Appointment

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/2/2017 12:44:37 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Burroughs, Marian (OST) [marian.burroughs@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]

Subject: City and Port of Oakland complaint discussion
Location: Teleconference

Start: 8/7/2017 7:30:00 PM
End: 8/7/2017 8:30:00 PM
Show Time As: Busy

Recurrence: (none)

Good morning:

This meeting was requested by the attorneys representing the City and Port of Oakland. The purpose is to introduce ourselves and answer questions about our Title VI investigative processes.

Conference Line/Code / Ex. 6

Appointment

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 7/27/2017 1:23:48 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Burroughs, Marian (OST) [marian.burroughs@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Neal, Daria (CRT) [Daria.Neal@usdoj.gov]; iris.goldschmidt@usdoj.gov
CC: Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]

Subject: Oakland investigation next steps
Attachments: 2017-0213 Investigative Plan DRAFT 08.01.2017 .docx; Meeting Agenda 08.02.2017.docx
Location: DOCR Conference Room, W78-124 1200 New Jersey Ave SE

Start: 8/2/2017 5:00:00 PM
End: 8/2/2017 6:00:00 PM
Show Time As: Tentative

Recurrence: (none)

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

For those coming in person, please allow a short period of time to go through security. I'll be waiting in the main lobby to escort everyone upstairs. My cell is Personal Matters / Ex. 6 in case you don't see me.**

Conference Line/Code / Ex. 6

Good morning all:

Attorney Client / Ex. 5

Ryan

Oakland Joint Title VI Investigation Next Steps

DOCR Conference Room, W78-124
1200 New Jersey Ave, SE
Washington, DC

Teleconference

Conference Line/Code / Ex. 6

August 2, 2017
1:00pm – 2:00pm

I. Introductions

II. Roles and Responsibilities for DOT and EPA

III. Investigative Plan

IV. Open Discussion

V. Next steps

VI. Conclusion

Appointment

From: McGhee, Debra [mcghee.debra@epa.gov]
Sent: 9/20/2017 2:34:22 PM
To: McGhee, Debra [mcghee.debra@epa.gov]; Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Grow, Richard [Grow.Richard@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Huezo, Hector (OST) [hector.o.huezo@dot.gov]; Cockfield, Erva (OST) [erva.cockfield@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; grow.r@att.net
CC: Strauss, Alexis [Strauss.Alexis@epa.gov]; Israels, Ken [Israels.Ken@epa.gov]; Reyes, Deldi [Reyes.Deldi@epa.gov]

Subject: Preparation for September 26 Meeting with Oakland Port and City
Location: Conference Call//ECRCO Conference Room

Start: 9/22/2017 6:00:00 PM
End: 9/22/2017 7:00:00 PM
Show Time As: Busy

<!--[if lte mso 15 || CheckWebRef]-->

McGhee, Debra has shared a OneDrive for Business file with you. To view it, click the link below.

2017 09 22 Draft Agenda DORKA.docx

<!--[endif]-->

Call to plan for Meeting with Recipients. A draft Agenda will be circulated prior to the meeting.

CALL IN CODE Conference Line/Code / Ex. 6

Appointment

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 9/7/2017 11:49:23 AM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; howard.caro-lopez@dot.gov; ryan.fitzpatrick@dot.gov; yvette.rivera@dot.gov; deeana.jang@dot.gov; Grow, Richard [Grow.Richard@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Packard, Elise [Packard.Elise@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]
CC: Mills, Derek [Mills.Derek@epa.gov]; Trudeau, Shaun [Trudeau.Shaun@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]

Subject: Meeting with Oakland (Port and City) Re: Deliberative Process / Ex. 5 itle VI Complaint (Call in number: Conference Line/Code / Ex. 6 Conference Line/Code / Ex. 6
Location: EPA Headquarters, 1200 Pennsylvania Ave. NW, Washington, DC (William Jefferson Clinton Building), 4th Floor, Room 4045

Start: 9/26/2017 5:00:00 PM
End: 9/26/2017 7:00:00 PM
Show Time As: Busy

Please enter via our north side entrance. Upon clearing security, someone will escort you to the meeting location. Any questions, please call 202-564-8040. Thank you.

Appointment

From: ryan.fitzpatrick@dot.gov [ryan.fitzpatrick@dot.gov]
Sent: 8/31/2017 4:23:07 PM
To: ryan.fitzpatrick@dot.gov; yvette.rivera@dot.gov; deeana.jang@dot.gov; howard.caro-lopez@dot.gov; Terence.Carlson@dot.gov; hector.o.huezo@dot.gov; Rachel.Kizito-Ramos@dot.gov; daryl.hart@dot.gov; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]

Subject: Oakland updates and check-in
Location: Teleconference

Start: 9/7/2017 7:00:00 PM
End: 9/7/2017 8:00:00 PM
Show Time As: Busy

Recurrence: (none)

I changed the date to Thursday, September 7. That Tuesday was proving difficult for several parties.

Hey team:

Deliberative Process / Ex. 5

Thanks,

Ryan

Call-in: Conference Line/Code / Ex. 6
Passcod

Appointment

From: Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Sent: 8/9/2017 4:57:41 PM
To: Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]
CC: Strauss, Alexis [Strauss.Alexis@epa.gov]

Subject: Initial discussion with Earthjustice re Port of Oakland case
Location: DCRoomARN2528/DC-ARN-OCR-Rooms **Conference Line/Code / Ex. 6**

Start: 8/17/2017 7:00:00 PM
End: 8/17/2017 8:00:00 PM
Show Time As: Busy

Message

From: Thomas, April M. [AThomas@jenner.com]
Sent: 8/16/2017 10:54:12 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: FW: Port of Oakland Response to Title VI Complaint, DOT # 2017-0093, EPA File No. 14R-17-R9
Attachments: Letter to EPA - Response to Title VI Complaint.pdf

Ms. Dorka,

My original email to you at Lilian.dorka@epa.gov was bounced back, so I am trying this email that I found from a google search.

Thank you,
April

From: Thomas, April M.
Sent: Wednesday, August 16, 2017 5:28 PM
To: 'Lilian.dorka@epa.gov' <Lilian.dorka@epa.gov>; 'Charles.james@dot.gov' <Charles.james@dot.gov>; 'ryan.fitzpatrick@dot.gov' <ryan.fitzpatrick@dot.gov>; 'farrell.ericka@epa.gov' <farrell.ericka@epa.gov>; 'mheffes@portoakland.com' <mheffes@portoakland.com>
Cc: Grayson, E. Lynn <lgrayson@jenner.com>; Torrence, Allison A. <ATorrence@jenner.com>; Schoedel, Lisa M. <LSchoedel@jenner.com>; McDaniel, Tracie A. <TMcDaniel@jenner.com>
Subject: Port of Oakland Response to Title VI Complaint, DOT # 2017-0093, EPA File No. 14R-17-R9

All:

Please find attached the Port of Oakland's response to the Title VI Complaint, DOT #2017-0093, EPA File No. 14R-17-R9.

Thank you,
April Thomas

April M. Thomas
Legal Secretary

Jenner & Block LLP
353 N. Clark Street, Chicago, IL 60654-3456 | jenner.com
+1 312 840 8808 | TEL
+1 312 527 0484 | FAX
AThomas@jenner.com
Download V-Card

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Message

From: Grow, Richard [Grow.Richard@epa.gov]
Sent: 8/16/2017 10:02:06 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, August 16, 2017 12:16 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation

W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, August 16, 2017 1:43 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johanna <Johnson.Johanna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Thanks again!

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, August 16, 2017 8:53 AM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Rivera, Yvette (OST)
Sent: Wednesday, August 16, 2017 8:37 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Let's try that. Thank you for coordinating.

From: Fitzpatrick, Ryan (OST)
Sent: Wednesday, August 16, 2017 8:36 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering if week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> ---
>
> **From:** Fitzpatrick, Ryan (OST)
> **Sent:** Tuesday, August 15, 2017 3:57 PM
> **To:** 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Yes. But we'll need to push this back
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> ---
>
> **From:** Rhines, Dale [mailto:rhines.dale@epa.gov]
> **Sent:** Tuesday, August 15, 2017 3:56 PM
> **To:** Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Just to clarify, we are talking about August 31 or September 1 at this pont,correct?
>
> ---
>
> **From:** Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
> **Sent:** Tuesday, August 15, 2017 3:51 PM
> **To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Next Thursday or Friday does not work. I will be out on training.
> <image001.png>
>
> ---
>
> **From:** Fitzpatrick, Ryan (OST)
> **Sent:** Tuesday, August 15, 2017 3:40 PM
> **To:** Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
> **Subject:** FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)
Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

CONFIDENTIAL COMMUNICATION

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979

Message

From: Farrell, Ericka [Farrell.Ericka@epa.gov]
Sent: 7/19/2017 6:49:36 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Temple, Kurt [Temple.Kurt@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Subject: Call from San Francisco Chronicle
Attachments: 13R-17-R9 ROC with news correspondent.docx

Lilian,

I received a message from Kimberly from the San Francisco Chronicle. I have drafted a record of contact which is attached. Her number is 415-827-1902.

She is seeking a return call to get clarity on our acceptance letter to the City of Oakland and the Port. She is confused about what we will be investigating such as will it be air pollution besides discrimination. Seeking more clarity and background information.

Ericka S. Farrell
Case Manager
External Civil Rights Compliance Office
202-564-0717

Message

From: Grow, Richard [Grow.Richard@epa.gov]
Sent: 4/6/2017 10:14:13 PM
To: Strauss, Alexis [Strauss.Alexis@epa.gov]; Jordan, Deborah [Jordan.Deborah@epa.gov]; Adams, Elizabeth [Adams.Elizabeth@epa.gov]; Lakin, Matt [Lakin.Matthew@epa.gov]; Reyes, Deldi [Reyes.Deldi@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]
CC: Goerke, Ariadne [Goerke.Ariadne@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Spiegelman, Nina [Spiegelman.Nina@epa.gov]; Israels, Ken [Israels.Ken@epa.gov]; Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Vance, Amy [Amy.Vance@HQ.DHS.GOV]; BANDROWSKI, MIKE [Bandrowski.Mike@epa.gov]; Valentine, Stephanie [Valentine.Stephanie@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]
Subject: Earthjustice clip: Title VI complaint about West Oakland FW: EJ News 04/07/17

Here's a link to Earthjustice's own post on the West Oakland Title VI complaint, incl nice picture of Ms. Margaret.

http://earthjustice.org/news/press/2017/community-group-alleges-civil-rights-violations-by-the-city-and-port-of-oakland-in-complaint-to-federal

Richard

From: O'Lone, Mary
Sent: Thursday, April 6, 2017 1:14 PM
To: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Cc: Spiegelman, Nina <Spiegelman.Nina@epa.gov>; Israels, Ken <Israels.Ken@epa.gov>
Subject: Title VI complaint about West Oakland FW: EJ News 04/07/17

FYI – in case you hadn't heard or seen it. See first BNA article about Title VI complaint filed re: West Oakland Port. There is a link to the complaint.

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: OGCLibrary
Sent: Thursday, April 06, 2017 3:26 PM
To: Andrews, Mary <Andrews.Mary@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Buzzelle, Stanley <Buzzelle.Stanley@epa.gov>; DeMocker, Jim <DeMocker.Jim@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Guadagno, Tony <Guadagno.Tony@epa.gov>; Hall, Katherin <hall.katherin@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; Lee, Charles <Lee.Charles@epa.gov>; Knorr, Michele <knorr.michele@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Ruhl, Suzi <Ruhl.Suzi@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Tripathi, Arati <Tripathi.Arati@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; 'Marcus.england@faa.gov' <Marcus.england@faa.gov>; 'Wilbur.barham@faa.gov' <Wilbur.barham@faa.gov>; 'lori.pierce@faa.gov' <lori.pierce@faa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>
Subject: EJ News 04/07/17

Bloomberg BNA

Port Expansion Polluting West Oakland, Calif., Complaint Says

Daily Environment Report™

BNA - Daily Environment Report 05 Apr 2017 18:58

Air Pollution • Group files complaint with the EPA and Transportation Department • Seeks halt to federal funds while port project is studied By Carolyn Whetzel Environmental justice advocates April 5 asked the federal government to halt funding for...

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 7/7/2017 6:12:34 PM
To: Rivera, Yvette (OST) [yvette.rivera@dot.gov]
CC: Goerke, Ariadne [Goerke.Ariadne@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Redden, Kenneth [Redden.Kenneth@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Neal, Daria (CRT) [Daria.Neal@usdoj.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]
Subject: Oakland T6 Complaint
Attachments: Oakland Joint Acceptance Letter DRAFT RECIPIENT 7-7-2017.doc; Oakland Joint Acceptance Letter DRAFT COMPLAINANT 7-6-2017.doc

Hello Yvette. Thanks for the good conversation yesterday regarding the Oakland T6 matter. As we promised on the call, I have attached for DOT's review draft joint acceptance letters to complainant and recipients. Deliberative Process / Ex. 5 Let us know if DOT has any edits, comments or concerns. We look forward to issuing these letters soon. Please give me a call if you need anything.

Sincerely,

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460
202-564-7299

Message

From: Rivera, Yvette (OST) [yvette.rivera@dot.gov]
Sent: 11/13/2017 6:58:17 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: RE: West Oakland Title VI complaint: Letter submitted to Port of Oakland last week

Very interesting that this letter comes at this time.

From: Fitzpatrick, Ryan (OST)
Sent: Monday, November 13, 2017 1:55 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>
Subject: FW: West Oakland Title VI complaint: Letter submitted to Port of Oakland last week

FYI

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Adenike Adeyeye [mailto:aadeyeye@earthjustice.org]
Sent: Monday, November 13, 2017 1:52 PM
To: Richard Grow <Grow.Richard@epamail.epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Title_VI_Complaints@epa.gov
Cc: Paul Cort <pcort@earthjustice.org>; Margaret Gordon <margaret.woeip@gmail.com>; Brian Beveridge <brian.woeip@gmail.com>
Subject: West Oakland Title VI complaint: Letter submitted to Port of Oakland last week

Dear Richard, Ryan, and Velveta –

Attached you will find a letter that West Oakland Environmental Indicators Project, Earthjustice, and allied organizations submitted to the Port of Oakland last week regarding the approval of a lease at the former Oakland Army Base. The letter raises concerns about the lack of community engagement to address environmental impacts.

Please let me know if you have any questions about the letter or would like additional information.

Best,

Adenike

Adenike Adeyeye
Senior Research & Policy Analyst / Advocacy Representative
50 California Street, Suite 500
San Francisco, CA 94111
T: 415.217.2000
F: 415.217.2040
earthjustice.org

EARTHJUSTICE

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If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 7/19/2017 4:55:21 PM
To: Farrell, Ericka [Farrell.Ericka@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
CC: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: FW: Oakland T6 Complaint
Attachments: Oakland Joint Acceptance Letter FINAL CPT 07.18.17.doc; Oakland Joint Acceptance Letter FINAL RECIPIENTS 07.18.17.doc

Ericka: These are the final Word versions of the Oakland acceptance letters. Please include in our files.

Kurt

-----Original Message-----
From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, July 19, 2017 12:39 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Oakland T6 Complaint

Attached.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

-----Original Message-----
From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
Sent: Wednesday, July 19, 2017 11:54 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: RE: Oakland T6 Complaint

Ryan: Do you have the final Word copies of the letters that you worked on yesterday? If so, can you shoot them to me for our records. Thanks, Kurt

-----Original Message-----
From: Temple, Kurt
Sent: Wednesday, July 19, 2017 11:51 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <olone.mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Subject: RE: Oakland T6 Complaint

Ryan and Yvette: Thanks for your assistance in getting the acceptance letters out yesterday, and to you Ryan, for dropping agreeing to personally them off at our office late in the day. Now that we have sent them, we should get the teams together for that next conversation about next steps, such as investigative plan, laboring oars, etc. Please let us know when is a good time to have the conversation and we will gather our Region 9 and ECRCO team. Look forward to talking further.

Thanks again.

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460
202-564-7299

-----Original Message-----
From: Dorka, Lilian

Sent: Tuesday, July 18, 2017 6:06 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Oakland T6 Complaint
Importance: High

Hi Ryan and Yvette, also wanted to send around to you the Reactive Desk Statement we have prepared for our Office of Public Affairs to use in responding to inquiries - which we anticipate receiving. Enforcement/Investigatory / Ex. 7(a)

Enforcement/Investigatory / Ex. 7(a)

Enforcement/Investigatory / Ex. 7(a) Please feel free to use this for your OPA needs as well. Thanks very much! Lily

P/S -- Re the letters, trying to find all the right email addresses right now so that we can issue the letters electronically tonight - as well as mil them return receipt.

-----Original Message-----
From: Temple, Kurt
Sent: Tuesday, July 18, 2017 3:34 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>
Subject: RE: Oakland T6 Complaint

Ryan: Sorry for the delay. Please see attached and feel free to add your cc's if any.

Kurt

-----Original Message-----
From: Temple, Kurt
Sent: Tuesday, July 18, 2017 10:54 AM
To: 'Rivera, Yvette (OST)' <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <olone.mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>
Subject: RE: Oakland T6 Complaint

Yvette: Attached are the most recent drafts of the joint acceptance letters for your review and approval. We added some clarifying edits to the draft you sent forward last week. You will see those changes highlighted in the text. Also, DOT needs to insert its file number into the subject line. Please let me know if you have any questions about what we have done, or if you're ready to exchange signatures on final drafts. Thanks for your help.

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460
202-564-7299

-----Original Message-----
From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Thursday, July 13, 2017 3:49 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>
Subject: RE: Oakland T6 Complaint

Dear Lily,

We have an approved version of the OAB letter. Please see the attached. If you have no objections, we can execute the letter and get the original to you for signature tomorrow. Thank you!

Yvette

-----Original Message-----
From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Thursday, July 13, 2017 12:29 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
Subject: RE: Oakland T6 Complaint

Hi Yvette, just following up on this. Thanks! Lily

-----Original Message-----
From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Friday, July 7, 2017 2:51 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
Subject: RE: Oakland T6 Complaint

Thank you Kurt. We will get right on it. Hoping that we can respond by Monday or Tuesday. Again, thank you. Have a nice weekend! Yvette

-----Original Message-----
From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
Sent: Friday, July 07, 2017 2:13 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
Subject: Oakland T6 Complaint

Hello Yvette. Thanks for the good conversation yesterday regarding the Oakland T6 matter. As we promised on the call, I have attached for DOT's review draft joint acceptance letters to complainant and

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Let us know if DOT has any edits, comments or concerns. We look forward to issuing these letters soon. Please give me a call if you need anything.

Sincerely,

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460
202-564-7299

Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/16/2017 7:23:23 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

And yes, 08/31 does work, I confused her e-mail. I'll see if I can get that scheduled

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Fitzpatrick, Ryan (OST)
Sent: Wednesday, August 16, 2017 3:15 PM
To: 'Dorka, Lilian' <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312

(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, August 16, 2017 1:43 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Thanks again!

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, August 16, 2017 8:53 AM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Rivera, Yvette (OST)
Sent: Wednesday, August 16, 2017 8:37 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Let's try that. Thank you for coordinating.

From: Fitzpatrick, Ryan (OST)
Sent: Wednesday, August 16, 2017 8:36 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

It doesn't look like we have much of a choice. I can tell Michele at the Port that if they can't come next Wednesday the 23rd, then it will have to wait until after Labor Day. Maybe they'll choose to eschew the City and come the 23rd, or maybe the City will change its schedule.

That said, given that we don't have a proposed pre-resolution framework put together yet, if we do it after Labor Day, we may be able to finish it and present it to them then and use it as a topic for discussion, which they can then present to their boards.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering if week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> ---
>
> **From:** Fitzpatrick, Ryan (OST)
> **Sent:** Tuesday, August 15, 2017 3:57 PM
> **To:** 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Yes. But we'll need to push this back
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> ---
>
> **From:** Rhines, Dale [mailto:rhines.dale@epa.gov]
> **Sent:** Tuesday, August 15, 2017 3:56 PM
> **To:** Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Just to clarify, we are talking about August 31 or September 1 at this pont,correct?
>
> ---
>
> **From:** Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
> **Sent:** Tuesday, August 15, 2017 3:51 PM
> **To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Next Thursday or Friday does not work. I will be out on training.
> <image001.png>
>
> ---
>
> **From:** Fitzpatrick, Ryan (OST)
> **Sent:** Tuesday, August 15, 2017 3:40 PM
> **To:** Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
> **Subject:** FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)
Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

CONFIDENTIAL COMMUNICATION

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979

Message

From: ryan.fitzpatrick@dot.gov [ryan.fitzpatrick@dot.gov]
Sent: 11/13/2017 6:54:57 PM
To: yvette.rivera@dot.gov; Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: FW: West Oakland Title VI complaint: Letter submitted to Port of Oakland last week
Attachments: 2017-11-08 Letter to Port Board.pdf

FYI

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Adenike Adeyeye [mailto:aadeyeye@earthjustice.org]
Sent: Monday, November 13, 2017 1:52 PM
To: Richard Grow <Grow.Richard@epamail.epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Title_VI_Complaints@epa.gov
Cc: Paul Cort <pcort@earthjustice.org>; Margaret Gordon <margaret.woeip@gmail.com>; Brian Beveridge <brian.woeip@gmail.com>
Subject: West Oakland Title VI complaint: Letter submitted to Port of Oakland last week

Dear Richard, Ryan, and Velveta –

Attached you will find a letter that West Oakland Environmental Indicators Project, Earthjustice, and allied organizations submitted to the Port of Oakland last week regarding the approval of a lease at the former Oakland Army Base. The letter raises concerns about the lack of community engagement to address environmental impacts.

Please let me know if you have any questions about the letter or would like additional information.

Best,

Adenike

Adenike Adeyeye
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EARTHJUSTICE

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November 8, 2017

Joan H. Story
President, Board of Port Commissioners
Port of Oakland
30 Water Street
Oakland, CA 94607

Subject: **Ordinance and Resolution to approve Lease with CenterPoint-Oakland Development I, LLC for a Transload and Distribution Facility on the Former Oakland Army Base**

Dear Ms. Story and Members of the Board of Port Commissioners,

These comments are submitted on behalf of the signatories below to request that the Board of Port Commissioners ("Board") delay approval of the lease with CenterPoint-Oakland Development I, LLC ("Developer") until the Board and Port of Oakland ("Port") ensure that the Developer will take all possible steps to minimize air pollution impacts and to be a good neighbor to surrounding communities.

The Board should delay action on this item until the Port has completed a public process on the environmental and public health impacts of this facility. The Port held a series of public meetings regarding this project, but those meetings focused on jobs. West Oakland Environmental Indicators Project requested that the Port include environmental issues in these meetings and Port staff told West Oakland Environmental Indicators Project that environmental issues would be addressed later. Yet, the environmental and public health impacts never were addressed and this proposal reflects that oversight. This dismissal of community requests to provide input on environmental concerns is part of a disturbing pattern highlighted in the April 4, 2017 Title VI complaint filed with the U.S. Department of Transportation and U.S. Environmental Protection Agency (see Attachment).

As the Bay Area Air Quality Management District ("District") noted in its November 3, 2017 letter to the Board, the proposal does not comply with many of the criteria in the Oakland Army

Base's Environmental Impact Report Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP). The Agenda Report for this item states that the Developer will comply with the SCA/MMRP, but the Port has not taken any action yet to fulfill the SCA/MMRP's requirements. We agree with the comments submitted by the District and urge the Board to heed the District's recommendations regarding the SCA/MMRP.

In addition, the Agenda Report does not include all of the mitigation requirements that were included in the City of Oakland's ("City's") agreement with Prologis for its lease at the former Oakland Army Base. For example, the Prologis agreement requires Prologis to limit idling to three minutes and to use "zero and near-zero emission equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area."[1] At the very least, the Port should require the Developer to meet the same requirements that Prologis has committed to achieve.

The Board should ensure that its ordinance and resolution, if adopted, clearly state that the Developer must utilize zero and near zero emission technology[2] everywhere possible. To achieve the directives in the SCA/MMRP, the Port also will need to fund emission reduction programs at the Port and in the communities the Port impacts. The Board should work with the District and the California Air Resources Board to facilitate the widespread adoption of zero and near zero emission technologies throughout the former Oakland Army Base and in impacted communities.

To reduce emissions and improve air quality in impacted communities, the Port must adopt a different approach to planning for construction and operation of facilities at the former Oakland Army Base. The Port proposes to continue its pattern of treating the construction and operation phases as two distinct entities, even though facility design can affect emissions associated with facility operation. The Port should require developers to construct and design facilities to maximize emission reduction potential and facilitate the use of zero and near zero emission technologies during the operation phase.

Using zero and near zero emission vehicles and equipment at the Oakland Army Base is critically important due to the impact the development will have on West Oakland and communities all along the freeways that serve the Port. West Oakland is a community of color that faces disproportionate environmental impacts, which are caused in part by pollution generated at or associated with the Port (see Attachment, pp. 9-21). Other communities along freeways serving the Port (such as the I-880 corridor) also experience disproportionate impacts due in part to the truck traffic moving through their communities to the Port. Approving this lease without a public process and without clear instructions to use zero and near zero emission technologies during construction and operation will lock in years of unnecessary, dangerous emissions from the use of combustion fuel technologies where zero and near zero emission alternatives are available.

The Port has an opportunity here to send a message to the community: including more stringent emission reduction requirements for the Developer would signal that the Port intends to start

[1] Prologis Oakland Global Logistics Center. "Diesel Emissions Reduction and Air Quality Plan for Construction of CE-2: Southeast Gateway Parcel, CC-1: New Central Gateway Parcel," p. 7 (August 13, 2017).
[2] We define "near zero emission" technologies to include technologies that allow vehicles and equipment to operate fully zero-emissions for some period of time (such as hybrid electric vehicles).

making real changes that benefit the health and wellbeing of West Oakland residents. Allowing the lease to proceed as-is sends a far different message. We urge the Port to delay action on this item and to revise the ordinance and resolution so that they set clear and stringent emission reduction requirements for the Developer.

Thank you for the opportunity to comment.

Sincerely,

Adenike Adeyeye
Senior Research and Policy Analyst
Earthjustice

Margaret Gordon and Brian Beveridge
Directors
West Oakland Environmental Indicators Project

Luis Amezcua
Chair
Sierra Club, Northern Alameda County Group

Rev. Earl W. Koteen
Sunflower Alliance

Kevin D. Hamilton, RRT, CEO
Central California Asthma Collaborative

Frank Gallo
Ditching Dirty Diesel Collaborative

Jimmy O'Dea
Senior Vehicles Analyst
Union of Concerned Scientists

Bill Magavern
Policy Director
Coalition for Clean Air

Bradley Angel
Executive Director
Greenaction for Health and Environmental Justice

Joel Ervice
Associate Director
Regional Asthma Management and Prevention

Taylor Thomas
Research & Policy Analyst
East Yard Communities for Environmental Justice

Attachment: Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (April 4, 2017).

Cc: Ryan Fitzpatrick, U.S. Department of Transportation
Velveta Golightly-Howell, U.S Environmental Protection Agency (EPA)
Richard Grow, U.S. Environmental Protection Agency (EPA)
Yana Garcia, California Environmental Protection Agency

ATTACHMENT

Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
(April 4, 2017)

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

By electronic and certified U.S .mail

April 4, 2017

Attn: Ryan Fitzpatrick
Lead Civil Rights Analyst, Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, D.C. 20590
ryan.fitzpatrick@dot.gov

Attn: Velveta Golightly-Howell
Director, Office of Civil Rights
United States Environmental Protection Agency
U.S. EPA Office of Civil Rights (Mail Code 1201A)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
Title_VI_Complaints@epa.gov

Attn: Daria Neil
Deputy Chief, Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Daria.neal@usdoj.gov

Re: **Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d**

On behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP or "Complainant") submits this Complaint regarding the City of Oakland's ("City") pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB") while failing to ensure adequate health and safety protections for the surrounding community. Complainant also files this complaint against the Port and the Board of Port Commissioners (collectively referred to as "Port"), for continuously expanding the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation.

The City and Port have engaged in the activities described in this Complaint to manipulate decision making and push through harmful expansions of freight activities for decades. Both parties have refused to engage in a meaningful analysis or process by which to address the negative health and environmental implications of their actions. Time and time

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again, both the City and Port have dismissed the consistent input and opposition to their actions from directly impacted West Oakland residents, nearly 80% of whom are people of color, as well as from other agencies concerned about the problems such activities are creating.

The most recent example of the actions that are the subject of this Complaint is the City's approval of the first of a series of development-specific air quality management plans authorizing the construction of a new large-scale global trade and logistics development project located on OAB property. On October 4, 2016, the City Administrator approved a construction management plan for the Northeast Gateway development project site of the OAB, allowing developers, Prologis and the California Capital and Investment Group ("CCIG") to break ground on November 1, 2016, and begin construction for an expansive new warehouse and logistics development project – the "Oakland Global Logistics Center" – the full effects of which neither the City nor the Port have fully analyzed or addressed. This approval, and the City's continued authorization of new development and expanded activities at the Port and OAB create an unjustified disproportionate adverse impact on the basis of race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the implementing regulations of the United States Department of Transportation ("DOT"), 49 C.F.R. Part 21, and the United States Environmental Protection Agency ("EPA"), 40 C.F.R. Part 7.

Title VI prohibits entities receiving federal financial assistance from engaging in activities that subject individuals to discrimination on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Both the City and Port receive federal financial assistance from DOT, EPA and other federal agencies.[1] They are, therefore, subject to Title VI's prohibition against discrimination. The City and Port violate that prohibition by forcing through freight expansion projects that disproportionately subject the communities of color that surround both the Port and OAB properties to air pollution and other serious health threats on the basis of their race.

As an initial step in addressing the violations set forth in this complaint, Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this Complaint, and investigate whether the City and Port have indeed violated, and/or continue to violate Title VI of the Civil Rights Act and its implementing regulations in issuing their approvals to expand freight-related activities at the Port and OAB.[2] For reasons of economy, Complainant further requests that these investigations be consolidated and that EPA and DOT collaborate and coordinate the development and implementation of remedial approaches designed to address the City's and Port's violations. Because both the City and Port are most consistently funded by DOT in matters pertaining to the approvals and the activities at issue here, DOT is well poised to take the lead role at the federal level. Complainant also includes the Civil Rights Division of the Department of Justice in this Complaint, in anticipation

[1] While not the subject of this complaint, the Port, which operates as a fully independent department of the City, receives substantial federal assistance in the form of monetary grants and gifts consisting of real property from the Department of Defense, the United States Army, and the United States Department of Homeland Security.
[2] Complainant also specifically requests that if either DOT or EPA rejects this complaint, the other agency conduct an investigation alone or jointly with other federal agencies, as appropriate, in accordance with federal regulations. *See* 28 C.F.R. § 42.408(b) ("Where a federal agency lacks jurisdiction over a complaint, the agency shall, wherever possible, refer the complaint to another federal agency . . . .").

that they too would play an active role in coordinating these federal investigative and enforcement actions, consistent with the mission of the Federal Coordination & Compliance Section.

In order to remedy the violations set forth in detail below, Complainant requests that DOT and EPA condition all future grants and awards of federal funds to the City and Port on both entities furnishing adequate assurances that their actions with respect to the activities taking place at the Port and OAB properties will address disproportionate impacts on the surrounding community. Specifically, WOEIP requests that the City and Port implement and adhere to appropriately tailored, updated mitigation measures that will address the harmful externalities of the Port's industrial and freight activities – including any and all new and expanded activities occurring at the OAB – and that both the City and Port commit to a meaningful, continuous process for receiving and incorporating input from the West Oakland community.

I. PARTIES

A. Complainant

WOEIP is a neighborhood resident-led, community-based environmental justice organization located in West Oakland, California. The organization is dedicated to achieving healthy homes, healthy jobs, and healthy neighborhoods for all who live, work, learn and play in their community. Through engaging in research projects and participating in agency advisory committees as well as stakeholder groups, WOEIP focuses on leveraging community power to support residents in developing and achieving their own vision for healthy neighborhoods, which includes, among other things, clean soil and vibrant surroundings, clean air and clean water, and a resident-led comprehensive vision for redevelopment and economic revitalization in and around West Oakland.[3]

B. Recipients

The City is a municipal corporation, ordained and established under the California Constitution. *See* Charter of the City of Oakland art. I. § 100[4]; *see, also*, Cal. Const. art. XI, § 5. As such, the City has the right and the power to make and enforce all laws and regulations relating to its municipal affairs. Charter of the City of Oakland art I. § 106. The City is a recipient of federal funds, as detailed below.

The Port was established in 1927. It operates as a fully independent City department, created by the City pursuant to the City's governing charter. Charter of the City of Oakland art. VII, §700. In creating the Port Department, the City vested "exclusive control and management" of the Port in the Board of Port Commissioners, which is comprised of members nominated by

[3] *See* West Oakland Environmental Indicators Project website, *available at* https://www.woeip.org (last accessed, March 28, 2017).
[4] *Available at*: https://www.municode.com/library/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIIPOOA (last accessed on March 28, 2017).

the City's Mayor and appointed by the City Council. *Id.* §701. The Board of Port Commissioners has "complete and exclusive power" over the "Port Area." *Id.* All moneys appropriated by the Board and all revenue from the operation of the Port are under the exclusive control of the Board and are deposited in a special "Port Revenue Fund" in the City's treasury. *Id.* §§ 717(2), (3). Like the City, the Port is a recipient of federal funds, as detailed below.

II. JURISDICTION

The prohibition against racial discrimination set forth in Title VI applies to all recipients of federal funds: "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 200d. The acceptance of federal funds in itself creates an obligation on the part of the recipient to comply with Title VI and the federal agencies' implementing regulations.

As explained below, the City and Port are recipients of federal funds and implement programs or activities receiving continuous federal financial assistance. They are, therefore, subject to the requirements of Title VI and its applicable implementing regulations.

A. Program or Activity

Title VI defines a program or activity as "all of the operations of . . . a department, agency, special purpose district, or other instrumentality of a State or of a local government . . . any part of which is extended Federal financial assistance." 42 U.S.C. § 2000d-4a. Accordingly, if any part of a listed entity receives federal funds, the whole entity is covered by Title VI. *Ass'n. of Mex.-Am. Educ. v. California*, 195 F.3d 465, 474-5 (9th Cir. 1999), rev'd in part on other grounds, 231 F.3d 572 (9th Cir. 2000) (en banc).

The actions undertaken by the City and Port are taken as part of a program or activity because the City is its own municipal government entity, and the Port is a department of the City as set forth in the City's charter. Charter of the City of Oakland art. VII, §§ 700, 701. Indeed, the City created the Port's Board of Commissioners specifically to act for and on behalf of the City in any matter within the jurisdiction of the Board, which includes all areas that are part of the Port's operations. Charter of the City of Oakland art. VII, §701. Both the City and Port, including the Board of Port Commissioners, receive federal funds, as explained below.

The City Administrator is also appointed by the City's Mayor, subject to confirmation by the City Council, and is directly accountable to the Mayor's office. *See*, City of Oakland Municipal Code, Title 2, Ch. 2.29, sec. 170 (establishing the Office of the City Administrator). The Administrator is responsible for the day-to-day administrative and fiscal operations of the City, and directs City agencies and departments to ensure the goals and policy directives of the Mayor and City Council are implemented. *See, id.* The responsibilities of the Administrator's Office include: enforcing all laws, ordinances, and policies of the Council; attending all meetings of the Council, Council Committees, boards, and commissions; making recommendations to the Council concerning City affairs; controlling and administering the financial affairs of the City and keeping the Council apprised of these affairs; preparing or directing preparation of the plans,

specifications, and contracts for work the Mayor or Council may order; and coordinating all projects, policies, and directives assigned to the Administrator by the Council or by the Mayor.[5] Accordingly, the specific actions and approvals undertaken by the City Administrator are also part of a program or activity, as they are taken with the full authority of the City. As outlined below, the infrastructure, shipping, transport, and logistics programs and activities approved by the City, Port, and the City Administrator that are the basis for this Complaint receive federal financial assistance.

B. Federal Financing/Federal Financial Assistance

The City and Port receive federal financial assistance as defined in DOT's and EPA's Title VI implementing regulations.

1. DOT Funds Received by the City and Port

DOT regulations define "[r]ecipient" as "any State . . . or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State . . . to whom Federal financial assistance is extended, directly or through another recipient. . . ." 49 C.F.R. § 21.23.

In Fiscal Year (FY) 2010, the City of Oakland received a considerable Transportation Investment Generating Economic Recovery (TIGER) planning grant in the amount of $2 million to support the City's estimated $9,220,000 planning efforts for "sustainable transit oriented planning" at the "[OAB] Redevelopment Area."[6] According to the grant description, DOT's grant of these funds was aimed at aiding the City's development of "an Infrastructure Master Plan", and associated environmental review, "to direct needed utilities and roadway improvements for the former [OAB]."[7] The project considered under the terms of this grant also involved a "Specific Plan" and associated environmental review "to guide future development in West Oakland" and to specifically develop a framework for addressing "undervalued and blighted land in the West Oakland community" where the per capita income was, in that year, less than fifty percent of the county average.[8]

DOT has also awarded substantial TIGER funds to the Port. For example, in FY 2012 DOT awarded the Port approximately $15 million in TIGER grant funds to develop a new Port

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[5] City of Oakland, *City Administration: Welcome*, available at: http://www2.oaklandnet.com/government/o/CityAdministration/index.htm (last accessed March 30, 2017).
[6] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[7] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[8] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).

Rail Terminal serving Port property.[9] Moreover, DOT consistently funds the Port with large grants specifically intended for airport improvements. While these funds do not directly benefit the OAB properties at issue here, the duration and scale of this funding is important to note. The following is a list of DOT's airport improvement program grants to the Port between FY 2008 and FY 2016:

FY 2008 - $11,967,919
FY 2009 - $18,317,487
FY 2010 - $15,706,402
FY 2011 - $7,559,904
FY 2012 - $32,753,747
FY 2013 - $18,245,770
FY 2014 - $41,578,114
FY 2015 - $11,395,060
FY 2016 - $7,324,847

In FYs 2013 and 2014, the Port was also sub-granted $983,928 and $312,263, respectively, in funds originating from DOT, but awarded to the California Department of Transportation (Caltrans) to pay for ongoing operations at the Port.[10]

2. EPA Funds Received by the City and Port

Similar to DOT's regulations, EPA's Title VI regulations define a "[r]ecipient" as "any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient . . . ." 40 C.F.R. § 7.25.

Between FY 2006 and FY 2010, the City received two consecutive two-year block grants totaling $800,000 over the course of four years, from EPA, to ensure brownfield cleanup, including clean up in and around the community of West Oakland.[11]

Starting in 2013, EPA awarded the Port $282,293 to reduce air pollution from the Port's gantry cranes, through EPA's National Clean Diesel Reduction Program.[12] In FY 2014 EPA also

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[9] *See* United States Department of Transportation, *TIGER 2012 Awards, available at:* https://www.transportation.gov/sites/dot.gov/files/docs/fy2012tiger_0.pdf (last accessed March 30, 2017).
[10] USASpending.gov, *Recipient Profile: Port of Oakland, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2013 (last accessed March 30, 2017).
[11] *See*, USASpending.gov, *Recipient Profile: City of Oakland California, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=137137977&FiscalYear=2010 (last accessed, March 30, 2017), and see USASpending.gov, *Award Summary: City of Oakland, available at*: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=14192643 (last accessed, March 30, 2017).
[12] *See*, USASpending.gov, *Award Summary: Board of Port of Commissioners of the Port of* [sic], available at: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=12519152 (last accessed, March 30, 2017).

awarded the Port and additional $415,932 through the same program,[13] and in FY 2015, EPA granted another $133,639 to the Port, to support the Port's continued efforts to reduce air pollution from port-related operations.[14]

C. Timeliness

This complaint is timely because it is based on the City's and the City Administrator's continuous and ongoing approvals of a series of construction and operation management plans concerning the OAB "Gateway" Redevelopment Project, which is one part of a multi-stage large scale development project called the Oakland Global Logistics Center development, and is likewise part of the Port's continued expansion of its shipping, receiving, storage distribution and freight transport activities. Both DOT and EPA instruct Title VI complainants to file their complaints within 180 days of the alleged discriminatory act.[15] 49 C.F.R. § 21.11(b) (DOT Title VI regulations); 40 C.F.R. § 7.120(b) (EPA Title VI regulations).

On October 4, 2016, the City approved a construction management plan that allowed Prologis and CCIG to break ground on the Northeast Gateway OAB site on November 1, 2016.[16] The operation management plan for the Northeast Gateway project, and the construction and operation management plans for the remaining "Gateway" areas of the OAB remain subject to ongoing similar approvals from the City. The City's October 4, 2016 action is, therefore, one of many piecemealed development-related approvals that will continue to occur.

This complaint is timely because it is filed within 180 days of the City's October 4, 2017 approval and subsequent construction at the Northeast Gateway site. Moreover, because the actions alleged in this Complaint are part of a long history of discriminatory actions that are both ongoing, and slated to continue in subsequent approval processes, Complaint requests that DOT and EPA waive any potential objections related to the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

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[13] *See*, USASpending.gov, recipient profile for the "Port of Oakland" and "Board of Port Commissioners," FY 2014, DUNS no. 009235326, available at: https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2014 (last accessed, March 30, 2017).

[14] USASpending.gov, *Recipient Profile: Board of Port Commissioners of the Port of Oa* [sic], *available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2015 (last accessed, March 30, 2017).

[15] DOT and EPA, moreover, have the authority and the discretion to waive or extend the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

[16] *See,* Annie Sciacca, *Oakland Army Base redevelopment project breaks ground*, East Bay Times, (November 1, 2016), *available at:* http://www.eastbaytimes.com/2016/11/01/oakland-army-base-redevelopment-project-breaks-ground/ (last accessed, March 30, 2017).

D. Other Prudential Factors and/or Jurisdictional Considerations

This Complaint satisfies all other jurisdictional and prudential considerations laid out in both DOT's and EPA's regulations implementing Title VI. The Complaint also meets EPA's guidance set forth its Interim Case Resolution Manual.[17]

Specifically, this Complaint is submitted to both agencies in writing, by and on behalf of a Complainant group that is authorized to submit such a complaint to redress the adverse impacts this group experiences directly and which other, similarly situated residents also experience as a result of both the Port's and City's violations of Title VI.

DOT and EPA have subject matter jurisdiction over this Complaint because it alleges discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. This Complaint also contains unique civil rights allegations that have not been alleged in any court or administrative proceeding, and which are specific to the City's and Port's systemic pattern of issuing project approvals and/or engaging in activity at and surrounding the Port and OAB properties in a manner that causes disproportionate effects to the surrounding residential community, on the basis of race.

Moreover, this Complaint seeks unique relief from DOT and EPA — compliance with Title VI. Complainant asks DOT and EPA to investigate this Complaint and take steps to remedy noncompliance with Title VI by the City and Port, including conditioning any and all future federal funding. This relief is not available through other means.

III. FACTUAL BACKGROUND

A. The Residents and Community of West Oakland

1. West Oakland's History and Demographics

West Oakland is a diverse community with a rich history and a historically vibrant culture dating back to the late nineteenth century. In the 1800s and early 1900s, West Oakland was home to many European, Japanese, and Chinese immigrants, Mexicans, and a large number of African Americans who migrated from the South for jobs in the auto and rail industries. As military activities expanded at the OAB, and new job opportunities in the Port's shipyards increased, West Oakland experienced an even greater influx of mostly small-business growth,

[17] *See, e.g.*, United States Environmental Protection Agency, *Case Resolution Manual*, Chapter 2 (January 2017), *available at* https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf (last accessed, March 30, 2017).

which, in addition to the OAB's activities included many local shops that were owned by, and served, West Oakland residents.[18]

In the late 1900's, however, West Oakland experienced a decline in its relative economic vitality.[19] While it remains a mostly working-class community, the median household income in zip code 94607, which encompasses most of West Oakland today, is $35,837.[20] For comparison, the median income of Alameda County is $67,169.[21] Over 30% of individuals living in zip code 94607 live below the poverty level.[22] In Alameda County as a whole, only 13.5% of individuals live below the poverty level.[23] As *Figure 1* indicates, poverty has been a long term issue in West Oakland, with the entire community experiencing either persistent (five decades long), or frequent (three to four decades long), high poverty rates.

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[18] *See, e.g.*, Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Ch. 1.1 "[OAB] Location, History and Setting", p. 13 (July 31, 2012) (describing some of the historical background of the region, and in particular of the OAB, and its surroundings), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[19] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017); United States Census Bureau, *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[20] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[21] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

[22] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[23] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

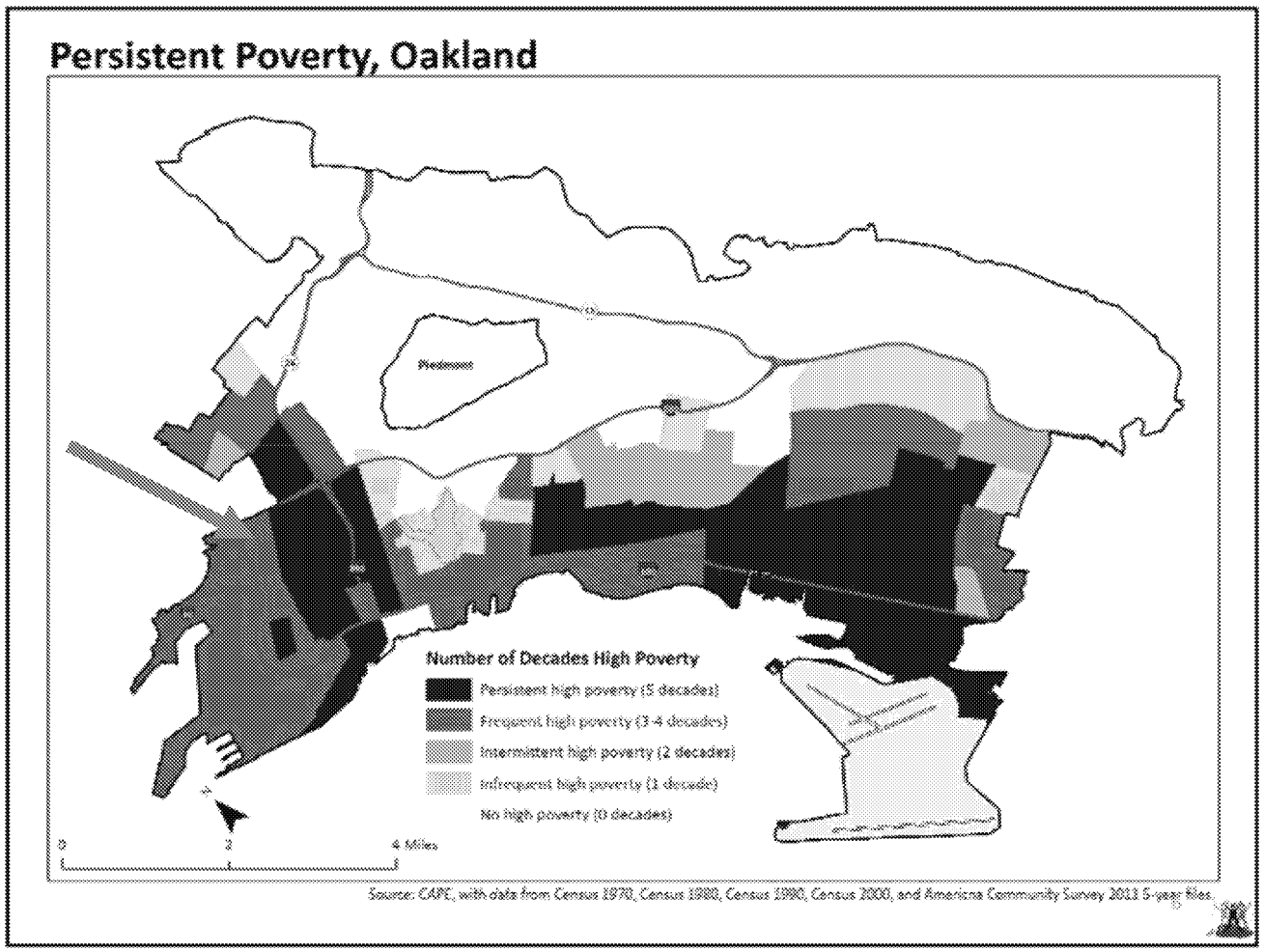

Figure 1 Map of areas of persistent poverty in Oakland (with arrow pointing to West Oakland).[24]

Most importantly for the purpose of this Complaint, and the allegations set forth herein, West Oakland remains primarily a community of color. Approximately 49 percent of West Oakland residents today are Black, 17 percent identify as Latino, 15 percent identify as White, and nearly 13 percent identify as Asian.[25] In Alameda County overall, 51 percent of Alameda County residents are White, only 12 percent are Black, 30 percent are Asian, and 23 percent are Latino.[26]

[24] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 6.
[25] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts,* West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 3.
[26] United States Census Bureau, *Quick Facts: Alameda County, California* (2015), *available at* https://www.census.gov/quickfacts/table/PST045216/06001 (last accessed March 30, 2017).

