



BAY AREA TOLL AUTHORITY
Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105
TEL 415.778.6700
WEB www.mtc.ca.gov

Memorandum

TO: BATA Oversight Committee

DATE: July 3, 2018

FR: Executive Director

W. I. 1251

RE: BATA Resolution No. 125: Final Environmental Impact Report for Gateway Park

BATA staff has prepared the Proposed *Final Environmental Impact Report for Gateway Park* (Final EIR) in accordance with the California Environmental Quality Act (CEQA) and requests that BATA Resolution No. 125 be referred to the full Authority for approval and certification. In general, the purpose of the Final EIR is to disclose the significant environmental effects of implementing the proposed Gateway Park Project (Proposed Project), identify possible ways to minimize the significant effects, and describe reasonable alternatives to the Proposed Project.

The Proposed Project is the result of a multiagency collaborative effort facilitated by the Gateway Park Working Group (the Working Group). The Working Group is composed of nine local, regional and state agencies, including BATA, the California Department of Transportation (Caltrans), the San Francisco Bay Conservation and Development Commission (BCDC), the California Transportation Commission (CTC), the East Bay Regional Park District (EBRPD), the City of Oakland, the Port of Oakland, East Bay Municipal Utility District (EBMUD), and the San Francisco Bay Trail Project, a Local Collaborative Program affiliated with the Association of Bay Area Governments (ABAG). BATA, acting on behalf of the Working Group, is the lead agency under CEQA. Each of the Working Group agencies, with the exception of BCDC, which is solely a regulatory agency, could implement and/or fund potential projects included in the Proposed Project Description. At this time, it is envisioned that Gateway Park would be a regional park operated by EBRPD or a joint powers authority. A future operations and maintenance agreement is anticipated between BATA and EBRPD for eligible elements.

The Proposed Project proposes the creation of a new park along the waterfront near the eastern end of the east span of the San Francisco–Oakland Bay Bridge (SFOBB) that would encompass approximately 45 acres. The Proposed Project would be developed in phases, based on funding availability. The only mandatory elements of the Proposed Project are those commitments made by Caltrans for the SFOBB East Span Seismic Safety Project (East Span Project), as memorialized in the permit for the East Span Project issued by BCDC and held by Caltrans, which comprises a smaller subset of the project improvements analyzed in the Final EIR. Actual

implementation could consist of a range of recreation uses from active to passive, with the potential to generate large crowds when special events occur.

The Final EIR responds to comments addressing the Draft EIR, which was released for a 45-day public review period between January 29, 2018 and March 14, 2018. The revisions, refinements, and responses to comments help to clarify and amplify the analysis in the Draft EIR. However, no significant new information was added that would trigger recirculation of the Draft EIR under CEQA. Furthermore, there were no new significant environmental impacts, or a substantial increase in the severity of any impact, identified in the comments or responses that were not already identified in the Draft EIR.

The components of the Final EIR are as follows:

1. **Comments on the Draft EIR** lists all agencies, organizations and individuals who submitted written comments on the Draft EIR.
2. **Responses to Comments** provides responses to written comments, including “Master Responses” which respond to frequently raised issues referenced by multiple commenters.
3. **Revisions to the Draft EIR.**
4. **The Draft EIR** with revisions shown in strikeout and underline and all of the appendices thereto.

The **Mitigation Monitoring and Reporting Program (MMRP)** and **Draft CEQA Findings and Facts in Support of Findings and Statement of Overriding Considerations (Findings)** are additional documents attached to this memorandum in support of the Final EIR. Both are to be adopted with the approval of the Proposed Project. The MMRP establishes a mitigation monitoring program for the Proposed Project and the Findings state BATA’s conclusions regarding the significance of the potential environmental effects of the Proposed Project after all feasible mitigation measures have been adopted. The Findings sets forth the specific reasons supporting BATA’s anticipated action to approve a cooperative agreement with Caltrans for the parking lot as the first approval for the Proposed Project, based on the Final EIR and other information in the record.

The Final EIR is available online at <https://mtc.ca.gov/gateway-park> and at The Hub @ 375 Beale, San Francisco, CA 94105.

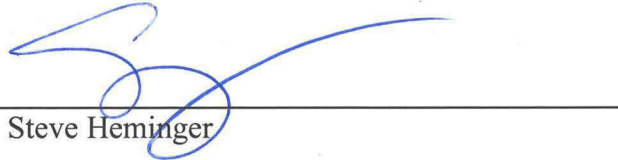
Comments on the Draft EIR

A number of comments were received during the 45-day comment period. All letters received through June 8, 2018 are included in the Final EIR. Comments included written comment letters and email correspondence. Where appropriate, the information and revisions suggested in these comment letters have been incorporated into the Final EIR. As noted above, no information or revisions warrant changing the findings or conclusions of the environmental assessment.

BATA staff will provide proposed written responses to comments submitted by public agencies 10-days prior to BATA's certification of the Final EIR scheduled for July 25.

Recommendation

Staff requests that the Committee refer BATA Resolution No. 125, the Final EIR to the Bay Area Toll Authority to the Commission for approval and certification.



Steve Heminger

AF:pl
Attachments

Date: July 25, 2018
W.I.: 1251
Referred by: BATA Oversight

ABSTRACT

BATA Resolution No. 125

This resolution certifies the Final Environmental Impact Report prepared for Gateway Park (SCH# 2013112003), and adopts CEQA Findings and Facts in Support of Findings and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program.

Further discussion of this resolution is contained in the Executive Director's memorandum to the BATA Oversight Committee dated July 3, 2018.

Date: July 25, 2018
W.I.: 1251
Referred by: BATA Oversight

Re: Certification of the Final Environmental Impact Report prepared for Gateway Park (SCH# 2013112003), and adoption of CEQA Findings and Facts in Support of Findings and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program

BAY AREA TOLL AUTHORITY
RESOLUTION No. 125

WHEREAS, Streets and Highways Code § 30950 *et seq.* created the Bay Area Toll Authority (“BATA”); and

WHEREAS, Streets and Highways Code § 30950 *et seq.* transfers to BATA certain duties and responsibilities of the California Transportation Commission (“CTC”) and California Department of Transportation (“Caltrans”) for the toll bridges owned and operated by Caltrans in the San Francisco Bay Area; and

WHEREAS, in accordance with Streets and Highways Code §§ 30950.2 and 30886, BATA is responsible for the administration of all toll revenues from state-owned toll bridges within the jurisdiction of the Metropolitan Transportation Commission; and

WHEREAS, Bay Area bridges are defined in Streets and Highways Code § 30910 to include the Antioch, Benicia-Martinez, Carquinez, Richmond-San Rafael, San Francisco-Oakland, San Mateo-Hayward, and Dumbarton Bridges; and

WHEREAS, the Streets and Highways Code § 30952.1 calls for BATA and Caltrans to establish a Toll Bridge Program Oversight Committee (“TBPOC” or “Toll Bridge POC”), consisting of the Director of Caltrans, the Executive Director of BATA and the Executive Director of the CTC, to provide project oversight and control over the Toll Bridge Seismic Retrofit Program (“TBSRP”), including the new East Span of the San Francisco-Oakland Bay Bridge; and

WHEREAS, there are minimum planning commitments and agreements which call for the creation of a park at the project area (as defined in Bay Conservation and Development Commission (“BCDC”) Permit No. 2001.008.42, held by Caltrans for the new East Span project); and

WHEREAS, Gateway Park is a proposed 45-acre park along the waterfront near the eastern end of the east span of the San Francisco–Oakland Bay Bridge (“Bay Bridge”) in Oakland, California; and

WHEREAS, BATA signed a Gateway Park Area Letter of Intent on February 4, 2009 establishing the Gateway Park Working Group, comprised of representatives from BATA, Caltrans, the City of Oakland, the Port of Oakland, the East Bay Regional Parks District, BCDC, the CTC, and the Association of Bay Area Governments for collaborative planning efforts to oversee completion of the Project Study Report and advance the design and delivery of a Gateway Park area project; and

WHEREAS, BATA has been actively working with Caltrans, BCDC and other members of the Gateway Park Working Group to devise a strategy to comply with the BCDC permit requirements, while at the same time meeting the goals of the Gateway Park Working Group; and

WHEREAS, the BATA Oversight Committee approved a design services contract amendment for the Gateway Park Preparation of Project Approval and Environmental Documentation on October 10, 2012; and

WHEREAS, BATA is expected to take the first action on the Gateway Park project by approving a cooperative agreement with Caltrans for funding of certain parking lot improvements included in the Project Description analyzed in the Gateway Park Environmental Impact Report; and

WHEREAS, BATA served as lead agency in preparing a project Environmental Impact Report (“EIR”) (SCH# 2013112003) with the assistance of BATA staff and consultants pursuant

to the California Environmental Quality Act (“CEQA”) (Public Resources Code § 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs. § 15000 et seq.) for the Gateway Park Project (the “Project”); and

WHEREAS, the Project EIR provides full disclosure and project-level analysis of the potentially significant environmental effects of the Project; and

WHEREAS, BATA issued a Notice of Preparation (“NOP”) of a Draft Project EIR on November 1, 2013, and circulated the NOP for a period of 30 days pursuant to State CEQA Guidelines §§ 15082(a), 15103 and 15375; and

WHEREAS, pursuant to State CEQA Guidelines §§ 15206 and 15082, BATA publicly noticed and held one public scoping meeting on November 14, 2013, for the purpose of soliciting comments from the public and potential responsible and trustee agencies, including details about the scope and content of the environmental information related to the responsible and trustee agencies’ areas of statutory responsibility, as well as the significant environmental issues, reasonable alternatives, and mitigation measures that the responsible and trustee agencies would need to have analyzed in the Project EIR; and

WHEREAS, BATA received responses to the NOP from state, regional and local agencies, organizations, and individuals, which assisted BATA in narrowing the issues and alternatives analyzed in the Draft Project EIR; and

WHEREAS, the Draft Project EIR was made available to the public for review and comment during a 45-day comment period between January 29, 2018 and March 14, 2018; and

WHEREAS, pursuant to State CEQA Guidelines § 15087, BATA also provided a Notice of Availability (“NOA”) to all organizations and individuals who previously requested such notice, and published the NOA for the Draft Project EIR on January 29, 2018, in a newspaper of general circulation. In addition, copies of the Draft Project EIR were made available at public libraries and at the offices of BATA and electronic links to the Draft Project EIR were provided on the agency website; and

WHEREAS, during the comment period on the Draft Project EIR, BATA consulted with and requested comments from responsible and trustee agencies, other regulatory agencies, and others pursuant to State CEQA Guidelines § 15086; and

WHEREAS, during the public review period for the Draft Project EIR, BATA received written comment letters and email correspondence from the public, which are included in the Final Project EIR; and

WHEREAS, BATA evaluated all comments on environmental issues received during the administrative process including all comments received during the public comment period and, after the close of the public comment period, has continued to review additional comments submitted upon receipt; and

WHEREAS, BATA evaluated all comments on environmental issues received during the comment period on the Draft Project EIR and prepared written responses to these comments; and

WHEREAS, pursuant to Public Resources Code § 21092.5 and CEQA Guidelines § 15088, BATA provided written responses to all public agencies that submitted comments on the Draft Project EIR more than ten days prior to certification of the Project EIR; and

WHEREAS, BATA prepared the Final Project EIR, consisting of: (1) comments and recommendations received from state, regional and local agencies, organizations, and individuals on the Draft Project EIR; (2) responses by BATA to significant environmental points raised in the review and consultation process, including Master Responses to comments; (3) revisions to the Draft Project EIR; (4) all appendices to the Final Project EIR; and (5) the Draft Project EIR, including all appendices and revisions thereto; and

WHEREAS, no comments or any additional information received by BATA have produced significant new information requiring recirculation or additional environmental review under State CEQA Guidelines § 15088.5; and

WHEREAS, State CEQA Guidelines § 15090 provides that lead agencies shall certify that the decision-making body of the lead agency has reviewed and considered the information presented in the Project EIR prior to approving a project; and

WHEREAS, State CEQA Guidelines § 15090 further provides that lead agencies shall certify that an EIR prepared for a project has been completed in compliance with CEQA; and

WHEREAS, State CEQA Guidelines § 15090 further provides that lead agencies shall certify that an EIR prepared for a project reflects their independent judgment and analysis; and

WHEREAS, certification of the Final Project EIR was placed on the agenda for the July 25, 2018, Bay Area Toll Authority meeting, and public notice of the meeting was circulated to the public on or about July 18, 2018; and

WHEREAS, BATA has prepared CEQA Findings in compliance with Public Resources Code §§ 21081 and 21081.5, and CEQA Guidelines § 15091, which are entitled “CEQA Findings and Facts in Support of Findings and Statement of Overriding Considerations” (“CEQA Findings”) (attached hereto as Attachment A and incorporated herein as though set forth at length); and

WHEREAS, all of the findings and conclusions made by BATA pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, the Project will have significant impacts that cannot be fully mitigated to less than significant, and BATA has prepared a Statement of Overriding Considerations in compliance with Public Resources Code § 21081 and CEQA Guidelines § 15093, included in Section 3 of CEQA Findings, which concludes that specific economic, legal, social, technological, and other benefits of the Project outweigh the potentially significant and unavoidable impacts identified in the Final Project EIR; and

WHEREAS, each of the specific economic, legal, social, technological, and other benefits of the Project included in the Statement of Overriding Considerations is independently sufficient to justify approval of the Project; and

WHEREAS, BATA has prepared a Mitigation Monitoring and Reporting Project in compliance with Public Resources Code § 21081.6 and CEQA Guidelines § 15097, included as Attachment B, to ensure compliance with the mitigation measures identified in the Final Project EIR during Project implementation to the extent feasible; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, prior to taking action on the Final Project EIR, BATA has heard, been presented with, reviewed, and considered all of the information and data in the administrative record, including the Final Project EIR, and all oral and written evidence presented to it during all meetings; now, therefore, be it

RESOLVED, that BATA hereby certifies that the foregoing recitals are true and correct and incorporated by this reference; and be it further

RESOLVED, that BATA prepared the Final Project EIR, consisting of: (1) the Draft Project EIR, including all appendices and revisions thereto; (2) comments and recommendations received on the Draft Project EIR, and a list of persons, organizations, and public agencies commenting on the Draft Project EIR; and (3) responses by BATA to significant environmental points raised in the review and consultation process including Master Responses to comments; and be it further

RESOLVED, that BATA finds the Final Project EIR satisfies all the requirements of CEQA and the State CEQA Guidelines; and be it further

RESOLVED, that BATA finds the Final Project EIR sufficiently analyzes both the feasible mitigation measures necessary to avoid or substantially lessen the Project's potentially significant environmental impacts and a reasonable range of alternatives capable of eliminating

or reducing these effects in accordance with CEQA and the State CEQA Guidelines; and be it further

RESOLVED, that BATA finds that the Project will have significant impacts that cannot be fully mitigated to less than significant; and be it further

RESOLVED, that BATA makes and adopts the CEQA Findings required in CEQA Guidelines § 15091 (which are attached hereto as Attachment A); and be it further

RESOLVED, that BATA adopts the Mitigation Monitoring and Reporting Program as required by CEQA Guidelines § 15097(which is attached hereto as Attachment B) and incorporated fully by this reference; and be it further

RESOLVED, that BATA certifies that the Final Project EIR (attached hereto as Attachment C and incorporated herein as though set forth at length) represents the independent judgment and analysis of BATA; and be it further

RESOLVED, that BATA, as the decision making body, certifies the Project EIR (Attachment C) was presented to it and that it has reviewed and considered the information in the Final Project EIR prior to approving the Project; and be it further

RESOLVED, that BATA adopts the Statement of Overriding Considerations as required by CEQA Guidelines § 15093, which describes numerous specific economic, legal, social, technological, and other benefits of the Project each of which is independently sufficient to justify approval of the Project, and is attached hereto as Section 3 of the CEQA Findings (Attachment A) and incorporated fully by this reference; and be it further

RESOLVED, that staff is directed to immediately (within five working days): (a) file a Notice of Determination documenting these decisions (CEQA Guidelines § 15094); (b) retain a copy of the certified Final Project EIR as a public record; and (c) provide a copy of the certified Final Project EIR to each responsible agency (CEQA Guidelines § 15095).

BAY AREA TOLL AUTHORITY

Jake Mackenzie, Chair

This resolution was entered into by the Bay Area Toll Authority at a regular meeting of the Authority held in San Francisco, California on July 25, 2018.

Date: July 25, 2018
W.I.: 1251
Referred by: BATA Oversight

Attachment A
BATA Resolution No. 125
Page 1 of 1

**CEQA Findings and Facts in Support of Findings and
Statement of Overriding Considerations**

The CEQA Findings and Facts in Support of Findings and
Statement of Overriding Considerations is on file in the offices of the
Bay Area Toll Authority, Bay Area MetroCenter,
375 Beale Street, Suite 800, San Francisco, CA 94105.

Date: July 25, 2018
W.I.: 1251
Referred by: BATA Oversight

Attachment B
BATA Resolution No. 125
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Mitigation Monitoring and Reporting Program (MMRP)

The Project Mitigation Monitoring and Reporting Program is on file in the offices
of the Bay Area Toll Authority, Bay Area MetroCenter,
375 Beale Street, Suite 800, San Francisco, CA 94105.

Date: July 25, 2018
W.I.: 1251
Referred by: BATA Oversight

Attachment C
BATA Resolution No. 125
Page 1 of 1

Project Environmental Impact Report (EIR)

The Project Environmental Impact Report (EIR) with Appendices is on file in the offices
of the Bay Area Toll Authority, Bay Area MetroCenter,
375 Beale Street, Suite 800, San Francisco, CA 94105.

Mitigation Monitoring and Reporting Program

Introduction

Assembly Bill (AB) 3180, enacted by the California Legislature in 1988, requires lead agencies to prepare and adopt a program to monitor and/or report on all mitigation measures required in conjunction with certification of an Environmental Impact Report (EIR) or adoption of a Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA).

A public agency must certify an EIR or adopt a Mitigated Negative Declaration when approving a discretionary project that could significantly affect the environment in an adverse manner. The monitoring or reporting program is intended to ensure the successful implementation of measures that public agencies impose to reduce or avoid the significant adverse impacts identified in an environmental document. Adoption of the monitoring program is to occur when a public agency makes the findings to approve a project requiring an EIR or when adopting an MND. There is no statutory requirement for a lead agency to circulate a monitoring program for public review prior to adopting the program.

The monitoring program should specify the steps whereby implementation of project mitigation measures can be verified during project construction and operation. Typically, the monitoring program should, for each mitigation measure, identify the entity responsible for implementing the measure and an individual, qualified professional, or agency responsible for ensuring compliance. The monitoring program should also identify: the action or actions required to ensure compliance; when and how frequently monitoring should occur; a mechanism for reporting compliance or non-compliance; and an agency that receives and monitors the reports on compliance. AB 3180, as promulgated in Public Resources Code Section 21081.6, does not require a mitigation monitoring program to include measures imposed to mitigate the environmental effects of less-than-significant impacts.

Monitoring Program

The purpose of this Mitigation Monitoring and Reporting Program (MMRP) is to present a thorough approach for monitoring the implementation of the measures required to mitigate the significant and potentially significant impacts identified in the *Gateway Park Draft Environmental Impact Report* (DEIR). The MMRP identifies each mitigation measure for a significant impact and specifies the means for verifying successful implementation. Failure to comply with all required mitigation measures will constitute a basis for implementing agencies to withhold building permits or undertake legal enforcement actions.

Project Approvals

Prior to each successive approval during development of the proposed project, the project implementer shall confirm via the MMRP table (included in this document) proper implementation of all mitigation measures required to that point in time. If any mitigation measures have not been

1 implemented as required, the permit or other approval shall be withheld until successful
2 implementation of the measure has been confirmed by the project implementer. If noncompliance of
3 required mitigation measures occurs following completion of construction and project occupancy,
4 the failure shall be grounds for revocation of the permit(s) for the project by the implementing
5 agencies.

6 MMRP Table

7 The heart of this document is the MMRP table, which identifies the monitoring and reporting
8 requirements for each mitigation measure identified in the DEIR. More specifically, the table
9 provides the following information for each mitigation measure:

- 10 • **Mitigation Measure** - the verbatim text of the mitigation measure as adopted by the Bay Area Toll
11 Authority (BATA). In some cases, the measure may differ slightly from the language presented in the
12 DEIR circulated for public review.
- 13 • **Action** - all activities necessary to verify successful implementation of the mitigation measure.
- 14 • **Implementing Party** - the entity responsible for implementing the mitigation measure.
- 15 • **Monitoring Party** - the person or agency responsible for physically verifying that the mitigation
16 measure has been implemented and for recording the verification. In some cases, an outside
17 regulatory agency may be involved in determining or ensuring mitigation compliance, but reporting
18 of compliance in the MMRP table is the responsibility of the monitoring party.
- 19 • **Timing** - the phase of the project during which monitoring activities must occur and/or
20 milestone(s) at which single-event monitoring activities must occur.

21 Reporting

22 The MMRP table shall be maintained on file at the offices of the Bay Area Toll Authority until, at a
23 minimum, all mitigation measures have been successfully implemented and verified by the
24 implementing agencies.

