



Distribution Date: Feb. 16, 2021

MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Betsy Lake
Deputy City Administrator

SUBJECT: Howard Terminal Project

DATE: February 11, 2021

City Administrator Approval 

Date: Feb 16, 2021

INFORMATION

The purpose of this Informational Memorandum is to provide an update on the proposed Waterfront Ballpark District at Howard Terminal, including the status of: (1) the Environmental Impact Report; (2) Development Agreement negotiations between the City and the Oakland Athletics (Oakland A's) (3) community engagement on community benefits; (4) negotiations between the Port and Oakland A's; and (5) Project timeline.

EXECUTIVE SUMMARY

This Informational Memorandum supplements the reports provided to the City Council dated June 25, 2019, December 30, 2019 and July 20, 2020.

The Oakland A's have proposed the redevelopment of the approximately 50-acre site commonly known as Howard Terminal, generally located at the southerly terminus of Market Street on the Oakland Estuary, within the Port of Oakland, into a new, 35,000-person capacity Major League Baseball ballpark, together with up to 3,000 residential units, 1.5 million square feet of office space, 270,000 square feet of retail space, a 3,500-seat performance theater, three hotels totaling 400 rooms, and approximately 18 acres of new, publicly-accessible open space (the Project).

As outlined in the Memorandum of Understanding between City and Port Regarding Howard Terminal Oakland A's Ballpark Project (MOU) approved by the City Council on January 21, 2020 per Resolution No. 87798 C.M.S., the City and Port are working cooperatively to review, and if approved, regulate the proposed Project. Specifically, the City and Port are working together as Lead and Responsible Agencies, respectively, to prepare a Draft Environmental Impact Report (EIR) for 2021 publication, and, together with the Oakland A's and our community partners, to identify a comprehensive package of community benefits to be incorporated into the Project.

Development of the Project would require discretionary approvals from both the City and Port, as well as other state, regional, and local agencies. Among other discretionary local approvals, the proposed Project would require final legislative action to effectuate the shared regulatory framework contemplated in the MOU, a General Plan amendment, new and revised zoning regulations, and the filing of subdivision maps. Further, the proposed Project would require Port Building Permits, an Option Agreement and multiple leases and purchase and sale agreements between the Oakland A's and the Port. Finally, the Oakland A's have requested a Development Agreement from the City.

This Informational Memorandum provides the status of the Project's EIR, the City-A's Development Agreement negotiations, the Community Benefits Agreement (CBA) process, Port and Oakland A's negotiations, and the anticipated timeline for the Project (**Attachment A**).

1) Environmental Impact Report

In November 2018, the City issued a Notice of Preparation of a Draft EIR for the Oakland Waterfront Ballpark District Project. Public scoping meetings on the EIR were conducted at the City of Oakland Landmarks Preservation Advisory Board on December 17, 2018, and at the City of Oakland Planning Commission on December 19, 2018. An extended, 45-day public comment period for the EIR scoping concluded in mid-January 2019.

City staff and consultants, working collaboratively with Port staff and consultants, prepared a Draft EIR pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines to analyze the potential physical environmental impacts of the proposed Project. The Draft EIR was ready for publication in February 2020; however, at the Oakland A's request, publication of the Draft EIR was delayed in order to allow additional time for review of and certification of the Project by the California Air Resources Board (CARB) and the Governor pursuant to AB 734. CARB subsequently issued its determination for the Project on August 25, 2020, and in September 2020, work to update the Draft EIR in anticipation of an early 2021 publication commenced. The Governor's certification was received today, February 11, 2021, and is provided as **Attachment B** to this Memorandum. Litigation challenging the Governor's certification and AB 734 was resolved in favor of the City and State this week; however, an appeal is pending. The City Attorney's Office is working collaboratively with the State Attorney General's Office to defend these claims.

AB 734, enacted in 2018, requires that any challenges, including appeals, be resolved within 270 days following Project approvals, so long as the Project meets the following conditions:

1. The Project will create high-wage, highly skilled jobs that pay prevailing and living wages;
2. The ballpark and ancillary residential and commercial development will receive Leadership in Energy and Environmental Design (LEED) Gold certification or equivalent;
3. The Project will not result in any net additional emissions of greenhouse gases;
4. The Project achieves a 20-percent reduction in the number of vehicle trips collectively by attendees, employees, visitors, and customers, as compared to operations absent transportation demand management;
5. The Project is located within a priority development area identified in the sustainable communities strategy Plan Bay Area 2040;
6. The Project will be subject to a comprehensive package of community benefits; and
7. Project will comply with the City of Oakland's Bird Safety Measures.

