

**Environmental Checklist**  
**Marketplace**  
**Parcels A, B and F**

**August 2022**

## I. Introduction

The City of Emeryville (City) certified an environmental impact report prepared pursuant to the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) (“CEQA”) for the Marketplace Redevelopment Project on July 15, 2008 (the “Marketplace EIR”) by Resolution No. 08- 126 (State Clearinghouse No. 2005122006). This Environmental Checklist utilizes the analysis provided in the Marketplace EIR, the Environmental Checklists for the previously approved FDPs for Parcels A (FDP14-002) and B (FDP18-001A), and the Staff Reports prepared for the November 2, 2021 City of Emeryville (“City”) City Council Study Session (“November 2, 2021 Staff Report”), the May 26, 2022 City Planning Commission Study Session, and the June 8, 2022 Planning Commission Study Session for the current project, which proposes a new final development plan for Parcels A and B, associated Planned Unit Development and Preliminary Development Plan (“PUD/PDP”) amendments, and associated Development Agreement (“DA”) amendments. .

As discussed in the Marketplace EIR, the 15-acre project site is located in the Emery Bay Marketplace shopping center in the City of Emeryville in Alameda County (“Project Site”). The cities of Oakland and Berkeley surround Emeryville to the north, east and south, and the San Francisco Bay shoreline provides the western city boundary. The City of San Francisco is located to the west approximately 8 miles across the Bay. Interstate 580/80 (I-580/80) traverses Emeryville generally in a north-south direction, running adjacent to the Bay shoreline, west of the Project Site. The Powell Street freeway ramps, located approximately ½-mile to the west, provide regional vehicular access to the Project Site, which is generally bounded by 64th Street to the north, the Union Pacific Railroad tracks to the east, Powell Street to the south, and Christie Avenue to the west.

In addition to the Project Site’s adjacency to I-580/80, it is also regionally accessible via Amtrak commuter trains and Alameda-Contra Costa Transit (AC Transit). Amtrak service is provided along the UPRR tracks that abut the eastern edge of the Project Site, with the nearest train station also located directly east of the Site and accessible via a pedestrian overcrossing leading to the Project Site. Public transit is also provided to the Project Site by AC Transit buses, which regularly run along Christie Avenue, 64th Street and Shellmound Street, immediately adjacent to the Project Site. Locally, the Emery-Go-Round provides bus transit shuttle services to residents and job centers.

The discussion below is organized as follows:

**II. Prior Approvals.** This section provides an overview of the prior PUD/PDP and FDP project approvals and associated CEQA documents.

**III. Current Project.** This section describes the final development plan proposed for Parcels A/B and discusses the consistency with the PUD/PDP. This section also describes amendments to the PUD/PDP and the applicable development agreement to allow the development of 10 townhomes on Parcel F. No final development plan is

proposed for Parcel F at this time.

**IV. Conditions.** This section describes the existing conditions on the site and surrounding uses.

**V. CEQA Requirements.** This section outlines the requirements for environmental review of the current Project.

**VI. Analysis.** This section evaluates whether the Project falls within the scope of the previously certified Marketplace EIR and concludes that all potential environmental impacts associated with the Project would be within the scope of impacts already evaluated in the previously certified EIR.

**VII. References.** This section lists the materials on which this document relies.

## **II. Prior Approvals**

The following summarizes the previous approvals and CEQA review for the Marketplace Redevelopment Project.

### **A. Draft EIR Project**

The Marketplace EIR contemplated the development of a 15-acre site located in western Emeryville, generally bounded by 64th Street to the north, Powell Street to the south, the Amtrak/Union Pacific railroad tracks to the east, and Christie Avenue to the west (Site or Property). The Marketplace Draft EIR was circulated to the public from June 21, 2007 until August 6, 2007. The Draft EIR analyzed the construction of five new buildings, adding up to 340 for-sale condominium units, up to 77,000 square feet of new commercial space, up to 444 new parking spaces and site improvements as the proposed project ("Draft EIR Project"). The Draft EIR also analyzed four alternatives: the No Project Alternative, the Reduced Project Alternative, the Tower Alternative and the Main Street Alternative.

### **B. Final EIR Project**

When the Final EIR was circulated in November 2007, a variation of the Main Street Alternative, the Reduced Main Street Alternative, was analyzed in detail in response to comments. The Reduced Main Street alternative included redeveloping the Site to replace surface level parking; realigning Shellmound Street directly in front of the Marketplace Tower and Public Market buildings; adding two new street segments with on-street parking (63rd and 62nd Streets); and adding nine new buildings within the site and enlarging the City Park. Specifically, the Reduced Main Street Alternative included 674 units, 179,875 square feet (s.f.) of commercial space and 120,000 s.f. of office space ("Final EIR Project"). The Final EIR included additional analysis of the Final EIR Project, along with a comparison of the Draft EIR Project, as summarized in the table below:

**Table 1 - Comparison of Draft EIR Project to Final EIR Project**

Use	Existing	Proposed Project		Reduced Main Street Alternative		Difference	Difference
		Prop. Project	Project + Existing	Red. Main Street Alt.	Red. Main Street + Existing	Red Main Street to Project	Red Main Street to Main Street
Multi-Family (units)	0	340	340	674	674	334	336
Retail/Restaurant (SqFt)	94,665	77,000	169,665	179,875	292,475	179,875	-11,690
Office (SqFt)	121,260	0	121,260	120,000	226,400	105,140	-309,860
Entertainment (SqFt)	40,000	0	40,000	-40,000	-40,000	-40,000	0
Industrial (SqFt)	26,000	-26,000	-26,000	-26,000	-26,000	0	0

Source: LSA Associates, 2007.

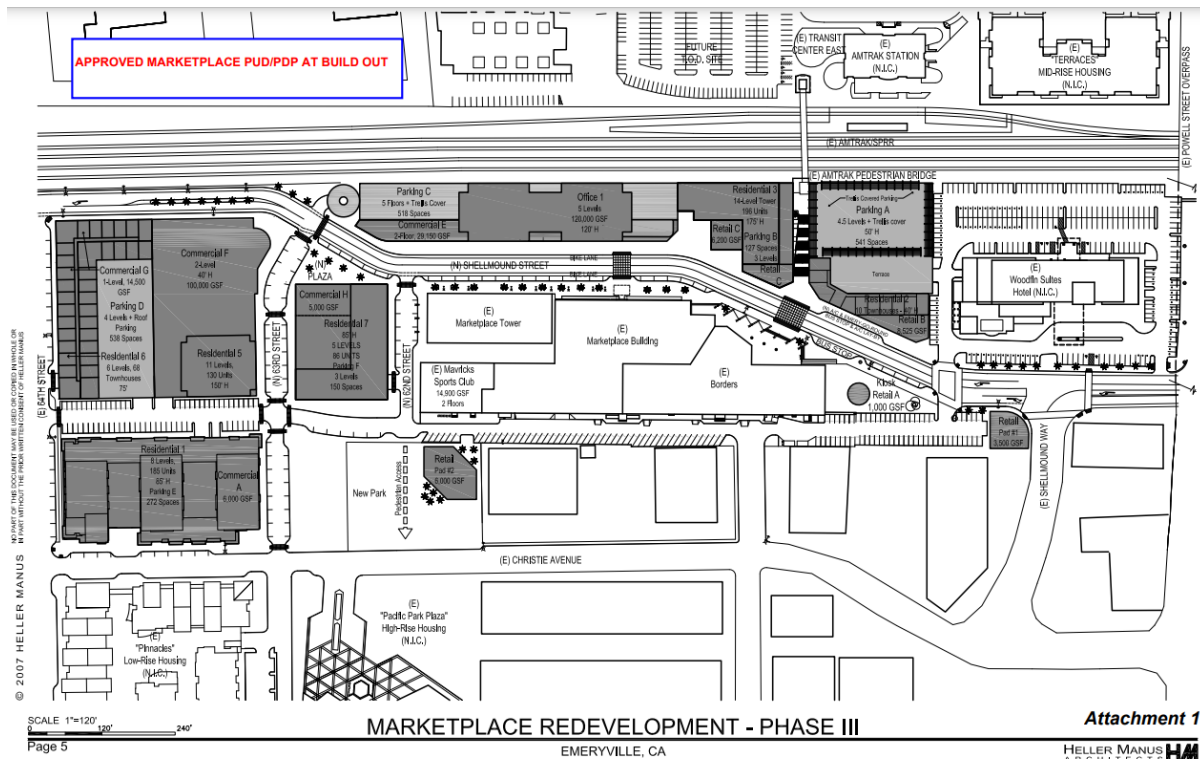
The Final EIR concluded that the Final EIR Project (i.e. the Reduced Main Street Alternative) would not result in new impacts beyond the impacts identified in the Draft EIR for either the Draft EIR Project or the Main Street Alternative.

**C. PDP Project Approvals**

In addition to certifying the Marketplace EIR on July 15, 2008, the City approved a General Plan Amendment to change the building intensity Floor Area Ratio from 1.5 to 2.0 (Resolution 08-127) and approved the Marketplace Preliminary Development Plan (PDP) (Resolution 08-004). (Collectively, the General Plan Amendment and PDP approvals are referred to as the “2008 Approvals” and the project approved by the 2008 Approvals is referred to as the “PDP Project.”) The City’s findings explicitly stated that the analysis in the Final EIR, specifically Section V - Reduced Main Street Alternative, adequately addressed all the potentially significant impacts of the Final EIR Project.

On August 5, 2008, the City Council approved the Marketplace Redevelopment Project Planned Unit Development/Preliminary Development Plan (“PUD/PDP”).

**Figure 1 - Approved Marketplace PUD/PDP at Build Out**



Source: November 2021 Staff Report, Attachment 1 - Approved Marketplace PUD Plans at Build Out.

The PUD/PDP shows a residential tower on Parcel A (then called the “Shellmound Building”) above ground floor retail, but Condition III.A.1.d allows this parcel to be converted to other permitted uses, including Research Services (“R&D”), as discussed further below. Condition III.A.1.d. also requires Parcel A to contain a minimum of 10 residential townhouse units, if the tower portion of the building is not residential.

The PUD/PDP shows office and commercial development on Parcel B allowed up to 120 feet.

#### D. Final Development Plans Approvals

Since adoption of the PUD/PDP, the Planning Commission has approved a number of Final Development Plans (“FDPs”) and a subdivision map to allow for a grocery store (Parcel C1); realignment of Shellmound Street; creation of 62nd Street, 63rd Street, and Market Drive; construction of four residential buildings (64th and Christie, Parcel A, Parcel C2, and Parcel D); a parking structure with ground floor retail (Parcel B); and the redevelopment and expansion of Christie Park (Parcel E).

Parcel C1 and the realignment of Shellmound Street and creation of 62nd and 63rd Streets and Market Drive, three residential buildings (64th and Christie, Parcel C2 and Parcel D), and Christie Park are now complete.

The last set of approvals were completed for Parcel B. The first FDP (FDP5-001) for Parcel B was originally approved on June 23, 2016, which accommodated parking with ground floor retail. This parking garage was to provide parking for existing commercial uses that have been served by previous surface parking lots (Parcel C) and are being served by existing surface parking lots (Parcel A). Subsequently, the applicant proposed to replace this FDP for Parcel B with a new FDP to accommodate 150,000 square feet of Research and Development (office/lab) space in addition to ground floor retail space and 565 parking spaces (FDP18-001). This was approved by the Planning Commission at its January 24, 2019, meeting, thereby rescinding FDP15-001 previously approved in 2016. This decision was appealed. On January 21, 2020, after a year of project modifications and appeal hearings, the City Council approved a revised proposal accommodating the same amount of office/lab space.

For reference, Figure 2 illustrates the Marketplace Parcels A - F, as approved in prior FDPs.

**Figure 2**



Source: City of Emeryville, Planning Commission Staff Presentation, Marketplace Final Development Plan - Parcel B (Office and Garage), (Dec. 12, 2019), at 6.<sup>1</sup>

## E. Development Agreement

On December 1, 2015, the City Council passed Ordinance No. 15-010, approving a Development Agreement (“DA”) for the Marketplace Redevelopment Project. The DA provided vested rights to develop the Parcel A residential units in accordance with the Parcel A FDP, which included 167 units. The DA required 11 percent of the units to be affordable to Low Income Households and 6 percent of the units to be affordable to Moderate Income Households. For Parcel A, this resulted in 8 Low Income units and 10 Moderate Income units. (Marketplace Redevelopment Project, DA, Section 7.1).

<sup>1</sup> Available at: [https://www.ci.emeryville.ca.us/DocumentCenter/View/12491/164\\_Staff-Presentation-Parcel-B-Office-12-12-19](https://www.ci.emeryville.ca.us/DocumentCenter/View/12491/164_Staff-Presentation-Parcel-B-Office-12-12-19).



F. Existing Entitlements at Marketplace Parcels A, B, and F

As noted above, currently there are two FDP entitlements at the Marketplace that have not yet been built: a residential project accommodating 167 units on Parcel A, and a R&D building accommodating 150,000 square feet of office/lab uses with 15,700 square feet of ground floor retail space, and 500 parking spaces on Parcel B.

Parcel F, at the northwest corner of Shellmound Street and Shellmound Way, remains the only site in the PUD/PDP without an approved FDP. The PUD/PDP calls for Parcel F to be developed with a one-story, 3,500 square foot retail pad.

**III. Current Proposal**

The following identifies the current proposal for development.

A. Current Proposal on Parcels A, B and F (“Project”)<sup>2</sup>

An application was submitted by applicant and new owner of the Marketplace, Emeryville Holdings (DE) LLC, on April 9, 2021 for a new FDP to replace existing entitlements on Parcels A and B. The new FDP is requested for several reasons, including but not limited to aesthetics, functionality, financial viability, and community benefit, as described below.

This proposed FDP (FDP21-001) is comprised of a 10-level 431,056 square foot Research and Development Building on Parcel B and a 6-level Parking Structure accommodating 711 parking spaces on Parcel A. The FDP also includes a ground level Pavilion with 3,074 square foot of retail area as well as Long Term Bike Storage, and a 37,425 square foot open Plaza.

No final development plan is proposed for Parcel F at this time, but to accommodate future development, an amendment to the PUD/PDP is proposed to allow for the development of 10 townhomes on Parcel F that were previously contemplated on Parcel A.

Parcels A and B:

The FDP submission is for a mix of R&D, retail and parking uses on Parcels A and B. Three buildings of varying heights are proposed with the tallest building reaching a height of 162 feet and accommodating 431,056 square feet of life science uses. The middle pavilion accommodates ground floor retail space and reaches a height of 18 feet with 3,074 square feet of retail as well as long-term bicycle storage. The southernmost building adjacent to Hyatt House hotel is a 52 foot-10 inches tall, 6-level parking structure that accommodates 711 spaces.

The proposal is designed to have a standalone R&D building on Parcel B and part of Parcel A and a separate structured parking garage on Parcel A. The buildings are organized to allow for an open plaza and monumental grand stair connecting Shellmound Street to the

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<sup>2</sup> November 2, 2021 Staff Report with updates from the applicant team.

pedestrian bridge over the railroad tracks. The new design plan for the Parcel B building moves the parking out from under the research and development space (as was approved in the existing Parcel B FDP), which would allow a more efficient center core floor plate, material storage optionality and demising flexibility (i.e. allowing reconfiguration into smaller spaces) for users. This has enhanced the overall design and provides many benefits to both the users and the community, allowing for occupied spaces to be adjacent to the pedestrian sidewalk in most of the site's street perimeter. The two independent buildings have their own unique character and contribute to the urban fabric responding to the existing historic structures. Other attributes include:

- The urban streetscape is improved with an increase in public spaces and a decrease in the parking structure street frontage
- The new plan provides for greater opportunities to incorporate art in a way that enhances the public's interface and experience with art installations
- Parcel A development is lower than the previously approved PDP and FDP at 60' in height in lieu of 175' and 83' and 175', respectively
- Construction duration can be phased in a way that has less impact to the continued access and operations of the Public Market during construction, and hence the Market as a community amenity is retained throughout this period
- Separation of the parking structure from the research and development building allows for more efficient use of the parking and life sciences building and results in improved seismic and vibration performance for the occupants
- The two independent structures result in programmatic and structural efficiencies optimizing the buildings' flexibility and operations over the life of the facility while shortening the duration of construction

The new concept increases public open space and increases opportunities for natural vegetation, light, and views. The design also enhances the connection from the Public Market to the Amtrak station across the train tracks. A sequence of urban blocks is integrated into the city fabric by means of pedestrian open spaces. The openness of the public Plaza provides views of the Public Market from the eastern side of the tracks visually and physically connecting the east and west side of the Emeryville community. The Plaza is envisioned as a hub or magnet; welcoming the broader community, Public Market employees, and visitors to gather. It serves as a public collection point and connector to the various destinations that surround the Plaza. The view corridor from the east has been significantly increased to approximately 290' wide as opposed to the previous 160' width in the prior approved FDP. The Grand Stair is directly adjacent to the Plaza on Shellmound Street and connects a nexus of transportation modes, including rail, public bus lines, bicycles, pedestrians and personal vehicles. Specifically, the Grand Stair connects the pedestrian bridge above the railroad track to the Public Market area and to three public elevators in the adjacent structure. These elevators address accessibility requirements for the public crossing the tracks as well as for the parking structure users. The Grand Stair also includes two bike rails dedicated to bike use that will increase public safety.



