have been granted);
3. Result in substantial erosion or siltation on- or off-site that would affect the quality of receiving waters;
4. Result in substantial flooding on- or off-site;

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<sup>20</sup> See Appendix B for guidance on the “Cortese List.”

<sup>21</sup> See the Transportation/Traffic thresholds for additional thresholds related to transportation.

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5. Create or contribute substantial runoff which would exceed the capacity of existing or planned stormwater drainage systems;
6. Create or contribute substantial runoff which would be an additional source of polluted runoff;
7. Otherwise substantially degrade water quality;
8. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, that would impede or redirect flood flows;
9. Place within a 100-year flood hazard area structures which would impede or redirect flood flows;
10. Expose people or structures to a substantial risk of loss, injury, or death involving flooding;
11. Expose people or structures to a substantial risk of loss, injury, or death as a result of inundation by seiche, tsunami, or mudflow;
12. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course, or increasing the rate or amount of flow, of a creek, river, or stream in a manner that would result in substantial erosion, siltation, or flooding, both on- or off-site; or
13. Fundamentally conflict with the City of Oakland Creek Protection Ordinance (OMC Chapter 13.16) intended to protect hydrologic resources. [Note: Although there are no specific, numeric/quantitative criteria to assess impacts, factors to be considered in determining significance include whether there is substantial degradation of water quality through (a) discharging a substantial amount of pollutants into a creek, (b) significantly modifying the natural flow of the water or capacity, (c) depositing substantial amounts of new material into a creek or causing substantial bank erosion or instability, or (d) substantially endangering public or private property or threatening public health or safety.]

**LAND USE AND PLANNING**<sup>22</sup>

The project would have a significant impact on the environment if it would:

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<sup>22</sup> A list of the City's major planning documents is in Appendix C, as well as recommended language/approach for discussing consistency of the proposed project with the General Plan.

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1. Physically divide an established community;
2. Result in a fundamental conflict between adjacent or nearby land uses;
3. Fundamentally conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect and actually result in a physical change in the environment; or
4. Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan.

**MINERAL RESOURCES**

The project would have a significant impact on the environment if it would:

1. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

**NOISE**

The project would have a significant impact on the environment if it would:

1. Generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code section 17.120.050) regarding construction noise, except if an acoustical analysis is performed that identifies recommend measures to reduce potential impacts.<sup>23</sup>

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<sup>23</sup> The acoustical analysis must identify, at a minimum, (a) the types of construction equipment expected to be used and the noise levels typically associated with the construction equipment and (b) the surrounding land uses including any sensitive land uses (e.g., schools and childcare facilities, health care and nursing homes, public open space). If sensitive land uses are present, the acoustical analysis must recommend measures to reduce potential impacts.

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<b>TABLE 1</b>		
<b>City of Oakland Construction Noise Standards at Receiving Property Line, dBA<sup>1</sup></b>		
<b>Receiving Land Use</b>	<b>Maximum Allowable Noise Level (dBA)</b>	
	<b>Weekdays 7 a.m.-7 p.m.</b>	<b>Weekends 9 a.m.-8 p.m.</b>
<b>Less than 10 days</b>		
Residential	80	65
Commercial, Industrial	85	70
<b>More than 10 Days</b>		
Residential	65	55
Commercial, Industrial	70	60
Notes: 1) If the ambient noise level exceeds these standards, the standard shall be adjusted to equal the ambient noise level.		

During the hours of 7 p.m. to 7 a.m. on weekdays and 8 p.m. to 9 a.m. on weekends and federal holidays, noise levels received by any land use from construction or demolition shall not exceed the applicable nighttime operational noise level standard (see Table 2);

2. Generate noise in violation of the City of Oakland nuisance standards (Oakland Municipal Code section 8.18.020) regarding persistent construction-related noise;
3. Generate noise in violation of the City of Oakland Noise Ordinance (Oakland Planning Code section 17.120.050) regarding operational noise:

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<b>TABLE 2</b>			
<b>City of Oakland Operational Noise Standards at Receiving Property Line, dBA<sup>1</sup></b>			
<b>Receiving Land Use</b>	<b>Cumulative No. of Minutes in a 1-Hr Period<sup>2</sup></b>	<b>Maximum Allowable Noise Level (dBA)</b>	
		<b>Daytime 7 a.m.-10 p.m.</b>	<b>Nighttime 10 p.m.-7 a.m.</b>
<b>Residential and Civic<sup>3</sup></b>	20 (L <sub>33</sub> )	60	45
	10 (L <sub>16.7</sub> )	65	50
	5 (L <sub>8.3</sub> )	70	55
	1 (L <sub>1.7</sub> )	75	60
	0 (L <sub>max</sub> )	80	65
<b>Anytime</b>			
<b>Commercial</b>	20 (L <sub>33</sub> )	65	
	10 (L <sub>16.7</sub> )	70	
	5 (L <sub>8.3</sub> )	75	
	1 (L <sub>1.7</sub> )	80	
	0 (L <sub>max</sub> )	85	
<b>Manufacturing, Mining, and Quarrying</b>	20 (L <sub>33</sub> )	70	
	10 (L <sub>16.7</sub> )	75	
	5 (L <sub>8.3</sub> )	80	
	1 (L <sub>1.7</sub> )	85	
	0 (L <sub>max</sub> )	90	
<p>Notes: 1) These standards are reduced 5 dBA for simple tone noise, noise consisting primarily of speech or music, or recurring impact noise. If the ambient noise level exceeds these standards, the standard shall be adjusted to equal the ambient noise level.</p> <p>2) L<sub>x</sub> represents the noise level that is exceeded X percent of a given period. L<sub>max</sub> is the maximum instantaneous noise level.</p> <p>3) Legal residences, schools and childcare facilities, health care or nursing home, public open space, or similarly sensitive land uses.</p>			