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EXHIBIT MMRP-1
Gateway Park - Mitigation Monitoring or Reporting Plan

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
AESTHETICS				
<p>MM-AES-1: Apply aesthetic treatments. New fencing shall be designed to blend with the surrounding built and natural environments so that the new features complement the visual landscape. Aesthetic considerations shall be balanced with cost, safety, maintenance, and durability. At a minimum, unless made of natural materials, any proposed fencing shall be powder coated and colored a shade that is two to three shades darker than the surrounding area such as a dark evergreen, black, or dark brown color. These darker colors allow fencing to recede into the visual landscape and provide for more transparent views through the fencing. Light or bright colors shall be avoided because they create more of a visual barrier, are less transparent, and increase glare. Colors may be chosen from the U.S. Department of the Interior Bureau of Land Management Standard Environmental Colors Chart CC-001: June 2008. Because color selection will vary by location, the facility designer may employ the use of color panels evaluated from key observation points during common lighting conditions (front light versus backlighting) to aid in the appropriate color selection. Color selection shall be made for the coloring of the most prevalent season. Panels shall be a minimum of 3 feet-by-2 feet in dimension and evaluated from various distances within 1,000 feet to ensure the best possible color selection. Paints used from the color panels and structures shall be color matched directly from the physical color chart, rather than from any digital or color-reproduced versions of the color chart. Appropriate paint type shall be selected for the finished structures to ensure long-term durability of the painted surfaces and environmental safety. The appropriate operating agency or organization shall maintain the paint color over time. Fencing shall be managed and maintained for a well-kept appearance by abating vandalism, graffiti, or damage semiannually. The fence shall be limited to no more than 4 feet at Radio Beach and shall not use chain or mesh style fencing in order to reduce the potential for any interference with kiteboarding activities. The style for the fence has not been determined, but could be a wooden beam and post style fence similar to what is commonly used by EBRPD at many of their park units. The project implementer will coordinate with current site users, including kiteboarders and BCDC, during fencing design to take site user input into final design.</p>	<p>Project implementer to design fencing to be aesthetically compatible with surrounding environment. Project implementer to coordinate with current site users on design.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (all phases that include new fencing)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
AIR QUALITY				
<p>MM-AQ-1. Implement BAAQMD basic control measures to control construction-related dust emissions.</p> <p>In accordance with BAAQMD’s current air quality guidelines (2017), the project’s construction contractor shall implement the following BAAQMD-recommended control measures to reduce particulate matter emissions from construction activities.</p> <ul style="list-style-type: none"> • Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) twice daily. • Cover all haul trucks transporting soil, sand, or other loose material off site. • Remove all visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • Limit vehicle speeds on unpaved roads to 15 miles per hour. • Complete paving of all roadways, driveways, and sidewalks as soon as possible. Lay building pads as soon as possible after grading unless seeding or soil binders are used. • Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The air district’s phone number will also be visible to ensure compliance with applicable regulations. 	<p>Project construction contractor to implement control measures to reduce particulate matter emissions from construction activities.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During ground-disturbing construction activities (all phases)</p>
<p>MM-AQ-2. Implement BAAQMD basic control measures to reduce construction-related exhaust emissions</p> <p>The project’s construction contractor shall implement the following measures to reduce exhaust emissions (NOX and PM10) from construction equipment as proposed in the BAAQMD air quality guidelines (2017).</p> <ul style="list-style-type: none"> • Minimize idling times either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure—13 California Code of Regulations [CCR] 2485). Clear signage will be provided for construction workers at all access points. • Maintain and properly tune construction equipment in accordance with manufacturer’s specifications. All equipment will be checked by a certified visible emissions evaluator. 	<p>Project construction contractor to implement BAAQMD basic control measures to reduce exhaust emissions.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>MM-AQ-3. Implement BAAQMD additional control measures to control construction-related dust emissions</p> <p>In accordance with the BAAQMD’s current air quality guidelines (2017), the project’s construction contractor shall implement the following additional BAAQMD control measures to reduce particulate matter emissions from construction activities.</p> <ul style="list-style-type: none"> • Water all exposed surfaces at a frequency adequate to maintain minimum soil moisture at 12%. Moisture content can be verified by lab samples or moisture probe. • Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 miles per hour. • Install windbreaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Windbreaks shall have at maximum 50% air porosity. • Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and water appropriately until vegetation is established. • Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time. Phase activities to reduce the amount of disturbed surfaces at any one time. • Wash all trucks and equipment, including tires, prior to leaving the site. • Treat site accesses to a distance of 100 feet from the paved road with a 6- to 12-inch compacted layer of wood chips, mulch, or gravel. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1%. 	<p>Project construction contractor to implement BAAQMD basic control measures to reduce particulate matter emissions.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During ground-disturbing construction activities (all phases)</p>
<p>MM-AQ-4. Implement BAAQMD additional control measures to reduce construction-related exhaust emissions</p> <p>The project implementer shall implement the following additional measures to reduce exhaust emissions (ROG, NOX, and PM10) from construction equipment as well as architectural coating off gassing, as proposed in the BAAQMD air quality guidelines (2017).</p> <ul style="list-style-type: none"> • Minimize the idling time of diesel-powered construction equipment to 2 minutes. • Develop a plan that demonstrates that off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) will achieve a project-wide fleet-average 20% NOX reduction and 45% particulate matter reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late-model engines, low-emission diesel products, alternative fuels, engine retrofit technology, 	<p>Project implementer to implement measures to reduce exhaust emissions from equipment as well as architectural coating off gassing.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>after-treatment products, add-on devices (such as particulate filters), and/or other options as such become available.</p> <ul style="list-style-type: none"> • Use low-volatile organic compound (i.e., ROG) coatings that exceed local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). • Require all construction equipment, diesel trucks, and generators to be equipped with best available control technology for emission reductions of ROG, NOX, and PM. • Require all contractors use equipment that meets ARB's most recent certification standard for off-road heavy-duty diesel engines. 				
<p>MM-AQ-5. Reduce construction emissions to ensure both construction-only and combined construction and operational emissions are below BAAQMD NO_x thresholds</p>	<p>Project implementer to ensure emission do not exceed BAAQMD's thresholds.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>
<p>The project implementer shall ensure construction-only emissions and combined construction- and operations- related emissions do not exceed BAAQMD's NOX threshold of 54 pounds per day with the following action.</p>				
<ul style="list-style-type: none"> • Require the usage of EPA-rated Tier 3 or higher rated construction equipment. In general, the following NOX reductions can be achieved when replacing Tier 2 equipment (fleet average) with higher rated engine tiers: <ul style="list-style-type: none"> ○ Tier 3: 38% NOX reduction ○ Tier 4 interim: 68% NOX reduction ○ Tier 4 final: 94% NOX reduction 				
<p>If the engine tier measures described above do not reduce construction-only or combined construction- and operations- related emissions to less than the threshold level, the project implementer shall coordinate with BAAQMD to purchase NOX credits at the current rate of \$32,974.64 per ton, plus a 5% administrative fee. This measure will offset remaining NOX construction emissions to ensure construction-only and combined construction- and operations- related NOX emissions do not exceed BAAQMD thresholds.</p>				
<p>MM-AQ-6. Use low-VOC coatings during construction</p>	<p>Construction contractors to use low-volatile organic compound (VOC) coatings</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>
<p>The project implementer shall require all construction contractors to use low-volatile organic compound (VOC) coatings that have a VOC content of 10 grams per liter or less during construction. The project implementer shall submit evidence of the use of low-VOC coatings to BAAQMD prior to the start of construction.</p>				

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
and submit evidence of use.				
BIOLOGY				
<p>MM-BIO-1. Install construction barrier fencing around sensitive natural communities in and adjacent to the construction area to protect sensitive biological resources to be avoided</p> <p>The project implementer or construction contractor shall install construction barrier fencing (including sediment fencing) to prevent contaminants and debris from entering the northern coastal salt marsh, and other biologically sensitive areas in and adjacent to the project area. Before construction begins, the project implementer shall retain a qualified biologist or resource specialist to work with the project engineer or construction contractor to identify the locations for the barrier fencing and shall mark those locations with stakes or flagging. The protected area shall be clearly identified as an environmentally sensitive area on the construction specifications. The fencing shall be in place before construction activities are initiated. The fence is primarily a visual deterrent and will not interfere with kiteboarding activities. The fencing shall be maintained by the project implementer or construction contractor throughout the duration of the construction period. If the fencing is removed, damaged, or otherwise compromised during the construction period, construction activities shall cease until the fencing is replaced. In addition, the project implementer or construction contractor shall install ecological interpretation signage at locations identified by the biologist or resource specialist to discourage people from encroaching onto sensitive habitats.</p>	<p>Project implementer or construction contractor to install construction barrier fencing and signage.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (Phase 2 and Phase 3)</p>
<p>MM-BIO-2. Prepare environmental awareness program and conduct environmental awareness training for construction employees</p> <p>Prior to construction, the project implementer shall retain a qualified biologist or resource specialist to develop an environmental awareness program and conduct environmental awareness training for construction employees. The program shall explain the importance of onsite biological resources, including sensitive natural communities, any protected trees to be retained, special-status plant populations, and special-status wildlife habitats. The program shall address how to best avoid take of federally and/or state-listed species. The program shall include invasive plant identification and the importance of controlling and preventing the spread of invasive plant infestations.</p> <p>The environmental awareness program shall be provided to all construction personnel to inform them on the life history of special-status species in or adjacent to the project area, the need to avoid impacts on sensitive biological resources, any terms and conditions required by</p>	<p>Project implementer to retain a qualified biologist to develop and conduct environmental awareness training.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (Phase 2 and Phase 3)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>state and federal agencies, and the penalties for not complying with biological mitigation requirements. If new construction personnel are added to the project, the contractor’s superintendent shall ensure that the personnel receive the mandatory training before starting work. An environmental awareness handout that describes and illustrates sensitive resources to be avoided during project construction and identifies all relevant permit conditions shall be provided to each person.</p>				
<p>MM-BIO-3. Retain a biological monitor to conduct construction monitoring in and adjacent to all environmentally sensitive areas</p> <p>The project implementer shall retain a qualified biologist to conduct construction monitoring in and adjacent to all identified environmentally sensitive areas. The frequency of monitoring shall be determined by the biological monitor, ranging from daily to weekly, depending on the biological resource and the construction activities. Construction monitoring duties shall include the following actions:</p> <ul style="list-style-type: none"> • Inspect the staked and flagged perimeters of the construction area and staging areas adjacent to identified environmentally sensitive areas, and notify the construction contractor of any corrections needed. • Inspect the construction barrier fencing (including sediment fencing) and notify the construction contractor of any necessary maintenance or repairs. • Inspect trees and crevices for the presence of roosting bats and, if found, coordinate with CDFW to determine best exclusion practices. Implement exclusion measures and confirm bat absence prior to removal of structure or tree supporting the bat roost. • Assist the construction crew as needed to comply with all project implementation restrictions and guidelines. 	<p>Project implementer to retain a qualified biologist to conduct construction monitoring in and adjacent to environmentally sensitive areas.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (all phases)</p>
<p>MM-BIO-4. Protect water quality and prevent erosion and sedimentation in drainages, waterways, and wetlands</p> <p>A stormwater pollution prevention plan shall be implemented as part of the NPDES General Construction Activity Storm Water Permit to minimize the potential for sediments or contaminants to be discharged into San Francisco Bay and the potential for adverse impacts on listed species, critical habitat, and EFH. A toxic materials control and spill response plan shall be implemented to regulate the use of petroleum-based products (fuel and lubricants) and other potentially toxic materials associated with project construction.</p> <p>The project implementer shall review and approve the contractors’ toxic materials spill prevention control and countermeasure plan before allowing construction to begin. The</p>	<p>Contractor to prepare a stormwater pollution prevention plan and toxic materials control and spill response plan. Project implementer</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (all phases)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>project implementer shall routinely inspect the construction site to verify that best management practices specified in the plan are properly implemented and maintained. The project implementer shall notify the contractor immediately if there is a noncompliance issue and shall require compliance. The project implementer also shall obtain a 401 Water Quality Certification from the San Francisco Bay RWQCB, which may contain additional best management practices and water quality measures to ensure the protection of water quality.</p>	<p>shall review and approve plans and routinely inspect the construction site to verify implementation . Project Implementer will obtain 401 Certification.</p>			
<p>MM-BIO-5. Compensate for loss of tidal salt marsh habitat The project implementer shall restore 2.2 acres of tidal wetlands in the Radio Beach area with the goal to extend the Emeryville Crescent marsh vegetation and upland coastal scrub vegetation in the disturbed areas of Radio Beach not proposed for the boardwalk and not consisting of sandy beach. The proposed onsite restoration shall include removal of nonnative invasive plants and planting of marsh species, including pickleweed and Pacific cordgrass. The minimum area of new marsh planting shall be 0.02 acres to provide at least a 2:1 replacement for the tidal marsh lost due to the installation of the new boardwalk. No offsite compensation is proposed for impacts to tidal marsh.</p>	<p>Project implementer to restore 2.2 acres of tidal wetlands in the Radio Beach area.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to completion of Radio Beach portion of Phase 3 construction</p>
<p>MM-BIO-6. Compensate for loss of seasonal wetland habitat Because tidal wetland restoration shall be conducted at Radio Beach, the project implementer shall compensate for the loss of 0.01 acre of seasonal wetland by adding an additional 0.02-acre of tidal wetland restoration. As noted above, to compensate for the loss of less than 0.01 acre of tidal wetland, a minimum of 0.02 acre of tidal wetland would be restored at Radio Beach. The additional 0.02 acre of proposed mitigation would bring the minimum total of tidal wetland restoration to 0.04 acre.</p>	<p>Project implementer shall add an additional 0.02-acre of tidal wetland restoration.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to completion of Radio Beach portion of Phase 3 construction</p>
<p>MM-BIO-7. Compensate for loss of shallow bay habitat The project implementer shall comply with the EPA wetland policy of No Net Loss by purchasing shallow bay (estuarine) mitigation credits from a USACE Approved Mitigation Bank for unavoidable permanent impacts on shallow bay (estuarine) waters of the United States. Compensation shall be provided on a minimum 1:1 ratio for impact of permanent fill.</p>	<p>Project implementer shall purchase shallow bay mitigation</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to completion of Phase 2 and Phase 3 construction</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>Based on present estimates, approximately 0.24 acre will require compensation. The project is within the service area for the San Francisco Bay Wetland Mitigation Bank, which is approved for mitigation of tidal wetlands and other waters.</p> <p>Impacts from shading could also be compensated through removal of existing piling/unused docks in the Bay at a minimum 1:1 ratio. Based on present estimates, approximately 0.37 acre of shade removal would be obtained. One approach could be to contribute funding to an ongoing project such as the California State Coastal Conservancy’s San Francisco Bay Creosote Piling Removal and Pacific Herring Restoration Project, which would remove creosote-treated pilings and reestablish subtidal habitat through restoration methods to establish eelgrass and oyster beds and associated substrate. Other restoration projects that would remove overwater fill/shading could also be used.</p>	<p>credits from a USACE Approved Mitigation Bank.</p>			
<p>MM-BIO-8. Compensate for loss of eelgrass habitat</p> <p>The project implementer shall provide compensation for the areal extent of eelgrass directly displaced by piles installed in eelgrass as well as the areal extent of eelgrass predicted to be shaded by the path. The project implementer shall contribute funding to eelgrass mitigation efforts on a per-acre basis, either directly to NMFS to be used for the same research and restoration purposes as the funding previously provided to NMFS as compensation for the Bay Bridge’s eelgrass effects, or to the Coastal Conservancy’s Creosote Piling Removal and Pacific Herring Restoration Project, which will also include eelgrass restoration.</p>	<p>Project implementer to contribute funding to eelgrass mitigation efforts.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to completion of Phase 2 and the Radio Beach portion of Phase 3 construction</p>
<p>MM-BIO-9. Prior to construction of Phase 3 of park development, conduct plant surveys for beach layia, blues coast gila, and California seablite between June 1 and September 1</p> <p>Prior to construction of Phase 3 of park development, the project implementer shall retain a qualified biologist to conduct plant surveys for three special status plant species - beach layia, blue coast gilia, and California seablite - between June 1 and September 1 (during the blooming period (between June 1 and September 1). If any of these species are detected during surveys, the project implementer shall consult with USFWS and CDFW to determine the appropriate compensatory mitigation to reduce potential impacts that could result from construction of the project. If special-status plant species are identified during construction, the monitor shall coordinate with the contractor to implement appropriate protective measures such as installing additional fencing to avoid impacts to them.</p>	<p>Project implementer to retain a qualified biologist to conduct plant surveys.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to construction of Radio Beach portion of Phase 3</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>MM-BIO-10. Remove all vegetation by hand and install construction barrier fencing around sensitive natural communities in and adjacent to the construction area for the new path in the Radio Beach area</p> <p>Before construction activities begin on the new path in the Radio Beach area, the project implementer shall remove all vegetation by hand in the tidal salt marsh area identified by a qualified biologist or resource specialist, including areas that shall be used for construction access. Vegetation clearing shall be performed methodically from San Francisco Bay toward the upland area. Once vegetation within the exclusion zone areas is cleared and the areas are graded, exclusion fencing shall be installed around these areas to prevent potential reentry of protected wildlife (the salt marsh harvest mouse, Ridgway’s rail, California black rail) into these areas. The exclusion fencing shall be a minimum of 2 feet tall with the bottom 4 inches of the fence buried. A USFWS-approved biologist shall monitor the vegetation removal activities to ensure that no adjoining habitat is disturbed and monitor the installation of exclusion fencing.</p>	<p>Project implementer to remove all biologist-identified vegetation by hand in the tidal salt marsh area and install exclusion fencing.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to construction of new path in Radio Beach area (Phase 3)</p>
<p>MM-BIO-11. Conduct protocol-level surveys for Ridgway’s rail and California black rail in the adjacent tidal marsh to determine presence or absence of this species</p> <p>A USFWS-approved biologist shall conduct protocol-level surveys for Ridgway’s rail and California black rail in the 700-foot impact area in the adjacent tidal marsh habitat to determine presence or absence of these species. Surveys shall be conducted during the rail-breeding season (January 15 to September 1) in accordance with the USFWS and CDFW protocols. Survey results shall be valid for 1 year. If rails are detected during surveys, results shall be submitted to USFWS and CDFW to coordinate the appropriate environmental commitments (e.g., seasonal closures of Radio Beach). Construction activities shall not occur until the qualified biologist or resource monitor confirms all required measures are implemented.</p>	<p>Project implementer to retain a USFWS-approved biologist to conduct protocol-level surveys for rails.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to construction of Radio Beach portion of Phase 3.</p>
<p>MM-BIO-12. Establish 700-foot construction buffer around occupied, suitable Ridgway’s rail and California black rail habitat in the Emeryville Crescent if construction occurs during the rail breeding season (January 15 to September 1)</p> <p>If rails are detected during protocol-level surveys and construction in the Radio Beach area is scheduled to occur during the rail breeding season, the USFWS-approved biologist, in coordination with USFWS and CDFW, shall identify the location where environmentally sensitive exclusion fencing shall be installed to establish a 700-foot construction buffer around Ridgway’s rail and California black rail detections. The biological monitor shall work</p>	<p>Project implementer to retain a USFWS-approved biologist to establish construction buffer and</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated for Radio Beach portion of Phase 3, if rails are</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
with the contractor to ensure the construction fencing demarking where no construction activities can occur is at least 700 feet from occupied, suitable rail habitat.	exclusion fencing if rails are detected.			detected during protocol-level surveys.
<p>MM-BIO-13. Install fencing around tidal marsh habitat east of the project area</p> <p>The project implementer shall install protective fencing, of a design approved by USFWS and CDFW, around the offsite tidal marsh habitat east of Radio Beach to prevent all ingress. The fence shall extend from the access road underpass under I-80 westward to Radio Beach on the north side of the road and then placed on the east side of the road leading to the radio antennae.</p>	Project implementer to install protective fencing around offsite tidal marsh habitat.	Project Implementer	Implementing Agency	Before Phase 3 construction activities begin in the Radio Beach area.
<p>MM-BIO-14. Manage the onsite northern foredune and tidal marsh habitat as a buffer between Radio Beach and offsite tidal marsh habitat</p> <p>The project implementer shall install a wooden beam and rail fence around the onsite northern foredune and tidal marsh habitat and restoration area at Radio Beach to discourage encroachment into these habitats. The fence shall be limited to no more than 4 feet at Radio Beach and shall not use chain or mesh style fencing in order to reduce the potential for any interference with kiteboarding activities. The style for the fence has not been determined, but could be a wooden beam and post style fence similar to what is commonly used by EBRPD at many of their park units. The project implementer will coordinate with current site users, including kiteboarders and SFBCDC, during fencing design to take site user input into final design.</p> <p>The northern foredune and tidal marsh areas at Radio Beach shall be restored and the habitat protected. Signage prohibiting entry (except on established boardwalks or trails) and environmental education shall be provided at Radio Beach to inform the public of the environmental sensitivity of the sandy beach area (for shorebirds), the restoration area, and the adjacent offsite tidal marsh habitat.</p>	Project implementer to install fencing around northern foredune and tidal marsh habitat and coordinate with current site users for input on final design.	Project Implementer	Implementing Agency	Before Phase 3 construction activities begin in the Radio Beach area.
<p>MM-BIO-15. Close Radio Beach to entry at night</p> <p>The project implementer shall install a locked gate east of Radio Beach and east of the access road to the radio towers that shall allow Radio Beach to be closed to public entry at night in order to avoid disturbance to wildlife using the site and wildlife using the adjacent tidal marsh habitat. The path to Radio Beach from Key Point shall also be closed at night. The project</p>	Project implementer to install a locked gate east of Radio Beach and coordinate	Project Implementer	Implementing Agency	Prior to completion of Phase 3 construction activities in