2. Health and Pollution Burdens Affecting West Oakland

The largely residential community of West Oakland is surrounded by the Port and OAB, and by freeways. Specifically, as shown in *Figure 2*, three interstate freeways, the I-580, I-880 and I-980 freeways, surround West Oakland with the Port and OAB surrounding the community to the West and South.

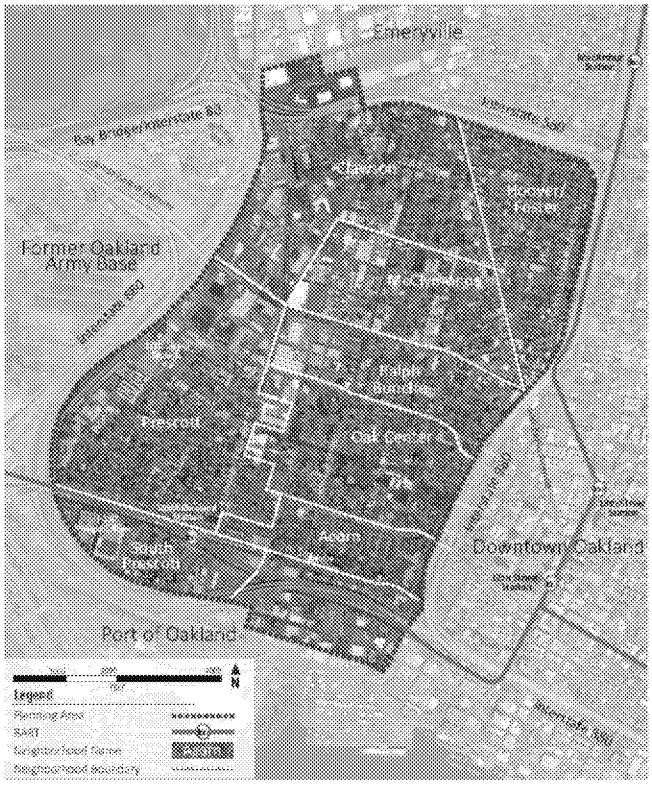

Figure 2 Map of the community of West Oakland.[27]

In addition to housing the Port, which is the fifth busiest container port in the United States, West Oakland is also home to two rail yards, with expansive and growing rail road tracks that are owned and operated by Union Pacific ("UP"), and the Burlington Northern and Santa Fe Railroad Company ("BNSF"). While not pictured above, West Oakland also has numerous trucking-based distribution centers and a host of related businesses including mechanical and body repair shops as well as large diesel gas stations that serve various activities taking place at the Port and OAB.

Thus, while this community has many aspects of unique physical beauty, including many nineteenth century Victorian-era historical buildings, an important and meaningful history, as

[27] City of Oakland, *West Oakland Specific Plan* (area map), *available at* http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/OAK028334 (last accessed, April 3, 2017).

well as vibrant cultural traditions, today, its residents experience an overwhelming and disproportionate burden of health and environmental risks caused by the activities surrounding their homes and schools. For example, the Oakland Unified School District (OUSD) has identified the three elementary schools, two middle schools, and three high schools located in West Oakland and serving the West Oakland community as showing the highest "environmental stress indicators" based on students' exposure to poor air quality and inadequate access to healthy foods, among other environmental risks.

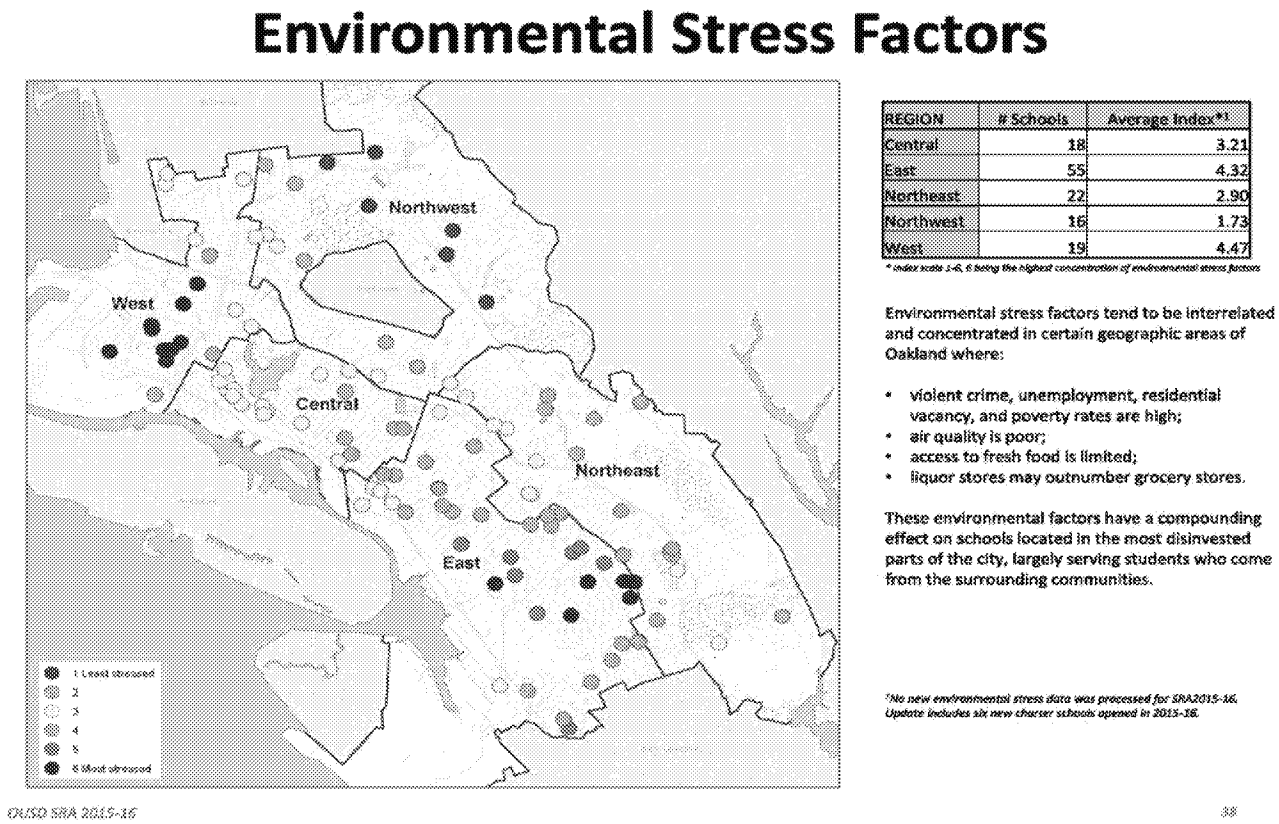

Figure 3 Environmental stress factors by school.

In addition, there are two preschools and at least one formal, reported day-care center, which, while not included in the OUSD map above, are located in close proximity to the Port and the

freeways surrounding West Oakland.[28] These childcare facilities are exposed to the same stress indicators, including poor air quality, as the OUSD-reported schools shown in *Figure 3*, yet with potentially even more devastating impacts, considering the age and size of the children attending these care facilities.

Notably, most of the pollution burden West Oakland residents shoulder directly results from the activities taking place at and around the Port and OAB. Trucks serving the Port bring heavy air pollutant emissions, including emissions of diesel particulate matter; the traffic they cause disrupts neighborhoods, and damages local streets that were not intended for heavy trucks.

Air pollution has been proven to cause and/or exacerbate respiratory and cardiovascular illness, and can trigger asthma attacks.[29] Diesel particulate matter emitted by heavy duty trucks and other freight vehicles and equipment like ships and trains, is a known carcinogen. The California Air Resources Board ("ARB") has found that West Oakland residents are "exposed to diesel particulate matter ambient concentrations that are almost three times the average background diesel particulate matter ambient concentrations in the [Bay Area Air Quality Management District]."[30] Indeed, West Oakland residents experience a lifetime potential cancer risk of 1,200 excess cancers per million due to diesel particulate matter emissions. In comparison, the ARB found an excess cancer risk due to diesel particulate matter of 480 excess cancers per million across the entire San Francisco Bay Area.[31] The risk that West Oakland residents face is nearly three times the risk that Bay Area residents generally face. Diesel particulate matter emissions from the Port alone are responsible for a risk of approximately 200 excess cancers per million.[32]

In 2008, the ARB conducted a diesel particulate matter Health Risk Assessment in West Oakland. The 2005 baseline emission inventory used in the assessment showed that heavy duty trucks accounted for 112 tons per year of diesel particulate matter emissions, or 13% of the total

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[28] Harriett Tubman Preschool is located on 3rd street, in the Hoover/Foster neighborhood of West Oakland, adjacent to the I-580 and I-980 intersections, which experience heavy traffic to reach the Port and Port facilities. See, map location, *available at*: https://www.google.com/maps/place/Harriet+R+Tubman+CDC/@37.8236086,-122.2731381,15z/data=!4m5!3m4!1s0x0:0x1b8f115e05028cb2!8m2!3d37.8236086!4d-122.2731381 (last accessed, March 30, 2017). The Baby Academy and Infant Day Care Center is also located in Wes Oakland's Prescott neighborhood, which is adjacent to the I-880 or "Nimitz Freeway" that feeds directly onto frontage roads serving the Port. See, map location, *available at*: https://www.google.com/maps/place/The+Baby+Academy+Infant+Care+%26+Preschool/@37.8094548,-122.2975516,15z/data=!4m5!3m4!1s0x0:0x891cc2ecd329e327!8m2!3d37.8094548!4d-122.2975516 (last accessed, March 30, 2017).

[29] Saffet Tanrikulu, Cuong Tran, and Scott Beaver, Bay Area Air Quality Management District, *Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area* (September 2011), *available at* http://www.baaqmd.gov/~/media/files/planning-and-research/research-and-modeling/cost-analysis-of-fine-particulate-matter-in-the-bay-area.pdf (last accessed March 30, 2017).

[30] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

[31] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 22, (December 2008).

[32] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

diesel particulate matter emissions inventory for the West Oakland area, with the remaining diesel particulate matter emissions coming from trains and ships serving the Port area.[33] An estimated 2,800 medium sized, short distance trucks, also known as drayage trucks, serve the Port of Oakland multiple times per week, and there are approximately 10,000 truck trips to and from the Port, with an additional 1,400 truck trips daily between the Port and distribution centers in West Oakland.[34] These figures are expected to grow as the Port expands, which will result in additional truck traffic through the West Oakland community. Further expansions of the Port's activities will bring more ships and more trains to the area, further elevating the amount of diesel particulate matter in the air throughout West Oakland, and increasing the resulting adverse health impacts affecting West Oakland residents.

As demonstrated through ARB's 2008 Health Risk Assessment, truck traffic hurts communities and makes it more difficult to build thriving, resilient neighborhoods. People living on busy streets, with trucks rumbling by frequently, are more reluctant to go outside to exercise; residents have fewer opportunities to meet their neighbors and to build a close-knit community within their neighborhood.[35] If they are parents they are also more reluctant to let their children play outside. Closely connected communities can provide important physical and mental health benefits;[36] truck traffic impedes these benefits for residents of West Oakland.

Moreover, while diesel particulate matter emissions from the Port alone are responsible for approximately 200 excess cancers per million,[37] West Oakland residents are consistently exposed to a variety of other, cumulative impacts that result in poor health outcomes in the community. All-cause death rates in West Oakland are higher than all-cause death rates in the city of Oakland overall.[38] As a result, West Oakland has one of the lowest life expectancies of all communities in Oakland (see *Figure 4*).

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[33] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 15, Table 3 (December 2008).
[34] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Air-6 (March 2010).
[35] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-9 (March 2010) (showing that communities with higher traffic volumes are not as close-knit as communities with lower traffic volumes).
[36] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-10 – Transportation-11 (March 2010).
[37] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).
[38] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 13, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

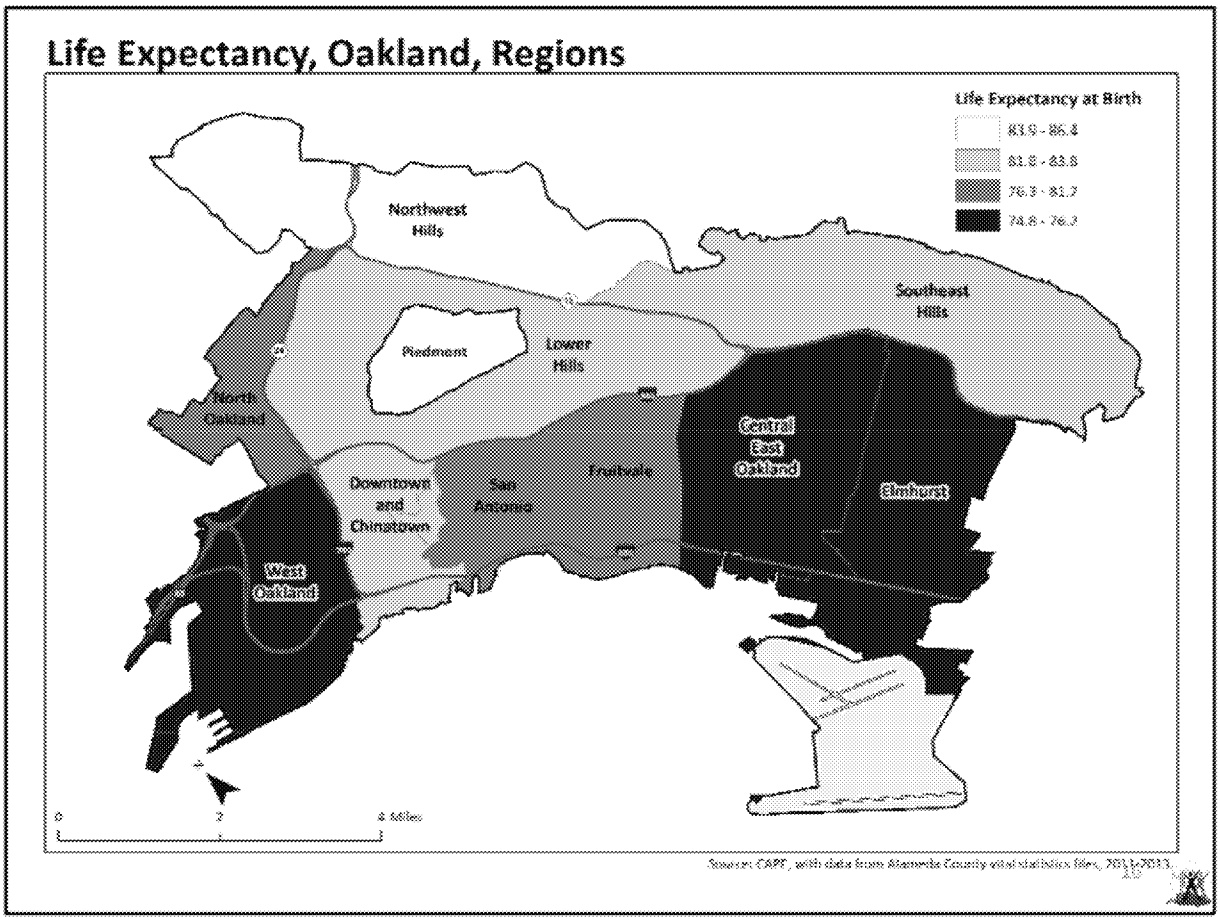

Figure 4 Life expectancies in Oakland's communities.[39]

When compared to other areas of Alameda County, West Oakland also has elevated rates of emergency room visits due to stroke-related and congestive heart failure hospitalizations, and asthma hospitalizations in children older than 5.[40]

B. History of the Port and Army Base

The Port is the fifth largest container port in the United States and the second largest in the State of California, behind the combined ports of Los Angeles and Long Beach. Established in 1927, the Port is home to 18 ship berths, 236 container cranes, two rail yards and approximately 500 pieces of cargo handling equipment, as well as 2,500 trucks. In 2016, the Port moved over 2 million 20-foot equivalent units of containers in and out of the Bay area.

[39] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 16, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).
[40] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, pp. 9-12, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

OAB is a 425-acre facility located along the Oakland waterfront, just north of the Port and south of the eastern portion of the San Francisco Bay Bridge.[41] It was originally commissioned to serve as a United States Army base in 1941, and during World War II it developed to serve as a major cargo port.[42] Following the end of the war, OAB continued to serve as a shipping and rail terminal, providing logistical support for the subsequent Korean, Vietnam and Persian Gulf wars.[43] In 1995 the United States Defense Base Closure and Realignment Commission recommended closure of OAB, and it officially closed OAB's operations as an army base in 1999.[44]

Following its decision to close the base, the United States Department of Defense designated a local reuse authority – the Oakland Army Base Reuse Authority – as the entity charged with the oversight of all post-closure redevelopment at OAB.[45] In order to assist in informing and influencing the ongoing land use changes at OAB, prior to the completion of OAB's closure, the Reuse Authority established the West Oakland Community Advisory Group (WOCAG).[46] In line with its purpose, the WOCAG met for over ten years to discuss and present community recommendations relating to the new uses and businesses that would benefit West Oakland residents. These recommendations were collected, reviewed an compiled by the Redevelopment Agency until its dissolution, and they were, to an extent, incorporated into the early planning stages for the OAB closure.

In 2000, the Oakland City Council designated OAB and its surrounding properties as a "Redevelopment Area," then under the jurisdiction of the City's Redevelopment Agency, the Port and the County of Alameda, pursuant to a Joint Powers Agreement. The closure process was guided by a "Preliminary Redevelopment Plan" that was formulated with some early input from the WOCAG.[47] Pursuant to this "Preliminary Redevelopment Plan", the City broadly committed to the "redevelopment, rehabilitation, and revitalization of the area within the boundaries of the [OAB]" and its surroundings. [48] The City also sub-divided OAB into two general development areas, shown in *Figure 5*, below. The first was a 140-acre "Gateway Development Area," situated in the north and northwest portion of the sub-district, owned by the City and the OAB Redevelopment Agency. [49] The second was a 170-acre "Port Development

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[41] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Executive Summary, p. 1 (July 2012), *available at*: http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).
[42] *Id.*, p. 14.
[43] *Ibid.*
[44] *Ibid.*
[45] *Id.*, p. 15.
[46] *Id*, p. 16.
[47] *See* Redevelopment Plan for the Oakland Army Base Redevelopment Project, Adopted June 11, 2000, Amended and Restated on December 21, 2004 (Ordinance No. 12644 C.M.S.), and on June 7, 2005 (Ordinance No. 12672 C.M.S.), p. 2.
[48] City of Oakland, *Redevelopment Plan for the Oakland Army Base Redevelopment Project* (June 11, 2000)(Amended and restated December 21, 2004 and June 7, 2005), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak030544.pdf.
[49] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.

Area" located in the west and southeast portions of the OAB, owned and operated by the Port.[50] In addition to these two main sub-areas, the City also designated two additional sub-districts – the "Maritime" sub-district, which is comprised of 1,290 acres owned and operated by the Port; and the "16th and Wood" sub-district – an additional 41 acres owned by various private entities.[51]

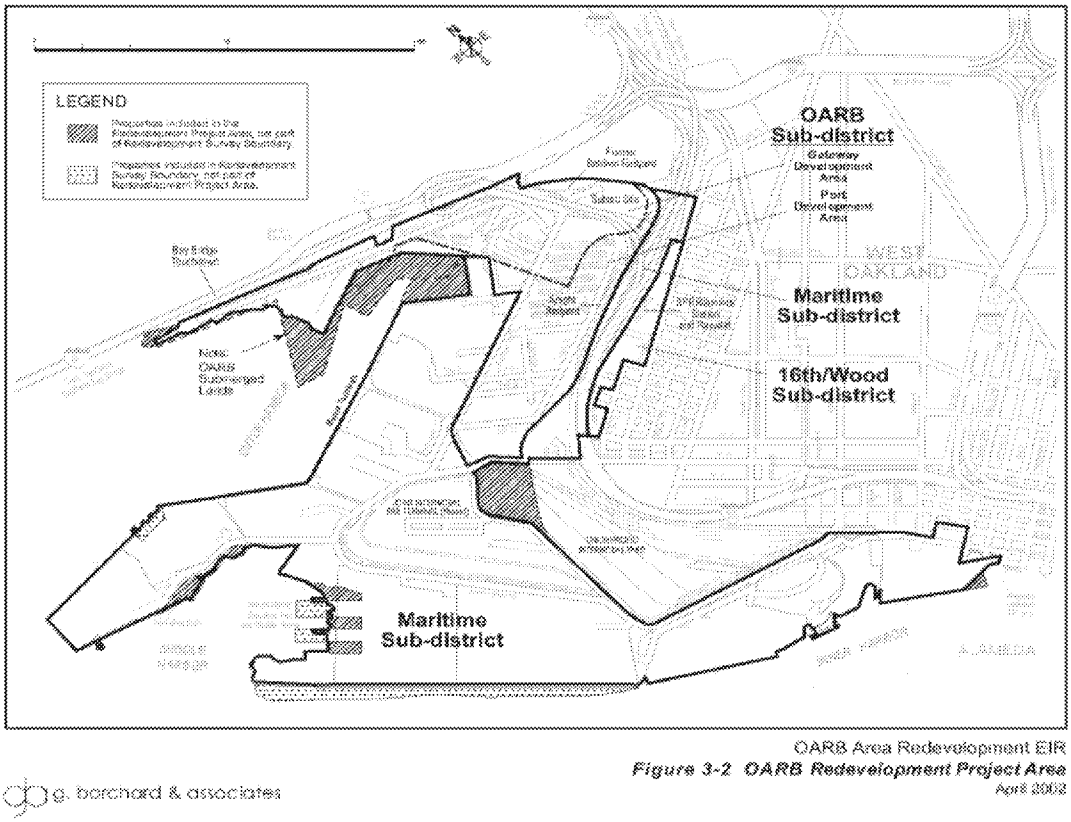

Figure 5 Oakland Army Base Redevelopment Area Sub-Districts, April 2002[52]

In 2002, the City approved a new and more detailed "Oakland Army Base Redevelopment Area Plan" and a supporting Environmental Impact Report (EIR) analyzing the effects of the OAB closure and the City's updated planning proposals for redevelopment on OAB property under the California Environmental Quality Act.[53] According to the City's 2002 approval, the Gateway Development Area would be redeveloped pursuant to a "flexible" alternative land use plan, which specifically contemplated the construction and operation of

[50] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.
[51] *Id.*
[52] City of Oakland, *Oakland Army Base Project: Maps*, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/image/dowd007621.jpg (last accessed April 4, 2017).
[53] *See* Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, p. 1 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

waterfront light-industrial and flexible office space including research and development ("R&D") offices, as well as other "business-serving retail" and "high-end commercial development" spaces like a "Four Star Hotel."[54] While the 2002 plan also included some warehousing and distribution, as well as ancillary maritime support facilities, the majority of land uses specified in the plan consisted of light industrial development, so as to attract businesses focused on industries other than heavy freight industrial activities.[55]

Despite the generally beneficial land-uses considered and approved in the City's 2002 Redevelopment Plan approval, the community was concerned, at the time, that the Plan did not demonstrate an honest commitment by the City to redevelop the OAB in a way that would genuinely benefit surrounding residents in West Oakland. In 2002, the WOCAG issued recommendations in response to the City's EIR and proposed Redevelopment Plan, which expressed the community's concerns with the direction of the City's land use and planning decisions, and its displeasure with the way their recommendations had been treated up to that point.[56] Specifically, the WOCAG explained that the 2002 plan approval and related EIR did not provide enough detail regarding the City's proposed development plans to assure that the OAB redevelopment would confer tangible, direct community benefits.[57]

Just as feared by the community, as both the City and Port continued to receive federal land grants of former OAB land, they began discussions with potential developers seeking to expand Port-related freight activities at OAB, even though the approved Redevelopment Plan designated very limited land for such activities. Notably, these discussions were held while parallel discussions were still taking place among WOCAG members and City staff – thus, while the WOCAG was still developing its input on the OAB development process.[58]

Between 2006 and 2008, WOCAG continued to submit its recommendations to the City. During that time, the WOCAG focused its recommendations on the City prioritizing development proposals that result in less truck traffic through West Oakland, due to health

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[54] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Section 3.2.1, p. 27 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[55] *Ibid.*; *see also*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 20, Table 2-1 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (comparing the land-use designations approved in 2002, with those considered and ultimately approved by the City a decade later).

[56] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002) (noting that "it is an insult to the many citizens of the City of Oakland who have given freely of their time and effort to serve the [Oakland Army Base Reuse Authority] and the City of Oakland in the base conversion process [only] to have their efforts ignored and not evaluated in this EIR").

[57] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002).

[58] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, pp. 4-5 (June 2008).

impacts many residents were already facing due to the Port's growing activity.[59] WOCAG wanted businesses such as truck servicing and truck parking to be relocated out of the community, and to "leave their former sites available for more appropriate, i.e. lower impact commercial use."[60]

Notwithstanding the input received from WOCAG, however, the City continued its discussions with Prologis and CCIG, and began negotiating an agreement with the developers, to build a large-scale warehouse and shipping development project for portions of all three sub-districts created under the City's prior approvals, which became jointly termed, the "Gateway Development Area," pictured in *Figure 6*, below.[61]

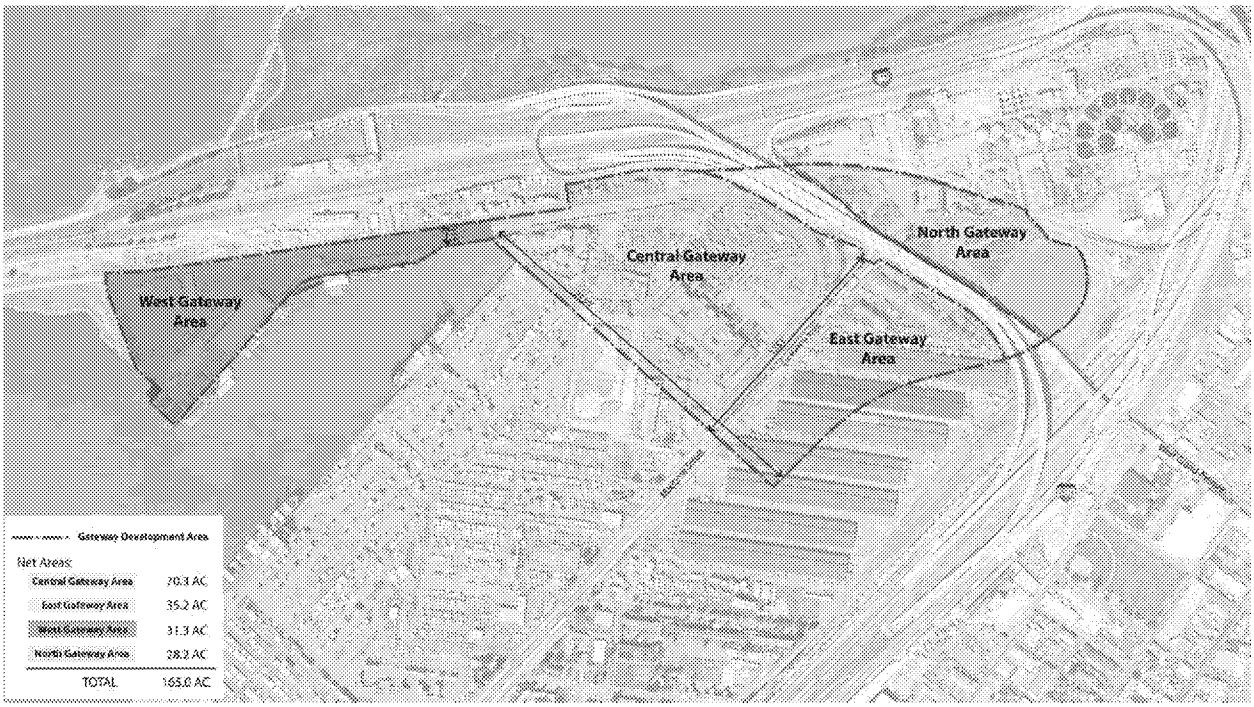

Figure 6 Gateway Development Area.[62]

[59] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).
[60] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, p. 7 (June 2008).
[61] LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, p. 21 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) ("in 2009 the joint venture between Prologis and [CCIG] was selected as the master developer").
[62] Oakland Redevelopment Agency, *Pre-Development Planning for the Oakland Army Base Gateway Development Area*, Figure 3-1, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/dowd007624.pdf (last accessed April 4, 2017).

C. The City's Port Expansion and "Gateway Development", or 'Oakland Global", Approvals

The land uses proposed in the City's 2002 Redevelopment Plan included a "tech park" comprised of R&D office buildings, and light to moderate industrial and retail development including big box retail stores, hotels and a Cineplex.[63] These land uses did not include as the predominant use for the area the type of heavy industrial, large-scale warehouse, shipping, distribution and maritime activity that the City began to consider through its subsequent negotiations with Prologis and CCIG. Yet, in 2012, the same year the City received its $2 million comprehensive TIGER 2 planning grant from DOT, the City approved the "Oakland Army Base: Outer Harbor Terminal Project" and executed an exclusive development agreement with Prologis and CCIG to expand port-related maritime activities at OAB.[64] Rather than conduct a new environmental review, however, the City re-approved its decade-old environmental review document that the City's staff presented to the Council as a mere addendum to the EIR analysis prepared and approved in 2002.[65] Rather than designing new and more appropriate mitigation corresponding to the City's new development proposals, the City also claimed that specific mitigation would be determined at a later date, when specific projects were approved.

To give an example of the drastic deviation the City took from its prior approvals, the City's 2012 Redevelopment Plan for the Outer Harbor Terminal Project involved approximately 2.5 million square feet of warehouse/distribution and maritime-related logistics uses, as compared to only 175,000 square feet of office/R&D, where as its 2002 approvals involved only 300,000 square feet of warehouse and distribution development and approximately 1.5 million square feet of office/R&D. [66]

Unsurprisingly, BAAQMD as well as other agencies including ARB, as well as West Oakland residents expressed their concern with the City's proposed "Outer Harbor Terminal Project," which soon simply became known as the Gateway or Oakland Global Logistics Center development project. BAAQMD in particular encouraged the City to analyze how its new development plans would impact future residents near new and existing sources of pollution, and

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[63] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Attachment B, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

[64] *See*, Development Agreement By and Between the City of Oakland and Rpologis CCIG Oakland Global LLC, Regarding the Property and Project Known as "Gateways Development/Oakland Global, dated July 16, 2013, available at: http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak055211.pdf (last accessed, March 30, 2017).

[65] *See, ibid.* ("The primary difference between the 2012 Project and what was proposed for the same geographic location in the 2002 Project is a shift from office R&D to a greater amount of warehouse distribution and maritime logistics uses as the predominant use.")

[66] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

provided specific suggestions for doing so.[67] But the City refused to conduct an additional impact analysis, again claiming that it was appropriate to defer any such analysis to a later time, and a later approval.[68]

On December 4, 2013, the City approved an "Army-Base Construction-Related Air Quality Plan," purporting to address construction related impacts but again declining to analyze or mitigate impacts from the long-term operation of the Gateway development projects, or the cumulative construction and operation of the related additional Gateway development projects. The City again received letters from BAAQMD and other agencies, identifying shortcomings in the City's proposed mitigation set forth in the "Construction-Related Air Quality Plan."[69] The City again refused to incorporate the types of analysis or mitigation suggested by the agencies.

Most recently, on October 4, 2016, the City approved an additional Northeast Gateway construction management plan allowing Prologis and CCIG to begin construction at the Northeast Gateway site on November 1, 2016, and to eventually operate a global trade and logistics complex that is worlds different than what the City proposed and approved in its initial land use decisions relating to the OAB, and greater "Redevelopment Area." After the City approved this most recent construction management plan, Prologis issued three "45-day notices" in the month of February, 2017, which relate to three additional air quality plans currently under review by the City: (1) an operations air quality plan for the Northeast Gateway project, which was issued on February 2, 2017; (2) a "Construction and Operations" air quality plan, for the Southeast and Central Gateway Projects, issued on February 3, 2017; and (3) a "Phase 3 Construction" air quality plan, issued on February 9, 2017. To this day, neither the City nor Port has updated the cumulative air quality analysis to analyze or mitigate, in a meaningful manner, the ongoing air pollutant emissions from the construction and operation of the full Gateway, or Oakland Global Logistics Center development project.

IV. LEGAL BACKGROUND

DOT regulations implementing Title VI state that "[n]o person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies." 49 C.F.R. § 21.5(a).

These regulations also include the following prohibitions of specific discriminatory acts by recipients of federal funds:

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[67] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: West Oakland Specific Plan Notice of Preparation of a Draft Environmental Impact Report* (November 21, 2012).
[68] *See* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, pp. 4-21 to 4-22 (May 2014).
[69] *See, generally*, Rachel Flynn, Director, Department of Planning and Building to Deanna J. Santana, City Administrator, *Subject: Approval of Army Base Construction-Related Air Plan* (December 4, 2013), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak044541.pdf (last accessed April 4, 2017).

> (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program. . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.
>
> (3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

49 C.F.R. § 21.5(b).

> A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.

49 C.F.R. § 21.5(d).

EPA regulations implementing Title VI state that "[n]o person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, [or] national origin[.]" 40 C.F.R. § 7.30. The regulations also provide a non-exclusive list of specific, prohibited discriminatory acts:

> (b) A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.
>
> (c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

40 C.F.R. § 7.35.

These regulations make clear that discrimination on the basis of race is a violation of Title VI whether it is the purpose of the decision or its effect. 49 C.F.R. § 21.5(d); 40 C.F.R. § 7.35(c).

V. VIOLATIONS OF TITLE VI

A. Discriminatory Acts

The City's approval of the Northeast Gateway Construction Management Plan on October 4, 2016 is the latest example of the City and Port's discriminatory actions regarding the development and expansion of harmful freight activities at the Port and OAB. The approval is part of a continuing pattern of actions utilizing criteria and methods that have the purpose or effect of subjecting the surrounding community of color to the disproportionate externalities of that freight activity.

Since 2012, the City, in particular, has sought to abandon the original commitment to develop the OAB in a way that would benefit the surrounding community. While the WOCAG was asked to provide input on recommendations for development early in the OAB Redevelopment process, the City proceeded with its own negotiations to expand freight-related activities notwithstanding the community recommendations, and notwithstanding the fact that such activities would add to the impacts on the already overburdened surrounding communities of color. The City has also consistently refused to consider the input of advisory and stakeholder groups including the WOCAG, who urged the City to prioritize development proposals that would result in less truck traffic through West Oakland.[70] At each step of the way, the City has declined to analyze the impacts of expanded freight activities, and has declined to adopt specific mitigation by claiming that such analysis and mitigations were not required or that they would be addressed at a later point.

Since the abrupt change in the proposed OAB redevelopment plan in 2012, the community and concerned agencies have been demanding analysis of the impacts, and assurances that the effects of expanding freight activities will be mitigated. At each step, the City has declined to do any more than assure that the project will comply with existing minimum regulatory requirements.

In 2013, BAAQMD wrote to the City to highlight the City's lax mitigation measures for the OAB redevelopment project, pointing out that the City's plan for reducing construction emissions from the OAB included mitigation measures with easy loopholes for industry. The plan required lower-emitting equipment to the extent that it was "readily available" in the Bay

[70] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).

Area.[71] The BAAQMD noted that "the Plan does not include any guidance on how it will be determined if the equipment is 'readily available' or 'cost effective.'"[72] BAAQMD concluded its letter with a list of specific recommended requirements for all OAB construction activity. But the City declined to make any of the recommended changes.

In 2014, both BAAQMD and the Alameda County Public Health Department submitted letters raising new concerns with the City's planning activities. The Alameda County Public Health Department's letter urged the City to strengthen the proposed mitigation measures, because "[impacts from development at the Port and OAB] will further exacerbate existing health conditions in West Oakland."[73] BAAQMD contacted the City's Strategic Planning Division to recommend additional air quality controls, noting that the West Oakland community experiences a higher cancer risk than any other Bay Area community and compliance with minimum regulatory requirements will not be sufficient to reduce health risks in the community to a safe level.[74] Again, the City took no action.

In 2015, BAAQMD expressed concern about the Port's and the City's continued reliance on the environmental review conducted in 2002, and re-approved in 2012 as a basis for the continued expansion of port-related infrastructure development at OAB. Among other concerns, BAAQMD expressed serious trepidation regarding the facts that both the 2002 and 2012 reports were based on outdated national ambient air quality standards for fine particulate matter emissions.[75] In addition, the air quality analysis provided in the City's subsequent air quality management plan analyses only considered construction emissions, and not the long-term impacts from continued development at the Port and OAB.[76]

Most recently, in 2016, BAAQMD, ARB and WOEIP all submitted comments on the Northeast Gateway Construction Management Plan. In a letter addressed to the City, dated June 3, 2016, BAAQMD expressed its concern that, again, the City's proposed management plan exclusively dealt with the air quality impacts associated with construction, and failed to consider the long-term air quality impacts that would result from the project. BAAQMD also complained that even within its limited scope, the plan did not include air quality mitigation measures

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[71] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[72] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[73] Muntu Davis, Alameda County Health Care Services Agency, Public Health Department to Ulla-Britt Jonsson, City of Oakland, *Subject: Re: West Oakland Specific Plan Draft Environmental Impact Report and Public Health* (March 17, 2014).
[74] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: Draft Environmental Impact Report for the West Oakland Specific Plan* (March 20, 2014).
[75] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).
[76] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).

necessary to protect health.[77] ARB's letter similarly detailed recommendations for additional mitigation measures that ARB described as "critical to reducing emissions and protecting public health." WOEIP also urged the City to commit to mitigation to address the adverse impacts its approval would have on the surrounding community. These included installing solar panels on warehouses that will be constructed as part of the Gateway project development, and requiring zero-emission technologies for short-haul trucks, including drayage trucks, and cargo handling equipment.[78] Despite the fact that the mitigation measures requested were consistent with the City's minimal mitigation measures approved in 2002, the City declined to include any of the recommended mitigation.

This history of rejecting recommended mitigation is the product of a piecemealed process that denies meaningful public participation by narrowing the scope of the issues that will be considered at each step of the development approvals. When WOEIP raised concerns about the lack of zero-emission technology requirements for the Northeast Gateway project, and the failure to create an emission reduction plan for the development,[79] Prologis, the developer of the Northeast Gateway/Global Logistics Center project, argued that these concerns were not appropriate for the air quality plan under consideration, and that they could be raised when the Air Quality Operations Plan is developed.[80] As a result, the City Administrator dismissed the community concerns in the approved plan.[81] All involved in these approvals, however, know that the opportunities to mitigate emissions from operations will be limited by the physical projects that have been built as a result of the October 4, 2016 approval.

The October 4, 2016 approval demonstrates that the City's promise of future analysis and mitigation are empty. It is not sufficient to consider mitigation after construction is complete because mitigation must be designed into the project, prior to its construction. The October 4, 2016 approval, and subsequent initiation of construction at the Northeast Gateway site show that the City intends to allow development that will disproportionately impact the surrounding communities of color without mitigation. Whether purposeful or just in effect, the City's October 4, 2016 approval denied the benefits of redevelopment investments to the surrounding communities of color. This decision, like the various decisions that have preceded it, was made with the clear intention to streamline approval of expanded freight activities by setting up a process that precluded meaningful public participation. The decision also avoided mitigation requirements that would minimize or prevent impacts on the surrounding communities of color.

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[77] Jean Roggenkamp, Bay Area Air Quality Management District to Darin Ranelletti, City of Oakland, *Subject: Northeast Gateway Construction Management Plan* (June 3, 2016).
[78] Heather Arias, California Air Resources Board to Darin Ranelletti, City of Oakland (May 31, 2016).
[79] Margaret Gordon, West Oakland Environmental Indicators Project to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis* [sic] (May 23, 2016); Ditching Dirty Diesel Collaborative to Robbie Morris, California Air Resources Board (May 25, 2016).
[80] Cory Chung, Development Manager, Prologis to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: RE: DRX151553 – Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCA-MMRP Public Outreach Element (Mitigation Measure PO-1)* (August 30, 2016).
[81] Rachel Flynn, Director, Planning and Building Department to Sabrina B. Landreth, City Administrator, *Subject: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site,* p. 4 (September 8, 2016).

The City's October 4, 2016 approval is, moreover, a single component of the City's and Port's continuous, systemic pattern of approving, or directly engaging in, the expansion of port-related infrastructure development. This pattern will continue as the City and Port pursue their expansion goals in the OAB Gateway/Oakland Global Logistics Center development. This pattern of conduct results in direct and immediate adverse effects on West Oakland residents who are predominantly people of color, and therefore violates Title VI of the Civil Right Act of 1964.

B. Adverse Impacts

As outlined above, freight activity in and around the West Oakland community is responsible for a host of adverse impacts including elevated cancer risks, higher rates of asthma attacks, and disruption of the basic quality of life in the community.[82] The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan and the City's ongoing approvals of the construction and operations of the full OAB Gateway/Oakland Global Logistics Center development area will add to the already adverse impacts suffered by the surrounding community as a result of freight activities. The October 4, 2016 approval was the first approval of one of several components to the Oakland Global Logistics Center project. This approval provided the City with an opportunity to ensure that the project was designed, and would be built in a way to limit impacts on the surrounding community, but the City refused to ensure that adequate health and safety protections were in place before allowing the developers to break ground on November 1, 2016.

In its 2008 Health Risk Assessment, ARB found that on-road heavy duty diesel trucks were the largest source of cancer risk in the community, followed by ocean going vehicles, harbor craft, locomotives, and cargo handling equipment.[83] All of these sources are associated with the Port's, and now with the OAB's, expanded activities.

While ARB's assessment indicated that emissions would decrease in the future as a result of regulatory actions, the assessment estimated that even after emissions reductions, "the remaining cancer risk will [still] be greater than 200 in a million in the West Oakland community," and that any reduction in emissions would not resolve the disparate impacts that West Oakland residents face when compared to residents living elsewhere throughout the City or the County.[84] ARB's assessment recommended "collective and innovative efforts" at all levels of government to reduce emissions and improve health outcomes in West Oakland, including a

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[82] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[83] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2 (December 2008).

[84] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 4 (December 2008).

transition to clean technologies.[85] The City's approval of the Northeast Gateway Construction Management Plan, however, fails to provide any innovative or good faith effort to reduce emissions at and around the project. The City's approval does the opposite by rubber stamping the construction and operation of new large-scale port related infrastructure that will only exacerbate the existing pollution burdens West Oakland residents face.

The Alameda County Public Health Department urged the City to require a more comprehensive evaluation of, and mitigation for, the Northeast Gateway Project's increase in diesel emissions, which are also a major concern given the existing health burdens in West Oakland. Yet the City, as always, refused to adhere to the County Public Health Department's recommendations, and instead chose to adhere to its construction-only approval decision.

C. Disproportionality

The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan is the latest action by the City and Port to push through more freight-related development that already disproportionately impacts the communities of color in West Oakland. The Alameda County Public Health Department has found that racial disparities impact health outcomes throughout the county, and especially in West Oakland.[86] People of color are more likely to experience the negative health outcomes detailed above. As described by the Alameda County Public Health Department, "even at the same rung, African Americans typically have worse health and die sooner than their White counterparts. In many cases, so do other populations of color."[87]

As described above, West Oakland residents are also more likely to face decades of persistent poverty. Black people in Oakland are far more likely to be homeless than any other ethnic group.[88] These same factors are at play within West Oakland, a community that is predominantly populated by people of color. West Oakland faces higher rates of illness, crime, and higher death rates than predominantly White communities in Oakland. Residents of West Oakland face stresses that residents of other communities may never endure.

In recent years, various Bay Area media outlets have published heartbreaking stories of West Oakland residents who fear for their children's lives due to air pollution that triggers

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[85] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, pp. 4-6 (December 2008).

[86] *See* Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County – Executive Summary* (2008); UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, p. ES-2 (March 2010), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[87] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, pp. 7-8 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[88] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, p. 71, Figure 33 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

possibly fatal asthma attacks.[89] These media reports, as well as anecdotal reports that have been relayed to WOEIP staff, describe parents making the difficult decision to uproot their lives in West Oakland and move to communities that are less polluted and less disrupted by truck traffic.[90] People want to build communities that allow them to connect with their neighbors, to enjoy parks, and to send their children to play outside. The land gifts of the former OAB properties along with multiple federal grants were intended to spur redevelopment that would benefit the surrounding communities. Instead, the City and Port have decided to "double-down" on the harmful activities that created the current conditions in West Oakland. The City and Port have manipulated their decision-making processes to prevent public participation and avoid costly mitigation investments that might interfere with such development. The October 4, 2016 approval is the latest in a string of decisions that, in purpose or effect, are destroying the vision of a sustainable and healthy West Oakland that residents want to see, and forcing those residents, mostly people of color, to either bear the disproportionate burdens or pack up and move elsewhere.

D. Less Discriminatory Alternatives

Throughout the various actions outlined above, the City and Port have declined to accept recommendations from either the community or expert agencies on process, analysis, and mitigations. The following less discriminatory alternatives were available, and continue to be available to both the City and Port:

1. The City and Port have the option and opportunity, but have continuously refused, to engage the community in a meaningful process by which to receive and incorporate their input, including their opposition to the Gateway and Oakland Global Logistics Center development proposals, and the continued expansion of the Port's activities.

   Specifically, the City has the opportunity, but has refused, to send notifications regarding each of its piecemealed construction and operation related approvals to all neighborhood residents. The City has also failed to provide clear and consistent opportunities for neighboring residents to provide their input regarding the City's process for ensuring that the immediate community health and safety concerns from its development approvals are addressed.

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[89] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[90] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/; *See also* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, p. 4-6 (May 2014), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049140.pdf (last accessed April 4, 2017) ("While West Oakland's population has increased by nearly 2,000 people between 1990 and 2010 (at a rapid rate of 15%), the African American population of West Oakland has declined by nearly 5,000 people during the same time period.").

The City and Port also have the opportunity, but have refused, to post project-related approval documents at the various community organizations, institutions and gathering places around West Oakland, including but not limited to: the West Oakland Senior Center, city libraries, the West Oakland Youth Center and the Hoover Resident Action Council. The City has also refused to require the developers, Prologis/CCIG, to do the same.

The City has also consistently refused, despite being urged by various state, local, county and federal agencies, to convene a transparent interagency and community inclusive process by which to develop and implement a comprehensive assessment of the impacts caused by its land-use and development decisions at the Port and OAB and to both established and implement an updated mitigation, monitoring and reporting program that considers the level and extent of the full Gateway and Oakland Global Logistics Center and expanded Port operations.

2. The City has the option, but refuses, to consider the effects of the full operation of the Prologis and CCIG development of all three Gateway sub-areas prior to issuing its piecemealed approvals. The City and Port also have the option to update their analysis of impacts instead of relying on the outdated 2002 analyses for a redevelopment plan that was drastically different than the current development plans and approvals before the City.

3. The City and Port have had numerous opportunities, but have refused, to develop, or require the development of, a meaningful emissions reduction plan based on an accurate and updated assessment of the current and foreseeable levels of increased freight transport and other heavy infrastructure, maritime, shipping, distribution, storage and Port-related activities occurring at and along the Port and OAB including increases in rail and maritime emissions that are inconsistent with existing rail and maritime emission reduction standards.

4. The City and Port have had the option, but have failed, to produce or, at a minimum, require, a comprehensive truck management plan to address impacts from growing freight activities on the community of West Oakland.[91]

   Specifically, both the City and Port have had the opportunity to, but have refused, to develop any requirements for zero-emission technologies at OAB or the Port, which would alleviate some of the air pollution impacts of additional truck traffic in and near West Oakland neighborhoods. They have also refused to require stricter limits (e.g. two minute limits) on diesel truck idling times to address existing health burdens affecting West Oakland residents, and in particular school children throughout West Oakland.

[91] The Port's approval a drayage truck management plan for the Port fails to address the impacts that increased truck traffic has on the Port-*adjacent* roadways and trick traffic problems on off-Port property, e.g., the West Oakland community.

The City and Port also have the opportunity but refuse to require plug-in infrastructure as a design feature of all construction, for the Gateway and Oakland Global Logistics Center development to minimize emissions specifically caused by highly polluting refrigerated truck units serving the new Gateway developments.

The City and Port have also had the opportunity, but have refused, to engage in the planning, implementation and enforcement of Truck hauling routes that are designed to minimize community exposures to emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.

Both the City and Port have had the opportunity, but have refused, to enforce parking restrictions throughout the West Oakland residential community. The City has similarly refused to develop or require an enforceable West Oakland Truck Route as a part of its approved construction management Plan for the Northeast Gateway project, or as part of its ongoing approvals for the larger Gateway or Oakland Global Logistics Center project.

Both the City and Port have also had numerous opportunities, but have refused, to accept or apply for additional funding to support targeted emission reduction efforts at the Port, OAB and throughout West Oakland.

5. In large part due to their failure to require either a comprehensive truck management plan, or a meaningful emission reduction plan, both the City and Port have similarly refused to mitigate the negative air quality and resulting health impacts or other disruptions and adverse effects on the quality of life of West Oakland residents, caused by the continued increase in truck traffic to and from the Port and the OAB Gateway/Oakland Global Logistics Center properties.