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4. Generate noise resulting in a 5 dBA permanent increase in ambient noise levels in the project vicinity above levels existing without the project; or, if under a cumulative scenario where the cumulative increase results in a 5 dBA permanent increase in ambient noise levels in the project vicinity without the project (i.e., the cumulative condition including the project compared to the existing conditions) and a 3 dBA permanent increase is attributable to the project (i.e., the cumulative condition including the project compared to the cumulative baseline condition without the project) [**NOTE:** Outside of a laboratory, a 3 dBA change is considered a just-perceivable difference. Therefore, 3 dBA is used to determine if the project-related noise increases are cumulative considerable. Project-related noise should include both vehicle trips and project operations.];
5. Expose persons to interior  $L_{dn}$  or CNEL greater than 45 dBA for multi-family dwellings, hotels, motels, dormitories and long-term care facilities (and may be extended by local legislative action to include single-family dwellings) per California Noise Insulation Standards (CCR Part 2, Title 24);
6. Expose the project to community noise in conflict with the land use compatibility guidelines of the Oakland General Plan after incorporation of all applicable Standard Conditions of Approval<sup>24</sup>:

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<sup>24</sup> The evaluation of land use compatibility should consider the following factors: type of noise source; the sensitivity of the noise receptor; the noise reduction likely to be provided by structures; the degree to which the noise source may interfere with speech, sleep or other activities characteristic of the land use; seasonal variations in noise source levels; existing outdoor ambient levels; general societal attitudes towards the noise source; prior history of the noise source; and tonal characteristics of the noise source. To the extent that any of these factors can be evaluated, the measured or computed noise exposure values may be adjusted in order to more accurately assess local sentiments towards acceptable noise exposure. (Oakland General Plan, Noise Element, 2005)

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<b>FIGURE 1</b>						
<b>Land Use Compatibility Guidelines</b>						
LAND USE CATEGORY	COMMUNITY NOISE EXPOSURE (L <sub>DN</sub> OR CNEL, dB)					
	55	60	65	70	75	80
Residential	NA		CA		NU	CU
Transient lodging – motels, hotels	NA		CA		NU	CU
Schools, libraries, churches, hospitals, nursing homes	NA		CA		NU	CU
Auditoriums, concert halls, amphitheaters	CA		CA		CU	
Sports arenas, outdoor spectator sports	CA		CA		CU	
Playgrounds, neighborhood parks	NA		NU		CU	
Golf courses, riding stables, water recreation, cemeteries	NA		NU		CU	
Office buildings, business commercial and professional	NA		CA		NU	
Industrial, manufacturing, utilities, agriculture	NA		CA		NU	
NA	NORMALLY ACCEPTABLE: Development may occur without an analysis of potential noise impacts to <i>the proposed development</i> (though it might still be necessary to analyze noise impacts that the project might have <i>on its surroundings</i> ).					
CA	CONDITIONALLY ACCEPTABLE: Development should be undertaken only after an analysis of noise-reduction requirements is conducted and if necessary noise-mitigating features are included.					
NU	NORMALLY UNACCEPTABLE: Development should generally be discouraged; it may be undertaken only if a detailed analysis of the noise-reduction requirements is conducted, and if highly effective noise mitigation features are included.					
CU	CLEARLY UNACCEPTABLE: Development should not be undertaken.					

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7. Expose persons to or generate noise levels in excess of applicable standards established by a regulatory agency (e.g., occupational noise standards of the Occupational Safety and Health Administration [OSHA]);
8. During either project construction or project operation expose persons to or generate groundborne vibration that exceeds the criteria established by the Federal Transit Administration (FTA):<sup>25</sup>

<b>TABLE 3</b>			
<b>FTA Groundborne Vibration Impact Criteria</b>			
<b>Land Use Category</b>	<b>Frequent Events<sup>1</sup></b>	<b>Occasional Events<sup>2</sup></b>	<b>Infrequent Events<sup>3</sup></b>
Category I: Buildings where vibration would interfere with interior operations	65 VdB <sup>4</sup>	65 VdB <sup>4</sup>	65 VdB <sup>4</sup>
Category II: Residences and buildings where people normally sleep	72 VdB	75 VdB	80 VdB
Category III: Institutional land uses with primarily daytime use	75 VdB	78 VdB	83 VdB
Notes: 1) More than 70 vibration events of the same source per day. 2) Between 30 and 70 vibration events of the same source per day. 3) Less than 30 vibration events of the same source per day. 4) This criterion is based on levels that are acceptable for most moderately sensitive equipment such as optical microscopes. Vibration sensitive manufacturing or research should always require detailed evaluation to define the acceptable vibration levels. Ensuring low vibration levels in a building requires special design of HVAC systems and stiffened floors.			

<sup>25</sup> The FTA criteria were developed to apply to transit-related groundborne vibration. However, these criteria should be applied to transit-related and non-transit-related sources of vibration.

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9. Be located within an airport land use plan and would expose people residing or working in the project area to excessive noise levels; or
10. Be located within the vicinity of a private airstrip, and would expose people residing or working in the project area to excessive noise levels.

**POPULATION AND HOUSING**

The project would have a significant impact on the environment if it would:

1. Induce substantial population growth in a manner not contemplated in the General Plan, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extensions of roads or other infrastructure), such that additional infrastructure is required but the impacts of such were not previously considered or analyzed;
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere in excess of that contained in the City's Housing Element; or
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere in excess of that contained in the City's Housing Element.

**PUBLIC SERVICES**

The project would have a significant impact on the environment if it would:

1. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:
  - Fire protection;
  - Police protection;
  - Schools;<sup>26</sup> or
  - Other public facilities.

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<sup>26</sup> Although impacts to schools are exempt from CEQA review and mitigation (see SB 50) the impacts should nevertheless be analyzed.

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**RECREATION**

The project would have a significant impact on the environment if it would:

1. Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
2. Include recreational facilities or require the construction or expansion of recreational facilities which might have a substantial adverse physical effect on the environment.

**TRANSPORTATION/TRAFFIC**<sup>27</sup>

The project would have a significant impact on the environment if it would:

**PROJECT IMPACTS**

Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit, specifically:

***Traffic Load and Capacity Thresholds***<sup>28</sup>

1. At a study, signalized intersection which is located **outside the Downtown area and that does not provide direct access to Downtown**, the project would cause the motor vehicle level of service (LOS) to degrade to worse than LOS D (i.e., LOS E or F) and cause the total intersection average vehicle delay to increase by four (4) or more seconds;
2. At a study, signalized intersection which is located **within the Downtown area or that provides direct access to Downtown**, the project would cause the motor vehicle LOS to degrade to worse than LOS E (i.e., LOS F) and cause the total intersection average vehicle delay to increase by four (4) or more seconds;
3. At a study, signalized intersection **outside the Downtown area and that does not provide**

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<sup>27</sup> Refer to the City's current Transportation Impact Study Guidelines (contained in a separate document) for additional guidance on the transportation analysis.