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>implementer shall coordinate with the Port of Oakland and the lessees of the radio towers to ensure access is maintained for these entities.</p>	<p>with Port of Oakland and lessees of radio towers to maintain access.</p>			<p>the Radio Beach area.</p>
<p>MM-BIO-16. Prohibit dogs in Radio Beach area The project implementer shall not allow dogs on the path from Key Point leading to Radio Beach just to the point where the riprap ends (i.e., just west of “little” Radio Beach). Dogs shall be prohibited from using the entire Radio Beach area.</p>	<p>Project implementer to prohibit dogs from using the Radio Beach area.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During operation of Radio Beach portion of Phase 3</p>
<p>MM-BIO-17. Prohibit installation of lighting, trees, or other structures potentially suitable for raptor perching on the north side of I-80 within designated park areas The project implementer shall not allow elevated structures, such as lighting poles, or trees that can be used as raptor perches to be installed in Gateway Park north of I-80. This measure does not apply to fencing or rails along the path to Radio Beach or as part of onsite boardwalks or required roadway signage. This measure does not apply to the areas currently used for radio towers. If elevated structures necessary to the park function and purpose, such as an environment kiosk, are determined necessary for habitat protection, then raptor perch deterrent measure (e.g., spikes) shall be placed on project components exceeding 3 feet tall adjacent to marsh habitat.</p>	<p>Project implementer to prohibit elevated structures that can be used as raptor perches in Gateway Park north of I-80.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Project Design, Prior to construction of Radio Beach portion of Phase 3.</p>
<p>MM-BIO-18. Avoid construction during the migratory bird-nesting season (January 31 through September 15) or conduct preconstruction surveys for nesting birds The project implementer shall ensure construction activities occur September 16 to January 30 to avoid construction during the nesting season (generally, February 1 through September 15 for most birds). Vegetation removal in particular shall occur between October 1 and January 30. Beginning construction prior to the nesting season shall establish a level of noise disturbance that shall dissuade noise-sensitive raptors and other birds from attempting to nest within or near the study area.</p> <p>If construction activities (including vegetation removal) cannot be avoided during the nesting season, the project implementer shall retain a qualified wildlife biologist with knowledge of the relevant species to conduct nesting surveys before the start of construction. Surveys shall</p>	<p>Project implementer to ensure construction activities are timed to avoid nesting season or, if activities cannot be avoided during nesting season, retain a</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>be conducted for migratory birds, including raptors. Surveys shall include a search of all trees, shrubs, and tidal salt marsh areas that provide suitable nesting habitat in the project area. In addition, a 500-foot buffer around the project area shall be surveyed for nesting raptors. Surveys should occur during the height of the nesting season (March 1 to June 1) with one survey occurring in each of 2 consecutive months within this peak period and the final survey occurring within 1 week of the start of construction. If no active nests are detected during these surveys, no additional measures are required. The biological monitor shall check structures in the project area daily for caches of dead prey left by barn owls, remove any such caches, and block access to cache locations with exclusion measures.</p>	<p>qualified wildlife biologist to construct surveys.</p>			
<p>MM-BIO-19. Install a no-disturbance buffer around detected active nests If an active nest is found during the preconstruction surveys, the biological monitor shall coordinate with the contractor to establish a no-disturbance buffer around the site. This buffer shall be maintained until the end of the breeding season (September 15 or until after a qualified wildlife biologist determines that the young have fledged and moved out of the project area). The extent of these buffers shall be determined by the biologist in coordination with USFWS and CDFW and shall depend on the level of noise or construction disturbance, line-of-sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species.</p>	<p>Biological monitor to coordinate with contractor to establish a no-disturbance buffer is active nest is discovered.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>
<p>MM-BIO-20. Implement pile-driving noise reduction measures to minimize impacts on special-status fish species The project implementer shall ensure the following noise reduction measures are implemented during construction activities involving pile driving.</p> <ul style="list-style-type: none"> • Conduct all pile driving between June 1 and November 30 to avoid the primary steelhead migration season (December through June) in the project area. Because steelhead adults and juveniles could begin their migration earlier than December 1, the project implementer shall conduct all pile driving activities as early as possible during the June 1 to November 30 window. • Vibrate all piles to the maximum depth feasible before using an impact hammer. During impact driving, the contractor shall limit the number of strikes per day to the minimum necessary to complete the work. • Use the smallest pile driver and minimum force necessary to complete the work. 	<p>Project implementer to ensure noise reduction measures are implemented during pile driving.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During construction activities requiring pile driving (Phase 2 and Radio Beach portion of Phase 3)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<ul style="list-style-type: none"> Use a bubble ring or similar device to minimize the extent to which the interim peak and cumulative sound exposure (SEL) thresholds are exceeded. Avoid all pile-driving activity at night. 				
<p>MM-BIO-21. Reduce pile-driving noise to protect marine mammals</p> <p>The project implementer shall ensure the following noise reduction measures are implemented during construction activities involving pile driving.</p> <ul style="list-style-type: none"> Comply with equipment noise standards of EPA and ensure that all construction equipment has noise control devices no less effective than those provided on the original equipment. Conduct regular briefings between construction supervisors and crews, marine mammal monitoring team, and acoustical monitoring team to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures. For all in-water permanent pile driving, establish marine mammal safety zones corresponding to the injury threshold contours around each of the pile-driving sites before pile driving commences. If marine mammals are visually sighted within the safety zone(s) prior to start of pile-driving, the resident engineer (or other authorized individual) shall delay pile driving of the segment until the marine mammals have moved beyond the safety zone. Verification may be conducted either through sighting by a qualified observer or by waiting until enough time has elapsed without a sighting (at least 15 minutes for pinnipeds and 30 minutes for cetaceans) to assume the animal has moved beyond the safety zone. If marine mammals are sighted within the safety zone after pile driving has begun, a qualified marine mammal observer shall record the species, numbers, and behaviors of the animals and report to NMFS within 48 hours of the sighting. The contractors shall "soft-start" impact and vibratory pile driving operations. 	<p>Project implementer to ensure noise reduction measures are implemented during pile driving.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During construction activities requiring pile driving (Phase 2 and Radio Beach portion of Phase 3)</p>
<p>MM-BIO-22. Monitor and report marine mammal sightings before, during, and after pile driving</p> <p>The project implementer shall ensure the following monitoring and reporting measures are implemented.</p>	<p>Project implementer to ensure monitoring and reporting measures</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During construction activities requiring pile driving (Phase 2 and</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<ul style="list-style-type: none"> • For all in-water permanent pile-driving one three-person observer team must visually monitor each pile-driving site. When multiple sites are in operation, more than one observer team must be utilized from boats. <ul style="list-style-type: none"> ○ Pre-activity monitoring. At least 30 minutes prior to the start of all in-water permanent pile-driving segments, marine mammal monitors must conduct observations on the number, types, locations, and behaviors of marine mammals in the designated safety zones and buffer zones, as well as other areas near pile driving sites. If the time between pile-segment driving is less than 30 minutes, a new 30-minute survey is unnecessary provided marine mammal monitors continue observations during the interruption. If pile driving ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zones prior to the commencement of pile-driving, the observer must notify the resident engineer (or other authorized individual) immediately. ○ Monitoring during activity. During all in-water permanent pile-driving, marine mammal monitors shall conduct and record observations on marine mammals near the pile-driving sites and pay particular attention to designated safety zones. ○ Post-activity monitoring. For a minimum of 30 minutes after in-water permanent pile-driving stops, marine mammal monitors shall conduct observations of the project area and record information on the number, types, locations, and behavior of marine mammals and pay attention to designated safety zones. ○ Monitoring on Yerba Buena Island haul-out. The holder of this authorization shall coordinate with the Richmond Bridge harbor seal survey team to collect observational data from Yerba Buena Island during in-water pile-driving activity. ○ Monitoring under low light condition. In late afternoon and/or early evening when light condition is low, marine mammal monitors shall use infrared scopes to conduct observation of the project area. ○ Data on all observations shall include the following information: date and time that pile driving or removal starts and ends; location of sighting; species; number of individuals; number of calves present; duration of sighting; behavior of marine animals sighted; direction of travel; distance from pile driving/removal; environmental information associated with sighting event including Beaufort sea state, wave height, tide state, water 	<p>regarding marine mammal sightings before, during, and after pile driving are implemented and provide a monthly status report to NMFS.</p>			<p>Radio Beach portion of Phase 3)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>currents, wind direction, visibility, glare, percentage of glare, percentage of cloud cover; when in relation to pile driving or removal activities the sighting occurred (before, "soft-start", during, or after the pile driving or removal); and other human activity in the area.</p> <ul style="list-style-type: none"> The project implementer shall provide a monthly status report to NMFS on the appropriate reporting items, unless other arrangements for monitoring reports are agreed to in writing. A report on all activities must be submitted to NMFS within 90 days after completion of the activities. This report must provide the dates and types of activities and the results of the visual monitoring program, including all items noted above. 				
<p>MM-BIO-23. Implement measures to avoid the introduction and spread of invasive plants</p> <p>The project implementer shall implement the following measures to ensure the project complies with Executive Order 13112: Prevention and Control of Invasive Species.</p> <ul style="list-style-type: none"> Retain a qualified biologist to identify invasive plant species in the construction work area, remove all invasive plant material, and dispose of at a certified landfill. Minimize surface disturbance within the construction work area to the greatest extent possible. Seed all the disturbed areas with certified weed-free native mixes and mulch with certified weed-free mulch (rice straw may be used in upland areas). Use native, noninvasive species in erosion control plantings to stabilize site conditions and prevent invasive species from colonizing. 	<p>Project implementer to implement measures to avoid the introduction and spread of invasive plants.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>
<p>MM-BIO-24. Implement measures to avoid the spread of invasive plants</p> <p>The project implementer shall implement the following measures to avoid the introduction and spread of invasive plants during project operation.</p> <ul style="list-style-type: none"> Retain a qualified biologist to survey public access areas (around walkways, benches, buildings, trashcans, restrooms, etc.) for invasive plant species on an annual basis. If invasive plant species are identified, remove all invasive plant material and dispose of at a certified landfill. Annual surveys may cease when invasive plant species are not observed in public access areas for 3 consecutive years. 	<p>Project implementer to implement measures to avoid the introduction and spread of invasive plants during operation.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>For three consecutive years after construction of each phase of the project</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
CULTURAL RESOURCES				
<p>MM-CUL-1. Stop work if cultural resources are encountered during ground-disturbing activities</p> <p>The project implementer shall ensure the construction specifications include a stop work order if prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities. All work within 100 feet of the find shall be stopped until a qualified archaeologist can assess the significance of the find. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative (if applicable), shall develop a treatment plan that could include site avoidance, capping, or data recovery.</p> <p>If a find is determined to be potentially significant, necessitating the development of an Archaeological Research Design and Treatment Plan (ARDTP), one shall be prepared by the archaeologist and submitted to the project implementer. Once approved, a data-recovery investigation and/or other treatment, consistent with the ARDTP, shall be conducted by the archaeologist. Components of the ARDTP may include geoarchaeological studies, Phase I identification, health and safety plan, treatment for unanticipated discoveries, data recovery, laboratory analysis protocols, treatment of human remains, archaeological monitoring, reporting, curation, public outreach, and interpretation.</p>	<p>Project implementer to ensure stop work order included in construction specifications if prehistoric or historic-period cultural materials are unearthed.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During ground disturbing construction activities (all phases)</p>
<p>MM-CUL-2. Stop work if human remains are encountered during ground-disturbing activities</p> <p>The project implementer shall ensure the construction specifications include a stop work order if human remains are discovered during construction or demolition. There shall be no further excavation or disturbance of the site within a 50-foot radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Alameda County Coroner shall be notified, pursuant to section 5097.98 of the California Public Resources Code and section 7050.5 of the California Health and Safety Code, and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, which shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this state law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p>	<p>Project implementer to ensure stop work order included in construction specifications if human remains are discovered.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During ground disturbing construction activities (all phases).</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>MM-CUL-3. Engage a qualified architectural historian to guide design alterations to conform to the Secretary of the Interior’s Standards for rehabilitation</p> <p>During design development, the project implementer shall obtain a qualified architectural historian to review the design of the Key Pier Substation and the Bay Bridge Oakland Substation and provide design feedback to ensure that the design conforms to the Secretary of the Interior’s Standards. The architectural historian shall make recommendations for the treatment of historic building materials, finishes, and all exterior and interior character-defining features. These recommendations shall be documented by the qualified architectural historian and included in a memorandum that further details the project’s conformance with the Secretary of the Interior’s Standards, including specific information on the treatment of all character-defining features. The final project design shall conform to the Secretary of the Interior’s Standards before the project implementer obtains alteration permits.</p>	<p>Project implementer shall obtain a qualified architectural historian to review designs and make recommendations for building treatments to be included in memorandum.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before obtaining alteration permits for Phase 2.</p>
GEOLOGY, SOILS, AND PALEONTOLOGICAL RESOURCES				
<p>MM-GEO-1. Establish and follow procedures in case of accidental discovery of a paleontological resource</p> <p>Before the start of any drilling or pile-driving activities, the project implementer shall retain a qualified paleontologist, as defined by SVP, who is experienced in teaching generalists. The qualified paleontologist shall train all construction personnel who are involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils that are likely to be seen during construction, and proper notification procedures should fossils be encountered. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who shall evaluate the significance.</p> <p>If paleontological resources are discovered during earthmoving activities, the construction crew shall immediately cease work near the find and notify the project implementer. Construction work in the affected areas shall remain stopped or be diverted to allow recovery of fossil remains in a timely manner. The project implementer shall retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with SVP guidelines (Society for Vertebrate Paleontology 2010). The recovery plan may include a field survey, construction monitoring, sampling, data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations in the recovery plan that are determined by the project implementer to be necessary and feasible</p>	<p>Project implementer shall retain a qualified paleontologist to train construction personnel on procedures when encountering fossils, including stop work.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>Prior to start of drilling or pile-driving activities (Phase 2 and Radio Beach portion of Phase 3).</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. The project implementer shall be responsible for ensuring that the monitor’s recommendations regarding treatment and reporting are implemented.</p>				
GREENHOUSE GASES				
MM-GHG-1. Implement Operational GHG emission reduction measures				
<p>In accordance with the Oakland Energy and Climate Action Plan, the project implementer shall complete the following.</p> <ul style="list-style-type: none"> • Comply with EBMUD Water-Efficiency Standards. The project implementer shall comply with EBMUD Water Efficient Landscaping requirements for compliance with Section 31 water efficiency in landscape design. • Improve Energy Performance of New Buildings. The project implementer shall comply with the Oakland Civic Green Building Ordinance to increase energy efficiency for new facilities. • Comply with Oakland C&D Recycling Ordinance. The project implementer shall comply with the Oakland C & D ordinance to capture greater amounts of materials for reuse, recycling and composting. • Promote Waste Reduction. The project implementer shall provide information regarding waste reduction and recycling as part of park information. The project implementer shall require waste reduction and recycling plans for special events and shall also abide by City of Oakland mandatory recycling and/or bans on the use, sale, or disposal of certain product types. The project implementer shall also comply with Bay Friendly Landscaping, a program of StopWaste.org. This program defines prescriptive measures for the design, construction, and maintenance of landscapes with the goals of reducing green waste, conserving water, and reducing pollution in local watersheds. • Explore small-scale solar for on-site buildings. In order to power on-site park buildings, the project implementer shall explore the feasibility of on-site solar installations. • Integrate multi-modal access to the park. In order to reduce vehicle trips and emissions, the project implementer shall ensure multi-modal access (including transit, bike, and pedestrian) to the park for routine operations. The project implementer shall also require special event proponents to develop and implement a 	<p>Project Implementer to ensure compliance with Oakland Energy and Climate Action Plan measures.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (all phases)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>trip reduction plan for their events to encourage access via transit, carpooling, bicycle, and walking.</p> <ul style="list-style-type: none"> Urban Heat Island Controls. Cool surface treatments will be considered for new parking facilities. 				

HAZARDOUS MATERIALS

<p>MM-HAZ-1. Prepare a limited Phase II Environmental Site Assessment for the terrestrial portions of the project within the boundary of the former Oakland Army Base and, if appropriate, a site mitigation plan</p> <p>The project implementer shall complete a limited Phase II ESA to assess potential contaminant impacts within the terrestrial portions of the Gateway Park development within the boundary of the former Oakland Army Base (Phase 3). The Phase II ESA shall include a detailed review of historic chemical data available for the former Oakland Army Base as well as sampling and chemical analyses of soil at the Gateway Park development, particularly where soil handling activities are likely to occur. The Phase II ESA shall also consider whether groundwater and sediment sampling are appropriate. Samples shall be tested for some or all the contaminants of concern identified above, and results shall be compared to appropriate Environmental Screening Levels (ESLs) or other criteria with consideration of future park construction/maintenance worker and passive recreational users.</p> <p>If the Phase II Environmental Site Assessment indicates that soil or groundwater samples have hazardous substances present, the project implementer shall engage a qualified person to develop a Site Mitigation Plan. The Site Mitigation Plan shall describe handling, management, and mitigation of the contamination. The Plan shall be submitted to Alameda County Department of Environmental Health for approval. The Plan shall be implemented prior to commencement of construction.</p>	<p>Project Implementer to complete a limited Phase II ESA. If Phase II ESA indicates the presence of hazardous substances, the Project Implementer will engage qualified person to develop a Site Mitigation Plan.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Before Phase 3 construction activities are initiated.</p>
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<p>MM-HAZ-2. Install warning signage that prohibits patrons from swimming or standing in the water on the south side of the park in the area of contaminated sediments</p> <p>The project implementer shall install warning signage in the park indicating that swimming and standing in the water on the south side of the park is dangerous and prohibited due to the potential for exposure to contaminated marine sediments. The project implementer shall also include the same warnings on a page in the publicly accessible website.</p>	<p>Project implementer to install warning signage regarding contaminated sediments.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to completion of Phase 3 construction .</p>
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Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
HYDROLOGY AND WATER QUALITY				
<p>MM-HY-1. Implement a toxic materials control and spill response plan A toxic materials control and spill response plan shall be implemented to regulate the use of petroleum-based products (fuel and lubricants) and other potentially toxic materials associated with project construction.</p> <p>The project implementer shall review and approve the contractors’ toxic materials spill prevention control and countermeasure plan before allowing construction to begin. The project implementer shall routinely inspect the construction site to verify that BMPs specified in the plan are properly implemented and maintained. The project implementer shall notify the contractor immediately if there is a noncompliance issue and shall require compliance.</p>	<p>Contractor to develop toxic materials spill prevention control and countermeasure plan. Project Implementer to review and approve plan.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>During project construction (all phases)</p>
<p>MM-HY-2. Implement construction dewatering treatment if necessary The project implementer shall implement dewatering treatment if groundwater is encountered during excavation activities, if dewatering is necessary to complete the project, or if the dewatered water is discharged to any storm drain or surface water body. Because groundwater could be contaminated with VOCs or fuel products at the project area, the project implementer shall comply with the San Francisco Bay RWQCB VOC and Fuel General Permit (Order R2-2012-0012).</p> <p>If dewatering activities require discharges to the storm drain system or other water bodies, the water shall be pumped to a tank and tested for water quality. Grab samples shall be sent to a certified laboratory for analysis. If the water does not meet water quality standards, it will either be treated to meet all applicable water quality standards (Table 3.8-1 and Table 3.8-2) or hauled off site for treatment and disposal at an appropriate waste treatment facility permitted to receive such water. Water treatment methods that represent the best available technology that is economically achievable shall be selected to achieve maximum removal of contaminants. Methods may include the retention of dewatering effluent until particulate matter has settled before it is discharged, the use of infiltration areas, filtration, or other means. The contractor shall routinely inspect the construction area to verify that the water quality control measures are properly implemented and maintained, conduct visual observations of the water (i.e., check for odors, discoloration, or an oily sheen on groundwater), and perform other sampling and reporting activities prior to discharge. The project implementer shall submit the final selection of water quality control measures to the San Francisco Bay RWQCB for approval prior to construction. If the results from the</p>	<p>Project implementer to implement appropriate dewatering treatment activities.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During project construction (all phases where groundwater is encountered, dewatering is necessary, or dewatered water is discharged)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>groundwater laboratory do not meet water quality standards and the identified water treatment measures cannot ensure meeting standards for receiving water quality, then the water shall be hauled off site instead for treatment and disposal at an appropriate waste treatment facility permitted to receive such water.</p>				
<p>MM-HY-3. Implement drainage treatment and gross solids removal devices if necessary The project implementer shall implement drainage treatment and gross solids removal devices. Additional retention basins (biofiltration swales) shall be constructed at the west end in the Key Point area to treat stormwater runoff from the project features. The proposed types of treatment BMPs for the project site are biofiltration strips and biofiltration swales (WRECO 2014a). The biofiltration swales would be integrated as part of the park landscaping and would include a layer of imported biofiltration soil. If feasible, an underdrain system shall be included, based on the existing and proposed drainage facilities and site constraints. In addition, Austin vault sand filters and detention devices shall be considered. As required by the City of Oakland and Caltrans' Statewide Permit and the Construction General Permit, measures to reduce pollutant loading shall be implemented to the maximum extent practicable. Permanent control measures located within Caltrans' right-of-way shall reduce pollutants in the stormwater runoff from the roadway, and thus prevent pollutants from entering the waterways. These measures shall be incorporated into the final engineering design or landscape design of the project once more site-specific geotechnical information becomes available during the design phase of the project.</p>	<p>Project implementer to implement drainage treatment and gross solids removal devices.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to construction (all phases).</p>
LAND USE AND PLANNING				
<p>MM-LU-1. Install warning signage at the Port Playground kayak launch and include warnings on a publicly accessible website about potential conflicts between recreational kayak use and Port of Oakland uses The project implementer shall install warning signage at the Port Playground kayak launch indicating potential dangers of recreational kayaking in water shared with vessels that also use the Port of Oakland. The project implementer shall also include the same warnings on a page in the publicly accessible website. Warning signage shall comply with ANSI Z535.4 and ISO 3864-2 standards.</p>	<p>Project implementer to install warning signage at Port Playground kayak launch and on website.</p>	<p>Project implementer</p>	<p>Implementing Agency</p>	<p>Prior to commencement of operation of Phase 3.</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
PUBLIC SERVICES				
<p>MM-PS-1. Provide security staff during special events During special events, the project implementer shall ensure that event security-staff are hired to provide additional security during the special event.</p>	<p>Project implementer to ensure security-staff at special events.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>During Special Events (Phase 1)</p>
TRANSPORTATION				
<p>MM-TRA-1. Prepare and implement a construction traffic management plan The project implementer and construction contractor shall develop a construction management plan for review and approval by the City of Oakland prior to issuance of any permits. The plan shall include the following measures and requirements to reduce traffic congestion during construction.</p> <ul style="list-style-type: none"> • Provide a set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. • Identify haul routes for movement of construction vehicles that would minimize impacts on motor vehicle, bicycle, and pedestrian traffic, circulation, and safety and, specifically, to minimize impacts to the greatest extent possible on streets in the project area. Haul route approval shall be required from the appropriate agencies (e.g., City of Oakland). • Provide for notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur. • Maintain emergency service provider access throughout construction. • Provide for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project implementer. 	<p>Project implementer and construction contractor to develop construction traffic management plan.</p>	<p>Project Implementer / Construction Contractor</p>	<p>Implementing Agency</p>	<p>Before construction activities are initiated (all phases)</p>
<p>MM-TRA-2. Upgrade traffic signal equipment at the 7th Street/Maritime Street intersection The project implementer shall coordinate with the City of Oakland and Port of Oakland to upgrade the traffic signal equipment at the intersections to provide video detection for vehicles and bicycles. This would allow for better allocation of the green signal time to</p>	<p>Project implementer to periodically conduct traffic counts of</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to the generation of approximately 136</p>

Mitigation Measure		Action	Implementing Party	Monitoring Party	Timing																													
<p>movements, improving the LOS to D for vehicles during the weekday PM and to LOS C during the Saturday afternoon peak hour, as shown in Table 3.12-7.</p> <p>Table Error! No text of specified style in document.-1. Existing with Project with Mitigation Peak Hour Intersection Level of Service</p> <table border="1"> <thead> <tr> <th rowspan="2">Intersection</th> <th rowspan="2">Peak Hour</th> <th colspan="2">Existing Conditions</th> <th colspan="2">Existing With Project</th> <th colspan="2">Existing With Project With Mitigation</th> </tr> <tr> <th>Delay^a</th> <th>LOS^b</th> <th>Delay^a</th> <th>LOS</th> <th>Delay^a</th> <th>LOS</th> </tr> </thead> <tbody> <tr> <td rowspan="2">9 7th Street/ Maritime Street</td> <td>PM</td> <td>59.1</td> <td>E</td> <td>64.6</td> <td>E</td> <td>41.4</td> <td>D</td> </tr> <tr> <td>SAT</td> <td>33.5</td> <td>C</td> <td>35.3</td> <td>D</td> <td>31.4</td> <td>C</td> </tr> </tbody> </table> <p>Notes: Bold text indicates potentially unacceptable intersection operations. ^a Delay presented in seconds per vehicles ^b LOS = level of service Source: Fehr & Peers 2014</p>		Intersection	Peak Hour	Existing Conditions		Existing With Project		Existing With Project With Mitigation		Delay ^a	LOS ^b	Delay ^a	LOS	Delay ^a	LOS	9 7th Street/ Maritime Street	PM	59.1	E	64.6	E	41.4	D	SAT	33.5	C	35.3	D	31.4	C	<p>project-generated trips as project phases are developed. Prior to the generation of approximately 136 project trips, project implementer to seek approval from City of Oakland for signal upgrade.</p>			<p>project vehicle trips during the PM peak hour.</p>
Intersection	Peak Hour			Existing Conditions		Existing With Project		Existing With Project With Mitigation																										
		Delay ^a	LOS ^b	Delay ^a	LOS	Delay ^a	LOS																											
9 7th Street/ Maritime Street	PM	59.1	E	64.6	E	41.4	D																											
	SAT	33.5	C	35.3	D	31.4	C																											
<p>MM-TRA-3. Provide improvements to separate passive park users from active Bay Bridge Trail users</p> <p>The project implementer shall provide additional pavement width and markings near the Bay Bridge Trail access locations in Gateway Park, including directional signage and striping, and potentially fencing to separate passive park users from active Bay Bridge Trail users.</p>		<p>Project implementer to provide additional pavement width, marking, directional signage, and striping.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to commencement of operation of Phase 2</p>																													
<p>MM-TRA-4. Upgrade intersection pedestrian and bicycle facilities at the West Grand Avenue/Frontage Road/I-80 ramps (Study Intersection 3)</p> <p>The project implementer shall coordinate with Caltrans and the City of Oakland to upgrade the marked crosswalk along the south leg of the intersection. The project implementer shall</p>		<p>Project implementer to coordinate with Caltrans and</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to commencement of</p>																													