### Parcel F

Parcel F is a 7,864 square foot parcel at the northwest corner of Shellmound Street and Shellmound Way.

The application proposes an amendment to the PUD/PDP to allow for the development of ten townhomes on Parcel F that were previously planned for Parcel A. Relocating the residential component to Parcel F provides a future opportunity to develop a single residential complex with its own identity and character contributing to the quality of the tenant experience therein and the neighborhood surrounds. At this time, no final development plan is proposed for Parcel F.

B. Comparison of Final EIR /PDP Project to Approved FDP Projects and the FDP for Parcels A, B.

The following table, presented in Figure 3, compares the development components approved as part of the PDP in 2008 to the build out of the Marketplace complex along with the current Project (i.e. the proposed FDP for Parcels A and B and proposed modification to Parcel F).

**Figure 3**

**Table 1 – Public Market Land Use Comparison**

Parcel	Land Use	Units	Approved PDP in 2008	2022 Project	Difference
A	Residential	Dwelling Units	206	0	-206
	Retail	Square Feet	14,725	0	-14,725
	R&D Center	Square Feet	0	0	0
B	Retail	Square Feet	29,150	5,174	-23,976
	Office	Square Feet	120,000	0	-120,000
	R&D Center	Square Feet	0	431,056	+431,056
C <sup>1</sup>	Residential	Dwelling Units	86	66	-20
	Retail	Square Feet	5,000	30,000	+25,000
D <sup>1</sup>	Residential	Dwelling Units	198	223	+25
	Retail	Square Feet	114,500	0	-114,500
E <sup>1</sup>	Residential	Dwelling Units	0	0	0
	Retail	Square Feet	3,500	0	-3,500
F	Residential	Dwelling Units	0	10	+10
64 <sup>th</sup> /Christie <sup>1</sup>	Residential	Dwelling Units	185	190	+5
	Retail	Square Feet	6,000	0	-6,000
Retail Pads	Retail	Square Feet	7,000	0	-7,000
<b>Public Market Total</b>	<b>Residential</b>	<b>Dwelling Units</b>	<b>675</b>	<b>489</b>	<b>-186</b>
	<b>Retail</b>	<b>Square Feet</b>	<b>179,875</b>	<b>35,174</b>	<b>-144,701</b>
	<b>Office</b>	<b>Square Feet</b>	<b>120,000</b>	<b>0</b>	<b>-120,000</b>
	<b>R&amp;D Center</b>	<b>Square Feet</b>	<b>0</b>	<b>431,056</b>	<b>431,056</b>

<sup>1</sup>Development completed on this parcel.

The proposed Project would include more R&D space than the PUD/PDP (431,056 gross square feet more). However, the proposed buildout would result in 120,000 square feet less office spaces, 144,701 less retail spaces and 186 fewer residential units than the PUD/PDP.

While the proposed Project increases R&D space, the conditions of approval allow for this, as follows [condition III(A)(1)(d)]:

“The intent of the PDP is to achieve a vibrant, mixed-use neighborhood. The Final Development Plan may allow any use, including multi-family residential and any use allowed [by the PDP]; provided however, that if any allowed use other than the allowed use designated on the Preliminary Development Plan, or any increase in the square footage or number of units is proposed in any building designated as residential in the Preliminary Development Plan, the Applicant shall submit a traffic study and the City shall require appropriate compliance with the California Environmental Quality Act prior to approval.”

A traffic study has been prepared and attached as **Appendix B**. The study demonstrates that

when comparing the trips evaluated in the 2008 PDP and Marketplace EIR, the proposed Project would generate fewer trips.

**Figure 4**

**Table 2 – Difference in 2008 PDP and 2022 Public Market Trip Generation**

ITE Land Use Code <sup>1</sup>	Land Use	Size	Units	AM Peak				PM Peak			
				Rate	Total	In	Out	Rate	Total	In	Out
221	Multifamily Housing (Mid-Rise)	-186	DU	0.37	-69	-16	-53	0.39	-73	-45	-28
710	General Office Building	-120	KSF	1.52	-182	-160	-22	1.44	-173	-29	-144
760	Research and Development Center	431.056	KSF	1.03	444	364	80	0.98	422	68	354
821	Shopping Plaza (40-150k No Supermarket)	-144.701	KSF	1.73	-250	-155	-95	5.19	-751	-368	-383
<b>Net Difference in Project Trips</b>					<b>-57</b>	<b>33</b>	<b>-90</b>		<b>-575</b>	<b>-374</b>	<b>-201</b>

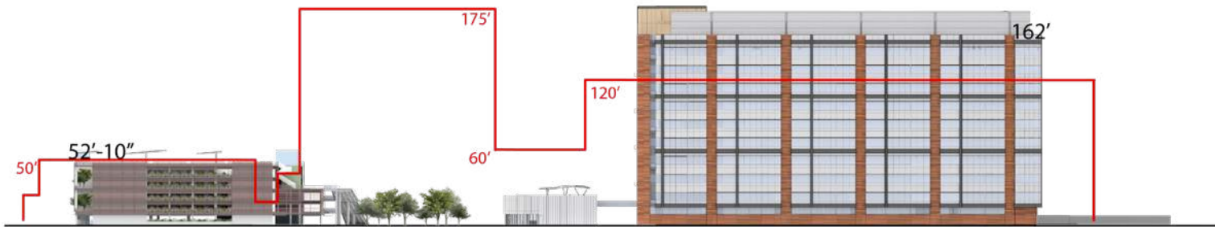
<sup>1</sup> Based on ITE *Trip Generation Manual*, 11<sup>th</sup> Edition

## Conclusions

The latest 2022 Public Market project would result in 57 fewer AM peak hour trips and 575 fewer PM peak hour trips when compared to the approved 2008 PDP. With the exception of the inbound trips in the AM peak hour, all remaining inbound and outbound trips for each peak hour are less than the approved PDP. Therefore, it is likely that the latest Public Market project would not result in any new significant impacts compared to the approved PDP.

Finally, the following figure, Figure 6, compares elevations between that approved under the PDP and the current proposal. As shown, the R&D development on Parcel B exceeds the 120 foot height standard on Parcel B. On Parcel A, the parking building is currently designed at 52 feet-10 inches which is 2 feet-10 inches above the 50 foot height range under the PDP.

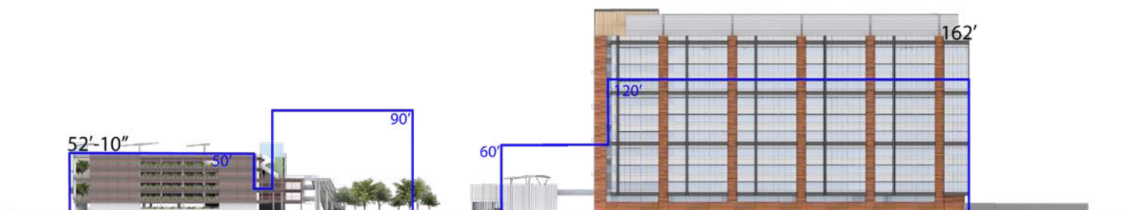
**Figure 6**  
**Comparison of the Proposed Parcels A/B FDP and PDP Amendment Project Elevations**  
**to the Approved PDP Elevations**



Comparison: PDP v/s Proposal

For the sake of comparison, although not necessarily relevant to the environmental analysis, Figure 7 compares the elevations from the previously approved FDPs on Parcel A and Parcel B. While similar, the current proposal substantially expands the view corridor between the two proposed buildings by removing the anticipated middle tower.

**Figure 7 - Comparison of Approved Parcels A and B FDPs to PDP**



Comparison: FDP v/s Proposal

It is also noted in comparing the current proposal to the elevations approved in the PDP and prior FDPs, the current proposal for the Project allows for better view corridors from the east.

#### C. Proposal for Development Agreement Amendments

The DA originally between the City, AG-CCRP, and Avalon Bay Communities Inc., dated January 13, 2016 and recorded on January 25, 2016 as Document Number 2016016044 has been assigned to the applicant and owner, dated December 23, 2020, and recorded on January 7, 2021 as Document Number 2021008037 in the Official Records of Alameda County. In connection with the proposed application, and pursuant to Section 10 of the DA, amendments are requested to remove the requirement for affordable units on Parcel A and to provide for a monetary contribution. Specific amendments include the following:

- Section 7. 1 (as well as references to affordable housing units on Parcel A in Recital N and Exhibits E and F) - amendments to allow for the payment of a fee to replace the 18 affordable housing units planned for Parcel A. The applicant proposes a fee of \$20 million fee.
- Section 9. 4 - incorporate the proposed Parcel A and Parcel B FDP as Subsequent Project Approvals.
- Additional terms, as reflected in Attachment A [Memorandum Describing Proposed Modifications to the Marketplace Development Agreement] to the May 17, 2022 City Council Study Session, including (i) support or City application to secure affordable housing tax credits, etc. and (ii) agreement to convert portions of Market Drive to a vehicle-free, publically accessible vehicle space.

#### D. Proposal for PUD/PDP Amendments

As noted above, the PUD/PDP requires 10 townhomes on Parcel A if it is not developed with residential. Applicant requests an amendment to this provision. To ensure that the Project does not result in a net loss of potential housing units, the ability to build 10 townhomes will be moved from Parcel A to Parcel F.

The PUD/PDP must also be amended to accommodate the proposed 162 foot height on Parcel B.

### IV. **Conditions**

#### A. Existing Conditions

The 15-acre Project Site is generally flat with an average elevation of 10 feet above mean sea level. The Site is currently developed with a mix of land uses characterized by the existing Public Market food hall, retail and office tower, as well as Christie Park, the grocery on Parcel C1, and the residential buildings on Parcels C2 and D.

#### B. Surrounding Uses

The Project Site is surrounded by a mixture of land uses similar to those on-site including office, R&D, light industrial, general commercial/retail, service commercial, lodging, multi-family residential, surface and structured parking, public spaces, and transit facilities. Surrounding land uses are housed in a variety of building types ranging from one-story, low-rise structures to a 30-story, high-rise tower. The BlueLink Emeryville Amtrak Station and railroad tracks are to the east of the Project Site.

### V. **CEQA Requirements**

California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) (CEQA) requires local governments to conduct environmental review on public and private development projects.

CEQA Guidelines Section 15162(a) provides that once an EIR has been certified, no subsequent EIR shall be prepared unless the lead agency determines, on the basis of substantial evidence, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

## VI. Analysis

Based on the foregoing, this document assesses the Project to determine whether it is within the scope of the Marketplace EIR or whether the Project would result in new significant impacts or substantially more severe impacts under CEQA Guidelines Section 15162. In the following evaluation, each topic section includes the following sub-sections:

1. Environmental Checklist. Contains a modified form of the 2021 Appendix G Initial Study environmental checklist. Each checklist question has been modified to characterize the potentially significant impact, less than significant impact, no impact and other categories in the context of whether or not the Project would result in new significant impacts or substantially more severe impacts when compared to the Marketplace EIR and the 15162 triggers as follows:
  - a. *Significant Impact Identified in Marketplace EIR* - This column is intended to indicate significant impacts identified in the Marketplace EIR.
  - b. *Impact of the Project will be Less Than-Significant After Marketplace EIR Mitigation Incorporated* - This column indicates where the Approved FDP Projects and the Project's compliance with Mitigation Measures Identified in the Marketplace EIR will ensure a less than significant impact.
  - c. *No Impact/Less than Significant Impact* - This column indicates whether the Marketplace EIR and Environmental Checklist conclude that the impact does not occur with the Project and therefore, no mitigation is needed.
2. Environmental Checklist Responses. The responses first summarize analysis from the Marketplace EIR. The responses reference the Marketplace EIR mitigation measures, which have been included as **Appendix A**. The responses then consider whether impacts from the Project are within the scope of the Marketplace EIR and the extent to which the Marketplace EIR mitigation measures will be implemented by the Project. The responses conclude with a finding regarding whether the Project would result in any new significant impacts or impacts that would be substantially more severe than identified in the EIR as required by Section 15162 of the CEQA Guidelines.



## A. AESTHETICS

<b><i>Aesthetics</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/ No Impact</i></b>
Would the project:			
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings, or conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Marketplace EIR Conclusion:** The Marketplace EIR analyzed impacts to aesthetic resources in Section J of the Draft EIR and in Section 5.B.j of the Final EIR, impacts to wind in Section L of the Draft EIR and in Section 5.B.l of the Final EIR, and impacts to shade and shadow in Section M of the Draft EIR and in Section 5.B.m of the Final EIR.

The Final EIR found that the Final EIR Project would have potentially significant impacts by altering the intrinsic architectural character of the Final EIR Project Site and its surroundings, and by creating additional sources of day and nighttime light and glare in Emeryville as a result of reflective building facades. (Marketplace Final EIR, p. 128; Marketplace Draft EIR, pp. 317, 318). The Final EIR Project retains these impacts, but because the Final EIR Project would realign Shellmound Street and add a substantially greater amount of development than the Draft EIR Project, it would have a greater effect than the Draft EIR, though these impacts would be less-than-significant through mitigation measures noted in the Draft EIR. (Marketplace Final EIR, p. 128). The Final EIR Project would add nine buildings to the Project Site, including two single-story retail pad buildings and a small retail kiosk structure; a low-rise building with retail and parking, a mixed use building with a 14-story residential and a 5-story mixed use retail and office building, and a mixed use building with an 11-story residential tower, mid-rise townhomes on the UA Cinema site, and mid-rise mixed use buildings with multi-family units, retail space, and parking. (Marketplace Final EIR, p. 127). The heights of the buildings in the Final EIR Project are substantially reduced from the heights of the Draft EIR Project. (Id.).

The Draft EIR concluded that the Draft EIR Project could create accelerated wind areas in roof deck terraces and within the fourth floor pedestrian cross connection with the Amtrak bridge that would substantially affect pedestrian comfort. (Marketplace Draft EIR, p. 336). The Final EIR Project would retain this impact, and the Final EIR Project would also result in substantially increased ground level winds, as a result of the Shellmound mixed use and high-rise tower building and the UA Cinema site, but this impact would be less-than-significant through an additional mitigation measure. (Marketplace Final EIR, p. 131).

The Draft EIR concluded that the Draft EIR Project would not result in any significant shade or shadow-related impacts. (Marketplace Draft EIR, p. 340). The Final EIR concluded that the Final EIR Project would result in a potentially significant impact to shade and shadow on public places throughout the Project Site as a result of the sizeable increase in development considered under this alternative. (Marketplace Final EIR, pp. 132-133). This impact was found to be significant and unavoidable because reducing the impact would involve undertaking a major reconfiguration of the Project. (Marketplace Final EIR, p. 133).

EIR Mitigation Measures: See **Appendix A** for the mitigation measures for this impact area: AES-1, AES-2a, AES-2b, WIND-1a, WIND-1b, WIND-1 (Main Street and Reduced Main Street alternatives), SHADE-1 (Main Street and Reduced Main Street alternatives). Each of these mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project:

Although the 162 foot R&D building exceeds the existing PUD/PDP height of 120 feet, the proposed buildings on the parcels would be of similar height or shorter than the buildings identified in the project description in the Final EIR generally. The height of the building on Parcel A in the Project is 52 feet, 10 inches feet, which is significantly shorter than the 175-foot tower envisioned under the PDP Project. The developments on Parcel B are taller than planned in the PDP Project for the specific parcel but reflect the approved height massing generally. No final development plan is currently proposed for Parcel F.

As discussed above, the aesthetics impacts that were identified in the Draft EIR and FEIR projects were related to the construction of large buildings; the reduced size and height of the Parcel A building now proposed would result in a reduced potential for aesthetics impacts from that parcel. At 60 feet, the bulk of the building on Parcel A is substantially the same, but the elimination of the 175-foot tower would reduce shade impacts from that parcel. While the proposed height for the Parcel B building exceeds the planned height for that parcel, it is generally consistent with the envisioned heights for the PDP/PUD. Consistent with the Draft EIR and FEIR projects, the construction of large buildings will lead to shade and shadow impacts on public streets. However, the planned orientation of the Project buildings will avoid significant shade or shadow impacts on the proposed Plaza. The proposed reallocation of land uses within these buildings would not result in any new or substantially increased impacts related to the architectural character of the overall Public Marketplace Project Site, nor would it result in new or substantially increased impacts

related to light and glare, wind, or shade and shadow.

Emeryville has not adopted its own wind significance threshold. The City of Oakland considers a significant wind impact to occur if a project were to “create winds exceeding 36 mph for more than one hour during daylight hours of the year.” However, Oakland only applies these thresholds to projects located adjacent to substantial bodies of water. This threshold is used here for informational purposes. Similarly, Emeryville has not adopted a threshold related to wind comfort criteria. For purposes of providing an informational analysis, comfort criteria are that wind speeds do not exceed 11 mph for more than 10% of the time during the year, when calculated for daylight hours, in substantial pedestrian use areas. RWDI prepared an analysis of wind impacts associated with FDP18-001 in 2019. This analysis showed that a project developed consistent with the configuration contemplated in the Draft and Final EIRs would result in 10 to 14 hours per year of exceedances of Oakland’s wind hazard criterion and would exceed the wind comfort criterion 18% to 20% of the time. In 2022, RWDI updated its analysis by conducting a wind tunnel test of the new design concept.