<sup>28</sup> All LOS calculations shall be based on the methodologies in the current *Highway Capacity Manual*.

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**direct access to Downtown** where the motor vehicle level of service is LOS E, the project would cause the total intersection average vehicle delay to increase by four (4) or more seconds;

4. At a study, signalized intersection **outside the Downtown area and that does not provide direct access to Downtown** where the motor vehicle level of service is LOS E, the project would cause an increase in the average delay for any of the critical movements of six (6) seconds or more;

[NOTE: The Downtown area is defined in the Land Use and Transportation Element of the General Plan (page 67) as the area generally bounded by the West Grand Avenue to the north, Lake Merritt and Channel Park to the east, the Oakland Estuary to the south, and I-980/Brush Street to the west. Intersections that provide direct access to Downtown are generally defined as principal arterials within two (2) miles of the Downtown area and minor arterials within one (1) mile of the Downtown area, provided that the street connects directly to the Downtown area.]<sup>29</sup>

5. At a study, signalized intersection for all areas where the level of service is LOS F, the project would cause (a) the overall volume-to-capacity (“V/C”) ratio to increase 0.03 or more or (b) the critical movement V/C ratio to increase 0.05 or more;
6. At a study, unsignalized intersection the project would add ten (10) or more vehicles to the critical movement and after project completion satisfy the California Manual on Uniform Traffic Control Devices (MUTCD) peak hour volume traffic signal warrant;
7. For a roadway segment of the Congestion Management Program (CMP) Network, the project would cause (a) the LOS to degrade from LOS E or better to LOS F or (b) the V/C ratio to increase 0.03 or more for a roadway segment that would operate at LOS F without the project [NOTE: This threshold only applies to land use development projects that generate a vehicle trip on a roadway segment of the CMP Network located in the project study area and to transportation projects that would reduce the vehicle capacity of a roadway segment of the CMP Network];<sup>30</sup>

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<sup>29</sup> A map of arterials that provide direct access to the Downtown area is located in the City’s Transportation Impact Study Guidelines (contained in a separate document).

<sup>30</sup> Refer to the Alameda County Transportation Commission’s (ACTC) (formerly the Alameda County Congestion Management Agency) *Congestion Management Program* for a description of the CMP Network. In Oakland, the CMP Network includes all state highways, plus the following streets: portions of Martin Luther King Jr. Way, Webster/Posey Tubes, 23<sup>rd</sup> Ave., 29<sup>th</sup> Ave., and Hegenberger Rd.

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8. Cause congestion of regional significance on a roadway segment on the Metropolitan Transportation System (MTS) evaluated per the requirements of the Land Use Analysis Program of the CMP [NOTE: This threshold only applies to a land use development project that involves either (a) a general plan amendment that would generate 100 or more p.m. peak hour trips above the current general plan land use designation or (b) an EIR and the project would generate 100 or more p.m. peak hour trips above the existing condition. Factors to consider in evaluating the potential impact include, but are not limited to, the relationship between the project and planned improvements in the Countywide Transportation Plan, the project's consistency with City policies concerning infill and transit-oriented development, the proximity of the project to other jurisdictions, and the magnitude of the project's contribution based on V/C ratios.];<sup>31</sup>
9. Result in substantially increased travel times for AC Transit buses [NOTE: Factors to consider in evaluating the potential impact include, but are not limited to, the proximity of the project site to the transit corridor(s), the function of the roadway segment(s), and the characteristics of the potentially affected bus route(s). The evaluation may require a qualitative and/or quantitative analysis depending upon these relevant factors.];

***Traffic Safety Thresholds***

10. Directly or indirectly cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent and substantial transportation hazard due to a new or existing physical design feature or incompatible uses [NOTE: Factors to consider in evaluating the potential impact to roadway users due to physical design features and incompatible uses include, but are not limited to, collision history and the adequacy of existing traffic controls.];
11. Directly or indirectly result in a permanent substantial decrease in pedestrian safety [NOTE: Consider whether factors related to pedestrian safety such as, but not limited to, the following are substantial in nature:
  - Degradation of existing pedestrian facilities, including the following:

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<sup>31</sup> Refer to ACTC's *Congestion Management Program* for a description of the MTS and the Land Use Analysis Program. The ACTC will identify the roadway segments of the MTS that require evaluation in its letter commenting on the Notice of Preparation (NOP) issued by the City for the project. Note that the City is required to send NOPs and notices of proposed general plan amendments to ACTC under the Land Use

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- Removal of existing pedestrian refuge islands and/or bulbouts
  - Increase of street crossing distance
  - Permanent removal or significant narrowing of an existing sidewalk, path, marked crossing, or pedestrian access way
  - Increase in pedestrian or vehicle volume at unsignalized or uncontrolled intersections
  - Sidewalk overcrowding
  - Addition of new vehicle travel lanes and/or turn lanes
  - Permanent removal of existing sidewalk-street buffering elements (e.g., on-street parking lane, planting strip, street trees)
  - Addition of vehicle driveway entrance(s) that degrade pedestrian safety, with considerations given to the following:
    - Number of proposed vehicle driveway entrances
    - Location of proposed vehicle driveway entrance(s)
    - Visibility between pedestrians on the sidewalk and motorists using the proposed vehicle driveway entrance(s)];
12. Directly or indirectly result in a permanent substantial decrease in bicyclist safety [**NOTE:** Consider whether factors related to bicyclist safety such as, but not limited to, the following are substantial in nature:
- Removal or degradation of existing bikeways
  - Addition of new vehicle travel lanes and/or turn lanes
  - Addition of vehicle driveway entrances(s) that degrade(s) bicycle safety, with consideration given to the following:
    - Number of proposed vehicle driveway entrances
    - Location of proposed vehicle driveway entrance(s)

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Analysis Program regardless of how many project-related trips are expected to be generated.