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>install pedestrian and bicycle signal heads and upgrade the traffic signal equipment as necessary to accommodate the pedestrian and bicycle movement across the intersection.</p>	<p>the City of Oakland to upgrade marked crosswalk.</p>			<p>operation of Phase 1.</p>
<p>MM-TRA-5. Develop and implement a way-finding plan The project implementer shall develop a way-finding plan for both vehicles and nonmotorized visitors to the site. Installation of signage at various decision points along access routes would reduce driver confusion and reduce circuitous travel though the area for all modes of travel. The project implementer shall coordinate with the City of Oakland, Caltrans, and/or the Port of Oakland as needed for improvements within their respective jurisdictions.</p>	<p>Project implementer to develop way-finding plan for vehicles and visitors to the site and coordinate with City of Oakland, Caltrans, and/or Port of Oakland as needed for improvements.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to commencement of operation of Phase 1</p>
<p>MM-TRA-6. Provide emergency evacuation plan and additional emergency access to Gateway Park, including parking management during special events. The project implementer shall provide a second emergency vehicle access to the Gateway Park, possibly through use of the Bay Trail, or provide an emergency service program and emergency evacuation plan using waterborne vessels. The project implementer shall coordinate with the City of Oakland to implement this measure.</p> <p>The project implementer shall develop and implement an Emergency Evacuation Plan for Gateway Park that identifies all potential points of access and egress, public communication strategy, emergency procedures and notifications, and an implementing strategy. The plan shall include requirements for training of park staff. The performance standard for the plan is that it provide for the safe access of emergency vehicles to the park at all times and the safe evacuation by vehicle, foot or bicycle of park visitors in the case of an emergency at all times.</p> <p>For special events, the project implementer shall require the event proponent to prepare a Special Event Emergency Evacuation Plan for any large (> 250 persons) special event planned</p>	<p>Project implementer to provide a second emergency vehicle access to Gateway Park or provide an emergency service program and emergency evacuation plan using waterborne vessels and develop and</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to commencement of operation of Phase 1.</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>to be held at the park containing the same information as the park plan, but addressing the specific event parameters. The performance standard for the plan is that it provide for the safe access of emergency vehicles to the park at all times during the event and the safe evacuation by vehicle, foot or bicycle of all event attendees in the case of an emergency during the event.</p> <p>The project implementer shall also require the event proponent to prepare and implement a parking management plan that identifies strategies to reduce and manage the parking demand during special events. The following strategies could be considered. Work with AC Transit to provide fixed-route and special event transit service to the site.</p> <ul style="list-style-type: none"> • Provide shuttles from the MacArthur and/or West Oakland BART stations during the event. • Implement variable event parking pricing. • Use changeable message signs to direct visitors to other available parking areas, such as at the Middle Harbor Shoreline Park, and shuttle visitors to the park. • Provide valet parking during special events to maximize capacity of on-site lots. • Implement parking time limits in the park to encourage vehicle turnover. • Provide bicycle parking to encourage park guests to use bicycling as their primary mode of travel to the park. • The performance standard of this measure is the avoidance of lengthy vehicle delays on Burma Road between the Park and Maritime Blvd. that might otherwise hinder emergency vehicle access. 	<p>implement an Emergency Evacuation Plan, and require event proponent to prepare Special Event Emergency Evacuation Plan for special events.</p>			
<p>MM-TRA-7. Install protected permitted phasing and upgrade traffic signal equipment at the West Grand Avenue/Mandela Parkway (northbound) intersection</p> <p>The project implementer shall coordinate with the City of Oakland to install protected permitted phasing for the eastbound left-turn movement and upgrade the traffic signal equipment as necessary to provide video detection bicyclists.</p>	<p>Project implementer to coordinate with the City of Oakland to install protected permitted phasing and upgrade signal equipment.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to commencement of operation of the last project phase.</p>

UTILITIES

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>MM-UTIL-1. Coordinate with and obtain approval from EBMUD during design of outfall crossings</p> <p>The project implementer shall consult with EBMUD to ensure that outfall crossings and other project elements do not result in a substantial hazard to the existing outfall alignment within the project site. The final project design shall incorporate, subject to EBMUD review and approval, the following components.</p> <ul style="list-style-type: none"> • Design specifications for engineered bridge crossings and at-grade crossings over the outfall alignment. • Maximum weight of light maintenance vehicles. • Precautions to prevent unauthorized crossings (e.g., barriers, signage). • Maximum permitted fill elevation over the top of the outfall pipe. • Siting of major project elements in relation to the outfall. • Tree planting near the outfall alignment. 	<p>Project implementer to consult with EBMUD to ensure that outfall crossing and other elements do not result in a substantial hazard to the existing outfall alignment.</p>	<p>Project Implementer</p>	<p>Implementing Agency</p>	<p>Prior to issuance of encroachment permit for any construction located on EBMUD outfall crossing (Phase 1, Phase 2, and Port Playground portion of Phase 3).</p>
<p>Issuance of an encroachment permit will indicate EBMUD’s approval of the final project design.</p>				
<p>MM-UTIL-2. Maintain continued EBMUD access to outfall utility holes and vents</p> <p>The project implementer shall ensure that EBMUD has continued access to outfall utility holes and vents in order to perform routine and emergency maintenance. Utility holes and vent stack bases shall be raised or adjusted to new grade levels as needed. Park grading and features shall allow EBMUD maintenance vehicle access to all manholes and vent locations. Compliance with this mitigation measure shall be indicated through issuance of an encroachment permit by EBMUD.</p>	<p>Project implementer to ensure that EBMUD has continued access to outfall utility holes and vents.</p>	<p>Project Implementer</p>	<p>Implementing Agency / EBMUD</p>	<p>Prior to Issuance of Encroachment Permit for any construction located on EBMUD outfall crossing (Phase 1, Phase 2, and Port Playground portion of Phase 3)</p>

Mitigation Measure	Action	Implementing Party	Monitoring Party	Timing
<p>MM-UTIL-3. Protect outfall during project construction</p> <p>Prior to the commencement of project construction activities, the project implementer shall coordinate with EBMUD to establish appropriate measures for protecting the outfall during construction activities. Such measures shall include, but shall not be limited to the following measures.</p> <ul style="list-style-type: none"> • Siting distance(s) for materials storage, parking, and operation of vehicles from the center line of the outfall. • Designated crossing locations for construction vehicles and equipment. • Inspection and monitoring procedures during construction. 	<p>Project implementer to coordinate with EBMUD to establish appropriate measures for protecting the outfall during construction activities.</p>	<p>Project Implementer/ EBMUD</p>	<p>Implementing Agency / EBMUD</p>	<p>Prior to commencement of project construction activities for any construction located on EBMUD outfall crossing (Phase 1, Phase 2, and Port Playground portion of Phase 3).</p>

GATEWAY PARK

CEQA FINDINGS AND FACTS IN SUPPORT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

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June 2018

DRAFT

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Chapter 1

Introduction

A lead agency must prepare written findings of fact (Findings) for each significant effect on the environment identified in the Environmental Impact Report (EIR) (Section 21081 of the Public Resources Code) to support a decision on a project for which the EIR is certified.

The Bay Area Toll Authority (BATA, or the Authority), as the California Environmental Quality Act (CEQA) lead agency, prepared these Findings for the Gateway Park project. BATA prepared a Draft Environmental Impact Report (DEIR) for this project in accordance with CEQA (Public Resources Code 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, 15000 et seq.). The DEIR was circulated for review and a Final EIR was prepared and certified prior to action on the project.

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2.1 Project Background

The proposed project (project or Gateway Park) is the result of a multiagency collaborative planning effort facilitated by the Gateway Park Working Group (Working Group). The Working Group consists of the following nine local, regional and state agencies: BATA, California Department of Transportation (Caltrans), San Francisco Bay Conservation and Development Commission (BCDC), California Transportation Commission (CTC), East Bay Regional Park District (EBRPD), City of Oakland, Port of Oakland, East Bay Municipal Utility District (EBMUD), and Association of Bay Area Governments (ABAG's) Bay Trail Project. At this time, it is envisioned that Gateway Park would be a regional park operated by EBRPD or a Joint Powers Authority. BATA, acting on behalf of the Working Group, is the lead agency for the project under CEQA and would take the first action related to the project which would be entering into a cooperative agreement with Caltrans for funding the parking lot as part of Phase 1. Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in the Project Description of the FEIR.

2.2 Project Overview

Gateway Park would be located in Oakland, Alameda County, adjacent to I-880 and Interstate 80 (I-80 at the eastern touchdown of the Bay Bridge). The 45-acre project area encompasses both industrial lands and the existing Radio Beach recreational area. It includes underutilized industrial land and the former Oakland Army Base on the south side of I-80, extending from the San Francisco Bay shoreline on the west to the Caltrans maintenance facility near the Bay Bridge toll plaza on the east, the Radio Beach area on the north side of I-80 and land beneath and adjacent to I-880 and the I-880/I-80/I-580 interchange (known as the Maze) on the west to Maritime Street in West Oakland on the east, and portions of I-80 and I-880 where landscaping improvements could be installed.

Gateway Park would provide a gateway to both the east span of the Bay Bridge and the City of Oakland. The project would encompass approximately 45 acres and could include both active and passive recreation opportunities as well as potential venues for community events and art installations, highlighting the natural, maritime, industrial, and transportation history of the East Bay. The project would provide safe access to the bicycle/pedestrian path on the east span of the Bay Bridge (Bay Bridge Trail) as well as access to existing and planned segments of the regional San Francisco Bay Trail (Bay Trail). The project would also provide safe, multimodal access to the shoreline and could be a unique waterfront amenity. Furthermore, it would be designed to meet mitigation commitments for a number of

transportation projects, including the East Span project, which was completed in 2013. Specifically, the minimum requirements for the East Span project are set forth in BCDC Permit No. 2001.008.42, held by Caltrans (BCDC permit).

Gateway Park would encompass four park areas (Bridge Yard, Key Point, Port Playground, and Radio Beach) and could include multiple park features in addition to parking, landscaping, and other features. The following provides more detail on the four park areas:

- Bridge Yard would include the current uses of the Bridge Yard building and at least 43 parking spaces as well as any associated stormwater treatment areas and landscaping (per BCDC permit requirements). It could also be a recreation destination and event center in the core park area. Park features could include an arrival plaza, historic display plaza, outdoor yard event space, reuse of the renovated historic Bridge Yard building, and possibly an indoor/outdoor auditorium.
- Key Point would be a passive recreation area at the west end of the park near the Bay Bridge. At a minimum, Key Point would include a path on a ramp leading to the Bay Bridge Trail as well as stormwater retention treatment areas for any required new paved pathways and any associated landscaping. Park features could also include reuse of two renovated buildings for visitor services, a path on a ramp leading to the Bay Bridge Trail and a ranger station. The project could also install a marine bulkhead at the western end of the Key Point area. The EIR analyzed the installation of a pier along the old Bay Bridge alignment, consistent with the conceptual park design originally developed by the Gateway Park Working Group. On January 23, 2018, after preparation of the Draft EIR, the Toll Bridge Program Oversight Committee approved a separate marine foundation public access project that will build out an observation deck between existing marine foundations E21 – E23 from the former east span of the San Francisco – Oakland Bay Bridge. The marine foundation public access pier is a separate project that is outside the scope of the EIR and analyzed under separate environmental review. With approval of the marine foundations public access project, the pier originally conceived by the Gateway Park Working Group will no longer be implemented. Since the installation of new pilings in the Bay would result in greater impacts to biological resources, hydrology, and water quality, the EIR overstates the environmental impacts of the project by analyzing the originally conceived pier.
- Port Playground would be a passive and possibly active recreation area along the southern shoreline. Per BCDC permit requirements, the Port Playground would include at a minimum trails along the shoreline area and any associated landscaping. Park features could also include a visitor center, several play areas, a boardwalk, a meadow and bluff walk, and a meadow viewpoint. There could also be an Americans with Disabilities Act (ADA)-compliant cement ramp extending from the south side of the Visitor Center to the water's edge that would serve as a kayak launch.
- Radio Beach, an existing area on the north side of I-80, would be for limited, passive recreation including such activities as kiteboarding, walking, picnicking, frisbee play,

bird watching, fishing, windsurfing, and kayak launching. At a minimum, Radio Beach would remain accessible to the public as under current conditions. Park features could include a new access path from the Key Point area, restoration, and installation of fencing to protect environmentally sensitive areas. Overall parking areas will not be limited below existing conditions and informal parking will continue to be allowed as at present.

The overall project could also include the following features:

- An approximately 13-acre windbreak/tree buffer that would extend along the south side of I-80 in the Port Playground and Key Point areas;
- Landscaping throughout the project area south of I-80 and potentially under the freeways east of the recreational features (I-880 and the I-880/80/580 maze)¹;
- Minimal amount of lighting provided for security at dusk and for special events that could be held at the Bridge Yard;
- Additional public parking beyond the minimum 43 spaces;
- Way-finding elements, including interpretive and directional signage along pathways;
- Shoreline protection features along most southern shoreline areas (south of I-80) to minimize erosion;
- Addition of 2 to 10 feet of fill on the entire south side of the Park (south of I-80) to counter sea level rise; and
- Three additional retention basins (biofiltration swales) at the west end in the Key Point area to treat stormwater runoff from the project features

2.3 CEQA Process

The scoping process for this EIR was formally initiated on October 30, 2013, when BATA submitted the NOP to the California State Clearinghouse for distribution to state agencies and to the County Clerk for public posting. The 30-day scoping period ended on December 6, 2013. A public scoping meeting was held on November 14, 2013 at the West Oakland Senior Center in Oakland, California to provide an opportunity for attendees to comment on environmental issues of concern. Commenters expressed general support for the project and its components, including public access and shoreline enhancements. At the same time, commenters requested that the project proponent make all efforts to minimize potential environmental impacts.

It should be noted that at the time of public scoping, the project description included both the 45-acre park and supporting improvements as well as an independent bicycle connection

¹ The BCDC permit for the East Span project requires landscaping within an approximately 4.2 acre minimum public access area.

from the park and the Bay Bridge Trail to Mandela Parkway in West Oakland. Subsequent to scoping, the bike path to West Oakland was separated from the park project because it has independent utility and thus will be addressed under separate environmental review.

BATA released the DEIR for review and comment by the public and regulatory agencies during a 45-day comment period between January 26, 2018 and March 12, 2018. Comments were received from 32 local agencies, organizations, and individuals. The Final EIR responded to the comments and revised the EIR where necessary to clarify the text in response to comments.

BATA certified the Final EIR, as required by CEQA Guidelines Section 15090, prior to approving the Gateway Park project. These findings and statement of overriding considerations are adopted in compliance with CEQA Guidelines Sections 15091 and 15093.

2.4 Permits and Approvals

Table 1 identifies the required permits and approvals for the Gateway Park Project as evaluated in the Final EIR.

Table 1: Required Permits and Approvals

Agency	Action/Permit/Approval
Federal	
National Marine Fisheries Service	Section 7 Consultation for Threatened and Endangered Species
U.S. Army Corps of Engineers	Section 404 Permit for filling or dredging waters of the United States
U.S. Army Department of Defense	Hazardous waste remediation, property transfer
U.S. Coast Guard	Section 10 Rivers and Harbors Act of 1899 - permit for structures in navigable water
U.S. Fish and Wildlife Service	Section 7 Consultation for Threatened and Endangered Species
State	
California Department of Fish and Wildlife	Section 2081 Permit for Threatened and Endangered Species
California Department of Transportation	Encroachment permit on roadways and land Implementing parking lot during Phase 1 of construction pursuant to BCDC permit and cooperative agreement between BATA and Caltrans Gateway Park Working Group member
California Department of Toxic Substances Control	Coordination for Army Base cleanup. Hazardous materials cleanup oversight
California Office of Historic Preservation	Historical resources review
California Transportation Commission	Gateway Park Working Group member
Regional and Local	
Association of Bay Area Governments	Coordination for Bay Trail Project Gateway Park Working Group member
Bay Area Toll Authority (BATA)	CEQA lead

Agency	Action/Permit/Approval
	Gateway Park Working Group member
East Bay Municipal Utility District (EBMUD)	Encroachment on EBMUD outfall facilities Gateway Park Working Group member
East Bay Regional Park District (EBRPD)	Future owner of land and likely park operator Gateway Park Working Group member
City of Oakland	General Plan Amendment and Zone Change Necessary construction and demolition permits Encroachment on city roadways Gateway Park Working Group member
Port of Oakland	Gateway Park Working Group member
San Francisco Bay Conservation and Development Commission	Gateway Park Working Group member Major permit for shoreline improvements within 100 feet of the Bay and structures in water Amendment to Permit No. 2001.008.42, if necessary
San Francisco Regional Water Quality Control Board	Section 401 Water Quality certification, National Pollutant Discharge Elimination System (NPDES) and General Construction Activity Storm Water Permit

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3.1 CEQA Requirements

CEQA, Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

Regarding these Findings, section 15091 of the CEQA Guidelines (Title 14, California Code of Regulations) states:

- (a) No public agency shall approve or carry out a project for which an [environmental impact report] EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 [183 Cal.Rptr. 898].)

‘[F]easibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (Id.; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 [29 Cal.Rptr.2d 182].)

The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect. BATA must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code section 21081, on which CEQA Guidelines section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” The CEQA Guidelines therefore equate “mitigating” with “substantially lessening.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (Public Resources Code section 21002, emphasis added.)

For purposes of these Findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less-than-significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that impact to a less-than-significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 519–527 [147 Cal.Rptr. 842], in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant impacts by adopting numerous mitigation measures, not all of which rendered the significant impacts in question (e.g., the “regional traffic problem”) to less than significant.

3.2 Legal Effects of Findings

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in Gateway Park. Because the EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document. To the extent that these Findings conclude that various proposed mitigation measures outlined in the Final EIR are feasible, all future project implementers that rely on the Final EIR as their CEQA document, are required to implement these measures with the adoption of the Mitigation Monitoring and Reporting Program (MMRP). The MMRP will ensure that the mitigation measures identified in the Final EIR are implemented. These Findings, in other words, are not merely informational, but rather constitute a binding set of obligations for any future project implementer relying on the Final EIR.

The documents and other materials that constitute the record upon which The Authority's decision and these Findings are based can be reviewed at the following location:

Bay Area Toll Authority
375 Beale Street, Suite 800
San Francisco, CA 94105
Contact: Peter Lee, Project Manager
(415)-778-6716

3.3 Findings Regarding Independent Review and Judgment

Each member of the Working Group was provided a complete copy of the Final EIR. BATA hereby finds that the Gateway Park Final EIR meets the requirements of CEQA, reflects its independent judgment on the potential environmental impacts of the Project, and that it reviewed and considered the Final EIR prior to taking final action with respect to the project.

3.4 Findings on Rejected Alternatives

Pursuant to CEQA Guidelines Section 15091(a)(3), BATA must identify the “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers” that lead it to reject the alternatives to the project. With these considerations BATA will make the ultimate determination of feasibility for those alternatives that were identified as potentially feasible in the Final EIR. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th957).

3.4.1 No Project Alternative

The No Project Alternative is defined by the BCDC permit for the East Span project, which requires the provision of 4.5 acres for unrestricted public access for walking, sitting, viewing, and other related purposes (thus, the No Project Alternative is not a no-build alternative). Under this 4.5-acre park alternative, new amenities beyond these minimal improvements would not be constructed. Planned improvements in the 4.5-acre park would be limited to pathways connecting the shoreline with the Bay Bridge Trail, the Bay Trail, the Bridge Yard Building, and the parking lot. Drought-resistant planting and minimal lighting would be installed. Parking capacity would be maintained at 43 spaces. One or two retention basins would be constructed. All pets would be prohibited.

This alternative would not meet the project objectives. Further, it is not consistent with the policy vision of the cooperative, nine-agency Working Group for this project and its integral elements. That vision is set out in the September 2012 *Gateway Park Project Concept*

Report. Inconsistency with policy is a valid reason for finding an alternative infeasible. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th957).

3.4.2 Passive Park Alternative

The Passive Park Alternative would provide minimal improvements to allow access to the renovated Bridge Yard Building and to the shoreline. It would not provide improvements for active recreation or new access to Radio Beach. New improvements in the Bridge Yard area would be more limited compared to the project, and the Passive Park Alternative would not include a new indoor/outdoor auditorium. In the Port Playground area, the Passive Park Alternative would provide pathways, benches, and restrooms but no visitor center or other recreation activities or improvements. In the Key Point area, the Passive Park Alternative would construct a new path to the Bay Bridge Trail, similar to the project, but it would not construct a pier or renovate buildings. In the Radio Beach area, the Passive Park Alternative would protect the existing tidal marsh area with restoration and fencing, but it would not provide a new access path or parking improvements.

This alternative, by avoiding active recreational activities, would not meet the project objective of providing active recreation opportunities. Also, it would not meet the following regional park and recreation objectives for active recreation:

- Provide active and passive recreation opportunities, including walking, nature appreciation, interpretation of transportation history, bicycling, fishing, kiteboarding, windsurfing, kayak launching, and non-motorized boating.
- Provide a venue for community, regional, and national events.
- Provide a long-term sustainable regional park, including revenue-generation opportunities for funding park operations and maintenance.

The Passive Park Alternative is rejected because it does not meet important project objectives.

3.4.3 Active Park Alternative

This alternative would include most of general improvements for passive and active recreation as the proposed project and additional active use features. Amusement rides and sports fields would be included in the Port Playground Area. The kayak launch would be located at the far western end by the Bay Bridge in the Key Point area instead of at the Port Playground. A berm would be incorporated into the windbreak/tree buffer area south of I-80, dogs or pets would be allowed on both the north (Radio Beach) and south sides of the park, and there would be more parking throughout the park.