In contrast to the projects evaluated in the Draft and Final EIRs, the current Project would be expected to result in 1 hour per year of exceedances of Oakland’s wind hazard criterion and would exceed the wind comfort criterion 10% of the time. The Project would therefore not result in new or substantially increased impacts related to wind. The Project would implement the applicable mitigation measures that were identified in the Draft EIR and Final EIR.

The new design concept captures the history of Emeryville’s industrial design aesthetic and blends it with modern and environmentally conscious elements suitable for today’s user experience. The Project would also result in the placement of significant art throughout the project, including at public gathering places. The new design improves the view corridor from the east, increasing from 160’ in width in the existing FDPs to 290 feet, in part by eliminating the previous tower on Parcel A.

Finding: The conclusions from the Marketplace EIR remain unchanged. The proposed Project would not result in any new significant aesthetic impacts or aesthetic impacts that would be substantially more severe than those identified in the Marketplace EIR. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## B. AGRICULTURE AND FOREST RESOURCES

<b><i>Agriculture and Forest Resources</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than- Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant /No Impact</i></b>
<p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.</p> <p><b>Would the project:</b></p>			
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

EIR Conclusion: The Marketplace EIR considered, but did not discuss in detail, impacts to agricultural and forest resources because the Project Site has been developed with urban uses for decades, is located in an urbanized area, and no agricultural resources or operations are located on or near the Project Site; therefore, the Project was found to have no significant impacts in these impact areas. (Marketplace Draft EIR, pp. 2-3). As such, the impact is less-than-significant.

EIR Mitigation Measures: None.

Compared to the PDP Project, the Project: As with the Draft EIR and Final EIR Project, the Project would not have any impact on agricultural or forest resources.

Finding: The conclusions from the Marketplace EIR remain unchanged. The Project would not result in any new significant agricultural resources impacts or agricultural resources impacts that would be substantially more severe than those identified in the Marketplace EIR. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## C. AIR QUALITY

<b><i>Air Quality</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than-Significant /No Impact</i></b>
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. <b>Would the project:</b>			
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to air quality in Section D of the Draft EIR and in Section 5.B.d of the Final EIR. The Draft EIR concluded that demolition and construction period activities from building the Project could generate significant dust, exhaust, and organic emissions, but concluded that this impact would be less-than-significant after implementation of mitigation. (Marketplace Draft EIR, pp. 210-211).

The EIR concluded that the Final EIR Project would result in greater air quality impacts than the Draft EIR Project as a result of greater construction activity, but that implementation of mitigation would reduce these construction activity impacts to less-than-significant. (Marketplace Final EIR, p. 124).

The Final EIR concludes that the Final EIR Project would result in regional emissions that would exceed the Bay Area Air Quality Management District (BAAQMD) standards for ozone precursor emissions and PM10, and that implementation of the recommended mitigation measures would reduce the impact to the greatest extent feasible, but the impact would

nonetheless remain significant and unavoidable. (Id.).

The Draft EIR also summarized the results of a health risk assessment (HRA) that was performed to evaluate the risk to future site residents caused by exposure to toxic air contaminants from the railroad tracks directly east of the project site. The HRA determined that the maximum chronic hazard index associated with diesel emissions from trains near the project site would be below the significance criterion, and that the potential cancer risk associated with future residential use of the site would not exceed the significance criterion for toxic air contaminants.

EIR Mitigation Measures: See **Appendix A** for the mitigation for this impact area: AIR-1, AIR-1 (Main Street and Reduced Main Street alternatives). Each of these mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project: With respect to construction emissions, the air quality impacts related to construction of the Project are expected to be similar or less than those analyzed in the Marketplace EIR. Construction emissions were estimated using the California Emissions Estimator Model (CalEEMod) Version 2020.4.0. Average daily emissions were annualized for each year of construction by dividing the annual construction emissions and dividing those emissions by the number of active workdays during that year. The table below shows the annualized average daily construction emissions of ROG, NO<sub>x</sub>, PM<sub>10</sub> exhaust, and PM<sub>2.5</sub> exhaust during construction of the project. As indicated in the table below, predicted annualized project construction emissions would not exceed the BAAQMD significance thresholds during any year of construction.

<b>Year</b>	<b>ROG</b>	<b>NO<sub>x</sub></b>	<b>PM<sub>10</sub> Exhaust</b>	<b>PM<sub>2.5</sub> Exhaust</b>
<i>Construction Emissions Per Year (Tons)</i>				
2023	2.89	3.77	0.18	0.15
<i>Average Daily Construction Emissions Per Year (pounds/day)</i>				
2023 (247 construction workdays)	23.43	30.55	1.48	1.24
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs./day</i>	<i>54 lbs./day</i>	<i>82 lbs./day</i>	<i>54 lbs./day</i>
<b>Exceed Threshold?</b>	No	No	No	No

Since the certification of the Marketplace EIR, construction vehicles have become more highly regulated and best practices have evolved to reduce emissions of reactive organic gases, oxides of nitrogen, and particulate matter. In accordance with the Pavley (Assembly Bill 1493) and Low-Emission Vehicle regulations (Title 13, California Code of Regulations, Section 1961.2), emission standards for off-road diesel equipment are required to become more stringent over time. The California Air Resources Board, which oversees statewide air pollution control efforts, updated the Low-Emission vehicle regulations in 2012 up to the year 2025. For these reasons, no new significant or substantially more severe air quality impacts are anticipated related to construction. Therefore, these impacts will also be less-than-significant.

With respect to operation emissions, Land use types for the entire Public Market based on the 2008 PDP were entered into CalEEMod. Annual emissions were predicted using CalEEMod and



daily emissions were estimating assuming 365 days of operation. The below table shows average daily construction emissions of ROG, NOx, total PM10, and total PM2.5 during operation of the project. The operational period emissions are lower than the emissions that would have resulted from construction of the land use types approved in 2008.

Scenario	ROG	NOx	PM10	PM2.5
2024 Annual Public Market Operational Emissions (tons/year)	10.07	6.28	7.66	2.58
2024 Approved PDP Operational Emissions (tons/year)	13.21	9.89	10.62	3.01
Net Total Operating Emissions	-3.13	-3.61	-2.96	-0.43
BAAQMD Thresholds (tons /year)	10 tons	10 tons	15 tons	10 tons
Exceed Threshold?	No	No	No	No
2024 Daily Public Market Operational Emissions (pounds/day) <sup>1</sup>	-17.18	-19.75	-16.23	-2.38
BAAQMD Thresholds (pounds/day)	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	No	No	No
Note: <sup>1</sup> Assumes 365-day operation.				

The proposed mix of land uses, inclusive of the Project, would result in less operational emissions than the mix of land uses evaluated in 2008. As such, the air quality impacts from operational emissions will be less than was evaluated in the Marketplace EIR, and the impact will be less-than-significant.

With respect to health risks, an updated HRA was prepared in January 2015 by ENVIRON International Corp, which analyzed the potential for health risks to residents at the site during operation from adjacent sources.<sup>3</sup> Specifically, ENVIRON analyzed risks to residents at Parcels C, A, and D. ENVIRON first conducted a screening-level HRA of adjacent sources of toxic air contaminants, specifically roadways including highways and major surface streets and existing stationary sources using the available BAAQMD screening tools. Based on the results of the screening-level HRA, the highways, major surface streets, and nearby stationary sources do not pose a health risk above the significance thresholds identified by BAAQMD. Since BAAQMD has not developed a railway HRA screening tool, ENVIRON evaluated the health risks posed by the Amtrak/Union Pacific railroad tracks that are in close proximity to the Project through a refined HRA. Based on the results of the refined HRA, the single source health risks associated with railway emissions are below the significance threshold identified by BAAQMD. The cumulative health risks from roadways, railways, and stationary sources are also below the thresholds identified by BAAQMD. No changes between the Project and the PUD/PDP or changes in existing conditions warrant any new analysis.

**Finding:** The Project's potential impacts are the same or less than those analyzed in the Final EIR. For reasons stated above, the Project's potential impacts related to air quality will be no greater than what was analyzed in the EIR. Therefore, no new or substantially increased impacts would

<sup>3</sup> ENVIRON, CEQA Air Quality Analysis for Proposed Emery Bay Marketplace Development, Parcels A, C, and D, dated march 16, 2015.

result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## D. BIOLOGICAL RESOURCES

<b><i>Biological Resources</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant /No Impact</i></b>
<b>Would the project:</b>			
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR considered, but did not discuss in detail, impacts to Biological Resources because the Project area is already developed with urban uses and is located in an urbanized area, and was therefore found to have no significant impacts in this impact area. (Marketplace Draft EIR, p. 2). Therefore, the impact is less-than-significant.

**EIR Mitigation Measures:** None.

Compared to the PDP Project, the Project: The Project is located in the same geographical area as that analyzed in the Marketplace EIR, and therefore will not have any impact on biological resources. Therefore, the impact is less-than-significant.

Finding: The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same as those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to biological resources are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## E. CULTURAL RESOURCES

<b><i>Cultural Resources</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than-Significant/No Impact</i></b>
<b>Would the project:</b>			
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to cultural resources in Section I of the Draft EIR and in Section 5.B.i of the Final EIR. The Draft EIR concluded that the Draft EIR Project has the potential to result in significant impacts because (1) the Draft EIR Project may result in the destruction of possibly significant archeological deposits, (2) ground disturbance associated with the Draft EIR Project may disturb human remains, including those interred outside of formal cemeteries, and (3) ground disturbing activities within the Draft EIR Project Site could adversely impact paleontological resources. (Marketplace Draft EIR, pp. 292-295). However, mitigation measures implemented by the Project would bring these impacts to a less-than-significant level. (Id.). The Final EIR Project, though it would affect a larger portion of the Project Site compared to the Draft EIR Project, would result in the same sorts of impacts as the Draft EIR Project, and the Final EIR concludes that these impacts would be reduced to a less-than-significant level by implementation of the same mitigation measures. (Marketplace Final EIR, p. 127).

**EIR Mitigation Measures:** See **Appendix A** for the mitigation for this impact area: CULT-1a, CULT-1b, CULT-1c, CULT-2, CULT-3a, CULT-3b, CULT-3c. Each of these mitigation measures will be implemented by the Project.

**Compared to the PDP Project, the Project:** The Project will include the same sorts of potential impacts to archeological resources, human remains, and paleontological resources as the Draft EIR Project and the Final EIR Project. The Project will include similar ground disturbance during construction periods, and will cover approximately the same footprint as the Draft EIR Project and the Final EIR Project. For these reasons, the mitigation measures incorporated into the Draft EIR Project and Final EIR Project will mitigate the potential impacts from the Project to a less-than-significant level.

Finding: The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to cultural resources are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## F. ENERGY

<b>Energy</b>	<i>Significant Impact identified in Marketplace EIR</i>	<i>Impact of the Project will be Less-than- Significant after Marketplace EIR Mitigation Incorporated</i>	<i>Less-than- Significant/No Impact</i>
<b>Would the project:</b>			
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR addressed Energy Resources in Section VII of the Draft EIR. The Draft EIR determined that Energy Resources would not be significantly affected by the proposed project. Therefore, Energy Resources were not analyzed in the Marketplace EIR.

**EIR Mitigation Measures:** None.

**Compared to the PDP Project, the Project:** The Project does not result in any changes in conditions that would warrant new analysis. Project-related energy use would be required for the operation of commercial and residential uses to serve the local resident and business population wherever these activities occur within the market area. Such standard energy consumption would not be considered wasteful, and would not consume substantial amounts of finite natural resources. Through the City's administration of the requirements of the California Building Standards Code, the energy conservation requirements in Title 24, Part 6, California Code of Regulations, will be applied. While the proposed development may result in increased energy use compared to existing uses, the Project would be subject to the requirements of Title 24 of the California Code of Regulations. Since 1999, energy conservation measures and vehicle standards have improved and there have been no other substantial adverse changes that would substantially increase the severity of impacts. Additionally, the Project will be required to comply with applicable energy conservation measures, which are more stringent than when the Marketplace EIR was certified.

**Finding:** For reasons stated above, the Project's potential impacts related to energy resources are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.





## G. GEOLOGY AND SOILS

<b><i>Geology and Soils</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/ No Impact</i></b>
<b>Would the project:</b>			
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:			
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Referto Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would becomeunstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the UniformBuilding Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to geology and soils in Section G of the Draft EIR and in Section 5.B.g of the Final EIR. The Draft EIR concluded that the Draft EIR Project had the potential to result in significant impacts because (1) seismically-induced ground shaking at the Draft EIR Project Site could result in damage to life and/or property, (2) because structures or property at the Draft EIR Project Site could be adversely affected by expansive soils or by settlement of Draft EIR Project soils, (3) because differential settlement at the Draft EIR Project Site could result in damage to Project buildings and other improvements, and (4) because liquefaction at the Draft EIR Project Site could result in damage to buildings and other improvements. (Marketplace Draft EIR, pp. 264-265). However, mitigation measures incorporated into the Draft EIR Project would bring these impacts to a less-than-significant level. (Marketplace Draft EIR, pp. 264-266). The Final EIR concludes that the Final EIR Project, though there would be a sizeable increase in total development added to the Project Site compared to the Draft EIR Project, would be subject to similar geologic and seismic conditions and constraints. (Marketplace Final EIR, pp. 126-127). Therefore, the Final EIR concludes, incorporation of the Draft EIR's mitigation measures would also mitigate the impacts from the Final EIR Project to less-than-significant. (Marketplace Final EIR, p. 127).

**EIR Mitigation Measures:** See **Appendix A** for the mitigation measures for this impact area: GEO-1, GEO-2, GEO-3, GEO-4, CULT-3a, CULT-3b, CULT-3c. Each of these mitigation measures will be implemented by the Project.

**Compared to the PDP Project, the Project:** The Project is subject to the same geological and seismic conditions and constraints as the Draft EIR Project and the Final EIR Project and therefore the impacts analyzed in the Marketplace EIR are the same as would occur from the Project. Thus, the mitigation measures identified for the Marketplace EIR will mitigate the impacts from the Project to a less-than-significant level.

**Finding:** The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to geology and soils are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## H. GREENHOUSE GAS EMISSIONS

<b>Greenhouse Gas Emissions</b>	<i>Significant Impact identified in Marketplace EIR</i>	<i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i>	<i>Less-than- Significant/No Impact</i>
<b>Would the project:</b>			
g) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** While the Marketplace EIR did not discuss impacts related to greenhouse gas emissions, the City applied for and received a Catalyst Community Grant from the California Department of Housing and Community Development in order to build the Final EIR Project as part of the California Sustainable Strategies Pilot Program. (Catalyst Community Grant Agreement Between Department of Housing and Community Development and City of Emeryville, signed 4/12/12, p. 1). This program provides funding to support capital improvements, which will receive funding support in return for complying with certain requirements. The Final EIR Project has also been designated Platinum level from the U.S. Green Building Council as part of the LEED® Neighborhood Development pilot program. This designation is a Project Site-wide neighborhood designation, and does not mandate that each building achieve any particular LEED® certification rating.

**EIR Mitigation Measures:** None

**Compared to the PDP Project, the Project:** It may be noted that, as discussed in Section V above, CEQA Guidelines Section 15162(a)(3) provides that no subsequent EIR shall be prepared unless the lead agency determines that “new information” exists that was not known before, which shows that the proposed project will (1) have significant effects that were not discussed, (2) substantially more severe effects, (3) result in mitigation measures or alternatives previously found to be feasible that are no longer feasible, or (4) result in mitigation measures that are considerably different.

The Marketplace EIR did not discuss impacts related to greenhouse gas emissions. In 2017, BAAQMD updated its CEQA thresholds of significance for evaluating climate impacts.<sup>4</sup> However, the BAAQMD updated thresholds do not constitute significant “new information” requiring a supplemental EIR pursuant to CEQA Guidelines Section 15162 as climate change and the effects of greenhouse gas emissions were known at the time of the Marketplace EIR.<sup>5</sup> *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301 (holding that the BAAQMD CEQA Guidelines are not “new information” that require the preparation of a subsequent EIR.)

Nonetheless, Illingworth & Rodkin has prepared an analysis of the Project’s GHG impacts for informational purposes. CalEEMod was used to predict GHG emissions from operation of the site assuming full build-out of the project. There are currently no applicable thresholds for GHG emissions from constructions although BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. GHG emissions associated with construction were computed at 1,053 MT of CO<sub>2</sub>e for the total construction period.

The CalEEMod model, along with the project vehicle trip generation rates, was used to estimate daily emissions associated with operation of the fully-developed site under the proposed project. As shown in the table below, net annual GHG emissions resulting from operation of the proposed project when compared to the original 2008 land use types are predicted to be -4,489 MT of CO<sub>2</sub>e annually.

Source Category	Proposed Project	2008 PDP Land Use Types
Area	38.86	53.64
Energy Consumption	798.73	473.32
Mobile	7,450.25	12,318.92
Solid Waste Generation	148.08	307.26
Water Usage	335.39	107.03
Total (MT CO <sub>2</sub> e/year)	8,771.32	13,260.16
Net Total (MT CO <sub>2</sub> e/year)		-4,488.85

It is noted that the currently proposed Project includes a number of sustainability features, including the following:

- LEED Gold
- Net Zero Energy parking structure
- GBCI Parksmart Design Credits

<sup>4</sup> BAAQMD is currently in the process of updating its CEQA Guidelines and Thresholds of Significance for Evaluating Climate Impacts from Land-Use Projects and Plans. The draft update is available at: <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>.