AB 734 also requires enhanced opportunities for public input, including an informational workshop within 10 days of publication of the Draft EIR, expedited electronic access to the Draft EIR and all comments received thereto, and opportunities for commenters to participate in nonbinding arbitration prior to final certification of the EIR.

Compliance with the above conditions is subject to review by CARB and certification by the Governor.

Now that the Governor's certification is in hand, the Draft EIR is expected to be available for public review and comment late February or early March 2021. In addition to the workshop to be conducted pursuant to AB 734, tentatively scheduled for March 6, 2021 (see above), during the 45-day public comment period commencing upon release of the Draft EIR, the Landmarks Preservation Advisory Board and the Planning Commission will each conduct a public hearing on the draft. These hearings will focus on the adequacy of the Draft EIR rather than the merits of the underlying Project. As required by AB 734, all electronic comments received with regard to the Draft EIR will be posted within 5 days of receipt. At the conclusion of the comment period, staff, in collaboration with its consultant team, will prepare a Response to Comments and Final EIR for the Project, which, together with the initial project approvals, will be considered thereafter at additional public hearings of the Landmarks Preservation Advisory Board, Design Review Board, Planning Commission, and City Council.

In addition, it is anticipated that subsequent Project approvals by the various agencies discussed in Item 5, below, will rely in whole or in part on the City's EIR. As such, the Port, State Lands Commission (SLC), Department of Toxic Substances Control (DTSC) and the Bay Conservation and Development Commission (BCDC), among others, are acting as Responsible Agencies under CEQA, and their discretionary approvals, including but not limited to those described below, may only be undertaken following the City's certification of a Final EIR for the Project.

2) Development Agreement

The Oakland A's have applied for a Development Agreement, which, if approved, would govern the future development of the proposed Project for a specified period of time. Generally speaking, development agreements serve to reduce the risks associated with development, thereby enhancing the City's ability to obtain public benefits from private development beyond those achievable through existing ordinances and regulations, and to encourage private participation in the achievement of broader City and community goals and priorities.

The Development Agreement will set forth a finance plan for the proposed Project, as well as key benefits to the City and community of Oakland, including a commitment to stay and play in Oakland. SB 293 (enacted in 2019 with City Council support) authorized the City to establish an Infrastructure Financing District (IFD) for the Project. An IFD is a tax-increment financing vehicle that would enable the City, upon subsequent approval by the City Council, to capture and bond against any or all of its portion of the future "but for" property tax increment generated by the Project within the boundaries of the district for a period of up to 45 years. Other taxing entities' (for example, Alameda County) revenues will not flow to the district unless they affirmatively opt in. Bond proceeds may only be used for facilities serving the public, as set forth in SB 293.

As the Development Agreement negotiations proceed, staff will be seeking direction from the City Council regarding the extent, if any, to which the City will use its “but for” taxes, including a potential IFD, to support those elements of the Project that best align with the City’s policy priorities and serve the local community.

3) Community Benefits

As part of the Project, the City, Oakland A’s and Port agreed to undertake a new community benefits process centered on racial equity. In 2019, the City, Port, Oakland A’s, and community partners at the West Oakland Environmental Indicators Project and Oakland Asian Cultural Center (together, the Planning Group) convened a collaborative, multi-stakeholder process focused around seven Topic Cohorts: Community Health & Safety, Culture Keeping & History, Economic Development & Jobs, Education, Environment, Housing, and Transportation.

Community members met in person from November 2019 to February 2020, and continued meeting virtually beginning in March 2020. In total, 66 virtual meetings were held between March and August 2020, with almost 200 community members participating. All meetings were open to the public. In late summer 2020, the Topic Cohorts delivered a robust list of initial recommendations for potential community benefits. In addition to the Topic Cohort meetings, a Steering Committee comprised of Topic Cohort leads, neighborhood representatives, and representatives of the City, Port and Oakland A’s met monthly to discuss and further refine the list. During this time, Project staff met with multiple City department heads to assess the City’s own policy priorities and programmatic resources and needs relevant to the potential benefits identified by the Topic Cohorts.