The Active Park Alternative would not reduce any of the substantial impacts of the Project. As shown in Final EIR Table 5-2, Comparison of Impacts, its impacts would be greater than or equal to those of the Project in all categories. Pursuant to CEQA Guidelines Section

15126.6(a), an alternative should “avoid or substantially lessen any of the significant effects of the project.” After full analysis, the Active Park Alternative does not meet this requirement. Therefore, it is rejected.

3.5 Findings Regarding the Project

The Findings presented in this document for the Gateway Park Project are based on the substantial evidence contained in the Final EIR for the Project and in relevant technical studies included as part of the administrative record. The Findings do not attempt to describe the full analysis of each significant environmental impact contained in the Final EIR. Instead, each Finding provides a summary description of each impact, describes the applicable mitigation measures identified in the Final EIR, and states the Findings on the disposition of each impact after imposition of the feasible mitigation measures by the project implementer.

In making these Findings, BATA ratifies, adopts, and incorporates into these Findings the analysis and explanation in the Final EIR and supporting documents in the administrative record, and ratifies, adopts, and incorporates in these Findings, the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these Findings.

3.5.1 Findings Regarding Significant and Unavoidable Impacts

BATA determines that, for the following impacts, mitigation measures included in the Final EIR and required as part of the Gateway Park Project’s approval will reduce the impacts, but not to a less-than-significant level.

Significant and Unavoidable Impacts Identified in the Final EIR

Impact BIO-5. The project would have a substantial adverse effect on special-status fish species as a result of construction.

Findings: BATA hereby makes Findings (a)(2) and (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Mitigation Measure BIO-20 (Implement pile-driving noise reduction measures to minimize impacts on special-status fish species) will require the following actions to reduce the adverse effects of pile driving:

- The project implementer shall ensure the following noise reduction measures are implemented during construction activities involving pile driving.

- Conduct all pile driving between June 1 and November 30 to avoid the primary steelhead migration season (December through June) in the project area. Because steelhead adults and juveniles could begin their migration earlier than December 1, the project implementer shall conduct all pile driving activities as early as possible during the June 1 to November 30 window.
- Vibrate all piles to the maximum depth feasible before using an impact hammer. During impact driving, the contractor shall limit the number of strikes per day to the minimum necessary to complete the work.
- Use the smallest pile driver and minimum force necessary to complete the work.
- Use a bubble ring or similar device to minimize the extent to which the interim peak and cumulative sound exposure (SEL) thresholds are exceeded.
- Avoid all pile-driving activity at night.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Mitigating the adverse effects on special status fish due to pile driving to a less-than-significant level is infeasible because cumulative SEL dB would be greater than 187 dB threshold even with attenuation and other methods of sound dampening. Piles would be driven to a maximum depth of approximately 160 feet at the bicycle path to Radio Beach and to a maximum depth of approximately 90 feet at the bulkhead structure. Installing the piles necessary to support the elevated bike path to Radio Beach, and at the bulkhead structure, cannot be done without utilizing some form of pile driving equipment.

Impact GHG-1. The project will generate GHG emissions, either directly or indirectly, that will have a significant impact on the environment.

Findings: BATA hereby makes Findings (a)(2) and (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The following mitigation measures will be implemented to reduce the Project's impact.

Mitigation Measure AQ-2 (Implement BAAQMD basic control measures to reduce construction-related exhaust emissions) will require the following actions:

- The project’s construction contractor shall implement the following measures to reduce exhaust emissions (NO_x and PM₁₀) from construction equipment as proposed in the BAAQMD air quality guidelines (2017).
 - Minimize idling times either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure—13 California Code of Regulations [CCR] 2485). Clear signage will be provided for construction workers at all access points.
 - Maintain and properly tune construction equipment in accordance with manufacturer’s specifications. All equipment will be checked by a certified visible emissions evaluator.

Mitigation Measure AQ-4 (Implement BAAQMD additional control measures to reduce construction-related exhaust emissions) will require the project implementer to implement the following additional measures to reduce exhaust emissions (ROG, NO_x, and PM₁₀) from construction equipment as well as architectural coating off gassing, as proposed in the BAAQMD air quality guidelines (2017).

- Minimize the idling time of diesel-powered construction equipment to 2 minutes.
- Develop a plan that demonstrates that off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) will achieve a project-wide fleet-average 20% NO_x reduction and 45% particulate matter reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late-model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices (such as particulate filters), and/or other options as such become available.
- Use low-volatile organic compound (i.e., ROG) coatings that exceed local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
- Require all construction equipment, diesel trucks, and generators to be equipped with best available control technology for emission reductions of ROG, NO_x, and PM.
- Require all contractors use equipment that meets ARB's most recent certification standard for off-road heavy-duty diesel engines.

Mitigation Measure GHG-1 (Implement Operational GHG emission reduction measures) will require the project implementer to complete the following, in accordance with the Oakland Energy and Climate Action Plan.

- Comply with EBMUD Water-Efficiency Standards. The project implementer shall comply with EBMUD Water Efficient Landscaping requirements for compliance with Section 31 water efficiency in landscape design.

- **Improve Energy Performance of New Buildings.** The project implementer shall comply with the Oakland Civic Green Building Ordinance to increase energy efficiency for new facilities.
- **Comply with Oakland C&D Recycling Ordinance.** The project implementer shall comply with the Oakland C & D ordinance to capture greater amounts of materials for reuse, recycling and composting.
- **Promote Waste Reduction.** The project implementer shall provide information regarding waste reduction and recycling as part of park information. The project implementer shall require waste reduction and recycling plans for special events and shall also abide by City of Oakland mandatory recycling and/or bans on the use, sale, or disposal of certain product types. The project implementer shall also comply with Bay Friendly Landscaping, a program of StopWaste.org. This program defines prescriptive measures for the design, construction, and maintenance of landscapes with the goals of reducing green waste, conserving water, and reducing pollution in local watersheds.
- **Explore small-scale solar for on-site buildings.** In order to power on-site park buildings, the project implementer shall explore the feasibility of on-site solar installations.
- **Integrate multi-modal access to the park.** In order to reduce vehicle trips and emissions, the project implementer shall ensure multi-modal access (including transit, bike, and pedestrian) to the park for routine operations. The project implementer implementing agency shall also require special event proponents to develop and implement a trip reduction plan for their events to encourage access via transit, carpooling, bicycle, and walking.
- **Urban Heat Island Controls.** Cool surface treatments will be considered for new parking facilities.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Mitigation to below the level of significance is infeasible because mitigation would require actions that are outside of the implementers' regulatory control. While the park will be accessible via multiple-modes, one of those modes will be vehicles, and thus mobile emissions will increase over baseline conditions. The sponsoring agencies and the ultimate project implementer cannot legally control the means of access by the public to the park. While in concept, the project implementer could decide to provide no parking to deter

vehicle access to the site (and related emissions), this would be in conflict with the purpose of a public park accessible to the entire public, some of whom rely on personal vehicles.

Vehicle emissions over time will be reduced by the improvement in vehicle efficiency standards by the state as well as implementation of the Low Carbon Fuel Standard, but project mobile emissions are still expected to increase over existing levels.

Impact TRA-1. The project would result in increased vehicular, pedestrian, and bicycle traffic and would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system during special events. (operations)

Findings: BATA hereby makes Findings (a)(2) and (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The Final EIR identifies one mitigation measure that will reduce this impact.

Mitigation Measure TRA-2 (Upgrade traffic signal equipment at the 7th Street/Maritime Street intersection) will improve traffic signal equipment at the 7th Street/Maritime Street intersection in Oakland. The agency implementing the project will, in coordination with the City of Oakland and Port of Oakland, implement this measure as part of its activities.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Reduction to a less-than-significant level of impacts due to special events is infeasible because it is not known what special events would be held, when and where they would be held, and what proportion of attendees would use alternative modes of transportation. Absent this key information, it is not possible at this time to assess the degree to which traffic would worsen, and the extent and location of mitigation actions necessary to reduce traffic levels without speculation.

Impact TRA-2. The project would conflict with the applicable congestion management program, including level of service standards and travel demand measures, and other standards established by the county congestion management agency for designated roads or highways during special events.

Findings: BATA hereby makes Finding (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Reduction to a less-than-significant level of impacts due to special events is infeasible because it is not known what special events would be held, when and where they would be held, and what proportion of attendees would use alternative modes of transportation. Absent this key information, it is not possible at this time to assess the degree to which traffic would worsen, and the extent and location of mitigation actions necessary to reduce traffic levels without speculation.

Impact C-BIO-5. The project would not contribute considerably to the loss of habitats of special-status fish species, but could result in unavoidable loss of individual special-status fish species due to pile driving. (cumulative impact)

Findings: BATA hereby makes Findings (a)(2) and (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: See the discussion under Impact BIO-5, above.

Impact C-GHG-1. The project, in combination with reasonably foreseeable actions in the project vicinity, will generate GHG emissions, either directly or indirectly that will have a significant impact on the environment. (cumulative impact)

Findings: BATA hereby makes Findings (a)(2) and (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: See the discussion under Impact GHG-1, above.

Impact C-NOI-1. The project, in combination with reasonably foreseeable actions in the project vicinity, would cause a substantial permanent increase in ambient noise or vibration levels in the project vicinity above levels existing without the project. (cumulative impact)

Findings: BATA hereby makes Finding (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Traffic on roadways in the project area is expected to increase from existing conditions primarily as the result of other development in the area. Traffic for the worst-case scenario (cumulative Saturday conditions) is expected to increase by up to a factor of five for the roadway that will be affected most. This corresponds to an increase of about 7 decibels (dB). At the two most affected intersections (Mandela Parkway and 20th Street; West Grand Avenue and Campbell Street), the project would cause traffic to increase by 57% and 42%, respectively, which correspond to project-related noise increases of about 2 dB and 1.5 dB respectively.

Combined with cumulative traffic increases from all other development, traffic at these intersections is expected to more than double, resulting in a potentially noticeable change in

traffic noise. Because residences, Memorial Park, and Raimondi Park are near the Mandela Parkway and 20th Street intersection and the West Grand Avenue and Campbell Street intersection, there could be a significant increase in cumulative traffic noise at these land uses.

A project-related increase of more than 1 dB is considered a cumulatively considerable contribution to a significant cumulative impact. Because the project is predicted to increase cumulative traffic noise by more than 1 dB, the project's contribution to cumulative noise impacts would be cumulatively considerable.

No feasible mitigation is available that would reduce the contribution. While installing noise walls adjacent to the affected intersections could reduce the contribution, sound walls would adversely affect the aesthetics of adjoining residences and parks and are not feasible mitigation.

Impact C-TRA-1. The project, in combination with other foreseeable projects in the project vicinity, would result in increased vehicular, pedestrian, and bicycle traffic that could affect the performance of the circulation system during special events. (cumulative impact)

Findings: BATA hereby makes Findings (a)(2) and (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: See the discussion under Impact TRA-1, above.

Impact C-TRA-2. The project, in combination with other foreseeable projects in the project vicinity, would conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards also established by the county congestion management agency for designated roads or highways. (cumulative impact)

Findings: BATA hereby makes Finding (a)(3) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: See the discussion under Impact TRA-2, above.

3.5.2 Findings Regarding Significant Impacts Mitigated to Less-than-Significant Levels

BATA has determined that, for the following impacts, mitigation measures included in the Final EIR and adopted as part of the Gateway Park Project's approval will mitigate the impacts of the project to a less-than-significant level.

Significant Impacts Mitigated to Less-than-Significant Levels Identified in the Final EIR

Impact AES-1. The project would cause changes to, but not substantially degrade visual character, visual quality, and scenic vistas.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Mitigation measure MM-AES-1 (Apply aesthetic treatments to fencing) will reduce this impact to a less-than-significant level by requiring the following design features for fencing.

New fencing shall be designed to blend with the surrounding built and natural environments so that the new features complement the visual landscape. Aesthetic considerations shall be balanced with cost, safety, maintenance, and durability. At a minimum, unless made of natural materials, any proposed fencing shall be powder coated and colored a shade that is two to three shades darker than the surrounding area such as a dark evergreen, black, or dark brown color. These darker colors allow fencing to recede into the visual landscape and provide for more transparent views through the fencing. Light or bright colors shall be avoided because they create more of a visual barrier, are less transparent, and increase glare. Colors may be chosen from the U.S. Department of the Interior Bureau of Land Management Standard Environmental Colors Chart CC-001: June 2008. Because color selection will vary by location, the facility designer may employ the use of color panels evaluated from key observation points during common lighting conditions (front light versus backlighting) to aid in the appropriate color selection. Color selection shall be made for the coloring of the most prevalent season. Panels shall be a minimum of 3 feet-by-2 feet in dimension and evaluated from various distances within 1,000 feet to ensure the best possible color selection. Paints used from the color panels and structures shall be color matched directly from the physical color chart, rather than from any digital or color-reproduced versions of the color chart. Appropriate paint type shall be selected for the finished structures to ensure long-term durability of the painted surfaces and environmental safety. The appropriate operating agency or organization shall maintain the paint color over time. Fencing shall be managed and maintained for a well-kept appearance by abating vandalism, graffiti, or damage semiannually. The fence shall be limited to no more than 4 feet at Radio Beach and shall not use chain or mesh style fencing in order to reduce the potential for any interference with kiteboarding activities. The style for the fence has not been determined, but could be a wooden beam and post style fence similar to what is commonly used by EBRPD at many of their park units. The project sponsor will coordinate with current site users, including kiteboarders and SFBCDC, during fencing design to take site user input into final design.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group

agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact AQ-2. The project would generate emissions of ozone precursors (NO_x) in excess of BAAQMD thresholds during construction or during routine operations (construction: less than significant with mitigation, operations: less than significant).

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The following mitigation measures will be applied to reduce this construction impact. Note that there is no significant impact identified in conjunction with project operations.

MM-AQ-1 (Implement BAAQMD basic control measures to control construction-related dust emissions) will require the project's construction contractor to implement the following BAAQMD-recommended control measures (in accordance with BAAQMD's current air quality guidelines (2017)) to reduce particulate matter emissions from construction activities.

- Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) twice daily.
- Cover all haul trucks transporting soil, sand, or other loose material off site.
- Remove all visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Limit vehicle speeds on unpaved roads to 15 miles per hour.
- Complete paving of all roadways, driveways, and sidewalks as soon as possible. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Post a publicly visible sign with the telephone number and person to contact at the implementing agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The air district's phone number will also be visible to ensure compliance with applicable regulations.

MM-AQ-2 (Implement BAAQMD basic control measures to reduce construction-related exhaust emissions) will require the project's construction contractor to implement the following measures to reduce exhaust emissions (NO_x and PM₁₀) from construction equipment as proposed in the BAAQMD air quality guidelines (2017).

- Minimize idling times either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure—13 California Code of Regulations [CCR] 2485). Clear signage will be provided for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. All equipment will be checked by a certified visible emissions evaluator.

MM-AQ-3 (Implement BAAQMD additional control measures to control construction-related dust emissions) will require the project's construction contractor to implement the following additional BAAQMD control measures to reduce particulate matter emissions from construction activities.

- Water all exposed surfaces at a frequency adequate to maintain minimum soil moisture at 12%. Moisture content can be verified by lab samples or moisture probe.
- Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 miles per hour.
- Install windbreaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Windbreaks shall have at maximum 50% air porosity.
- Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and water appropriately until vegetation is established.
- Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time. Phase activities to reduce the amount of disturbed surfaces at any one time.
- Wash all trucks and equipment, including tires, prior to leaving the site.
- Treat site accesses to a distance of 100 feet from the paved road with a 6- to 12-inch compacted layer of wood chips, mulch, or gravel.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1%.

MM-AQ-4 (Implement BAAQMD additional control measures to reduce construction-related exhaust emissions) will require the project's construction contractor to implement the following additional measures to reduce exhaust emissions (ROG, NO_x, and PM₁₀) from construction equipment as well as architectural coating off gassing, as proposed in the BAAQMD air quality guidelines (2017).

- Minimize the idling time of diesel-powered construction equipment to 2 minutes.
- Develop a plan that demonstrates that off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) will achieve a project-wide fleet-average 20% NO_x reduction and 45% particulate matter reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late-model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices (such as particulate filters), and/or other options as such become available.
- Use low-volatile organic compound (i.e., ROG) coatings that exceed local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
- Require all construction equipment, diesel trucks, and generators to be equipped with best available control technology for emission reductions of ROG, NO_x, and PM.
- Require all contractors use equipment that meets ARB's most recent certification standard for off-road heavy-duty diesel engines.

MM-AQ-5 (Reduce construction emissions to ensure both construction-only and combined construction and operational emissions are below BAAQMD NO_x thresholds) will require the project's implementer to ensure construction-only emissions and combined construction- and operations-related emissions do not exceed BAAQMD's NO_x threshold of 54 pounds per day with the following action.

- Require the usage of EPA-rated Tier 3 or higher rated construction equipment. In general, the following NO_x reductions can be achieved when replacing Tier 2 equipment (fleet average) with higher rated engine tiers:
 - Tier 3: 38% NO_x reduction
 - Tier 4 interim: 68% NO_x reduction
 - Tier 4 final: 94% NO_x reduction

If the engine tier measures described above do not reduce construction-only or combined construction- and operations- related emissions to less than the threshold level, the project implementer shall coordinate with BAAQMD to purchase NO_x credits at the current rate of \$32,974.64 per ton, plus a 5% administrative fee. This measure will offset remaining NO_x construction emissions to ensure construction-only and combined construction- and operations- related NO_x emissions do not exceed BAAQMD thresholds.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project.

Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact AQ-3. The project would not generate overlapping project construction and operations emissions of ozone precursors (ROG and NO_x) in excess of BAAQMD thresholds.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The following mitigation measures will be applied to reduce this impact.

Mitigation measures MM-AQ-1 through MM-AQ-5, as described above, will be implemented. Additionally, MM-AQ-6. (Use low-VOC coatings during construction) will require the project implementer to require all construction contractors to use low-volatile organic compound (VOC) coatings that have a VOC content of 10 grams per liter or less during construction. The project implementer shall submit evidence of the use of low-VOC coatings to BAAQMD prior to the start of construction.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact AQ-4. The project would not expose sensitive receptors to substantial pollution concentrations during construction.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Mitigation measures MM-AQ-2 and MM-AQ-4, described above, will be implemented to avoid significant impacts from diesel particulate matter emissions. Therefore, construction of the project is not expected to exceed the BAAQMD risk thresholds or expose sensitive populations to substantial pollutant concentrations. Mitigation measures MM-AQ-1 and MM-AQ-3, described above, will employ the best available dust mitigation measures to reduce and control dust emissions. Therefore, construction of the project would have no potential to result in asbestos exposure.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project.

Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-1. The project would not have a substantial adverse effect on habitats and sensitive natural communities as a result of construction and ongoing operations.

Findings: BATA hereby makes Findings(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Numerous mitigation measures will be required of the project in order to minimize its impacts on habitats and sensitive natural communities.

Implementation of mitigation measures MM-BIO-1 through MM-BIO-4 would prevent construction-related indirect effects on the tidal marsh areas during construction. These measures specifically require the following.

MM-BIO-1 (Install construction barrier fencing around sensitive natural communities in and adjacent to the construction area to protect sensitive biological resources to be avoided). The project implementer or construction contractor shall install construction barrier fencing (including sediment fencing) to prevent contaminants and debris from entering the northern coastal salt marsh, and other biologically sensitive areas in and adjacent to the project area. Before construction begins, the project implementer shall retain a qualified biologist or resource specialist to work with the project engineer or construction contractor to identify the locations for the barrier fencing and shall mark those locations with stakes or flagging. The protected area shall be clearly identified as an environmentally sensitive area on the construction specifications. The fencing shall be in place before construction activities are initiated. The fence is primarily a visual deterrent and will not interfere with kiteboarding activities. The fencing shall be maintained by the project implementer or construction contractor throughout the duration of the construction period. If the fencing is removed, damaged, or otherwise compromised during the construction period, construction activities shall cease until the fencing is replaced. In addition, the project implementer or construction contractor shall install ecological interpretation signage at locations identified by the biologist or resource specialist to discourage people from encroaching onto sensitive habitats.

MM-BIO-2 (Prepare environmental awareness program and conduct environmental awareness training for construction employees). Prior to construction, the project implementer shall retain a qualified biologist or resource specialist to develop an environmental awareness program and conduct environmental awareness training for construction employees. The program shall explain the importance of onsite biological resources, including sensitive natural communities, any protected trees to be retained, special-status plant populations, and special-status wildlife habitats. The program shall

address how to best avoid take of federally and/or state-listed species. The program shall include invasive plant identification and the importance of controlling and preventing the spread of invasive plant infestations.

The environmental awareness program shall be provided to all construction personnel to inform them on the life history of special-status species in or adjacent to the project area, the need to avoid impacts on sensitive biological resources, any terms and conditions required by state and federal agencies, and the penalties for not complying with biological mitigation requirements. If new construction personnel are added to the project, the contractor's superintendent shall ensure that the personnel receive the mandatory training before starting work. An environmental awareness handout that describes and illustrates sensitive resources to be avoided during project construction and identifies all relevant permit conditions shall be provided to each person.

MM-BIO-3 (Retain a biological monitor to conduct construction monitoring in and adjacent to all environmentally sensitive areas). The project implementer shall retain a qualified biologist to conduct construction monitoring in and adjacent to all identified environmentally sensitive areas. The frequency of monitoring shall be determined by the biological monitor, ranging from daily to weekly, depending on the biological resource and the construction activities. Construction monitoring duties shall include the following actions:

- Inspect the staked and flagged perimeters of the construction area and staging areas adjacent to identified environmentally sensitive areas, and notify the construction contractor of any corrections needed.
- Inspect the construction barrier fencing (including sediment fencing) and notify the construction contractor of any necessary maintenance or repairs.
- Inspect trees and crevices for the presence of roosting bats and, if found, coordinate with CDFW to determine best exclusion practices. Implement exclusion measures and confirm bat absence prior to removal of structure or tree supporting the bat roost.
- Assist the construction crew as needed to comply with all project implementation restrictions and guidelines.

MM-BIO-4 (Protect water quality and prevent erosion and sedimentation in drainages, waterways, and wetlands). A stormwater pollution prevention plan shall be implemented as part of the NPDES General Construction Activity Storm Water Permit to minimize the potential for sediments or contaminants to be discharged into San Francisco Bay and the potential for adverse impacts on listed species, critical habitat, and EFH. A toxic materials control and spill response plan shall be implemented to regulate the use of petroleum-based products (fuel and lubricants) and other potentially toxic materials associated with project construction.

The project implementer shall review and approve the contractors' toxic materials spill prevention control and countermeasure plan before allowing construction to begin. The project implementer shall routinely inspect the construction site to verify that best management practices specified in the plan are properly implemented and maintained. The project implementer shall notify the contractor immediately if there is a noncompliance issue and shall require compliance. The project implementer also shall obtain a 401 Water Quality Certification from the San Francisco Bay RWQCB, which may contain additional best management practices and water quality measures to ensure the protection of water quality.