<sup>5</sup> *CREED v. City of San Diego* (2011) 184 Cal.App.4th 1032 (holding that climate change is not new information requiring a supplemental EIR because information about greenhouse gases have been available since the late 1970s; *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924.

- Electric Vehicle Infrastructure
- 80% Potable Water Use Reduction
- Comprehensive Waste Management Plan
- Bay Friendly Landscaping
- WELL design credits
- Use of healthy building materials

Finding: No new or substantially increased impacts would result from the Project. For the reasons stated above, the Project's potential impacts related to greenhouse gas emissions are less than significant.<sup>6</sup> No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

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<sup>6</sup> It may be noted that a condition of receiving the Catalyst grant is meeting the requirements of AB 32, which require a 30.3% reduction of greenhouse gas emissions below business as usual levels.

## I. HAZARDS AND HAZARDOUS MATERIALS

<b><i>Hazards and Hazardous Materials</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than-Significant /No Impact</i></b>
<b>Would the project:</b>			
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



EIR Conclusion: The EIR analyzed impacts to hazards and hazardous materials in Section F of the DEIR and Section 5.B.f of the FEIR. The DEIR concluded that the DEIR Project had the potential to result in four significant impacts unless mitigated. These include the following: (1) exposure of construction workers and the public to existing contamination in soil, soil gas, and/or groundwater could result in adverse health effects because construction activities will occur in areas with known contamination (Marketplace DEIR, pp. 251-252); (2) release of airborne particles of hazardous materials during demolition of structures containing lead-based paint, asbestos containing building materials, or other building material could impact construction workers and the general public (Marketplace DEIR, p. 253); (3) use and potential accidental spills of hazardous materials during the construction of the DEIR Project could result in soil and/or groundwater contamination and adverse health effects to construction workers, the public, and the environment (Marketplace DEIR, p. 254); and (4) the Property is identified on a database compiled pursuant to Government Code 65962.5 and could result in a safety hazard for people residing or working in the area (Marketplace DEIR, p. 255). The DEIR concludes that mitigation measures incorporated into the DEIR Project would bring these impacts to a less- than-significant level. (Marketplace DEIR, pp. 252-255).

The FEIR concluded that because the FEIR Project includes additional demolition and construction structures (e.g., the UA Cinema would be demolished and replaced with multi- family units, a retail anchor store, and structured parking) and installation of associated utilities, the DEIR Project's mitigation measures would need to be expanded to include these areas, in addition to those covered in the DEIR. (Marketplace FEIR, p. 126). The Marketplace EIR acknowledged that proposed project activities are expected to impact the capped areas subject to the Land Use Covenants. (Marketplace DEIR, p. 252). The DEIR concludes that because redevelopment would penetrate the site cap (e.g., through demolition and construction of structures) mitigation measures would be required. A mitigation measure was added in the FEIR to address potential exposure of future residents of the mixed use building that would be constructed within the Covenant area north of the Marketplace Tower and Public Market. (Id.). Otherwise, however, all impacts and mitigation measures from the DEIR Project were considered applicable to the FEIR project, and would be sufficient to bring the impacts to a less-than-significant level. (Id.).

EIR Mitigation Measures: See **Appendix A** for the mitigation measures for this impact area: HAZ-1a, HAZ-1b, HAZ-1c, HAZ-1d, HAZ-1e, HAZ-2a, HAZ-2b, HAZ-3a, HAZ-3b, HAZ-3c, HAZ-4, HAZ-1 (Main Street and Reduced Main Street alternatives). Each of these mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project: The Project, together with the Approved FDP Projects, consists of a slightly reduced version of the Marketplace Project analyzed in the Draft EIR and Final EIR. The Project would be located within the same geographical area as the site that was analyzed in the Marketplace EIR and would require an amount of demolition and construction activities as similar to what was analyzed. Environmental conditions have not changed since the certification of the Marketplace EIR. Therefore, the impacts from the proposed project would be similar to those described in the Marketplace EIR, and the implementation of the applicable

mitigation measures would ensure that no new or substantially increased impacts associated with hazards or hazardous materials would occur.

Additionally, the Project's uses will be covered by protective mitigation measures to eliminate any potential exposure pathway to users of the site and members of the public. The EIR mitigation measures require the preparation of health and safety plans, soil management plans, ensure protective design and require cap maintenance, where applicable. The mitigation measures from the Marketplace EIR would be sufficient to mitigate impacts to less-than-significant, because (1) the Project consists of largely the same types of construction activities and uses; and (2) known environmental conditions are substantially similar to those known at the time of the certification and approval of the Final EIR.

The applicable SMP (Soil Management Plan for Redevelopment Construction, Parcels A, B, and D, dated June 26, 2014) was approved by the Department of Toxic Substance Control in a letter dated July 21, 2014. The focus of the SMP is to describe procedures to be followed by environmental consultants, construction contractors and workers, and other property owner representatives during redevelopment construction. Soil management procedures are to be implemented in a manner that are protective of human health and the environment and that are consistent with the planned redevelopment.

With regard to Parcel B, the SMP contemplated that after realignment of Shellmound Street was completed, a four-story commercial building would be constructed with ground-floor retail and parking on the upper levels. Construction activities related to the SMP would include: (1) removal of existing surface parking, curbs, sidewalks, trees, planting areas, and pole lights; (2) installation of new curbs, sidewalks, planting areas, planting islands, street trees, parking lot trees, and new pole lights; (3) grading; and (4) excavations for building footings, underground utility trenches, and elevator pits. Additional soil sampling may be required solely for waste characterization purposes associated with landfill acceptance and disposal and would be regulated by DTSC.

Further, Parcel B is subject to a Covenant to Restrict Use of Property between the Department of Toxic Substances Control and the City of Emeryville that restricted the portion of the property that was formerly used for Shellmound Street for use as a roadway. In 2016, the Covenant was amended to allow "commercial/industrial uses (including parking garage)". Accordingly, the currently proposed use is consistent with the amended Covenant to Restrict Use of Property.

At the time the SMP was prepared, it was anticipated that redevelopment on Parcel A would include constructing a building containing two levels of podium-style parking and five levels of residential units on the upper floors. The proposed plans for parking garage with minimal occupied space is consistent and compatible with the SMP.

Finding: The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts with mitigation related to hazards and hazardous materials are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly,

none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## J. HYDROLOGY AND WATER QUALITY

<b><i>Hydrology and Water Quality</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of Project will be Less-than- Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/ No Impact</i></b>
<b>Would the project:</b>			
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:			
i) result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**EIR Conclusion:** The Marketplace EIR analyzed impacts to hydrology and water quality in Section H of the Draft EIR and in Section 5.B.h of the Final EIR. The Draft EIR concluded that the Draft EIR Project had the potential to result in three significant impacts related to degradation of runoff water quality. (Marketplace Draft EIR, p. 273). First, construction activities from the Draft EIR Project could result in degradation of water quality in the San Francisco Bay by reducing the quality of storm water runoff. (Id.). Second, dewatering effluent from groundwater dewatering operations necessary to build the Project may contain contaminants and if not properly managed could cause impacts to construction workers and the environment. (Marketplace Draft EIR, p. 275). Finally, operation-phase use of the Draft EIR Project Site could result in degradation of water quality in the San Francisco Bay by reducing the quality of storm water runoff. (Marketplace Draft EIR, pp. 275-276). However, the Draft EIR concludes that mitigation measures incorporated into the Draft EIR Project would bring these impacts to a less-than-significant level. (Marketplace Draft EIR, pp. 274-278).

The Final EIR concludes that, while the intensity of development considered under the Final EIR Project would be sizably greater than the Draft EIR Project, the area of impervious surfaces that would generate storm water is similar for the Final EIR Project and the Draft EIR Project. (Marketplace Final EIR, p. 127). Each of the impacts and mitigation measures identified for the Draft EIR Project would also be applicable to the Final EIR Project, and would ensure that impacts to runoff water quality would be less-than-significant for both the construction and the operational phases, similar to the Proposed Project. (Id.).

**EIR Mitigation Measures:** See **Appendix A** for the mitigation measures for this impact area: HYD-1, HYD-2, HYD-3. Each of these mitigation measures will be implemented by the Project.

**Compared to the PDP Project, the Project:** The Project will have a similar building footprint to that analyzed in the Marketplace EIR. Therefore, the impacts to runoff water quality would be similar for both the construction and operational phases of the Parcel B FDP Project. Since the Draft and Final EIR were prepared, the Regional Stormwater NPDES permit C.3 provisions have become more stringent.<sup>7</sup> The required compliance with the more stringent requirements will further reduce stormwater impacts when compared with the project analyzed in the Draft and Final EIR. Accordingly, the impact from stormwater will be approximately the same, or less than, the impacts analyzed in the Marketplace EIR. Thus, the impacts of the Project to hydrology and water quality will be less-than-significant.

**Finding:** The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the

<sup>7</sup> Regional Water Quality Control Board, *Municipal Regional Stormwater NPDES Permit*, available here: <https://www.cleanwaterprogram.org/images/uploads/R2-105-0049.pdf>

Project's potential impacts related to hydrology and water quality are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## K. LAND USE PLANNING

<b><i>Land Use and Planning</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/ No Impact</i></b>
<b>Would the project:</b>			
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to land use in Section A of the Draft EIR and in Section 5.B.a of the Final EIR. The Draft EIR concluded that implementation of the Draft EIR Project would not result in any significant land use impacts. (Marketplace Draft EIR, p. 98). The Final EIR concluded that the Final EIR Project would similarly be compatible with land use in the area and would not result in any significant impacts. (Marketplace Final EIR, p. 98). Further, the Final EIR Project would relocate nearly all surface parking into structures, reconfigure roadways through the Project Site to slow vehicular traffic and reduce pedestrian-vehicular conflict, intensify the Project Site with four additional mixed use and retail buildings, and distribute residential uses across more of the Project Site, thereby creating a more efficient, accessible, and usable neighborhood compared to the Draft EIR Project. (Marketplace Final EIR, p. 99). Therefore, the Final EIR found that no mitigation was required and the land use impact would be less-than-significant.

**EIR Mitigation Measures:** None.

**Compared to the PDP Project, the Project:** The Project will have a similar land use impact to the Draft EIR Project and the Final EIR Project. The Project includes a notable grand staircase through Parcel A, consistent with the PDP, that will serve to connect residents and visitors on the east side of the railroad tracks to the Public Market project and beyond. In this way, the Project would not divide an established community but would rather provide additional connectivity.

The Project would reallocate some land uses, resulting in an increase in office/R&D and decrease in residential as compared to the Marketplace EIR. Although there would be a reallocation of land uses, the PUD/PDP allows R&D use and also allows reallocation of uses on each parcel per the terms of the PDP conditions. The proposed uses would be similar in nature to those analyzed

in the Marketplace EIR. Additionally, R&D results in fewer trips (and associated environmental impacts) than office uses. The proposed uses will be compatible with the mix of uses existing on and surrounding the Project Site and would not adversely affect surrounding land uses. Emeryville has attracted several R&D users throughout the City, thereby demonstrating the compatibility of the R&D use. Therefore, the land use impacts from the Project are the same as those analyzed in the Marketplace EIR, and the impact on land use is therefore less-than-significant.

Finding: The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to land use and planning are less-than significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.



## L. MINERAL RESOURCES

<b><i>Mineral Resources</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/No Impact</i></b>
<b>Would the project:</b>			
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR considered, but did not discuss in detail, impacts to mineral resources because the Project is not underlain by valuable mineral resources and, therefore, Project implementation would not result in the loss of known or locally important mineral resources. Thus, the Project was found to have no significant impacts in this impact area. (Marketplace Draft EIR, p. 2), and the Project's impact was less-than-significant.

**EIR Mitigation Measures:** None.

**Compared to the PDP Project, the Project:** The Project is located in the same geographical location as in the Marketplace EIR, and therefore will not have any impact on mineral resources. Thus, the impact is less-than-significant.

**Finding:** The conclusions of the Marketplace EIR remain unchanged. The Project's potential impacts are the same as those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to mineral resources are less than significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## M. NOISE

<b>Noise</b>	<b>Significant Impact identified in Marketplace EIR</b>	<b>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</b>	<b>Less-than-Significant /No Impact</b>
<b>Would the project result in:</b>			
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to noise in Section E of the Draft EIR and in Section 5.B.e of the Final EIR. The Draft EIR concluded that the Draft EIR Project has the potential to result in significant noise impacts in two general areas, (1) exposure of Site uses to unacceptable noise levels, and (2) construction-related noise. (Marketplace Draft EIR, pp. 229, 231). As for unacceptable noise levels, there are three identified impacts. (Marketplace Draft EIR, pp. 229-231). First, local traffic will generate long-term exterior noise exceeding Normally Acceptable levels on the Draft EIR Project Site and could expose Project Site users to unacceptable noise levels. (Marketplace Draft EIR, p. 229). Second, train activity from the track adjacent to the proposed Shellmound building site would generate long-term exterior noise exceeding Normally Acceptable levels on the Project Site. (Marketplace Draft EIR, p. 230). Finally, the Project could expose future residents of the Shellmound building to excessive ground-borne vibration levels. (Marketplace Draft EIR, p. 231). As for construction-related noise, there are two identified impacts. (Marketplace Draft EIR, pp. 231-234). First, on-site construction activities would potentially result in short-term noise impacts on adjacent residential uses. (Marketplace

Draft EIR, p. 231). Second, based on the upper range of predicted construction vibration levels, pile driving on the Project Site has the potential to generate ground-borne vibration levels in excess of 0.2 inches per second at structures adjacent to and within the Project Site. (Marketplace Draft EIR, p. 233). However, the Draft EIR concludes that mitigation measures incorporated into the Draft EIR Project would bring these impacts to a less-than-significant level. (Marketplace Draft EIR, pp. 230-234).

The Final EIR concludes that noise impacts that would result from the Final EIR Project would be substantially similar to the Draft EIR Project. (Marketplace Final EIR, p. 125). Based on a modeled traffic noise comparison, impacts of the Final EIR Project and the Draft EIR Project are not substantially different, and railroad noise and ground-borne vibration would remain unchanged. (Id.). Therefore, the mitigation measures incorporated into the Draft EIR Project would reduce impacts from the Final EIR Project to a less-than-significant level.

EIR Mitigation Measures: See **Appendix A** for the mitigation measures for this impact area: NOISE-1, NOISE-2a, NOISE-2b, NOISE-3, NOISE-4, NOISE-5. Each of these mitigation measures, including the following revisions, will be implemented by the Project.

Compared to the PDP Project, the Project: As discussed in the transportation and section below, traffic consultants Kimley Horn concluded that trip generation from the Project would be less than the Final EIR Project. Consequently, automobile-borne noise from the Project would be similar or less than previously anticipated.

The Project will require a level of construction intensity similar to what was identified in the Marketplace EIR and, therefore, impacts associated with construction noise would be similar.

The mitigation measures incorporated into the Marketplace EIR will serve to bring any potential impacts on the residential population within the Marketplace to a less-than-significant level through installation of mechanical ventilation and STC rated windows. As described in the Marketplace Draft EIR and Final EIR, impacts from ground-borne vibration and rail can also be reduced to a less-than-significant level through the implementation of appropriate mitigation measures. Therefore, the Project will not have a noise impact beyond that analyzed in the Marketplace EIR, and the impact will be less-than-significant with mitigation.

Finding: The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to noise are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## N. POPULATION AND HOUSING

<b><i>Population and Housing</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/No Impact</i></b>
<b>Would the project:</b>			
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to population and housing in Section B of the Draft EIR and in Section 5.B.b of the Final EIR. The Draft EIR concluded that implementation of the Draft EIR Project would not result in any significant population, employment, or housing impacts because the Project would not induce substantial or unanticipated population or housing growth, displace substantial numbers of existing housing or people, or create a substantial jobs-to-housing/employed residents imbalance. (Marketplace Draft EIR, pp. 107- 109). Noting that the Final EIR Project would add more housing than jobs, the Final EIR concluded that the Final EIR Project would not have any additional adverse impacts to population and housing, and would actually have a beneficial impact on the jobs/housing ratio. (Marketplace Final EIR, p. 99). Because Emeryville provides more jobs than housing and therefore has an out of balance job/housing ratio, the Final EIR Project would actually cause Emeryville's jobs/housing ratio to improve. (Id.). Therefore, the impact from the Final EIR Project is less-than-significant.

**EIR Mitigation Measures:** None.

**Compared to the PDP Project, the Project:** As noted above, the EIR Project was designated Platinum level from the U.S. Green Building Council as part of the LEED® Neighborhood Development pilot program based in part on its mix of uses. The Project, taken together with the Approved FDP Projects, would result in 186 residential units less than the PDP Project. Although

the Project would reallocate uses within the Project Site and result in fewer dwelling units in the PDP/PUD, its impact on population and housing will be less-than-significant.