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- Visibility between bicyclists on travelway and motorists using the proposed vehicle driveway entrance(s)];
13. Directly or indirectly result in a permanent substantial decrease in bus rider safety [**NOTE:** Consider whether factors related to bus rider safety such as, but not limited to, the following are substantial in nature:
- Removal or degradation of existing bus facilities
  - Siting of bus stops in locations without marked crossings, with insufficient sidewalks, or in isolated or unlit areas
  - Addition of new bus riders that creates overcrowding at a bus stop];
14. Generate substantial multi-modal traffic traveling across at-grade railroad crossings that cause or expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent and substantial transportation hazard. [**NOTE:** If the project will generate substantial multi-modal traffic across an at-grade railroad crossing, a Diagnostic Review will be required in consultation with the California Public Utilities Commission. The Review should include roadway and rail descriptions, collision history, traffic volumes for all modes, train volumes, vehicular speeds, train speeds, and existing rail and traffic controls.]<sup>32</sup>

***Other Thresholds***

15. Fundamentally conflict with adopted City policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities adopted for the purpose of avoiding or mitigating an environmental effect and actually result in a physical change in the environment [**NOTE:** Factors to consider in evaluating the potential conflict include, but are not limited to, the following:
- Does the project prevent or otherwise substantially adversely affect the future installation of a planned transportation improvement identified in an adopted City policy, plan, or program?
  - Does the project fundamentally conflict with the applicable goals, policies, and/or actions identified in an adopted City policy, plan, or program?

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<sup>32</sup> Refer to the City's Standard Conditions of Approval for conditions related to at-grade railroad crossings.

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Adopted City policies, plans, and programs to consider include, but are not limited to, the following:

- Land Use and Transportation Element (LUTE) of the General Plan (March 1998)
- Pedestrian Master Plan (November 2002)
- Bicycle Master Plan (December 2007)
- Public Transit and Alternative Modes Policy (formerly known as the “Transit-First Policy;” City Council Resolution 73036 C.M.S.)<sup>33</sup>
- Sustainable Development Initiative (City Council Resolution 74678 C.M.S.)
- U.N. Environmental Accords (City Council Resolution 79808 C.M.S.)
- Complete Streets Policy (City Council Resolution 84204 C.M.S.)
- Capital Improvement Program];

16. Result in a substantial, though temporary, adverse affect on the circulation system during construction of the project; or

17. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

[NOTE: See the Hazards and Hazardous Materials thresholds for additional thresholds related to transportation.]

**CUMULATIVE IMPACTS<sup>34</sup>**

18. A project’s contribution to cumulative impacts is considered “considerable” (i.e., significant) when the project exceeds at least one of the thresholds listed above in a future year scenario.

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<sup>33</sup> The Public Transit and Alternative Modes Policy is sometimes referred to as the “Transit-First Policy.” City staff recommends using the term “Public Transit and Alternative Modes Policy” instead of the term “Transit-First Policy” because the policy relates to more than transit.

<sup>34</sup> See Appendix E for guidance on the cumulative analysis.

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**PLANNING-RELATED NON-CEQA ISSUES**

The following transportation-related topics are not considerations under CEQA but should be evaluated in order to inform decision-makers and the public about these issues.

*Parking*<sup>35</sup>

The Court of Appeal has held that parking is not part of the permanent physical environment, that parking conditions change over time as people change their travel patterns, and that unmet parking demand created by a project need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects.<sup>36</sup> Similarly, the December 2009 amendments to the State CEQA Guidelines (which became effective March 18, 2010) removed parking from the State’s Environmental Checklist (Appendix G of the State CEQA Guidelines) as an environmental factor to be considered under CEQA. Parking supply/demand varies by time of day, day of week, and seasonally. As parking demand increases faster than the supply, parking prices rise to reach equilibrium between supply and demand. Decreased availability and increased costs result in changes to people’s mode and pattern of travel. However, the City of Oakland, in its review of the proposed project, wants to ensure that the project’s provision of parking spaces along with measures to lessen parking demand (by encouraging the use of non-auto travel modes) would result in minimal adverse effects to project occupants and visitors, and that any secondary effects (such as on air quality due to drivers searching for parking spaces) would be minimized. As such, although not required by CEQA, parking conditions are evaluated in this document as a non-CEQA topic for informational purposes.

Parking deficits may be associated with secondary physical environmental impacts, such as air quality and noise effects, caused by congestion resulting from drivers circling as they look for a parking space. However, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, shuttles, taxis, bicycles or travel by foot), may induce drivers to shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to alternative modes of travel would be in keeping with the City’s Public Transit and Alternative Modes Policy (sometimes referred to as the “Transit First” policy).

Additionally, regarding potential secondary effects, cars circling and looking for a parking space in areas of limited parking supply is typically a temporary condition, often offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area.

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<sup>35</sup> Insert this discussion concerning parking into the environmental document.

<sup>36</sup> *San Franciscans Upholding the Downtown Plan v. the City and County of San Francisco* (2002) 102 Cal.App.4th 656.

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Hence, any secondary environmental impacts that might result from a shortfall in parking in the vicinity of the proposed project are considered less than significant.

This document evaluates if the project's estimated parking demand (both project-generated and project-displaced) would be met by the project's proposed parking supply or by the existing parking supply within a reasonable walking distance of the project site.<sup>37</sup> Project-displaced parking results from the project's removal of standard on-street parking, City or Redevelopment Agency owned/controlled parking, and/or legally required off-street parking (non-open-to-the-public parking which is legally required).

***Transit Ridership***<sup>38</sup>

Transit load is not part of the permanent physical environment; transit service changes over time as people change their travel patterns. Therefore, the effect of the proposed project on transit ridership need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects, such as causing the construction of new permanent transit facilities which in turn causes physical effects on the environment. Furthermore, an increase in transit ridership is an environmental benefit, not an adverse impact. One of the goals of the Land Use and Transportation Element of the Oakland General Plan is to promote transit ridership. The City of Oakland, however, in its review of the proposed project, wants to understand the project's potential effect on transit ridership. As such, although not required by CEQA, transit ridership is evaluated in this document as a non-CEQA topic for informational purposes.