Mitigation measure MM-BIO-5 (Compensate for loss of tidal salt marsh habitat) requires compensation for the loss of tidal wetlands, resulting in no net loss of tidal wetlands. Compensatory restoration will maintain the same amount and quality (or possibly better quality) of tidal salt marsh habitat following construction and offset permanent and temporary impacts from construction. Specifically, this measure requires the project implementer to restore 2.2 acres of tidal wetlands in the Radio Beach area with the goal to extend the Emeryville Crescent marsh vegetation and upland coastal scrub vegetation in the disturbed areas of Radio Beach not proposed for the boardwalk and not consisting of sandy beach. The proposed onsite restoration shall include removal of nonnative invasive plants and planting of marsh species, including pickleweed and Pacific cordgrass. The minimum area of new marsh planting shall be 0.02 acres to provide at least a 2:1 replacement for the tidal marsh lost due to the installation of the new boardwalk. No offsite compensation is proposed for impacts to tidal marsh.

Mitigation measure MM-BIO-6 (Compensate for loss of seasonal wetland habitat) requires compensation for the loss of seasonal wetlands, resulting in no net loss of seasonal wetlands. Compensatory restoration will maintain the same amount and quality (or possibly better quality) of seasonal wetland habitat following construction and offset permanent and temporary impacts from construction. Specifically, it requires the project implementer to compensate for the loss of 0.01 acre of seasonal wetland by adding an additional 0.02-acre of tidal wetland restoration. To compensate for the loss of less than 0.01 acre of tidal wetland, a minimum of 0.02 acre of tidal wetland would be restored at Radio Beach. The additional 0.02 acre of proposed mitigation would bring the minimum total of tidal wetland restoration to 0.04 acre.

Construction would temporarily disturb the bay substrate, releasing sedimentation and increasing turbidity in the surrounding shallow bay (estuarine) habitat. Construction equipment could also release toxic substances such as oil, grease, and other petroleum products into the Bay. The implementation of mitigation measures MM-BIO-1 through MM-BIO-4, described above, will reduce this impact to a less-than-significant level. MM-BIO-1 fencing will limit unnecessary ground disturbance, reducing erosion and sedimentation in the project area, and sediment fencing will limit soil and toxic substances from entering the shallow bay habitat. Mitigation measures MM-BIO-2 through MM-BIO-4 will ensure that construction staff receive environmental training, that construction is monitored by a qualified biologist to ensure compliance with all mitigation measures, and

that a stormwater pollution prevention plan is implemented to prevent the release of toxic substances into shallow bay habitat.

Mitigation measure MM-BIO-7 (Compensate for loss of shallow bay habitat) will compensate for permanent fill and direct shading of shallow bay habitat, resulting in no net loss of shallow bay habitat. Specifically, this mitigation measure requires the project implementer to comply with the EPA wetland policy of No Net Loss by purchasing shallow bay (estuarine) mitigation credits from a USACE Approved Mitigation Bank for unavoidable permanent impacts on shallow bay (estuarine) waters of the United States. Compensation shall be provided on a minimum 1:1 ratio for impact of permanent fill. Based on present estimates, approximately 0.24 acre will require compensation. The project is within the service area for the San Francisco Bay Wetland Mitigation Bank, which is approved for mitigation of tidal wetlands and other waters.²

Impacts from shading could also be compensated through removal of existing piling/unused docks in the Bay at a minimum 1:1 ratio. Based on present estimates, approximately 0.37 acre of shade removal would be obtained. One approach could be to contribute funding to an ongoing project such as the California State Coastal Conservancy's San Francisco Bay Creosote Piling Removal and Pacific Herring Restoration Project, which would remove creosote-treated pilings and reestablish subtidal habitat through restoration methods to establish eelgrass and oyster beds and associated substrate. Other restoration projects that would remove overwater fill/shading could also be used.

Construction of the path to Radio Beach could affect a small area of eelgrass where the path alignment is over water. Mitigation measure MM-BIO-4, described above, would require the implementation of controls to prevent pollution and increased turbidity during construction, which would protect water quality and the eelgrass beds.

Once constructed, the path structure could shade eelgrass where the path is over water. With implementation of mitigation measure MM-BIO-8, described below, this impact would be less than significant.

MM-BIO-8 (Compensate for loss of eelgrass habitat). The project implementer shall provide compensation for the areal extent of eelgrass directly displaced by piles installed in eelgrass as well as the areal extent of eelgrass predicted to be shaded by the path. The project implementer shall contribute funding to eelgrass mitigation efforts on a per-acre basis, either directly to NMFS to be used for the same research and restoration purposes as the funding previously provided to NMFS as compensation for the Bay Bridge's eelgrass effects, or to the Coastal Conservancy's Creosote Piling Removal and Pacific Herring Restoration Project, which will also include eelgrass restoration.

² As of 2015, the cost for credits at this bank are \$95,000/0.1 acre with minimum increments of 0.05. Thus compensation would be either 0.30 acre or 0.35 acre. Based on the estimated cost per acre, the cost for bank credit could be \$285,000 to \$332,500. Credits may not be available in future years depending on purchases from other parties.

There are approximately 1.1 acres of northern foredunes on the shoreline of the project area at Radio Beach, north of I-80. Construction of the path to Radio Beach (Segment 5, 410-foot-long boardwalk) north of I-80 would result in a temporary impact on 0.04 acre of northern foredunes. The implementation of mitigation measures MM-BIO-1 through MM-BIO-3, described above, would make this impact less than significant. These mitigation measures will prohibit access to northern foredunes habitat outside of the construction impact area and ensure, through staff environmental training and biological monitoring, that impacts to northern foredunes habitat in the project area is avoided to the maximum extent possible.

No nesting habitat for shorebirds is present at any of the beach areas on the project site. A potentially significant impact would occur if any areas of sandy beach outside of the construction impact were affected. With implementation of mitigation measures MM-BIO-1 through MM-BIO-3, described above, the impact would be less than significant. These mitigation measures will prohibit access to sandy beach habitat outside of the construction impact area and ensure, through staff environmental training and biological monitoring, that impacts to sandy beach habitat in the project area is avoided to the maximum extent possible.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-2. The project would not have a substantial adverse effect on special-status plant species as a result of construction and ongoing operations.

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: If populations of beach layia, blue coast gilia, and California seablite occur where construction is taking place, they could be trampled by heavy equipment and the construction crew. Implementation of mitigation measures MM-BIO-1 through MM-BIO-3, described above, and MM-BIO-9 will avoid potential impacts. Mitigation measures MM-BIO-1 through MM-BIO-3 will prohibit access to potentially suitable special-status plant habitat (i.e. tidal salt marsh and seasonal wetland habitat) outside of the construction impact area, and ensure, through staff environmental training, biological monitoring, and implementation of a stormwater pollution prevention plan, that impacts to these habitats in the project area are avoided to the maximum extent possible. MM-BIO-9 (Prior to construction of Phase 3 of park development, conduct plant surveys for beach layia, blue coast gilia, and California seablite between June 1 and September 1) will identify the locations, if present, of special-status plant species in the project area and determine the appropriate mitigation prior to Phase 3 of park development.

More specifically, MM-BIO-9 will require that prior to construction of Phase 3 of park development, the project implementer shall retain a qualified biologist to conduct plant surveys for three special status plant species - beach layia, blue coast gilia, and California seablite - between June 1 and September 1 (during the blooming period (between June 1 and September 1). If any of these species are detected during surveys, the project implementer shall consult with USFWS and CDFW to determine the appropriate compensatory mitigation to reduce potential impacts that could result from construction of the project. If special-status plant species are identified during construction, the monitor shall coordinate with the contractor to implement appropriate protective measures such as installing additional fencing to avoid impacts to them.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-3. The project would not have a substantial adverse effect on special-status wildlife species as a result of construction and ongoing operation.

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Mitigation measures MM-BIO-1 through MM-BIO-3, described above, will reduce impacts on Ridgway's rail, California clapper rail, and salt marsh harvest mouse by avoiding impacts to suitable habitat outside of the construction impact area and ensure, through staff environmental training and biological monitoring, that impacts to these species' and their habitat in the project area is avoided to the maximum extent possible.

Mitigation measures MM-BIO-10 will require the removal of tidal marsh vegetation from the project area to eliminate any attractive habitat for Ridgway's rail, California clapper rail and salt marsh harvest mouse and to confirm that these species are not present in the work area before construction begins. MM-BIO-11 and MM- BIO-12 will require the identification and avoidance of nesting pairs of Ridgway's rail and California clapper rail through surveys, work window restrictions (i.e. construction outside of the nesting season) and nest buffers. More specifically, these measures require the following.

MM-BIO-10 (Remove all vegetation by hand and install construction barrier fencing around sensitive natural communities in and adjacent to the construction area for the new path in the Radio Beach area) will require that before construction activities begin on the new path in the Radio Beach area, the project implementer shall remove all vegetation by hand in the tidal salt marsh area identified by a qualified biologist or resource specialist,

including areas that shall be used for construction access. Vegetation clearing shall be performed methodically from San Francisco Bay toward the upland area. Once vegetation within the exclusion zone areas is cleared and the areas are graded, exclusion fencing shall be installed around these areas to prevent potential reentry of protected wildlife (the salt marsh harvest mouse, Ridgway's rail, California black rail) into these areas. The exclusion fencing shall be a minimum of 2 feet tall with the bottom 4 inches of the fence buried. A USFWS-approved biologist shall monitor the vegetation removal activities to ensure that no adjoining habitat is disturbed and monitor the installation of exclusion fencing.

MM-BIO-11 (Conduct protocol-level surveys for Ridgway's rail and California black rail in the adjacent tidal marsh to determine presence or absence of this species) requires that a USFWS-approved biologist conduct protocol-level surveys for Ridgway's rail and California black rail in the 700-foot impact area in the adjacent tidal marsh habitat to determine presence or absence of these species. Surveys shall be conducted during the rail-breeding season (January 15 to September 1) in accordance with the USFWS and CDFW protocols. Survey results shall be valid for 1 year. If rails are detected during surveys, results shall be submitted to USFWS and CDFW to coordinate the appropriate environmental commitments (e.g., seasonal closures of Radio Beach). Construction activities shall not occur until the qualified biologist or resource monitor confirms all required measures are implemented.

MM-BIO-12 (Establish 700-foot construction buffer around occupied, suitable Ridgway's rail and California black rail habitat in the Emeryville Crescent if construction occurs during the rail breeding season (January 15 to September 1)) provides that if rails are detected during protocol-level surveys and construction in the Radio Beach area is scheduled to occur during the rail breeding season, the USFWS-approved biologist, in coordination with USFWS and CDFW, shall identify the location where environmentally sensitive exclusion fencing shall be installed to establish a 700-foot construction buffer around Ridgway's rail and California black rail detections. The biological monitor shall work with the contractor to ensure the construction fencing demarking where no construction activities can occur is at least 700 feet from occupied, suitable rail habitat.

Mitigation measures MM-BIO-13 through MM-BIO-17 will minimize indirect disturbances that may result from the project, such as lighting, ingress, predator perches and domestic dogs, which can cause mortality or injury of these species and cause nest and young abandonment during the breeding season. More specifically, these measures require the following.

MM-BIO-13 (Install fencing around tidal marsh habitat east of the project area) will require the project implementer to install protective fencing, of a design approved by USFWS and CDFW, around the offsite tidal marsh habitat east of Radio Beach to prevent all ingress. The fence shall extend from the access road underpass under I-80 westward to

Radio Beach on the north side of the road and then placed on the east side of the road leading to the radio antennae.

MM-BIO-14 (Manage the onsite northern foredune and tidal marsh habitat as a buffer between Radio Beach and offsite tidal marsh habitat) will require the project implementer to install a wooden beam and rail fence around the onsite northern foredune and tidal marsh habitat and restoration area at Radio Beach to discourage encroachment into these habitats. The fence shall be limited to no more than 4 feet at Radio Beach and shall not use chain or mesh style fencing in order to reduce the potential for any interference with kiteboarding activities. The style for the fence has not been determined, but could be a wooden beam and post style fence similar to what is commonly used by EBRPD at many of their park units. The project implementer will coordinate with current site users, including kiteboarders and SFBCDC, during fencing design to take site user input into final design.

The northern foredune and tidal marsh areas at Radio Beach shall be restored and the habitat protected. Signage prohibiting entry (except on established boardwalks or trails) and environmental education shall be provided at Radio Beach to inform the public of the environmental sensitivity of the sandy beach area (for shorebirds), the restoration area, and the adjacent offsite tidal marsh habitat.

MM-BIO-15 (Close Radio Beach to entry at night) will require the project implementer to install a locked gate east of Radio Beach and east of the access road to the radio towers that shall allow Radio Beach to be closed to public entry at night in order to avoid disturbance to wildlife using the site and wildlife using the adjacent tidal marsh habitat. The path to Radio Beach from Key Point shall also be closed at night. The project implementer shall coordinate with the Port of Oakland and the lessees of the radio towers to ensure access is maintained for these entities.

MM-BIO-16 (Prohibit dogs in Radio Beach area) mandates that the project implementer shall not allow dogs on the path from Key Point leading to Radio Beach just to the point where the riprap ends (i.e., just west of “little” Radio Beach). Dogs shall be prohibited from using the entire Radio Beach area.

MM-BIO-17 (Prohibit installation of lighting, trees, or other structures potentially suitable for raptor perching on the north side of I-80 within designated park areas) provides that the project implementer shall not allow elevated structures, such as lighting poles, or trees that can be used as raptor perches to be installed in Gateway Park north of I-80. This measure does not apply to fencing or rails along the path to Radio Beach or as part of onsite boardwalks or required roadway signage. This measure does not apply to the areas currently used for radio towers. If elevated structures necessary to the park function and purpose, such as an environment kiosk, are determined necessary for habitat protection, then raptor perch deterrent measure (e.g., spikes) shall be placed on project components exceeding 3 feet tall adjacent to marsh habitat.

Increased recreational activity in the Radio Beach area could disrupt the Ridgeway's and California clapper rails foraging and nesting in adjacent tidal marsh areas. Predation could increase if project elements adjacent to marshes serve as raptor perches and if trash near the tidal marsh attracts predators such as raccoons and foxes. Implementation of mitigation measures MM-BIO-1 through MM-BIO-3 and MM-BIO-10 through MM-BIO-17, described above, would avoid a significant impact.

The permanent loss of foraging habitat due to fill or shading or the loss of eelgrass habitat would be a significant impact on California least tern. With the implementation of mitigation measures MM-BIO-7 and MM-BIO-8, described above, this impact would be less than significant. These mitigation measures require the replacement of shallow bay habitat and eelgrass beds that are removed as a result of the project, which will guarantee that the same amount of pre-project foraging habitat is available to the California least tern in the San Francisco Bay following project implementation.

A potentially significant impact to western snowy plover could occur if any areas of suitable habitat outside of the construction impact area were affected. With incorporation of environmental commitments MM-BIO-1 through MM-BIO-3, and MM-BIO-13 through MM-BIO-17, described above, this impact would be less than significant. MM-BIO-1 through MM-BIO-3 will prohibit access to sandy beach and northern foredunes habitat outside of the construction impact area and ensure, through staff environmental training and biological monitoring, that impacts to western snowy plover and its habitat are avoided to the maximum extent possible. In a similar way, MM-BIO-13 through MM-BIO-17 will reduce stressors on foraging western snowy plovers with fencing, signage, barring ingress and domestic dogs, and prohibiting installation of predator perches. Thus, all of these mitigation measures will reduce direct and indirect impacts of western snowy plover in the project area.

Increased recreational use of Radio Beach during operation of Gateway Park could disrupt western snowy plover foraging activity at the sandy beach, which could be a potentially significant impact. With implementation of mitigation measures MM-BIO-1 through MM-BIO-3, and MM-BIO-13 through MM-BIO-17, described above, this impact would be less than significant. Similar to construction, these mitigation measures will reduce stressors on western snowy plover, including recreational uses through condition such as fencing, signage, monitoring, and restrictions on locations and types of recreational activities.

Increased human activity during construction could affect Alameda song sparrow and saltmarsh common yellowthroat foraging and nesting behavior in offsite areas, resulting in a potentially significant impact. With implementation of mitigation measures MM-BIO-1 through MM-BIO-3, described above, this impact on Alameda song sparrow and saltmarsh common yellowthroat would be less than significant. These mitigation measures will reduce impacts on northern harrier, Alameda song sparrow, and saltmarsh common yellowthroat by avoiding impacts to suitable habitat outside of the construction impact area and by ensuring, through staff environmental training and biological monitoring, that impacts to these species' and their habitat in the project area is avoided to the maximum extent possible.

Increased recreational use of Radio Beach could disrupt foraging and nesting behavior of Alameda song sparrow and saltmarsh yellowthroat. Additionally, increased trash in the area could attract predators. With implementation of mitigation measures MM-BIO-1 through MM-BIO-3 and MM-BIO-13 through MM-BIO-17, described above, this impact on these species would be less than significant. MM-BIO-1 through MM-BIO-3 will prohibit access to tidal saltmarsh habitat outside of the construction impact area and ensure, through staff environmental training and biological monitoring, that impacts to these species and their habitats are avoided to the maximum extent possible. In a similar way, MM-BIO-13 through MM-BIO-17 will reduce stressors on foraging for these species with fencing, signage, barring ingress and domestic dogs, and prohibiting installation of predator perches.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-4. The project would not have a substantial adverse effect on migratory and non-migratory birds as a result of construction and ongoing operations.

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Construction of the project could disturb nesting and foraging activities. Construction activities could disturb several potential nesting areas, including the northern foredunes and tidal salt marsh areas at Radio Beach and the ruderal areas south of I-80. Migratory and nonmigratory birds may nest in construction areas and forage in both terrestrial and marine areas of the project area. If construction activities commence during the nesting season, the impact would be potentially significant. With implementation of mitigation measures MM-BIO-18 and MM-BIO-19, this impact would be less than significant. These mitigation measures will limit the work window for construction to the period outside of the migratory bird nesting season so that nesting birds are not killed or injured as a result of construction activities and active bird nests in the project area are not abandoned due to construction noise or activity. If discontinuing construction during the migratory bird-nesting period is not possible, a pre-construction survey for nesting birds will be performed. If any active bird nests are identified, construction will be buffered (i.e. limited for a certain distance from the nest), in order to reduce impacts from construction on the nesting birds. More specifically, these measures require the following.

MM-BIO-18 (Avoid construction during the migratory bird-nesting season (January 31 through September 15) or conduct preconstruction surveys for nesting birds) requires that the project implementer shall ensure construction activities occur September 16 to January 30 to avoid construction during the nesting season (generally, February 1 through

September 15 for most birds). Vegetation removal in particular shall occur between October 1 and January 30. Beginning construction prior to the nesting season shall establish a level of noise disturbance that shall dissuade noise-sensitive raptors and other birds from attempting to nest within or near the study area.

If construction activities (including vegetation removal) cannot be avoided during the nesting season, the project implementer shall retain a qualified wildlife biologist with knowledge of the relevant species to conduct nesting surveys before the start of construction. Surveys shall be conducted for migratory birds, including raptors. Surveys shall include a search of all trees, shrubs, and tidal salt marsh areas that provide suitable nesting habitat in the project area. In addition, a 500-foot buffer around the project area shall be surveyed for nesting raptors. Surveys should occur during the height of the nesting season (March 1 to June 1) with one survey occurring in each of 2 consecutive months within this peak period and the final survey occurring within 1 week of the start of construction. If no active nests are detected during these surveys, no additional measures are required. The biological monitor shall check structures in the project area daily for caches of dead prey left by barn owls, remove any such caches, and block access to cache locations with exclusion measures.

MM-BIO-19 (Install a no-disturbance buffer around detected active nests) requires that if an active nest is found during the preconstruction surveys, the biological monitor shall coordinate with the contractor to establish a no-disturbance buffer around the site. This buffer shall be maintained until the end of the breeding season (September 15 or until after a qualified wildlife biologist determines that the young have fledged and moved out of the project area). The extent of these buffers shall be determined by the biologist in coordination with USFWS and CDFW and shall depend on the level of noise or construction disturbance, line-of-sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species.

Although shorebirds such as sandpipers, willets, and long-billed curlews are expected to continue to forage on the beach regardless of an increase in human activity, increased human presence and recreational activity could disrupt foraging at the sandy beach areas. Foraging by white-tailed kites, snowy plovers, and California least terns could diminish because of increased human activity. With implementation of mitigation measures MM-BIO-1 through MM-BIO-3 and MM-BIO-13 through MM-BIO-17, described above, this impact on migratory and nonmigratory birds would be less than significant. MM-BIO-1 through MM-BIO-3 will reduce impacts on migratory and nonmigratory birds by avoiding impacts to suitable habitat outside of the construction impact area and ensure, through staff environmental training and biological monitoring, that impacts to these species and their habitat in the project area is avoided to the maximum extent possible. MM-BIO-13 through MM-BIO-17 will minimize disturbances that may result from operation of project, such as increased recreation in the park, new predator perches, and lighting, which can cause

mortality or injury of these species and cause nest and young abandonment during the breeding season.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-5. The project would have a less than significant adverse effect on special-status fish species from construction effects on water quality and as a result of ongoing operations.

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Construction activities could deliver sediment and contaminants to marine waters in the study area. Both sediment and contaminants could affect special-status fish species and their habitat. Implementation of mitigation measure MM-BIO-4, described above, would protect water quality in the project area and would minimize impacts to less than significant levels by requiring implementation of stormwater pollution prevention and toxic materials control and spill response plans.

The project would result in the permanent loss of aquatic habitat area, including foraging and rearing habitat. Installation of shoreline protection for the EBMUD outfall, piles for the new pier, and piles for the path to Radio Beach would result in a net permanent habitat loss (up to 0.24 acre) as well as shading effects (up to 0.37 acre). Implementation of mitigation measure MM-BIO-7, described above, would ensure that there is no net loss of bay habitat and no net increase in shading, thereby avoiding a significant impact.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-6. The project would not have a substantial adverse effect on essential fish habitat as a result of construction and ongoing operations.

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Construction of the project would affect essential fish habitat for groundfish through short-term water quality degradation from localized increases in turbidity and suspended sediment and potential discharges of and exposure to contaminants in the project area during construction activities. Construction activities would modify habitat for Pacific salmon, groundfish species, and spawning coastal pelagic species as described above for special-status fish species. With implementation of mitigation measure MM-BIO-4, described above, which would protect water quality in the study area, this impact would be less than significant.