Using the worker household generation factors in the City's 2014 Non-Residential Jobs-Housing Nexus Study, the non-residential components of the PUD/PDP Project were anticipated to induce demand for 447 new worker households, 294 of which would earn less than 120% of the area median income. By contrast, the Project (when combined with existing and remaining anticipated build out) would result in an induced demand of 512 households, of which only 27 are expected to earn less than 120% of the area median income. In total the Marketplace Project, including the proposed Project, would provide 489 residential units. The Project will therefore result in a 23 home shortfall, or a 0.3% increase in housing demand, of which 8 households are anticipated to earn 120% below the area median income.<sup>8</sup>

The staff report for the April 19th City Council Study Session explains that the Applicant is proposing to pay an in lieu fee of \$15,002,128, plus the Affordable Housing Impact of \$1,997,872, for a total of \$17,000,000. The staff report further explains the following (p. 4-5, *emphasis added*):

*In total, the applicant's proposed contribution to the City's Affordable Housing Fund would equate to nearly nine times the amount of Affordable Housing Impact fees that would normally be required for the research and development/retail project proposed for Parcels A and B.*

If the applicant were to build the previously entitled residential project on Parcel A, including affordable units as required by the DA, no affordable housing impact fees would be required for that project. If the applicant were to build a 167-unit market-rate residential project on Parcel A without any affordable units, the Affordable Housing Impact Fee for that project would be \$31,823 per unit, or \$5,314,441. At 167 units, the applicant's additional payment of \$15,002,128 calculates to \$89,833 per unit, or 2.8 times the current fee if 167 market-rates units were to be built on Parcel A.

Using construction cost data from similar projects, staff estimates that the applicant's cost to construct the 18-unit residential building would be \$11,090,000, inclusive of soft costs and fees.

*In summary, the applicant proposes to pay the Affordable Housing Impact Fee as required for the Research and Development Project, which is required by the City in order to mitigate the impact of adding employees and their attendant demand for affordable housing.*

Accordingly, the proposed in lieu fee is anticipated to address demand for affordable housing. Moreover, during the May 17, 2022 City Council Study Session, the applicant agreed to increase the in lieu fee from \$17 Million to \$20 Million, resulting in greater housing production. Based on

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<sup>8</sup> The U.S. Census concluded Emeryville consisted of 6,530 households.

construction cost data from similar projects, it is estimated that \$20 Million could fund the construction of approximately 32 new affordable housing units, inclusive of soft costs and fees, fully offsetting the Project's anticipated incremental increase in induced demand.

Further the Project is not expected to induce unplanned population growth in an area, either directly or indirectly, as the Project impacts are anticipated to be the same or less than that previously discussed in the EIR. Further the Project does not include infrastructure improvements, as such improvements, including the Shellmound Street (and associated utility) realignment has already occurred, consistent with the PUD/PDP and EIR.

Finally, the Project will not displace the existing people or housing as the parcels are all currently vacant or used for surface parking.

Finding: For the reasons stated above, the Project's potential impacts related to population and housing are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## O. PUBLIC SERVICES

<b>Public Services</b>	<b>Significant Impact identified in Marketplace EIR</b>	<b>Impact of Project will be Less-than- Significant after Marketplace EIR Mitigation Incorporated</b>	<b>Less-than- Significant/ No Impact</b>
a) <b>Would the project</b> result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			
Fire protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to public services in Section K of the Draft EIR and in Section 5.B.k of the Final EIR. The Draft EIR concluded that the Draft EIR Project would have no potentially significant impacts related to public services. (Marketplace Draft EIR, pp. 331-332). The Final EIR concluded that the additional office, retail, and residential uses of the Final EIR Project would create a greater demand for fire and police protection, schools, library services, and parks, as compared to the Draft EIR Project. (Marketplace Final EIR, p. 128). Impacts to schools, library services, and parks would be similar to the Draft EIR Project (though slightly greater due to the increase of 48 residential units) and only impacts to fire and police protection services and facilities would be substantially greater for the Final EIR Project than the Draft EIR Project. (Marketplace Final EIR, p. 129). Consequently, the Final EIR concludes that an additional mitigation measure is needed to reduce the impact to fire and police services by ensuring that additional facilities are built if needed and that the Project sponsor will contribute a pro rata share of the cost to construct needed new facilities. (Id.). With this mitigation

included, the impact from the Final EIR Project on public services is brought to a less-than-significant level. (Id.).

EIR Mitigation Measures: See **Appendix A** for the mitigation measure for this impact area: PS-1, PS-2, PS-1 (Main Street and Reduced Main Street alternatives), PS-3a, PS-3b.<sup>9</sup> These mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project: The Project will have a similar impact on public services as the Final EIR and the Draft EIR Project. Although the Project will have more R&D space than the Final EIR Project and DEIR Project, it will have less retail space and less residential. Additionally, inclusion of the mitigation measure PS-1 (Main Street and Reduced Main Street alternatives) ensure that adequate police and fire services will be available. Therefore, the impacts from the Project are the same or less than was analyzed in the Marketplace EIR, and the impact to public services is therefore less-than-significant.

Finding: The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to public services are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project's beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

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<sup>9</sup> Note that this mitigation measure, and the associated impact, is listed as PS-3 (Reduced Main Street alternative) in the body of the FEIR (Marketplace FEIR, p. 129), but is listed as PS-1 (Reduced Main Street alternative) in the list of mitigation measures (Marketplace FEIR, Appendix C, p. 42). This document uses the numbering from the list of mitigation measures.



## P. RECREATION

<b>Recreation</b>	<i>Significant Impact identified in Marketplace EIR</i>	<i>Impact of Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i>	<i>Less-than-Significant /No Impact</i>
a) <b>Would the project</b> increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) <b>Does the project</b> include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to neighborhood and regional parks in Section K of the Draft EIR and in Section 5.B.k of the Final EIR. The Draft EIR found that the Draft EIR Project would not have a significant impact to parks or other recreational facilities. (Marketplace Draft EIR, p. 329). The Final EIR also found that the Final EIR Project would not have a significant impact to parks or recreational facilities. (Marketplace Final EIR, pp. 128- 130).

**EIR Mitigation Measures:** None

**Compared to the PDP Project, the Project:** The Project would not include any significant impacts to recreation. As discussed above, the Planning Commission approved the improvements and expansion of City Park on February 26, 2015. The inclusion of the larger park area accommodate the residential units and employees included in the Project and Approved FDP Projects. Impacts will be less-than-significant.

**Finding:** The conclusions of the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to recreation are less than significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## Q. TRANSPORTATION

<b><i>Transportation/Traffic</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than- Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than Significant/ No Impact</i></b>
<b>Would the project:</b>			
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed impacts to transportation and traffic in Section C of the Draft EIR and in Section 5.B.c of the Final EIR. The Draft EIR concluded that the Draft EIR Project would have multiple off-site traffic impacts under the three scenarios considered: (1) existing plus project, (2) 2010 plus project, and (3) 2030 plus project. (Marketplace Draft EIR, pp. 163-169). Additionally, the Draft EIR concluded that the Draft EIR Project would have impacts to vehicular Project Site access, on-site circulation, and parking. (Marketplace Draft EIR, pp. 179-186). The Draft EIR proposed mitigation measures to be included in the Draft EIR Project for each of these impacts, and this mitigation reduced the impacts of many of these impacts to less-than-significant. (Marketplace Draft EIR, pp. 163-169, 181-186). However, despite this mitigation, a number of impacts remained significant and unavoidable. (Id.).

The Final EIR concluded that the Final EIR Project would have additional impacts, and consolidated the impacts from the Final EIR Project into Table V-5 (Marketplace Final EIR, pp.

108-123). The Final EIR integrated into the Final EIR Project the mitigation measures from the Draft EIR Project, but concluded that, notwithstanding this mitigation, the Final EIR Project would result in numerous additional impacts to traffic at various intersections off site and within the immediate project area. (Marketplace Final EIR, pp. 99-107). The Final EIR concluded that many of the Final EIR Project's impacts to intersections and roadways are significant and unavoidable, despite being reduced to the greatest extent possible with mitigation. (Id.). Other impacts, however, to intersection and roadway congestion, and also on inadequate bicycle and pedestrian access, are mitigated to a less-than-significant level through mitigation measures. (Id.).

#### EIR Mitigation Measures:

As of July 1, 2020, Senate Bill (SB) 743 determines that transportation impacts must be determined using vehicle miles traveled (VMT) rather than LOS. The use of VMT in significance criteria is intended to better align transportation impact analysis and mitigation outcomes with the State's goals to reduce greenhouse gas emissions, encourage infill development, and improve public health. Under this State law, automobile delay (as measured by LOS) is not considered a significant impact on the environment.

See **Appendix A** for the mitigation measures for this impact area: TRAF-1a, TRAF-1b, TRAF-2a, TRAF-2b, TRAF-3, TRAF-4, TRAF-5, TRAF-6, TRAF-7, TRAF-8, TRAF-9, TRAF-10, TRAF-11, TRAF-12, TRAF-13, TRAF-14, TRAF-15, TRAF-16, TRAF-17, TRAF-18, TRAF-19, TRAF-20, TRAF-21, TRAF-22, TRAF-23, TRAF-24, TRAF-25, TRAF-26, TRAF-27, TRAF-28, TRAF-29a, TRAF-29b. Each of these mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project: Traffic consultants Kimley-Horn and Associates conducted a trip generation evaluation dated October 17, 2013, which undertook a comparison of a previously proposed redevelopment project with the Final EIR Project, and evaluated whether the previously proposed redevelopment project would have any significant environmental impacts that were not evaluated in the Marketplace EIR. The Kimley Horn trip evaluation concluded that, because trip generation from the previously proposed project is less than that which was evaluated in the Marketplace EIR, the previously proposed project would “not result in any new significant impacts, or result in any new mitigation measures.” (Kimley Horn Traffic Study, p. 8). Fehr and Peers then confirmed this conclusion. The Fehr and Peers transportation memorandum concluded that the comparison “indicates that the currently proposed project is expected to generate less traffic than the approved project. Therefore, the currently proposed project is not expected to result in greater impacts to the local and regional transportation system than were previously analyzed and disclosed as part of the environmental review process.”

Most recently, Kimley Horn again conducted a trip generation evaluation dated May 11, 2022, which compared the Project in conjunction with the Approved FDPs, with the Final EIR Project and evaluated whether the mix of uses and intensities would result in any significant environmental impacts that were not evaluated in the Marketplace EIR. Specifically, Kimley Horn found that the mix of uses and intensities in the Project along with the Approved FDP Projects would result in 57 fewer AM peak hour trips and 575 fewer PM peak hour trips when compared

to the approved Final EIR/PDP Project. On this basis, Kimley Horn has again confirmed that the Project “would not result in any new significant impacts compared to the approved PDP.”

Further, the City adopted an increased Transportation fee. The payment of applicable fees would further ensure that impacts are less-than-significant. Therefore, the impact is less-than-significant.

Traffic impacts were not assessed in the Draft or Final EIRs using the vehicle miles traveled (“VMT”) metric. SB 743 was signed into law in 2013, requiring jurisdictions to evaluate transportation impacts using the VMT metric. The Governor’s Office of Planning and Research (“OPR”) has subsequently developed guidelines for implementing a VMT analysis in CEQA, including the development of VMT significance thresholds. However, the development of these thresholds do not constitute significant “new information” requiring a supplemental EIR pursuant to CEQA Guidelines Section 15162.<sup>10</sup> *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301 (holding that the BAAQMD CEQA Guidelines are not “new information” that require the preparation of a subsequent EIR). This was further confirmed in OPR’s Frequently Asked Questions guidance.<sup>11</sup>

Nonetheless, an assessment of the Project’s VMT effects is provided for information purposes. CEQA Guideline Section 15064.3(b)(1) states that lead agencies generally should presume that projects proposed within one-half mile of an existing major transit stop<sup>12</sup> or an existing stop along a high-quality transit corridor<sup>13</sup> will have a less-than-significant impact on VMT. OPR’s December 2018 guidance states that this presumption may not apply if project-specific or location-specific information indicates that the project will still generate significant levels of VMT, such as if the project:

- Has a Floor Area Ratio (FAR) of less than 0.75;
- Includes more parking for use by residents, customers, or employees of the project than required by the jurisdiction (if the jurisdiction requires the project to supply parking);
- Is inconsistent with the applicable Sustainable Communities Strategy (as determined by the lead agency, with input from the Metropolitan Planning Organization); or
- Replaces affordable residential units with a smaller number of moderate- or high-income residential units.

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<sup>10</sup> *CREED v. City of San Diego* (2011) 184 Cal.App.4th 1032 (holding that climate change is not new information requiring a supplemental EIR because information about greenhouse gases have been available since the late 1970s); *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924.

<sup>11</sup> <https://opr.ca.gov/ceqa/sb-743/faq.html>

<sup>12</sup> Cal. Pub. Res. § 21064.3 (major transit stop means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods).

<sup>13</sup> Cal. Pub. Res. § 21155.

The Project is within one-half mile of a major transit stop, the Emeryville Amtrak Station, and a high-quality transit corridor. The Project would have a FAR of 2.8 and provides 172 fewer spaces than required by the PDP. The Site is located in the Emeryville Mixed-Use Core Priority Development Area of the Plan Bay Area Sustainable Communities Strategy. There are no existing affordable residential units. The Project's VMT impacts are therefore presumptively less than significant.

Further, the table below summarizes the general reductions that would be necessary to achieve a less than significant impact for VMT based on data for the Bay Area region, Alameda County and the North Planning Area of Alameda County. OPR recommends a per employee VMT that is fifteen percent less than existing development as a reasonable threshold for significance. The table above shows the VMT per employee at 85 percent of existing levels for each planning area.

	2020			2040		
	North Planning Area	Alameda County	Bay Area Region	North Planning Area	Alameda County	Bay Area Region
Average VMT per Employee	14.5	15.9	18.1	14.9	16.2	18.2
Threshold VMT per Employee (85% of Average)	12.3	13.5	15.4	12.7	13.8	15.5
Project TAZ Average VMT per Employee	14.54			18.79		
<b>VMT Reduction Percentage Needed</b>	<b>15%</b>	<b>7%</b>	<b>-6%</b>	<b>33%</b>	<b>27%</b>	<b>18%</b>

These significance levels were then compared to the existing VMT per employee of the Project's traffic analysis zone in order to estimate the level of reductions needed to achieve a less than significant VMT level. As shown above, the North County Planning Area VMT per employee in 2040 shows the most conservative level of reductions needed, approximately 33% against normal conditions.

It is noted that the PDP requires the development of a Transportation Management Plan, including as applicable:

- Provision of transit amenities and facilities, including bus pull-outs, benches, shelters, transit information and ticket kiosks, and discounted transit passes for employees and residents;
- Carpool/vanpool support, including preferential parking spaces and ride-matching programs;
- Carshare supporting, including free parking spaces, on-site information and advertising, and discounted rates/long-term contracts;
- Bicycle amenities, including secure and conveniently located bicycle parking racks, pilot bicycle rental programs, new bicycle paths connected to community-wide networks, and shower/locker facilities; and
- Sidewalks and/or paths connected to adjacent land uses, transit stops, and/or community-wide network.

The Project's implementation of Transportation Demand Management (TDM) measures consistent with the Marketplace EIR would further reduce VMT associated with the Project. For these reasons, the Project will have a less-than-significant VMT impact.

In addition to the above, SB 743 provides that the “aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts.”<sup>14</sup> The Project constitutes a mixed use, employment center project on an infill site in a transit priority area, as each of those terms is defined in the Code. Therefore, parking cannot be considered a significant impact.

Finding: The Project’s potential impacts are the same or less than those analyzed in the EIR. For the reasons stated above, the Project’s potential impacts related to transportation and traffic are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

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<sup>14</sup> Cal. Pub. Res. § 21099(d)(1).

## R. TRIBAL CULTURAL RESOURCES

<b><i>Tribal</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less- than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than- Significant/ No Impact</i></b>
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:			
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**EIR Conclusion:** The Marketplace EIR analyzed tribal cultural resources as part of its assessment of the PUD/PDP's impact on cultural resources. The Marketplace EIR analyzed impacts to cultural resources in Section I of the Draft EIR and in Section 5.B.i of the Final EIR. The Draft EIR concluded that the Draft EIR Project has the potential to result in significant impacts because (1) the Draft EIR Project may result in the destruction of possibly significant archeological deposits, (2) ground disturbance associated with the Draft EIR Project may disturb human remains, including those interred outside of formal cemeteries, and (3) ground disturbing activities within the Draft EIR Project Site could adversely impact paleontological resources. (Marketplace Draft EIR, pp. 292-295). However, mitigation measures implemented by the Project would bring these impacts to a less-than-significant level. (Id.). The Final EIR Project, though it would affect a larger portion of the Project Site compared to the Draft EIR Project, would result in the same sorts of impacts as the Draft EIR Project, and the Final EIR concludes that these impacts would be reduced to a less-than-significant level by implementation of the same mitigation measures. (Marketplace Final EIR, p. 127).

EIR Mitigation Measures: See **Appendix A** for the mitigation for this impact area: CULT-1a, CULT- 1b, CULT-1c, CULT-2, CULT-3a, CULT-3b, CULT-3c. Each of these mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project: The Project will include the same sorts of potential impacts to archeological resources, human remains, and paleontological resources as the Draft EIR Project and the Final EIR Project. The Project will include similar ground disturbance during construction periods, and will cover approximately the same footprint as the Draft EIR Project and the Final EIR Project. For these reasons, the mitigation measures incorporated into the Draft EIR Project and Final EIR Project will mitigate the potential impacts from the Project to a less-than-significant level.