This document evaluates whether the project would exceed any of the following:

- Increase the average ridership on AC Transit lines by three (3) percent at bus stops where the average load factor with the project in place would exceed 125% over a peak thirty minute period;
- Increase the peak hour average ridership on BART by three (3) percent where the passenger volume would exceed the standing capacity of BART trains; or
- Increase the peak hour average ridership at a BART station by three (3) percent where average waiting time at fare gates would exceed one minute.

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<sup>37</sup> The analysis must compare the proposed parking supply with both the estimated demand **and** the Oakland Planning Code requirements.

<sup>38</sup> Insert this discussion concerning transit ridership into the environmental document.

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***Queuing***

Evaluate the project's potential effect on 95<sup>th</sup> percentile queuing. Would the project cause an increase in 95<sup>th</sup> percentile queue length of 25 feet or more at a study, signalized intersection under the Existing Plus Project condition or the Near-Term Future Baseline Plus Project condition?

***Traffic Control Devices***

Evaluate the need for additional traffic control devices (e.g., stop signs, street lighting, crosswalks, traffic calming devices) using the California MUTCD and applicable City standards.

***Collision History***

Evaluate three years of vehicle, pedestrian, and bicycle collision data for intersections and roadway segments within three blocks of the project site to determine if the project would contribute to an existing problem or if any improvements are recommended in order to alleviate potential effects of the project.

**UTILITIES AND SERVICE SYSTEMS**

The project would have a significant impact on the environment if it would:

1. Exceed wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board;
2. Require or result in construction of new storm water drainage facilities or expansion of existing facilities, construction of which could cause significant environmental effects;
3. Exceed water supplies available to serve the project from existing entitlements and resources, and require or result in construction of water facilities or expansion of existing facilities, construction of which could cause significant environmental effects;<sup>39</sup>
4. Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the providers' existing commitments and require or result in construction of new

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<sup>39</sup> EBMUD needs to be consulted early and a Water Supply Assessment performed for certain, larger projects (see Appendix D).

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wastewater treatment facilities or expansion of existing facilities, construction of which could cause significant environmental effects;

5. Be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs and require or result in construction of landfill facilities or expansion of existing facilities, construction of which could cause significant environmental effects;
6. Violate applicable federal, state, and local statutes and regulations related to solid waste;
7. Violate applicable federal, state and local statutes and regulations relating to energy standards;<sup>40</sup> or
8. Result in a determination by the energy provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the providers' existing commitments and require or result in construction of new energy facilities or expansion of existing facilities, construction of which could cause significant environmental effects.

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<sup>40</sup> See Appendix F of the State CEQA Guidelines for guidance on information related to energy-conservation that must be contained in an EIR.

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**APPENDICES**

A. Guidance on Historical Resources

B. Guidance on the “Cortese List”

C. List of Oakland’s Major Planning Documents and Recommended General Plan Consistency Language and Approach

D. Water Supply Assessments and Early Consultation with EBMUD

E. Cumulative Analysis Guidance

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**APPENDIX A**

**GUIDANCE ON HISTORICAL RESOURCES**

In the City of Oakland, an historical resource under CEQA is a resource that meets **any** of the following criteria:

- 1) A resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources;
- 2) A resource included in Oakland's Local Register of historical resources (defined below), unless the preponderance of evidence demonstrates that it is not historically or culturally significant;
- 3) A resource identified as significant (e.g., rated 1-5) in a historical resource survey recorded on Department of Parks and Recreation Form 523, unless the preponderance of evidence demonstrates that it is not historically or culturally significant;
- 4) Meets the criteria for listing on the California Register of Historical Resources; or
- 5) A resource that is determined by the Oakland City Council to be historically or culturally significant even though it does not meet the other four criteria listed above.

The City of Oakland's Local Register (Historic Preservation Element Policy 3.8) includes the following:

- All Designated Historic Properties (Landmarks, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties); and
- Potential Designated Historic Properties that have an existing rating of "A" or "B" or are located within an Area of Primary Importance.

Each of these criteria is discussed in greater detail below:

**1) California Register of Historical Resources**

The building[s] on the subject site (a) **[are or are not]** listed in the California Register of Historical Resources; and (b) **[have or have not]** been determined eligible by the State Historical

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Resources Commission for listing in the California Register of Historical Resources. These buildings **[are or are not]** automatically eligible for listing in the California Register (pursuant to Public Resources Code section 5024.1(d)(1) and (2) and 14 Cal. Code Regs. Section 4851(a)) as they **[have or have not]** been listed in or formerly determined eligible for the National Register of Historic Places or the California Historic Landmarks program (landmarks 770 or higher).

Therefore, the buildings **[are or are not]** considered historical resources under this criterion.

**2) City of Oakland Local Register of Historical Resources**

A “local register of historical resources” means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution, unless the preponderance of evidence demonstrates otherwise.

In March 1994, the Oakland City Council adopted the Historic Preservation Element of the General Plan. The Historic Preservation Element sets out a graduated system of ratings and designations resulting from the Oakland Cultural Heritage Survey (OCHS) and Oakland Zoning Regulations. The Element provides the following policy related to identifying historic resources under CEQA:

- Policy 3.8 Definition of “Local Register of Historical Resources” and Historic Preservation “Significant Effects” for Environmental Review Purposes: For purposes of environmental review under the California Environmental Quality Act, the following properties will constitute the City of Oakland’s Local Register of Historic Resources:
  - 1) All Designated Historic Properties (Landmarks, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties); and
  - 2) Potential Designated Historic Properties that have an existing rating of “A” or “B” or are located within an Area of Primary Importance.

The Oakland Cultural Heritage Survey uses a five-tier rating system for individual properties, ranging from “A” (highest importance) and “B” (major importance) to “E” (of no particular interest). This letter rating is termed the Individual Property Rating of a building and is based on the following criteria:

Visual Quality/Design: Evaluation of exterior design, interior design, materials and construction, style or type, supporting elements, feelings of association, and importance of designer.

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History/Association: Association of person or organization, the importance of any event, association with patterns of history, and the age of the building.

Context: Continuity and familiarity of the building within the city, neighborhood, or district.

Integrity and Reversibility: Evaluation of the building's condition, its exterior and interior alterations, and any structural removals.