The addition of pilings for the pier and the pathway to Radio Beach would reduce the area for foraging. Additionally, shading from the new pier and the overwater pathway to Radio Beach would permanently change habitat in that area. Revetment walls, a concrete terrace wall, and riprap for the shoreline protection of the EBMUD outfall would also permanently change nearshore habitat. Implementation of mitigation measures MM-BIO-7 and MM-BIO-8, described above, would compensate for loss of shallow bay and eelgrass habitat, and this impact would be less than significant.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-7. The project would not have a substantial adverse effect on marine mammals as a result of construction and ongoing operations.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Although pile driving would exceed the behavioral thresholds for marine mammals, given the industrial nature of activity in the central Bay (port and waterfront industrial activity, marine mammals in the central Bay already experience elevated sound levels. Therefore, it is expected that any behavioral effects would be limited to areas in proximity to the construction site only (approximately 1,000 meters) if pile driving were to result in sound levels (160 dB) that would be substantially higher than the upper range of background sound levels (155 dB). Implementation of mitigation measures MM-BIO-20 through MM-BIO-22, would reduce construction impacts on marine mammals to a less than significant level. These measures will reduce indirect disturbances on marine mammals by limiting the noise from pile driving and will monitor the response of marine mammals in order to ensure the noise reduction measures are effective. Specifically, measures MM-BIO-21 and MM-BIO-22 provide the following.

MM-BIO-21 (Reduce pile-driving noise to protect marine mammals). The project implementer shall ensure the following noise reduction measures are implemented during construction activities involving pile driving.

- Comply with equipment noise standards of EPA and ensure that all construction equipment has noise control devices no less effective than those provided on the original equipment.
- Conduct regular briefings between construction supervisors and crews, marine mammal monitoring team, and acoustical monitoring team to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
- For all in-water permanent pile driving, establish marine mammal safety zones corresponding to the injury threshold contours around each of the pile-driving sites before pile driving commences.
- If marine mammals are visually sighted within the safety zone(s) prior to start of pile-driving, the resident engineer (or other authorized individual) shall delay pile driving of the segment until the marine mammals have moved beyond the safety zone. Verification may be conducted either through sighting by a qualified observer or by waiting until enough time has elapsed without a sighting (at least 15 minutes for pinnipeds and 30 minutes for cetaceans) to assume the animal has moved beyond the safety zone.
- If marine mammals are sighted within the safety zone after pile driving has begun, a qualified marine mammal observer shall record the species, numbers, and behaviors of the animals and report to NMFS within 48 hours of the sighting.

The contractors shall "soft-start" impact and vibratory pile driving operations.

MM-BIO-22 (Monitor and report marine mammal sightings before, during, and after pile driving). The project implementer shall ensure the following monitoring and reporting measures are implemented.

- For all in-water permanent pile-driving one three-person observer team must visually monitor each pile-driving site. When multiple sites are in operation, more than one observer team must be utilized from boats.
 - Pre-activity monitoring. At least 30 minutes prior to the start of all in-water permanent pile-driving segments, marine mammal monitors must conduct observations on the number, types, locations, and behaviors of marine mammals in the designated safety zones and buffer zones, as well as other areas near pile driving sites. If the time between pile-segment driving is less than 30 minutes, a new 30-minute survey is unnecessary provided marine mammal monitors continue observations during the

interruption. If pile driving ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zones prior to the commencement of pile-driving, the observer must notify the resident engineer (or other authorized individual) immediately.

- Monitoring during activity. During all in-water permanent pile-driving, marine mammal monitors shall conduct and record observations on marine mammals near the pile-driving sites and pay particular attention to designated safety zones.
 - Post-activity monitoring. For a minimum of 30 minutes after in-water permanent pile-driving stops, marine mammal monitors shall conduct observations of the project area and record information on the number, types, locations, and behavior of marine mammals and pay attention to designated safety zones.
 - Monitoring on Yerba Buena Island haul-out. The holder of this authorization shall coordinate with the Richmond Bridge harbor seal survey team to collect observational data from Yerba Buena Island during in-water pile-driving activity.
 - Monitoring under low light condition. In late afternoon and/or early evening when light condition is low, marine mammal monitors shall use infrared scopes to conduct observation of the project area.
 - Data on all observations shall include the following information: date and time that pile driving or removal starts and ends; location of sighting; species; number of individuals; number of calves present; duration of sighting; behavior of marine animals sighted; direction of travel; distance from pile driving/removal; environmental information associated with sighting event including Beaufort sea state, wave height, tide state, water currents, wind direction, visibility, glare, percentage of glare, percentage of cloud cover; when in relation to pile driving or removal activities the sighting occurred (before, "soft-start", during, or after the pile driving or removal); and other human activity in the area.
- The project implementer shall provide a monthly status report to NMFS on the appropriate reporting items, unless other arrangements for monitoring reports are agreed to in writing. A report on all activities must be submitted to NMFS within 90 days after completion of the activities. This report must provide the dates and types of activities and the results of the visual monitoring program, including all items noted above.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group

agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-8. The project would not have a substantial adverse effect on bats as a result of construction and ongoing operations.

Findings: BATA hereby makes Finding(a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Construction and operations of the project could disturb roosting hoary bats (is a species of local importance based on its WBWG medium conservation priority status) in the project area (Western Bat Working Group 2016). With implementation of mitigation measures MM-BIO-1 through MM-BIO-3, as described above, this impact would be less than significant. These mitigation measures will reduce impacts on bats by: 1) protecting bat habitat outside of the construction impact area during construction, 2) providing environmental awareness training to construction staff about bats and their habitat so that they can recognize and avoid these bat species if they were to be present in a location where they were working, and 3) requiring that a biologist monitor all construction activities in bat habitat to avoid impacts on bats were any individuals present in the construction impact area.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this Project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact BIO-10. The project would not have a substantial adverse effect in relation to invasive plant species as a result of construction and ongoing operations.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Construction activities in the areas where invasive plant species occur could cause the seeds of the plants to disperse and spread throughout the project area. With implementation of mitigation measures MM-BIO-2 and MM-BIO-3, described above, and MM-BIO-23, this impact would be less than significant. These mitigation measures will ensure staff are appropriately trained to identify invasive plant species and that there is oversight (i.e. biological monitoring) to ensure that construction occurs in a manner that avoids the spread of invasive plants to the maximum extent possible. Mitigation measure MM-BIO-23 includes specific ways in which the project is required to reduce the introduction and spread of invasive plant species, such as identifying and

removing these plants in work areas, minimizing disturbances to invasive plant populations to avoid the dispersal of seeds on vehicles and in staff's boots, and installing native species where invasive plants have been removed. More specifically, it provides the following.

MM-BIO-23 (Implement measures to avoid the introduction and spread of invasive plants). The project implementer shall implement the following measures to ensure the project complies with Executive Order 13112: Prevention and Control of Invasive Species.

- Retain a qualified biologist to identify invasive plant species in the construction work area, remove all invasive plant material, and dispose of at a certified landfill.
- Minimize surface disturbance within the construction work area to the greatest extent possible.
- Seed all the disturbed areas with certified weed-free native mixes and mulch with certified weed-free mulch (rice straw may be used in upland areas).
- Use native, noninvasive species in erosion control plantings to stabilize site conditions and prevent invasive species from colonizing.

Recreational activities in most habitats at Gateway Park during operations could spread invasive plant species. If invasive plant species sprout in areas with public access such as walkways or around park benches, they could easily spread. With implementation of mitigation measure MM-BIO-24, this impact would be less than significant. This mitigation measure will require monitoring and removing invasive plant populations during park operations, thus reducing the impact of invasive plant species in the project area. More specifically, it provides the following.

MM-BIO-24 (Implement measures to avoid the spread of invasive plants). The project implementer shall implement the following measures to avoid the introduction and spread of invasive plants during project operation.

- Retain a qualified biologist to survey public access areas (around walkways, benches, buildings, trashcans, restrooms, etc.) for invasive plant species on an annual basis.
- If invasive plant species are identified, remove all invasive plant material and dispose of at a certified landfill. Annual surveys may cease when invasive plant species are not observed in public access areas for 3 consecutive years.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact CUL-1. Project construction activities would not cause a substantial adverse change in the significance of archaeological resources that are listed or eligible for listing in the NHRP or CRHR.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Previously undiscovered resources that may be eligible for listing in the CRHR could be encountered during demolition and construction. Prehistoric materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or tool-making debris; culturally darkened soil (midden) containing heat-affected rocks and artifacts; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered-stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. With the implementation of mitigation measure MM-CUL-1, this impact would be less than significant. More specifically, this measure provides the following.

MM-CUL-1 (Stop work if cultural resources are encountered during ground-disturbing activities). The project implementer shall ensure the construction specifications include a stop work order if prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities. All work within 100 feet of the find shall be stopped until a qualified archaeologist can assess the significance of the find. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative (if applicable), shall develop a treatment plan that could include site avoidance, capping, or data recovery.

If a find is determined to be potentially significant, necessitating the development of an Archaeological Research Design and Treatment Plan (ARDTP), one shall be prepared by the archaeologist and submitted to the project implementer. Once approved, a data-recovery investigation and/or other treatment, consistent with the ARDTP, shall be conducted by the archaeologist. Components of the ARDTP may include geoarchaeological studies, Phase I identification, health and safety plan, treatment for unanticipated discoveries, data recovery, laboratory analysis protocols, treatment of human remains, archaeological monitoring, reporting, curation, public outreach, and interpretation.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact CUL-2. Project construction activities would have the potential to disturb human remains, including those interred outside of formal cemeteries.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Although no areas of prehistoric sensitivity were identified within the archaeological study area either through the background records search, Native American consultation, or during the project site survey, the potential exists for previously undiscovered human remains to be encountered during project demolition or construction. Buried deposits may be eligible for listing in the CRHR. With implementation of mitigation measure MM-CUL-2, this impact would be reduced to a less-than-significant level. More specifically, this measure provides the following.

MM-CUL-2 (Stop work if human remains are encountered during ground-disturbing activities). The project implementer shall ensure the construction specifications include a stop work order if human remains are discovered during construction or demolition. There shall be no further excavation or disturbance of the site within a 50-foot radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Alameda County Coroner shall be notified, pursuant to section 5097.98 of the California Public Resources Code and section 7050.5 of the California Health and Safety Code, and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, which shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this state law, then the landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact CUL-3. The project would not cause a substantial adverse change in the significance of historical resources that are listed or eligible for listing in the NRHP/CRHR as a result of construction activities.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Based on preliminary design documents, the proposed changes to the Key Pier Substation and the Bay Bridge Oakland Substation would be inconsistent with the Secretary of Interior's Standards for the treatment of historic structures. With implementation of mitigation measure MM-CUL-3, this impact would be less than significant. More specifically, this measure provides the following.

MM-CUL-3 (Engage a qualified architectural historian to guide design alterations to conform to the Secretary of the Interior's Standards for rehabilitation). During design development, the project implementer shall obtain a qualified architectural historian to review the design of the Key Pier Substation and the Bay Bridge Oakland Substation and provide design feedback to ensure that the design conforms to the Secretary of the Interior's Standards. The architectural historian shall make recommendations for the treatment of historic building materials, finishes, and all exterior and interior character-defining features. These recommendations shall be documented by the qualified architectural historian and included in a memorandum that further details the project's conformance with the Secretary of the Interior's Standards, including specific information on the treatment of all character-defining features. The final project design shall conform to the Secretary of the Interior's Standards before the project implementer obtains alteration permits.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact GEO-7. The project would not cause a substantial adverse change in the significance of paleontological resources.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Excavation for the purpose of ground improvement would likely not be to depths that would encounter the sensitive San Antonio Formation. For ground excavation separate from pile-driving, although the likelihood of encountering paleontological resources is very low, mitigation measure MM-GEO-1 is recommended to ensure that any inadvertent impact on any encountered resources would be less than significant. More specifically, this measure provides the following.

MM-GEO-1 (Establish and follow procedures in case of accidental discovery of a paleontological resource). Before the start of any drilling or pile-driving activities, the project implementer shall retain a qualified paleontologist, as defined by SVP, who is experienced in teaching generalists. The qualified paleontologist shall train all

construction personnel who are involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils that are likely to be seen during construction, and proper notification procedures should fossils be encountered. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who shall evaluate the significance.

If paleontological resources are discovered during earthmoving activities, the construction crew shall immediately cease work near the find and notify the project implementer. Construction work in the affected areas shall remain stopped or be diverted to allow recovery of fossil remains in a timely manner. The project implementer shall retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with SVP guidelines (Society for Vertebrate Paleontology 2010). The recovery plan may include a field survey, construction monitoring, sampling, data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations in the recovery plan that are determined by the project implementer to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. The project implementer shall be responsible for ensuring that the monitor's recommendations regarding treatment and reporting are implemented.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact GHG-2. The project would not conflict with an applicable plan, policy, or regulation adopted for reducing the emissions of GHGs.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The Bay Area 2017 Clean Air Plan identifies a total of 85 stationary source, mobile, transportation control, land use and local impacts, and energy and climate measures that make up the Clean Air Plan's control strategy for emissions, including GHGs. With implementation of mitigation measure MM-GHG-1 the project would be consistent with the Bay Area 2017 Clean Air Plan buildings, waste management, and water conservation control measures.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group

agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact HAZ-2. The project would not 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.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The U.S. Army is required to clean up known onshore contamination within the former Oakland Army Base prior to transferring the site to the East Bay Regional Parks District for recreational use. A Land Use Covenant would be recorded prior to transfer restricting use of the property to a recreational land use. Prior to property transfer, the project implementer should confirm whether remedial actions planned for the former Oakland Army Base have been completed. Mitigation measure MM-HAZ-1 requires the preparation of a limited Phase II Environmental Site Assessment (ESA) to ensure that onshore contamination within the former Oakland Army Base has been remediated to acceptable levels. The Phase II ESA would assess the level of potential contaminant impacts at identified recognized environmental conditions and, if needed, provide for managing these impacts through development of a site mitigation plan. More specifically, this measure provides the following.

MM-HAZ-1 (Prepare a limited Phase II Environmental Site Assessment for the terrestrial portions of the project within the boundary of the former Oakland Army Base and, if appropriate, a site mitigation plan). The project implementer shall complete a limited Phase II ESA to assess potential contaminant impacts within the terrestrial portions of the Gateway Park development within the boundary of the former Oakland Army Base (Phase 3). The Phase II ESA shall include a detailed review of historic chemical data available for the former Oakland Army Base as well as sampling and chemical analyses of soil at the Gateway Park development, particularly where soil handling activities are likely to occur. The Phase II ESA shall also consider whether groundwater and sediment sampling are appropriate. Samples shall be tested for some or all the contaminants of concern identified above, and results shall be compared to appropriate Environmental Screening Levels (ESLs) or other criteria with consideration of future park construction/maintenance worker and passive recreational users.

If the Phase II Environmental Site Assessment indicates that soil or groundwater samples have hazardous substances present, the project implementer shall engage a qualified person to develop a Site Mitigation Plan. The Site Mitigation Plan shall describe handling, management, and mitigation of the contamination. The Plan shall be submitted to Alameda County Department of Environmental Health for approval. The Plan shall be implemented prior to commencement of construction.

At present, the U.S. Army is not proposing to remediate contaminated sediments associated with the former Oakland Army Base. As a result, the park proposal does not include facilitation of swimming or wading in areas of potential contaminated sediment. Park patrons could be exposed to contaminated marine sediments if they were to swim or stand in the water adjacent to the Port Playground area. Mitigation Measure MM-HAZ-2 would minimize this risk to the extent feasible by installing warning signage that indicates that swimming and standing in the water is dangerous and prohibited. More specifically, it provides the following.

MM-HAZ-2 (Install warning signage that prohibits patrons from swimming or standing in the water on the south side of the park in the area of contaminated sediments). The project implementer shall install warning signage in the park indicating that swimming and standing in the water on the south side of the park is dangerous and prohibited due to the potential for exposure to contaminated marine sediments. The project implementer shall also include the same warnings on a page in the publicly accessible website.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact HAZ-4. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings:

During the construction period, temporary and intermittent transportation impacts may result from truck movements to and from the project area. The construction-related traffic may temporarily reduce capacities of roadways in the project vicinity because of the slower movements and larger turning radii of construction trucks compared to passenger vehicles, which could interfere with emergency response or evacuation. Incorporation of mitigation measure MM-TRA-1 would lessen impacts on roadway performance and safety and the project would have a less than significant impact on emergency response or evacuation.

Mitigation Measure TRA-1 will require the future implementer of the Project, with review and approval of the City of Oakland, to prepare a construction traffic management plan. This plan will:

- Provide a set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required,

lane closure procedures, signs, cones for drivers, and designated construction access routes.

- Identify haul routes for movement of construction vehicles that would minimize impacts on motor vehicle, bicycle, and pedestrian traffic, circulation, and safety and, specifically, to minimize impacts to the greatest extent possible on streets in the project area. Haul route approval shall be required from the appropriate agencies (e.g., City of Oakland).
- Provide for notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur.
- Maintain emergency service provider access throughout construction.
- Provide for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project implementer.

Project operation would add activity to an area with only one designated vehicular access point (Burma Road). If this roadway is blocked or obstructed, emergency vehicle access could be impaired during normal operations or during special events. With implementation of mitigation measure MM-TRA-6, this impact would be reduced to a less-than-significant level by the requirement for an emergency access plan.

More specifically, the measure provides as follows.

MM-TRA-6 (Provide emergency evacuation plan and additional emergency access to Gateway Park, including parking management during special events). The project implementer shall work with the Port of Oakland and the City of Oakland to provide a second emergency vehicle access to the Gateway Park, possibly through use of the Bay Trail, or provide an emergency service program and emergency evacuation plan using waterborne vessels. The project implementer shall coordinate with the City of Oakland to implement this measure.

The project implementer shall develop and implement an Emergency Evacuation Plan for Gateway Park that identifies all potential points of access and egress, public communication strategy, emergency procedures and notifications, and an implementing strategy. The plan shall include requirements for training of park staff. The performance standard for the plan is that it provide for the safe access of emergency vehicles to the park at all times and the safe evacuation by vehicle, foot or bicycle of park visitors in the case of an emergency at all times.

For special events, the project implementer shall require the event proponent to prepare a Special Event Emergency Evacuation Plan for any large (> 250 persons) special event planned to be held at the park containing the same information as the park plan, but addressing the specific event parameters. The performance standard for the plan is that it

provide for the safe access of emergency vehicles to the park at all times during the event and the safe evacuation by vehicle, foot or bicycle of all event attendees in the case of an emergency during the event.

The project implementer shall also require the event proponent to prepare and implement a parking management plan that identifies strategies to reduce and manage the parking demand during special events. The following strategies could be considered.

- Work with AC Transit to provide fixed-route and special event transit service to the site.
- Provide shuttles from the MacArthur and/or West Oakland BART stations during the event.
- Implement variable event parking pricing.
- Use changeable message signs to direct visitors to other available parking areas, such as at the Middle Harbor Shoreline Park, and shuttle visitors to the park.
- Provide valet parking during special events to maximize capacity of on-site lots.
- Implement parking time limits in the park to encourage vehicle turnover.
- Provide bicycle parking to encourage park guests to use bicycling as their primary mode of travel to the park.
- The performance standard of this measure is the avoidance of lengthy vehicle delays on Burma Road between the Park and Maritime Blvd. that might otherwise hinder emergency vehicle access.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact HY-1. The project would not violate water quality standards or waste discharge requirements as a result of construction.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Construction activities could result in short-term surface and groundwater quality impacts associated with the input of sediment loads that exceed water

quality objectives or chemical spills into storm drains or groundwater aquifers. However, the project implementer would implement a SWPPP in accordance with requirements of the Construction General Permit and would submit and adhere to requirements in a General Construction Activity Storm Water Permit to minimize the potential for sediments or contaminants to be discharged into San Francisco Bay. The project implementer also will obtain a 401 Water Quality Certification from the San Francisco Bay RWQCB, which may contain additional BMPs and water quality measures to ensure the protection of water quality. With implementation of mitigation measure MM-HAZ-1, described above, and implementation of mitigation measures MM-HY-1 and MM-HY-2, this impact would be less than significant. More specifically, measures MM-HY-1 and MM-HY-2 provide the following.

MM-HY-1 (Implement a toxic materials control and spill response plan). A toxic materials control and spill response plan shall be implemented to regulate the use of petroleum-based products (fuel and lubricants) and other potentially toxic materials associated with project construction.

The project implementer shall review and approve the contractors' toxic materials spill prevention control and countermeasure plan before allowing construction to begin. The project implementer shall routinely inspect the construction site to verify that BMPs specified in the plan are properly implemented and maintained. The project implementer shall notify the contractor immediately if there is a noncompliance issue and shall require compliance.

MM-HY-2 (Implement construction dewatering treatment if necessary). The project implementer shall implement dewatering treatment if groundwater is encountered during excavation activities, if dewatering is necessary to complete the project, or if the dewatered water is discharged to any storm drain or surface water body. Because groundwater could be contaminated with VOCs or fuel products at the project area, the project implementer shall comply with the San Francisco Bay RWQCB VOC and Fuel General Permit (Order R2-2012-0012).

If dewatering activities require discharges to the storm drain system or other water bodies, the water shall be pumped to a tank and tested for water quality. Grab samples shall be sent to a certified laboratory for analysis. If the water does not meet water quality standards, it will either be treated to meet all applicable water quality standards (Table 3.8-1 and Table 3.8-2) or hauled off site for treatment and disposal at an appropriate waste treatment facility permitted to receive such water. Water treatment methods that represent the best available technology that is economically achievable shall be selected to achieve maximum removal of contaminants. Methods may include the retention of dewatering effluent until particulate matter has settled before it is discharged, the use of infiltration areas, filtration, or other means. The contractor shall routinely inspect the construction area to verify that the water quality control measures are properly implemented and maintained, conduct visual observations of the water (i.e., check for

odors, discoloration, or an oily sheen on groundwater), and perform other sampling and reporting activities prior to discharge. The project implementer shall submit the final selection of water quality control measures to the San Francisco Bay RWQCB for approval prior to construction. If the results from the groundwater laboratory do not meet water quality standards and the identified water treatment measures cannot ensure meeting standards for receiving water quality, then the water shall be hauled off site instead for treatment and disposal at an appropriate waste treatment facility permitted to receive such water.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact HY-5. The project would not create or contribute runoff water that would exceed the capacity of the planned stormwater drainage system or provide additional sources of polluted runoff.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Water from the project features would discharge into unlined channels and ditches connecting with existing drainage systems, which are anticipated to have sufficient capacity to accommodate existing stormwater runoff without requiring significant upgrade or modification. Flow would eventually discharge to the Bay. Because both the Central and Lower San Francisco Bay are on the 303(d) List for trash, gross solids removal devices would be considered. Implementation of mitigation measure **MM-HY-3** would improve drainage and remove gross solids. As a result, runoff from the project area would not exceed the capacity of existing or planned stormwater drainage systems. Therefore, this operations impact on stormwater drainage capacity would be less than significant.

More specifically, this measure provides the following.