Finding: The conclusions from the Marketplace EIR remain unchanged. The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to cultural resources are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.



## S. UTILITIES AND SERVICE SYSTEMS

<b><i>Utilities and Service System</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than-Significant/No Impact</i></b>
<b>Would the project:</b>			
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

EIR Conclusion: The Marketplace EIR analyzed impacts to utilities and service systems in Section K of the Draft EIR and in Section 5.B.k of the Final EIR. The Draft EIR concluded that the Draft EIR Project has the potential to result in two potentially significant impacts related to utilities. (Marketplace Draft EIR, p. 331). First, demolition and construction waste generated by the Project could conflict with Alameda County Measure D, which requires a solid waste reduction of 75 percent in Alameda County by 2010. (Marketplace Draft EIR, pp. 331-332). Second, the waste generated by ongoing operations of the Project could conflict with these same Measure D requirements (along with related applicable federal, State, and local statutes and regulations related to solid waste). (Marketplace Draft EIR, p. 332). However, the Draft EIR concludes that mitigation measures incorporated into the Draft EIR Project would bring these impacts to Measure D requirements, and related federal, State, and local laws, to a less-than-significant level. (Marketplace Draft EIR, pp. 331-332).

The Final EIR concluded that the increased office, retail, and residential uses added to the Final EIR Project would create a greater demand for water supply, wastewater collection and treatment, and post-construction solid waste facilities and infrastructure compared to the Draft EIR Project. (Marketplace Final EIR, p. 128). Implementation of the Draft EIR mitigation measures would ensure that the Final EIR Project's solid waste impacts are reduced to a less-than-significant level. (Id.). The Final EIR Project, however, would have two additional significant impacts beyond those analyzed in the Marketplace Draft EIR: (1) the Final EIR Project would substantially increase demand for water, and (2) wastewater conveyance pipes may have inadequate capacity to accommodate additional wastewater flows from the Final EIR Project. (Id.). The Final EIR includes additional mitigation measures into the Final EIR Project to reduce these impacts. (Marketplace Final EIR, pp. 129-130). With the implementation of this mitigation, the impacts of the Final EIR Project on utilities are less-than-significant.

EIR Mitigation Measures: See **Appendix A** for the mitigation measures for this impact area: PS-1, PS-2, PS-2 (Main Street and Reduced Main Street alternatives), PS-3 (Main Street and Reduced Main Street alternatives).<sup>15</sup> Each of these mitigation measures will be implemented by the Project.

Compared to the PDP Project, the Project: The Project will have a similar impact on utilities as was analyzed in the Marketplace EIR. A Water Supply Assessment ("WSA") was issued by the East Bay Municipal Water District on June 10, 2014 indicating that sufficient water supply is available. Based on demand factors used by the City of Emeryville and similar facilities to those proposed for Parcels A and B, the Project will not result in an increased water demand in excess of the uses assessed in the 2014 WSA. As illustrated in the table below, the 2014 WSA anticipated a demand of 28,900 gallons per day ("gpd") associated with development on Parcels A, B, and F. The proposed Project will result in a demand of 27,648 gpd, or a marginal decrease of 1,252 gpd. This is within the anticipated use for 2014 and consistent with East Bay Municipal Utility District

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<sup>15</sup> Cal. Pub. Res. § 21099(d)(1).

projections, which contemplate continued increases of water use associated with densification and changes in land use.<sup>16</sup>

		2014 WSA for Parcels A, B, and F		2022 Project for Parcels A, B, and F		DELTA
Use	Demand	Square Foot/DU	Average Daily Demand	Square Foot <sup>17</sup> /DU	Average Daily Demand	
Residential	108 gpd	225 units	24,300 gpd	10 units	1,080 gpd	
Retail	0.1 gpd/sf	46,000 sf	4,600 gpd	2,100 sf	210 gpd	
R&D	0.8 gpd/sf <sup>18</sup>	0 sf	0 gpd	321,444 sf	26,358 gpd	
<b>TOTAL (gpd)</b>			28,900 gpd		27,648 gpd	<b>1,252 gpd</b>
<b>TOTAL (gpm)</b>			20.1 gpm		19.2 gpd	<b>0.9 gpm</b>

Implementation of the Final EIR Project and Draft EIR Project's mitigation measures will serve to reduce any impacts to solid waste, water supply, and wastewater through recycling and composting programs, and a sewer capacity study and related measures. Therefore, the Project will not have an impact on utilities beyond that analyzed in the Marketplace EIR, and the impact will therefore be less-than-significant.

Finding: The Project's potential impacts are the same or less than those analyzed in the EIR. For reasons stated above, the Project's potential impacts related to utilities and service systems are less-than-significant. Therefore, no new or substantially increased significant impacts would result from the Project beyond those discussed in the EIR. No new mitigation is required. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

<sup>16</sup> East Bay Municipal Utility District, Urban Water Management Plan (2015), Table 4-1.

<sup>17</sup> Based on leasable square footage.

<sup>18</sup> Genentech Master Plan Update, Draft Environmental Impact Report (2019) at 18-3, *available at* <https://ceqanet.opr.ca.gov/2017052064/2/Attachment/OdJQIx>.

## T. WILDFIRE

<b>Wildfire</b>	<b>Significant Impact identified in Marketplace EIR</b>	<b>Impact of the Project will be Less-than- Significant after Marketplace EIR Mitigation Incorporated</b>	<b>Less-than- Significant/No Impact</b>
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:			
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Finding: Wildfire impacts were not analyzed in the Marketplace EIR. However, because the Project site is not located within an area classified as very high fire hazard severity, the Project will not result in any new or more severe significant impacts.

## U. MANDATORY FINDINGS OF SIGNIFICANCE

<b><i>Mandatory Findings of Significance</i></b>	<b><i>Significant Impact identified in Marketplace EIR</i></b>	<b><i>Impact of the Project will be Less-than-Significant after Marketplace EIR Mitigation Incorporated</i></b>	<b><i>Less-than-Significant/ No Impact</i></b>
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? {"Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### ***Biological/Cultural Impacts***

As discussed in the biological resources section above, Marketplace EIR concluded that impacts to Biological Resources would be less than significant because the Project Site area is already developed with urban uses and is located in an urbanized area. (Marketplace Draft EIR, p. 2).

Therefore the impact is less-than-significant. Likewise, the Project, located on approximately the same footprint as the Draft EIR and Final EIR Projects, has a less-than- significant impact in these areas. Similarly, since the Project is located on approximately the same footprint as the Draft EIR and Final EIR Projects, impacts to cultural resources are less-than significant.

### ***Cumulatively Considerable Impacts***

The Marketplace Draft EIR assessed cumulative impacts in Section VII.E, and concluded that the Draft EIR Project would not have any cumulative impacts in any impact areas. (Marketplace Draft EIR, pp. 425-429). The Final EIR did not include any cumulative impacts based on the Final EIR Project, and therefore also concludes that the Final EIR Project does not have any cumulative impacts (Marketplace Final EIR, Appendix C, pp. 1-44). The Project, together with the Approved FDP Projects, entail a slightly reduced version of the Final EIR Project with slightly more office, but less residential and less retail. Given the overall reduced intensity, the Project will therefore have a similar or reduced level of impact on a cumulative level. Accordingly, the cumulative impact from the FDP Project is the same as was addressed in the Marketplace EIR, and thus the impact is less-than-significant.

### ***Substantial Adverse Impacts on Human Beings***

As required by CEQA Guidelines Section 15065(a)(4), a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. Effects on human beings are generally associated with impacts related to issue areas such as air quality, geology and soils, noise, traffic safety, and hazards. As discussed herein, with mitigation incorporated, the Project would not result in a new or worsened significant impact in each of these resource areas. Because the Project will not result in new or worsened significant impacts as described above, the conclusion from the Marketplace EIR remain unchanged. Accordingly, none of the circumstances described in Section 15162 of the CEQA Guidelines requiring additional environmental review would be triggered.

## **VII. References**

Alameda County Health Care Services Agency, *Remedial Action Completion Certification: Case Closure for Fuel Leak Case Fuel Leak Case No. R00000057 and GeoTracker Global IO T0600191821, Lerer Brothers Transmission, 6340 Christie Avenue*, December 27, 2013.

Bay Area Air Quality Management District, *California Environmental Quality Act: Air Quality Guidelines*, May 2012.

East Bay Municipal Utility District, *Water Supply Assessment - Emeryville Public Marketplace Redevelopment Project*, dated June 10, 2014.

ENVIRON, *CEQA Air Quality Analysis for Proposed Emery Bay Marketplace Development, Parcels A, C and O*, dated March 16, 2015.

Fehr & Peers, *Marketplace Transportation Memorandum*, dated May 2015.

First Carbon Solutions, *Environmental Checklist*, dated April 23, 2015.

Kimley Horn and Associates, Inc., *Emeryville Public Market Trip Generation Evaluation*, dated April 20, 2022.

LSA Associates, *Marketplace Redevelopment Project (Draft) Environmental Impact Report*, dated June 2007.

LSA Associates, *Marketplace Redevelopment Project (Final) Environmental Impact Report*, dated June 2007.

PES, *Soil Management Plan for Redevelopment Construction, Parcels A, B, and O*, dated June 26, 2014).

Regional Water Quality Control Board, *Municipal Regional Stormwater NPOES Permit*, available here:

[http://www.waterboards.ca.gov/sanfranciscobay/board\\_decisions/adopted\\_orders/2011/R2-2011-0083.pdf](http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2011/R2-2011-0083.pdf).

<b><u>Appendix A: Marketplace Environmental Impact Report Mitigation Measures</u></b>
The following mitigation measures are adopted almost in their entirety from the Marketplace EIR
<b>A. Land Use - <i>There are no significant Land Use Impacts</i></b>
<b>B. Population, Employment, and Housing - <i>There are no significant Population, Employment and Housing Impacts</i></b>
<b>C. Transportation and Circulation</b>
<p><u>TRAF-1a</u>: This development, in conjunction with other planned/approved developments in the area, would contribute to over capacity conditions at several intersections, including I-80EB Ramps/Powell Street intersection, in the near future. While it is beyond the ability of any one project to mitigate the impacts to the transportation network, measures that aim to (1) improve intersection operation with physical improvements; and (2) reduce dependence on automobile trips, and increase transit, walking and bicycling trips are recommended below. The following improvements to the I-80 EB Ramps/Powell Street intersection shall be implemented:</p> <ol style="list-style-type: none"> <li>1) Reconstruct the off-ramp to provide dual left-turn and dual right-turn lanes. The additional lane should be about 900 feet.</li> <li>2) Reconstruct the southeast corner of the Powell Street/I-80 Eastbound Ramps intersection improving the curb radii to 40 feet.</li> <li>3) Relocate the north side of Powell Street 12 to 14 feet between Christie Avenue and Eastbound I-80 Ramps to align westbound Powell Street through lanes across the intersection with Eastbound I-80 Ramps. This improvement will also allow the widening of the eastbound right-turn lane at the Powell Street/Christie Avenue intersection to 14 feet and construction of a pedestrian median refuge on the west side of the Powell Street/Christie Avenue intersection. This change requires right-of-way along the north side of Powell Street between Christie Avenue and the I-80 Eastbound On-Ramp.</li> </ol> <p>This recommendation should be implemented with Mitigation Measure TRAF-2 to provide corridor benefits.</p> <p>Changes must be implemented in a manner that safety is enhanced for Bay Trail crossing for pedestrians and bicyclists. Changes shall be implemented as part of a comprehensive streetscape designs for the area where travel by all modes is optimized.</p> <p>This impact also occurs in the 2010 and 2030 scenarios and can be attributed to existing traffic in the area, as well as traffic from approved, planned, and potential developments in and around Emeryville. Therefore the City shall update its Traffic Impact Fee Program to include this improvement, and the Project Applicant shall pay their fair share cost of the improvements based on the updated Traffic Impact Fee. Each of the changes to the I-80 EB ramps requires right-of-way acquisition and an encroachment permit from Caltrans to implement both of which may be significant obstacles to overcome. Thus, the impact would remain significant and unavoidable until sufficient right-of-way can be acquired and Caltrans approves an encroachment permit.</p>



TRAF-1b: Implementation of the following mitigation measure will help minimize the project's impacts on intersection operation; however as it is difficult to quantify the effects of Transportation Demand Management (TDM) measures implementation of this measure alone would not reduce this impact to a less-than-significant level.

The project applicant shall prepare and implement a comprehensive TDM program that includes the following elements to encourage and enhance alternate modes of travel:

- Transit amenities, including bus pull-outs, transit information and ticket kiosks, and discounted transit passes for employees and residents.
- Carpool/vanpool support, including preferential parking spaces and ride-matching programs.
- Carshare support, including free parking spaces, on-site information and advertising, and discounted rates/long-term contracts.
- Bicycle amenities, including bicycle parking racks, pilot bicycle rental program, new bicycle paths and shower/locker facilities. In addition, the TDM plan should discourage automobile use by incorporating the following elements:
  - Residential parking spaces should be unbundled from the units.
  - All non-residential parking should be paid parking.
  - Monthly parking permits should not be provided for employees.
  - Provision of car sharing facilities on-site could help reduce auto ownership amongst future residents/tenants of the building and encourage alternative modes for trips generated by the site.

The TDM program shall be submitted to City staff for review and acceptance prior to approval of any Final Development Plans

TRAF-2a: Implementation of the mitigation measures by the City detailed below would reduce this impact to a less-than-significant level. However, each of the changes requires right-of-way acquisition to implement. Thus, the impact could remain significant and unavoidable until sufficient right-of-way can be acquired. The following improvements made to the intersection of Powell Christie Avenue shall be implemented:

- 1) Reconstruct the westbound approach to provide a second left turn lane. The resulting two left turn lanes should be 250 feet in length. The south side of the Powell Street bridge would need to be widened by about 12 feet to accommodate the second left turn lane.
- 2) Reconstruct the southbound approach to provide a southbound left-turn lane (in addition to the shared left-through lane and a central median). The lane would extend from Powell Street back to Shellmound Way. This change would require widening the west side of Christie Avenue by about 20 feet. This change requires right-of-way along the west side of Christie Avenue.
- 3) Retime the Powell/Christie Loop signalized intersections to coordinate the critical movements through the intersection.

These recommendations should be implemented with Mitigation Measure TRAF-1a to provide corridor benefits. These changes shall be implemented as part of a comprehensive streetscape designs for the area where travel by all modes is optimized.

Although it is not yet known if these mitigation measures can be implemented as both TRAF-1a and 2a will require right-of-way acquisition and an encroachment permit from Caltrans to implement, both of which may be significant obstacles to overcome.

This impact also occurs in the 2010 and 2030 scenarios and can be attributed to existing traffic in the area as well as traffic from approved, planned, and potential developments in and around Emeryville. Therefore, improvement the City shall update its Traffic impact Fee Program to include this recommendation and that the Project Applicant shall pay their fair share cost of the improvements based on the updated Traffic impact Fee.

TRAF-2b: Mitigation Measure 1b, which required a TDM Plan, shall also be implemented to further minimize the project's impacts on intersection operations.

TRAF-3: Implement Mitigation Measure 1b and protected-permitted signal phasing for the north/south left turn movements. This will require a 5 to 6-foot lane shift for northbound Hollis Street traffic approaching Powell Street and reconstruction of the southwest corner of the intersection to accommodate tractor-trailer trucks making a right-turn from Powell Street to Hollis Street. The lane shift will require right-of-way along the west side of Hollis Street implementation of this measure by the City would reduce the project impact to a less-than-significant level. However, reconstruction and widening of this corner is in conflict with the City's wider goal of creating a road network in the City that is friendly to bicyclists and pedestrians. Therefore, this impact would remain significant and unavoidable.

TRAF-4: To reduce this impact to a less than significant level, the intersection would have to modified, when traffic conditions warrant, to provide dual northbound left-turn lanes similar to the northbound left-turn lane design on San Pablo Avenue at 40th Street. Construction of this improvement would require elimination of on-street parking along San Pablo Avenue approaching the intersection. Relocation of the bus stop for buses operating along San Pablo Avenue would also be required.

The applicant shall pay a fee based on its fair share of the project's anticipated growth in traffic to the intersection toward the cost to implement this improvement. The payment shall be made to the City of Emeryville, for the benefit of the City of Berkeley, prior to issuance of the temporary certificate of occupancy for the last building. However, this intersection is located in the City of Berkeley and is also under the jurisdiction of Caltrans, since both Ashby Avenue and San Pablo Avenue are state highways at this intersection.

This improvement will occur only with the agreement of City of Berkeley and Caltrans and would be designed such that the impacts to transit, pedestrians and cyclists are minimized. Therefore, the final selection of the appropriate intersection design as well as implementation of the modifications, are not within the jurisdiction of the City of Emeryville. Therefore, this impact would be significant and unavoidable.