At the end of 2020, the Planning Group began a process of reassessment and redirection in order to achieve the goal of reaching consensus on a comprehensive package of community benefits in 2021. As part of that reassessment, the Planning Group engaged Estolano Advisors, a woman- and minority-owned consulting firm that has worked previously with the City’s Department of Race and Equity, to advise on next steps.

Beginning in February 2021, Estolano Advisors will work with the Planning Group to provide technical assistance and guidance as the group works to advance the initial list of potential community benefits to a final CBA term sheet. Estolano’s scope includes: 1) evaluating the community’s list of initial recommendations against equity and other criteria established by the Planning Group, and 2) finalizing the process and schedule for development of a CBA term sheet detailing the final package of community benefits to be provided by the Project. The CBA term sheet will also indicate where each commitment with regard to community benefits will be memorialized (e.g. Development Agreement, Port real estate agreements, or separate CBA). An update on this work will be delivered at the next regularly scheduled Steering Committee meeting.

Updates, materials from past meetings, and notices of upcoming meetings are posted regularly to the City of Oakland CBA webpage, <https://www.oaklandca.gov/topics/community-benefits-agreement-cba-for-the-oakland-as-waterfront-ballpark-district-at-howard-terminal>.

4) Negotiations Between Port of Oakland and the Oakland A’s

On May 13, 2019 the Port of Oakland Board of Port Commissioners approved, in a 7-0 vote, an Exclusive Negotiation Term Sheet for Howard Terminal (the Term Sheet). The Term Sheet is summarized in detail in the Information Report dated June 25, 2019.

The Oakland A's and the Port are currently negotiating an Option Agreement and Master Lease Disposition and Development Agreement for the proposed Project. In addition, the Port is working with its maritime stakeholders to identify seaport compatibility measures deemed necessary to ensure that the construction and long-term operation of the proposed Project will not interfere with the Port's or its tenants' existing or reasonably anticipated future use, operation and development of Port facilities, or the health and safety of Port tenants and workers.

5) Timeline of Project Discretionary Actions

The attached "Oakland A's Howard Terminal Waterfront Ballpark District Timeline" illustrates the anticipated scope and timing of the discretionary actions required for development of the Project (**Attachment A**). This timeline anticipates advancing discretionary actions, including the certification of a Final EIR, amendments to the General Plan and Zoning Ordinance, a Preliminary Development Plan, Development Agreement and Tentative Tract Map to City Council for consideration in 2021. This timeline is predicated on publication of the Draft EIR for public review and comment in the first quarter of 2021. Should publication of the Draft EIR be again delayed due to factors beyond City control, the timeline will be revised accordingly.

In addition to local approvals, which will proceed first, the Project will require discretionary approvals from multiple state agencies, including but not limited to the SLC's approval of a trust exchange agreement with the Port and determination of trust-consistency with regard to proposed uses on trust lands, the BCDC's amendment of the Seaport Plan and issuance of a Major Permit for the Project, and the DTSC's approval of a remedial action work plan (or equivalent) for the site. All agencies are working collaboratively with City staff and the Project sponsor (the Oakland A's) to develop a shared vision for the Project and a workable regulatory framework for its review and approval.

Respectfully submitted,



BETSY LAKE
Deputy City Administrator

Prepared by:
Molly Maybrun, Project Manager III
Real Estate and Major Projects

For questions regarding this report, please contact Molly Maybrun, Project Manager III, at (510) 238-4941, mmaybrun@oaklandca.gov.