Properties with conditions or circumstances that could change substantially in the future are assigned both an "existing" and a "contingency" rating. The existing rating (UPPER CASE letter) describes the property under its present condition, while the contingency rating (lower case letter, if any), describes it under possible future circumstances.

The Local Register also includes properties within Areas of Primary Importance (API). An API is a district that appears eligible for the National Register of Historic Places.

Here, the building[s] are rated \_\_\_\_\_.

Therefore, the buildings [**are or are not**] considered historical resources under this criterion.

### **3) State Historic Resources Survey/Inventory**

A resource evaluated and determined by the State Historic Preservation Office to have a significance rating of 1-5 on a Department of Parks and Recreation Form 523 (historic resources survey) is presumed to be a historical resource unless the preponderance of evidence demonstrates it is not.

Here, a DPR Form 523 [**was submitted on [date] with a significance rating of \_\_**] or [**has not been submitted to the State**]. [**NOTE: AN UPDATE MUST BE PERFORMED**]

Therefore, the buildings [**are or are not**] considered historical resources under this criterion.

### **(4) Meets Criteria for Listing in the California Register of Historical Resources**

#### **A. California Register of Historic Resources**

In order for a resource to meet the criteria for listing in the California Register, it must satisfy all of the following three provisions:

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1. It meets one of the following four criteria of significance (Public Resources Code section 5024.1(c) and CEQA Guidelines section 15064.5):
  - (a) The resource “is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;”
  - (b) The resource “is associated with the lives of persons important in our past;”
  - (c) The resource “embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values;” or
  - (d) The resource “has yielded, or may be likely to yield information important in prehistory or history” (this criterion applies primarily to archaeological sites).
2. The resource retains historic integrity;<sup>41</sup> and
3. It is fifty years old or older (except where it can be demonstrated that sufficient time has passed to understand the historical importance of the resource).

**B. National Register of Historic Places**

Generally, a resource eligible for listing on the National Register of Historic Places is also eligible for listing on the California Register.

The National Register of Historic Places evaluates a resource’s eligibility for listing based on the following four criteria: districts, sites, buildings, structures, and objects.

Criterion A (Event): That are associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B (Person): That are associated with the lives of persons significant in our past.

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<sup>41</sup> The California Register defines “integrity” as “the authenticity of a property’s physical identity, evidence by the survival of characteristics that existed during the property’s period of significance.” That is, it must retain enough of its historic character or appearance to be recognizable as an historical resource. The California Register regulations specify that integrity is a quality that applies to historic resources in seven ways: location, design, setting, materials, workmanship, feeling, and association. A property must retain most of these qualities to possess integrity. Moved or reconstructed buildings can be eligible under certain circumstances.

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Criterion C (Design/Construction): That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

Criterion D (Information Potential): That have yielded, or may be likely to yield, information important in prehistory or history.

Significance: To be listed on the National Register, a property must be shown to be “significant” at the local, state, or national level under one or more of the National Register criteria. Mere association with historic events or trends, individuals, or styles is not enough: the property’s specific association must be considered important as well.

Integrity: The property must also possess historic “integrity.” Integrity is defined as “the ability of a property to convey its significance.” The National Register criteria recognize seven qualities that define integrity: location, design, setting, materials, workmanship, feeling, and association.

- “Location” refers to the place where the historic property was constructed.
- “Design” is the combination of architectural elements that create the form, structure, and style of the property.
- “Setting” is the physical environment surrounding a historic property.
- “Materials” are the original physical components that were combined during a particular period in time and in a particular pattern to form the historic property.
- “Workmanship” is the physical evidence of the building crafts and skills of a particular culture during a given period.
- “Feeling” is a property’s expression of the aesthetic or historic sense of a particular period of time.
- “Association” is the direct link between an important historic event or person and a historic property.

Special considerations apply to moved or reconstructed properties, cemeteries, religious or commemorative properties, and properties achieving significance within the past 50 years.

Here, the resource[s] [**are or are not**] eligible for listing on the California Register.

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appear[s] eligible, according to \_\_\_\_\_, because \_\_\_\_\_

has/have been formally determined eligible by \_\_\_\_\_, on [date]

do[es] not appear eligible, according to \_\_\_\_\_, because \_\_\_\_\_

has/have been formally determined ineligible by \_\_\_\_\_, on [date]

Also, the resource[s] [are or are not ] eligible for listing on the National Register.

appear[s] eligible, according to \_\_\_\_\_, because \_\_\_\_\_

has/have been formally determined eligible by \_\_\_\_\_, on [date]

do[es] not appear eligible, according to \_\_\_\_\_, because \_\_\_\_\_

has/have been formally determined ineligible by \_\_\_\_\_, on [date]

Therefore, the resources [are or are not] considered historical resources under this criterion.

**5) Determined by a Lead Agency to be Historically Significant**

The fact that a resource is not considered historic pursuant to the above four criteria does not preclude a lead agency from determining that the resource is nonetheless a “historical resource” for CEQA purposes.

Here, the buildings [are or are not] considered to be historically significant because they [have or have not] been determined by the City of Oakland to be a historic resource [this would be an unusual situation that would require some narrative & explanation].

[NOTE: There are just three very early State Historical Landmarks (Site of College of Calif., Site of St. Mary’s College, Camino of Rancho San Antonio) not covered by the categories above unless SHPO has got around to evaluating them.]

Therefore, the buildings [are or are not] considered historical resources under this criterion.

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**Non-CEQA General Plan Policies Regarding Historic Resources**

There are other General Plan policies that relate to historic resources, but do not involve CEQA issues. Such policies do not provide thresholds of significance for CEQA purposes (as they apply to a much wider range of properties, not just those that meet the CEQA standards set forth above). These policies are discussed solely for the benefit of the decision-makers who will, as a policy matter, consider and apply them for consistency prior to issuing discretionary permits for the project.

- Policy 3.1 Avoid or Minimize Adverse Historic Preservation Impacts Related to Discretionary City Actions: The City will make all reasonable efforts to avoid or minimize adverse effects on the Character-Defining Elements of existing or Potential Designated Historic Properties which could result from private or public projects requiring discretionary City actions.
- Policy 3.5 Historic Preservation and Discretionary Permit Approvals: For additions or alteration to Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; (2) the proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or (3) the existing design is undistinguished and does not warrant retention, and the proposed design is compatible with the character of the neighborhood.