VI. Relief

Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this complaint and investigate whether the City and Port have violated Title VI of the Civil Rights Act and its implementing regulations, and indeed whether they continue to violate Title VI of the Civil Rights Act.

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Complainant further requests that the City and Port be brought into compliance by: (a) requiring the City to withdraw its approvals of the Gateway construction management plans unless and until the City conducts a full review of the construction and long-term operation of all of the Gateway areas, and unless and until the City engages the surrounding community in a meaningful process by which to incorporate their input into new mitigation measures, emission controls, and conditions of approval for the development of the Gateway projects; (b) requiring the Port to coordinate with the City to develop a truly comprehensive truck management and Port emission reduction plan; and (c) Conditioning all future grants and awards from both EPA and DOT to both the City and Port on adequate assurances that the actions of both recipients will comply with Title VI as detailed above.

Sincerely,

Yana Garcia
Paul Cort
Attorneys for West Oakland Environmental Indicators Project

Adenike Adeyeye
Research and Policy Analyst

Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
ygarcia@earthjustice.org
pcort@earthjustice.org
adeyeye@earthjustice.org

Message

From: Farrell, Ericka [Farrell.Ericka@epa.gov]
Sent: 7/19/2017 2:38:11 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
CC: Temple, Kurt [Temple.Kurt@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]
Subject: RE: Oakland T6 Complaint

Lilian,

Deliberative Process / Ex. 5

Ericka Farrell
Case Manager
External Civil Rights Compliance Office
202-564-0717

-----Original Message-----
From: Dorka, Lilian
Sent: Wednesday, July 19, 2017 8:37 AM
To: Keeler, Katsumi <Keeler.Katsumi@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Subject: Re: Oakland T6 Complaint

Deliberative Process / Ex. 5

Sent from my iPhone

> On Jul 19, 2017, at 8:05 AM, Keeler, Katsumi <Keeler.Katsumi@epa.gov> wrote:
>

Deliberative Process / Ex. 5

>
> -----Original Message-----
> From: Dorka, Lilian
> Sent: Tuesday, July 18, 2017 4:54 PM
> To: Keeler, Katsumi <Keeler.Katsumi@epa.gov>
> Cc: Temple, Kurt <Temple.Kurt@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>
> Subject: Re: Oakland T6 Complaint

Deliberative Process / Ex. 5

> Sent from my iPhone
>
>> On Jul 18, 2017, at 4:19 PM, Keeler, Katsumi <Keeler.Katsumi@epa.gov> wrote:
>>

Deliberative Process / Ex. 5

>>
>> -----Original Message-----
>> From: Dorka, Lilian
>> Sent: Tuesday, July 18, 2017 3:56 PM
>> To: Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Temple, Kurt
>> <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>
>> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Garnett, Desean <Garnett.Desean@epa.gov>; Jang, Deeana (OST)
>> <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
>> <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST)
>> <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)

>> <Selina.Ferguson@dot.gov>; Goldschmidt, Iris (CRT)
>> <Iris.Goldschmidt@usdoj.gov>
>> Subject: RE: Oakland T6 Complaint
>>

Deliberative Process / Ex. 5

>>
>> -----Original Message-----
>> From: Neal, Daria (CRT) [mailto:Daria.Neal@usdoj.gov]
>> Sent: Tuesday, July 18, 2017 2:50 PM
>> To: Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST)
>> <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
>> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Garnett, Desean <Garnett.Desean@epa.gov>; Jang, Deeana (OST)
>> <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
>> <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST)
>> <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
>> <Selina.Ferguson@dot.gov>; Goldschmidt, Iris (CRT)
>> <Iris.Goldschmidt@usdoj.gov>
>> Subject: RE: Oakland T6 Complaint
>>
>> Hi all,
>> Thought this article would be of interest.
>> Daria
>> http://grist.org/justice/an-old-army-base-could-mean-new-pollution-fo
>> r -beleaguered-residents-of-west-oakland/
>>
>>
>> -----Original Message-----
>> From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
>> Sent: Tuesday, July 18, 2017 10:54 AM
>> To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian
>> <Dorka.Lilian@epa.gov>
>> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT)
>> <Daria.Neal@crt.usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>;
>> Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick,
>> Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
>> <Selina.Ferguson@dot.gov>
>> Subject: RE: Oakland T6 Complaint
>>
>> Yvette: Attached are the most recent drafts of the joint acceptance letters for your review and approval. We added some clarifying edits to the draft you sent forward last week. You will see those changes highlighted in the text. Also, DOT needs to insert its file number into the subject line. Please let me know if you have any questions about what we have done, or if you're ready to exchange signatures on final drafts. Thanks for your help.
>>
>> Kurt T. Temple
>> Senior Advisor
>> External Civil Rights Compliance Office EPA Office of General Counsel
>> 1200 Pennsylvania Avenue, NW
>> Room 2524B
>> Washington, D.C. 20460
>> 202-564-7299
>>
>>
>> -----Original Message-----
>> From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
>> Sent: Thursday, July 13, 2017 3:49 PM
>> To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt
>> <Temple.Kurt@epa.gov>
>> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT)
>> <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>;
>> Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick,
>> Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
>> <Selina.Ferguson@dot.gov>
>> Subject: RE: Oakland T6 Complaint
>>

>> Dear Lily,
>>
>> We have an approved version of the OAB letter. Please see the attached. If you have no objections, we can execute the letter and get the original to you for signature tomorrow. Thank you!
>>
>> Yvette
>>
>>
>> -----Original Message-----
>> From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
>> Sent: Thursday, July 13, 2017 12:29 PM
>> To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt
>> <Temple.Kurt@epa.gov>
>> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT)
>> <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>;
>> Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
>> Subject: RE: Oakland T6 Complaint
>>
>> Hi Yvette, just following up on this. Thanks! Lily
>>
>> -----Original Message-----
>> From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
>> Sent: Friday, July 7, 2017 2:51 PM
>> To: Temple, Kurt <Temple.Kurt@epa.gov>
>> Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Dorka, Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean
>> <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>;
>> Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
>> <howard.caro-lopez@dot.gov>
>> Subject: RE: Oakland T6 Complaint
>>
>> Thank you Kurt. We will get right on it. Hoping that we can respond
>> by Monday or Tuesday. Again, thank you. Have a nice weekend! Yvette
>>
>> -----Original Message-----
>> From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
>> Sent: Friday, July 07, 2017 2:13 PM
>> To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>
>> Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary
>> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
>> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
>> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
>> Dorka, Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean
>> <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>;
>> Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
>> <howard.caro-lopez@dot.gov>
>> Subject: Oakland T6 Complaint
>>
>> Hello Yvette. Thanks for the good conversation yesterday regarding the Oakland T6 matter. As we promised on the call, I have attached for DOT's review draft joint acceptance letters to complainant and recipients.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Let us know if DOT has any edits, comments or concerns. We look forward to issuing these letters soon. Please give me a call if you need anything.
>>
>> Sincerely,
>>
>> Kurt T. Temple
>> Senior Advisor
>> External Civil Rights Compliance Office EPA Office of General Counsel
>> 1200 Pennsylvania Avenue, NW
>> Room 2524B
>> Washington, D.C. 20460
>> 202-564-7299
>>
>>

Message

From: O'Lone, Mary [OLone.Mary@epa.gov]
Sent: 4/6/2017 8:13:32 PM
To: Goerke, Ariadne [Goerke.Ariadne@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]
CC: Spiegelman, Nina [Spiegelman.Nina@epa.gov]; Israels, Ken [Israels.Ken@epa.gov]
Subject: Title VI complaint about West Oakland FW: EJ News 04/07/17
Attachments: Race, ethnicity, and air pollution new directions in environmental justice..pdf; Building a Resilient and Equitable City How to Advance Environmental Justice Through the OneNYC Plan.pdf

FYI – in case you hadn't heard or seen it. See first BNA article about Title VI complaint filed re: West Oakland Port. There is a link to the complaint.

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: OGCLibrary
Sent: Thursday, April 06, 2017 3:26 PM
To: Andrews, Mary <Andrews.Mary@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Buzzelle, Stanley <Buzzelle.Stanley@epa.gov>; DeMocker, Jim <DeMocker.Jim@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Guadagno, Tony <Guadagno.Tony@epa.gov>; Hall, Katherin <hall.katherin@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; Lee, Charles <Lee.Charles@epa.gov>; Knorr, Michele <knorr.michele@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Ruhl, Suzi <Ruhl.Suzi@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Tripathi, Arati <Tripathi.Arati@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; 'Marcus.england@faa.gov' <Marcus.england@faa.gov>; 'Wilbur.barham@faa.gov' <Wilbur.barham@faa.gov>; 'lori.pierce@faa.gov' <lori.pierce@faa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>
Subject: EJ News 04/07/17

Bloomberg BNA

Port Expansion Polluting West Oakland, Calif., Complaint Says

Daily Environment Report™

BNA - Daily Environment Report 05 Apr 2017 18:58
Air Pollution • Group files complaint with the EPA and Transportation Department • Seeks halt to federal funds while port project is studied By Carolyn Whetzel Environmental justice advocates April 5 asked the federal government to halt funding for...

Australia Fails to Address Coal Plant Pollution: Legal Group

BNA - Daily Environment Report 05 Apr 2017 00:00
Air Pollution • Annual pollution database shows spikes in airborne pollutants, group says • Government data is Australia's version of a toxics release inventory By Murray Griffin Annual pollutant discharge data from nearly 1,700 Australian business sites...

Attorneys Must 'Step Up' to Environmental Justice Challenges

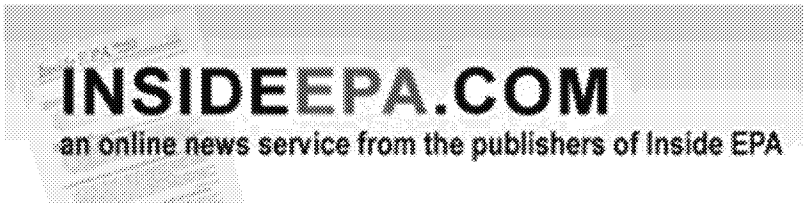
BNA - Daily Environment Report 03 Apr 2017 19:30

Environmental Justice • Environmental justice must be a priority for corporations, said the speaker of the California State Assembly • Urges attorneys to pay attention to justice issues early on By Carolyn Whetzel and Tiffany Stecker Environmental...

National Environmental Justice Advisory Council Meeting

BNA - EHS Federal Regulatory Alert 03 Apr 2017 08:33

GENERAL ENVIRONMENT AND SAFETY Notice of the EPA announces a meeting of the National Environmental Justice Advisory Council. The meeting will include discussion on environmental justice concerns of communities in Minneapolis and surrounding areas and...



No stories this week.

EPA

Senior official who just quit warns of 'devastating' impacts

Amanda Reilly, E&E News reporter

Published: Monday, April 3, 2017

HOLLYWOOD, Calif. — The former head of environmental justice at U.S. EPA on Friday warned that proposed cuts to the agency's budget would be "devastating" to minority and low-income communities.

Mustafa Ali, who quit his position at EPA a few weeks ago, urged the Trump administration to work collaboratively with communities, swiftly appoint a new environmental justice head and step up enforcement activities.

If not, "we will see many more egregious types of actions that will happen inside of those communities and the surrounding area," Ali said at the American Bar Association's annual spring environmental law conference here.

Mustafa Ali. Photo courtesy of the Berkley Center for Religion, Peace and World Affairs at Georgetown University.

Ali formerly served as EPA's assistant associate administrator for environmental justice after working at the agency for nearly two decades under several administrators. He was a founding member of EPA's environmental justice office and also formerly worked on Capitol Hill as a fellow for Rep. John Conyers (D-Mich.).

Last month, Ali wrote a public letter resigning his post and told reporters that he couldn't "in good conscience be supportive" of the Trump administration's agenda (*Greenwire*, March 9).

On Friday, Ali expanded on his decision to write the letter, which offers advice to new EPA Administrator Scott Pruitt.

"Our new administrator had said in his Senate confirmation testimony that he understood some basic concepts around environmental justice but he did not have any in-depth knowledge of that space," Ali said. "So I thought that it was important to be able to share the challenges that still exist inside of communities but also to share with him some of the opportunities that exist in working with these communities."

Ali also revealed that he had not had any conversations with Trump administration officials before or after the inauguration about the agency's environmental justice work.

He said he was pleased with the attention that his resignation letter has gotten over the past few weeks.

"I feel comfort in the fact that the perceptions that I was receiving from the administration on their commitment, or lack thereof, to our most vulnerable communities has really come to light now," he said.

Ali also warned that the Trump administration's budget proposal — which would cut EPA's budget by 31 percent and eliminate a host of staff positions — would cut enforcement of environmental laws inside of low-income communities.

The budget has proposed cutting environmental justice, environmental education, climate initiatives and other EPA programs.

While it's unclear whether the Congress will enact those proposals or pass more limited cuts to EPA's budget, certain agency programs are likely to be axed, and enforcement dollars will likely be decreased.

Ali slammed the administration as hypocritical for its focus on "certain types of enforcement" and not others in urban areas.

"Our new administration sees great value in certain types of enforcement inside of communities — making sure we have more law enforcement there, which can play a positive role if it's done properly," he said. "But doesn't seem to have the same level of commitment in making sure that we have inspectors and other enforcement personnel around making sure that folks are doing the right thing."

Ali also said reductions in state grants would hurt efforts to work with communities on environmental justice and efforts to gather scientific data needed for enforcement.

Since leaving EPA, Ali has become senior vice president of climate, environmental justice and community revitalization at the nonprofit Hip Hop Caucus.

The former official urged the administration to find a replacement for him as soon as possible.

"In the development of policy, if you do not have someone who is well-versed in this area, then you could have gaps," he said.

Jeff Wood, President Trump's acting top environmental lawyer, said Friday that environmental justice remains a concern for the administration and that the Clinton administration's 1994 executive order directing agencies to address environmental justice issues remains in effect.

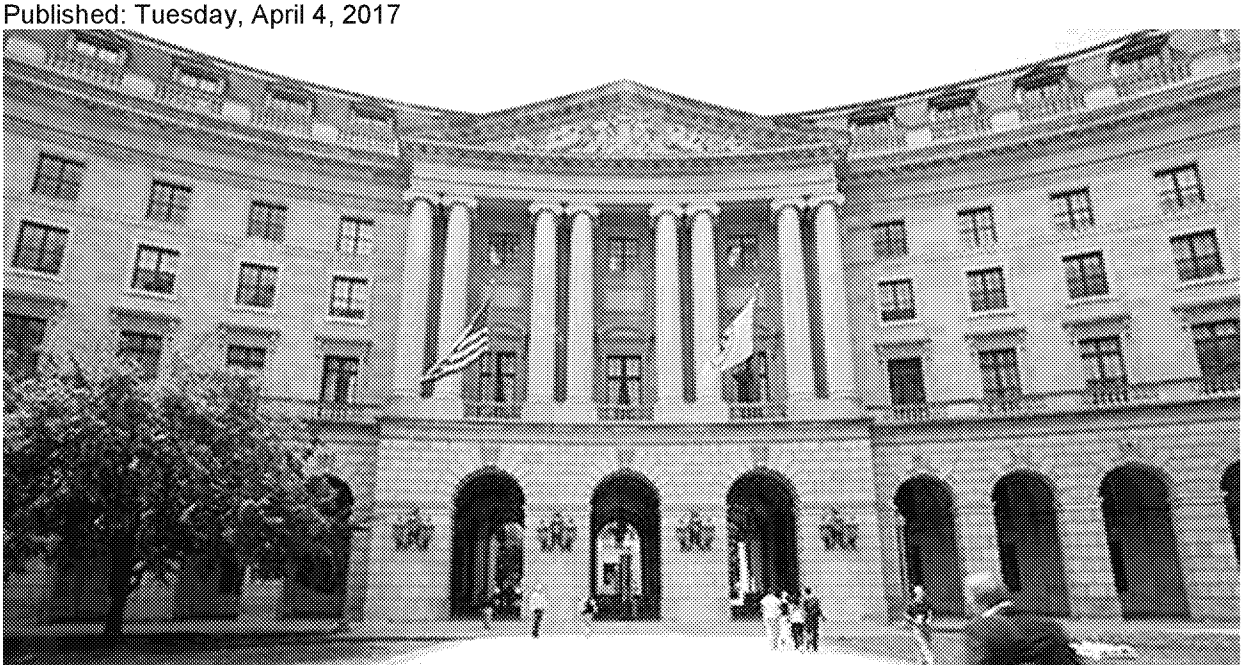
CLIMATEWIRE

BUDGET

EPA proposal cuts hundreds of climate change employees

Emily Holden, E&E News reporter

Published: Tuesday, April 4, 2017



Cuts to U.S. EPA are even deeper than expected. Photo courtesy of the Federal Privacy Council.

A memo detailing how U.S. EPA would cut its budget by one-third shows that the agency would eliminate hundreds of employees working on climate change, including 20 lawyers who provide support for the Clean Power Plan.

Overall, EPA would reduce staffing from about 15,000 to a full-time equivalent (FTE) ceiling of 11,547, according to the document, which was first reported by *The Washington Post*.

Acting Chief Financial Officer David Bloom sent the blueprint to the heads of EPA departments on March 21. They are supposed to provide feedback and explain how they would make the cuts and still fulfill statutory requirements. Acting assistant administrators are meant to certify the budget plan by April 25.

"This resource level will require taking a comprehensive look at our priorities and thinking differently about the best ways to accomplish our core statutory responsibilities," Bloom wrote.

The proposal lists many programs slated for elimination as duplicative, outside EPA's essential duties or "mature." It also seeks to fund some programs with more industry fees.

President Trump has proposed halving the budget of EPA's Office of Research and Development. The memo shows that would mean eliminating $19.4 million of EPA's climate change research that is conducted in coordination with the U.S. Global Change Research Program and cutting 47 FTE. It would also mean getting rid of $10.6 million for the Science to Achieve Results grant program, which funds research at universities.

As previously reported, the proposal would eliminate the $69.7 million Climate Protection Program, which houses voluntary partnerships like Energy Star. It would cut 224 FTE from that program.

EPA would eliminate $7.2 million and 11 FTE for environmental education, and $1.8 million and 12 FTE for the Office of Public Engagement. EPA would also cut $2 million and 40 FTE for environmental justice.

In addition, the proposal would move money around at the Office of the General Counsel, nixing lawyers working on the Obama administration's climate standards for power plants, which Trump has moved to gut.

Outside of climate, the budget document attempts to shift responsibility for many federal environmental laws to states. It would cut categorical grants like those for air quality, lead, pesticides enforcement and diesel emissions, resulting in a reduction to $597 million from $1.1 billion.

Bill Becker, head of the National Association of Clean Air Agencies, which represents state air regulators, said that taken together, the cuts are dramatic, and states would have trouble footing even more of the bill than they already do.

"Everyone is assuming that Congress will come to the rescue, but the problem is Congress is responding to a budget the administration has proposed, and it's doubtful that they're going to go in blindly," he said.

He added that Congress has been legitimately criticizing EPA for failing to publish air standard guidance on time, but this budget would make that even harder to accomplish.

The proposal also assumes the agency would see a decrease in new regulatory actions and would cut 24 FTE from EPA's Regulatory, Economic, Management and Analysis program, which evaluates the impact of regulations on business and the economy.

The blueprint directs two EPA departments to look at legislative options for privatizing Energy Star, the energy efficiency labeling program for consumer products. It aims to do something similar for vehicle emissions standards. EPA appears to want to recover the costs of ensuring vehicles meet standards by instituting more fees on industry, which would require action from Congress and likely create a budget shortfall in the meantime.

ENERGYWIRE

No stories this week.

Race, ethnicity, and air pollution: new directions in environmental justice.

Ahlers, Christopher D.
Environmental Law 46 4 713(46)

Environmental justice recognizes that low-income, minority communities are disproportionately affected by air pollution, and that this problem should be addressed through environmental law and policy While it is easy to identify general relationships between poverty, demographic patterns, and air pollution, it is far more difficult to

demonstrate that companies build industrial facilities at particular sites based on the racial or ethnic composition of the neighboring
community, or even that a minority community would be subject to disproportionate health and welfare impacts from a particular facility It is even more difficult to prohibit the construction of industrial facilities based on a disproportionate impact on low income, minority communities. This Article reviews the reported cases considering the decimation-based claims of the environmental justice movement, in the context of permitting and environmental reviews for industrial facilities. It concludes that this approach has not been successful in limiting their construction and operation. (article attached)

Building a Resilient and Equitable City: How to Advance Environmental Justice Through the *OneNYC* Plan

Eddie Bautista, Juan Camilo Osorio, Pamela Soto, Annel Hernandez

Many of the challenges that cities face today stem from historic and entrenched systemic policies and processes that result in the inequitable distribution of environmental burdens. Eddie Bautista, Juan Camilo Osorio, Pamela Soto and Annel Hernandez explain the logic behind the New York City Environmental Justice Alliance's1 policy and advocacy work to strengthen their local government's climate-change adaptation efforts in response to particular risks affecting low-income
neighborhoods and communities of color. (article attached)

Jennifer Turley, Law Librarian
U.S. Environmental Protection Agency
202/564-3971
turley.jennifer@epa.gov

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Message

From: Michele Heffes [mheffes@portoakland.com]
Sent: 11/10/2017 8:44:32 PM
To: charles.james@dot.gov; Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Parker, Barbara [BParker@oaklandcityattorney.org]; Bee, Maria [MBee@oaklandcityattorney.org]; Cappio, Claudia (CCappio@oaklandnet.com) [CCappio@oaklandnet.com]; Danny Wan [dwan@portoakland.com]; Michele Heffes [mheffes@portoakland.com]; Chris Lytle [clytle@portoakland.com]; Michele Heffes [mheffes@portoakland.com]; Smith, Jamie [JSmith@OaklandCityAttorney.org]; Laurice Henry-Ross [lhenry@portoakland.com]
Subject: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9
Attachments: City and Port Joint Proposed Informal Resolution Agreement.pdf; City and Port DRAFT Informal Resolution Agreement REDLINE to EPA DOT Draft.pdf; CLEAN Port Draft Informal Resolution Agreement.docx

Dear Ms. Dorka and Mr. James:

Attached please find a November 10, 2017, letter (including the 2 referenced attachments) from Oakland City Attorney, Barbara J. Parker, and Port Attorney, Danny Wan, concerning the above-referenced matter. Hard copies will be sent via First Class Mail. Please let me know if you have any questions.

Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

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Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/16/2017 7:15:30 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, August 16, 2017 1:43 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks again!

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, August 16, 2017 8:53 AM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Rivera, Yvette (OST)
Sent: Wednesday, August 16, 2017 8:37 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>

Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Let's try that. Thank you for coordinating.

From: Fitzpatrick, Ryan (OST)
Sent: Wednesday, August 16, 2017 8:36 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

It doesn't look like we have much of a choice. I can tell Michele at the Port that if they can't come next Wednesday the 23rd, then it will have to wait until after Labor Day. Maybe they'll choose to eschew the City and come the 23rd, or maybe the City will change its schedule.

That said, given that we don't have a proposed pre-resolution framework put together yet, if we do it after Labor Day, we may be able to finish it and present it to them then and use it as a topic for discussion, which they can then present to their boards.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering if week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:57 PM
To: 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Yes. But we'll need to push this back

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Rhines, Dale [mailto:rhines.dale@epa.gov]
Sent: Tuesday, August 15, 2017 3:56 PM
To: Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Just to clarify, we are talking about August 31 or September 1 at this pont,correct?

From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Tuesday, August 15, 2017 3:51 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Next Thursday or Friday does not work. I will be out on training.
<image001.png>

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:40 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)

Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM

To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 9/26/2017 8:38:59 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: FW: Deliberative Process / Ex. 5 In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland

fyi

From: O'Lone, Mary
Sent: Tuesday, September 26, 2017 4:37 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: Deliberative Process / Ex. 5 In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland

Kurt-
Did I close the loop with you before the meeting?

Attorney Client / Ex. 5

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: O'Lone, Mary
Sent: Tuesday, September 26, 2017 12:34 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: Deliberative Process / Ex. 5 In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland

Attorney Client / Ex. 5

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA

1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: Temple, Kurt
Sent: Tuesday, September 26, 2017 10:45 AM
To: O'Lone, Mary <OLone.Mary@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: Deliberative Process / Ex. 5 In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland

Deliberative Process / Ex. 5

From: "O'Lone, Mary" <OLone.Mary@epa.gov>
Date: September 25, 2017 at 5:13:49 PM EDT
To: "Temple, Kurt" <Temple.Kurt@epa.gov>
Cc: "Johnson, Johahna" <Johnson.Johahna@epa.gov>, "McGhee, Debra" <mcghee.debra@epa.gov>
Subject: FW: Deliberative Process / Ex. 5 **In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland**

Kurt,

Attorney Client / Ex. 5

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: Dorka, Lilian
Sent: Tuesday, September 19, 2017 7:13 PM
To: MBee@oaklandcityattorney.org; mheffes@portoakland.com
Cc: Packard, Elise <Packard.Elise@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Charles.james@dot.gov; Strauss, Alexis <Strauss.Alexis@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Subject: Enforcement/Investigatory / Ex. 7(a) - In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland
Importance: High

Hello Maria and Michele,

EPA and DOT look forward to our meeting next Tuesday to discuss informal resolution of the Title VI complaint filed with our Agencies (DOT #2017-0093 and EPA File Nos. 13R-17-R9; 14R-17-R9). Enforcement/Investigatory / Ex. 7(a)
Enforcement/Investigatory / Ex. 7(a) hope will assist with our discussion next Tuesday. Please don't hesitate to contact us if you have any questions at this time and, again, we look forward to seeing you soon.

Lilian

Lilian Sotolongo Dorka, Esq.
Director, External Civil Rights Compliance Office
EPA, Office of General Counsel
202-564-9649
WJC-N Room 2450

Enforcement/Investigatory / Ex. 7(a)

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 7/6/2017 3:26:39 PM
To: Rivera, Yvette (OST) [yvette.rivera@dot.gov]
CC: Goerke, Ariadne [Goerke.Ariadne@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Redden, Kenneth [Redden.Kenneth@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Reyes, Deldi [Reyes.Deldi@epa.gov]; Miller, Amy [Miller.Amy@epa.gov]; Jordan, Deborah [Jordan.Deborah@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Neal, Daria (CRT) [Daria.Neal@usdoj.gov]
Subject: Oakland T6 Complaint
Attachments: Oakland City and Port Complainant Acceptance 7-6-17.docx; Oakland City Recipient Acceptance 7-6-17.docx; Oakland Port Recipient Acceptance 7-6-17.docx

Good morning Yvette. We have attached for your reference and discussion draft EPA acceptance letters regarding the Oakland T6 matter. Please note that the drafts are EPA only at this time, but can be readily adapted to include DOT information if that's what is collectively determined. Please let me know if you have any questions and we look forward to further discussion with you.

Sincerely,

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460
202-564-7299

Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 7/19/2017 12:28:04 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; O'Lone, Mary [OLone.Mary@epa.gov]
Subject: RE: Automatic reply: ACCEPTANCE FOR INVESTIGATION OF: DOT Complaint # 2017-0093, EPA File No.: 13R-17-R9 (City of Oakland) and 14R-17-R9 (Port of Oakland and Board of Port Commissioners)

Good to know, thanks. She called me about two weeks ago and left a voicemail looking for an update, so this must be very recent

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, July 18, 2017 8:12 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; O'Lone, Mary <OLone.Mary@epa.gov>
Subject: Fwd: Automatic reply: ACCEPTANCE FOR INVESTIGATION OF: DOT Complaint # 2017-0093, EPA File No.: 13R-17-R9 (City of Oakland) and 14R-17-R9 (Port of Oakland and Board of Port Commissioners)

Just FYI.

Sent from my iPhone

Begin forwarded message:

> **From:** Yana Garcia <ygarcia@earthjustice.org>
> **Date:** July 18, 2017 at 6:58:16 PM EDT
> **To:** "Dorka, Lilian" <Dorka.Lilian@epa.gov>
> **Subject: Automatic reply: ACCEPTANCE FOR INVESTIGATION OF: DOT Complaint # 2017-0093, EPA File No.: 13R-17-R9 (City of Oakland) and 14R-17-R9 (Port of Oakland and Board of Port Commissioners)**
>
> You are receiving this email because Yana Garcia no longer works at Earthjustice. If you need to reach someone, please email Yana's litigation assistants: Rikki Weber (rweber@earthjustice.org<mailto:rweber@earthjustice.org>) or John Wall (jwall@earthjustice.org<mailto:jwall@earthjustice.org>). Thank you.

Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/16/2017 7:08:25 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

Oh you could be right. I read Yvette's email responding to my ask about the week of 08/28 to mean that she couldn't do the Thursday or Friday of that week, and we as a team could not do the Monday through Wednesday for that week.

But that may have been a misunderstanding, good catch.

Yvette, can you do Thursday, 08/31? I have my RDO on Friday, 09/01, but can come in for a few hours for this if need be.

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, August 16, 2017 1:28 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Reading back over the emails, is there a reason why the week of August 28th won't work? I know Yvette can't do next Thursday or Friday but what about the following Thursday or Friday 8/31 or 9/1?

From: Dorka, Lilian
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering if week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:57 PM
To: 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Yes. But we'll need to push this back

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Rhines, Dale [mailto:rhines.dale@epa.gov]
Sent: Tuesday, August 15, 2017 3:56 PM
To: Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Just to clarify, we are talking about August 31 or September 1 at this pont,correct?

From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Tuesday, August 15, 2017 3:51 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Next Thursday or Friday does not work. I will be out on training.
<image001.png>

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:40 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst

Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)
Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

CONFIDENTIAL COMMUNICATION

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights

Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979

Message

From: Johnson, Johahna [Johnson.Johahna@epa.gov]
Sent: 9/18/2017 9:54:48 PM
To: Temple, Kurt [Temple.Kurt@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]
Subject: RE: Revised Draft Framework
Attachments: Oakland Enforcement/Investigatory / Ex. 7(a)

Hi Kurt,

Attached please find CRFLO staff level comments on Enforcement/Investigatory / Ex. 7(a) Please let us know if you would like to discuss.

Thank you,

Johahna Johnson
Civil Rights and Finance Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-6119

From: Temple, Kurt
Sent: Monday, September 18, 2017 11:15 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; howard.caro-lopez@dot.gov; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>
Subject: Revised Draft Framework

Enforcement/Investigatory / Ex. 7(a)

Kurt

Message

From: Farrell, Ericka [Farrell.Ericka@epa.gov]
Sent: 7/6/2017 2:28:09 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: RE: Oakland JR and Acceptance Letters for review

Deliberative Process / Ex. 5

Ericka Farrell
Case Manager
External Civil Rights Compliance Office
202-564-0717

-----Original Message-----
From: Dorka, Lilian
Sent: Thursday, July 06, 2017 10:24 AM
To: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>
Cc: O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>
Subject: RE: Oakland JR and Acceptance Letters for review

Deliberative Process / Ex. 5

-----Original Message-----
From: Goerke, Ariadne
Sent: Thursday, July 6, 2017 9:16 AM
To: Garnett, Desean <Garnett.Desean@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>
Cc: O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>
Subject: RE: Oakland JR and Acceptance Letters for review

CRFLO agrees with all of Region 9's comments and we have a very minor tweaks to the draft JR, attached and no additional comments on the letters. Thanks.

Ariadne Goerke
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-5471 - WJC North 7318B

-----Original Message-----
From: Garnett, Desean
Sent: Wednesday, July 05, 2017 9:09 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>
Subject: RE: Oakland JR and Acceptance Letters for review

Lilian,

I have attached Region 9's edits and comments to the documents that you sent us. Please reach out to us if there is anything that you would like to discuss.

Thanks!
Desean

Desean Garnett
U.S. EPA Region 9
Attorney-Advisor
(415) 972-3046

-----Original Message-----
From: Dorka, Lilian
Sent: Wednesday, July 05, 2017 10:25 AM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>
Subject: RE: Oakland JR and Acceptance Letters for review

Thanks very much Alexis!

-----Original Message-----
From: Strauss, Alexis
Sent: Wednesday, July 5, 2017 11:35 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>
Subject: Re: Oakland JR and Acceptance Letters for review

Lilian
Can do!
Thx, Alexis

> On Jul 5, 2017, at 7:53 AM, Dorka, Lilian <Dorka.Lilian@epa.gov> wrote:
>

Deliberative Process / Ex. 5

> <Port - City Oakland Draft JURISDICTIONAL REVIEW 6.20.17.docx>
> <Oakland City Recipient Acceptance 7-3-17.docx> <Oakland Port
> Recipient Acceptance 7-3-17.docx> <Oakland City and Port Complainant
> Acceptance 7-3-17.docx>

Message

From: Garnett, Desean [Garnett.Desean@epa.gov]
Sent: 11/13/2017 5:43:19 PM
To: Grow, Richard [Grow.Richard@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Rhodes, Julia [Rhodes.Julia@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Subject: RE: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Thursday works for me as well, except for 3:30-4:30 PM EST. Earlier in the day is better.

Desean

Desean Garnett
U.S. EPA Region 9
Attorney-Advisor
(415) 972-3046

-----Original Message-----
From: Grow, Richard
Sent: Monday, November 13, 2017 9:15 AM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>
Subject: RE: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Thursday works for me, though it would be helpful if not 4-5 EST. Richard

---

From: Temple, Kurt
Sent: Monday, November 13, 2017 9:09 AM
To: Rhines, Dale; Rhodes, Julia; Dorka, Lilian; McGhee, Debra; Strauss, Alexis; Garnett, Desean; Grow, Richard; O'Lone, Mary; Keeler, Katsumi
Subject: FW: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Hello. Following up on the email I just sent to DOT. Would it be possible for the EPA team to meet and discuss this Thursday? Please let me know if that will or will not work.

Thanks,

Kurt

From: Dorka, Lilian
Sent: Sunday, November 12, 2017 4:15 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Yvette Rivera <yvette.rivera@dot.gov>; ryan.fitzpatrick@dot.gov
Subject: Fwd: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Sent from my iPhone

Begin forwarded message:
From: "Michele Heffes" <mheffes@portoakland.com<mailto:mheffes@portoakland.com>>
To: "charles.james@dot.gov<mailto:charles.james@dot.gov>" <charles.james@dot.gov<mailto:charles.james@dot.gov>>, "Dorka, Lilian" <Dorka.Lilian@epa.gov<mailto:Dorka.Lilian@epa.gov>>
Cc: "Parker, Barbara" <BParker@oaklandcityattorney.org<mailto:BParker@oaklandcityattorney.org>>, "Bee, Maria" <MBee@oaklandcityattorney.org<mailto:MBee@oaklandcityattorney.org>>, "Cappio, Claudia (CCappio@oaklandnet.com<mailto:CCappio@oaklandnet.com>)" <CCappio@oaklandnet.com<mailto:CCappio@oaklandnet.com>>, "Danny Wan" <dwan@portoakland.com<mailto:dwan@portoakland.com>>, "Michele Heffes" <mheffes@portoakland.com<mailto:mheffes@portoakland.com>>, "Chris Lytle" <clytle@portoakland.com<mailto:clytle@portoakland.com>>, "Michele Heffes" <mheffes@portoakland.com<mailto:mheffes@portoakland.com>>, "Smith, Jamie" <JSmith@OaklandCityAttorney.org<mailto:JSmith@OaklandCityAttorney.org>>, "Laurice Henry-Ross" <lhenry@portoakland.com<mailto:lhenry@portoakland.com>>
Subject: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9 Dear Ms. Dorka and Mr. James:

Attached please find a November 10, 2017, letter (including the 2 referenced attachments) from Oakland City Attorney, Barbara J. Parker, and Port Attorney, Danny Wan, concerning the above-referenced matter. Hard copies will be sent via First Class Mail. Please let me know if you have any questions.

Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com<mailto:mheffes@portoakland.com>

ATTORNEY-CLIENT PRIVILEGED

CONFIDENTIAL COMMUNICATION

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Message

From: Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Sent: 7/19/2017 12:05:04 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Temple, Kurt [Temple.Kurt@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]
Subject: RE: Oakland T6 Complaint

Deliberative Process / Ex. 5

-----Original Message-----
From: Dorka, Lilian
Sent: Tuesday, July 18, 2017 4:54 PM
To: Keeler, Katsumi <Keeler.Katsumi@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Subject: Re: Oakland T6 Complaint

Deliberative Process / Ex. 5

Sent from my iPhone

> On Jul 18, 2017, at 4:19 PM, Keeler, Katsumi <Keeler.Katsumi@epa.gov> wrote:
>

Deliberative Process / Ex. 5

> -----Original Message-----
> From: Dorka, Lilian
> Sent: Tuesday, July 18, 2017 3:56 PM
> To: Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Temple, Kurt
> <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>
> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
> Garnett, Desean <Garnett.Desean@epa.gov>; Jang, Deeana (OST)
> <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
> <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST)
> <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
> <Selina.Ferguson@dot.gov>; Goldschmidt, Iris (CRT)
> <Iris.Goldschmidt@usdoj.gov>
> Subject: RE: Oakland T6 Complaint
>
> Thanks Daria! BTW, we plan to issue the acceptance letter today.
> Will send you a copy once we do. Lily
>
> -----Original Message-----
> From: Neal, Daria (CRT) [mailto:Daria.Neal@usdoj.gov]
> Sent: Tuesday, July 18, 2017 2:50 PM
> To: Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST)
> <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
> Garnett, Desean <Garnett.Desean@epa.gov>; Jang, Deeana (OST)
> <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
> <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST)
> <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
> <Selina.Ferguson@dot.gov>; Goldschmidt, Iris (CRT)
> <Iris.Goldschmidt@usdoj.gov>
> Subject: RE: Oakland T6 Complaint
>
> Hi all,
> Thought this article would be of interest.

> Daria
> http://grist.org/justice/an-old-army-base-could-mean-new-pollution-for
> -beleaguered-residents-of-west-oakland/
>
>
> -----Original Message-----
> From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
> Sent: Tuesday, July 18, 2017 10:54 AM
> To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian
> <Dorka.Lilian@epa.gov>
> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
> Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT)
> <Daria.Neal@crt.usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>;
> Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick,
> Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
> <Selina.Ferguson@dot.gov>
> Subject: RE: Oakland T6 Complaint
>
> Yvette: Attached are the most recent drafts of the joint acceptance letters for your review and approval. We added some clarifying edits to the draft you sent forward last week. You will see those changes highlighted in the text. Also, DOT needs to insert its file number into the subject line. Please let me know if you have any questions about what we have done, or if you're ready to exchange signatures on final drafts. Thanks for your help.
>
> Kurt T. Temple
> Senior Advisor
> External Civil Rights Compliance Office EPA Office of General Counsel
> 1200 Pennsylvania Avenue, NW
> Room 2524B
> Washington, D.C. 20460
> 202-564-7299
>
>
> -----Original Message-----
> From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
> Sent: Thursday, July 13, 2017 3:49 PM
> To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt
> <Temple.Kurt@epa.gov>
> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
> Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT)
> <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>;
> Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick,
> Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST)
> <Selina.Ferguson@dot.gov>
> Subject: RE: Oakland T6 Complaint
>
> Dear Lily,
>
> We have an approved version of the OAB letter. Please see the attached. If you have no objections, we can execute the letter and get the original to you for signature tomorrow. Thank you!
>
> Yvette
>
>
> -----Original Message-----
> From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
> Sent: Thursday, July 13, 2017 12:29 PM
> To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt
> <Temple.Kurt@epa.gov>
> Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>;
> Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT)
> <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>;
> Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
> Subject: RE: Oakland T6 Complaint
>
> Hi Yvette, just following up on this. Thanks! Lily
>
> -----Original Message-----
> From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]

> Sent: Friday, July 7, 2017 2:51 PM
> To: Temple, Kurt <Temple.Kurt@epa.gov>
> Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka,
> Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean
> <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>;
> Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
> <howard.caro-lopez@dot.gov>
> Subject: RE: Oakland T6 Complaint
>
> Thank you Kurt. We will get right on it. Hoping that we can respond
> by Monday or Tuesday. Again, thank you. Have a nice weekend! Yvette
>
> -----Original Message-----
> From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
> Sent: Friday, July 07, 2017 2:13 PM
> To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>
> Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary
> <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>;
> Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi
> <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka,
> Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean
> <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>;
> Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST)
> <howard.caro-lopez@dot.gov>
> Subject: Oakland T6 Complaint
>
> Hello Yvette. Thanks for the good conversation yesterday regarding the Oakland T6 matter. As we promised on the call, I have attached for DOT's review draft joint acceptance letters to complainant and recipients. Deliberative Process / Ex. 5 Deliberative Process / Ex. 5 Let us know if DOT has any edits, comments or concerns. We look forward to issuing these letters soon. Please give me a call if you need anything.
>
> Sincerely,
>
> Kurt T. Temple
> Senior Advisor
> External Civil Rights Compliance Office EPA Office of General Counsel
> 1200 Pennsylvania Avenue, NW
> Room 2524B
> Washington, D.C. 20460
> 202-564-7299
>
>

Message

From: Grow, Richard [Grow.Richard@epa.gov]
Sent: 11/13/2017 5:15:03 PM
To: Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Rhodes, Julia [Rhodes.Julia@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Subject: RE: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Thursday works for me, though it would be helpful if not 4-5 EST. Richard

---

From: Temple, Kurt
Sent: Monday, November 13, 2017 9:09 AM
To: Rhines, Dale; Rhodes, Julia; Dorka, Lilian; McGhee, Debra; Strauss, Alexis; Garnett, Desean; Grow, Richard; O'Lone, Mary; Keeler, Katsumi
Subject: FW: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Hello. Following up on the email I just sent to DOT. Would it be possible for the EPA team to meet and discuss this Thursday? Please let me know if that will or will not work.

Thanks,

Kurt

From: Dorka, Lilian
Sent: Sunday, November 12, 2017 4:15 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Yvette Rivera <yvette.rivera@dot.gov>; ryan.fitzpatrick@dot.gov
Subject: Fwd: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Sent from my iPhone

Begin forwarded message:
From: "Michele Heffes" <mheffes@portoakland.com<mailto:mheffes@portoakland.com>>
To: "charles.james@dot.gov<mailto:charles.james@dot.gov>" <charles.james@dot.gov<mailto:charles.james@dot.gov>>, "Dorka, Lilian" <Dorka.Lilian@epa.gov<mailto:Dorka.Lilian@epa.gov>>
Cc: "Parker, Barbara" <BParker@oaklandcityattorney.org<mailto:BParker@oaklandcityattorney.org>>, "Bee, Maria" <MBee@oaklandcityattorney.org<mailto:MBee@oaklandcityattorney.org>>, "Cappio, Claudia (CCappio@oaklandnet.com<mailto:CCappio@oaklandnet.com>)" <CCappio@oaklandnet.com<mailto:CCappio@oaklandnet.com>>, "Danny Wan" <dwan@portoakland.com<mailto:dwan@portoakland.com>>, "Michele Heffes" <mheffes@portoakland.com<mailto:mheffes@portoakland.com>>, "Chris Lytle" <clytle@portoakland.com<mailto:clytle@portoakland.com>>, "Michele Heffes" <mheffes@portoakland.com<mailto:mheffes@portoakland.com>>, "Smith, Jamie" <JSmith@OaklandCityAttorney.org<mailto:JSmith@OaklandCityAttorney.org>>, "Laurice Henry-Ross" <lhenry@portoakland.com<mailto:lhenry@portoakland.com>>
Subject: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9
Dear Ms. Dorka and Mr. James:

Attached please find a November 10, 2017, letter (including the 2 referenced attachments) from Oakland City Attorney, Barbara J. Parker, and Port Attorney, Danny Wan, concerning the above-referenced matter. Hard copies will be sent via First Class Mail. Please let me know if you have any questions.

Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com<mailto:mheffes@portoakland.com>

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Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 7/19/2017 9:52:40 AM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Jordan, Deborah [Jordan.Deborah@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Packard, Elise [Packard.Elise@epa.gov]; Redden, Kenneth [Redden.Kenneth@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Harrison, Brenda [Harrison.Brenda@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]; Albores, Richard [Albores.Richard@epa.gov]
Subject: Re: ACCEPTANCE FOR INVESTIGATION OF: DOT Complaint # 2017-0093, EPA File No.: 13R-17-R9 (City of Oakland) and 14R-17-R9 (Port of Oakland and Board of Port Commissioners)

Thx

Sent from my iPhone

> On Jul 18, 2017, at 7:07 PM, Dorka, Lilian <Dorka.Lilian@epa.gov> wrote:
>
> Hi Nancy,
>
> Wanted to let you know that today we issued the attached Letter of Acceptance, accepted this complaint for investigation. The complaint was filed with EPA's ECRCO as well as DOT's Departmental Office of Civil Rights and we have issued a joint letter. We anticipate that this acceptance for investigation might generate some press. In anticipation of this, we have prepared the attached Reactive Desk Statement for use in responding to press.
>
> Thanks very much for your help and please let me know if you have any questions.
>
> Lily
>
> (PS: we have shared the Reactive Desk Statement with DOT-DOCR which they will use as well I responding to press.)
>
> From: Dorka, Lilian
> Sent: Tuesday, July 18, 2017 6:52 PM
> To: 'officeofthemayor@oaklandnet.com' <officeofthemayor@oaklandnet.com>; 'colbruno@portcommissioner.com' <colbruno@portcommissioner.com>
> Cc: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; 'Charles.james@dot.gov' <Charles.james@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <olone.mary@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Harrison, Brenda <Harrison.Brenda@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
> Subject: ACCEPTANCE FOR INVESTIGATION OF: DOT Complaint # 2017-0093, EPA File No.: 13R-17-R9 (City of Oakland) and 14R-17-R9 (Port of Oakland and Board of Port Commissioners)
> Importance: High
>
>
> Dear Mayor Schaaf and Mr. Colbruno:
>
> I am writing on behalf of the U.S. Department of Transportation (DOT), Departmental Office of Civil Rights (DOCR), and the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), to notify you that, per the attached Letter of Acceptance, the agencies have accepted for investigation the above-referenced civil rights complaint. The attached Letter of Acceptance has also been mailed to you via certified mail. Please let us know if you have any questions.
>
> Sincerely,
>
> Lilian S. Dorka
>
>
> Lilian Sotolongo Dorka, Esq.
> Director, External Civil Rights Compliance Office
> EPA, Office of General Counsel
> 202-564-9649
> WJC-N Room 2450
>

> <Final Letter of Acceptance for Investigation - Oakland City and Port - RECIPIENTS - 7-18-2017.pdf>
> <REACTIVE DESK STATEMENT - Acceptance for Investigation - Oakland City and Port complaint 7-18-17.docx>

Honorable Libby Schaaf
Mayor, City of Oakland
1 Frank H. Ogawa Plaza
3rd Floor
Oakland, CA 94612

JUN 27 2016

Subject: Oakland Army Base Redevelopment Project

Dear Mayor Schaaf:

This is to notify you that a Federal interagency team of civil rights and environmental justice practitioners from the U.S. Department of Transportation (DOT), the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior (DOI), and the U.S. Department of Homeland Security (DHS) have been meeting monthly to discuss concerns brought to our attention by community members about the redevelopment of the former Oakland Army Base. In particular, we have discussed concerns about the potential adverse impacts on a range of issues affecting the predominately minority neighboring community as a result of some of the options for redevelopment under consideration by the City and Port of Oakland. This includes the possibility that the property may be used to export coal, as well as localized increases in commercial truck traffic, among other issues.

Please note that as recipients of Federal financial assistance, the City of Oakland and the Port of Oakland have an obligation to ensure nondiscrimination on the basis of race, color, or national origin in all of their programs and activities in accordance with Title VI of the Civil Rights Act of 1964.

The interagency team is monitoring the redevelopment of the former base and stands ready to provide support and technical assistance to ensure that the project avoids any potential conflicts with Federal nondiscrimination authorities. If you have any questions, or would like to discuss the redevelopment with members of the team, please contact Ryan Fitzpatrick by telephone at (202) 366-1979, or ryan.fitzpatrick@dot.gov, or Alexis Strauss by telephone at (415)-972-3572, or strauss.alexis@epa.gov.

Sincerely,

Yvette Rivera

Yvette Rivera
Associate Director
Departmental Office of Civil Rights
U.S. Department of Transportation

Lilian S. Dorka
Acting Director
Office of Civil Rights
U.S. Environmental Protection Agency

Alexis Strauss
Acting Regional Administrator
Region 9
U.S. Environmental Protection Agency

John W. Burden
Director
Office of Civil Rights
U.S. Department of the Interior

Megan H. Mack
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

Dr. Teresa R. Pohlman
Executive Director for Sustainability and Environmental Programs
Office of the Chief Readiness Support Officer
U.S. Department of Homeland Security

cc:
Sabrina D. Landreth
Oakland City Administrator

J. Christopher Lytle
Executive Director, Port of Oakland

CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2016 DEC 28 PM 3: 26

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Brooke A. Levin
Director, Public Works

SUBJECT: EPA Coalition Brownfields Grant

DATE: December 9, 2016

City Administrator Approval

Date 12/26/16

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Accept And Appropriate One Hundred Ten Thousand Dollars ($110,000.00) From A United States Environmental Protection Agency (USEPA) Coalition Grant Under The Brownfields Grant Program For Assessment Of Petroleum Products And Hazardous Substances In Soil And Groundwater In The International Boulevard Corridor And Execute A Memorandum Of Agreement With The East Bay Brownfields Assessment Grant Coalition.