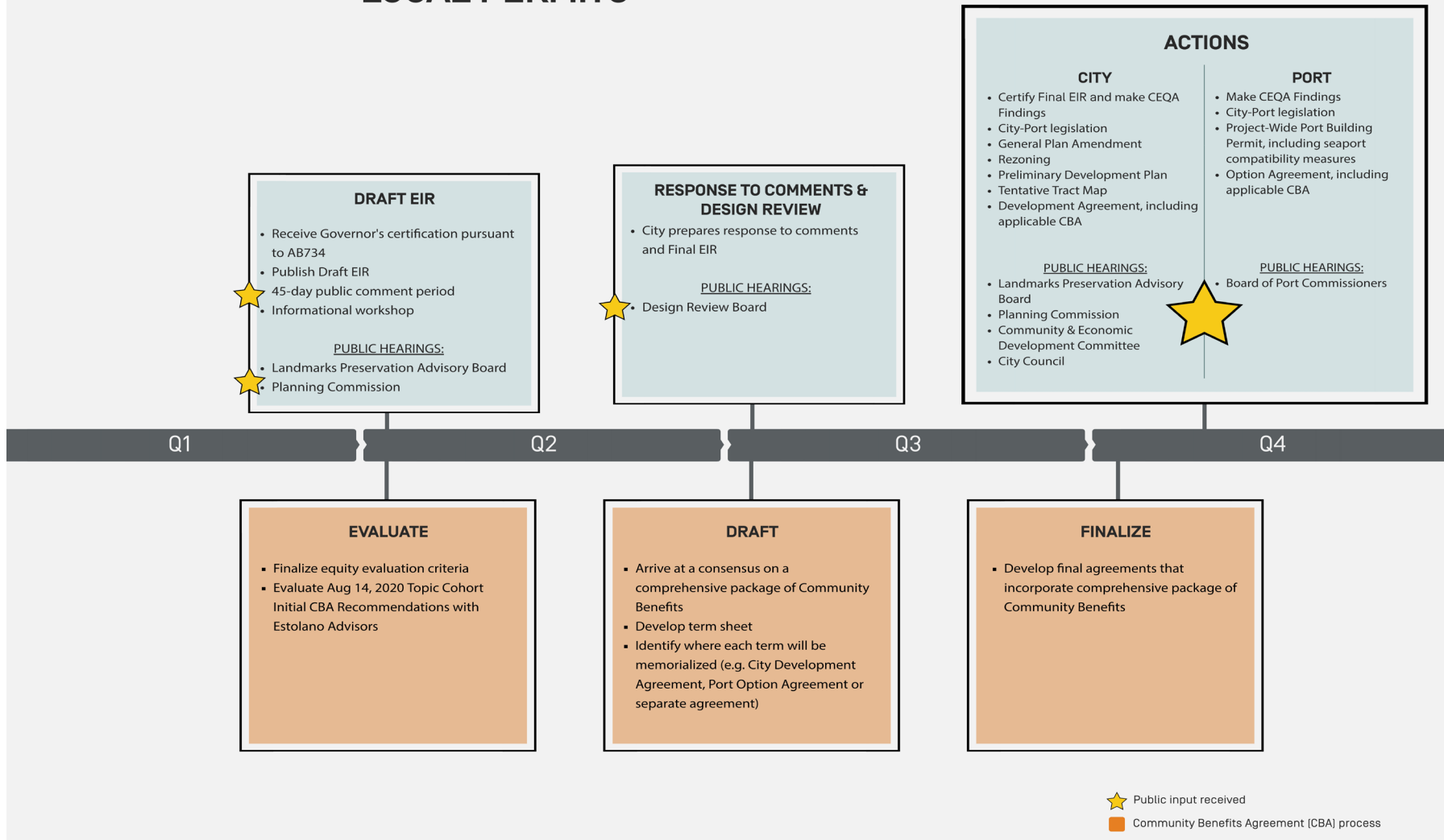
Attachment A: Oakland A's Howard Terminal Waterfront Ballpark District Timeline
Attachment B: Governor's Certification