For any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure; or (3) the existing design is undistinguished and does not warrant retention, and the proposed design is compatible with the character of the neighborhood.

- Policy 3.7 Property Relocation Rather than Demolition as Part of Discretionary Projects: As a condition of approval for all discretionary projects involving demolition of existing or Potential Designated Historic Properties, the City will normally require that reasonable efforts be made to relocate the properties to an acceptable site, including advertising the availability of the property for at least ninety (90) days.
- Policy 3.11 Historic Preservation and Seismic Retrofit and Other Building Safety Programs:

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- (a) The City's building safety programs, including seismic retrofit programs, will seek to preserve existing or Potential Designated Historic Properties and their Character-Defining Elements. Where changes to such elements are unavoidable to achieve code compliance or other City-mandated modifications, the City will encourage owners to design the changes in a manner which minimizes visual impacts.
- (b) Prevailing codes for the City's building safety programs when applied to existing or Potential Designated Historic Properties will be the Oakland Building Code; the Uniform Code for Building Conservation where permitted under state law; and, for qualified historical buildings, the State Historical Building Code.
- Land Use Element Policy D6.2 Reusing Vacant or Underutilized Buildings: Existing vacant or underutilized buildings should be reused. Repair and rehabilitation, particularly of historic or architecturally significant structures, should be strongly encouraged. However, when reuse is not economically feasible, demolition and other measures should be considered.

**[THERE MAY BE MORE POLICIES DEPENDING ON PROJECT AND WHETHER CITY/AGENCY FINANCIAL OR OTHER SUPPORT IS PROVIDED--SEE LIST OF POLICIES IN GENERAL PLAN CONFORMITY GUIDELINES]**

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**APPENDIX B**

**GUIDANCE ON THE “CORTESE LIST”**

The list of hazardous materials sites compiled pursuant to Government Code section 65962.5 is commonly referred to as the “Cortese List.” The Cortese List is located on the California Environmental Protection Agency’s website at:

<http://www.calepa.ca.gov/SiteCleanup/CorteseList/default.htm>

The list on Cal EPA’s website is a compilation of the following lists:

- List of Hazardous Waste and Substances sites from Department of Toxic Substances Control (DTSC) EnviroStor database
- List of Leaking Underground Storage Tank Sites by County and Fiscal Year from Water Board GeoTracker database
- List of solid waste disposal sites identified by Water Board with waste constituents above hazardous waste levels outside the waste management unit (PDF)
- List of "active" CDO and CAO from Water Board (MS Excel, 632 KB)
- List of hazardous waste facilities subject to corrective action pursuant to section 25187.5 of the Health and Safety Code, identified by DTSC

Each of these lists meets the Cortese List requirements. A project site listed on any of these lists is considered to be listed on the Cortese List. Pursuant to section 15300.2 of the CEQA Guidelines, a categorical exemption shall not be used for a project located on a site included on the Cortese List.

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**APPENDIX C**

**LIST OF OAKLAND'S MAJOR PLANNING DOCUMENTS**

**I. OAKLAND GENERAL PLAN ELEMENTS**<sup>42</sup>

- 1) Land Use and Transportation Element (LUTE) (adopted 3/98; text amended 12/99 and 6/05; check with City for latest land use map)
- 2) Estuary Policy Plan (adopted 6/99; amended 6/06)
- 3) Open Space, Conservation and Recreation (OSCAR) Element (adopted 6/96)
- 4) Historic Preservation Element (adopted 3/94; amended 7/98 and 1/07)
- 5) Bicycle Master Plan (updated and adopted 12/07 as part of the LUTE)
- 6) Pedestrian Master Plan (adopted 11/02 as part of the LUTE)
- 7) Housing Element (adopted 12/10)
- 8) Noise Element (adopted 6/05)
- 9) Safety Element (adopted 11/04)
- 10) Scenic Highways Element (adopted 9/74)

**II. OTHER PLANS AND DOCUMENTS**

- 1) Oakland Policy Plan (adopted 9/74; amended by LUTE to combine all remaining policies into a "Governance Document;" the Governance Document has not been issued but the goals/policies are listed in the LUTE as part of the amendments)
- 2) Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations (adopted 5/98) [**NOTE:** Contains a helpful list of major general plan policies]
- 3) North Oakland Hill Area Specific Plan (NOHASP) (adopted 11/86)

**III. BASE REUSE PLANS**

- 1) Oak Knoll (adopted 8/96)

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<sup>42</sup> Check to see if mitigation measures were adopted for these elements and incorporate as appropriate.

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- 2) Army Base (adopted 7/02; amended 12/06; 12/07; 6/12)

**IV. OTHER PLANNING STUDIES**

- 1) Mandela Parkway Corridor
- 2) West Oakland 2000
- 3) Gateway Development
- 4) Shepard Canyon Corridor
- 5) Medical Hill
- 6) LUTE Technical Appendix
- 7) Census
- 8) Harrison /Oakland Community Transportation Plan (2/10)

**IV. REDEVELOPMENT PLANS<sup>43</sup>**

- 1) Acorn
- 2) Broadway/MacArthur/San Pablo
- 3) Central District
- 4) Central City East
- 5) Coliseum
- 6) Oak Center
- 7) Oak Knoll
- 8) Oakland Army Base
- 9) Stanford/Adeline
- 10) West Oakland

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<sup>43</sup> Check to see if mitigation measures were adopted for these plans and incorporate as appropriate.

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**V. CONSISTENCY OF PROJECT WITH PLANS AND POLICIES**

[NOTE: The following language should be included in any discussion of the consistency of the proposed project with the General Plan:]

Conflicts with a General Plan do not inherently result in a significant effect on the environment within the context of CEQA. As stated in section 15358(b) of the CEQA Guidelines, “[e]ffects analyzed under CEQA must be related to a physical change.” Section 15125(d) of the Guidelines states that EIRs shall discuss any inconsistencies between the proposed project and applicable General Plans.