EXECUTIVE SUMMARY

City Council approval will authorize the City Administrator to accept and appropriate $110,000 in funds from a United States Environmental Protection Agency (EPA) Coalition Brownfields Program petroleum products and hazardous substances assessment grant for the International Boulevard Corridor and adjacent Bay Area Rapid Transit (BART) stations. The Coalition includes Alameda County, the Association of Bay Area Governments (ABAG), and the cities of Oakland, San Leandro, and Hayward. The Coalition members will share $550,000 in grant funds from USEPA. As required by USEPA coalition grant guidelines, in order to utilize the grant funds the Coalition members must enter into a Memorandum of Agreement (MOA) to document the roles and responsibilities of the Coalition members. Staff requests City Council to authorize the City Administrator to execute the MOA. Grant monies will be used for professional investigations of known or suspected contamination. The results of the investigations will be used to assess properties for acquisition or redevelopment.

BACKGROUND/LEGISLATIVE HISTORY

EPA has made Brownfields Assessment Grants available since 1995 to assist recipients with the identification and characterization of contaminants at sites that are abandoned or underutilized. The City has received 10 prior awards totaling 2 million dollars. The three most recent awards include: a $200,000 Hazardous Substances Assessment Grant for the Foothill Boulevard-Seminary Avenue Area (Resolution No. 82172 C.M.S.); a $200,000 Hazardous Substances Assessment Grant for the West Oakland Area (Resolution No. 82173 C.M.S.); and

Item: _____
Public Works Committee
January 10, 2017

a $200,000 Community-Wide Petroleum Substances Assessment Grant for the West Oakland Area (Resolution No. 82174 C.M.S.). The grant funds for the International Boulevard Corridor Site will come from USEPA's annual budget for Brownfields grants.

ANALYSIS AND POLICY ALTERNATIVES

The Department of Economic and Workforce Development has been working closely with ABAG on the East Bay Corridor Initiative (EBCI) as an implementation strategy for realizing sustainable, resilient, equitable growth and development in communities between Pinole and Fremont, with a focus on Priority Development Areas (PDAs). One method for advancing the activities of the EBCI was to apply for EPA Coalition grants. To meet the USEPA's Coalition Grant requirements, ABAG and the cities of Oakland, San Leandro, and Hayward agreed to submit for the grant as a Coalition. The grant awarded to the East Bay Brownfields Grant Coalition is for a three-year period. Grant work will primarily consist of environmental assessments and evaluation of remedial solutions.

Environmental site assessments identify and characterize contaminants, and typically involve an analysis of a site's historical uses, collection of soil and groundwater data, and recommendations for any cleanup necessary. The environmental site assessment is a key initial step toward cleanup and redevelopment of abandoned or underutilized lands. In addition, in order to invoke full liability protection against regulatory action associated with existing contamination, professional environmental site assessments compliant with EPA's "All Appropriate Inquiry" standard must be conducted prior to acquisition of a property.

EPA's annual Brownfields Program allocation is funding a grant for the International Boulevard Corridor Site for a total amount of $550,000. The Coalition members will share this grant amount. The City's share is estimated to be$110,000. The City acting through its Public Works, Environmental Services Division (ESD) will receive grant funds as reimbursements for activities completed. The complete area of the Coalition's site includes a 15-mile corridor known as International Boulevard in Oakland, East 14th Street in San Leandro, and Mission Boulevard in unincorporated Alameda County and Hayward, as well as five adjacent BART stations. To evaluate potential sites for acquisition or redevelopment, staff must ascertain the level of contamination and the associated liability.

The Coalition will develop a site selection process based on agreed upon factors and will ensure that a minimum of five sites (at least one per Coalition member) are assessed over the life of the cooperative agreement. Coalition members will each submit a list of priority sites for the areas they represent. Selected sites will also be submitted to the EPA to ensure eligibility. In addition to addressing health and safety concerns, EPA criteria for prioritizing sites typically includes the relative potential for redevelopment. In order to identify potential sites for assessment work in Oakland, the City will seek recommendations from community groups, local non-profit organizations and the City's Office of Economic and Workforce Development.

The grant is a "community-wide" assessment grant, as such, funds from these grants may be used at any site within the International Boulevard grant corridor that is approved by the USEPA Grants Officer and where the City has legal right-of-entry.

FISCAL IMPACT

The City is not required to provide matching funds for the grant; however, of the available money, only the lead Coalition member (ABAG) will be charging staff time to the grants. The staff time will be used for the management of the grant including submittals to the EPA. ABAG will operate as the fiscal agent for receiving reimbursement money from USEPA and distributing it to the Coalition members. The majority of the grant funds will be utilized for the performance of Phase I and II Environmental Assessments within the grant area. Each Coalition member is guaranteed at least one assessment from the grant. Depending on the number of sites assessed per coalition member, the City's portion of the grant may be greater than $110,000.

ESD will act as the grant manager for the City. Grant monies will be received on a reimbursement basis and deposited into the Environmental Protection Agency Fund (2125), Environmental Compliance and Remediation Organization (30683), in project numbers to be determined.

PUBLIC OUTREACH/INTEREST

ESD will notify the Department of Economic and Workforce Development and the Coalition of the results of the assessment work. The Department of Workforce Development in coordination with ABAG will notify community groups and local non-profit organizations about the assessment work.

COORDINATION

In preparing the grant proposal, the Environmental Services Division coordinated with the Office of Economic and Workforce Development, the City Attorney's Office, the Controller's Bureau and the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: The assessment of potential soil and groundwater contamination will assist in the conversion of contaminated and blighted properties to productive use.

Environmental: Identification of contamination will facilitate cleanup that protects human health and environmental resources.

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Public Works Committee
January 10, 2017

Social Equity: Projects supporting the redevelopment of contaminated locations will result in cleaner healthier neighborhoods for residents in these neighborhoods. The grant area includes identified communities of concern and will serve neighborhoods in the immediate vicinity by activating retail and commercial uses in neighborhoods that currently have few retail outlets.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution authorizing the City Administrator to accept and appropriate one hundred ten thousand dollars ($110,000.00) from a United States Environmental Protection Agency coalition grant under the Brownfields grant program for assessment of petroleum products and hazardous substances in soil and groundwater in the International Boulevard Corridor and execute a memorandum of agreement with the East Bay Brownfields Assessment Grant Coalition.

For questions regarding this report, please contact Becky Dowdakin, Environmental Services Manager, at 238-6981.

Respectfully submitted,

BROOKE A. LEVIN
Director, Oakland Public Works

Reviewed by:
Susan Kattchee, Assistant Director
Oakland Public Works

Reviewed by:
Becky Dowdakin, Manager
Environmental Services Division

Prepared by:
Mark Arniola, Environmental Program Supervisor
Environmental Services Division

Item: _____
Public Works Committee
January 10, 2017

Approved as to Form and Legality

City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 DEC 28 PM 3:26

OAKLAND CITY COUNCIL

RESOLUTION NO._____C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE ONE HUNDRED TEN THOUSAND DOLLARS ($110,000.00) FROM A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY COALITION GRANT UNDER THE BROWNFIELDS GRANT PROGRAM FOR ASSESSMENT OF PETROLEUM PRODUCTS AND HAZARDOUS SUBSTANCES IN SOIL AND GROUNDWATER IN THE INTERNATIONAL BOULEVARD CORRIDOR AND EXECUTE A MEMORANDUM OF AGREEMENT WITH THE EAST BAY BROWNFIELDS ASSESSMENT GRANT COALITION

WHEREAS, the City of Oakland (City) in cooperation with the other members of the East Bay Brownfields Assessment Grant Coalition, comprising the City of Hayward, the City of San Leandro, the County of Alameda, and the Association of Bay Area Governments (ABAG), has solicited financial support from the United States Environmental Protection Agency (USEPA) for environmental assessment work in the International Boulevard Corridor; and

WHEREAS, the EPA has awarded the East Bay Brownfields Assessment Grant Coalition (Coalition) $550,000 in Brownfields Program funds to assist in the assessment of petroleum substances and hazardous substances (as defined by the federal Comprehensive Environmental Response, Compensation and Liability Act) in soil and groundwater in the International Boulevard Corridor; and

WHEREAS, the proposed environmental assessment work supports the Mayoral and City Council goal of a Sustainable City, and will help strengthen protection of public health while facilitating the cleanup and redevelopment of blighted properties; now, therefore be it

RESOLVED, That the City Council authorizes the City Administrator or her designee to execute an agreement with the USEPA and a Memorandum of Agreement (MOA) with the Coalition for the acceptance of grant funds for assessment of hazardous substances in soil and groundwater in the International Boulevard Corridor, provided that said agreement shall be reviewed and approved by the City Attorney's Office and shall be filed with the City Clerk's Office; and be it

FURTHER RESOLVED, That the City Council authorizes ABAG to act as the fiscal manager for the Coalition in order to receive reimbursement funds from USEPA and pass the funds onto the Coalition members; and be it

FURTHER RESOLVED, That the City Council acknowledges that the grant funds do not cover City staff costs; and be it

FURTHER RESOLVED, That the City Council authorizes the appropriation of grant funds in an amount up to $110,000, to be received on a reimbursement basis and deposited into the Environmental Protection Agency Fund (2125), Environmental Compliance and Remediation Organization (30683), in a project to be established upon execution of the agreement with the EPA; and be it

FURTHER RESOLVED, That the City Administrator or designee is hereby authorized to approve any subsequent amendments or extensions of said agreement, provided that such amendments or extensions shall be approved by the City Attorney's Office and shall be filed with the City Clerk's Office. Should additional grant funds be received, the City Administrator is hereby authorized to appropriate same for the purposes described above within the three year grant term.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

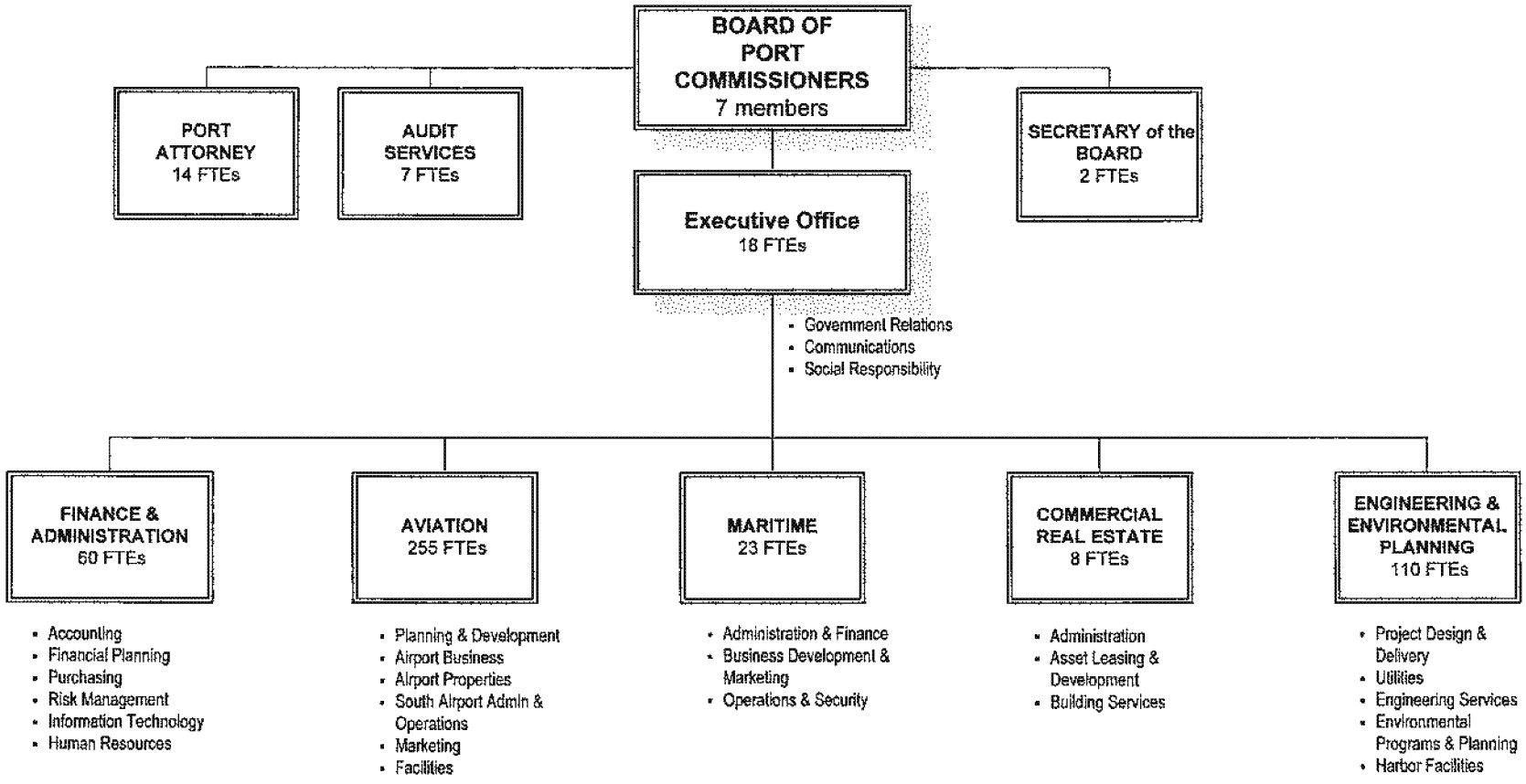
ATTEST:_____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EPA-HQ-2019-000105

PORT OF OAKLAND ORGANIZATION CHART

Fiscal Year 2015-16

497 Funded FTEs (Full-Time Equivalents)

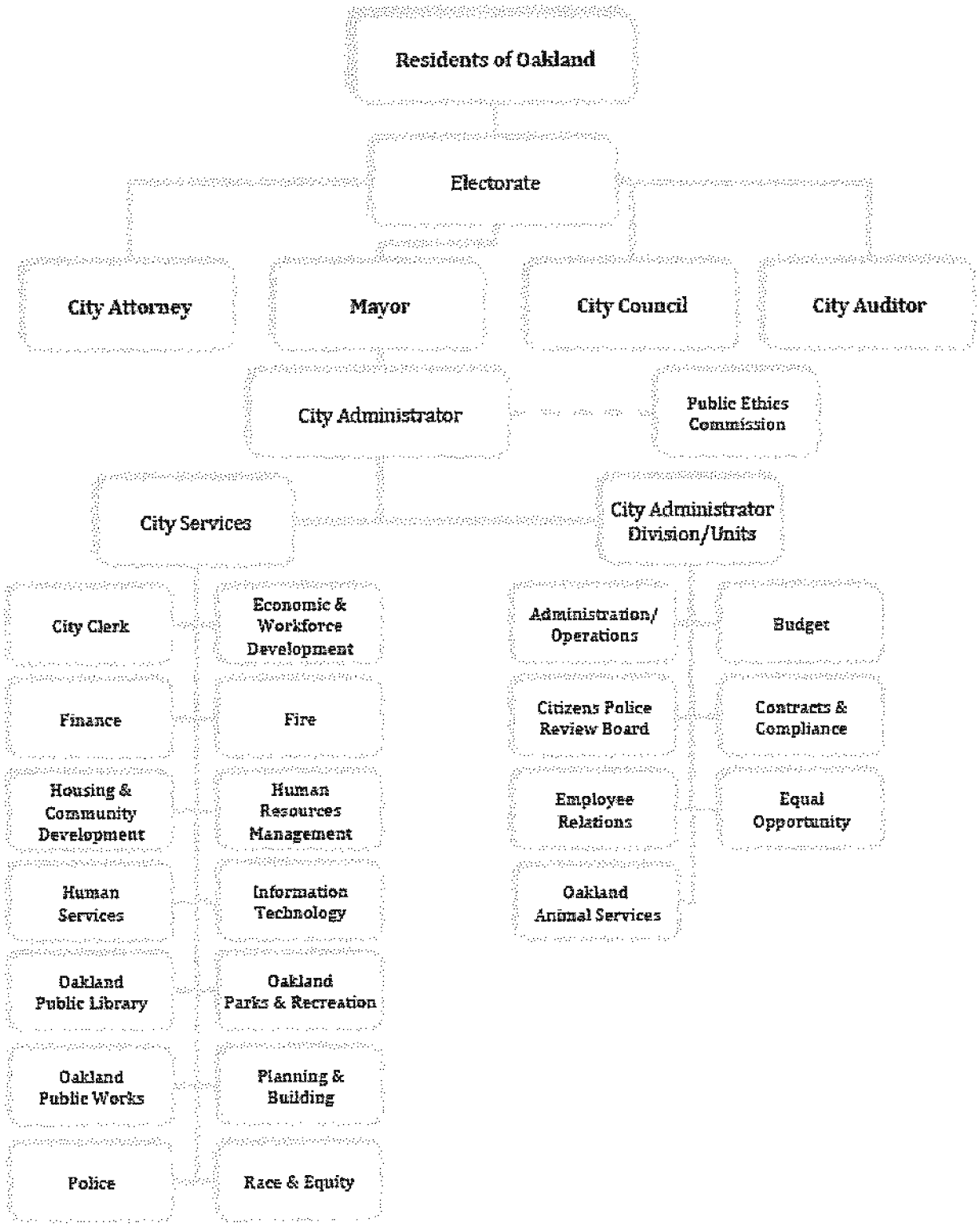


Release date: "April 18, 2019"

EPA-HQ-2019-003701 000111 2019-04-18

ED_002352_00000110-00001

CITY OF OAKLAND ORGANIZATION CHART



CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2016 NOV 22 AM 11:09

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Darin Ranelletti
Interim Director, PBD

SUBJECT: Informational Report on Army Base Northeast Gateway Construction-Related Air Quality Plan

DATE: November 14, 2016

City Administrator Approval Date: 11/21/16

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Construction-Related Air Quality Plan Prepared by Prologis And Approved By The City Administrator For The Northeast Gateway Site Of The Oakland Army Base Redevelopment Project.

EXECUTIVE SUMMARY

Prologis, one of the developers of the Oakland Army Base Redevelopment Project, has prepared an Air Quality Plan to reduce potential air quality impacts during construction of the proposed trade and logistics warehouse located in the Northeast Gateway. The City Administrator approved the Air Quality Plan on October 4, 2016. The mitigation measures for the project require an informational report be submitted to the City Council following the City Administrator's approval.

The City Administrator's approval is attached to this report and contains the approved Air Quality Plan, public comment letters, and additional background information.

BACKGROUND / LEGISLATIVE HISTORY

The Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCA/MMRP") approved on July 16, 2013, by the City Council for the Army Base project contains requirements for reducing the potential environmental impacts of the project, including requirements to reduce impacts related to air quality and trucking.

Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans) requires the City to conduct a public process in the development and review of the plans to comply with the above requirements and requires City Administrator approval of these plans.

Item: _____
CED Committee
December 6, 2016

On December 5, 2013, the City Administrator approved the plan to comply with construction-related air quality requirements for the horizontal infrastructure phase of the project (e.g., new streets and utilities).

As the Army Base project is developed over time, individual developers of the project's vertical elements (e.g., new buildings and permanent activities) will submit plans to meet these air quality requirements. The first vertical development being implemented is the trade and logistics warehouse project by Prologis at the Northeast Gateway.

ANALYSIS

The process to develop and approve the Construction-Related Air Quality Plan followed the requirements specified by the City Council in Mitigation Measure PO-1 and included a public outreach component, as further discussed below under the "Public Outreach / Interest" section of this report.

Public comments received on the draft Air Quality Plan ranged from detailed comments targeting a specific issue to larger, general comments about the overall project. Comments could be loosely grouped into the following three categories: Overall Army Base Project Implementation; Construction vs. Operational Phases; and Details Regarding Construction-Phase Compliance. These categories are further discussed below.

Overall Army Base Project Implementation

Some stakeholders sought clarity on how the different Air Quality Plans and environmental requirements are being implemented over the construction phases and operational phases of the different elements of the overall Army Base project being developed at different times by different parties. The attached City Administrator approval contains an exhibit prepared by staff to better identify the different Air Quality Plans associated with the project.

In order to better track the construction and operational phases of the overall Army Base project, and their corresponding Air Quality Plans, the Bay Area Air Quality Management District and the California Air Resources Board requested notification when construction of the subject Prologis building begins. The City Administrator included this requirement in the approval of the Plan.

Construction vs. Operational Phases

The air quality requirements for the Army Base project address both the construction phase and operational phase of the project. Prologis received approval of an Air Quality Plan for the construction phase of the first building; it will seek approval of an Air Quality Plan for the operational phase of the first building at a later date, prior to operation of the facility. Like the construction-phase Air Quality Plan, the operational-phase Air Quality Plan will also require public outreach, stakeholder review/comment and City Administrator review/comment/approval.

Many of the strategies recommended in the public comments to reduce air quality impacts relate to the operational phase of the development that are implemented when a tenant occupies the

building and property. According to Prologis a tenant has not yet been identified for the property. Prologis is proposing to construct a "cold shell," meaning improvements for the individual tenant (e.g., office-restroom buildouts, equipment, and electrical, plumbing, and mechanical systems) will be installed later depending upon the needs of the tenant. Many of the strategies to reduce air emissions, such as electrification of warehouse and transportation equipment, can be implemented with the future tenant improvements and are not being precluded by the current design and construction of the building. Prologis will have guidelines for tenant improvements ("TI Guidelines") in individual leases that specify environmental and other requirements that the tenant must meet. Along with the environmental requirements from the Army Base SCA/MMRP, the proposed building is also subject to the City's green building regulations requiring the building to meet Leadership in Energy and Environmental Design ("LEED") Gold standards. Operational-related SCA/MMRP and LEED requirements can be adequately fulfilled by individual future tenants through the TI Guidelines or other lease-related, functionally equivalent mechanism. It is important for the operational-phase Air Quality Plan, particularly the elements related to individual tenant operations, to be in place before tenant operations begin. Accordingly, the City Administrator's approval included a requirement that the operational-phase Air Quality Plan be approved before any leases for the project are executed or operational activities at the site commence

Details Regarding Construction-Phase Compliance

Some stakeholders raised questions on the initial draft Air Quality Plan regarding how specific construction-related air quality requirements will be met. In response, Prologis added more specificity to the Plan. Below are some examples of where the Plan has been enhanced.

- Dust Monitoring: To control fugitive dust from the site, exposed dirt surfaces will be watered regularly. A wind speed sensor will be installed on the site and monitored periodically. Watering will be adjusted based on wind speed with increased watering during high winds (over 15 mph) and activities suspended during excessive wind (over 20 mph). Watering will occur until adequate moisture is achieved when the earth becomes tacky.

- Off-Road Equipment: To reduce emissions associated with off-road equipment, all contractors will use late-model equipment with lower-emission Tier 4 engines if available. At a minimum, Tier 3 engines will be required if Tier 4 engines are not available. The Air Quality Plan provides additional details on equipment compliance and monitoring. For example, contractors can provide documentation from the California Air Resources Board's Diesel Off-Road Online Reporting System ("DOORS") indicating engine specifications for equipment brought on-site. To assist with monitoring project performance with this requirement, the City Administrator's approval requires Prologis to submit the list of equipment brought on-site and the corresponding engine tier upon request by the City.

- Electric Power: Portable equipment will be powered by electricity from the project site's grid instead of diesel-powered generators thereby reducing emissions.

- Compliance: The Air Quality Plan identifies a Compliance Manager that will monitor and facilitate implementation of construction-related environmental requirements. All

contractors will maintain daily logs that can be submitted to the Compliance Manager. The Compliance Manager will complete training courses offered by the California Air Resources Board for emissions evaluation. To further promote compliance, the City Administrator's approval requires Prologis to obligate its construction contractor to comply with the Air Quality Plan and the requirements of the SCA/MMRP through the construction contract, agreement, or other functionally equivalent and enforceable mechanism.

FISCAL IMPACT

There are no fiscal impacts of the City Council's action to receive this informational report; the City Administrator has already approved the Air Quality Plan. Furthermore, there are no fiscal impacts of implementing the Air Quality Plan since the Plan will be implemented and funded by Prologis.

PUBLIC OUTREACH / INTEREST

On March 3, 2016, Prologis presented an initial version of a plan to comply with air quality requirements during construction (referred to as the "Air Quality Plan") at a quarterly meeting attended by air quality stakeholders, including community-based organizations, community residents, and interested government agencies.

On April 25, 2016, Prologis formally submitted the first draft of the Air Quality Plan to the City. On May 13, 2016, the draft Air Quality Plan was released to stakeholders for a 17-day public review period as required by Mitigation Measure PO-1. The City received comments from the following organizations: West Oakland Environmental Indicators Project; Ditching Dirty Diesel; Alameda County Public Health Department; Bay Area Air Quality Management District; and California Air Resources Board.

City staff met with Prologis numerous times to discuss potential enhancements to the Air Quality Plan to address public comments and reduce potential air quality impacts. In addition, staff conducted a visit to the site with staff from the Port of Oakland and the California Air Resources Board on July 21, 2016, and had a follow-up conference call with Prologis, the project contractor, the Bay Area Air Quality Management District, and the California Air Resources Board on August 3, 2016. In response to feedback from City staff and stakeholders, Prologis submitted revisions to the Air Quality Plan on July 18, July 27, and August 30, 2016. The latest draft of the Air Quality Plan, dated August 30, 2016, includes a cover letter from Prologis that responds to the public comments on the previous version of the Plan.

COORDINATION

The preparation of this report and the approved Air Quality Plan involved coordination between the Planning and Building Department and Army Base project staff in the City Administrator's Office.

Item: _____
CED Committee
December 6, 2016

SUSTAINABLE OPPORTUNITIES

Economic: The Air Quality Plan will facilitate implementation of the Army Base project. In addition to the construction and operation jobs typically associated with new development, the Army Base project includes a Community Benefits Program with beneficial contracting and jobs requirements including funding for local jobs programs and construction wage and labor requirements.

Environmental: The Air Quality Plan will facilitate implementation of the Army Base project which the City Council determined to have beneficial environmental effects including the remediation of site contamination and increased access to open space. The Plan itself will reduce potential air quality and trucking impacts related to the construction at the Northeast Gateway. The project will also be subject to other environmentally-friendly construction and operation requirements, such as stormwater management requirements and green building requirements. The potential adverse environmental impacts of the project have also been analyzed under the California Environmental Quality Act ("CEQA") as discussed below.

Social Equity: The Air Quality Plan will facilitate implementation of the Army Base project which includes the Community Benefits Program and environmental benefits discussed above and the Air Quality Plan itself will reduce potential air quality and trucking impacts on nearby residents of West Oakland.

CEQA

An Environmental Impact Report was certified in 2002 when the Oakland Army Base Area Redevelopment Plan was adopted. An Initial Study/Addendum was prepared in 2012 when the City Council approved the master plan for the project and the Lease Disposition and Development Agreement with Prologis CCIG Oakland Global, LLC, the master developer of the site. The action of the City Administrator to approve the Air Quality Plan implements the environmental requirements previously imposed by the SCA/MMRP.

Item: _____
CED Committee
December 6, 2016

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive an informational report on the construction-related Air Quality Plan prepared by Prologis and approved by the City Administrator for the Northeast Gateway site of the Oakland Army Base Redevelopment Project.

For questions regarding this report, please contact me at (510) 238-3663.

Respectfully submitted,

DARIN RANELLETTI
Interim Director, Planning and Building Department

Attachments (5):

A. *City Administrator's October 4, 2016, Approval of Construction-Related Air Quality Plan by Prologis for Northeast Gateway (without attachments, which are contained below)*
B. *Initial Draft Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan [Air Quality Elements]; dated April 25, 2016)*
C. *Public Comment Letters Received in Response to Draft Air Quality Plan dated April 25, 2016*
D. *Revised Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway A-D. Construction Management Plan" including related documents; dated August 30, 2016)*
E. *Air Quality Plan Implementation at Army Base – Tentative Timeline*

Item: _____
CED Committee
December 6, 2016

Attachment A

City Administrator's October 4, 2016, Approval of Construction-Related Air Quality Plan by Prologis for Northeast Gateway

CITY OF OAKLAND

INTER OFFICE MEMORANDUM

TO: Sabrina B. Landreth
City Administrator

FROM: Rachel Flynn

SUBJECT: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site

DATE: September 8, 2016

City Administrator Approval _____ Date 10/4/16

RECOMMENDATION

Approve the construction-related Air Quality Plan for the Prologis development site located in the Northeast Gateway area of the former Oakland Army Base subject to the following conditions:

1. Prologis shall inform the Bay Area Air Quality Management District and the California Air Resources Board when construction commences at the site and provide contact information for a project representative at the site.

2. No lease for the development shall be executed and no operational activities at the site shall commence until the City Administrator approves the Air Quality Plan for the operational phase of the site.

3. Prologis shall submit the list of off-road construction equipment brought on-site and the corresponding engine tier upon request by the City.

4. Prologis shall obligate its construction contractor to comply with the Air Quality Plan and the requirements of the Standard Conditions of Approval / Mitigation Monitoring and Reporting Program through the construction contract, agreement, or other functionally equivalent and enforceable mechanism.

EXECUTIVE SUMMARY

Prologis, one of the developers of the Oakland Army Base redevelopment project, has prepared an Air Quality Plan to reduce potential air quality impacts during construction of the proposed trade and logistics warehouse located in the Northeast Gateway. The mitigation measures for the project require City Administrator approval of the Air Quality Plan.

BACKGROUND

The Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCAMMRP") for the Army Base project contains requirements for reducing the potential environmental impacts of the project, including requirements for the following plans and strategies to reduce impacts related to air quality and trucking:

- Construction Management Plan (SCA AIR-1)
- Construction-Related Air Pollution Controls (SCA AIR-2)
- Truck Management Plan (Mitigation 4.3-7)
- Maritime and Rail-Related Emissions Reduction Plan (Mitigation 4.4-3b)
- Truck Diesel Emission Reduction Plan (Mitigation 4.4-4)
- Transportation Control Measures (Mitigation 4.4-5)
- Energy-Conserving Fixtures and Designs (Mitigation 4.4-6)
- Demonstration Projects (Mitigation 5.4-1)
- Parking and Transportation Demand Management (SCA TRANS-1)
- Construction Traffic and Parking (SCA TRANS-2)
- Traffic Control Plan – Hazardous Materials (Mitigation 4.3-13)

Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans) requires the City to conduct a public process in the development and review of the plans to comply with the above requirements and requires City Administrator approval of these plans.

On December 5, 2013, the City Administrator approved the plan to comply with construction-related air quality requirements for the horizontal infrastructure phase of the project (e.g., new streets and utilities).

As the Army Base project is developed over time, individual developers of the project's vertical elements (e.g., new buildings and permanent activities) will submit plans to meet these air quality requirements. The first vertical development being implemented is the trade and logistics warehouse project by Prologis at the Northeast Gateway.[1]

On March 3, 2016, Prologis presented an initial version of a plan to comply with air quality requirements during construction (referred to as the "Air Quality Plan") at a quarterly meeting attended by air quality stakeholders, including community-based organizations, community residents, and interested government agencies.

On April 25, 2016, Prologis submitted the first draft of the Air Quality Plan to the City (see ***Attachment A***). On May 13, 2016, the draft Air Quality Plan was released to stakeholders for a 17-day public review period as required by Mitigation Measure PO-1. The City received comments from the following organizations: West Oakland Environmental Indicators Project; Ditching Dirty Diesel; Alameda County Public Health Department; Bay Area Air Quality

[1] The "Northeast Gateway" is a term used by Prologis to refer to the northern portion of the East Gateway area.

Management District; and California Air Resources Board (see ***Attachment B***). The comments are summarized and discussed in the "Key Issues" section below.

City staff met with Prologis numerous times to discuss potential enhancements to the Air Quality Plan to address public comments and reduce potential air quality impacts. In addition, staff conducted a visit to the site with staff from the Port of Oakland and the California Air Resources Board on July 21, 2016, and had a follow-up conference call with Prologis, the project contractor, the Bay Area Air Quality Management District, and the California Air Resources Board on August 3, 2016. In response to feedback from City staff and stakeholders, Prologis submitted revisions to the Air Quality Plan on July 18, July 27, and August 30, 2016.[2] The latest draft of the Air Quality Plan, dated August 30, 2016, is attached along with a cover letter from Prologis that responds to the public comments on the previous version of the Plan (see ***Attachment C***).

KEY ISSUES

Public comments received on the draft Air Quality Plan ranged from detailed comments targeting a specific issue to larger, general comments about the overall project. Comments could be loosely grouped into the following three categories: Overall Army Base Project Implementation; Construction vs. Operational Phases; and Details Regarding Construction-Phase Compliance. These categories are further discussed below. Also, refer to the cover letter prepared by Prologis (in ***Attachment C***) that contains a detailed response to the public comments.

Overall Army Base Project Implementation

Some stakeholders sought clarity on how the different Air Quality Plans and environmental requirements are being implemented over the construction phases and operational phases of the different elements of the overall Army Base project being developed at different times by different parties. Staff has prepared an exhibit to better identify the different Air Quality Plans associated with the project (see ***Attachment D***).

In order to better track the construction and operational phases of the overall Army Base project, and their corresponding Air Quality Plans, the Bay Area Air Quality Management District and the California Air Resources Board have requested notification when construction of the subject Prologis building begins. Staff believes this request is appropriate and recommends a corresponding condition to this effect when the City Administrator approves the subject Air Quality Plan (see Condition #1 in "Recommendation" section above).

[2] The initial draft Air Quality Plan submitted on April 25, 2106, only pertained to compliance with air quality requirements as required by the project mitigation measures. However, due to stakeholder interest in construction issues related to other topics besides air quality, Prologis submitted its entire Construction Management Plan – which addresses other topics in addition to air quality – when it submitted revisions to the Air Quality Plan.

Construction vs. Operational Phases

The air quality requirements for the Army Base project address both the construction phase and operational phase of the project. Prologis is currently seeking approval of an Air Quality Plan for the construction phase of the first building; it will seek approval of an Air Quality Plan for the operational phase of the first building at a later date. Like the construction-phase Air Quality Plan, the operational-phase Air Quality Plan will also require stakeholder review and City Administrator approval.

Many of the strategies recommended in the public comments to reduce air quality impacts relate to the operational phase of the development that are implemented when a tenant occupies the building and property. According to Prologis a tenant has not yet been identified for the property. Prologis is proposing to construct a "cold shell," meaning improvements for the individual tenant (e.g., office-restroom buildouts, equipment, and electrical, plumbing, and mechanical systems) will be installed later depending upon the needs of the tenant. Many of the strategies to reduce air emissions, such as electrification of warehouse and transportation equipment, can be implemented with the future tenant improvements and are not being precluded by the current design and construction of the building. Prologis will have guidelines for tenant improvements ("TI Guidelines") in individual leases that specify environmental and other requirements that the tenant must meet. Along with the environmental requirements from the Army Base SCAMMRP, the proposed building is also subject to City green building regulations requiring the building to meet Leadership in Energy and Environmental Design ("LEED") Gold standards. Operational-related SCAMMRP and LEED requirements can be adequately fulfilled by individual future tenants through the TI Guidelines or other lease-related, functionally equivalent mechanism. It is important for the operational-phase Air Quality Plan, particularly the elements related to individual tenant operations, to be in place before tenant operations begin. Accordingly, staff recommends a condition be attached when the City Administrator approves the subject Air Quality Plan that requires City Administrator approval of the operational-phase Air Quality Plan before any leases for the project are executed or operational activities at the site commence (see Condition #2 in "Recommendation" section above).

Details Regarding Construction-Phase Compliance

Some stakeholders raised questions on the initial draft Air Quality Plan regarding how specific construction-related air quality requirements will be met. In response, Prologis added more specificity to the Plan. Below are some examples of where the Plan has been enhanced.

- Dust Monitoring: To control fugitive dust from the site, exposed dirt surfaces will be watered regularly. A wind speed sensor will be installed on the site and monitored periodically. Watering will be adjusted based on wind speed with increased watering during high winds (over 15 mph) and activities suspended during excessive wind (over 20 mph). Watering will occur until adequate moisture is achieved when the earth becomes tacky.

- Off-Road Equipment: To reduce emissions associated with off-road equipment, all contractors will use late-model equipment with lower-emission Tier 4 engines if available. At a minimum, Tier 3 engines will be required if Tier 4 engines are not available. The Air Quality Plan provides additional details on equipment compliance and monitoring. For example, contractors can provide documentation from the California Air Resources Board's Diesel Off-Road Online Reporting System ("DOORS") indicating engine specifications for equipment brought on-site. To assist with monitoring project performance with this requirement, staff recommends a condition be attached when the City Administrator approves the subject Air Quality Plan that requires Prologis to submit the list of equipment brought on-site and the corresponding engine tier upon request by the City (see Condition #3 in "Recommendation" section above).

- Electric Power: Portable equipment will be powered by electricity from the project site's grid instead of diesel-powered generators thereby reducing emissions.

- Compliance: The Air Quality Plan identifies a Compliance Manager that will monitor and facilitate implementation of construction-related environmental requirements. All contractors will maintain daily logs that can be submitted to the Compliance Manager. The Compliance Manager will complete training courses offered by the California Air Resources Board for emissions evaluation. To further promote compliance, staff recommends a condition be attached when the City Administrator approves the subject Air Quality Plan that requires Prologis to obligate its construction contractor to comply with the Air Quality Plan and the requirements of the SCAMMRP through the construction contract, agreement, or other functionally equivalent and enforceable mechanism (see Condition #4 in "Recommendation" section above).

CONCLUSION

The stakeholder review requirements for the proposed Air Quality Plan have been satisfied and the Air Quality Plan has been revised in response to comments received from the public. Staff believes the Air Quality Plan is adequate and recommends that the City Administrator approve the Plan.

Pursuant to Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans), following the City Administrator's approval of the Air Quality Plan staff will make an informational presentation on the Air Quality Plan to the City Council.

Please contact Darin Ranelletti, Deputy Director, at (510) 238-3663, if you have any questions.

RACHEL FLYNN
Director, Planning and Building Department

Prepared by:
Darin Ranelletti
Deputy Director, Planning and Building Department

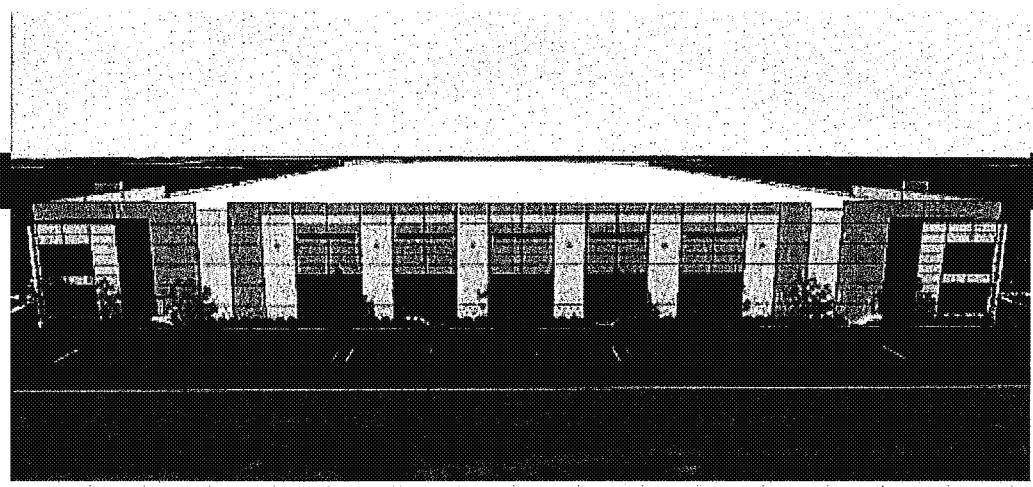
Attachments:

A. *Initial Draft Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan [Air Quality Elements]; dated April 25, 2016)*
B. *Public Comment Letters Received in Response to Draft Air Quality Plan dated April 25, 2016*
C. *Revised Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan" including related documents; dated August 30, 2016)*
D. *Air Quality Plan Implementation at Army Base – Tentative Timeline*

Attachment B

Initial Draft Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan [Air Quality Elements]; dated April 25, 2016)

NORTHEAST GATEWAY CONSTRUCTION MANAGEMENT PLAN (AIR QUALITY ELEMENTS)



Initial Submittal: April 25, 2016

PROLOGIS

WT WHITING-TURNER

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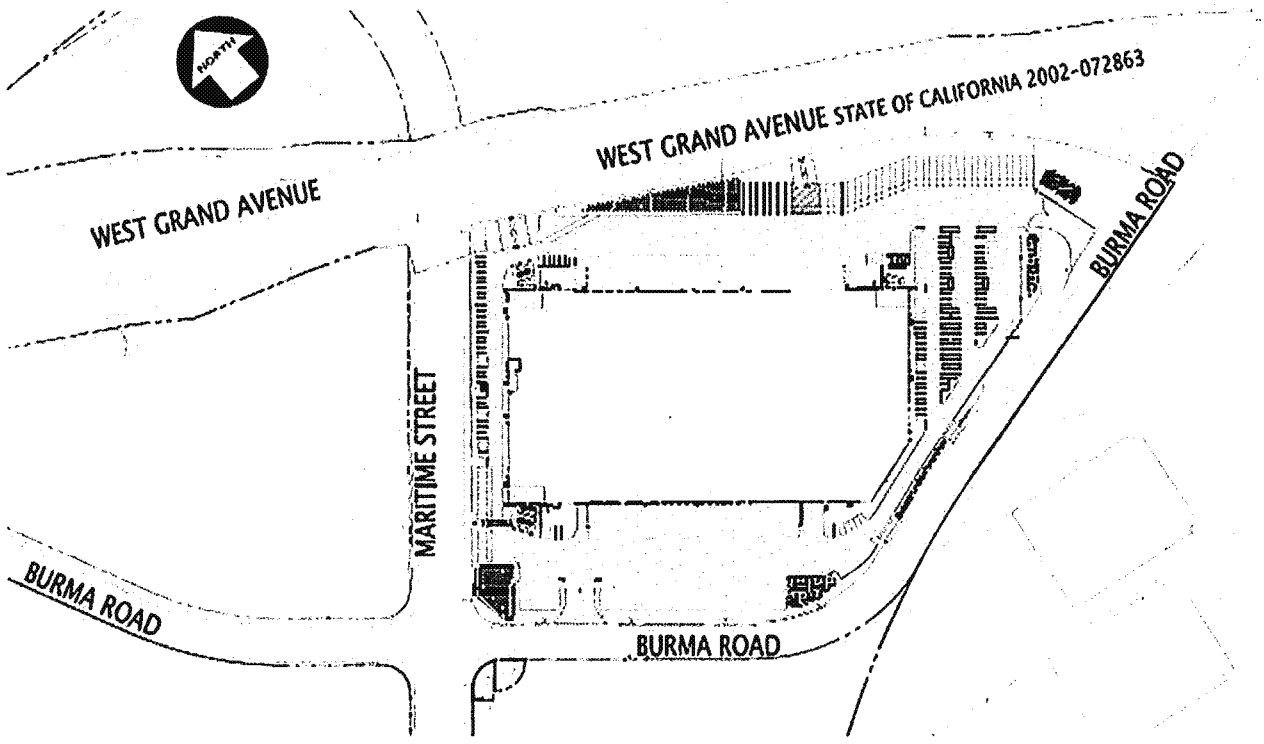
1. Project Overview and General Information



On the Northeast Gateway site Prologis will construct a new 256,000 sf warehouse on a site covering approximately 702,000sf bordered by Maritime Street, Burma Road and West Grand Ave. The project site improvements will include new underground utilities, landscaping, concrete and ac paving and bio-swales. The new warehouse building will include 55 truck docks, 78 trailer parking stalls, 171 auto parking stalls and two electric vehicle charging stations.

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2. Air Quality - Construction Related Air Pollution Controls

SCA-AIR-2 Construction Related Air Pollution Controls

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

During Construction, the project applicant shall require the construction contractor to implement all of the following applicable measures recommended by the Bay Area Air Quality Management District (BAAQMD):

a. Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.

b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).

c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

d. Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

e. Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).

f. Requirement: Limit vehicle speeds on unpaved roads to 15 miles per hour.

g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes (as required by Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.

h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes and fleet operators must develop a written idling policy (as required by Title 13, Section 2449 of the California Code of Regulations.)

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

j. Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.

k. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

2. Air Quality - Construction Related Air Pollution Controls

l. All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.

m. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

n. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).

o. Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.

p. Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.

q. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

r. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

s. All trucks and equipment, including tires, shall be washed off prior to leaving the site.

t. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

u. All equipment to be used on the construction site and subject to the requirements of Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") must meet Emissions and Performance Requirements one year in advance of any fleet deadlines. The project applicant shall provide written documentation that the fleet requirements have been met.

v. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).

Dust Control Mitigation Plan:

The Erosion Control Plan (Exhibit B) was submitted to the City as part of the 02/08/2016 Issue for Permit Drawings. In addition to the dust control measures included in The Erosion Control Plan the following items will be implemented to control dust -

a. Use water trucks to water exposed surfaces during construction activities at least twice daily or more frequently if winds exceed 15 mph. Suspend excavation, grading, and demolition activities when average wind speed exceeds 20 mph. Maintain minimum soil moisture of 12% as indicated by laboratory samples or a moisture meter. Use reclaimed water for dust mitigation whenever feasible.

2. Air Quality - Construction Related Air Pollution Controls

b. Cover truck loads with tarpaulins or keep loads 2 feet below the sideboard of the truck bed to eliminate wind contact with soil or other loaded materials.

c. Require all operators tracking dirt/mud onto public roadways to have a wet power vacuum sweeper present daily during these activities and remove tracked dirt/mud at the end of each day or more frequently if needed.

d. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. Construction area entrances will be built using fabric and 3x5 rock to facilitate tire soil removal prior to leaving the site (or as defined by the guidelines in the Best Management Practice Handbook). Ingress/egress sites will also provide dry brushing of loose soil from tires and fenders.

e. As soon as practical and prior to rainy season, cover all access roads and/or permanent roads and building pads with aggregate or asphalt concrete to mitigate tracking of dirt and/or mud offsite.

f. Cover all inactive soil material stockpiles with plastic sheeting or non-toxic soil binders. Water all active stockpiles to maintain 12% moisture.

g. Install fencing with attached windscreen fabric on the windward side of the actively disturbed area of the construction site.

h. Replant vegetation in disturbed areas as quickly as possible.

i. Limit simultaneous occurrence of excavation, grading, and ground disturbance activities on the same area at any one time when feasible.

j. Draft and implement a Project SWPPP. The onsite QSP (Randy Knaus) will monitor runoff before, during, and after rain events. Deficiencies will be logged and corrected immediately. Inactive construction areas will be properly addressed with BMPs to eliminate erosion. Required BMPs will be outlined in the SWPPP and enforced with reporting and inspection.

k. Post signage and enforce 15 mph speed limit requirement for unpaved roads (Exhibit G).

l. Post signage and enforce dust complaint reporting requirement (Exhibit H). Take corrective action to remedy complaints within no more than 48 hours after receiving the complaint.

m. The Project Dust Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. The Contractor will maintain Daily Inspection Logs throughout the Project.

Emission Control Mitigation Plan:

To reduce emissions generated by equipment operating onsite the following protocols will be implemented –

a. Use late model heavy-duty diesel-powered equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment.

b. Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and

2. Air Quality - Construction Related Air Pollution Controls

unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.

c. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.