ATTACHMENT A

Oakland A's Howard Terminal Waterfront Ballpark District Timeline

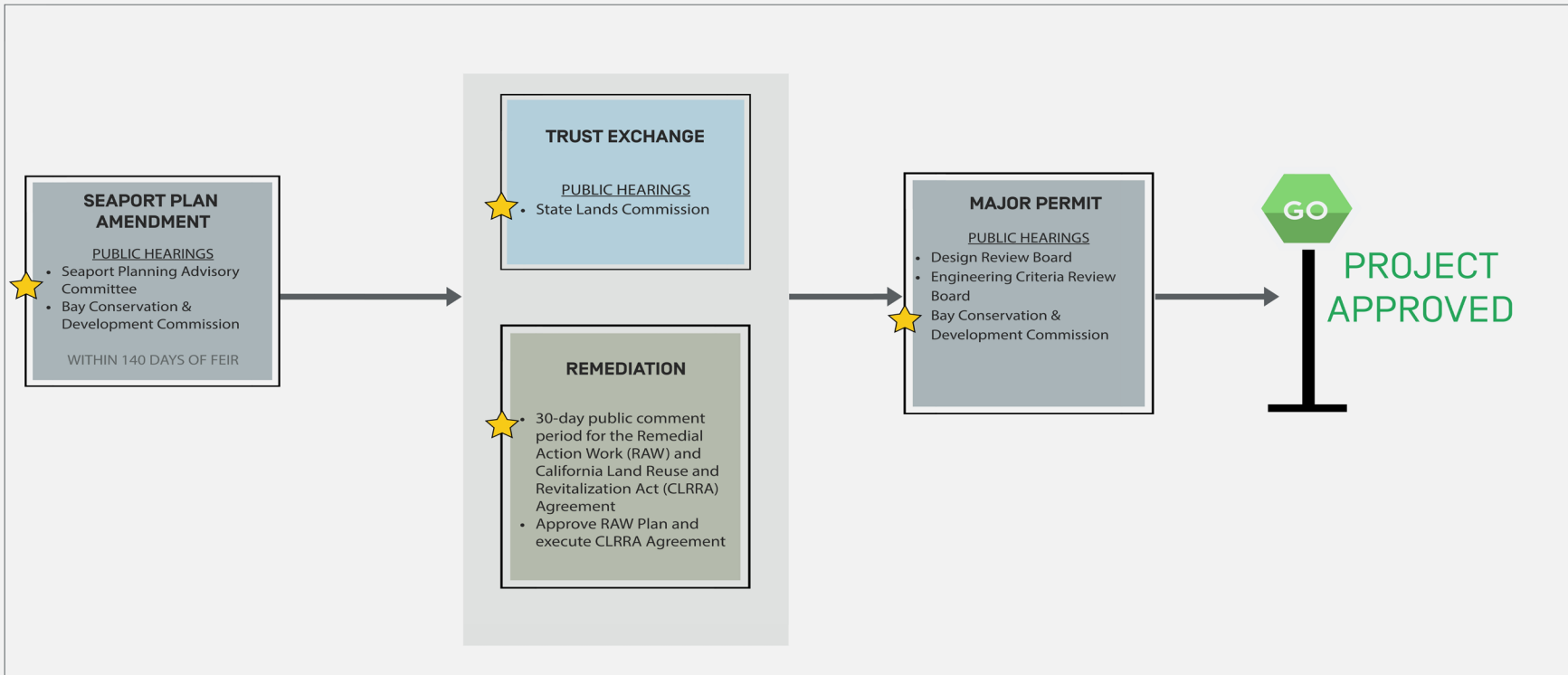
Oakland A's Howard Terminal Waterfront Ballpark District Timeline

LOCAL PERMITS



Oakland A's Howard Terminal Waterfront Ballpark District Timeline

STATE PERMITS



ATTACHMENT B

Governor's Certification



OFFICE OF THE GOVERNOR

GOVERNOR'S CERTIFICATION GRANTING STREAMLINING FOR OAKLAND SPORTS AND MIXED-USE PROJECT IN THE CITY OF OAKLAND

I, **GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by Public Resources Code Section 21168.6.7, make the following determinations:

The Oakland Sports and Mixed-Use Project, in the City of Oakland, will create high-quality jobs and provide benefits to the surrounding community. A copy of the Project's Application, which contains information supporting this certification, is attached as Exhibit 1. Relevant supplemental information submitted by the Applicant is attached as Exhibits 2, 3, 4, 6, and 8. All materials associated with this application are available online at: <http://www.opr.ca.gov/ceqa/california-jobs.html>

1. Project Applicant: Athletics Investment Group LLC
2. Project Description: The Applicant proposes to build a baseball park and a variety of adjacent ancillary and mixed uses, including residential, hotel, entertainment, office, retail, and open space, on the approximately 55-acre project site.
3. Lead Agency: City of Oakland
4. The project meets the criteria set forth in Public Resources Code Section 21168.6.7(a)(3). It will:
 - a. Receive LEED Gold certification within one year of completion of the first baseball season and each new nonresidential building will receive LEED Gold certification within one year of the completion of the building; all residential buildings will achieve sustainability standards of at least LEED Gold level or the comparable GreenPoint rating system (see Exhibit 1, page 3; Exhibit 2);