Further, Appendix G of the CEQA Guidelines (Environmental Checklist Form) makes explicit the focus on *environmental* policies and plans, asking if the project would “conflict with any applicable land use plan, policy, or regulation . . . *adopted for the purpose of avoiding or mitigating an environmental effect*” (emphasis added). Even a response in the affirmative, however, does not necessarily indicate the project would have a significant effect, unless a physical change would occur. To the extent that physical impacts may result from such conflicts, such physical impacts are analyzed elsewhere in this document.

Regarding a project’s consistency with the General Plan in the context of CEQA, the Oakland General Plan states the following:

The General Plan contains many policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of the California Environmental Quality Act (CEQA). (City Council Resolution No. 79312 C.M.S.; adopted June 2005)

[NOTE: AFTER LISTING THE MOST APPLICABLE GENERAL PLAN POLICIES, DISCUSS THE OVERALL CONSISTENCY OF THE PROJECT WITH THE POLICIES.]

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**APPENDIX D**

**WATER SUPPLY ASSESSMENTS AND EARLY CONSULTATION WITH EBMUD**

**CEQA GUIDELINES SECTION 15083.5**

Projects affecting water agencies and meeting the criteria established in CEQA Guidelines section 15083.5 are required to send the Notice of Preparation for an EIR to each public water system that serves or would serve the proposed project. These agencies have 30 days to submit a water supply assessment addressing the adequacy of the supply to support the demand created by the project. The lead agency shall include in the EIR the information provided by the water agency (up to 10 pages) and must determine whether project water supplies will be sufficient to meet the demand of the project, in addition to existing and planned future uses.

**SB 221 (GOVERNMENT CODE SECTION 66473.7)**

SB 221 requires that cities and counties demonstrate that there is sufficient water supply before they approve a tentative map for the residential development. The sufficiency of water supply can be established by obtaining a written verification from a public water supplier that confirms that total water supplies available within a 20 year projection will adequately meet projected demand associated with proposed subdivision.

SB 221 applies to proposed residential subdivisions of more than 500 dwelling units and does **not apply** to infill development -- residential housing proposed for a site that is within or immediately contiguous to an **urbanized area** -- or to housing projects that are exclusively for low-income households (Gov't Code section 66473.7(i)(1). Oakland should be considered an urbanized area<sup>44</sup> and thus SB 221 **does not apply here**.

**SB 610**

SB 610 applies to the following:

- Residential developments of more than 500 units;

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<sup>44</sup> Although SB 221 does not provide a definition of "urbanized area," Oakland meets the definition of such contained in other statutes/regulations (Health & Safety Code section 33320.1; CEQA Guidelines section 15387).

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- Shopping centers or business establishments employing more than 1,000 persons or containing more than 500,00 square feet of floor area;
- Commercial office buildings employing 1,000 persons or containing more than 250,000 square feet of floor area;
- Hotels or motels containing more than 500 rooms;
- Industrial plants occupying more than 40 acres or containing more than 650,000 square feet; or
- Any combination of the above that results in equivalent water consumption.

SB 610 requires that before approving any projects that fall within the categories above, cities and counties must request a water supply assessment from the water supplier most likely to serve the project and must include the water supply assessment in any CEQA environmental documents.

Additionally, the water supply assessment must evaluate if the total water supplies during a 20-year projection will meet the projected water demand associated with the proposed project (Water Code sections 10912(a), 10911(b), 10910(b), and 10910(c)(4)).

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**APPENDIX E**

**CUMULATIVE ANALYSIS GUIDANCE**

The cumulative analysis must evaluate whether the project's incremental effect is cumulatively considerable when combined with other projects causing related impacts. The analysis shall include **all past, present, and reasonably foreseeable future projects**. To account for these other projects, CEQA allows cities to use the "list method" (i.e., a list containing past, present, and reasonably foreseeable future projects) and/or the "forecast method" (i.e., a projection or model). The City of Oakland uses a combination of both the list method and the forecast method for cumulative analyses.

For transportation-related impacts (including transportation-related noise, air quality, and greenhouse gas impacts) the City generally uses the forecast method, by utilizing the countywide transportation model of the Alameda County Transportation Commission (formerly the Alameda County Congestion Management Agency). For guidance on the cumulative analysis for transportation-related impacts, refer to the City's current Transportation Impact Study Guidelines (separate document).

For all other impacts, the City generally uses the list method, which is based upon the past, present, and reasonably foreseeable future projects contained in the City's latest List of Major Development Projects. Assume that all projects on the List, including projects with pre-application discussions and those that are under review, approved, and completed, are existing in both the Cumulative Baseline (without project) condition and the Cumulative Baseline Plus Project condition.

For each of the topics below, evaluate both the Cumulative Baseline (without project) condition and the Cumulative Baseline Plus Project condition:

**Cultural**

If the project is located on a site with an historic resource, within an historic district, or adjacent to an historic resource:

1. Evaluate the project site.

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2. Evaluate adjacent buildings.
3. Evaluate the district.
4. Also evaluate the potential impact with consideration to the citywide impact. [**NOTE:** See the analysis for the Kaiser Center Office development project, as an example.]

**Visual**

1. View points should be developed through the scoping session, public comments, and consultant recommendations.
2. Look at the visual impact analysis of other projects in the vicinity of the project.
3. Refer to the City's wind database for information on reasonably foreseeable projects (see "Wind" discussion below).

**Shadow**

1. Unless directed otherwise by the City, evaluate the following dates/times: 9:00 a.m., 12:00 p.m., and 3:00 p.m. for the Spring Equinox, Summer Solstice, Fall Equinox, and Winter Solstice.

**Wind**

1. The City maintains a database of projects to be used for the cumulative wind analysis. Check with City staff.
2. The wind consultant must determine the wind radius and provide the City with a wind radius map to be used to identify projects to be used in the cumulative analysis.
3. The applicant is responsible for adding the project and all reasonably foreseeable projects from the wind database within the wind radius to the wind model.
4. The applicant is responsible for modifying the wind model to physically modify buildings that have changed.
5. The applicant is responsible for repairing any damaged buildings in the wind model.
6. The applicant must notify the City of modifications made to the wind model so that the City can update the City's wind database. This is important so that the City knows what is in the actual physical model.