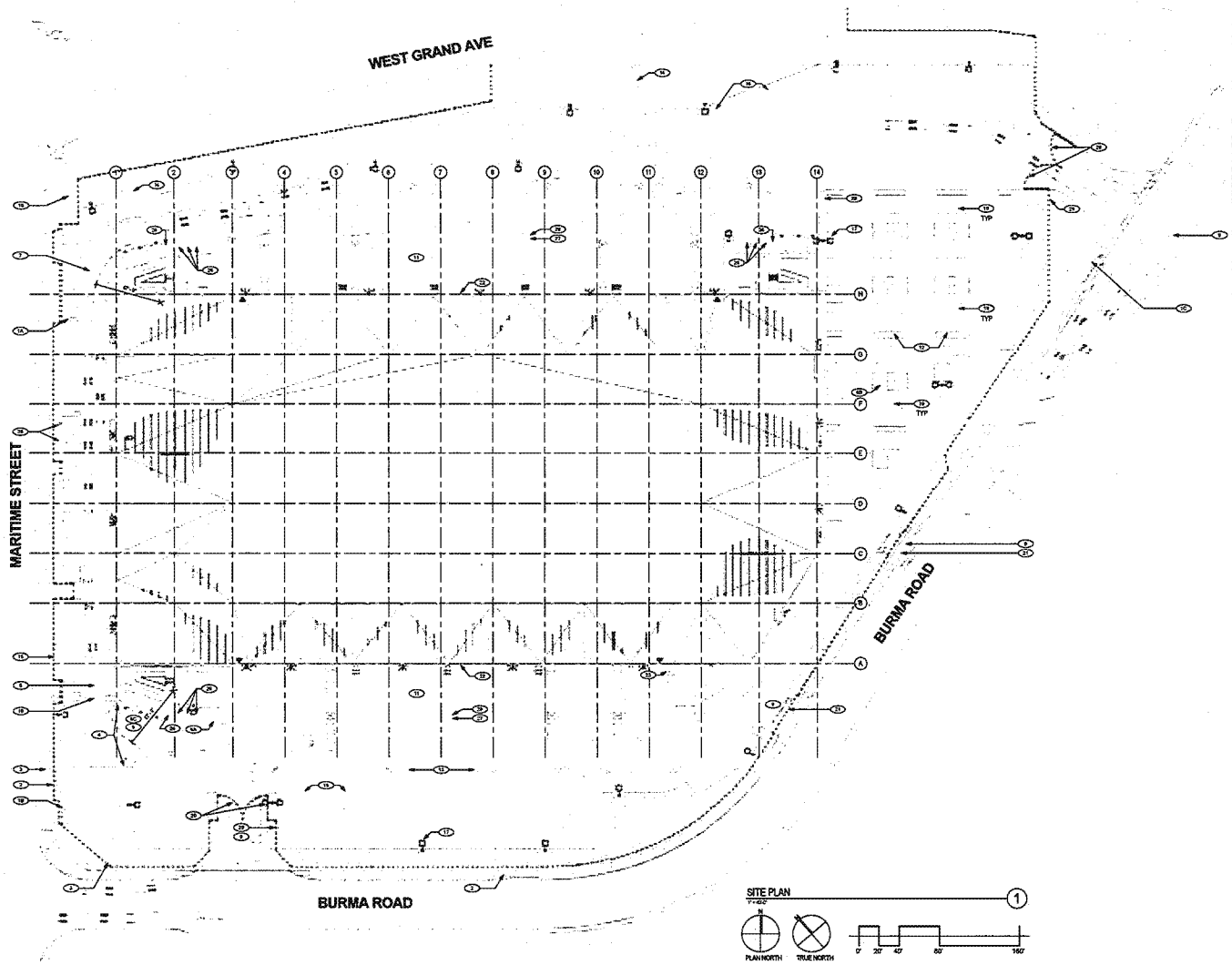
d. Keep all construction equipment properly tuned by a certified mechanic in accordance with the manufacturer's specifications. Operators will provide the Contractor with written documentation of equipment maintenance for all equipment to be used onsite.

e. Enforce requirements of CCR Title 13, Section 2449 (CARB OffRoadDiesel Regulations) and Title 13, Section 2485 with reporting and/or inspection and enforce construction equipment maintenance requirements.

f. The Project Compliance Manager (Randy Knaus) will to monitor and facilitate the implementation of mitigation measures. All contractors subject this provision will maintain Daily Inspection Logs throughout the Project.

g. Post signage limiting truck and equipment idling time to five minutes or less. (Exhibit J)

Exhibit A- Site Plan and Elevation



SITE STATISTICS

PARCEL NUMBER:	018-0507-001-00
ZONING:	D-OI
HEIGHT - CENTRAL BUSINESS DISTRICT:	N/A
HEIGHT - COMMERCIAL CORRIDOR:	N/A
MAXIMUM BUILDING HEIGHT:	65'-0" (PER OAKLAND ZONING 17.101F.050)
MAXIMUM FLOOR AREA RATIO:	5 (PER OAKLAND ZONING 17.101F.050)
GENERAL PLAN:	BUSINESS MIX
CONDO CONVERSION IMPACT AREA:	NO
CITY COUNCIL DISTRICT:	CCD3
SDS SERVICE DISTRICT:	1
PORT OF OAKLAND JURISDICTION:	NO
LOCAL HISTORIC PROPERTY CATEGORY:	LOCAL REGISTER
LOCAL HISTORIC DISTRICT:	
OCHS RATING:	
CONSTRUCTION DATE:	
LOCAL LANDMARK:	NO
NATIONAL HISTORIC LANDMARK :	NO
HERITAGE PROPERTY:	NO
DESIGNATED HISTORIC DISTRICT:	NO
MILLS ACT	NO
W-BP SNAKE CRITICAL HABITAT:	NO
FLOOD ZONE:	NO
HAYWARD FAULT ZONE:	NO
LIQUEFACTION HAZARD ZONE:	YES, LIQUEFACTION SEVERITY 5
WILD FIRE ASSESSMENT DISTRICT:	NO
TOTAL SITE AREA =	702,071.2175 G.S.F. = 16.12 ACRES
TOTAL BLDG AREA =	256,136 G.S.F.
SITE COVERAGE =	36.48 %
TOTAL VEHICLE PARKING =	214 STALLS = .84 / 1000 S.F.
TOTAL TRAILER PARKING =	71 TRAILER STALLS (12' X 55')
PARKING STANDARDS (17.116.200):	
STANDARD PARKING STALLS	18' DEEP X 8.5' WIDE
COMPACT PARKING STALLS	15' DEEP X 7.5' WIDE (50% MAX)
PARALLEL PARKING STALLS	20.5' DEEP X 7.5' WIDE
DRIVE ISLE WIDTH (17.116.210) AT 90 DEGREE PARKING:	21 FEET MINIMUM
REQUIRED PARKING PER ZONING CODE:	
OFFICE (17.116.080 C, BUSINESS):	1 / 600 S.F.
INDUSTRIAL ACTIVITIES (17.116.090)	1 / 1500 S.F. OR 1 FOR EACH 3 EMPLOYEES (WHICHEVER IS GREATER)
REQUIRED PARKING BY USE:	
OFFICE = (8,349 S.F. @ 1/600 S.F.)	14 STALLS
WAREHOUSE = (247,787 S.F. @ 1/1500 S.F.)	165 STALLS
TOTAL PARKING REQUIRED =	179 STALLS = .76 / 1000 S.F.
TOTAL PARKING PROVIDED =	179 STALLS = .76 / 1000 S.F.
BIORETENTION AREAS	12' X 14' GRADE LEVEL SECTIONAL ROLL UP DOOR
	9' X 10' DOCK LEVEL SECTIONAL ROLL UP DOOR

WT
160 Pine Street
San Francisco, CA 94111
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www.wt-a.com

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#	Description	Date
	ISSUE FOR PERMIT	14.06.02

ISSUE: ISSUE FOR PERMIT FEB 09 2016

OAKLAND GLOBAL LOGISTICS CENTER

PHASE 1, NORTH EAST GATEWAY
OAKLAND
CALIFORNIA

PROLOGIS
1763 GATEWAY BLVD
FREMONT, CALIFORNIA
94538
TELEPHONE: 510.668.1900

Date: DATE:
Project No.: 15024.00

Sheet Title: SITE PLAN

Sheet No.: A1.0.1

Released for Construction
Not Released for Construction

KEY NOTES

1A SITE SIGNAGE FOR REFERENCE ONLY - OVERALL DEVELOPMENT PROJECT
1B SITE SIGNAGE FOR REFERENCE ONLY - BUILDING NUMBER/ADDRESS
1C SITE SIGNAGE FOR REFERENCE ONLY - DUALTAKER DIRECTORY SIGNS (2 TOTAL)
2 PROPERTY LINES TO REMAIN
3 5'-0" WIDE MINIMUM SIDEWALK AT MARITIME AND BURMA RD
4 TYPICAL 6" TALL 18" WIDE CONCRETE CURBS
5 TYPICAL 4" WIDE TRAFFIC STRIPS
6A TYPICAL PARKING - STANDARD STALLS 18' X 8.5' MIN, 19' X 9' SHOWN THROUGHOUT
6B TYPICAL PARKING - COMPACT STALLS 15' X 7.5' MIN, 16' X 9' SHOWN THROUGHOUT, (50%)
6C TYPICAL PARKING - ACCESSIBLE PARKING STALLS 9' X 18' WITH 7' PARKING OVERHANG WITH 8' ONE WAY LOADING ZONE AS SHOWN
7 TYPICAL DRIVE ISLE, 25'-0" MIN ACTUAL DIMENSIONS VARIES
8 PARKING AND DRIVE ISLES TO BE ASPHALTIC CONCRETE
9 PROPOSED LOCATION OF NEW SITE ACCESS DRIVE CURB CUT AT BURMA RD
10 NEW ZONE PEDESTRIAN WALKS TO BE 4' WIDE MIN, ADJACENT ALL SIDEWALKS TO BE ACCESSIBLE PATH OF TRAVEL, SLOPE NOT TO EXCEED 1:20 (5%) IN DIRECTION OF TRAVEL, CROSS SLOPE NOT TO EXCEED 1:50 (2%) WHERE PARKING OVERHANG OCCURS, INCREASE WIDTH OF SIDEWALK TO 6'-0" MIN
11 TRUCK DOCK
12 TYP LANDSCAPE PLANTER AREA
13 NOMINAL TRACTOR TRAILER TEMPLATE SHOWN FOR REFERENCE ONLY
14 CAN'OTE BILLBOARD LOCATION (2 TOTAL)
15 8' TALL PAINTED WROUGHT IRON FENCE, SEE SPECS
16 TYP 12' CSS TRAILER PARKING STALL
17 SITE LIGHTING, POLE MOUNTED LIGHT FIXTURE
18 SEE CIVIL DRAWINGS FOR EASEMENTS LOCATIONS AND INFORMATION
19 PLANNED FUTURE STORAGE ZONES
20 TRANSONIC SECURITY GATES
21 SLIDING SECURITY GATE
22 PROPOSED BUILDING EXTERIOR WALLS TO BE SITE CAST TILT-UP CONCRETE WALLS WITH REVEALS & TEXTURED ELASTOMERIC (DRYVIT) AND A MIX OF EARTH TONE PAINT. PALETTE. EXTERIOR WALLS ARE ACCENTED WITH GLAZING, STEEL, COMPOSITE ALUMINUM PANELS AND ARCHITECTURAL METAL PANELS. SEE EXTERIOR ELEVATIONS
23 LOCATION OF BICYCLE PARKING TO ACCOMMODATE A TOTAL OF 16 BICYCLES, PER CALGREEN REQUIREMENTS
24 AREA OF ASSISTED RESCUE
25 ELECTRIC VEHICLE CHARGING STATIONS (2 TOTAL, SERVICING 4 PARKING SPOTS). PROVIDE CHARGING STATION SIGNAGE.
26 2 HIGH EFFICIENCY VEHICLE STALLS (HEV) - 1% TOTAL IN PROJECT (GREATER THAN THE REQUIREMENT 1% OF TOTAL)
27 PROVIDE BOLLARDS AT FOUR CORNERS OF FH. CONTRACTOR TO COORD BOLLARDS TO NOT CONFLICT WITH FH
28 FRESH TOWING, TYP, SEE CIVIL DWGS
29 FRESH NYLON HIGH SECURITY INTEGRATED INTO FENCE

Exhibit A- Site Plan and Elevation

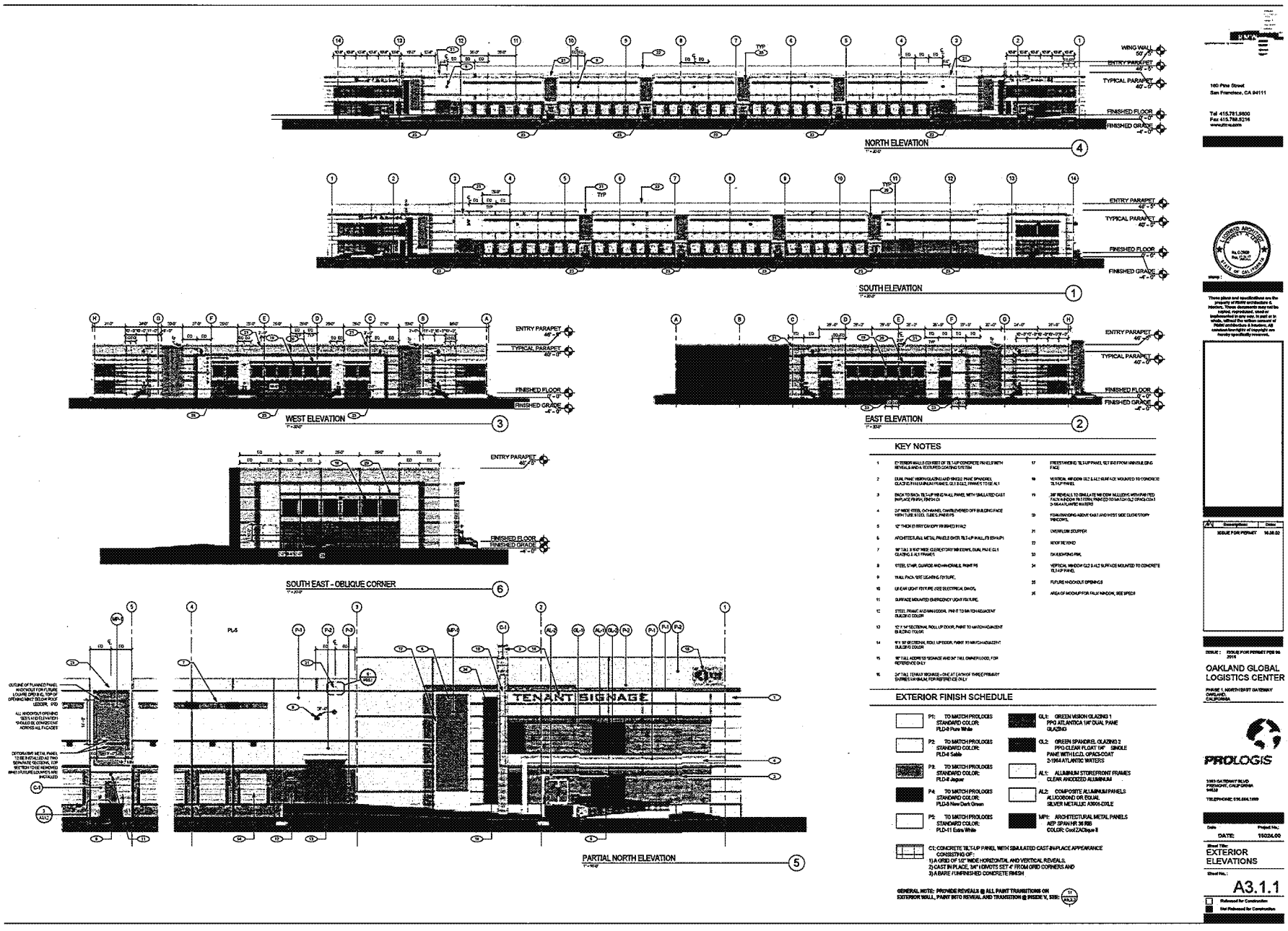
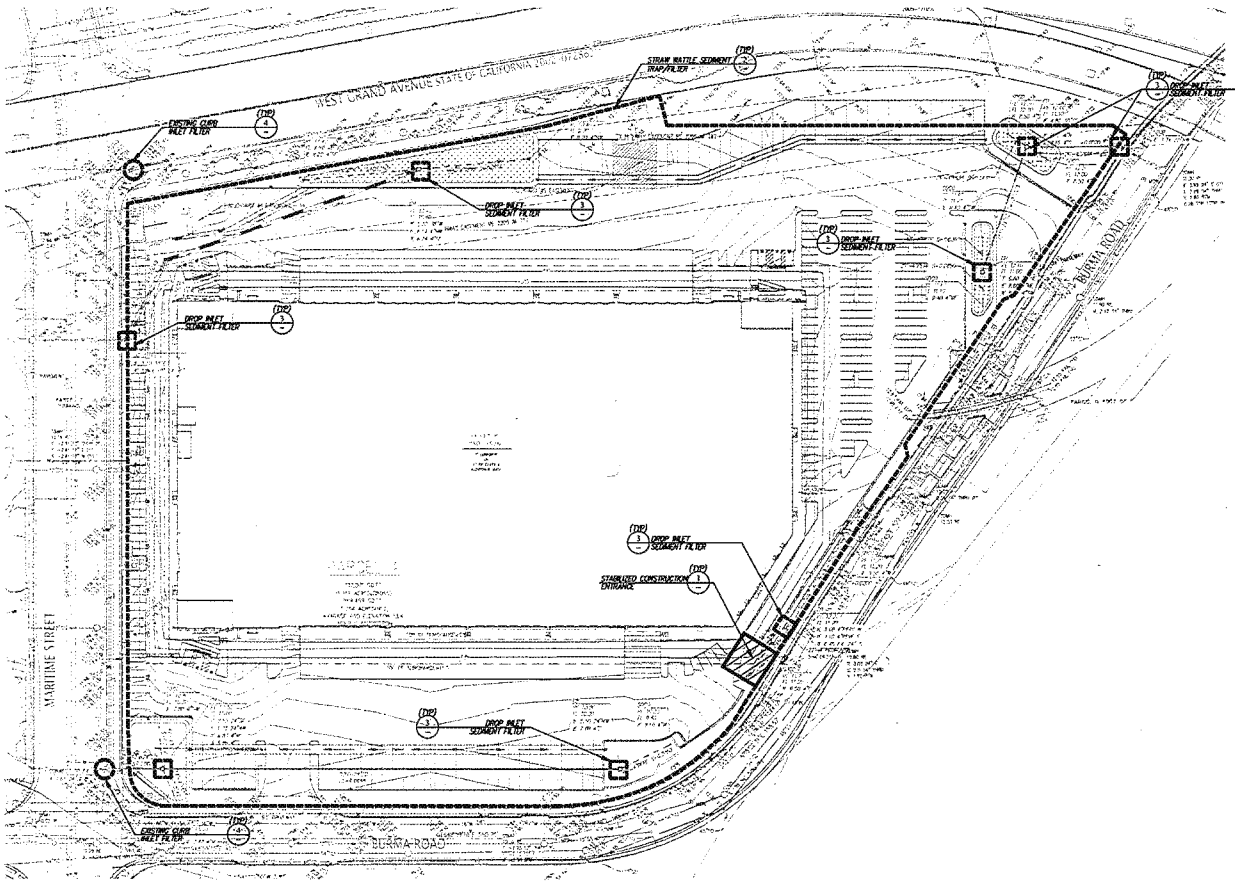
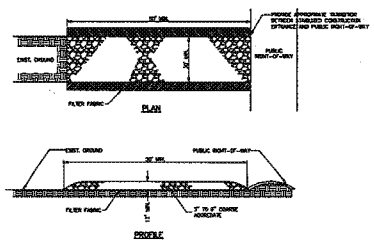
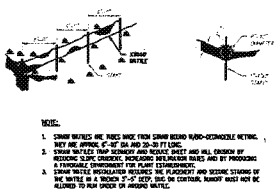


Exhibit B- Erosion Control Plan

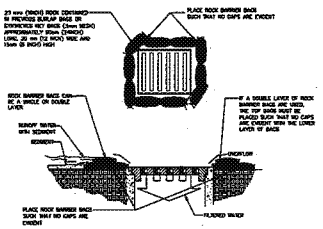




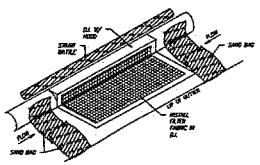
STABILIZED CONSTRUCTION ENTRANCE — 1



STRAW WATTLE SEDIMENT TRAP/FILTER — 2



DROP INLET SEDIMENT FILTER UTILIZING ROCK BARRIER BAGS — 3



EXISTING CURB INLET FILTER DETAIL — 4

KIER & WRIGHT

2850 Collier Canyon Road
Livermore, California 94551

Phone (925) 245-8786
Fax (925) 245-8796

OAKLAND GLOBAL LOGISTICS CENTER

PROLOGIS

Date: JAN. 2016
Project No.: A13633-1

Sheet Title: EROSION CONTROL PLAN

Sheet No.: C6

Released for Construction
Not Released for Construction

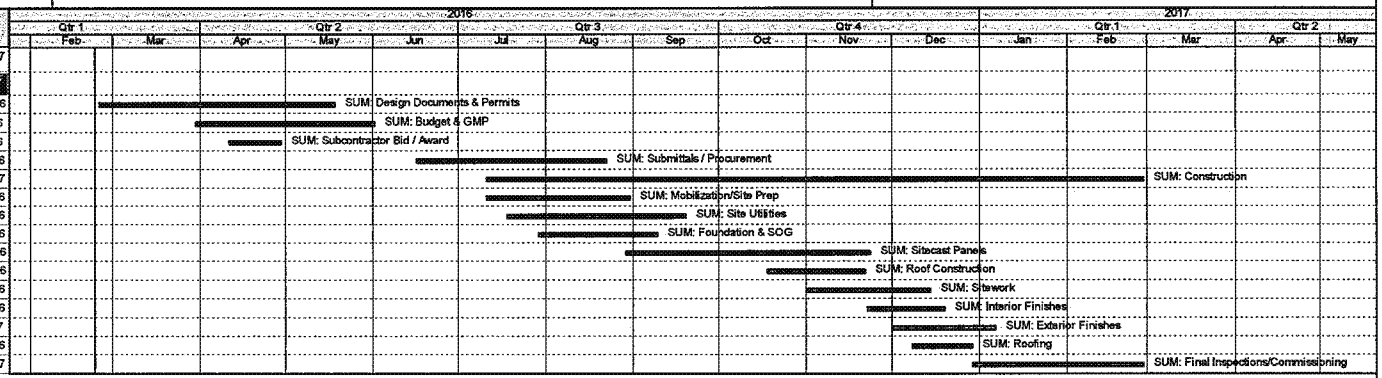
Exhibit C- Project Schedule

WHITING-TURNER

PROLOGIS - OAB NORTHEAST GATEWAY
PROJECT SUMMARY SCHEDULE: 31-Mar-16

PROLOGIS

#	Activity ID	Activity Name	OD	Start	Finish
1	**PROLOGIS PHASE 1**		256	25-Feb-16	27-Feb-17
2	PROJECT SUMMARY		256	25-Feb-16	27-Feb-17
3	SUM-1130	SUM: Design Documents & Permits	60	25-Feb-16	18-May-16
4	SUM-1120	SUM: Budget & GMP	46	30-Mar-16	01-Jun-16
5	SUM-1140	SUM: Subcontractor Bid / Award	15	11-Apr-16	29-Apr-16
6	SUM-1150	SUM: Submittals / Procurement	47	16-Jun-16	22-Aug-16
7	SUM-1110	SUM: Construction	160	11-Jul-16	27-Feb-17
8	SUM-1180	SUM: Mobilization/Site Prep	37	11-Jul-16	30-Aug-16
9	SUM-1160	SUM: Site Utilities	45	18-Jul-16	19-Sep-16
10	SUM-1190	SUM: Foundation & SOG	30	29-Jul-16	09-Sep-16
11	SUM-1170	SUM: Sitecast Panels	62	29-Aug-16	23-Nov-16
12	SUM-1200	SUM: Roof Construction	25	18-Oct-16	21-Nov-16
13	SUM-1230	SUM: Sitework	30	01-Nov-16	14-Dec-16
14	SUM-1220	SUM: Interior Finishes	18	22-Nov-16	19-Dec-16
15	SUM-1210	SUM: Exterior Finishes	25	01-Dec-16	06-Jan-17
16	SUM-1250	SUM: Roofing	15	08-Dec-16	29-Dec-16
17	SUM-1240	SUM: Final Inspections/Commissioning	41	29-Dec-16	27-Feb-17



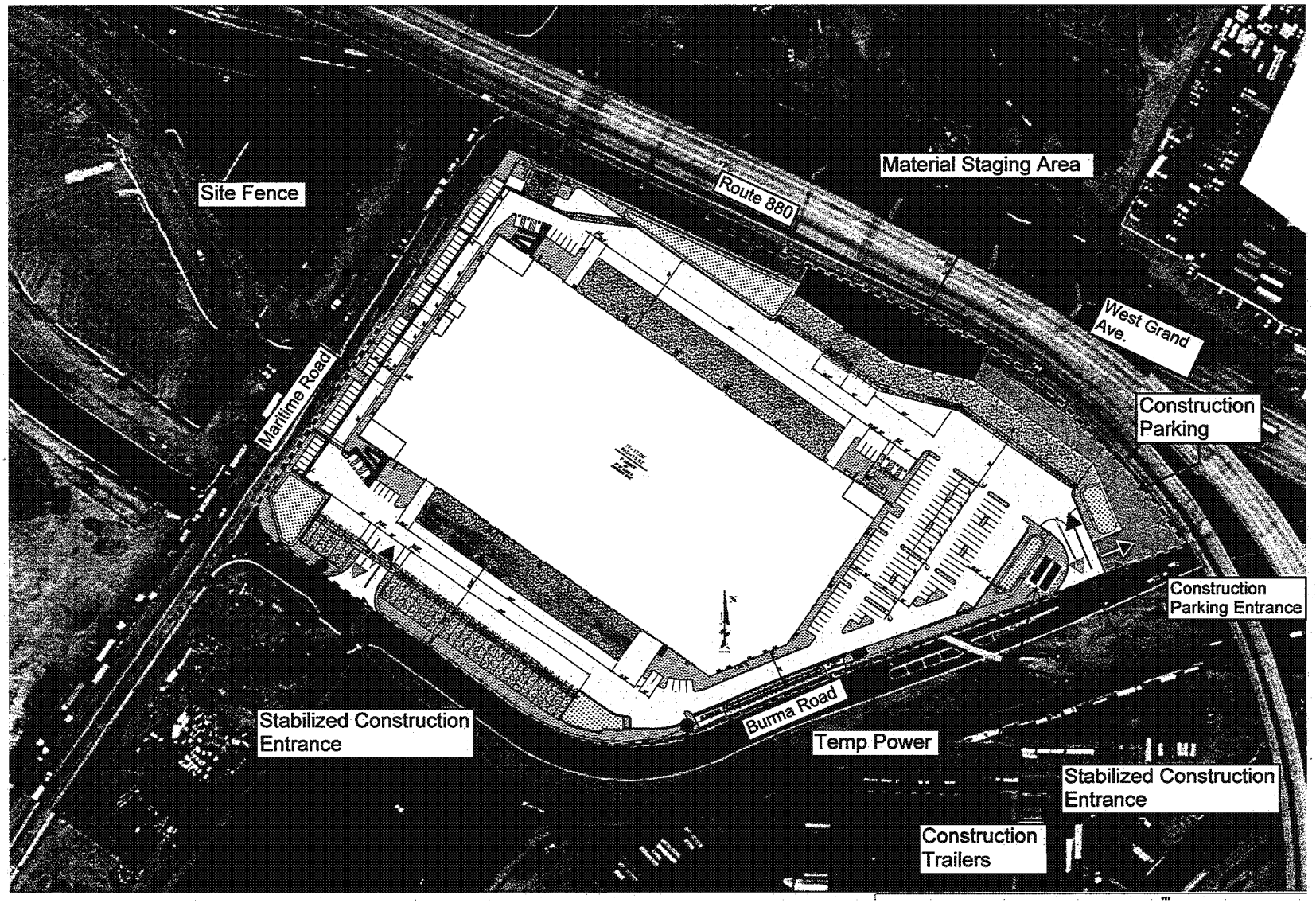
Project ID: PROLOGIS-P1, Project Name: PROLOGIS PHASE 1
Data Date: 24-Feb-16

Page 1 of 1

Layout: WT Large Project Layout
Filter: TASK filter: Submittals.

PROLOGIS WT

Exhibit D- Project Logistics Plan



- Fire Hydrant
- Construction Signage
- Construction Fence

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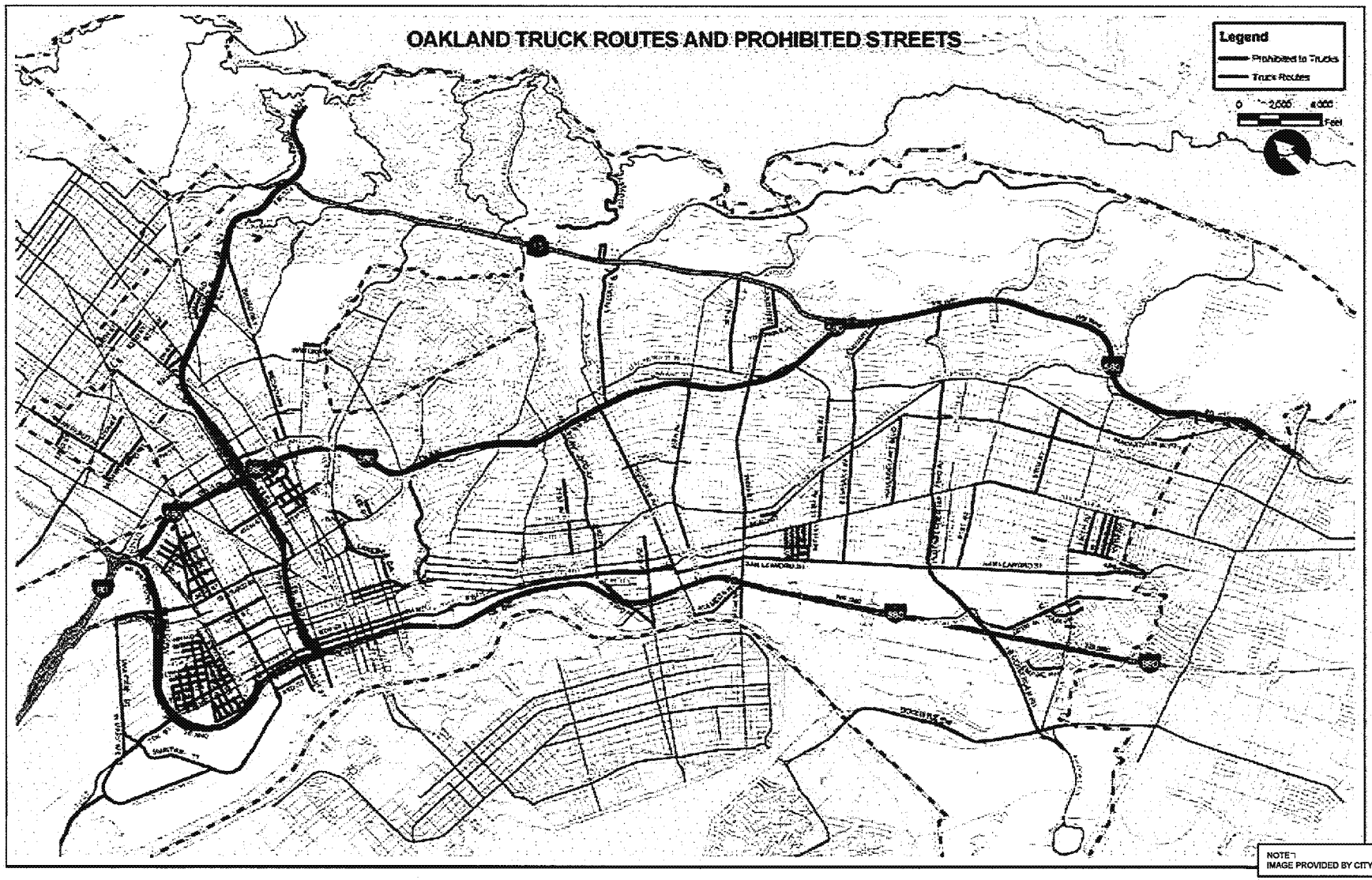
Exhibit E- Approved Traffic Control Plan

The Developer, its Contractor, or its consultant will prepare a Traffic Control Plan if encroachment into the public right-of-way is required. When required, a Traffic Control Plan will be submitted to EBMUD, the Port, and CalTrans for review and comment no less than 10 days prior to submittal to the City. Incorporate comments and revise plan as appropriate.

PROLOGIS WT

Exhibit F- Approved Truck Haul Route



OAKLAND GLOBAL

ARCHITECTURAL DIMENSIONS

ARCHITECTURAL DIMENSIONS
JAMES HILBERONNER
510-463-8300
300 FRANK H. OGAWA PLAZA, SUITE 375
OAKLAND, CA 94612

PROJECT INFO.
CITY OF OAKLAND TRUCK ROUTES AND PROHIBITED STREETS
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

CAT. NO	25945
INV. NO.	AD-0335.01

REV	DATE	COMMENT

JOB NO.	OAB02
SCALE	1" = 100'
DATE	8/23/2013
DRAWN BY:	J. ARMADA
CHECKED BY:	E. ROSSO

DRAWING NO.
TCP-2
SHEET 1 OF 1

PROLOGIS

WT

Exhibit G- Signage: Speed Limit

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Exhibit H- Signage: Dust Reporting, Noise Complaints, & Construction Work Hours

ATTENTION

PERMITTED CONSTRUCTION HOURS:
Monday-Friday 7AM-7PM

There will be no work on site outside of permitted hours without written permission from City of Oakland.

FOR CONCERNS REGARDING DUST, CONSTRUCTION NOISE, EROSION OR ANY CONSTRUCTION ACTIVITY ON THIS PROJECT PLEASE CONTACT:

During Construction Hours – Randy Knaus (925)-271-6023
After Construction Hours – Steve Rodriguez (925-)-271-6590

CITY OF OAKLAND CODE COMPLIANCE:
(510) 238-3381

OAKLAND POLICE DEPARTMENT 24 HR LINE:
(510) 777-3333

BAY AREA AIR QUALITY MANAGEMENT DISTRICT:
(800) 334-6367

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Exhibit I - Log: Dust and Noise Complaints

Project Name: Prologis Northeast Gateway

Complaint Log

Name and Address of Notifier	Telephone Number and/or Email	Date and Time of Call/Email	Nature of Complaint (Traffic/Noise/Dust/Etc.)
	Received By	Directed To	
	Received By	Directed To	
	Received By	Directed T	

date: June, 2016

PROLOGIS WT

Exhibit J- Signage: Equipment Idle Time Restrictions

IDLING POLICY

IDLING TIMES ON ALL DIESEL-FUELED COMMERCIAL VEHICLES OVER 10,000 LBS AND DIESEL-FUELED OFF-ROAD VEHICLES OVER 25 HORSEPOWER SHALL BE MINIMIZED EITHER BY SHUTTING EQUIPMENT OFF WHEN NOT IN USE OR REDUCING THE MAXIMUM IDLING TIME TO FIVE MINUTES.
(CCR TITLE 13, SECTION 2485 & 2449)

VIOLATIONS SUBJECT TO MINIMUM FINE OF $300.

PROLOGIS WT

Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
www.whiting-turner.com

CONSTRUCTION MANAGEMENT
GENERAL CONTRACTING
DESIGN-BUILD
SPECIALTY CONTRACTING
OFFICE/HEADQUARTERS
RETAIL/SHOPPING CENTERS
HEALTHCARE
BIOTECH/PHARMACEUTICAL
HIGH TECH/CLEANROOM

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

I am writing to inform you of the upcoming work at the Prologis Northeast Gateway project located in the City of Oakland. The project site is located on the cross streets of Maritime and Burma Road.

Commencement of construction work is scheduled to begin on or around 7/15/2016. Your property address is within a 300' radius of the project site and this letter is providing notice that construction activities involved with construction may exceed the 90dBA level for a period of 10 working days between 7/28/2016 and 8/11/16.

Any construction work over 90dBA is considered an extreme noise generating activity. The City of Oakland requires all property owners within 300' of the project to be notified 30 days prior to any extreme noise activities taking place. Any work over 90dBA will be performed between the hours of 8:00 a.m. and 4:00 p.m. Monday thru Friday. Construction work that may exceed 90dBA will include:

1. The installation and erection of concrete panels.
2. Removal of construction debris into trucks via excavators and front loader equipment.
3. Construction equipment including, but not limited to, excavators, loaders, mobile crane, and dump trucks.

Whiting-Turner looks forward to working closely with our new neighbors and would like to create a solid relationship with them. If a complaint shall arise, please contact the undersigned below, and all complaints received will be noted in a Complaint Log. The log will include at a minimum the following information: The date of complaint, contact information for all complainant(s), reason for complaint, action taken, and resolution notes. Corrective measures will be immediately taken to address any and all complaints, should they occur. Copies of the Complaint Log will be submitted to Inspections Services monthly and, if so desired, upon request. These noise complaint procedures will be posted along the perimeter of the construction site prior to the commencement of construction. Should you have any noise complaints during construction please follow these procedures.

Most of the extreme noise generating activities will take place during the excavation work during the early stages of the project. We will send additional notices as required for additional upcoming work. If you would like to receive email notifications in lieu of or in addition to a hard copy please provide your email address to Steve.Rodriguez@whiting-turner.com.

Additional project information may be requested should you have any questions by contacting the undersigned.

Sincerely,

Steve Rodriguez
Whiting-Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT

Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
www.whiting-turner.com

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INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

Due to safety reasons, pedestrian traffic will be periodically shut down on Maritime Street between Tuesday 9/15/2016 and Friday 10/16/2016 while demolition and excavation activities are in progress. Pedestrian barricades will be set in place to re-route all pedestrian traffic to the detour per the approved Traffic Control Plan. Please reference the included closure plan exhibit from our Traffic Control Plan that shows the areas that will be closed. The shutdown dates will be posted on our website within 2 days prior to shut down.

If you should have any problems or questions we encourage you to call or stop by our construction trailer located on site.

Additional project information may be requested should you have any questions using the contact below.

Sincerely,
Steve Rodriguez
Whiting -Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT

Exhibit L- Project Truck Log

Project: Prologis Northeast Gateway
Date:

Truck Information Form

Time In	Time Out	Vehicle Type	License Plate Number	Trucker's Name	Driver's Name	Material	Documentation [1]	Destination	Quantity

Documentation carried by the driver will include:

- Bills of lading or non-hazardous or hazardous waste manifests;
- Proof of insurance, valid registration, and current driver's license;
- Material profile information (reflecting chemical analysis results);
- Material weight records; and
- Complete copy of the Traffic Control Plan.

date: May 8, 2016

PROLOGIS WT

Exhibit M- Daily Site Inspection Log

Project Name: Prologis Northeast Gateway

Construction Site Condition Log

Location:	Decription of Damage:	Date:	Inspected

date: June, 2016

PROLOGIS WT

Attachment C

Public Comment Letters Received in Response to Draft Air Quality Plan dated April 25, 2016

From: Margaret Gordon
To: Ranelletti, Darin; robbie.morris@arb.ca.gov; Marvin, Cynthia@ARB; dvintze@baaqmd.gov; Richard Grow; Lee, Anna, Public Health, CAPE
Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis:
Date: Monday, May 23, 2016 11:52:06 AM

Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis:

1. Nothing about Solar
2. Shuttle Services to not bring cars into West Oakland
3. No traffic study cars or trucks
4. There's not an emission reduction plan
5. EIR is over ten years old
6. No Zero emission plan or new technology
7. No Green Infrastructure
8. No use of electric truck for local freight transportation
9. No spraying of water from an enclosed fence during construction
10. No hours of operation
11. Nothing in the plan green house gases reduction
12. The item on the warehouse is not subject to Planning Commission
13. We don't if there will be indoor air filtration for workers.
14. There nothing about recycling and no waste added to the project

Thank you,

Ms. Margaret Gordon/Co-Director
West Oakland Environmental Indicators Project
349 Mandela Pkwy.
Oakland, Ca. 94607
510-257-5645
WWW.WOEIP.ORG

DITCHING DIRTY DIESEL

Robbie Morris
California Air Resources Board
Freight Transport Branch
Transportation and Toxics Division

May 25, 2016

Dear Robbie ,

Thank you for providing us the documents and opportunity to comment on the Pologis project in West Oakland . As you undoubtedly know, West Oakland has long been suffering cumulative impacts from the Freight Industry and as such was designated by BAAQMD as one of their CARE communities .

Given the existing conditions and forecasts for expanded freight operations (rail, maritime, air, and trucking), we ask that CARB take an extra critical look at this project and determine what measures can be implemented to eliminate or at least reduce impacts on this community from this company's operations.

Following are our comments and recommendations on the project:

* The AQ measures outlined in the documents to control dust seem adequate if they are actually implemented for the duration of the construction project. We have had examples of large scale projects (Bay View/Hunters Point) where the measures were initially implemented but later dropped. The affected residents had little recourse and suffered health hazards as a result.

* The designated person or persons assigned to monitor the dust control program and to order the increased watering to prevent transport of dust should be identified to the public along with their phone numbers. That their duties should include holidays and weekend periods

when construction work is not in progress demonstrates a more serious commitment to mitigation and is welcomed.

* The Construction Signage near the Construction Parking Entrance appears to be set back too far into property – one should not have to go behind the fence to be able to read it . The sign should be easily readable from the street.

* This document is primarily about outlining and regulating construction procedures. However, there are important considerations in the design of the building and development of the project that should be addressed. For example, will the building and finished property create yet another Heat Island that will raise energy demands, elevate emissions of air pollutants and Green House gases, and impair water quality? This is a very large project that has a significant footprint in the area and should be required to incorporate cool roofs, cool pavement, and vegetation to mitigate its impacts on the area.

* This Prologis project includes 55 Trucks, 78 trailer parking stalls, 171 parking stalls and only 2 electric charging stations (for passenger vehicles only we believe).

There is no mention of utility design , planning , and infrastructure for future Heavy Duty charging stations , forklifts, and cargo handling equipment. It would be very helpful to have ARB provide aggressive guidance here in accordance with its Sustainable Freight Policy. If this policy is to be "Transformative" as the governor has declared it must seriously weigh in on projects such as this in a comprehensive manner. If the current plans do not account for the future energy needs of zero emission HD trucks it will probably be prohibitively expensive to install these needed technologies later.

We have many concerns about this project and believe it needs more scrutiny and adaptations to be up to date with current thinking and compliance with reducing GHG and a Sustainable Freight Policy. Please consider the following :

1. The EIR for the Prologis project is over 10 years old. Freight in all sectors has risen dramatically during this time and is on track to continue; hence projects such as this. It is inappropriate to pretend that it is still accurate and valid.
2. This project has not used any Green Infrastructure. There is an opportunity here to follow the example the Port has shown works. One example being the solar panel carports .
3. West Oakland is a very busy hub of Freight activity yet there has not been a Traffic Study for cars and trucks for this project.
4. We would like Prologis to establish Shuttle Services for their employees in order to reduce the number of cars coming into West Oakland. This should not be an undue

burden as BART is nearby and measures to reduce VMT are an important part of the Region's and State's Freight Policies.

5. The hours of operation might be a problem and we have not been informed if there are any limits.
6. We are uncertain of the extent of the Planning Commission's rulings here.
7. We have no information about conditions for workers at this site. Will there be indoor air filtration?
8. An Emission Reduction Plan has not been presented or formulated as far as we know.
9. As previously stated, there is no plan presented for the future use of Zero emission vehicles and their associated infrastructure. We understand that Prologis is primarily in the Short Haul Freight business and would therefore be an ideal candidate for Zero emission Trucks or hybrids.
10. We have not seen how Prologis plans to handle recycling and not add waste to the project.

Before it's too late, we really need a pro-active push by ARB here to get our decision makers, planners, and developers to be "Transformative" with a Sustainable Freight System we are striving to achieve.

Sincerely,

Frank Gallo
Ditching Dirty Diesel
CCFC

Ms Margaret Gordon
WOEIP
CCFC

Brian Beveridge
WOEIP

Sincerely,

Frank Gallo

Ditching Dirty Diesel

CCFC

From: Lee, Anna, Public Health, OOD
To: Ranelletti, Darin
Cc: Davis M.D., Muntu, Public Health, OOD; Galvez, Sandi, Public Health, OOD
Subject: RE: Notice of Availability of Northeast Gateway Air Quality Plan for Construction (Prologis)
Date: Tuesday, May 31, 2016 5:04:36 PM

Dear Darin:

My comments on the Air Quality Plan for Construction prepared by Prologis are below. I'm sorry if some of this is already addressed. I wasn't back from maternity leave when they gave their presentation, so I'm just going off of what I gathered from the written materials and checking in with Jen Lucky. I hope these comments are helpful to strengthening the measures to reduce air pollution at the Prologis site.

Please let me know if you have any questions.

Best,
Anna

Sustainable Attributes

- Given the proximity of the Prologis site to the Bay, I wonder if the developer is aware and has thought about site design features that could help thwart sea level rise and flooding. This is a reality we need to consider and it could be a preventative cost saving and safety measure.

Green Building

- Pleased to see the green building aspects of the plan and hope that if Prologis hasn't already, that they align this with the City's Green Building Checklist to ensure the plan promotes Oakland's vision and meets the requirements around Sustainability. Doing this exercise could also help showcase how the project measures against the goals of the City.

Dust

- Dust is a major concern especially because of the weather patterns and existing health inequities in West Oakland; the prevailing wind carries visible dust and air pollution into the West Oakland community.
- It is unclear if there will be demolition of any structures on the site. If so, ensure that watering measures are included in the dust mitigation plan.

Diesel emissions

- Diesel emissions are also a major concern given the existing health burdens in West Oakland.
- Question for the City: How does the Prologis plan align or support the development of the Standard Condition of Approval Mitigation 4.4-3b (West Gateway Rail and Maritime Emissions Reduction Program) and Mitigation 4.4-4 (City and Port truck diesel emission program)? I didn't see any mention of these programs in the Prologis Plan.
- The plan includes ensuring maintenance of the diesel equipment used during construction and operations. The plan does not explicitly say that the developer and sub-contractors must comply with the engine requirements from CARB. Please ensure that it does.
- Although the regulatory limit for idling is 5 minutes, it would be beneficial to reducing air pollution if the developer and sub-contractors minimized idling to 2 minutes when feasible.
- Another way to minimize idling, particularly for highly polluting refrigerated truck units (so

this might be an operations measure), is utilizing truck plug-in capability. If it is feasible, it would be great to include this into the Plan as a pollution reduction measure.

Truck Routes and Circulation

- Truck hauling routes should be designed to minimize exposure to community from emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.
- There is a West Oakland Truck Route that should be noted and included in the Plan.
- Concerning Exhibit F, Truck Haul Route, it should be noted that there is an updated East Oakland truck route that occurred in 2015 that includes 98th Avenue and a number of other revisions. They can contact the City's Transportation Services Division for these revisions.

Community Engagement

- Public Notice - Sending notification and giving opportunity to engage neighbors is important to ensuring immediate health and safety concerns from the development are addressed and gaining community confidence and support of the project. In West Oakland, there are a number of community organizations and institutions that would be great places to post information and engage, including sending the letter about the project and phone numbers for project managers and making regular presentations. The developer should contact local community leaders for a comprehensive list, but some places and groups to include are: West Oakland Senior Center, libraries, the West Oakland Youth Center and the Hoover Resident Action Council (I can help connect to the Council).
- Public Process - A question for the City: After City Administrator approval, will there be a public process for the Planning Commission and City Council to review and adopt the plan or is this an administrative process moving forward?

Anna Lee
Local Policy Coordinator
Place Matters, Office of the Director
Alameda County Public Health Department
1000 Broadway, Suite 500
Oakland, CA 94607
anna.lee@acgov.org | Phone: (510) 267-8019
Like us on Facebook | Visit our Website

Please consider the environment **before** printing this email.

From: Ranelletti, Darin [mailto:DRanelletti@oaklandnet.com]
Sent: Friday, May 20, 2016 12:37 PM
To: 'Jahmese Myres'; Cole, Doug; Cappio, Claudia; 'Mark McClure'; 'Megan Morodomi'; 'Joanne Park'; 'Jack Broadbent'; 'Hhilken@baaqmd.gov'; 'akirk@baaqmd.gov'; 'jroggenkamp@baaqmd.gov'; 'David Vintze'; 'jkitowski@arb.ca.gov'; 'Cynthia Marvin'; McElhaney, Lynette; Cook, Brigitte; Thao, Sheng; 'rebecca.flournoy@acgov.org'; 'Jared Blumenfeld'; 'Richard Grow'; 'stew.sonnerberg@dot.gov'; 'Richard Sinkoff'; 'Anne Whittington'; 'tleong@portoakland.com'; 'Brent Bucknum'; 'bill@oaklandmss.com'; 'brian.woeip@gmail.com'; 'Margaret Gordon'; 'Cory'; 'jmajor@prologis.com'; 'robbie.morris@arb.ca.gov'; 'sydney.vergis@arb.ca.gov'; Klein, Heather; 'Maile.smith@ngem.com'; 'James Heilbronner'; Kaplan, Rebecca; Lee, Anna, Public Health, OOD; 'Jess@sfbaysc.org'; Jones, Andre
Subject: RE: Notice of Availability of Northeast Gateway Air Quality Plan for Construction (Prologis)

Dear Army Base Air Quality Stakeholders:

In my previous email to you (see below), I stated that the deadline for comments on the Air Quality

Pan for Construction prepared by Prologis for the Northeast Gateway site is 5:00 pm on Monday, May 30, 2016, which is Memorial Day. Pursuant to the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program for the Oakland Army Base Project, if the deadline falls on a holiday, the deadline is extended to the next business day. Therefore, the deadline for comments is **5:00 pm on Tuesday, May 31, 2016**.