<p>TRAF-5: Implement Mitigation Measure TRAF-1a and modify signal operations to provide protected/permitted left-turns on the southbound Shellmound Street approach. implementation of this improvement by the City would improve the overall intersection operations to LOS E in the PM peak hour in 2030, reducing the impact to a less-than-significant level.</p> <p>This impact also occurs in the 2010 and 2030 scenarios and can be attributed to existing traffic in the area, as well as traffic from approved, planned, and potential developments in and around Emeryville. Therefore, it is recommended that the City update the Traffic impact Fee Program to include this recommendation, and that the project applicant contribute their fair share to these improvements through the payment of fees based on the updated Traffic impact Fee.</p>
<p>TRAF-6: The applicant shall install a traffic signal at the intersection of 64th Street/Shellmound Street when warranted by actual conditions. At the occupancy of each phase the applicant shall provide a traffic report prepared by a licensed traffic engineer to determine whether conditions warrant a traffic signal at this intersection.</p>
<p>TRAF-7: Implement Mitigation Measures TRAF-1a and 1b.</p>
<p><u>TRAF-8</u>: Implement Mitigation Measures TRAF-1a, 1b and 3.</p>
<p><u>TRAF-9</u>: Retime the traffic signals on the 40th Street corridor to improve traffic flow and minimize delay and queuing.</p> <p>This impact can be attributed to traffic from approved, planned, and potential developments in and around Emeryville. Therefore, it is recommended that the City update the Traffic impact Fee Program to include the recommendation, and that the Project Applicant contribute their fair share to these improvements through the payment of fees based on the updated Traffic impact Fee.</p>
<p><u>TRAF-10</u>: Implement Mitigation Measures TRAF-1a and 1b and the planned improvements to the 40th Street/San Pablo Avenue intersection including the provision of an exclusive eastbound right turn lane. install this improvement with a right turn overlap phase and retiming of the signals on the 40th Street and San Pablo Avenue corridors, taking into account BART operation. The final design must accommodate cyclists. However, as San Pablo Avenue is a Caltrans facility, the City cannot assure the implementation of this measure, the impact may remain significant and unavoidable.</p>
<p><u>TRAF-11</u>: Implement Mitigation Measures TRAF-2a and 1b.</p>
<p><u>TRAF-12</u>: Implement Mitigation Measures TRAF-2 and 1b.</p>
<p><u>TRAF-13</u>: Implement Mitigation Measures TRAF-2 and 1b.</p>
<p><u>TRAF-14</u>: Implement Mitigation Measures TRAF-4 and 1b.</p>

<u>TRAF-15:</u> Implement Mitigation Measures TRAF-5 and 1b.
<p><u>TRAF-16:</u> Retime this traffic signal to improve traffic flow and minimize delay and queuing.</p> <p>This impact can be attributed to traffic from approved, planned, and potential developments in and around Emeryville. Therefore, it is recommended that the City update the Traffic impact Fee Program to include the recommendation, and that the Project Applicant contribute their fair share to these improvements through the payment of fees based on the updated Traffic impact Fee.</p>
<u>TRAF-17:</u> Implement Mitigation Measures TRAF-6 and 1b.
<u>TRAF-18:</u> Implement Mitigation Measures TRAF-I a and Ib.
<u>TRAF-19:</u> Implement Mitigation Measures 1b and 8.
<p><u>TRAF-20:</u> Construct an exclusive southbound left-turn lane and change the phasing of the northbound and southbound approaches from split phasing to simultaneous north/south left-turn phasing. implement with Mitigation Measures TRAF-1a and 1b to provide corridor benefits.</p> <p>This impact can be attributed to traffic from approved, planned, and potential developments in and around Emeryville. It is recommended that split phasing be implemented but not construction of the left turn lane as this measure is in conflict with the City's wider goal of creating a road network that is bicycle and pedestrian friendly. This impact, therefore, would remain significant and unavoidable.</p>
<u>TRAF-21:</u> Implement Mitigation Measures TRAF-1b and 9.
<p><u>TRAF-22:</u> Construct an exclusive southbound left-turn lane and re-stripe the northbound approach to provide an exclusive left-turn lane and a shared through/right-turn lane.</p> <p>Change the phasing of the northbound and southbound approaches from split phasing to phasing that allows for protected north/south lag/lead left turns with a lagging northbound left turn and a leading southbound left-turn. This lead/lag configuration is needed because these turns cannot be served at the same time since their paths would cross. implement with Mitigation Measures TRAF-1a and 1b to provide corridor benefits.</p> <p>This impact can be attributed to traffic from approved, planned, and potential developments in and around Emeryville. It is recommended that split phasing be implemented but not construction of the left turn lane as this measure is in conflict with the City's wider goal of creating a road network that is bicycle and pedestrian friendly. This impact, therefore, would remain significant and unavoidable.</p>
<u>TRAF-23:</u> Implement Mitigation Measures TRAF-1b and 10.

TRAF-24: Install a traffic signal and construct an exclusive southbound right-turn lane with overlap phasing. implementation of this measure would reduce the project impact to a less-than-significant level. implement with Mitigation Measures TRAF-1a and 1b to provide corridor benefits.

This impact can be attributed to traffic from approved, planned, and potential developments in and around Emeryville. The applicant shall pay a fee based on its fair share of the project's anticipated growth in traffic to the intersection toward the cost to implement this improvement. The payment shall be made to the City of Emeryville, for the benefit of the City of Berkeley, prior to issuance of the temporary certificate of occupancy for the last building. However, this intersection is located in the City of Oakland.

Therefore, the final selection of the appropriate intersection design, as well as implementation of the modifications are not within the jurisdiction of the City of Emeryville. Therefore, this impact would be significant and unavoidable.

TRAF-25: Implement Mitigation Measures TRAF-1b and 2.

TRAF-26: Implement Mitigation Measures TRAF-1b and 2.

TRAF-27: The driveway serving the Woodfin Hotel cannot accommodate significant additional traffic flows. The parking area serving the new land uses on the Shellmound site shall be designed to orient the majority of outbound traffic, about 80 percent, away from the shared driveway. Alternatively, this driveway could be restricted to right-in/right out operation. When Phase 11A (option 1) is developed, an internal connection between the two garages would be constructed. internal signage when the Phase 11 A (option 1) garage is built shall direct vehicles to exit from the driveway aligned with 63rd Street. The Final Development Plan submittals shall be reviewed by the City Engineer prior to approval to ensure this is accomplished.

TRAF-28: Install a pedestrian signal at the pedestrian crossing on Shellmound Street. Through design treatments, such as landscaping, consolidate pedestrian activity from the Shellmound Street/Woodfin Hotel/Marketplace Driveway and the Shellmound Street/Marketplace Driveway/Shellmound Garage driveway to the pedestrian crossing.

The pedestrian signal shall be interconnected and coordinated with the signal at the Shellmound Street/Shellmound Way intersection and the Shellmound Street/Marketplace Driveway/Shellmound Garage intersection. Each of these improvements to be implemented by the applicant shall be detailed in the Final Development Plans for Phase 1 and approved prior to issuance of building permit.

It should be noted that the Shellmound Street corridor from Shellmound Way through the Marketplace Driveway would operate better in the mitigated scenario than the unmitigated scenario even though vehicle queues would periodically spill back through the corridor, resulting in a significant and unavoidable queuing impact on the Shellmound Street corridor. However, the installation of a pedestrian signal would improve pedestrian safety across Shellmound Street as traffic volumes increase through the corridor, reducing the pedestrian impact to a less-than-

significant level.

TRAF-29a: The applicant shall prepare a detailed circulation plan that clearly depicts vehicle, pedestrian, and bicycle access and associated routes prior to obtaining a grading or building permit. The City shall review the plan for adequacy based on applicable pedestrian, bicycle, and parking safety standards prior to issuing a grading or building permit.

Additional mitigation has been identified as a result of the Applicant submitting a detailed circulation plan depicting vehicle, pedestrian, and bicycle access.

#### **D. Air Quality**

AIR-1: Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the project.

*Demolition*. The following controls shall be implemented during demolition:

- Water during demolition of structures and break-up of pavement to control dust generation;
- Cover all trucks hauling demolition debris from the site; and
- Use dust-proof chutes to load debris into trucks whenever feasible.

*Construction*. The following controls shall be implemented at all construction sites:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust;
- Cover all trucks hauling soil, sand, and other loose materials;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph; leaving the site; and
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

Implementation of this mitigation measure would reduce construction period air quality impacts to

a less-than-significant level. ·

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible; and
- Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before

AIR-1 (Main Street and Reduced Main Street alternatives):

*The BAAQMD CEQA Guidelines document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project. These measures shall be implemented at the project site:*

- Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
- Provide bicycle lanes and/or paths, connected to community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide secure and conveniently located bicycle and storage.
- Implement feasible transportation demand management (TDM) measures including ride-matching program, coordination with regional ridesharing organizations and provision of transit information.

**E. Noise and Vibration**

NOISE-1: Mechanical ventilation, such as air conditioning systems or passive ventilation, shall be included in the design for all units in the Shellmound building and units of the mixed use 64th & Christie building that face 64th Street or Christie Avenue to ensure that windows can remain closed for prolonged periods of time to meet the interior noise standard and Uniform Building Code Requirements.

NOISE-2a: Mitigation Measure Noise-1 shall be implemented.

NOISE-2b: Windows with a minimum rating of STC-32 shall be installed for all units within the Shellmound building directly exposed to the railroad tracks at all heights.

NOISE-3: An acoustical engineer shall prepare a detailed ground-borne noise assessment for the proposed project. The assessment shall include an analysis of the vibration isolation provided in the proposed construction design and provide future calculations for the vibration levels on each of the floors to be used for residential dwellings. The assessment shall include recommendations if necessary to reduce vibration levels to 72VdB or less. Any vibration isolation and reduction design features provided by the acoustical engineer shall be incorporated in the final engineering plans for the project. The assessment shall be submitted and accepted by the City prior to the issuance of

building permits for the Shellmound building.

**NOISE-4:** The project construction contractors shall comply with the following noise reduction measures:

- All heavy construction equipment used on the project site shall be maintained in good operating condition, with all internal combustion, engine-driven equipment equipped with intake and exhaust mufflers that are in good condition.
- All statutory noise-generating equipment shall be located as far away as possible from neighboring property lines, especially residential uses.
- Prohibit and post signs prohibiting unnecessary idling of internal combustion engines.
- Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.
- Utilize "quiet" models of air compressors and other stationary noise sources where such technology exists.

To further reduce potential pile driving and/or other extreme noise generating construction impacts greater than 90dBA, as many additional noise-attenuating technologies, such as the following, shall be implemented as feasible:

- Erect temporary plywood noise barriers around the construction site, particularly in areas adjacent to residential buildings;
- Implement "quiet" pile driving technology (such as pre-drilling of piles or the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.

**NOISE-5:** Based on the construction vibration damage criteria for specific building categories established by the FTA as shown in Table IV.E-13, the project applicant shall prepare a vibration impact assessment to determine potential vibration impacts to structures located within 75 feet of new construction based on the types of construction activities proposed on the project site. Recommendations shall be made for impacts that exceed the vibration damage criteria for adjacent building types (as indicated in Table IV.E-13) to ensure construction activities would not damage adjacent buildings. All recommendations in the impact assessment shall be incorporated into construction plans for the project.

#### **F. Hazardous Materials / Public Health and Safety**

**HAZ-1a:** Prior to any excavation or subsurface work in the areas subject to the two Covenants to



Restrict Use of Property for the Emeryville Marketplace and the Bay Street Extension, the property owner/developer shall submit to DTSC a site health and safety plan in accordance with the requirements of the covenants. The owner shall address all DTSC requirements in the preparation of the plan. In addition to these requirements, the health and safety plan shall include health and safety procedures for workers to follow during potential contact with dewatered groundwater and exposure to methane gas. The health and safety plan shall be prepared by a qualified environmental professional and approved by DTSC prior to implementation. For areas not within the covenant areas (i.e., Parcel A, Parcel D, Parcel E, Parcel F, 64th & Christie building), a health and safety plan shall also be prepared, as described above with regulatory agency oversight and implemented during excavation or subsurface work at these locations. The plan(s) shall be provided to agencies and contractors who would direct others or assign their personnel to construct infrastructure on the project site in areas subject to the requirements of the health and safety plan.

HAZ-1b: A soil management plan shall be developed by the property owner/developer and approved by the City Engineer and DTSC for the proposed project (including the proposed location of the 64th & Christie building). The plan shall be submitted prior to issuance of demolition, grading, or building permits by the City. The plan shall include provisions for management of potentially contaminated excavated soil and dewatered groundwater, requirements for clean imported fill material, measures as necessary to meet health-based goals, inspection of areas for gross contamination prior to backfilling by a qualified environmental professional. and requirements for immediate reporting to DTSC and the City Engineer in the event that previously unidentified contamination is encountered during construction/redevelopment activities.

The soil management plan shall also include a contingency plan for sampling and analysis of previously unknown hazardous substances contamination in coordination with, and with oversight from, DTSC (See also Mitigation Measure HYD-2 from the Hydrology and Storm Drainage section). For areas not within the covenant areas (i.e., Retail Pads 1 and 2 and 64th & Christie building), a soil management plan shall also be prepared, as described above, with approval by the City Engineer. The soil management plan(s), including any requirements for remediation, shall be provided to agencies and contractors who would direct others or assign their personnel to construct infrastructure on the project site in areas subject to the plans.

HAZ-1c: The property owner/developer shall satisfy all requirements of the Alameda County Department of Environmental Health to obtain closure for the former leaking underground storage tank located at 6340 Christie Avenue. The requirements shall be satisfied prior to issuance of demolition, grading or building permits by the City for this property. If a deed restriction is required as a condition of closure, the restriction shall be recorded in Alameda County and all conditions of the deed restriction shall be met during and following construction by the property owner/developer.

HAZ-1d: The property owner/developer shall ensure that appropriate design elements are incorporated into the building design for proposed on-site structures to address the potential for methane gas venting (e.g., installation of a vapor barrier, passive soil venting system or active soil venting systems). The design shall comply with California Title 27 Section 20919 et seq., including the requirement that the concentration of methane in facility structures not exceed 25 percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components). The design shall be submitted to the City Engineer, Emeryville Fire Department and

DTSC for review. The Emeryville Fire Department, the local enforcement agency for methane, shall provide final approval of the methane mitigation design prior to issuance of building permits and shall inspect the system(s) implemented annually or as otherwise required.
<u>HAZ-1e</u> : All cracks/cap damage in the existing capped areas of the Emeryville Marketplace site shall be sealed at the time of site redevelopment activities by the contractor(s) in accordance with DTSC's recommendations in the five-year review. All existing and areas proposed for capping under the proposed project shall also be maintained by the site owner/developer to prevent exposures to contaminants in soil and groundwater.
<u>HAZ-2a</u> : As a condition of approval for a demolition permit for the buildings located at 6340 and 6390 Christie Avenue, a lead-based paint and asbestos survey shall be performed by a qualified environmental professional. Based on the findings of the survey, all loose and peeling lead-based paint and identified asbestos hazards shall be abated by a certified contractor in accordance with local, state and federal requirements, including the requirements of the Bay Area Air Quality Management District (Regulation 11, Rule 2). The findings of the survey shall be documented by the qualified environmental professional and submitted to the City.
<u>HAZ-2b</u> : Other hazardous materials and wastes generated during demolition activities, such as fluorescent light tubes and mercury switches, shall be managed and disposed of by the demolition contractor(s) in accordance with applicable universal and hazardous waste regulations. Federal, State and local worker health and safety regulations shall apply to demolition activities, and required worker health and safety procedures shall be incorporated into the contractor's specifications for the project
<u>HAZ-3a</u> : The Storm Water Pollution Prevention Plan (SWPPP) required for the project (See Mitigation Measure HYD-1 in the Hydrology and Storm Drainage Section) shall include emergency procedures for incidental hazardous materials releases.
<u>HAZ-3b</u> : Best Management Practices for the project include requirements for hazardous materials storage during construction to minimize the potential for releases to occur (See Mitigation Measure HYD-1 in the Hydrology and Storm Drainage Section). All use, storage, transport, and disposal of hazardous materials during construction activities shall be performed in accordance with existing local, state, and federal hazardous materials regulations.
<u>HAZ-3c</u> : The Health and Safety plan required under Mitigation Measure HAZ-1b requires the inclusion of an emergency response plan for safe and effective responses to emergencies including the necessary personal protective equipment and other equipment, and spill containment procedures.
<u>HAZ-4</u> : See Mitigation Measures HAZ-1a through HAZ-If, above, for mitigation.
<u>HAZ-1: (Main Street and Reduced Main Street alternatives)</u> : The property owner/developer shall work with the City and DTSC to determine whether contaminants in soil vapor or other media in the area north of the Marketplace Tower and Public Market present an unacceptable risk to future residents.

Environmental samples shall be collected and analyzed to determine whether chemicals present in environmental media, including vapors in air, are present in concentrations that would potentially harm future residents. If sample concentrations exceed California Human Health Screening Levels (CHHSLs), risk management measures, such as design elements or barriers, that would prevent harm to future residents and that are acceptable to the DTSC shall be implemented.

#### **G. Geology, Soils and Seismicity**

GEO-1: Prior to the issuance of any site-specific grading or building permits, a design-level level geotechnical investigation shall be prepared and submitted to the City of Emeryville Planning and Building Department for review and confirmation that the proposed development fully complies with the California Building Code (Seismic Zone 4). The report shall determine the project site's geotechnical conditions and address potential seismic hazards such as liquefaction. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the geotechnical investigation shall conform to the California Division of Mines and Geology (CDMG) recommendations presented in the Guidelines for Evaluating Seismic Hazards in California, CDMG Special Publication 117.