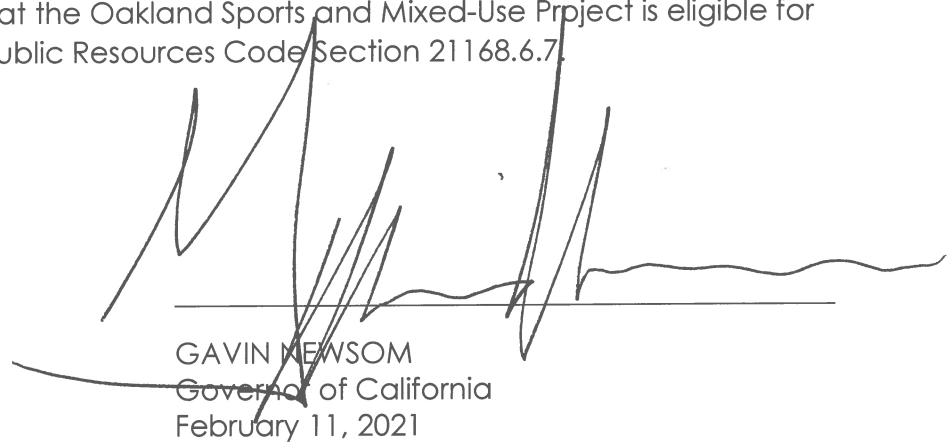


- b. Not result in any net additional greenhouse gas emissions and that not less than 50 percent of the greenhouse gas reduction measures would be achieved within the project area and the neighboring communities and no more than 50 percent of the greenhouse gas emissions reductions result from offset credits used from a project within the United States (see Exhibit 1, pages 4-5; Exhibit 2; Exhibit 4; Exhibit 5);
 - c. Have a transportation demand management program that, upon full implementation, will achieve and maintain a 20-percent reduction in the number of vehicle trips compared to operations absent the transportation demand management program (see Exhibit 1, pages 6-10; Exhibit 2; Exhibit 6; Exhibit 7);
 - d. Be located within a priority development area identified in the adopted Plan Bay Area (see Exhibit 1, page 11; Exhibit 8); and
 - e. Provide a comprehensive package of community benefits (see Exhibit 1, pages 11; Exhibit 2; Exhibit 9).
5. The Executive Officer of the California Air Resources Board (CARB) has made the determination that the project meets the greenhouse gas emissions requirements in compliance with Public Resources Code Section 21168.6.7(a)(3)(ii) and (d)(3) (see CARB Determination dated August 25, 2020, attached as Exhibit 5).
 6. The project applicant has provided information establishing that the project will create high-wage, highly skilled jobs that pay prevailing and living wages in compliance with Public Resources Code Section 21168.6.7(d)(2) (see Exhibit 1, page 11; Exhibit 3).
 7. The project applicant has provided information establishing that the project will comply with the requirements for the commercial and organic waste recycling of Public Resources Code Chapter 12.8 (commencing with Section 42649) and 12.9 (commencing with Section 42649.8) of Part 23 of Division 30, as applicable in compliance with Public Resources Code Section 21168.6.7(d)(4) (see Exhibit 1, page 11; Exhibit 2).
 8. The project applicant has provided documentation reflecting a binding agreement establishing the requirements set forth in Public Resources Code sections 21168.6.7(d)(5), (6), and (7) to undertake mitigation measures, to pay the costs for hearing by the Court of Appeal, and to pay the costs of preparing the record of proceedings (see Exhibit 1, page 11; Exhibit 2).
 9. The project applicant has provided documentation demonstrating compliance with the City of Oakland's Bird Safety Measures, as required by Public Resources Code Section 21168.6.7(d)(8) (see Exhibit 1, page 11; Exhibit 2; Exhibit 10).

10. Multiple public comments on the project application were received and are posted at <https://opr.ca.gov/ceqa/California-jobs.html>. These comments were considered prior to the making of this determination.

11. This certification covers the project variants that have been analyzed in the application.

Therefore, I hereby certify that the Oakland Sports and Mixed-Use Project is eligible for judicial streamlining under Public Resources Code Section 21168.6.7.



A handwritten signature in black ink, appearing to read 'Gavin Newsom', is written over a horizontal line. The signature is stylized and somewhat abstract.

GAVIN NEWSOM
Governor of California
February 11, 2021