Please contact me at 510-238-3663 or dranelletti@oaklandnet.com if you have any questions.

Regards,

Darin Ranelletti

Darin Ranelletti, Deputy Director | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 3315 | Oakland, CA 94612 | Phone: (510) 238-3663 | Fax: (510) 238-6538 | Email: dranelletti@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Ranelletti, Darin
Sent: Friday, May 13, 2016 12:51 PM
To: 'Jahmese Myres'; Cole, Doug; Cappio, Claudia; 'Mark McClure'; 'Megan Morodomi'; 'Joanne Park'; 'Jack Broadbent'; 'Hhilken@baaqmd.gov'; 'akirk@baaqmd.gov'; 'jroggenkamp@baaqmd.gov'; 'David Vintze'; 'jkitowski@arb.ca.gov'; 'Cynthia Marvin'; McElhaney, Lynette; Cook, Brigitte; Thao, Sheng; 'rebecca.flournoy@acgov.org'; 'Jared Blumenfeld'; 'Richard Grow'; 'stew.sonnerberg@dot.gov'; 'Richard Sinkoff'; 'Anne Whittington'; 'tleong@portoakland.com'; 'Brent Bucknum'; 'bill@oaklandmss.com'; 'brian.woeip@gmail.com'; 'Margaret Gordon'; 'Cory'; 'jmajor@prologis.com'; 'robbie.morris@arb.ca.gov'; 'sydney.vergis@arb.ca.gov'; Klein, Heather; 'Maile.smith@ngem.com'; 'James Heilbronner'; Kaplan, Rebecca; 'Anna.lee@acgov.org'; 'Jess@sfbaysc.org'; Jones, Andre
Subject: Notice of Availability of Northeast Gateway Air Quality Plan for Construction (Prologis)

Dear Army Base Air Quality Stakeholders:

The City of Oakland has received a draft of the Air Quality Plan for Construction at the Northeast Gateway from the developer, Prologis. Prologis presented an overview of this Plan at the Quarterly Air Quality Stakeholder Meeting on March 3, 2016. Pursuant to the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program for the Oakland Army Base Project, the City is providing 17 calendar days for public review and comment on the draft Plan.

The draft Plan is available on the City's website:
http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak058692.pdf

Written comments must be received no later than **5:00pm on Monday, May 30, 2016**. Written comments should be sent via email, mail or fax to:

Darin Ranelletti, Deputy Director
City of Oakland, Planning and Building Department
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
Email: dranelletti@oaklandnet.com
Fax: 510-238-6538

The Plan is subject to approval by the City Administrator. The City will review the written comments that are received and revise or supplement the draft Plan as appropriate prior to approval by the City Administrator. Within 90 days of the approval, there will be an informational presentation to the City Council concerning the Plan.

Please contact me at 510-238-3663 or dranelletti@oaklandnet.com if you have any questions.

Regards,

Darin Ranelletti

Darin Ranelletti, Deputy Director | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 3315 | Oakland, CA 94612 | Phone: (510) 238-3663 | Fax: (510) 238-6538 | Email: dranelletti@oaklandnet.com | Website: www.oaklandnet.com/planning

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AIR QUALITY
MANAGEMENT
DISTRICT

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Rebecca Kaplan
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MARIN COUNTY
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NAPA COUNTY
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James Spering
Osby Davis

SONOMA COUNTY
Teresa Barrett
Shirlee Zane

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Connect with the
Bay Area Air District:

June 3, 2016

Darin Ranelletti
City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Subject: Northeast Gateway Construction Management Plan

Dear Mr. Ranelletti,

Bay Area Air Quality Management District (Air District) staff appreciates the opportunity to review the Northeast Gateway Construction Management Plan (Plan) submitted to the City of Oakland (City) by Prologis for construction of a 256,000 square foot warehouse (Project) within a portion of the Oakland Army Base. As part of the former Oakland Army Base, the site and therefore this Project is subject to eight air quality mitigation measures described in the Oakland Army Base Project (OAB) 2002 Final Environmental Impact Report, the 2012 Initial Study/Addendum, the Mitigation Monitoring and Reporting Program, and the Lease Disposition and Development Agreement (LDDA). Air District staff understands that approval of the Plan by the City Administrator will allow construction to proceed without any further discretionary approvals from the City.

Air District staff is concerned that the Plan submitted by the developer, Prologis, only addresses air quality impacts associated with construction activity and does not address long term operational emissions associated with the Project. The Plan for this Project does not implement six of the eight air quality mitigation measures that future development is required to implement within the OAB. It should be noted that the eight air quality mitigation measures, which include the City's Standard Conditions of Approval, and which were approved by the Oakland City Council, were expected to be applied to future development within the OAB to lessen significant air quality impacts identified in the environmental documents for the OAB. Approval of the Northeast Gateway Construction Management Plan in its current form would preclude this Project from being required to implement legally binding mitigation measures promised to the surrounding community and approved by the Oakland City Council.

In the Attachment to this letter, Air District staff has provided specific comments on the proposed strategies in the Plan to ensure that construction related

emissions are reduced to the extent feasible. In addition, Air District staff is also recommending that the Plan be amended to include the other adopted air quality mitigation measures identified in the previous environmental documents to reduce the significant air quality impacts anticipated to occur in the West Oakland community, including impacts from Project operations. Air District staff believes that full implementation of all previously adopted mitigation measures is needed for the Project as proposed to assure that West Oakland air quality is not adversely affected. This was the promise of *A Bold Vision: Redeveloping the Former Oakland Army Base,* which was approved by the Oakland City Council.

Air District staff is available to assist the City in addressing these comments. If you have any questions, please contact Alison Kirk, Senior Environmental Planner at (415) 749-5169 or akirk@baaqmd.gov.

Sincerely,

Jean Roggenkamp
Deputy Executive Officer

Cc: Director Tom Bates
Director Scott Haggerty
Director Rebecca Kaplan
Director Nate Miley
Oakland Mayor Libby Schaaf
Heather Arias, California Air Resources Board

Attachment

Attachment

The comments provided below are in response to the Northeast Gateway Construction Management Plan (Plan) recently submitted to the City of Oakland by Prologis; and in relation to the California Environmental Quality Act (CEQA) mitigation requirements adopted by the City of Oakland to lessen the impacts from operational activities associated with development within the Oakland Army Base. As identified in the comments below, the Plan only addresses the CEQA mitigation requirements related to construction activity and does not address the mitigation requirements for operational activities at the Oakland Army Base.

SCA-AIR-1 and SCA-AIR-2

SCA-AIR-1 requires the project applicant to submit a construction management plan that "identifies the conditions of approval and mitigation measures to construction impacts of the project and explains how the project applicant will comply." SCA-AIR-2 provides the list of conditions of approval and mitigation measures that projects are required to implement to lessen significant air quality impacts related to construction and operation.

The Northeast Gateway Construction Management Plan submitted to comply with SCA-AIR-1 includes all the construction related mitigation measures listed in SCA-AIR-2, but does not provide the specificity needed to "explain how the project applicant will comply". There are a number of measures that provide an "option" for compliance; in these instances, Air District staff recommends that the applicant identify the criteria for choosing one option over another and identify the process for making that decision. For example, measure (a) requires the Project to increase dust control watering when wind speeds exceed 15 miles per hour; and measure (k) requires soil moisture to be maintained at a minimum of 12 percent; and measure (l) requires all excavation, grading, and demolition activities to be suspended when wind speeds exceed 20 miles per hour. The Plan should identify specifically how wind speeds and soil moisture will be monitored and who is required to maintain compliance logs.

Measure (u) requires all equipment used on the construction site and subject to Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") to meet emissions requirements one year in advance of any fleet deadlines. To comply, the proposed Plan indicates that "The project applicant shall provide written documentation that fleet requirements have been met." It is not clear who the written documentation will be submitted to and who will ensure that the appropriate equipment is used at the construction site. Air District staff recommends that this and all projects at the Oakland Army Base submit off-road registration documents approved by the Air Resources Board to determine a fleet's compliance with this requirement. In addition, Air District staff also recommends that only Tier 4 off-road engines be used at the OAB, and if Tier 4 off-road engines are not available for a particular use, then Tier 3 off-road engines be used.

Measure (v) requires the use of low VOC "coatings beyond local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings)." Air District staff recommends that the Plan identify what the current regulations require and demonstrate how the Project will reduce VOC emissions beyond these requirements.

SCA-AIR-3
SCA-AIR-3 is not currently proposed to be implemented by the Project. This measure addresses public exposure to toxic air contaminants (TACs) and requires measures be implemented by new development to reduce indoor and outdoor concentrations to TACs. The Air District recommends that the Plan be amended to include the requirements of SCA AIR-3.

Mitigation 4.4-3
Mitigation 4.4-3 3 is not currently proposed to be implemented by the Project. This measure requires the Port of Oakland to implement a criteria pollutant reduction program aimed at reducing or off-setting Port-related emissions in West Oakland from its maritime and rail operations to less than significant levels *prior to the start of operations*. Since this Project will facilitate operations at the Port of Oakland, the Air District recommends that the Project include measures within the Plan to comply with this requirement. These measures could include electrification of the 55 loading docks within the Project, and requiring the Port of Oakland to use only the lowest emitting off-road cargo handling equipment to load trucks using the Project site.

Mitigation 4.4-4
Mitigation 4.4-4 3 is not currently proposed to be implemented by the Project. This measure requires the City of Oakland and the Port of Oakland to jointly create, maintain, and fund on a fair share basis a truck diesel emission reduction program *prior to the start of operations*. The program shall be sufficiently funded to strive to "reduce redevelopment related contributions to local West Oakland diesel emissions to less than significant levels". This Project will have 55 truck loading docks and 78 trailer parking stalls. Diesel particulate matter emissions, a known toxic air contaminant, will substantially increase in the West Oakland community. The environmental documents identified significant air quality impacts from exactly this type of development. Air District staff recommends that the Plan be amended to include the development of an off-site mitigation program such that there is no net increase in emissions from this Project within the West Oakland community.

Mitigation 4.4-5
Mitigation 4.4-5 3 is not currently proposed to be implemented by this project. This measure requires major developers to fund feasible Transportation Control Measures (TCMs) for reducing vehicle emissions from commercial, institutional, and industrial operations. Air District staff recommends that the Plan be amended to include this mitigation measure and specifically identify this Project's share of funding for the TCMs listed below

- Provide incentives to encourage workers to carpool or use public transportation (TCM 4)
- Provide shuttles to and from the West Oakland BART station, and mid-day shuttles to food service establishments/commercial areas (TCM 5 and 8)
- Provide preferential parking for carpool and vanpool vehicles (TCM 9)
- Charge parking fees for single occupancy vehicle commuters (TCM 10)
- Install weather-protected bicycle parking for employees (TCM 11)
- Provide safe, direct access for bicycles to adjacent bicycle routes (TCM 12)

- Provide showers and lockers for employees bicycling or walking to work (TCM 13)
- Provide direct, safe, attractive pedestrian access from the project to transit stops and adjacent developments (TCM 14).

Mitigation 4.4-6

Mitigation 4.4-6 3 is not currently proposed to be implemented by this Project. This measure requires the City of Oakland and the Port of Oakland to implement sustainable development policies and strategies related to new development design and construction. Air District staff recommends that the Plan include this mitigation measure and explain how the construction practices at the Project are consistent with this measure. In addition, Air District staff recommends that the Plan include measures to address sustainable development, such as installation of on-site renewable energy generation, use of ground source space heating, and thermal hot water heating.

Mitigation 5.4-1

Mitigation 5.4.-1 3 is not currently proposed to be implemented by this project. This measure requires the City of Oakland and the Port of Oakland to encourage, lobby, and potentially participate in emission reduction demonstration projects that promote technological advances in improving air quality. Air District staff recommends that the Project identify potential new technological advances that could be demonstrated at this Project.

Air Resources Board

Mary D. Nichols, Chair
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov

Matthew Rodriquez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

RECEIVED
JUN 03 2016
CITY OF OAKLAND
BUREAU OF PLANNING

May 31, 2016

Mr. Darin Ranelletti
City of Oakland
Planning and Building Department
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, California 94612

Dear Mr. Ranelletti:

Thank you for providing the Air Resources Board (ARB) the opportunity to comment on the Northeast Gateway Construction Management Plan (Air Quality Elements) (Plan). This Plan provides an opportunity to ensure the cleanest possible construction practices while constructing the Northeast Gateway site. Eliminating and minimizing air quality impacts from the construction of this project is vital to protecting the health of nearby communities.

Overall, we find that the Plan contains measures that will achieve reductions in emissions generated by onsite construction activity. Specifically, the Dust Control Mitigation Plan and the use of the electricity infrastructure surrounding the construction site over electrical generators powered by internal combustion are helpful in reducing emissions.

Documents like this Plan are important to the public as they can help to provide transparency and accountability while following through with commitments made during the environmental review period. It is important to develop specific actions to ensure that the public is well informed about the project and proposed solutions to the project's potential impacts. Although several measures in the Plan provide sufficient detail, others need further clarification in order to ensure proper implementation and enforcement of the measures included in the Plan as well as ensure meaningful public engagement. This further clarification will help ensure the project ultimately avoids or substantially lessens the significant and unavoidable impact to air quality identified in the 2002 Draft Environmental Impact Report and Final Environmental Impact Report, and achieves the less-than-significant impacts determination made in the 2012 Addendum, by implementing all feasible mitigation.

General Recommendations

For both this and subsequent Subject Plans, consider the following:

1) Coordinate and consult with the community on construction and operations related vehicle circulation, identify selected routes that divert traffic away from neighborhood streets and is least impactful to the surrounding communities. Include details of the agreed upon truck routes in the Plan. Meaningful coordination with the community takes time, and to ensure that project development stays on schedule, we recommend that this work be initiated as soon as possible if you have not already done so.

2) Specify the public review release date and expected content for each of the remaining Subject Plans for this project, subject to Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans). It is expected that the remaining Subject Plans will be released in a timeframe that will allow for meaningful public review and response by the City of Oakland and project developer prior to when they are scheduled according to the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program.

3) Include Plan requirements in the contractual agreement between Prologis and the construction management company in order to strengthen enforceability.

Construction Related Recommendations

To ensure that the Plan meets the goals of Mitigation Measure SCA Air-2, and to ensure that the project's construction-related impacts to air quality remain less than significant, ARB recommends clarifying several measures, strengthening enforceability, and including additional measures that ARB staff finds feasible and critical to reducing emissions and protecting public health. Details of these recommendations are below:

1) Define "late model" under Emission Control Mitigation Plan, protocol "a". We suggest requiring all medium-heavy and heavy-heavy duty trucks, including any alternative fuel vehicles, meet or exceed 2010 emission standards. In addition, consider clarifying the parameters of this measure by requiring all off-road vehicles and equipment meet Tier 4 engine standards. If Tier 4 is not available, the off-road equipment should meet Tier 3 engine standards. Also, consider requiring each contracted fleet to provide an ARB Certificate of Compliance to the onsite Project Compliance Manager prior to commencing operations.

2) Clarify the intention of "low-emission diesel fuel" in the Emission Control Mitigation Plan, protocol "a". This type of fuel is already standard in California; therefore, it is unclear what additional control this measure is offering. As written, this protocol also seems to limit equipment onsite to diesel power. Please consider editing to allow for the flexibility to use zero and near-zero emission equipment as well.

3) Define "alternative fuel construction equipment" under Emission Control Mitigation Plan protocol "b". Without specifying equipment type, it is difficult to determine if this protocol provides appropriate mitigation. We recommend requiring the use of electric construction tools or amending the Plan to identify a target for the minimum amount of electric power tools that will be used onsite, explaining how this measure will be enforced, and clarifying for the public how the target was derived. In addition, we suggest requiring all off-road vehicles and equipment meet Tier 4 engine standards. If Tier 4 is not available, the off-road equipment should meet Tier 3 engine standards.

4) In Emission Control Mitigation Plan measure "f", there are several areas where further clarification and strengthening of the provision is needed:

    a. In addition to monitoring and facilitating implementation of the mitigation measures, the Project Compliance Manager should also ensure compliance with mitigation measures and the Plan. Specify that the Project Compliance Manager will refer any non-compliant fleets to the Bay Area Air Quality Management District for investigation or potential penalties.
    b. Clarify which contractors are subject to this provision. It is our expectation that all contractors should be subject to oversight by the Project Compliance Manager.
    c. Specify what the Daily Inspection Logs will include and how often they will be reviewed by the Project Compliance Manager.

5) In the Emission Control Mitigation Plan, define the phrases "extent that it is readily available" under protocol "a", "extent that the equipment is readily available and cost effective" under protocol "b", and "extent feasible" under protocol "c". As currently written, it is unclear what criteria will be used, making it difficult to ensure implementation and enforcement of the protocols.

6) Consider requiring each equipment operator or sub-contractor to show proof of compliance for each on-road vehicle subject to ARB's Periodic Smoke Inspection Program prior to operating at the site. Additionally, any off-road equipment that

exhibits conditions outside of the manufacturer's specifications, or emits excessive visible smoke, should be prohibited from operating on-site. Please detail how these requirements will be enforced, in the Plan.

We understand that the Plan relates directly to construction activities at the project site. However, we want to take this opportunity to also support the incorporation of zero and near-zero emission technologies, especially for yard and on-road trucks, that are commercially available throughout operation of the facility. ARB's Technology and Fuels Assessments provide information on the current and projected development of mobile source technologies and fuels, including current and anticipated costs at widespread deployment. The assessments can be found at http://www.arb.ca.gov/msprog/tech/tech.htm. Additionally, please consider implementing, and planning accordingly for, the necessary infrastructure to support the zero emission and near-zero emission technology vehicles and equipment that will be operating at the Northeast Gateway in the future. There are several ways ARB could support implementing these recommendations, including technical assistance and funding programs. More information on ARB funding programs can be found at http://www.arb.ca.gov/ba/fininfo.htm.

Closing

ARB staff appreciates the opportunity to comment on the Plan. We are pleased to provide assistance for successful implementation and enforcement of this effort that serves the region's distribution and air quality needs, while protecting public health. If you would like to understand more about ARB's freight related work, please see our Sustainable Freight: Pathways to Zero and Near-Zero Emissions Discussion Document at http://www.arb.ca.gov/gmp/sfti/sfti.htm.

Please include ARB on the City of Oakland's Stakeholder List to receive information on the Subject Plans, pursuant to Mitigation Measure PO-1. If you have questions, please contact Ms. Robbie Morris, Air Pollution Specialist, Freight Transport Branch, at (916) 327-0006 or via email at Robbie.Morris@arb.ca.gov.

Sincerely,

Heather Arias, Chief
Freight Transport Branch
Transportation and Toxics Division

cc: See next page.

cc: Mr. Connell Dunning
Transportation Team Supervisor
U.S. Environmental Protection Agency,
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San Francisco, California 94105

Ms. Margaret Gordon
Co-Director
West Oakland Environmental
Indicators Project
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Ms. Alison Kirk
Senior Environmental Planner
Bay Area Air Quality Management
District
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San Francisco, California 94109

Mr. Chuck McKetney
Community Assessment, Planning,
& Evaluation Director
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1000 Broadway, Suite 500
Oakland, CA 94607

Ms. Robbie Morris
Air Pollution Specialist
Freight Transport Branch
Transportation and Toxics Division

Attachment D

Revised Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway A-D. Construction Management Plan" including related documents; dated August 30, 2016)

PROLOGIS®

August 30, 2016

Darin Ranelletti, Deputy Director
City of Oakland – Bureau of Planning
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Via Email

RE: DRX151553 - Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCA-MMRP Public Outreach Element (Mitigation Measure PO-1)

Dear Darin:

We are in receipt of the Stakeholder comments to the construction related Air Quality Standard Conditions of Approval (SCA AIR-1 and SCA AIR-2), which you forwarded via email on June 7, 2016. Subsequent to the conference call we had with various stakeholders on 8/3/16, and for your use in staff recommendation that the public outreach process has been satisfied, we are pleased to present the following responses:

Global Responses:
We received comments from several different stakeholder groups relating to the same topic, which we address by providing the following clarifications:

1. EIR Date/Update – Several comments pertained to the EIR for the project being 10+ years old. We are working from the entitlements provided under the 2012 Development Agreement and SCA-MMRP as amended by City Council 7/16/2013, and includes the 2012 OARB Initial Study/EIR Addendum.
2. Sustainable Design/Attributes – Several groups commented on the lack of Green Building and/or sustainable design elements. The air quality plans submitted for review pertained primarily to the air quality measures during construction. There is a separate Mitigation Measure (MM4.4-6) that relates to energy conserving fixtures and design. To that end, this project will meet and exceed the minimum requirements for MM4.4-6, as well as acheive a LEED Gold certification. Some specific examples of sustainable project design include but not are limited to: building finish floor above the 50-year projected sea level rise, high reflectance "cool" TPO roof, low VOC paints, high recycled content building materials, water efficient irrigation and plantings, energy efficient LED lighting, and low E glazing.
3. Operational Issues – There were several comments pertaining to operational issues that will be addressed at a separate time. The purpose of this phase of public outreach was to get feedback regarding **construction related** air quality items only. The future Air Quality Operations Plan will be subject to the same stakeholder review and any operational comments will be addressed at that time.
4. Future Tenant Improvements - The Project currently under consideration is a "Cold Shell", meaning that no tenant improvements ("TI") are being constructed. The Cold Shell does not involve any interior improvements such as warehouse lighting, office/restroom buildouts, equipment, or racking. The space is unoccupiable until a TI permit is approved, for which the Landlord (Prologis) will have approval rights over. As part of the LEED process, Prologis will have an TI Guidelines exhibit to the Tenant lease, which will

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require the Tenant to implement certain sustainable elements into their design, for example – low flow toilets, or 240v+ plugs for truck refrigerated units. It is important to note that the Cold Shell building design will not preclude mitigations to emmissions during Operations phase.

5. Covered Elsewhere in SCA-MMRP – Several comments address items covered elsewhere in the SCA-MMRP, not specifically a part of Air Quality conditions.

Specific Responses:

1. West Oakland Environmental Indicators Project (WOEIP) Comments:

Comment 1: Nothing about solar
Response: Solar (rooftop or carport) is not a project requirement. We do note that the rooftop is solar-ready - if an energy off-taker is determined in the future, the roof structure has been designed to take an ancillary load of 3 to 5 psf and could be added on.

Comment 2: Shuttle Services do not bring cars into West Oakland
Response: See global response #3 - future Air Quality Operations Plan.

Comment 3: No traffic study cars or trucks
Response: See global response #1 – EIR Update.

Comment 4: There's not an emission reduction plan
Response: See global response #3 - future Air Quality Operations Plan.

Comment 5: EIR is over ten years old
Response: See global response #1 – EIR Update.

Comment 6: No zero emission plan or new technology
Response: See global response #3 - future Air Quality Operations Plan.

Comment 7: No Green Infrastructure
Response: See global response #2 – sustainable design.

Comment 8: No use of electric truck for local freight transportation
Response: See global response #3 - future Air Quality Operations Plan.

Comment 9: No spraying of water from an enclosed fence during construction.
Response: Water must be used during construction to keep dust down. All water used will be contained onsite, behind the fence.

Comment 10: No hours of operations
Response: See global response #4. Standard hours of operations are per SCA NOI-1, Mon – Sat, 7am to 7pm, other hours with prior approval by the City. See CMP, Section 7a.

Comment 11: Nothing in the plan about greenhouse gases reduction.
Response: See global response #4. Not a part of Air Quality. See SCA GCC-1, Greenhouse Gas Reduction. Timing is at Certificate of Occupancy, not prior to permits.

Comment 12: The item on the warehouse is not subject to Planning Commission.
Response: Confirmed, staff approves conformance with Project Design Guidelines.

Comment 13: We don't if there will be indoor air filtration for workers.

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Response: Project will comply with mandatory LEED Indoor Environmental Quality Prerequisite #1 – Minimum IAQ performance.

Comment 14: There nothing about recycling and no waste added to the project.
Response: Not a part of Air Quality. See SCA UTL-2, CMP Section 10.

2. Ditching Dirty Diesel Asterick #5 – Charging Stations and Sustainable Freight Policy:

* **This Prologis project includes 55 Trucks, 78 trailer parking stalls, 171 parking stalls and only 2 electric charging stations (for passenger vehicles only we believe).**

There is no mention of utility design , planning , and infrastructure for future Heavy Duty charging stations , forklifts, and cargo handling equipment. It would be very helpful to have ARB provide aggressive guidance here in accordance with its Sustainable Freight Policy. If this policy is to be "Transformative" as the governor has declared it must seriously weigh in on projects such as this in a comprehensive manner. If the current plans do not account for the future energy needs of zero emission HD trucks it will probably be prohibitively expensive to install these needed technologies later.

Response: EV chargers are for passenger vehicle charging only and are provided voluntarily by Prologis. Forklift charging stations are typically provided with tenant improvements as their location is critical to a user's operations. As we understand it, the Sustainable Freight Action Plan is in the implementation phase, with proposed pilot projects already in motion. By virtue of geography, the Project is located within close proximity to intermodal, first-mile, last-mile,and transportation infrastructure of the freight supply chain, which are all goals of the Sustainable Freight Action Plan.

3. ACPH Diesel Emissions Bullet Point #5 – Truck Plug-in Capability

- Another way to minimize idling, particularly for highly polluting refrigerated truck units (so this might be an operations measure), is utilizing truck plug-in capability. If it is feasible, it would be great to include this into the Plan as a pollution reduction measure.

Response: If Prologis leases to a tenant that has refrigerated storage space, it is standard practice to install charging outlets at dock doors designated for cold deliveries. Tenant is not known at this time so this item is still to be determined, but it is commonly part of Tenant Improvements. As we develop the Air Quality Operations Plan, we will work with the City to incorporate appropriate operations requirements regarding charging outlets at dock doors, which would be enforced via TI Guidelines within the Tenant's lease.

4. BAAQMD Attachment re: SCA-AIR-1 – Dust Monitoring

The Northeast Gateway Construction Management Plan submitted to comply with SCA-AIR-1 includes all the construction related mitigation measures listed in SCA-AIR-2, but does not provide the specificity needed to "explain how the project applicant will comply". There are a number of measures that provide an "option" for compliance; in these instances, Air District staff recommends that the applicant identify the criteria for choosing one option over another and identify the process for making that decision. For example, measure (a) requires the Project to increase dust control watering when wind speeds exceed 15 miles per hour; and measure (k) requires soil moisture to be maintained at a minimum of 12 percent; and measure (l) requires all excavation, grading, and demolition activities to be suspended when wind speeds exceed 20 miles per hour. The Plan should identify specifically how wind speeds and soil moisture will be monitored and who is required to maintain compliance logs.

Response: The contractor monitoring process will include: 1) Checking weather reports daily prior to starting construction activity to prepare for wind speeds as necessary. 2) Monitoring weather and dust as day progresses by setting up an anemometer wind speed sensor and checking periodically. 3) Increasing dust control watering as wind speeds increase to maintain minimum 12% moisture content, or to a point at which the earth becomes tacky. See CMP, Section 2, Dust Mitigation Control Plan.

5. BAAQMD Attachment re: measure (u) – CARB verification

Measure (u) requires all equipment used on the construction site and subject to Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") to meet emissions requirements one year in advance of any fleet deadlines. To comply, the proposed Plan indicates that "The project applicant shall provide written documentation that fleet requirements have been met." It is not clear who the written documentation will be submitted to and who will ensure that the appropriate equipment is used at the construction site. Air District staff recommends that this and all projects at the Oakland Army Base submit off-road registration documents approved by the Air Resources Board to determine a fleet's compliance with this requirement. In addition, Air District staff also recommends that only Tier 4 off-road engines be used at the OAB, and if Tier 4 off-road engines are not available for a particular use, then Tier 3 off-road engines be used.

Response: See CMP Section 2, Emission Control Mitigation Plan, part e:
All contractors will be bound by contract to comply with the requirements of CCR Title 13, Section 2449. All written documentation that fleet requirements have been met will be submitted to the City of Oakland for record.
See CMP Section 2, Emission Control Mitigation Plan, part h:
All contractors will be encouraged to use Tier 4 off-road engines for all equipment brought to the site if available. At a minimum, required to use Tier 3 off-road engines for all equipment brought on-site. Contractors shall provide documentation from CARBS DOORS website with fleet summary. Compliance officer to use this documentation to verify equipment meets either Tier 4 orTier 3 requirement.

6. BAAQMD Attachment re: measure (v) – Low VOC Coatings

Measure (v) requires the use of low VOC "coatings beyond local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings)." Air District staff recommends that the Plan identify what the current regulations require and demonstrate how the Project will reduce VOC emissions beyond these requirements.

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Response: All coatings will meet VOC Content requirements specified in the attached Project Specification – See Attachment A. This specification meets or exceeds the limits per BAAQMD Regulation 8, Rule 3.

7. ARB Construction Related Recommendations ("CRR's") #1 – CARB verification

1) **Define "late model" under Emission Control Mitigation Plan, protocol "a". We suggest requiring all medium-heavy and heavy-heavy duty trucks, including any alternative fuel vehicles, meet or exceed 2010 emission standards. In addition, consider clarifying the parameters of this measure by requiring all off-road vehicles and equipment meet Tier 4 engine standards. If Tier 4 is not available, the off-road equipment should meet Tier 3 engine standards. Also, consider requiring each contracted fleet to provide an ARB Certificate of Compliance to the onsite Project Compliance Manager prior to commencing operations.**

Response: See CMP Section 2, Emission Control Mitigation Plan, part a & h:
All Contractors will be required to use minimum Tier 3 off-road engines for all equipment brought on-site. Contractors shall provide documentation from CARBS DOORS(Diesel Off-road Online Reporting System) website with their fleet summary. Compliance officer to use this documentation to verify equipment meets Tier 4 or Tier 3 requirement.

8. ARB CRR's #2 – Low Emmission Fuel

Clarify the intention of "low-emission diesel fuel" in the Emission Control Mitigation Plan, protocol "a". This type of fuel is already standard in California; therefore, it is unclear what additional control this measure is offering. As written, this protocol also seems to limit equipment onsite to diesel power. Please consider editing to allow for the flexibility to use zero and near-zero emission equipment as well.

Response: See CMP Section 2, Emission Control Mitigation Plan, part a - d:
Fuel being used will be compliant with California standards and consistent with regulatory requirements for ULSD (Ultra Low Sulfur Diesel). Contractors shall use late model (defined as Tier 4 or Tier 3 heavy-duty diesel-powered equipment, as well as zero and near-zero emission equipment to the extent that it is readily available in the San Francisco Bay Area. Electric boom lifts, scissors lifts, and small tools will be utilized to the extent feasible.

9. ARB CRR's #3 – Alternative Fuel Equipment

Define "alternative fuel construction equipment" under Emission Control Mitigation Plan protocol "b". Without specifying equipment type, it is difficult to determine if this protocol provides appropriate mitigation. We recommend requiring the use of electric construction tools or amending the Plan to identify a target for the minimum amount of electric power tools that will be used onsite, explaining how this measure will be enforced, and clarifying for the public how the target was derived. In addition, we suggest requiring all off-road vehicles and

Response: See CMP Section 2, Emission Control Mitigation Plan, part e:
Temporary electric service from existing infrastructure will be provided on the job-site for contractors to use for small tools and equipment.

10. ARB CRR's #4 – measure (f) response

In addition to monitoring and facilitating implementation of the mitigation measures, the Project Compliance Manager should also ensure compliance with mitigation measures and the Plan. Specify that the Project Compliance Manager will refer any non-compliant fleets to the Bay Area Air Quality Management District for investigation or potential penalties.

Response: See CMP Section 2, Emission Control Mitigation Plan, part f:
The Project Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. Any off-road equipment that exhibits conditions outside of the manufacturer's specifications, or emits excessive visible smoke, shall be prohibited from operating on-site. All contractors will be subject to this provision and will maintain Inspection Logs daily throughout the project. In addition,the Compliance Manager will complete ARB courses for Visible Emissions Evaluation to enhance ability to ensure equipment is in compliance.

Please note that not every comment was individually addressed in the specific comments section as the responses may have been redundant to other specific responses or covered by one of the global responses.

If you have any questions or comments regarding the responses to the stakeholder review comments, please do not hesitate to contact me.

Sincerely,

Cory Chung
Development Manager

Cc: John Monetta, City of Oakland
Bill Quesada, City of Oakland
Jeff Major, Prologis
Janet Frentzel, Prologis
Jakub Swander, Whiting-Turner
Adam Smith, Whiting-Turner
Steve Rodriguez, Whiting-Turner

Encl: Attachment A – Painting Specification for Low VOC Content Applications
Attachment B – Construction Management Plan, Rev. 3 – August 30, 2016

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PLAN CHECK RESPONSE
April 25, 2016
REVISED SECTION – New text is bold italics

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SECTION 099123

INTERIOR PAINTING

SUMMARY

A. **Section Includes**: Surface preparation and the application of paint systems on interior substrates as scheduled at the end of the section.

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General Conditions, and other Division 01 Sections, apply to this Section.

1.2 LEED REQUIREMENTS

A. VOC Content: For field applications that are inside the weatherproofing system, paints and coatings shall comply with VOC content limits of authorities having jurisdiction and the following VOC content limits:

1. Flat Paints and Coatings: 50 g/L.
2. Nonflat Paints and Coatings: 150 g/L.
3. Dry-Fog Coatings: 400 g/L.
4. Primers, Sealers, and Undercoaters: 200 g/L.
5. Anticorrosive and Antirust Paints Applied to Ferrous Metals: 250 g/L.
6. Zinc-Rich Industrial Maintenance Primers: 340 g/L.
7. Pretreatment Wash Primers: 420 g/L.
8. Shellacs, Clear: 730 g/L.
9. Shellacs, Pigmented: 550 g/L.

1.3 LEED SUBMITTALS

A. Product Data: For paints and coatings, indicating VOC content.

1.1 ACTION SUBMITTALS

A. Product Data: **For each type of product**. Include preparation requirements and application instructions.

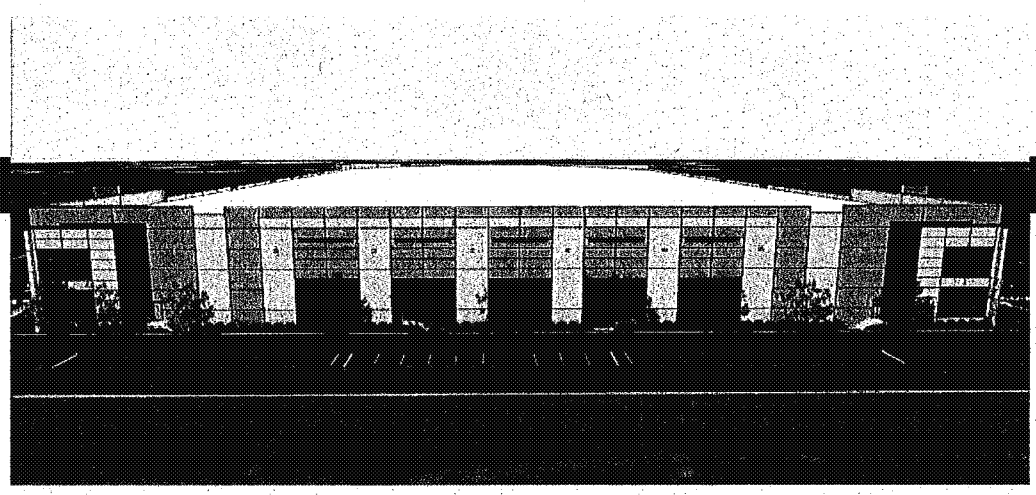
B. **Samples for Verification**: For each type of paint system and in each color and gloss of topcoat.

1. Submit Samples on rigid backing, 8 inches square.

C. **Product List**: Include color designations.

NORTHEAST GATEWAY CONSTRUCTION MANAGEMENT PLAN

Original: April 15th, 2016
Rev #1: July 18th, 2016
Rev #2: July 27th, 2016
Rev #3: August 30th, 2016



THE WHITING-TURNER CONTRACTING COMPANY
4690 Chabot Drive, Suite 120
Pleasanton, California 94588

STEVE RODRIGUEZ
Assistant Project Manager
Office: 925-271-6020
Mobile: 925-351-4622

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WHITING-TURNER

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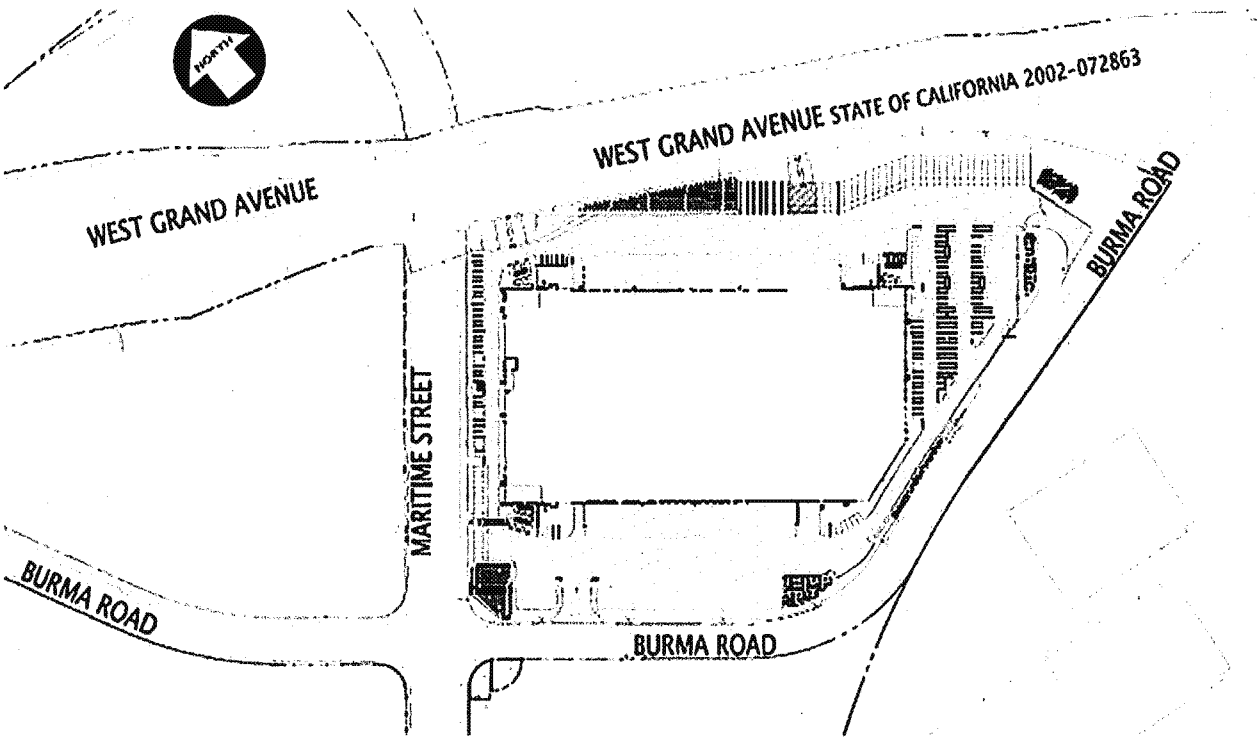
PROLOGIS WT Whiting Turner

1. Project Overview and General Information



On the Northeast Gateway site Prologis will construct a new 256,000 sf warehouse on a site covering approximately 702,000sf bordered by Maritime Street, Burma Road and West Grand Ave. The project site improvements will include new underground utilities, landscaping, concrete and ac paving and bio-swales. The new warehouse building will include 55 truck docks, 78 trailer parking stalls, 171 auto parking stalls and two electric vehicle charging stations.

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2. Air Quality - Construction Related Air Pollution Controls

SCA-AIR-2 Construction Related Air Pollution Controls

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

During Construction, the project applicant shall require the construction contractor to implement all of the following applicable measures recommended by the Bay Area Air Quality Management District (BAAQMD):

a. Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.

b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).

c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

d. Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

e. Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).

f. Requirement: Limit vehicle speeds on unpaved roads to 15 miles per hour.

g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes (as required by Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.

h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes and fleet operators must develop a written idling policy (as required by Title 13, Section 2449 of the California Code of Regulations.)

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

j. Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.

k. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

2. Air Quality - Construction Related Air Pollution Controls

l. All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.

m. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

n. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).

o. Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.

p. Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.

q. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

r. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

s. All trucks and equipment, including tires, shall be washed off prior to leaving the site. Tire washing station will be included at each construction entrance. Water will be contained on-site and reused where possible.

t. Site accesses to a distance of 50 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel over filter fabric.

u. All equipment to be used on the construction site and subject to the requirements of Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") must meet Emissions and Performance Requirements one year in advance of any fleet deadlines. The project applicant shall provide written documentation that the fleet requirements have been met.

v. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).

Dust Control Mitigation Plan:

The Erosion Control Plan (Exhibit B) was submitted to the City as part of the 02/08/2016 Issue for Permit Drawings. In addition to the dust control measures included in The Erosion Control Plan the following items will be implemented to control dust -

a. Use water trucks to water exposed surfaces during construction activities at least twice daily or more frequently if winds exceed 15 mph. Suspend excavation, grading, and demolition activities when average wind speed exceeds 20 mph. Maintain minimum soil moisture of 12% as indicated by laboratory samples or a moisture meter. Use reclaimed water for dust mitigation whenever feasible. Monitoring process will include:

2. Air Quality - Construction Related Air Pollution Controls

1) Checking weather reports daily prior to starting construction activity to prepare for wind speeds as necessary.
2) Monitoring weather and dust as day progresses by setting up an anemometer wind speed sensor and checking periodically.
3) Increasing dust control watering as wind speeds increase to maintain minimum 12% moisture content, or to a point at which the earth becomes tacky.

b. Cover truck loads with tarpaulins or keep loads 2 feet below the sideboard of the truck bed to eliminate wind contact with soil or other loaded materials.

c. Require all operators tracking dirt/mud onto public roadways to have a wet power vacuum sweeper present daily during these activities and remove tracked dirt/mud at the end of each day or more frequently if needed.

d. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. Construction area entrances will be built using fabric and 3x5 rock to facilitate tire soil removal prior to leaving the site (or as defined by the guidelines in the Best Management Practice Handbook). Ingress/egress sites will also provide dry brushing of loose soil from tires and fenders.

e. As soon as practical and prior to rainy season, cover all access roads and/or permanent roads and building pads with aggregate or asphalt concrete to mitigate tracking of dirt and/or mud offsite.

f. Cover all inactive soil material stockpiles with plastic sheeting or non-toxic soil binders. Water all active stockpiles to maintain 12% moisture.

g. Install fencing with attached windscreen fabric on the windward side of the actively disturbed area of the construction site.

h. Replant vegetation in disturbed areas as quickly as possible.

i. Limit simultaneous occurrence of excavation, grading, and ground disturbance activities on the same area at any one time when feasible.

j. Draft and implement a Project SWPPP. The onsite QSP (Randy Knaus) will monitor runoff before, during, and after rain events. Deficiencies will be logged and corrected immediately. Inactive construction areas will be properly addressed with BMPs to eliminate erosion. Required BMPs will be outlined in the SWPPP and enforced with reporting and inspection.

k. Post signage and enforce 15 mph speed limit requirement for unpaved roads (Exhibit G).

l. Post signage and enforce dust complaint reporting requirement (Exhibit H). Take corrective action to remedy complaints within no more than 48 hours after receiving the complaint.

m. The Project Dust Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. The Contractor will maintain Daily Inspection Logs throughout the Project.

n. Limit inactive construction areas (previously graded areas inactive for one month or more) by installing planting, finished hardscape, and paving as soon as possible.

2. Air Quality - Construction Related Air Pollution Controls

o. Designate Randy Knaus (WT Superintendent) as the person to monitor the dust control program and to order increased watering, as necessary.

p. Install fencing with attached windscreen fabric on the windward side of the actively disturbed area of the construction site.

q. Replant vegetation in disturbed areas as quickly as possible.

r. Limit simultaneous occurrence of excavation, grading, and ground disturbance activities on the same area at any one time when feasible.

s. Tire washing station will be included at each construction entrance and all equipment, including tires will be washed off prior to leaving the site.

t. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. Construction area entrances will be built using fabric and 3x5 rock to facilitate tire soil removal prior to leaving the site (or as defined by the guidelines in the Best Management Practice Handbook). Ingress/ egress sites will also provide dry brushing of loose soil from tires and fenders

u. All contractors will be bound by contract to comply with the requirements of CCR Title 13, Section 2449. All written documentation that fleet requirements have been met will be submitted to the City of Oakland for record.

v. Install coatings meeting VOC content requirements specified in Project Specification.

Emission Control Mitigation Plan:

To reduce emissions generated by equipment operating onsite the following protocols will be implemented –

Equipment and Fuel Requirements

a. All contractors will be encouraged to use Tier 4 off-road engines for all equipment brought to the site, as available. At a minimum, contractors will be required to use Tier 3 off-road engines for all equipment brought on-site. All contractors will be encouraged to use post 2010 model water trucks, as available. Contractors shall provide Reporting and Labeling documentation required and enforced by CARB. In addition, each contractor shall submit specific list of equipment being proposed for this project site. Compliance officer to use this documentation to verify equipment meets requirement meets either Tier 4 or Tier 3 engine requirement.

b. Fuel being used will be compliant with California standards and consistent with regulatory requirements for Ultra Low Sulfur Diesel (USLD). Use late model (defined as Tier 4, manufactured post 2008, or Tier 3, manufactured post 2006) heavy-duty diesel-powered equipment, as well as zero and near-zero emission equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area.

c. Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.

2. Air Quality - Construction Related Air Pollution Controls

d. Electric boom lifts, scissor lifts, and small tools will be utilized to the extent feasible. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment.

e. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible. Temporary electric service from existing infrastructure will be provided on the job-site for contractors to use for small tools and equipment.

f. Keep all construction equipment properly tuned by a certified mechanic in accordance with the manufacturer's specifications. Operators will provide the Contractor with written documentation of equipment maintenance for all equipment to be used onsite.

g. All contractors will be bound by contract to comply with the requirements of CCR Title 13, Section 2449 (CARB Off-Road Diesel Regulations). All written documentation that fleet requirements for equipment to be used onsite have been met will be submitted to the City of Oakland for record.

h. The CARB Off-Road Diesel Vehicle Regulations will be enforced on this project using the requirements currently in effect and enforced by CARB. All emission standards and related requirements set forth in the CARB Regulations apply on the schedules set forth in the Regulations.
https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm

The requirements outlined below are currently in effect and being enforced by CARB:

Idling

Equipment operators must limit their unnecessary idling to 5 minutes. There are exceptions for vehicles that need to idle to perform work (such as a crane providing hydraulic power to the boom), vehicles being serviced, or in a queue waiting for work. See Exhibit J for signage describing the Project Idling Policy.

Disclosure, Reporting and Labeling

Sellers of any equipment to be used on the Project must provide disclosure of the Off-Road regulation (exact language provided in the regulation) on the bill of sale or invoice, and must keep records that the disclosure was provided for three years after the sale. The seller must also report the vehicle sale to CARB via DOORS within 30 days of the sale.

Reporting can be completed using DOORS (Diesel Off-road online Reporting System), which is CARB's free online reporting tool for the Off-Road regulation. Additionally, hard copy reporting forms may be submitted. All equipment providers must review and update their information by March 1 of each year that annual reporting is required. Large fleets (fleet size > 5,000 HP) must report annually from 2012 to 2023, medium fleets from 2016 to 2023, and small fleets (fleet size < 2,500 HP) from 2018 to 2028. For each annual reporting date, a fleet must report any changes to the fleet, hour meter readings (for low-use vehicles and vehicles used a majority of the time, but not solely, for agricultural operations), and also must submit the Responsible Official Affirmation of Reporting (ROAR) form. All of these items should be submitted using DOORS. In the event that a fleet cannot, or does not want to meet the fleet average emissions target in a given year, it may instead choose to comply with the BACT (Best Available Control Technology) requirements, which requires installation of VDECS (Verified Diesel Emission Control Strategies), ie. exhaust retrofits, on a certain percentage of their fleet.

All fleet equipment used onsite shall be properly labeled. After a fleet reports their vehicles to CARB, each vehicle is assigned a unique Equipment Identification Number (EIN). The fleet must label its vehicles within

2. Air Quality - Construction Related Air Pollution Controls

30 days of receiving EINs. Labeling provisions of the Off-Road regulation were amended in December 2010 to require labels on both sides of each vehicle. Additionally, fleets reported as 'captive attainment area fleets' must have labels with a green background instead of red.

Restrictions on Adding Vehicles

The Off-Road regulation restricts fleets from adding vehicles with older tier engines. Contractors adding fleet equipment to be used on the Project shall comply with the following restrictions at a minimum of one year in advance of dates listed below.

Ban on adding Tier 0s – Effective January 1, 2014, a fleet may not add a vehicle with a Tier 0 engine to its fleet. (Note no Tier 0 engines will be permitted onsite).

Prohibition on adding Tier 1s – Also effective January 1, 2014, for large and medium fleets, and January 1 2016 for small fleets, a fleet may not add any vehicle with Tier 1 engine. The engine tier must be tier 2 or higher. (Note no Tier 1 engines will be permitted onsite).

