



# memorandum

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to Peterson Vollmann, Planner IV, City of Oakland - Bureau of Planning  
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from Crescentia Brown/Hillary Gitelman, ESA

subject Responses to Certain Issues in Written Comments Received Subsequent to Release of the Response to Comments / Final Environmental Impact Report (Final EIR) for the Oakland Waterfront Ballpark District Project

This memo presents responses to certain issues raised in written correspondence the City of Oakland (City) received after its December 17, 2022, release of the *Oakland Waterfront Ballpark District Project Response to Comments / Final EIR* through the date of this memo. Under the California Environmental Quality Act (CEQA), the City is not required to formally respond to these comments, but the City is choosing to address some of the issues raised. In addition, AB 734 states that the City need not consider written comments submitted after the close of the public comment period unless the comments meet certain standards (Public Resources Code (PRC) Section 21168.6.7(f)(6)). The City is not waiving any rights under AB 734 to not consider certain types of comments by providing these responses. Responses focus on comments that pertain to environmental issues. The correspondence is listed in the order received by the City and is available in the Administrative Record for the Oakland Waterfront Ballpark District Project (Project).

## **1. Jack London Improvement District, Savlan Hauser (1/10/22)**

This correspondence commends the City's decision to expand the installation of new at-grade rail safety improvements east of Broadway, to Oak Street. The expansion was previously discussed in Consolidated Response 4.6, *Rail Safety, Grade Crossing, and Grade Separation* (in 4.6.2, *Geographic Scope of Rail Safety Improvements*, Final EIR page 4-104).

## **2. Oakland Heritage Alliance (1/10/22)**

The commenter requests modification of Mitigation Measure CUL-7 which applies to Impact CUL-10 regarding the Aerial Gondola Variant, on Draft EIR p. 5-113. Earlier comments regarding this issue were addressed in responses to comments in Chapters 5 and 6 of the Responses to Comments/Final Environmental Impact Report. See Responses O-9-3, O-40-2, and H2-2-86.

Because the Project sponsor has not applied for approvals for the Aerial Gondola Variant and it is not proposed for approval at this time, this mitigation measure is not currently proposed for adoption. If and when approvals for the Aerial Gondola Variant are considered for approval, the mitigation measure will be considered for adoption and the City would consider the requested modifications.

### **3. East Bay Municipal Utility District (EBMUD) (1/13/22)**

The correspondence directs the Project sponsor to connect to EBMUD's recycled water system as part of The Project's initial planning development. As indicated in text edits to Draft EIR p. 3-50 shown in Chapter 7, *City-Initiated Updates and Errata to the Draft EIR, of the Final EIR* (Final EIR p. 7-304), the project would install recycled water pipelines for use in landscape irrigation and flushable fixtures, as well as recycled water mains. The EIR indicates that connection to the EBMUD recycled water mains would be dependent on the status/completion of Phase 1B of EBMUD's Recycled Water Master Plan.

Follow-up consultation between Oakland Planning Bureau staff and EBMUD on February 9, 2022, clarified that the applicant would be required to consult with EBMUD regarding extension of the recycled water line to the site from 7th Street. This will be ensured through a condition of approval for the Project as part of the appropriate Project approval.

### **4. Oakland Chinatown Howard Terminal Working Group**

#### **Letter dated 1/14/22**

The comment expresses concern about transportation issues and describes a December 17, 2021 agreement between City staff and Chinatown working group members to further analyze the routing of pedestrians and vehicles through Chinatown on event days and to include measures to address these issues in the Transportation Management Plan (TMP). Issues relating to traffic, parking and congestion are not environmental impacts under CEQA as explained in the EIR.

The additional study of transportation operations before, during, and after ballpark events is being conducted to refine the draft TMP, as was envisioned in Mitigation Measure TRANS-1b, and would not be presented as new mitigation as represented in the comment letter. The analysis is being prepared to respond to the non-CEQA game day issues related to transportation operations and management that are also addressed through the TMP.

Mitigation Measure TRANS-1b: Transportation Management Plan is included in the EIR and states "The TMP will be a living document requiring periodic updates over time as travel patterns change because of development and changes to transportation infrastructure and operation. All revisions to the TMP shall be subject to the review and approval of the City" (Draft EIR p. 4.15-193). City staff's agreement to analyze transportation operations in Chinatown in more depth is intended to inform components of the Draft TMP and its implementation pursuant to the terms of the Mitigation Measure. As required by Mitigation Measure TRANS-1b, a draft TMP must be submitted to the City for review and approval together with the building permits for the ballpark and must be approved by the City prior to the issuance of a Temporary Certificate of Occupancy for the ballpark. (See Responses to Comments/Final Environmental Impact Report p. 7-292.) Therefore, the study and any measures identified therein is not a new mitigation but implementation of the existing TMP Mitigation Measure.

#### **Letter Dated 2/10/22**

This letter recommends specific changes to the text of the draft Traffic Management Plan (TMP) to carry out the Chinatown-related directives of the July 20th, 2021 City Council resolution that approved the non-binding Howard Terminal Project Term Sheet. The Draft TMP is not part of the Project approvals being considered at this time. The recommendations include the addition of representatives from the

surrounding communities of Chinatown, Jack London, Old Oakland and West Oakland as key stakeholders and their roles in assisting with providing recommended changes to the TMP as needed based upon results of ongoing monitoring of the effectiveness of the plan as well as recommended changes to include TMP performance standards for Chinatown and prioritization of off-site parking garages located within Chinatown during Chinatown cultural events occurring at the same time as A's events.