MM-HY-3 (Implement drainage treatment and gross solids removal devices if necessary). The project implementer shall implement drainage treatment and gross solids removal devices. Additional retention basins (biofiltration swales) shall be constructed at the west end in the Key Point area to treat stormwater runoff from the project features. The proposed types of treatment BMPs for the project site are biofiltration strips and biofiltration swales (WRECO 2014a). The biofiltration swales would be integrated as part of the park landscaping and would include a layer of imported biofiltration soil. If feasible, an underdrain system shall be included, based on the existing and proposed

drainage facilities and site constraints. In addition, Austin vault sand filters and detention devices shall be considered. As required by the City of Oakland and Caltrans' Statewide Permit and the Construction General Permit, measures to reduce pollutant loading shall be implemented to the maximum extent practicable. Permanent control measures located within Caltrans' right-of-way shall reduce pollutants in the stormwater runoff from the roadway, and thus prevent pollutants from entering the waterways. These measures shall be incorporated into the final engineering design or landscape design of the project once more site-specific geotechnical information becomes available during the design phase of the project.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact LU-3. The project would not introduce new land uses into an area that could be considered incompatible with the surrounding land uses or with the general character of the area.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: The project could introduce conflicts between kayaks entering the water at the Port Playground kayak launch and maritime traffic associated with the adjacent Port of Oakland, including larger vessels (e.g., container shipping) and tugboats. Implementation of Mitigation Measure MM-LU-1 would render the impact less than significant by coordinating recreational boating activities with shipping operations. More specifically, the mitigation measure would provide the following.

MM-LU-1 (Install warning signage at the Port Playground kayak launch and include warnings on a publically accessible website about potential conflicts between recreational kayak use and Port of Oakland uses). The project implementer shall install warning signage at the Port Playground kayak launch indicating potential dangers of recreational kayaking in water shared with vessels that also use the Port of Oakland. The project implementer shall work with the Port of Oakland on safety tips and a public education plan regarding kayak safety. The project implementer shall also include the same warnings on a page in the a publicly accessible website. Warning signage shall comply with ANSI Z535.4 and ISO 3864-2 standards.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group

agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact NOI-1. The project would not expose sensitive receptors to excessive temporary noise or vibration impacts during construction activities.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Although noise from worst-case construction activities is predicted to exceed City of Oakland noise standards, no adverse noise effects on noise sensitive land uses or recreational users are anticipated. This impact would be less than significant. No mitigation would be required.

While no mitigation is required, implementation of Mitigation Measures MM-AQ-2 and MM-AQ-4, as described above, which require the implementation of construction best management practices, would also serve to reduce noise impacts during construction.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact PS-2. The project would not result in the need for new or physically altered police service facilities.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Operation of Gateway Park includes amenities, such as an amphitheater, designed to host special events. Due to the number of people that attend special events, there is the potential for an increased demand of police services, which could result in a potentially significant impact to police service facilities. MM-PS-1 would require that the project implementer provide the necessary security staff during special events. With the implementation of MM-PS-1, this impact would be less than significant. More specifically, the mitigation measure would provide the following.

MM-PS-1 (Provide security staff during special events). During special events, the project implementer shall ensure that event security-staff are hired to provide additional security during the special event.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact TRA-1. The project would result in increased vehicular, pedestrian, and bicycle traffic and would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system during special events (construction).

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Project construction is expected to take place over a 15-year period. During construction, temporary and intermittent transportation impacts may result from truck movements as well as construction worker vehicles to and from the project area. The construction-related traffic may temporarily reduce capacities of roadways in the project vicinity because of the slower movements and larger turning radii of construction trucks compared to passenger vehicles. With implementation of mitigation measure MM-TRA-1, described above, this impact would be less than significant because it would lessen the effect on roadway performance and safety.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact TRA-4. The project would introduce design features that could cause bicycle and pedestrian conflicts but would not result in a substantial increase in hazards.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: During the construction period, temporary and intermittent construction-related truck and worker traffic could affect roadway capacity, including roadways used by pedestrians and bicyclists, resulting in potential increased safety hazards. These include Mandela Parkway, Grand Avenue, 7th Street, and Maritime Street. Additionally, although there are no existing bikeway facilities on Frontage Road or Burma Road, bicyclists on those roads could be affected by construction. These impacts would be temporary and intermittent over the construction period. With implementation of mitigation

measure MM-TRA-1, described above, this impact would be less than significant because measures would be put in place to lessen the effects on roadway performance and safety, including signage to alert drivers, pedestrians and bicyclists of lane closures, detours, or other circulation conditions.

The project would increase pedestrian and bicycle travel in the area. Daily pedestrian and bicycle activity within the park and east span could range from approximately 620 to 2,270 people. With implementation of the project, Trail LOS B (Good) would occur during weekday PM peak hour and Trail LOS E (Very Poor) on a weekend day, assuming a high level of activity. The increased weekday PM peak hour pedestrian and bicycle activity could result in conflicts where Gateway Park would connect to the Bay Bridge Trail, potentially creating hazardous conditions for pedestrians and bicyclists. Impacts could be greater during special events. With implementation of mitigation measure MM-TRA-3, this impact would be less than significant. More specifically, the mitigation measure would provide the following.

MM-TRA-3 (Provide improvements to separate passive park users from active Bay Bridge Trail users). The project implementer shall provide additional pavement width and markings near the Bay Bridge Trail access locations in Gateway Park, including directional signage and striping, and potentially fencing to separate passive park users from active Bay Bridge Trail users.

At the West Grand Avenue/Frontage Road/I-80 Ramps intersection, the project could add pedestrian and bicycle traffic to an intersection where the current pedestrian accommodations are insufficient to accommodate increased demand. With implementation of mitigation measure MM-TRA-4, this impact would be less than significant. More specifically, the mitigation measure would provide the following.

MM-TRA-4 (Upgrade intersection pedestrian and bicycle facilities at the West Grand Avenue/Frontage Road/I-80 ramps [Final EIR Study Intersection 3]). The project implementer shall coordinate with Caltrans and the City of Oakland to upgrade the marked crosswalk along the south leg of the intersection. The project implementer shall install pedestrian and bicycle signal heads and upgrade the traffic signal equipment as necessary to accommodate the pedestrian and bicycle movement across the intersection.

The project would add a regional destination to an area with potentially confusing access. There are several ways to access the site by both auto and non-auto modes that may not be intuitive to infrequent Gateway Park visitors. These conditions could create circuitous travel and distracted drivers and lead to bicycle and pedestrian conflicts with automobiles. With implementation of mitigation measure MM-TRA-5, this impact would be less than significant. More specifically, the mitigation measure would provide the following.

MM-TRA-5 (Develop and implement a way-finding plan). The project implementer shall develop a way-finding plan for both vehicles and nonmotorized visitors to the site. Installation of signage at various decision points along access routes would reduce driver

confusion and reduce circuitous travel though the area for all modes of travel. The project implementer shall coordinate with the City of Oakland, Caltrans, and/or the Port of Oakland as needed for improvements within their respective jurisdictions.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact TRA-5. The project would not result in inadequate emergency access.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: During the construction period, temporary and intermittent construction-related truck and worker traffic could affect roadway capacity and affect emergency access in the study area. These impacts would be temporary and intermittent over the construction period. With implementation of mitigation measure MM-TRA-1, described above, these impacts would be less than significant because the project implementer would provide advance notification to emergency service providers as well as ensure there is emergency access available throughout construction.

During operation, the project would add activity to an area with only one designated vehicular access point, Burma Road. If this roadway is blocked or obstructed, emergency vehicle access could be impaired. The Bay Trail may be a possible secondary emergency route that could be utilized to reach Maritime Boulevard from the park in lieu of Burma Road. During special events in particular, when Burma Road is used for vehicular access and egress, the potential for blockage of Burma Road would be higher than under normal park operations. Also during special events, parking at the park would be substantially less than the likely parking demand for large events and thus vehicle traffic on Burma road is likely to be particularly heavy before and after such events, which could hinder emergency vehicle access as well. With implementation of mitigation measure MM-TRA-6, described above, this impact would be less than significant.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact TRA-6. The project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, but would decrease the performance or safety of such facilities.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: During the construction period, temporary and intermittent transportation impacts may result from truck movements as well as construction worker vehicles to and from the project site. Construction-related traffic would be temporary and would not result in any long-term impacts on operating conditions of project area roadways. The construction-related traffic may temporarily reduce capacities of roadways in the project vicinity because of the slower movements and larger turning radii of construction trucks compared to passenger vehicles. With implementation of mitigation measure MM-TRA-1, as described above, these impacts would be less than significant because measures would be put in place to lessen the effect on roadway performance and safety.

In operation, the project would add Class 1 and Class 2 bicycle facilities in the Gateway Park area, improving access to the Bay Trail corridor, consistent with the City's Bicycle Master Plan. Although the project would not conflict with adopted City policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, the increased recreational use of Gateway Park, with all modes of transportation, could conflict with the performance or safety of such facilities. With implementation of mitigation measures MM-TRA-3 through MM-TRA-5, as described above, this impact would be less than significant.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

Impact UTIL-1. The project would not exceed wastewater treatment requirements of the Regional Water Quality Control Board or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities.

Findings: BATA hereby makes Finding (a)(2) (as described in Section 3.1 above), as required by Public Resources Code Section 21081 and stated in State CEQA Guidelines Section 15091, with respect to the above identified impact.

Facts in Support of Findings: Critical EBMUD infrastructure is located within the project area boundary, including the main outfall line from EBMUD's wastewater treatment plant and a dechlorination facility that treats effluent prior to discharge in the Bay. Because the outfall is very shallow and breaks ground in some stretches, it must be protected from heavy loads at grade. Furthermore, continuous access to both the outfall and the dechlorination

facility must be available to EBMUD throughout project construction and operation. Without proper design, construction precautions, and operational protocol, the project could result in damage to EBMUD infrastructure, which could necessitate the need for future construction of new infrastructure. With implementation of mitigation measures MM-UTIL-1 through MM-UTIL-3, this impact would be less than significant.

More specifically, these mitigation measures would provide the following.

MM-UTIL-1 (Coordinate with and obtain approval from EBMUD during design of outfall crossings). The project implementer shall consult with EBMUD to ensure that outfall crossings and other project elements do not result in a substantial hazard to the existing outfall alignment within the project site. The final project design shall incorporate, subject to EBMUD review and approval, the following components.

- Design specifications for engineered bridge crossings and at-grade crossings over the outfall alignment.
- Maximum weight of light maintenance vehicles.
- Precautions to prevent unauthorized crossings (e.g., barriers, signage).
- Maximum permitted fill elevation over the top of the outfall pipe.
- Siting of major project elements in relation to the outfall.
- Tree planting near the outfall alignment.

Issuance of an encroachment permit will indicate EBMUD's approval of the final project design.

MM-UTIL-2 (Maintain continued EBMUD access to outfall utility holes and vents). The project implementer shall ensure that EBMUD has continued access to outfall utility holes and vents in order to perform routine and emergency maintenance. Utility holes and vent stack bases shall be raised or adjusted to new grade levels as needed. Park grading and features shall allow EBMUD maintenance vehicle access to all manholes and vent locations. Compliance with this mitigation measure shall be indicated through issuance of an encroachment permit by EBMUD.

MM-UTIL-3 (Protect outfall during project construction). Prior to the commencement of project construction activities, the project implementer shall coordinate with EBMUD to establish appropriate measures for protecting the outfall during construction activities. Such measures shall include, but shall not be limited to the following measures.

- Siting distance(s) for materials storage, parking, and operation of vehicles from the center line of the outfall.

- Designated crossing locations for construction vehicles and equipment.
- Inspection and monitoring procedures during construction.

Each of the Working Group agencies, with the exception of BCDC which is solely a regulatory agency, could implement and/or fund potential projects included in this project. Because this Final EIR encompasses projects that will be undertaken by the Working Group agencies, they will use the Final EIR for their CEQA document, or as the basis for a subsequent CEQA document. This will obligate the pertinent agency to implement these mitigation measures.

3.5.3 Findings Regarding Recirculation

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Gateway Park Project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide the following examples of significant new information under this standard:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation is adopted that reduces the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043).

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The above standard is “not intend[ed] to promote endless rounds of revision and recirculation of EIRs.” (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal. 4th 1112, 1132). “Recirculation was intended to be an exception, rather than the general rule.” (*Ibid.*)

The Final EIR incorporates information since the Draft EIR was completed and contains additions, clarifications, modifications, and other changes to the Gateway Park Project. Where changes or additions have been made to information in the Draft EIR, these revisions do not change any conclusions on the significance of impacts presented in the Draft EIR and do not meet any of the standards for recirculation under CEQA Guidelines section 15088.5.

CEQA case law emphasizes that “[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.’ [Citation.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process.” (*Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936).

The Final EIR also includes minor edits made in response to various comments on the Draft EIR. These revisions were made for accuracy or providing additional supplemental information to that contained in the Draft EIR and did not change any conclusions of the Draft EIR regarding the Gateway Park Project’s impacts. The revisions only constituted minor revisions or augmentations to information in the Draft EIR that did not change any of the determinations regarding the significance of the Gateway Park Project’s impacts.

BATA finds that none of the changes in the Final EIR involves “significant new information” triggering recirculation because neither the additional information nor changes to any mitigation measure resulted in any new significant environmental effects, any substantial increase in the severity of any previously identified significant effects, or otherwise trigger recirculation under CEQA standards. Note that some of the modifications were either environmentally beneficial or environmentally neutral and represent the kind of changes that commonly occur as the environmental review process works towards its conclusion.

3.6 Incorporation by Reference

The 2018 Final EIR is hereby incorporated into these Findings in its entirety. Without limitation, this incorporation is intended to elaborate on the regulatory requirements applicable to the Gateway Park Project, comparative analysis of alternatives, the basis for determining the significance of impacts, the scope and nature of mitigation measures, and the reasons for approving the Project.

3.7 Record of Proceedings

Various documents and other materials constitute the record of proceedings upon which the Authority bases its Findings and decisions contained herein, including, without limitation, the Final EIR (text, appendices and supporting technical reports), the Findings, and the MMRP. All documents related to the Project are available upon request at the BATA offices at 375 Beale Street, Suite 800 in San Francisco.

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Statement of Overriding Considerations

CEQA Guidelines Section 15093 provides that no project may be approved that would have a significant, unavoidable impact on the environment unless the lead agency adopts a statement of overriding considerations to reflect the ultimate balancing of competing public objectives. The statement must “balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

The Final EIR indicated that if the Gateway Park Project is implemented, the following significant and unavoidable impacts would result. These include impacts that would be cumulatively considerable (indicated by a “C-” prefix).

- Impact BIO-5. The project would have a substantial adverse effect on special-status fish species as a result of construction.
- Impact GHG-1. The project will generate GHG emissions, either directly or indirectly, that will have a significant impact on the environment.
- Impact TRA-1. The project would result in increased vehicular, pedestrian, and bicycle traffic and would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system during special events.
- Impact TRA-2. The project would conflict with the applicable congestion management program, including level of service standards and travel demand measures, and other standards established by the county congestion management agency for designated roads or highways during special events.
- Impact C-BIO-5. The project would not contribute considerably to the loss of habitats of special-status fish species but could result in unavoidable loss of individual special-status fish species due to pile driving.
- Impact C-GHG-1. The project, in combination with reasonably foreseeable actions in the project vicinity, will generate GHG emissions, either directly or indirectly that will have a significant impact on the environment.
- Impact C-NOI-1. The project, in combination with reasonably foreseeable actions in the project vicinity, would cause a substantial permanent increase in ambient noise or vibration levels in the project vicinity above levels existing without the project.

- Impact C-TRA-1. The project, in combination with other foreseeable projects in the project vicinity, would result in increased vehicular, pedestrian, and bicycle traffic that could affect the performance of the circulation system during special events.
- Impact C-TRA-2. The project, in combination with other foreseeable projects in the project vicinity, would conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards also established by the county congestion management agency for designated roads or highways.

As required by CEQA Guidelines section 15093, the Authority finds that the unavoidable significant effects described in Chapter 3, Findings, of this document are acceptable because of the overriding considerations described below. These benefits of implementing the Gateway Park Project outweigh its unavoidable environmental effects.

4.1 Statements of Fact in Support of Overriding Considerations

The Gateway Park Project will provide an attractive public space offering both passive and active recreation opportunities in a strategic location that is currently underutilized. The eastern end of the Bay Bridge is strategic from the point of view of aesthetics, having panoramic views of the Bay; non-motorized transportation, linking bicycle and pedestrian access from Oakland and the East Bay to Yerba Buena and Treasure Islands; passive recreational opportunities; and active recreational opportunities utilizing existing and new buildings. This public space would offer the following advantages at this location:

- A distinctive entryway park to the East Bay that connects to the bicycle/pedestrian path on the east span of the Bay Bridge. This will allow commuter and recreational cyclists access to and from Yerba Buena and Treasure Islands. It will provide riders approaching the eastern end of the span from the south a longer stretch that is not on a street. This improves safety for cyclists.
- Safe, multimodal public access to the San Francisco Bay shoreline and both passive and active recreation opportunities. This includes access to the shoreline for birdwatching, walking, and water sports (e.g., kayaking, canoeing, stand-up paddle boarding), as well as active recreation, such as special events, in a shoreline setting.
- Links to existing and planned segments of the San Francisco Bay Trail. When complete, the linear Bay Trail will be a continuous 500-mile bicycle/pedestrian trail encircling the entire Bay Area. This is an important link because it improves the function of the junction providing access to Yerba Buena and Treasure Islands.
- Staging and access to the planned San Francisco Bay Area Water Trail by providing launching points for non-motorized water craft. The Water Trail program is an

ongoing effort to create a network of launch and landing sites for human-powered watercraft throughout the Bay Area. The Water Trail is nonlinear and on the water without specific routes.

In addition, the Gateway Park Project will implement the mitigation commitments of a number of transportation projects, including the East Span project of the Bay Bridge. These commitments are described in Section 2.4 of the Final EIR for the project. They include:

- BCDC Permit No. 2001.008.42
 - Make 4.55 acres, available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, and other related purposes
 - Provide 4.5 acres of public access at the Oakland Touchdown consisting of: (1) a 4.2-acre parcel located south of the new bridge touchdown that shall become part of the East Bay Regional Park District's Gateway Park and an 0.86-acre (37,470-square-foot) area public access parking lot; and (2) a 0.3-acre area that shall include a 0.166-acre (7,064-square-foot) trail connecting the bridge trail to a 0.134-acre (5,837-square-foot) public access landing.
- Oakland Base Reuse Authority, 2002 Final Reuse Plan
 - Develop a 15-acre Public Benefit Conveyance as open space and parkland, with a future connection to the Bay Trail, to be part of the Gateway Regional Park. .

The Gateway Park Project also implements regional and city plans for this area, as follows.

- Bay Conservation and Development Commission 2012 Bay Plan policies.
 - Plan Map 4 of the BCDC Bay Plan identifies the following policy:

18. Gateway Shoreline Park - Develop gateway park at Bay Bridge touchdown with gracious access to the Bay Bridge. Incorporate viewing, picnicking, non-motorized small boat launching and interpretation of current and historic transportation infrastructure and natural and cultural factors. Protect eelgrass beds and nearby endangered species habitats. Provide signage regarding fish consumption advisories for anglers.
 - Plan Map 5 of the BCDC Bay Plan identifies the following policy:

1. Gateway Shoreline Park - Develop gateway park at Bay Bridge touchdown with gracious pedestrian and bicycle access to the Bay Bridge. Incorporate viewing, picnicking, non-motorized small boat launching and interpretation of current and historic transportation infrastructure and natural and cultural factors. Protect eelgrass beds and nearby endangered species habitats.

- City of Oakland General Plan policies.
 - Policy T4.8 Accommodating Multiple Types of Travel on the Bay Bridge. The City should encourage the design and engineering for the new Bay Bridge to accommodate multiple means of access and travel by automobile, trucks, transit, bicycles, pedestrians, and future mass transit. (The Project enables access to the Bay Bridge by bicycles and pedestrians.)
 - Policy T4.9 “Gateway” Public Access Area. The City, in concert with the East Bay Regional Park District, Port of Oakland, Oakland Base Reuse Authority, and BCDC, should support development of a significant new “gateway” public park area at the terminus of the San Francisco/Oakland Bay Bridge east span that is accessible by auto, bicycle, or walking (see also the Open Space, Conservation, and Recreation Element). (The Project implements this policy.)
 - Policy OS-2.1 Protection of Park Open Space. Manage Oakland’s urban parks to protect and enhance their open space character while accommodating a wide range of outdoor recreational activities. (The Gateway Park will include both active and passive recreational activities.)
 - Policy OS-5.1 Priorities for Trail Improvement. Improve trail connections within Oakland, emphasizing connections between the flatlands and the hill and shoreline parks; lateral trail connections between the hill area parks; and trails along the waterfront. (The Project includes both trails along the waterfront and contributes a link to the San Francisco Bay Trail.)
 - Policy OS-7.2 Dedication of Shoreline Public Access. Support BCDC requirements that mandate that all new shoreline development designate the water’s edge as publicly accessible open space where safety and security are not compromised, and where access can be achieved without interfering with waterfront industrial and maritime uses. Where such conflicts or hazards would result, support the provision of off-site access improvements in lieu of on-site improvements. In such cases, the extent of off-site improvements should be related to the scale of the development being proposed. (The Project will be consistent with BCDC policy.)
 - Policy OS-7.4 Waterfront Park Enhancement. Expand and enhance the city’s waterfront park areas. Signage and access provisions to existing waterfront parks should be improved. Opportunities for new shoreline parks as depicted in Figure 7 of the General Plan (Shoreline Access) should be pursued as redevelopment along the waterfront occurs. A variety of park environments should be created, including active recreation areas, fishing piers and boating facilities, natural areas, and small “pocket” parks with landscaping and benches, all linked by linear parks or pedestrian paths emphasizing shoreline views and access. (The Gateway Park will directly implement this policy with

passive recreation at Radio Beach and Key Point, and both passive and active recreation at Bridge Yard and Port Playground.)

- Policy OS-9.3 Gateway Improvements. Enhance neighborhood and city identity by maintaining or creating gateways. Maintain view corridors and enhance the sense of arrival at the major entrances to the city, including freeways, BART lines, and the airport entry. Use public art, landscaping, and signage to create stronger city and neighborhood gateways. (The Gateway Park will provide a strong entry element for bicyclists and pedestrians travelling from Yerba Buena and Treasure Islands, along the San Francisco Bay Trail, and arriving from the water side by way of the San Francisco Bay Area Water Trail.)
- Policy REC-2.3 Environmentally Sensitive Design. Protect sensitive natural areas within parks, including creeks and woodlands, and integrate them into park design. Require new recreational facilities to respect existing park character, be compatible with the natural environment, and achieve a high standard of design quality. (Gateway Park includes provisions to limit activities in sensitive areas such as Radio Beach to passive recreational uses.)