Prohibition on adding Tier 2s – Beginning January 1, 2018, for large and medium fleets, and January 1, 2023, for small fleets, a fleet may not add a vehicle with a Tier 2 engine to its fleet. The engine tier must be Tier 3 or higher. (Note no Tier 2 engines will be permitted onsite).

Enforcement

i. Signage will be posted notifying Contractors that all equipment onsite is subject to the requirements of CCR Title 13, Section 2449 (CARB Off-Road Diesel Regulations) and must meet Emissions and Performance Requirements one year in advance of any fleet deadlines and enforced with inspection and reporting.

j. The Project Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. Any off-road equipment that exhibits conditions outside of the manufacturer's specifications, or emits excessive visible smoke, shall be prohibited from operating on-site. All contractors will be subject to this provision and will maintain Inspection Logs daily throughout the project. Compliance Manager will complete online ARB courses for Visible Emissions Evaluation to enhance ability to ensure fleets are in compliance with CARB Regulations.

k. Post signage limiting truck and equipment idling time to five minutes or less, in accordance with CCR Title 13, Section 2485 & 2449. (Exhibit J)

l. A program to enforce and monitor vehicle compliance will be developed to ensure that vehicles associated with the Project comply with applicable local, regional, state, and federal air quality requirements. The program will include a gate check component to control vehicle access to and from the Project site and may include a voluntary decal program (i.e., "sticker program") whereby vehicles determined to be in compliance with Project requirements will be issued an exterior decal to assist in identifying compliant vehicles.

3. Cultural Resources

SCA-CULT-1: Archaeological Resources

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted.

Archaeological Resource Discovery Plan:

a. Halt all activities within a 50-foot radius of discovery of prehistoric or historic subsurface cultural resources, contact a qualified archaeologist or paleontologist to review discovery, and immediately notify the City.

b. Determine avoidance measures and/or further actions in consultation with City and a qualified archaeologist or paleontologist.

SCA-CULT-3: Paleontological Resources

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

Pursuant to Section 15064.5 of the CEQA Guidelines in the event of an unanticipated discovery of a paleontological resource during ground disturbing activities the following provisions shall be instituted:

Paleontological Resource Discovery Plan:

a. Halt all activities within a 50-foot radius of discovery of prehistoric or historic subsurface cultural resources, to review discovery, and immediately notify the City.

b. Determine avoidance measures and/or further actions in consultation with City and a qualified archaeologist or paleontologist. Basin Research Associates, Inc. Ph: 510-430-8441

SCA-CULT-2: Human Remains

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

Pursuant to Section 15064.5 of the CEQA Guidelines in the event of an unanticipated discovery of human skeletal remains during ground disturbing activities the following provisions shall be instituted:

Human Remains Discovery Plan:

a. Halt all activities upon discovery of human skeletal remains, contact the Alameda County Coroner to review discovery, and immediately notify the City.

b. Cease all activities within a 50-foot radius of discovery if the Alameda County Coroner determines that the remains are Native American, until appropriate arrangements are made.

4. Geology and Soils- Erosion and Sedimentation Controls

SCA-GEO-1: Erosion & Sedimentation Plan

Prior to issuance of a demolition, grading, or building permit; and ongoing throughout demolition, grading, and/or construction:

Requirements:

The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.660 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive storm water runoff or carrying by storm water runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and storm water retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated storm water runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

Erosion and Sediment Control Action:

An Erosion Control Plan (Exhibit B) was submitted to the Oakland Building Services Department as required for a grading permit pursuant to Section 15.04.660 of the Oakland Municipal Code. As required by code the Erosion Control Plan provides for the following:

a. Prevents excessive storm water runoff

b. Utilizes appropriate short-term erosion control methods, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, storm water retention basins, and devices to trap, store, and filter sediment.

c. The storm drain system shall be inspected to verify that the onsite system is cleared of debris and/or sediment. A copy of the survey shall be submitted to the City for review and approval.

d. Grading will be prohibited between October 15 and April 15 unless written authorization is obtained from the City Building Services Division.

5. Hazards and Hazardous Materials

SCA-HAZ-1: Best Management Practices for Soil and Groundwater Hazards

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities.

Requirements:
The project applicant shall implement all of the following Best Management Practices (BMPs) regarding potential soil and groundwater hazards:

a. Soil generated by construction activities shall be stockpiled onsite in a secure and safe manner or if designated for off-site disposal at a permitted facility, the soil shall be loaded, transported and disposed of in a safe and secure manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state and federal agencies laws, in particular, the Regional Water Quality Control Board (RWQCB) and/ or the Alameda County Department of Environmental Health (ACDEH) and policies of the City of Oakland. The excavation, on-site management, and off-site disposal of soil from Project areas within the OARB shall follow the DTSC-approved RAP/RMP.

b. Groundwater pumped from the subsurface shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Oakland, the RWQCB and/or the ACDEH. The on-site management and off-site disposal of groundwater extracted from Project areas within the OARB shall follow the DTSC-approved RAP/RMP for Project areas within the OARB. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building (pursuant to the Standard Condition of Approval regarding Radon or Vapor Intrusion from Soil and Groundwater Sources.

c. Prior to issuance of any demolition, grading, or building permit, the applicant shall submit for review and approval by the City of Oakland, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the ACDEH, have granted all required clearances and confirmed that the all applicable standards, regulations and conditions for all previous contamination at the site. The applicant also shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the Standard Condition of Approval requiring a Site Review by the Fire Services Division pursuant to City Ordinance No. 12323, and compliance with the Standard Condition of Approval requiring a Phase I and/or Phase II Reports.

Hazards and Hazardous Material Mitigation Plan:

See Exhibit O for closure reports related to RMP/RAP. See Exhibit N for Fire Safety Phasing Plan.

All subcontractors shall be required by to comply with the RAP/RMP and Soils Management Plan which includes provisions for the following:

a. All soil stockpiles shall be consolidated in a safe and secure manner.

b. Soil shall be profiled prior to off-haul and disposal.

c. All soils determined to be unsuitable for reuse onsite shall be loaded, transported and disposed of in a secure and safe manner and in accordance with applicable local, state, and federal laws, regulations, and/or policies.

d. Groundwater pumped onsite shall be contained in a safe and secure manner and will only be disposed of at permitted facilities.

5. Hazards and Hazardous Materials

SCA-HAZ-2: Hazards Best Management Practices

See Exhibit O for closure reports related to RMP/RAP
Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities.

Requirements:

The project applicant and construction contractor shall ensure Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

a. Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction.

b. Avoid overtopping construction equipment fuel gas tanks.

c. During routine maintenance of construction equipment, properly contain and remove grease and oils.

d. Properly dispose of discarded containers of fuels and other chemicals.

e. Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all USTs, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.

f. If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval (and DTSC-approved RAP/RMP for Project area within the OARB), as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

Hazards Best Management Practices Mitigation Plan:

a. During construction comply with the RAP/RMP and Soils Management Plan.

b. Prepare a Project Storm Water Pollution Prevention Plan (SWPPP) that includes site hazardous materials and waste management BMPs, proper procedures for storing and handling construction materials onsite, and cleanup measures for accidental releases.

c. Collect environmental samples if suspected contamination, abandoned drums, USTs, elevator shafts, clarifiers, or subsurface hydraulic lifts are encountered during construction, and immediately notify Mark Arniola at (510) 238-7371.

d. Prepare task-specific Health and Safety Plan for construction activities in areas with known or suspected contamination.

e. Follow recommendations provided by a qualified environmental consultant for the profiling, handling, treating, transportation, and/or disposal of any other materials classified as potentially hazardous waste.) (Farallon Consulting, LLC Ph: 510-879-6800)

6. Hydrology and Water Quality

SCA-HYD-1: Storm Water Pollution Prevention Plan (SWPPP)

Mitigation Implementation/Monitoring: Prior to and ongoing throughout demolition, grading, and/or construction activities.

Requirements:

The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a storm water pollution prevention plan (SWPPP) and submit the plan for review and approval by the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact storm water; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to storm water; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.

Storm Water Pollution Prevention Action Items:

a. Prepare a construction SWPPP signed by a Qualified SWPPP Developer (QSD).

b. File a NOI with the SWRCB.

c. Submit SWPPP to the Water Board and City for review and approval.

d. File a NOT with the SWRCB at the completion of construction.

e. On behalf of the Developer and/or its Contractor, a QSP will perform periodic inspections to confirm compliance.

7. Noise Controls

SCA-NOI-1: Days/Hours of Construction Operation

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities. The project applicant shall require construction contractors to limit standard construction activities as follows:

Requirements:

The project applicant shall require construction contractors to limit standard construction activities as follows:

a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Saturday, except that barging and unloading of soil shall be allowed 24 hours per day, 7 days per week for about 15 months.

b. Any construction activity proposed to occur outside of the standard hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division. The project applicant shall also submit an air quality report prepared by a qualified professional evaluating the air quality impacts of the special activities, if the duration of each activity exceeds 6 months.

c. No construction activity shall take place on Sundays or Federal holidays, except as noted above.

d. Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

e. Applicant shall use temporary power poles instead of generators where feasible.

f. All requests to Building Services to work outside normal work days & hours require a Neighborhood Survey (Exhibit P) to be circulated at least 10-days in advance of proposed work to nearby residents and businesses within 300 feet of the job site. A draft of the Neighborhood Survey needs to be approved by Building Services prior to circulating it for community input. Results of the survey are forwarded to Building Services 2 days in advance of scheduled work, to be considered prior to granting written authorization.

Construction Work Hours Plan:

Developer and/or its Contractor will specify in the Project Plans, install signage, and perform periodic inspections, including gate checks, to confirm the following actions:

a. Construction activities will be conducted Monday through Saturday from 7:00am to 7:00 pm. (Exhibit H)

b. Sunday and holiday hours will be from 7:00 am to 4:00 pm with prior City approval.

c. Utilize temporary power poles instead of generators when feasible.

7. Noise Controls

SCA-NOI-2: Noise Control & SCA-NOI-5: Operational Noise – General

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities. Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services. To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

Requirements:

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).

b. Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

c. Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.

d. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

Noise Control Mitigation Plans:

Developer and/or its Contractor will specify in the Project Plans, install signage (Exhibit H), and perform periodic inspections to confirm the following actions:

a. Use BACTs for noise control on construction equipment and trucks.

b. Use hydraulically or electrically powered impact tools.

c. Use exhaust mufflers when pneumatically powered tools are imperative.

d. Locate stationary noise sources as far from receptors as possible.

e. Limit the noisiest phases of construction to periods of no more than 10 consecutive days.

f. Comply with decibel levels and other aspects of the City of Oakland Noise Ordinance.

SCA-NOI-3: Noise Complaint Procedures

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities. Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

Requirements:

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

a. A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);

b. A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);

c. The designation of an on-site construction complaint and enforcement manager for the project;

d. Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and

e. A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Noise Complaint Mitigation Plan:

Developer and/or its Contractor will perform periodic inspections to confirm the following actions:

a. The project team will hold a pre-construction meeting with the Building Services Division staff to discuss noise control measures and to provide an opportunity for inspection and verification of noise control measures.

b. The project team will post signage with construction hours of operation and contact information for the Building Services Department, Oakland Police Department and the Contractor's noise enforcement representatives. Randy Knaus and Steve Rodriguez are the Contractor's noise enforcement representatives for this project. Randy and Steve are responsible for documenting complaints in the Noise Complaint Log and remedying complaints within 48 hours after receiving the complaint.

c. The project team will notify neighbors and occupants within 300 feet of the project site at least 30 days in advance of extreme noise generating activities.

d. All noise complaints received will be documented in the Noise Complaint Log (Exhibit I). At a minimum the following information will be documented in the log: date of complaint, contact information for person providing a noise complaint, reason for the complaint, action taken and/or resolution. Additionally, an email will be notified within 48 hours with an explanation of the corrective measures taken, if applicable. Complaint Logs (Exhibit I) will be maintained up to date and shall be submitted to the Building Services Division monthly and upon request.

SCA-NOI-6: Pile Driving and Other Extreme Noise Generators

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities.

Requirements:

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

a. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings.

b. Implement "quiet" pile driving technology (such as pre-drilling of piles, 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.

7. Noise Controls

c. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site.

d. 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 implement such measure if such measures are feasible and would noticeably reduce noise impacts.

e. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

Extreme Noise Generator Mitigation Plan:

Developer, its Contractor, and/or its consultant will:

a. In the event of a noise complaint, will contract with a qualified acoustical engineer to access construction noise levels at City approved monitoring locations, in order to verify compliance with Oakland Noise Regulations related to construction. The consultant will produce a site-specific noise reduction plan with recommended noise control measures for review and approval by Building Services, and the project sponsors will apply all prescribed noise reduction measures in this plan.

b. Developer and/or its Contractor will perform periodic inspections to confirm compliance.

c. Hire qualified noise consultant for initial noise assessment and provide written letter with findings. See Exhibit R – Noise Consultant Review Letter.

SCA-PSU-2: Fire Safety Phasing Plan – Mitigation 4.9-3

Mitigation Implementation/Monitoring: Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit.

Requirments:

The Port and City shall require developers within their respective jurisdictions to notify OES of their plans in advance of construction or remediation activities. Each developer proposing construction in the redevelopment project area would be required to notify OES prior to initiation of construction, so that OES may plan emergency access and egress taking into consideration possible conflicts or interference during the construction phase. The developer would also be required to notify OES once construction is complete.

Fire Safety Phasing Plan:

The Developer or its Contractor will:

a. Notify California Emergency Management Agency (CalEMA, formerly OES) prior to and at the completion of construction.

b. Submit a separate fire safety phasing plan (Exhibit N) to the Planning and Zoning Division and Fire Services Division for their review and approval. The fire safety plan shall include all of the fire safety features incorporated into the project and the schedule for implementation of the features.

9. Construction Parking and Traffic

SCA-TRANS-2: Construction Traffic and Parking

Mitigation Implementation/Monitoring: Prior to the issuance of a demolition, grading or building permit; and on-going throughout demolition, grading, and/or construction.

Requirement:

The project sponsor and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project (see also SCA TRANS-1, especially "h") and other nearby projects that could be simultaneously under construction. The project sponsor shall develop a construction management plan. The plan shall be submitted to EBMUD, the Port, and Caltrans for their review and comment ten (10) business days before submittal to the City. The project sponsor shall consider in good faith such comments and revise the plan as appropriate. The revised plan shall be submitted for review and approval by the City's Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

a. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.

b. Notification procedures for adjacent project sponsors and public safety personnel regarding when major deliveries, detours, and lane closures will occur.

c. Location of construction staging areas for materials, equipment, and vehicles at an approved location.

d. A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.

e. Provision for accommodation of pedestrian flow.

f. Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces (see also SCA TRANS-1, especially "h").

g. Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.

h. Any heavy equipment brought to the construction site shall be transported by truck, where feasible.

i. No materials or equipment shall be stored on the traveled roadway at any time.

9- Construction Parking and Traffic

j. Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.

k. All equipment shall be equipped with mufflers.

l. Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors. Specifically, to further implement SCA TRANS-2,

m. A traffic construction management analysis was performed which recommended certain improvements to the Adeline/5th and Adeline/3rd Street and Adeline Street intersection, which is discussed under construction impacts of the Traffic and Transportation section of the 2012 OARB Initial Study/Addendum. The requirement for these improvements is not applicable to Prologis's vertical project.

Construction Traffic and Parking Mitigation Plan:

The Developer, its Contractor, or its consultant will prepare a Traffic Control Plan if encroachment into the public right-of-way is required. When required, a Traffic Control Plan will be submitted to EBMUD, the Port, and CalTrans for review and comment no less than 10 days prior to submittal to the City. Incorporate comments and revise plan as appropriate.

a. Submit the Traffic Control Plan to the City for review and approval prior to undertaking any project construction that affects pedestrian or vehicular circulation in the public right-of-way.

b. Schedule major truck trips and deliveries to avoid peak traffic hours.

c. Designate construction access routes, construction staging areas, remediation staging areas, construction and visitor parking areas, and pedestrian walkways. Delineate these areas on Project plans. (Exhibit D & F) All truck traffic involving vehicles over 2 tons are restricted to pre-approved truck route. This will be a contractual requirement. In addition, this requirement will be communicated at the each subcontractor preconstruction meeting and weekly subcontractor meetings

d. Notify adjacent property owners and occupants and public safety personnel and erect electronic message boards in advance of major deliveries, detours, and/or lane closures. (Exhibit K)

e. Survey and document existing conditions prior to construction. Repair damage to streets caused by construction equipment within one week of occurrence unless damage is anticipated to continue. Immediately repair damage that is a threat to public health or safety.

f. Transport heavy equipment to the site by truck/trailer.

g. Require all operators tracking dirt/mud onto public roadways to have a wet power vacuum sweeper present daily during these activities and remove tracked dirt/mud at the end of each day or more frequently if needed. (See Dust Control Mitigation Plan)

h. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. (See Exhibit B and Dust Control Mitigation Plan)

i. Draft and implement a Project SWPPP. Required BMPs will be outlined in the SWPPP and enforced with reporting and inspection.

9- Construction Parking and Traffic

j. Inspect construction area and vicinity daily, and collect and properly dispose of construction-related litter, whether located on the property, within the public rights-of-way, or adjacent properties.

k. Post signage and enforce traffic control measures with reporting and/or inspection.

l. Develop a process for receiving, responding to, and tracking complaints. (See Exhibit I)

m. The Project Compliance Manager Randy Knaus will monitor and facilitate the implementation of mitigation measures. The Compliance Manager will maintain Daily Inspection Logs throughout the Project. (See exhibit M)

n. All equipment will be equipped with mufflers to reduce pollutants and noise. Developer, its Contractor, and/ or its consultant will perform periodic inspections to confirm compliance.

o. An updated Project Truck Log (Exhibit L) will be submitted to Building Services monthly and upon request. The log will summarize all deliveries and off-hauls involving weights (truck + haul load) of 2 to 5 tons, and > 5 tons.

p. Project Truck Log (Exhibit L) and pre-and post-construction videos (Exhibit Q) will be taken to assess potential wear and tear solely due to traffic directly and specifically attributable to construction of the North East Gateway.

SCA-UTL-2: Waste Reduction and Recycling

Mitigation Implementation/Monitoring: Prior to the issuance of a demolition, grading or building permit.

Requirements:

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency. Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of $50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at *http://www2.oaklandnet.com/Government/o/PWA/o/FE/s/GAR/OAK024368* or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

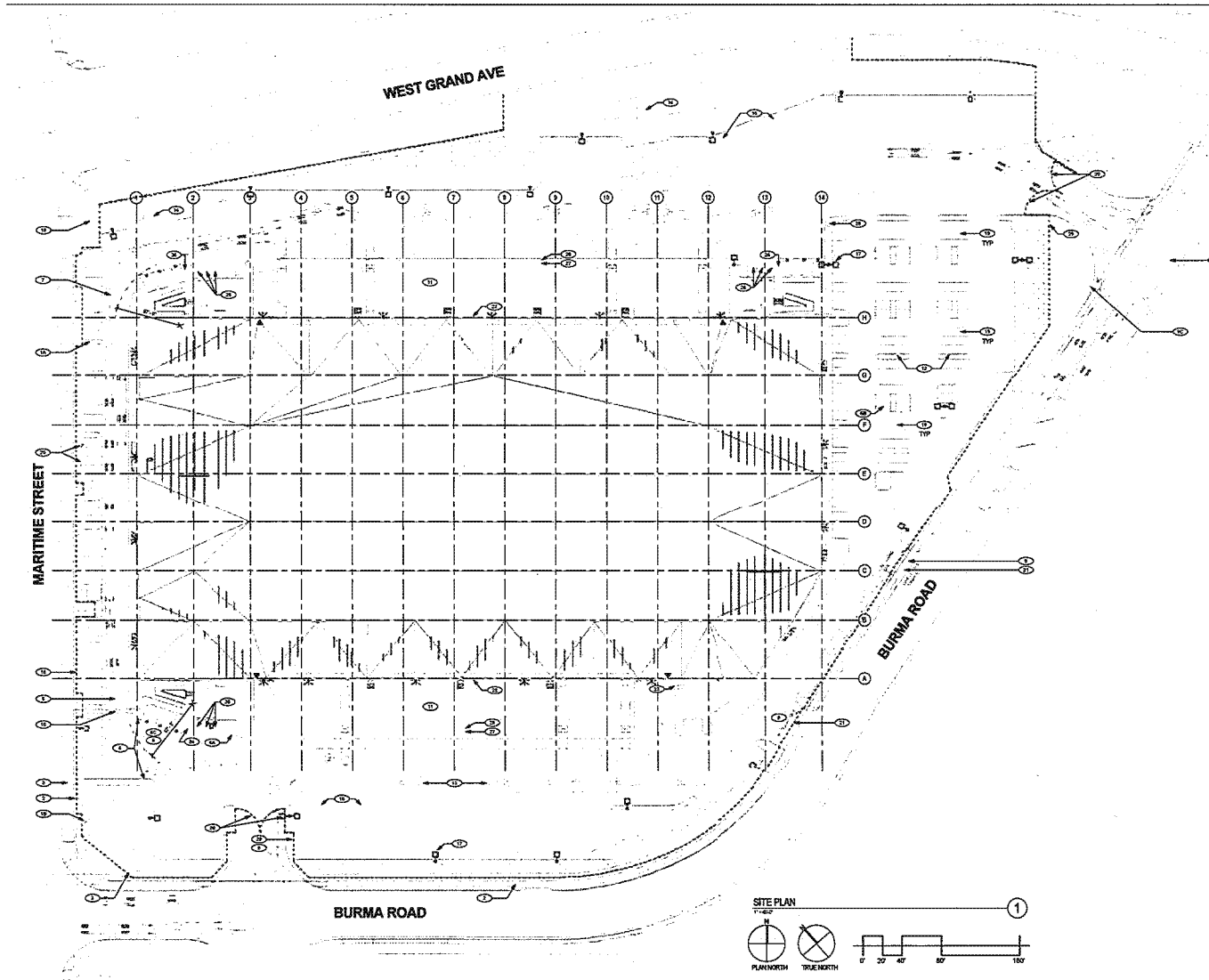
Waste Reduction and Recycling Action:

The Developer, its Contractor, or its consultant will:

a. Prepare a Waste Reduction and Recycling Plan. Submit the plan to the City for review and approval.

b. Identify and track all waste for applicability of reuse or diversion.

Exhibit A- Site Plan and Elevation



SITE STATISTICS

PARCEL NUMBER:	018 050701000
ZONING:	D-CE
HEIGHT - CENTRAL BUSINESS DISTRICT:	N/A
HEIGHT - COMMERCIAL CORRIDOR:	N/A
MAXIMUM BUILDING HEIGHT:	65'-0" (PER OAKLAND ZONING 17.101F.050)
MAXIMUM FLOOR AREA RATIO:	3 (PER OAKLAND ZONING 17.101F.050)
GENERAL PLAN:	BUSINESS MIX
CONDO CONVERSION IMPACT AREA:	NO
CITY COUNCIL DISTRICT:	CCD3
SDS SERVICE DISTRICT:	1
PORT OF OAKLAND JURISDICTION:	NO
LOCAL HISTORIC PROPERTY CATEGORY:	LOCAL REGISTER
LOCAL HISTORIC DISTRICT:	
OCHS RATING:	
CONSTRUCTION DATE:	
LOCAL LANDMARK:	NO
NATIONAL HISTORIC LANDMARK:	NO
HERITAGE PROPERTY:	NO
DESIGNATED HISTORIC DISTRICT:	NO
MILLS ACT	NO
WHIPSNAKE CRITICAL HABITAT:	NO
FLOOD ZONE:	NO
HAYWARD FAULT ZONE:	NO
LIQUEFACTION HAZARD ZONE:	YES, LIQUEFACTION SEVERITY 5
WILD FIRE ASSESSMENT DISTRICT:	NO
TOTAL SITE AREA =	792,071.2175 G.S.F. = 18.12 ACRES
TOTAL BLDG AREA =	258,136 G.S.F.
SITE COVERAGE =	36.48 %
TOTAL VEHICLE PARKING =	214 STALLS = .84 / 1000 S.F.
TOTAL TRAILER PARKING =	71 TRAILER STALLS (12' X 55')
PARKING STANDARDS (17.116.200)	
STANDARD PARKING STALLS	18' DEEP X 8.5' WIDE
COMPACT PARKING STALLS	15' DEEP X 7.5' WIDE (50% MAX)
PARALLEL PARKING STALLS	20.5' DEEP X 7.5' WIDE
DRIVE ISLE WIDTH (17.116.210) AT 90 DEGREE PARKING:	21 FEET MINIMUM
REQUIRED PARKING PER ZONING CODE:	
OFFICE (17.116.080 C, BUSINESS)	1 / 600 S.F.
INDUSTRIAL ACTIVITIES (17.116.090)	1 / 1500 S.F. OR 1 PER EACH 3 EMPLOYEES (WHICHEVER IS GREATER)
REQUIRED PARKING BY USE:	
OFFICE = (8,349 S.F. @ 1/600 S.F.)	14 STALLS
WAREHOUSE = (247,787 S.F. @ 1/1500 S.F.)	165 STALLS
TOTAL PARKING REQUIRED =	179 STALLS = .70 / 1000 S.F.
TOTAL PARKING PROVIDED =	179 STALLS = .70 / 1000 S.F.

BIORETENTION AREAS

12' X 14' GRADE LEVEL SECTIONAL ROLL UP DOOR

9' X 10' DOCK LEVEL SECTIONAL ROLL UP DOOR

KEY NOTES

1A SITE SIGNAGE FOR REFERENCE ONLY – OVERALL DEVELOPMENT PRELIMINARY
1B SITE SIGNAGE FOR REFERENCE ONLY – BUILDING MONUMENT SIGN
1C SITE SIGNAGE FOR REFERENCE ONLY – CUSTOMER DIRECTORY SIGNS (2 TOTAL)
2 PROPERTY LINES TO REMAIN
3 50' WIDE (MIN 8.5M SIDEWALK) AT MARITIME AND BURMA RD
4 TYPICAL 8" TALL 18" WIDE CONCRETE CURBS
5 TYPICAL 4" WIDE TRAFFIC STRIPING
6A TYPICAL PARKING – STANDARD STALLS 18'D X 8.5' MIN, 9' X 18' SHOWN THROUGHOUT
6B TYPICAL PARKING – COMPACT STALLS 15' X 7.5' MIN, 15' X 9' SHOWN THROUGHOUT, (50%)
6C TYPICAL PARKING – ACCESSIBLE PARKING STALLS 9' X 18' WITH 7' PARKING OVERHANG WITH 8' DRIVE AISLE (VAN & 2 CODE AS SHOWN
7 TYPICAL DRIVEABLE 30'-0" MIN ACTUAL CURBS INDICATED
8 PARKING AND DRIVE ISLES TO BE ASPHALTIC CONCRETE
9 PROPOSED LOCATION OF NEW SITE ACCESS (DRIVE CURB CUT AT BURMA RD)
10 NEW CONCRETE PEDESTRIAN WALKS TO BE 4' WIDE (MIN ADA REQ'D) SLOPES TO BE ACCESSIBLE PATH OF TRAVEL, SLOPE NOT EXCEEDED 1:20 (5%), IN DIRECTION OF TRAVEL, CROSS SLOPE NOT TO EXCEED 1:50 (2%), WHERE PARKING OVERHANG OCCURS, INCREASE WIDTH OF SIDEWALK TO 6' MIN
11 TRUCK DOCK
12 TYP LANDSCAPE PLANTER AREA
13 53' TRACTOR TRAILER TEMPLATE SHOWN FOR REFERENCE ONLY
14 DYNSITE BILLBOARD LOCATION (2 TOTAL)
15 8' TALL PAINTED WROUGHT IRON FENCE, SEE SPECS
16 TYP 12' X 55' TRAILER PARKING STALL
17 SITE LIGHTING, POLE MOUNTED LIGHT FIXTURE
18 SEE CIVIL DRAWINGS FOR EASEMENT LOCATIONS AND INFORMATION
19 PLANNED FUTURE STORAGE ZONES
20 SWINGING SECURITY GATES
21 SLIDING SECURITY GATE
22 PROPOSED BUILDING EXTERIOR WALL TO BE SITE CAST TILT UP CONCRETE WALLS WITH REVEALS & TEXTURED SUNTHERMER COATING AND A MULTI COLOR GARDEN TONE PAINT PALETTE, EXTERIOR WALLS ARE ACCENTED WITH SCHEDULE STEEL, COMPOSITE ALUMINUM PANELS AND ARCHITECTURAL METAL PANELS. SEE EXTERIOR ELEVATIONS
23 LOCATION OF BICYCLE PARKING TO ACCOMMODATE A TOTAL OF 18 BICYCLES, PER CALGREEN REQUIREMENTS
24 AREA OF ASSISTED RESCUE
25 ELECTRIC VEHICLE CHARGING STATIONS (2 TOTAL), SERVICING 4 PARKING SPACES, PROVIDE CHARGE @ STATION SIGNAGE
26 2 HIGH STRIPED VEHICLE STALLS (NEW) – 8 TOTAL (1 PER PROJECT, GREATER THAN THE REQUIREMENT 5% OF TOTAL)
27 PROVIDE BOLLARDS AT FOUR CORNERS OF PAD, CONTRACTOR TO COORD BOLLARDS TO NOT CONFLICT WITH FH
28 FIRE HYDRANT, TYP, SEE CIVIL DWGS
29 FIRE LANE PER SDS 1 INTEGRATED WROUGHT IRON FENCE

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#	Description	Date
	ISSUE FOR PERMIT	10.08.02

ISSUE: ISSUE FOR PERMIT FEB 08 2018

OAKLAND GLOBAL LOGISTICS CENTER

PHASE 1, NORTH EAST GATEWAY
OAKLAND, CALIFORNIA

PROLOGIS

3353 GATEWAY BLVD
FREMONT, CALIFORNIA
94538
TELEPHONE: 510.494.1000

Date: Project No.:
DATE: 10/02/08

Sheet Title: SITE PLAN

Sheet No.: A1.0.1

☐ Released for Construction
☒ Not Released for Construction

PROLOGIS

WT Wilding Torres

Release date: "April 18, 2019"

ED_002352_00000112-00089

EPA-HQ-2019-003701 000201 2019-04-18

Exhibit A- Site Plan and Elevation

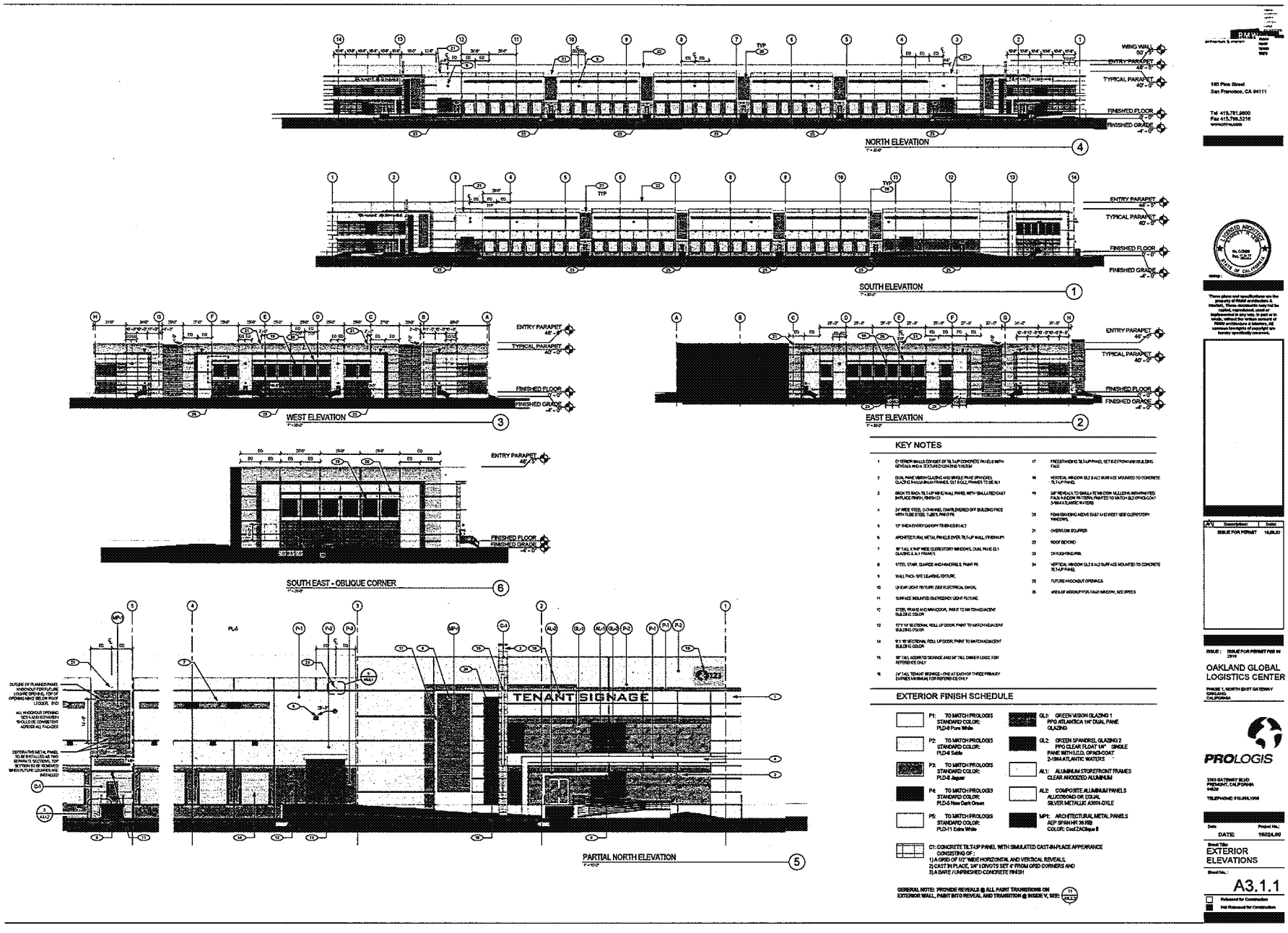
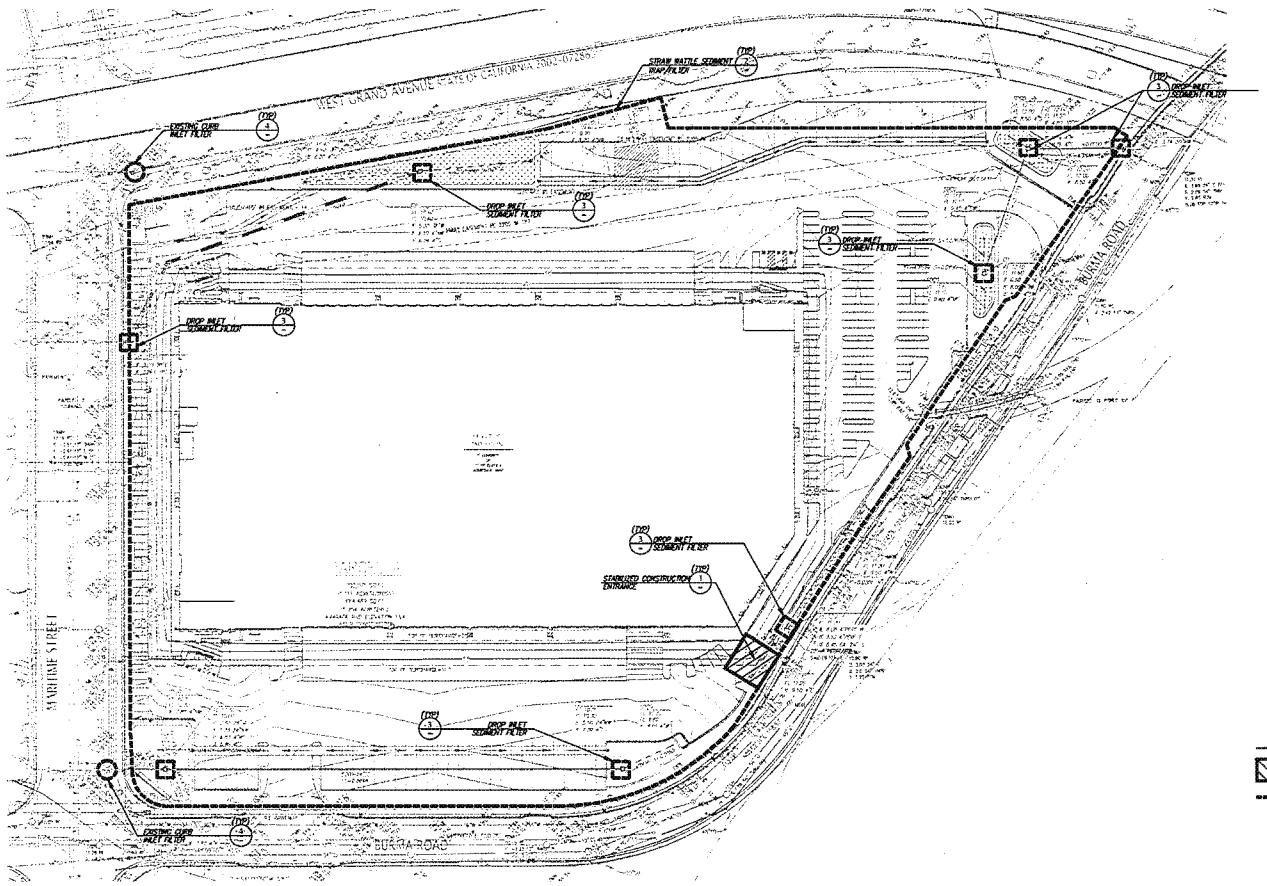
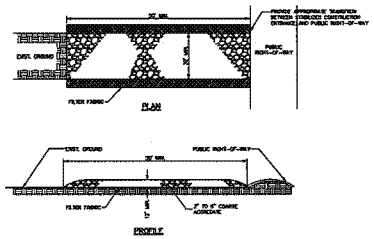


Exhibit B- Erosion Control Plan

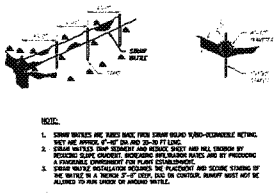


LEGEND

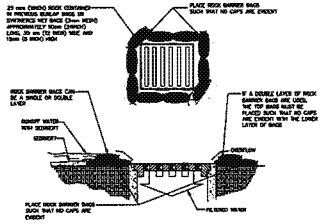
- STABILIZED CONSTRUCTION ENTRANCE
- STRAW WATTLE SEDIMENT TRAP/FILTER
- DROP INLET SEDIMENT FILTER
- EXISTING CURB INLET FILTER



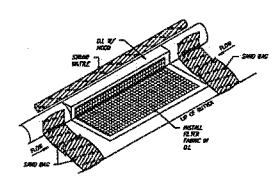
STABILIZED CONSTRUCTION ENTRANCE (1)



STRAW WATTLE SEDIMENT TRAP/FILTER (2)



DROP INLET SEDIMENT FILTER UTILIZING ROCK BARRIER BAGS (3)



EXISTING CURB INLET FILTER DETAIL (4)

KIER & WRIGHT

OAKLAND GLOBAL LOGISTICS CENTER

PROLOGIS

JAN, 2016 A13533-1

EROSION CONTROL PLAN

C6

PROLOGIS WT

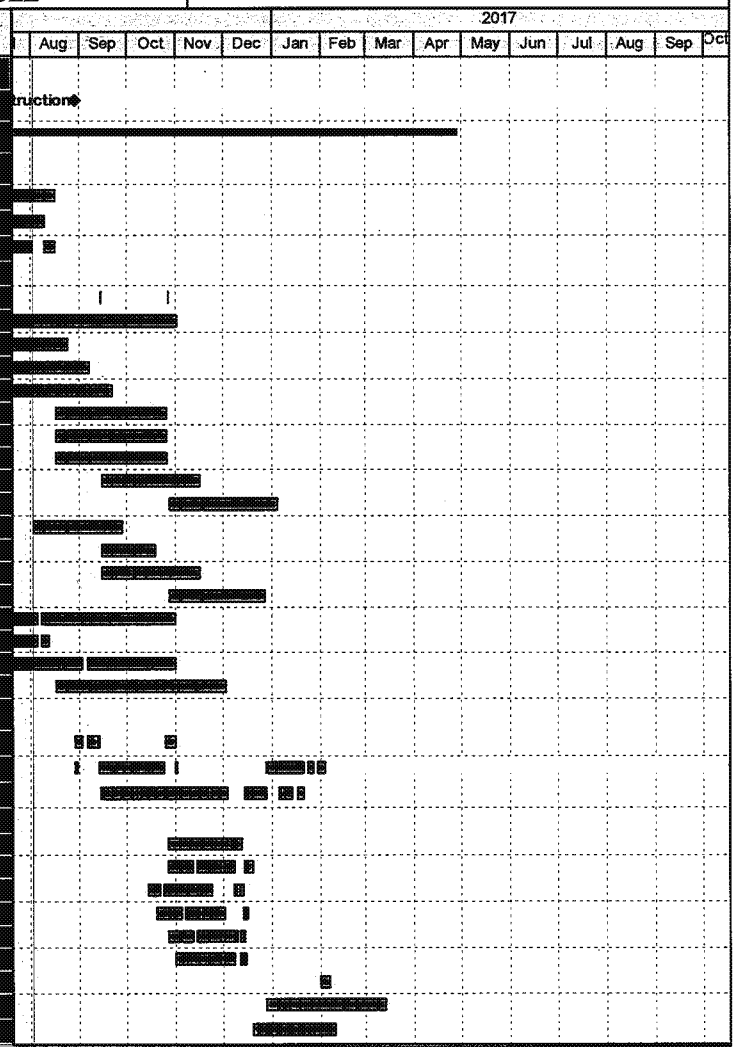
Exhibit C- Project Schedule

WHITING-TURNER CONTRACTING COMPANY
Page: 1 of 2

PROLOGIS - OAB NORTHEAST GATEWAY
PROJECT SCHEDULE

Prologis

Activity ID	Activity Name	OD	Start	Finish
	PROLOGIS PHASE 1 - Aug 4, 2016 Working	230	24-Feb-16 A	19-May-17
	PROJECT MILESTONES	199	25-Feb-16 A	28-Apr-17
	PROJECT SUMMARY	199	24-Feb-16 A	28-Apr-17
	PRECONSTRUCTION / CONTRACT / DESIGN	174	24-Feb-16 A	04-Jan-17
	BUDGET & GMP	65	24-Feb-16 A	16-Aug-16
	DESIGN DOCUMENTS & PERMITTING	35	24-Feb-16 A	10-Aug-16
	SUBCONTRACTOR BID / AWARD	31	09-May-16 A	16-Aug-16
	PROCUREMENT	174	22-Jun-16 A	04-Jan-17
	INCREMENTAL SUBMITTALS	61	18-Jul-16 A	27-Oct-16
	UNDERGROUND UTILITIES - EBMUD	80	12-Jul-16 A	01-Nov-16
	UNDERGROUND UTILITIES - WATER/SEWER/STORM	32	12-Jul-16 A	24-Aug-16
	UNDERGROUND UTILITIES- FIRE WATER	36	05-Jul-16 A	07-Sep-16
	CONCRETE	53	08-Jul-16 A	21-Sep-16
	BRBF'S	50	17-Aug-16	26-Oct-16
	COLUMNS & LEDGERS	50	17-Aug-16	26-Oct-16
	METAL STAIRS	50	17-Aug-16	26-Oct-16
	STOREFRONT	45	15-Sep-16	16-Nov-16
	METAL WALL PANELS	45	28-Oct-16	04-Jan-17
	HOLLOW METAL DOORS	40	03-Aug-16	28-Sep-16
	GLAZING SYSTEM	25	15-Sep-16	19-Oct-16
	OVERHEAD DOORS	45	15-Sep-16	16-Nov-16
	SITE PERIMETER FENCE	40	28-Oct-16	27-Dec-16
	FIRE PUMP	63	05-Jul-16 A	31-Oct-16
	FIRE SPRINKLER SYSTEM	39	22-Jun-16 A	12-Aug-16
	PANELIZED ROOF SYSTEM	63	18-Jul-16 A	31-Oct-16
	ELECTRICAL	75	17-Aug-16	02-Dec-16
	CONSTRUCTION	183	29-Aug-16	19-May-17
	MOBILIZATION/DEMO/SITE PREP	45	29-Aug-16	31-Oct-16
	SITE UTILITIES	168	29-Aug-16	28-Apr-17
	FOUNDATIONS & SOG	88	14-Sep-16	20-Jan-17
	SITECAST PANELS	77	14-Oct-16	06-Feb-17
	SITECAST FABRICATION - QUAD 1	31	27-Oct-16	12-Dec-16
	SITECAST FABRICATION - QUAD 2	36	27-Oct-16	19-Dec-16
	SITECAST FABRICATION - QUAD 3	41	14-Oct-16	13-Dec-16
	SITECAST FABRICATION - QUAD 4	40	20-Oct-16	16-Dec-16
	SITECAST FABRICATION - QUAD 5	33	27-Oct-16	14-Dec-16
	SITECAST FABRICATION - QUAD 6	31	01-Nov-16	15-Dec-16
	SITECAST ERECTION	4	01-Feb-17	06-Feb-17
	ROOF CONSTRUCTION & MEP EQUIPMENT	51	28-Dec-16	13-Mar-17
	EXTERIOR FINISHES	35	20-Dec-16	09-Feb-17



Date Date:03-Aug-16
Print Date: 18-Aug-16

Exhibit E - 8.4.16

TASK filter: All Activities
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PROLOGIS WT WHITING-TURNER

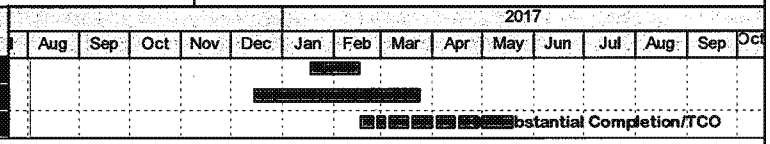
Exhibit C- Project Schedule

WHITING-TURNER CONTRACTING COMPANY
Page: 2 of 2

PROLOGIS - OAB NORTHEAST GATEWAY
PROJECT SCHEDULE

Prologis

Activity ID	Activity Name	OD	Start	Finish
	INTERIOR ROUGH-IN	22	18-Jan-17	16-Feb-17
	SITEWORK	68	15-Dec-16	24-Mar-17
	FINAL INSPECTIONS / PROJECT COMPLETION	65	17-Feb-17	19-May-17