The City will take these recommendations under consideration as part of the additional study (referenced above) being conducted to refine the draft TMP, consistent with Mitigation Measure TRANS-1b. As previously stated, the analysis is being prepared to respond to the non-CEQA game day issues related to transportation operations and management that are also addressed through the TMP and is not a new mitigation but implementation of the existing TMP Mitigation Measure.

**5. *Town Business (1/18/22)***

The comment states support for the proposed Project and is included herein for consideration by decision-makers on the Project.

**6. *Jennifer Arbuckle (1/17/22)***

The comment states support for the proposed Project and is included herein for consideration by decision-makers on the Project.

**7. *Wendy Cohen, Burt Boltuch (1/18/22)***

The comment states support for the proposed Project and is included herein for consideration by decision-makers on the Project.

**8. *James Reinhart, ThredUP (1/19/22)***

The comment states support for the proposed Project and is included herein for consideration by decision-makers on the Project.

**9. *Tom Willging (1/18/22)***

The commenter expresses support for the Project while also asking that the City insist on dedicated funding for infrastructure, rather than relying on "existing city, county, state, and federal sources." As explained in the Responses to Comments/Final Environmental Impact Report Section 4.22.2, financial considerations are not a CEQA issue and will be considered by the City outside the context of the EIR.

**10. *East Bay Leadership Council, Kristin Connelly (1/18/22)***

The comment states support for the proposed Project and is included herein for consideration by decision-makers on the Project.

**11. *Oakland Heritage Alliance, Naomi Schiff; Mary Harper (1/18/22)***

The commenter objects to the level of detail provided in the EIR regarding the Aerial Gondola, specifically requesting more information on "how the introduction of a modern overhead gondola system that overhangs the Old Oakland API will impact the character and integrity of the API as a whole." The EIR provides an analysis of potential impacts of the Aerial Gondola Variant in Chapter 5 of the Draft EIR based on the information available about its design and construction, which does not include detailed

design or engineering. The analysis of Impact CUL-10 appropriately describes intrusion of the Convention Center Station into the API and the buildings along Washington Street that could be affected. The analysis also indicates the potential for shadow impacts and visual intrusion and concludes the impact would be significant and unavoidable. The Project sponsor has not applied for approvals for the Aerial Gondola Variant and it is not proposed for approval at this time.

The commenter also suggests that there should be mitigation to address the location and route of the gondola as well as design and placement of the stations and tower. The EIR provides mitigation to reduce potential impacts of the Convention Center Station on the Old Oakland API (Mitigation Measure CUL-7) and potential impacts of construction vibration on the Western Pacific Railroad Depot (Mitigation Measure CUL-2).

The commenter also reiterates concerns about Mitigation Measure CUL-7, which are responded to above, and objects that the City's Landmarks Preservation Advisory Board was not able to hold a hearing on the Aerial Gondola and Peaker Plant Variants prior to EIR certification. As stated above, this variant has not been applied for and is not being considered for approval at this time. If they are proposed for adoption at a later date, there will be an opportunity for additional input and the City will consider whether the mitigation measure has adequately addressed impacts of the proposals.

**12. *Jermaine Roberts (1/19/22)***

The comment provided is not relevant to the EIR, which focuses on physical environmental impacts of the Project.

**13. *Sierra Club, Chance Cutrano (1/19/22)***

The comment addresses rail safety issues already addressed in the Responses to Comment/Final Environmental Impact Report, Section 4.6. As explained there and in the EIR, even with the implementation of the safety enhancements outlined in Mitigation Measure TRANS-3a, "some travelers to and from the site would continue to use at-grade crossings at the numerous crossing locations along Embarcadero West." Additionally, these improvements are "subject to the review and approval of another agency," and therefore implementation of the mitigation measure is not in control of the City. Therefore, the impact would remain significant and unavoidable.

**14. *Andrew Snow (1/19/22)***

The comment states support for the proposed Project and is included herein for consideration by decision-makers on the Project.

**15. *Pacific Merchant Shipping Association (PMSA) et.al (1/26/22)***

The commenter addresses the status of seaport compatibility measures, and is not directly relevant to the EIR except to the extent that mitigation measures and alternatives (e.g. grade separation) in the EIR also serve as compatibility measures. Please see Responses to Comments/Final Environmental Impact Report Section 4.4 for more discussion of Port operations and related issues. Also see correspondence from Danny Wan, Executive Director of the Port of Oakland to the City Council on this subject. This correspondence is included in the Administrative Record.

## **16. Multiple Commenters (1/6/22 through 1/17/22)**

Prior to and during the January 19, 2022, Oakland Planning Commission public hearing on the Final EIR, the City received numerous requests to postpone the public hearing for at least 30 days suggesting there was inadequate time to adequately review the document. After internal staff consultation with the City's Environmental Review Officer, the Bureau of Planning did not propose postponing the January 19 hearing since the Final EIR was published with the public notice one month prior (December 17, 2021) to the scheduled hearing, and the hearing before the Planning Commission was not to make a final decision on certification of the EIR; the decision-making body for certification of the Final EIR is the City Council. As specified in the December 17 public notice, the action before the Planning Commission at the January 19 hearing was to make a recommendation to the City Council regarding Final EIR certification in their advisory role. Bureau of Planning staff issued this response to the commenters requesting postponement of the January 19 hearing, and further explained the process of future noticing of a public hearing at a future date before the City Council to consider the Planning Commission's recommendation and certification of the Final EIR.

ESA appreciates the opportunity to provide these responses to comments on the EIR and is available to provide responses to additional correspondence received in advance of the Council's hearing if necessary. As noted above, pursuant to AB 734, the City need not consider written comments submitted after the close of the public comment period unless those comments address any of the specific items listed in PRC Section 21168.6.7(f)(6).

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