All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed.

It is acknowledged that seismic hazards cannot be completely eliminated even with site specific geotechnical investigation and advanced building practices (as provided in the mitigation measure above). However, exposure to seismic hazards is a generally accepted part of living in the San Francisco Bay Area and therefore the mitigation measure described above would reduce the potential hazards associated with seismic activity to a less-than-significant level.

GEO-2: In locations underlain by expansive soils and/or non-engineered fill, the designers of building foundations and other improvements (including sidewalks, roads, and underground utilities) shall consider these conditions. The design-level geotechnical investigation, to be prepared by licensed professionals and approved by the Emeryville Planning and Building Department, shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.

All mitigation measures, design criteria, and specifications set forth in the geotechnical investigation shall be followed to reduce impacts associated with shrink-swell soils and settlement to a less-than-significant level.

GEO-3: Prior to issuance of a grading permit, a site-specific grading plan shall be prepared by a licensed professional and submitted to the Emeryville Planning and Building Department for review and approval. The plan shall include specific recommendations for mitigating potential differential settlement associated with Bay Mud, fill placement and areas of different fill thickness.

GEO-4: The Emeryville Planning and Building Department shall approve all final design and

engineering plans. Project design and construction shall be in conformance with current best standards for earthquake resistant construction in accordance with the California Building Code (Seismic Zone 4), applicable local codes and in accordance with the generally accepted standard of geotechnical practice for seismic design in Northern California. The design-level geotechnical investigation shall include measures to minimize that potential damage related to liquefaction.

## **H. Hydrology and Storm Drainage**

HYD-1: The project contractor shall comply with the City of Emeryville Municipal Code relating to grading projects and erosion control (Section 6-13.204):

*Any person engaged in activities which will or may result in pollutants entering the City storm sewer system shall undertake all practicable measures to reduce such pollutants. Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the City shall endeavor, whenever possible, to provide filter materials at the catchbasin to retain any debris and dirt flowing into the City's storm sewer system. The Director of Public Works may establish controls on the volume and rate of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.*

In addition, the project proponent shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the project. The SWPPP must be maintained on-site and made available to City Inspectors and/or RWQCB staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At a minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

HYD-2: The construction-period SWPPP shall include provisions for the proper management of construction-period dewatering effluent. At minimum, all dewatering effluent shall be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system, as appropriate. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the project proponent shall acquire the appropriate permit(s) prior to discharge of the effluent. Discharge of the dewatering effluent would require a permit from the RWQCB (for discharge to the storm sewer

system or to San Francisco Bay) and/or East Bay Municipal Utility District (EBMUD) (for discharge to the sanitary sewer system).

**HYD-3:** The City shall ensure that the proposed project drainage design meets all the requirements of the current Countywide NPDES Permit (NPDES Permit No. CAS0029831). The drainage plan shall include features and operational Best Management Practices to reduce potential impacts to surface water quality associated with operation of the project. These features shall be included in the project drainage plan and final development drawings. Specifically, the final design shall include measures designed to mitigate potential water quality degradation of runoff from all applicable portions of the completed development. In general, "passive," low- maintenance BMPs (e.g., storm water planters, rain gardens, grassy swales, porous pavements) are preferred over active filtering or treatment systems. As required by the City of Emeryville's 2005 Storm Water Guidelines for Green, Dense Redevelopment.

*Storm Water Quality Solutions: The storm water treatment design consultant shall make a good faith effort to meet the entire treatment requirement using vegetative solutions. If the storm water treatment design consultant concludes that vegetative solutions are not feasible due to site characteristics, building uses or other legitimate reasons, and the City concurs, the City will consider allowing on-site mechanical solutions. In some cases, upon recommendation of the storm water treatment design consultant, a combination of vegetative and mechanical solutions may be allowed. If mechanical solutions are utilized, the mechanism must be approved by the City, and the developer must demonstrate that the mechanical design will remove fine sediments and dissolved metals as well as trash and oil.*

An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity. If paved surfaces within coveted parking areas are washed with water, this water shall not be directed to the storm drainage system. This wash water effluent shall either be directed to the sanitary sewer or contained and transported off-site for proper disposal.

The project would not be required to evaluate or mitigate potential impacts associated with hydromodification of downstream creeks because the downstream receiving waters between the site and the Bay are concrete lined and not subject to erosion.

The final design team for the project shall review and incorporate as many concepts as practicable from *Start at the Source, Design Guidance Manual for Storm Water Quality Protection*,<sup>12</sup> and the *California Storm water Quality Association's Storm -water Best Management Practice Handbook. Development and Redevelopment*, the *City of Emeryville's 2005 Storm Water Guidelines for Green, Dense Redevelopment*, and forthcoming Alameda County Clean Water Program (ACCWP) technical guidelines.

The City Public Works Department shall review and approve the drainage plan prior to approval of the grading plan.

## **I. Cultural and Paleontological Resources**

**CULT-1a:** Prior to project construction, a qualified professional archaeologist shall prepare a monitoring plan to address potentially significant cultural resources encountered during construction.

Preparing the plan may require subsurface examination to determine the presence, nature, extent and potential significance of archaeological deposits that may be encountered by project activities. At a minimum, the monitoring plan should (1) refine the understanding of the project site's archaeological sensitivity; (2) determine the likelihood that archaeological deposits have retained integrity; (3) identify the types of artifacts and features that may be encountered during project construction; (4) determine during which phases of construction subsurface deposits may be encountered; and (5) provide guidelines for in-field assessment of archaeological deposits identified during monitoring. Based on the information noted above, the monitoring plan should determine the appropriate level of construction monitoring necessary to avoid significant impacts to archaeological resources, and provide guidance for the implementation of such monitoring.

CULT-1b: A qualified professional archaeologist shall monitor all ground-disturbing activities that occur at depths within the project area determined to be archaeologically sensitive in the archaeological monitoring plan. Monitoring shall continue until the archaeologist determines that impacts to archaeological deposits are unlikely to occur. In the event that archaeological deposits are identified during monitoring, the monitor must be empowered to redirect all work within 25 feet of the find. Any such archaeological deposits identified during monitoring shall be recorded and, if possible, avoided by project activities. If avoidance is not feasible, as determined by the City after consultation with the project engineer, these deposits shall be evaluated by a qualified archaeologist to determine their eligibility for listing on the California Register. If the deposits are not eligible for the California Register, then no further study or protection is necessary. If the deposits are eligible for the California Register, they shall be avoided by project activities. If avoidance is not feasible, project impacts shall be mitigated in a manner consistent with CEQA Guidelines PRC Section 15126.4(b)(3)(C) and the recommendations of the evaluating archaeologist. Human remains shall be handled in accordance with Health and Safety Code Section 70505.5. Following the completion of the archaeological monitoring, a report shall be prepared to document the methods and findings of the monitoring archaeologist. The report shall be submitted to the City, the project applicant and the Northwest Information Center (NWJC) at Sonoma State University in Rohnert Park, California.

CULT-1c: In the event that archaeological deposits are identified during project activities not monitored by an archaeologist, it is recommended that project impacts to such deposits be avoided. If impact avoidance is not feasible, work within 25 feet of the finds shall be redirected and a qualified professional archaeologist shall be contracted to record the find and evaluate its California Register eligibility. If the deposits are not eligible for the California Register, then no further study or protection is necessary. If the deposits are eligible for the California Register, they shall be avoided by project activities. If avoidance is not feasible, project impacts shall be mitigated in a manner consistent with CEQA Guidelines PRC Section 15126.4(b)(3)(C) and treatment of human remains in accordance with Health and Safety Code Section 70505. Following the completion of the archaeological monitoring, a report shall be prepared to document the methods and findings of the monitoring archaeologist. The report shall be submitted to the City, the project applicant, and the NWIC.

Prehistoric materials can include flaked-stone tools (e.g. projectile points, knives, choppers) or obsidian, chert, basalt, or quartzite toolmaking debris; bone tools; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone,

concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other refuse.

CULT-2: If human remains are encountered, work within 25 feet of the discovery shall be redirected, and the County Coroner shall be notified immediately. At the same time, An archaeologist shall be contacted to assess the situation if the human remains are of Native American origin. The Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report shall be submitted to the City, the project applicant, and the NWIC.

CULT-3a: A qualified paleontologist shall be present during initial project ground-disturbance at or below 5 feet from original ground surface. The paleontologist will then determine if further monitoring, periodic site inspections, or if no further monitoring is necessary. Prior to project ground-disturbing construction, pre-field preparation by a qualified paleontologist shall take into account specific details of project construction plans for the project area, as well as information from available paleontological, geological, and geotechnical studies. Limited subsurface investigations may be appropriate for defining areas of paleontological sensitivity prior to ground disturbance.

CULT-3b: A qualified paleontologist shall monitor ground-disturbing activities at and below 5 feet from the original ground surface in accordance with the initial monitoring needs assessment. The monitoring shall continue with the paleontologist determines that impacts to paleontological resources are unlikely to occur.

If paleontological remains are encountered during project activities, all work within 25 feet of the discovery shall be redirected until the paleontological monitor can evaluate the resources and make recommendations. If paleontological deposits are identified, it is recommended that such deposits be avoided by project activities. Paleontological monitors must be empowered to halt construction activities within 25 feet of the discovery to review the possible paleontological material and to protect the resource while it is being evaluated. If avoidance is not feasible, as determined by the City after consultation with the project engineer, adverse effects to such resources shall be mitigated in accordance with the recommendations of a qualified paleontologist. At a minimum, mitigation shall include data recovery and analysis, preparation of a data recovery report or other reports as appropriate, and accessioning fossil material recovered to an accredited paleontological repository, such as the University of California Museum of Paleontology (UCMP). Upon project completion, a report shall be prepared documenting the methods and results of monitoring, and copies of this report shall be submitted to the City, project applicant, and to the repository at which any fossils are accessioned.

CULT-3c: In the event that paleontological resources are identified in the soil layer for which paleontological monitoring is not recommended, all work within 25 feet of the discovery shall be redirected until a qualified paleontologist has evaluated the discoveries, prepared a fossil locality

form documenting the discovery and made recommendations regarding the treatment of the resources. If the paleontological resources are found to be significant, adverse effects to such resources shall be avoided by project activities. If project activities cannot avoid the resources, adverse effects should be mitigated. At a minimum, mitigation shall include data recovery and analysis, preparation of a data recovery report or other reports, as appropriate, and accessioning fossil material recovered to an accredited paleontological repository, such as the University of California Museum of Paleontology (UCMP). Upon completion of project activities, a report that documents the methods and findings of the mitigation shall be prepared and copies submitted to the City, project applicant, and to the repository at which any fossils are accessioned.

## **J. Aesthetic Resources**

AES-1: Each of the following 5 measures shall be incorporated into the final project design:

- The proposed structures shall adequately reference, and be visually compatible with and not detract from the surrounding industrial buildings.
- Create streetscape vitality and enhance the pedestrian experience through detailed treatment of building facades, including entryways, fenestration, and signage, vertical walls broken up with architectural detailing, protruded and recessed tower elements, stepped-back upper floors to provide appropriate building height transitions to adjacent buildings, and through the use of carefully chosen building materials, texture, and color.
- Design of building facades shall include sufficient articulation and detail to avoid the appearance of blank walls or box-like forms.
- Exterior materials utilized in construction of new buildings, as well as site and landscape improvements, shall be high quality and shall be selected for both their enduring aesthetic quality and for their long term durability, and their compatibility with the design motif of surrounding buildings.

Detailed designs for the public plazas shall be developed. The plaza designs shall emphasize the public nature of the space and pedestrian comfort and sun/shade patterns during mid-day hours throughout the year. The plaza designs shall be sensitively integrated with the streetscape.

AES-2a: The specific reflective properties of project building materials shall be assessed by the City during review of the Final Development Plans for the proposed project. Final Development Plan review shall ensure that the use of reflective exterior materials is minimized and that proposed reflective material would not create additional daytime or nighttime glare.

AES-2b: Specific lighting proposals shall be submitted and reviewed as part of each Final Development Plan for each new building on the project site and approved by the City prior to issuance of building permit. This review shall ensure that any outdoor night lighting for the project is downward facing and shielded so as not to create additional nighttime glare and shall conform with light and glare performance standards established by Zoning Ordinance Article 59 and the Maximum Intensity of Light Sources table.

## **K. Public Services and Utilities**



PS-1: The project applicant shall recycle 75 percent of the waste materials generated by project construction. The applicant shall submit a pre-construction recycling management plan to the City Public Works Department for review and approval prior to the issuance of a grading permit. Prior to issuance of the Certificate of Occupancy, the project applicant shall post a construction report with weight tags stating where construction materials were recycled, and demonstrating that the 75 percent recycling rate of Measure D has been achieved.

PS-2: The project applicant shall install an internal system designed to increase recycling and composting. The recycling and composting system shall include dedicated chutes for garbage, recycling and green waste (including food scraps). Final design plans shall include areas for the storage and loading of recycling materials and containers in accordance with Emeryville Municipal Code Title 6, Chapter 4, Collection of Solid Waste and Recyclables and Title 6, Chapter 14, Food Service Waste Reduction.

PS-1: (Main Street and Reduced Main Street alternatives): The Emeryville Police and Fire Departments shall review proposed development plans for the Reduced Main Street alternative to determine whether existing police and fire facilities would be able to accommodate increased demand for emergency services. If existing facilities would be inadequate, the project sponsor shall contribute a pro rata share of the cost to construct new facilities.

PS-2: (Main Street and Reduced Main Street Alternatives): A Water Supply Assessment shall be prepared for the Reduced Main Street alternative. If the Water Supply Assessment shows that existing water supplies would be inadequate to serve the proposed alternative, the alternative shall be modified to reduce water demand (e.g., through the reduction of water intensive commercial or residential uses, water conservation measures, and/or recycling of rain and graywater) such that existing water entitlements would be adequate to serve the site.

PS-3: (Main Street and Reduced Main Street alternatives): The applicant shall prepare a sewer capacity study to determine if there is adequate sanitary sewer conveyance capacity to accommodate the proposed alternative, as shown in the utility plan. If it is determined that there is inadequate capacity for additional flows from the Reduced Main Street alternative, either of the following actions shall occur:

PS-3a: The utility plan shall be designed to convey all sewage flows on the site to the 30-inch TC pipe in the northern portion of the site. If the topography of the site is such that sanitary sewer flows would not be able to gravity feed into the 30-inch TC pipe, a sewage lift pump shall be included in the utility plan to convey wastewater to the northern basin; or

PS-3b: The project applicant shall design and fund its fair share of construction of additional downstream improvements to accommodate the increased flows from the project in the southern system which drains to the EBMUD interceptor via the existing system in Powell Street. If downstream improvements to the existing system in Powell Street are required to accommodate additional flows draining to the south, additional environmental review may be required if construction would occur outside of the existing right-of-way or involve construction beyond the scope of standard construction methods evaluated in this EIR.

<p><b>L. Wind</b></p>
<p><u>WIND-1a:</u> Final design of the roof deck open space terraces on the Shellmound building shall be heavily landscaped to reduce wind and improve usability and shall incorporate porous materials or structures (e.g., vegetation, hedges, screens, latticework, perforated or expanded metal) which offer superior wind shelter compared to solid surfaces. Outdoor furnishings, such as tables shall either be either weighted or attached to the deck.</p>
<p><u>WIND-1b:</u> Scale model wind tunnel or computerized computational fluid dynamics testing shall be conducted to determine how strong winds will be through the fourth floor breezeway between the Amtrak pedestrian bridge to the west side of the building. If winds through the breezeway exceed 36 mph, the breezeways design shall be altered to reduce wind speeds below this threshold. Alternatively, to avoid testing, the design of the breezeway could be altered with the addition of glazing at the west side opening. Testing or design modifications would reduce this impact to a less-than-significant level. m</p>
<p><u>WIND-1: (Main Street and Reduced Main Street alternatives):</u> Final design of the buildings constructed on the Shellmound and UA Cinema building sites shall be subject to review by a qualified wind consultant. The design review shall evaluate the architect's employment of one or more of the following design guidelines to reduce wind impacts to a less-than-significant level:</p> <ul style="list-style-type: none"> <li>• West or southeasterly building faces shall be articulated and modulated through the use of architectural devices such as surface articulation, variation, variation of planes, wall surfaces and heights, as well as the placement of step-backs and other features.</li> <li>• Utilize properly-located landscaping to mitigate winds. Porous materials (vegetation, hedges, screens, latticework, perforated or expanded metal) offer superior wind shelter compared to a solid surface.</li> <li>• Avoid narrow gaps between buildings where westerly or southeasterly winds could be accelerated.</li> <li>• Avoid "breezeways" or notches at the upwind corners of the building.</li> </ul> <p>Wind tunnel or computerized computational fluid dynamics testing shall be required if a review of the final architectural design of the proposed mid-rise buildings is insufficient to determine whether the buildings would result in adverse wind impacts. Testing shall be used to determine if wind accelerations generated by the structure could reach hazardous levels and to develop design modifications that would reduce impacts to a less-than-significant level.</p>
<p><b>M. Shade and Shadow</b></p>
<p><u>SHADE-1: (Main Street and Reduced Main Street Alternatives):</u> No mitigation measure is available to reduce this impact to a less-than- significant level.</p>