Date Date:03-Aug-16
Print Date: 18-Aug-16

Exhibit E - 8.4.16

TASK filter: All Activities
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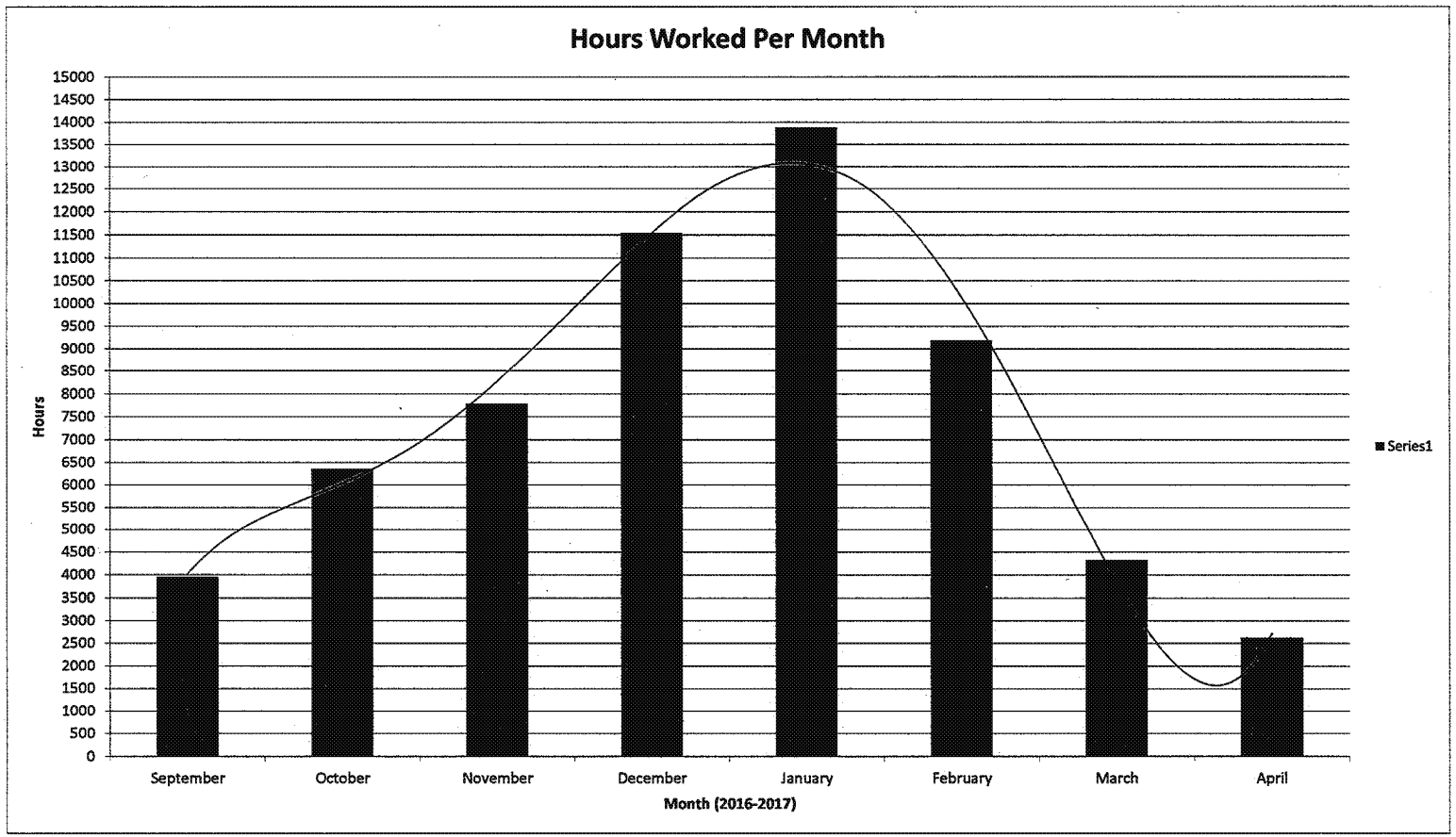
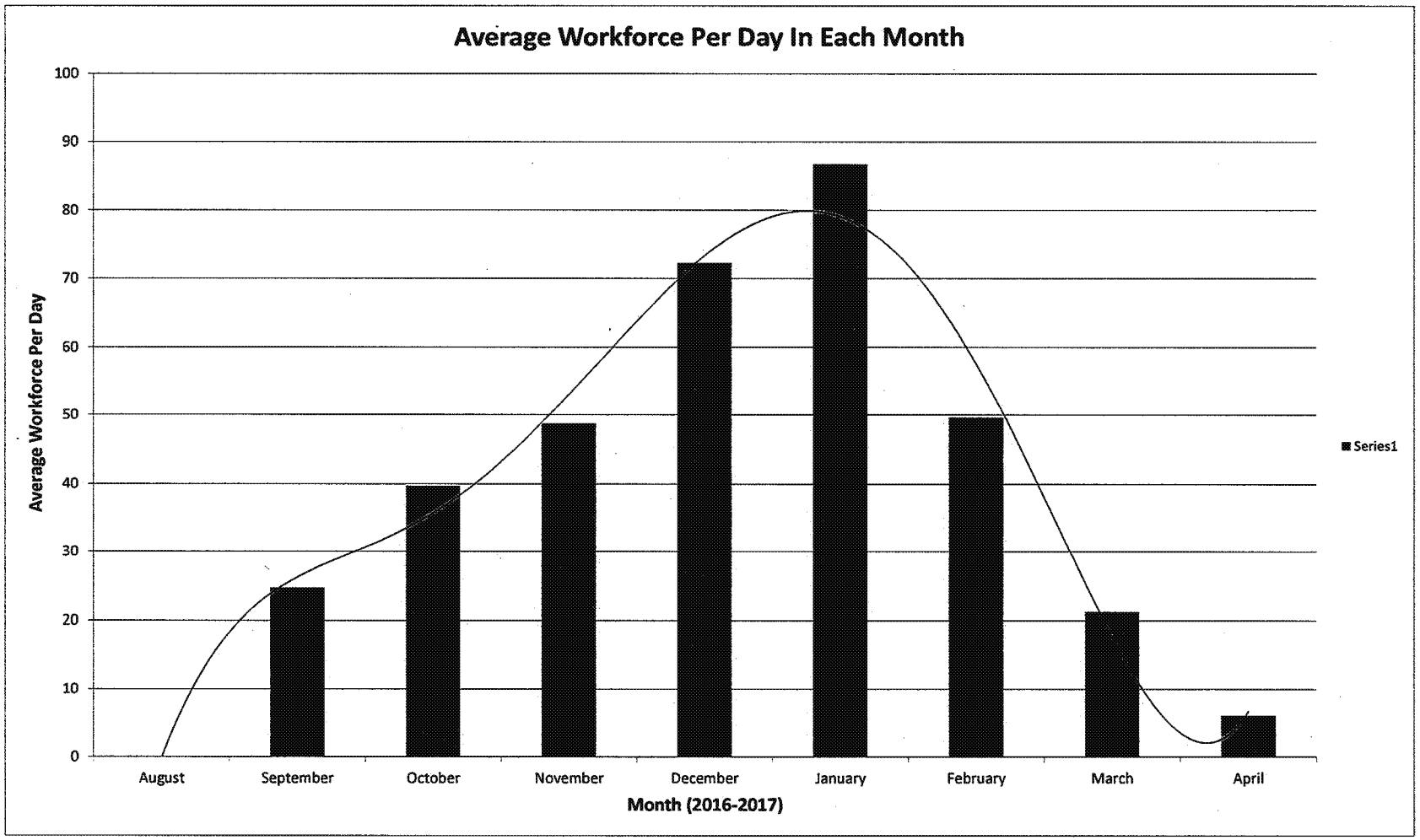
PROLOGIS WT

Exhibit C- Project Schedule



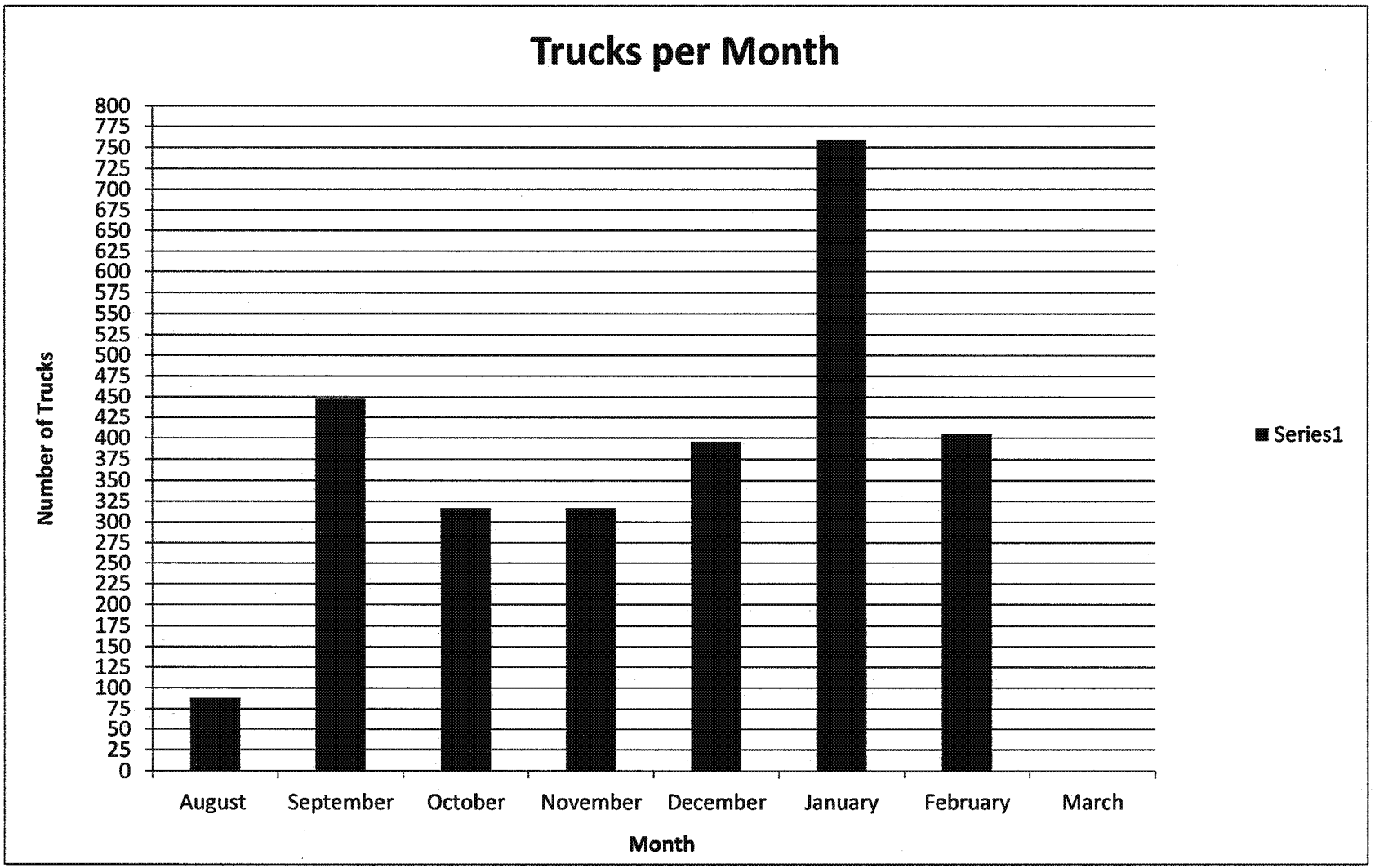
PROLOGIS WT

Exhibit C- Project Schedule



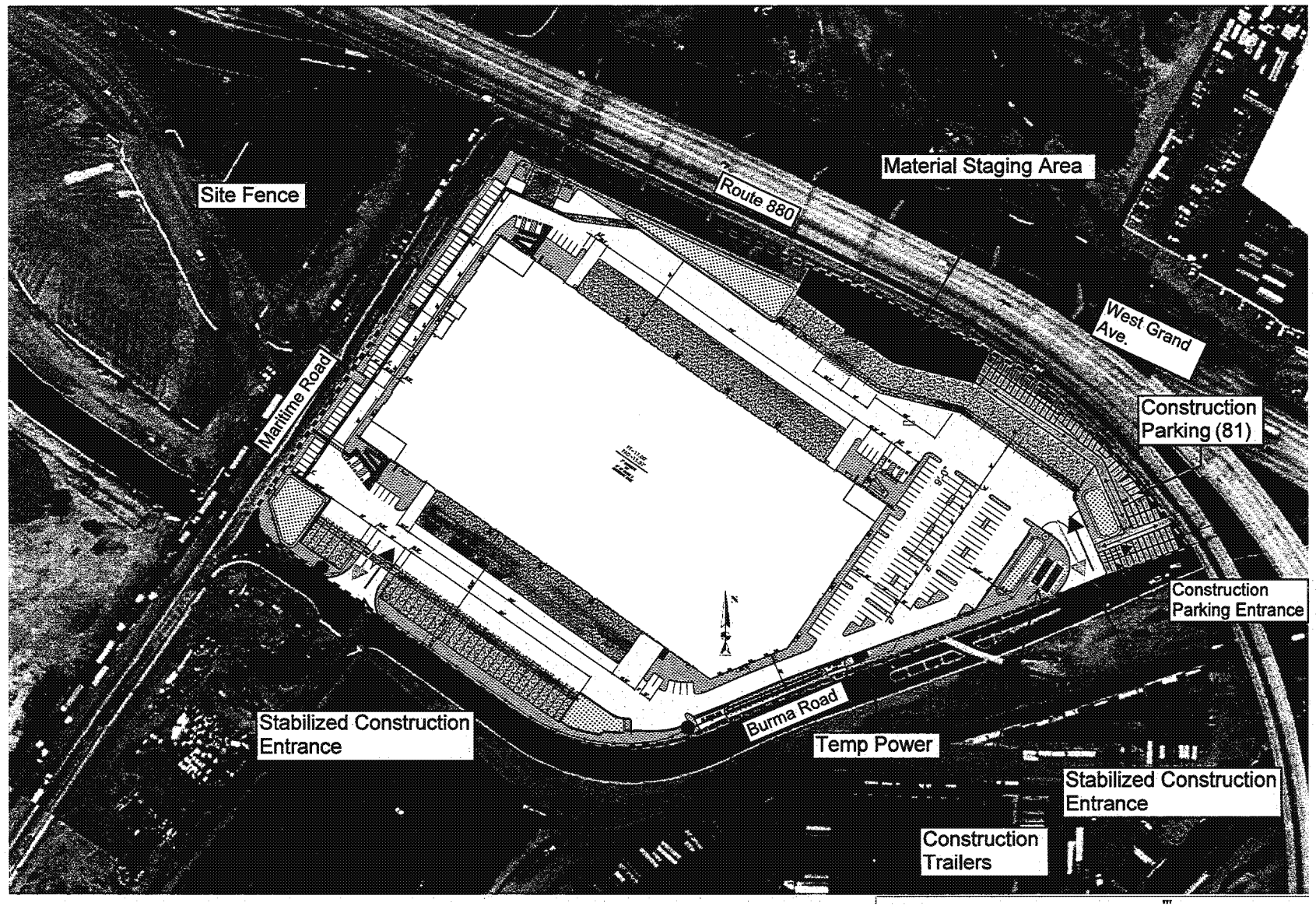
PROLOGIS WT

Exhibit C- Project Schedule



PROLOGIS WT

Exhibit D- Project Logistics Plan



● Fire Hydrant

⊙ Construction Signage

- - - Construction Fence

*All truck queuing will be accommodated on-site. No queuing on public streets will be necessary.

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Exhibit E- Approved Traffic Control Plan

The Developer, its Contractor, or its consultant will prepare a Traffic Control Plan if encroachment into the public right-of-way is required. When required, a Traffic Control Plan will be submitted to EBMUD, the Port, and CalTrans for review and comment no less than 10 days prior to submittal to the City. Incorporate comments and revise plan as appropriate.

Exhibit F- Approved Truck Haul Route

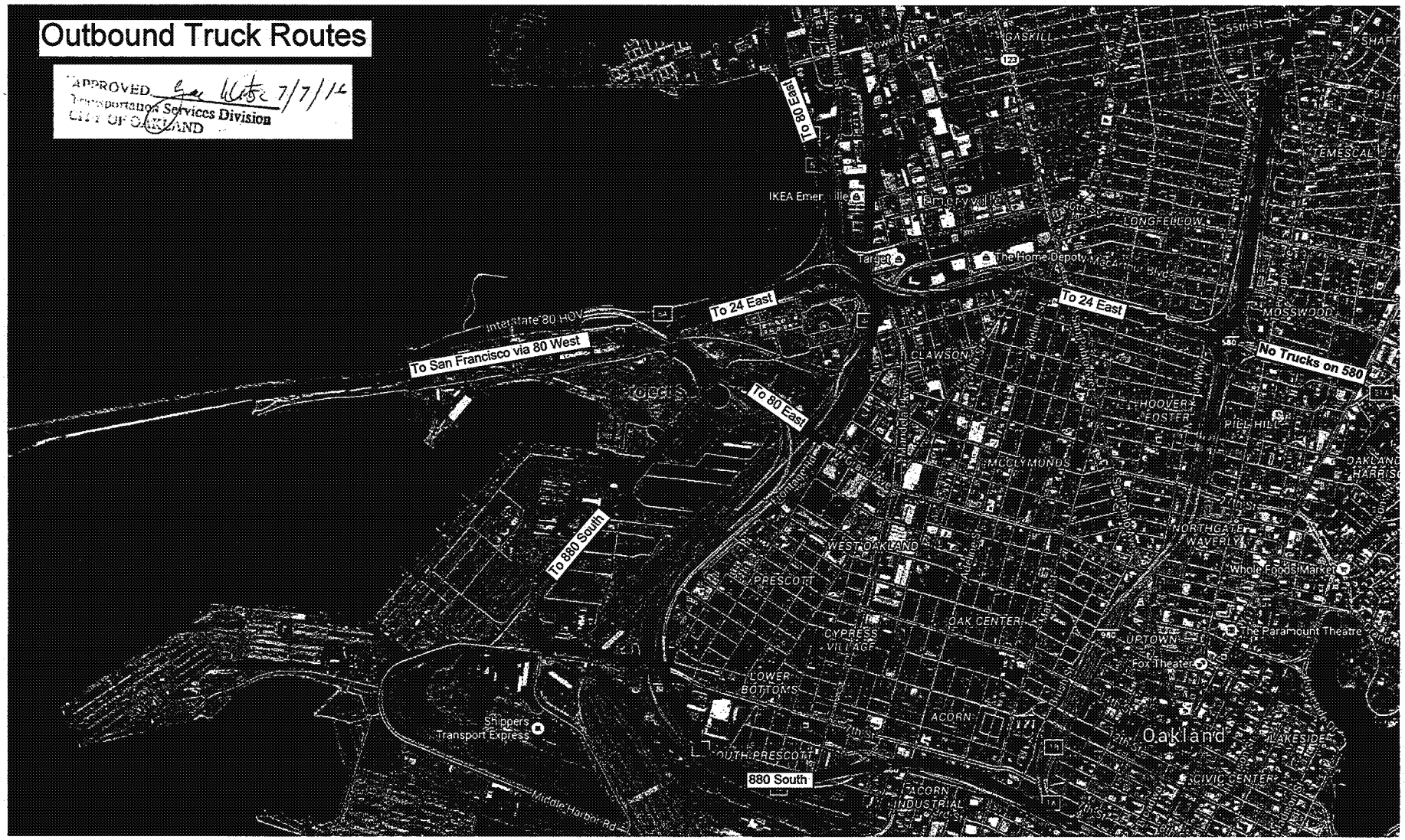

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Exhibit F- Approved Truck Haul Route

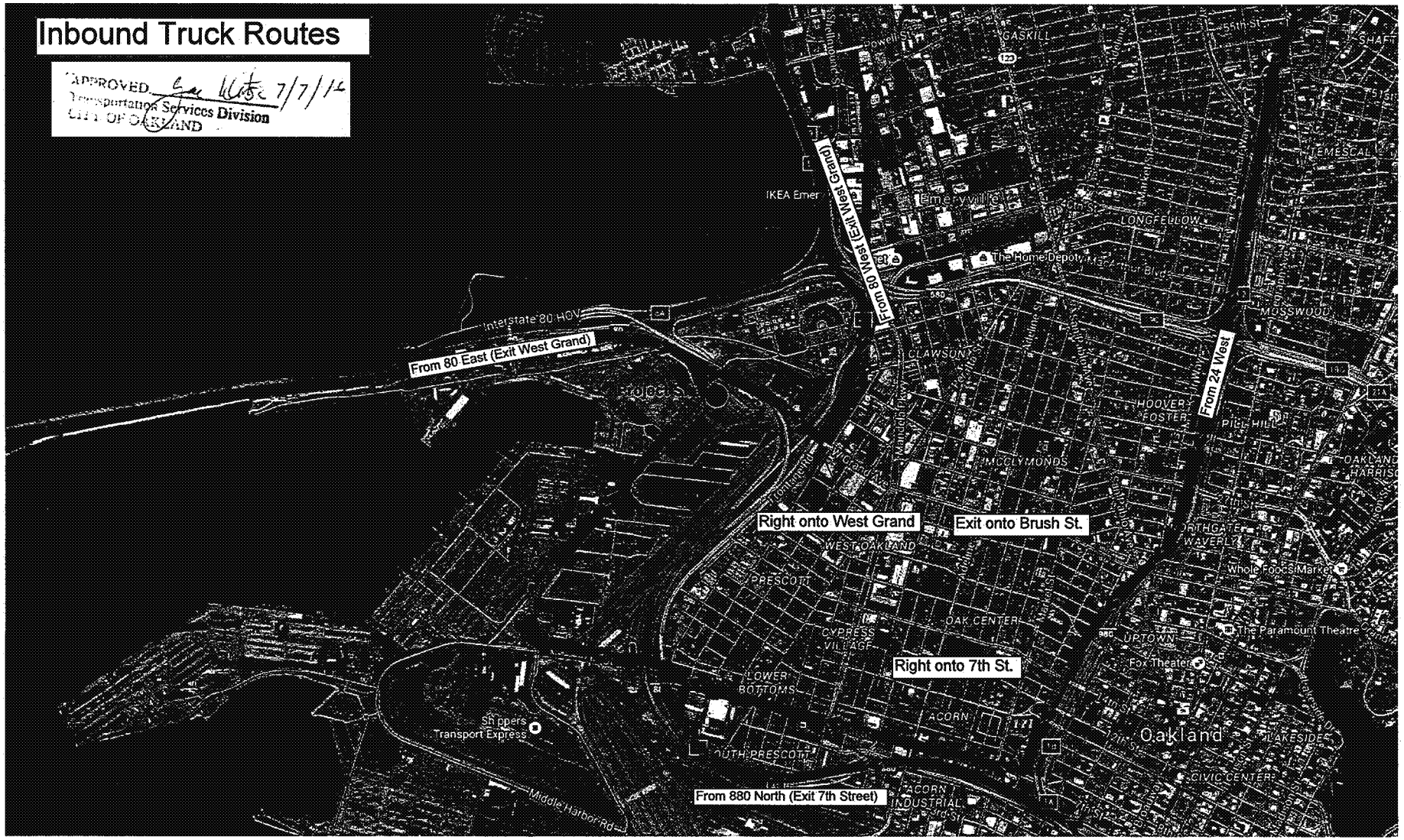

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Exhibit G- Signage: Speed Limit

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Exhibit H- Signage: Dust Reporting, Noise Complaints, & Construction Work Hours

ATTENTION

PERMITTED CONSTRUCTION HOURS:
Monday-Friday 7AM-7PM

There will be no work on site outside of permitted hours without written permission from City of Oakland.

FOR CONCERNS REGARDING DUST, CONSTRUCTION NOISE, EROSION OR ANY CONSTRUCTION ACTIVITY ON THIS PROJECT PLEASE CONTACT:

During Construction Hours – Randy Knaus (925)-271-6023
After Construction Hours – Steve Rodriguez (925-)-271-6590

CITY OF OAKLAND CODE COMPLIANCE:
(510) 238-3381

OAKLAND POLICE DEPARTMENT 24 HR LINE:
(510) 777-3333

BAY AREA AIR QUALITY MANAGEMENT DISTRICT:
(800) 334-6367

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Exhibit I - Log: Dust and Noise Complaints

Project Name: Prologis Northeast Gateway

Complaint Log

Name and Address of Notifier	Telephone Number and/or Email	Date and Time of Call/Email	Nature of Complaint (Traffic/Noise/Dust/Etc.)
	Received By	Directed To	
	Received By	Directed To	
	Received By	Directed T	

date: June, 2016

PROLOGIS WT

Exhibit J- Signage: Equipment Idle Time Restrictions

IDLING POLICY

IDLING TIMES ON ALL DIESEL-FUELED COMMERCIAL VEHICLES OVER 10,000 LBS AND DIESEL-FUELED OFF-ROAD VEHICLES OVER 25 HORSEPOWER SHALL BE MINIMIZED EITHER BY SHUTTING EQUIPMENT OFF WHEN NOT IN USE OR REDUCING THE MAXIMUM IDLING TIME TO FIVE MINUTES.
(CCR TITLE 13, SECTION 2485 & 2449)

VIOLATIONS SUBJECT TO MINIMUM FINE OF $300.

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Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
www.whiting-turner.com

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BIOTECH/PHARMACEUTICAL
HIGH TECH/CLEANROOM

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

I am writing to inform you of the upcoming work at the Prologis Northeast Gateway project located in the City of Oakland. The project site is located on the cross streets of Maritime and Burma Road.

Commencement of construction work is scheduled to begin on or around 7/15/2016. Your property address is within a 300' radius of the project site and this letter is providing notice that construction activities involved with construction may exceed the 90dBA level for a period of 10 working days between 7/28/2016 and 8/11/16.

Any construction work over 90dBA is considered an extreme noise generating activity. The City of Oakland requires all property owners within 300' of the project to be notified 30 days prior to any extreme noise activities taking place. Any work over 90dBA will be performed between the hours of 8:00 a.m. and 4:00 p.m. Monday thru Friday. Construction work that may exceed 90dBA will include:

1. The installation and erection of concrete panels.
2. Removal of construction debris into trucks via excavators and front loader equipment.
3. Construction equipment including, but not limited to, excavators, loaders, mobile crane, and dump trucks.

Whiting-Turner looks forward to working closely with our new neighbors and would like to create a solid relationship with them. If a complaint shall arise, please contact the undersigned below, and all complaints received will be noted in a Complaint Log. The log will include at a minimum the following information: The date of complaint, contact information for all complainant(s), reason for complaint, action taken, and resolution notes. Corrective measures will be immediately taken to address any and all complaints, should they occur. Copies of the Complaint Log will be submitted to Inspections Services monthly and, if so desired, upon request. These noise complaint procedures will be posted along the perimeter of the construction site prior to the commencement of construction. Should you have any noise complaints during construction please follow these procedures.

Most of the extreme noise generating activities will take place during the excavation work during the early stages of the project. We will send additional notices as required for additional upcoming work. If you would like to receive email notifications in lieu of or in addition to a hard copy please provide your email address to Steve.Rodriguez@whiting-turner.com.

Additional project information may be requested should you have any questions by contacting the undersigned.

Sincerely,

Steve Rodriguez
Whiting-Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT

Exhibit K- Sample Public Notice

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MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

Due to safety reasons, pedestrian traffic will be periodically shut down on Maritime Street between Tuesday 9/15/2016 and Friday 10/16/2016 while demolition and excavation activities are in progress. Pedestrian barricades will be set in place to re-route all pedestrian traffic to the detour per the approved Traffic Control Plan. Please reference the included closure plan exhibit from our Traffic Control Plan that shows the areas that will be closed. The shutdown dates will be posted on our website within 2 days prior to shut down.

If you should have any problems or questions we encourage you to call or stop by our construction trailer located on site.

Additional project information may be requested should you have any questions using the contact below.

Sincerely,
Steve Rodriguez
Whiting -Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT Whiting-Turner

Exhibit L- Project Truck Log

Project: Prologis Northeast Gateway
Date:

Truck Information Form

Time In	Time Out	Vehicle Type	License Plate Number	Trucker's Name	Driver's Name	Material	Documentation [1]	Destination	Quantity

Documentation carried by the driver will include:

- Bills of lading or non-hazardous or hazardous waste manifests;
- Proof of insurance, valid registration, and current driver's license;
- Material profile information (reflecting chemical analysis results);
- Material weight records; and
- Complete copy of the Traffic Control Plan.

date: May 8, 2016

PROLOGIS WT WHITING-TURNER

Exhibit M- Daily Site Inspection Log

Project Name: Prologis Northeast Gateway

Construction Site Condition Log

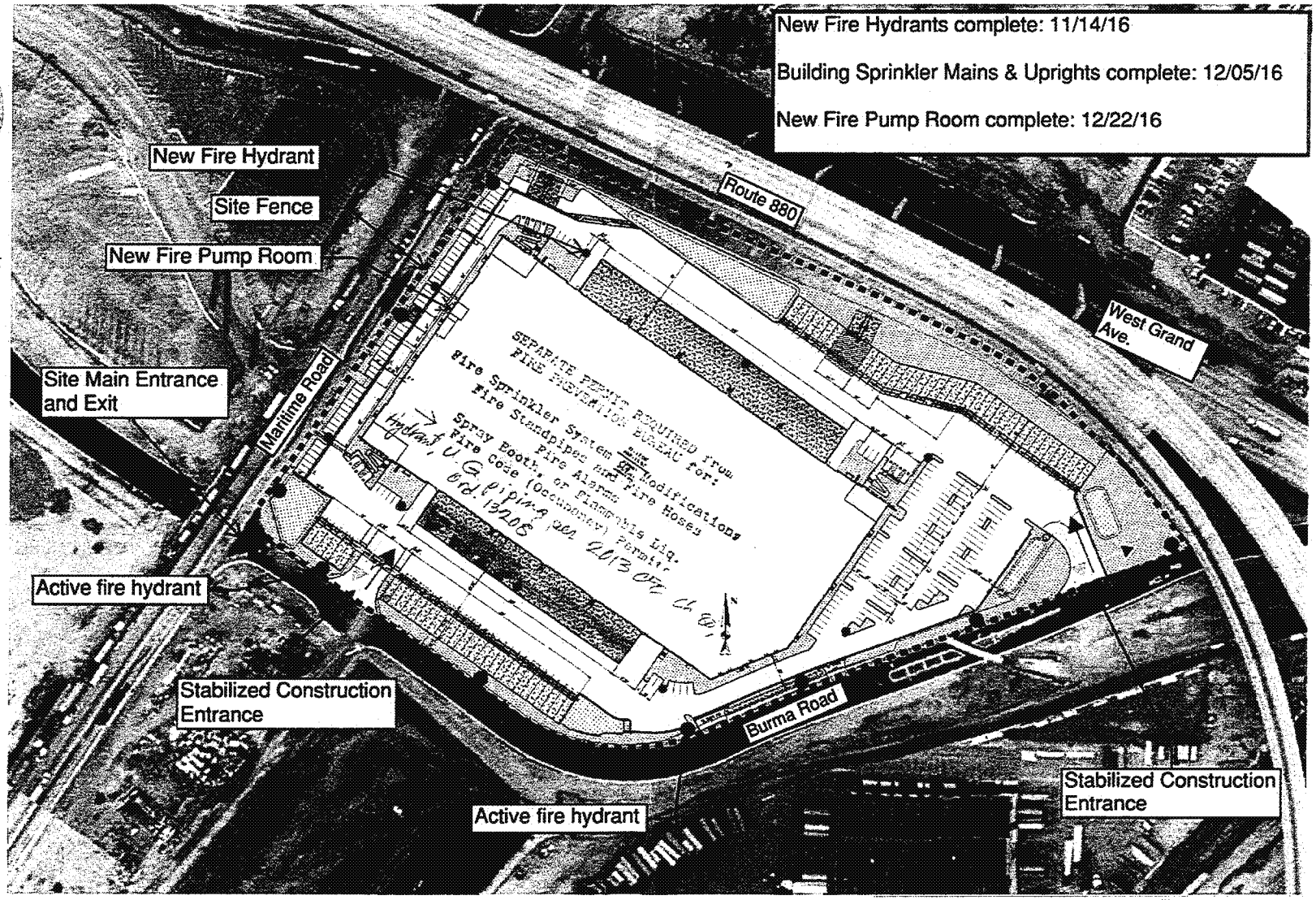
Location:	Decription of Damage:	Date:	Inspected

date: June, 2016

PROLOGIS WT WORKING TURNER

Exhibit N- Fire Safety Phasing Plan

Conceptual Review
As noted.
FIRE MARSHAL APPROVED By: Date: 6.08.16 CITY OF OAKLAND
Subject to approval of shop drawings & hydraulic calcs.



● Existing Active Fire Hydrant ● New Fire Hydrant
○ Construction Signage - - - Construction Fence

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Exhibit O- RMP- RAP Information

Table 1
Risk Management Plan and Remedial Action Plan Information
Northeast Gateway Property
Oakland, California

RAP/RMP Designation	Northing	Easting	Location/Description	Constituents of Concern	Summary of Actions	Final Report Reference	DTSC Remedial Action Certification Date
RMP 22	2126388.536	6041985.046	Bldg. T-816 was a hazardous waste accumulation shed. TPH was detected in a soil sample collected near the former shed. No VOCs or TPH were detected in groundwater.	TPH, PAHs, VOCs	No action required. TPH remains in soil less than remediation goals.	Mastic, 2011	3/15/2011
RMP 23	2126546.617	6041720.998	Facility 815 was a washrack with waste oil sump, associated sand trap, and two associated 550-gallon waste oil USTs (Tanks 7 and 8).	TPH, PAHs, VOCs, Metals	Tanks were removed in 1990. Other structures were removed and the area was overexcavated in 1999. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, VOCs, and PAHs remain in groundwater below remediation goals.	EKI, 2010	7/19/2010
RMP 24	2126541.346	6041784.181	An oil-water separator (OWS-2) was located near Facility 815, and was removed and overexcavated in 1999.	TPH, PAHs, VOCs, Metals	Overexcavated in 1999. TPH, VOCs, PAHs, and metals remain in soil below remediation goals. TPH, VOCs, and PAHs remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 25	2126479.042	6041875.34	Former Bldg. T-815 was a paint and solvent storage shed.	TPH, PAHs, VOCs, Metals	Shed was removed after 1999. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, and VOCs remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 87	2126504.825	6041606.784	Building 812 was a former vehicle and equipment maintenance shop.	TPH, PAHs, VOCs, Metals, PCBs	No action required. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, VOCs, and metal remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 88	2126383.153	6042258.566	Building 823 was a wood shop and heavy equipment maintenance shop with a paint room	TPH, PAHs, VOCs, Metals, PCBs	No action required. TPH, VOCs, and metals remain in soil less than remediation goals. TPH, VOCs, and metal remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 113	2126434.841	6042138.387	One former 1000-gallon fuel oil UST (Tank A, a.k.a. TK15).	TPH, PAHs, VOCs, Metals, PCBs	Tank A removed in 1990. TPH and VOCs remain in soil and groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 114	2126527.224	6041477.077	One former 550-gallon waste oil UST (Tank 8A).	TPH, PAHs, VOCs, Metals, PCBs	Removed in 1996. TPH and metals remain in soil less than remediation goals. TPH, VOCs, PAHs, and metals remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 123	2126562.164	6041727.832	Two former 550-gallon waste oil USTs (Tanks 7 and 8).	TPH, PAHs, VOCs, Metals	UST 7 removed in 1990 and UST 8 removed in 1981. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, VOCs, and PAHs remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 159	2126588.287	6041712.97	Confirmation soil samples near a utility line with PAHs in soil at concentrations exceeding Remediation Goals	TPH, PAHs, VOCs	Soil excavation in 2013. TPH, VOCs, and PAHs remain in soil less than remediation goals.	AMEC, 2013	6/27/2013
RAP Site 5	NA	NA	VOCs in groundwater proximate to Buildings 808 and 823. Vinyl chloride detected in reconnaissance groundwater samples at concentrations exceeding remediation goals, but less than remediation goals in monitoring well samples.	VOCs	No action. VOCs remain in groundwater less than remediation goals.	EKI, 2009	6/8/2009 and 6/18/09

AMEC, 2013 - AMEC Environment & Infrastructure, Inc. letter regarding Request for Completion and Summary of Remediation Activities, RMP Locations 98 and 159, Former Oakland Army Base, Economic Development Conveyance Area, Oakland, California. June 18.
EKI, 2009 - Erler & Kalinowski, Inc., Completion Report for VOCs in Groundwater at Buildings 808 and 823, Former Oakland Army Base - EDC Area, Oakland, California. April 24.
EKI, 2010 - Erler & Kalinowski, Inc. letter regarding Request for Completion - RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123 in the East Gateway Area, Former Oakland Army Base - EDC Area, Oakland, California. June 29.
Mastic, 2011 - Mastic Engineering and Consulting, Inc. letter regarding Revised Request for Completion - RMP Locations 7, 22, and 29, Former Oakland Army Base - Economic Development Conveyance Area, Oakland, California. February 25.
DTSC = California Department of Toxic Substances Control
PAHs = polycyclic aromatic hydrocarbons
PCBs = polychlorinated biphenyls
RAP = Remedial Action Plan
RMP = Risk Management Plan
TPH = total petroleum hydrocarbons
VOCs = volatile organic compounds

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Department of Toxic Substances Control

Linda S. Adams
Acting Secretary for
Environmental Protection

Leonard E. Robinson
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

REMEDIAL ACTION CERTIFICATION

Risk Management Plan Locations 7, 22, and 29
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

---

1. Certification of Remedial Action:

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Henry Wong
Remedial Project Manager
Brownfields and Environmental Restoration Program

3/15/2011
Date

Karen M. Toth, P.E.
Unit Chief
Brownfields and Environmental Restoration Program

3/17/2011
Date

Gerard Aarons, PG 7430, CHG 771
Engineering Geologist,
Geological Services Unit
Office of Geology
Brownfields and Environmental Restoration Program

3/15/2011
Date

PROLOGIS WT

2. **Certification Statement:** Based upon the information which is currently and actually known to the Department of Toxic Substances Control (DTSC),

__ DTSC has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

__ DTSC has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

X DTSC has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

3. **Site Name and Location:**

Risk Management Plan (RMP) Locations 7, 22, and 29
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

A. List of any other names that have been used to identify the site:

RMP Locations
- RMP Location 7 – Former incinerator (Building 147) and an adjoining concrete garbage pit, 1 acre
- RMP Location 22 – Former hazardous waste accumulation shed (Building T-816), 0.1 acre
- RMP Location 29 – Hazardous material storage bay at the west end of Building 806, 0.8 acre

Alternative Names for the Project Site
- Gateway Development Area
- Former Oakland Army Base – Economic Development Conveyance Area
- Oakland Army Base (OARB)
- Base Realignment and Closure (BRAC) Parcels 3, 11, and 12
- Operable Units 1 and 4

B. Address of site if different from above:

RMP Location 7 is near Buildings 141 and 145 located the intersection of Burma Road and Bataan Avenue; RMP Location 22, is located near the intersection of Tobruk Street and Burma Road, RMP Location is located at the west end of Building 806 at West 19th Street, in the City of Oakland, California.

C. Assessor's Parcel Number: O000-0507-001-11
(This number starts with the letter "O" and follows by three zeros.)

D. DTSC Identification Numbers:

Site Code: 201537
EnviroStor ID: 01970016

4. Responsible Parties:

Landowner
City of Oakland

Contact Person:
Mr. Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

5. Brief History:

Prior to 1916, much of the area encompassing OARB was natural tidal marsh or shallow open water. Subsequent land reclamation activities in the general areas created the land where OARB is situated. The Army began operation at OARB in the early 1940s, closed the base in September 1999, and transferred 363.5 acres of property to the City of Oakland in July 2003. In August 2006, the City of Oakland deeded approximately half of the transferred area to the Port of Oakland. DTSC has renamed the transferred 363.5-acre property as the "Oakland Gateway Development Area."

On September 27, 2002, DTSC approved the Remedial Action Plan (RAP) and selected remedies for seven RAP Sites and approximately 150 RMP Locations.

RMP Locations and features include washracks, sumps, oil/water separators, miscellaneous operations, underground storage tanks, aboveground storage tanks, former industrial and chemical handling locations, historical spills and stains, lead in soil around buildings, former polychlorinated biphenyl (PCB)-transformers and equipment locations, storm drains and sanitary sewers, railroad tracks, and marine sediments. The RAP selects a presumptive remedy outlined in the Risk Management Plan (Appendix E of the RAP) for supplementing environmental data and implementing necessary cleanup actions during infrastructure installation or redevelopment.

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* for the Oakland Gateway Development Area, which includes RMP Locations 7, 22, and 29. Since the former base property is not being remediated to residential or drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management.

6. RMP Locations 7, 22, and 29:

On February 25, 2011, the City of Oakland finalized the *Request for Completion - RMP Location 7, 22, and 29* documenting the achievement of the remedial action objectives.

RMP Location 7

RMP Location 7 is a one-acre area where a former incinerator (Building 147) and an adjoining concrete garbage pit were located. The Army constructed the 10-ton incinerator and adjoining 16' x 6' x 3.5' adjoining concrete garbage pit in 1948; the Army demolished the incinerator and pit in 1964. The Army's record does not indicate the types of waste that were burned in the incinerator or stored in the pit. Since 1964, the area has been a mostly paved and gravel surface open area used for trailer and cargo container storage. The area is currently undeveloped.

The Army and City of Oakland collected six soil samples and two groundwater samples and analyzed for volatile organic compounds (VOC), semi-volatile SVOCs, polycyclic aromatic hydrocarbons (PAH), total petroleum hydrocarbons as diesel (TPH-d), TPH as motor oil (TPH-mo), metals, PCBs, dioxins, and furans. Soil and groundwater analytical results do not show chemical of concern (COC) concentrations above remediation goals.

RMP Location 22

RMP Location 22 measure approximately 0.1 acre and is an area where a former is a location a former hazardous waste accumulation shed (Building T-816) was located. The building is no longer on site and is assumed to have been

demolished. The area is currently undeveloped. No additional operational record regarding Building T-816 was available for review.

The Army and City of Oakland collected five soil samples and one groundwater sample and analyzed for VOCs, SVOCs, PAHs, TPH-d, TPH-mo, metals, and PCBs. Soil and groundwater analytical results do not show COC concentrations above remediation goals.

RMP Location 29

RMP Location 29 is a hazardous material storage bay of approximately 0.8 acre at the west end of Building 806. Hazardous material stored in this area included chlorinated hydrocarbons, pesticide, insecticides, mercuric solutions, and flammable materials. According to the Army's August 2001 report, the western-most bay of Building 806 was also the designated storage area for radioactive items. The Army report indicates that no spills of radiological items have occurred and that the results of surveys conducted in 1999 were free from any evidence of radiological contamination.

The Army and City of Oakland collected nine soil samples and two groundwater samples and analyzed for VOCs, SVOCs, PAHs, TPH-d, TPH-mo, metals, pesticides, and PCBs. Soil and groundwater analytical results do not show COC concentrations above remediation goals.

Approval of Request for Completion

On March 15, 2011, DTSC approved the Request for Completion and concluded that the City of Oakland (a) had adequately investigated RMP Locations 7, 22, and 29, (b) had demonstrated achievement of the remedial action objectives, and (c) had implemented the required institutional control remedy for the subject RMP Locations.

All RAP Sites and RMP Locations within the Oakland Gateway Development Area, upon remedy implementation, continue to be parts of the RMP Implementation Area. The August 8, 2003 *Covenant to Restrict Use of Property, Environmental Restriction* requires landowner(s) to follow the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction, redevelopment, and/or post-development activities.

7. Type of Site:

Included in EnviroStor? Yes

RCRA Permitted Facility	_____	Bond Funded	_____
RCRA Facility Closure	_____	RP Funded	_____
NPL	_____	Federal Facility	_____

Other (i.e., walk-in): Please see Section 14.E of this Certification for project funding.

8. Size of Site:

RMP Locations 7, 22, and 29 encompass approximately two acres.

Small __X__ Medium _____ Large _____ Extra Large _____

9. Dates of Remedial Action

The Army and the City of Oakland investigated RMP Locations 7, 22, and 29 from 2000 through 2010. On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* for the Oakland Gateway Development Area, which includes RMP Locations 7, 22, and 29.

10. Response Action Taken on Site: (check appropriate action)

____ Initial removal or remedial action (site inspection/sampling)

__X__ Final remedial action

____ RCRA enforcement/closure action

____ No action, further investigation verified that no cleanup action at site was needed

A. Type of Remedial Action:

The RAP selects the following remedies for the RMP Locations:

- For locations where no contamination has been found to date, the area will be inspected and sampled in accordance with the RMP during redevelopment to confirm no contamination exists above remediation goals at these locations;
- For locations requiring additional soil and groundwater characterization, the areas will be inspected and sampled/monitored during redevelopment as outlined in the RMP;
- For locations requiring removal of an existing structure or sites where impacted soil is anticipated, the RMP assumes that an average of about 50 cubic yards of debris and contaminated soil

will be removed at each site and disposed as hazardous substances at an off-site permitted facility; and

- Implementation of institutional controls to:
  - Prohibit sensitive land uses;
  - Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
  - Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
  - Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

B. Estimated quantity of waste associated with the site (i.e., tons/gallons/ cubic yards) was:

1. _____ Waste Treated Amount: _____
2. _____ Untreated (capped sites) Amount: _____
3. _____ Soil Removed Amount: _____
4. _____ Wastewater Removed Amount: _____
5. __X__ Institutional Controls
   The institutional controls remedy applies to all Oakland Gateway Development Area property including RMP Locations 7, 22, and 29.

11. Cleanup Levels/Standards

A. What were the cleanup standards established by DTSC pursuant to the final remedial action plan or workplan (if cleanup occurred as the result of a removal action workplan or interim remedial measures prior to development of a RAP)?

The RAP specifies risk-based remediation goals for meeting the remedial action objectives based on commercial and industrial reuses. Remediation goals for most chemicals are risk-based and represent the lowest calculated values of the non-carcinogenic or carcinogenic risk goal for each chemical of concern (COC) that are protective of all potentially exposed populations. However, some remediation goals are based on other chemical-specific parameters (such as potential leachability of a

chemical from soil to groundwater) when these values are more stringent that the calculated human health goals.

The RAP, Table 7-11 lists numerical cleanup targets as the soil and groundwater remediation goals that correspond to a 1×10^{-6} incremental lifetime cancer risk for each COC. When more than ten carcinogenic COCs are present at concentrations exceeding remediation goals, the overarching remedial action objective is the cumulative target risk level of 1×10^{-5} for carcinogenic COCs applicable at each RAP Site and RMP Location.

Remediation goals represent the maximum allowable concentrations for the respective COCs and cannot be increased to allocate amongst the residual COCs to meet the overarching cumulative risk of 1×10^{-5}. However, remediation goals can be adjusted downward, as need, if the cumulative cancer risk level exceeds 1×10^{-5} or the total hazard index (HI) exceeds 1. Remedial action objectives are achieved when residual COCs in soil and groundwater are no greater than a cumulative HI of 1 or a cumulative carcinogenic risk of 1×10^{-5} for each potentially exposed population.

The Army investigated RMP Locations 7, 22, and 29 from 2000 through 2010. COC concentrations in soil and groundwater samples are below remediation goals. The number of samples and types of analyses at the subject RMP Locations are adequate to demonstrate that the remedial action objectives established in the DTSC-approved RAP/RMP have been met. RMP Locations 7, 22, and 29 are not significant sources of soil and groundwater contamination and no significant data gaps are evident.

B. Were the specified cleanup standards met? Yes __X__ No _____

C. If "no", why not:

12. DTSC Involvement in the Remedial Action:

A. Did DTSC order the Removal Action?

Yes _____ No __X__ Date of Order _____

B. Did DTSC review and approve (check appropriate action and indicate date of review/approval if done):

_____ Sampling Analysis Procedures Date: _____

_____ Health & Safety Protections Date: _____

Exhibit O- RMP- RAP Information

_____ Removal/Disposal Procedures Date: _____

__X__ Remedial Action Plan Date: September 27, 2002

_____ Removal Action Workplan Date: _____

C. If site was abated by a responsible party, did DTSC receive a signed statement from a licensed professional on all Remedial Action?

Yes __X__ No ____ Name: Bethany P. Flynn, P.G., 5710

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes __X__ No ____ Name: Gerard Aarons, P.G., 7430

E. Did DTSC confirm completion of all remedial action?

Yes __X__ No ____ Date of verification: March 15, 2011

F. Did DTSC (directly or through a contractor) actually perform the Remedial Action?
Yes ____ No __X__

G. Was there a community relations plan in place?
Yes __X__ No ____

H. Was a remedial action plan or removal action workplan developed for this site?
Yes __X__ No ____

I. Did DTSC hold a public meeting regarding the draft RAW or RAP?
Yes __X__ No ____

J. Were public comments addressed?
Yes __X__ No ____
Date of DTSC analysis and response: September 27, 2002

K. Are all of the facts cited above adequately documented in the DTSC files?
Yes __X__ No ____

If no, identify areas where documentation is lacking.

_____

PROLOGIS WT

13. EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup?
Yes _X_ No ____

B. If yes, did EPA concur with all remedial actions?
Yes _X_ No ____

C. EPA comments: EPA staff provided consultative services on this project.

EPA staff involved in cleanup:

Xuan-Mai Tran
Remedial Project Manager
U.S. Environmental Protection Agency
Region IX
Federal Facilities Cleanup Branch
75 Hawthorne Street, (SFD-8-2)
San Francisco, California 94105
(415) 972-3002
Tran.Xuan-Mai@epamail.epa.gov

14. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
_X_ RWQCB	The Regional Water Quality Control Board staff provided consultative services on this project.
____ ARB	_____
____ CHP	_____
____ Caltrans	_____
____ Other	_____

Name of contact persons and agency:

George Leyva, P.G.
Project Manager
California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
(510) 622-2379
gleyva@waterboards.ca.gov

15. Post-Closure / Post-Remedy Activities:

A. Will there be post-closure / post-remedy activities at this site? (e.g., Operation and Maintenance)
Yes _X_ No ____

If yes, describe:

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Series No. 2003466371) for the Oakland Gateway Development Area, which includes RMP Locations 7, 22, and 29. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential and drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management. The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

The remedial action objectives were based on commercial and industrial land uses. Since residual chemicals in soil and groundwater at the site render the property not suitable for unrestricted use, five-year statutory reviews are required for RMP Locations 7, 22, and 29. The trigger date for a statutory five-year review was the mobilization date of first remedy implementation for the Oakland Gateway Development Area project (i.e., Building 1 RAP Site on November 28, 2005). The City of Oakland has submitted the draft Five-Year Review Report in June 2010.

B. Have post-closure plans been prepared and approved by DTSC?
Yes ____ No _X_
Post-closure plan is not required or necessary for this site.

C. What is the estimated duration of post-closure (including operations and maintenance activities) activities?

Unless ended in accordance with the *Covenant to Restriction Use of Property, Environmental Restriction*, by law, or by DTSC in the exercise of its discretion, the Covenant and five-year review requirements shall continue in effect in perpetuity.

D. Are deed restrictions proposed or in place? Yes _X_ No ____

If yes, have deed restrictions been recorded with the County recorder?

Yes _X_ No _____ Date: August 8, 2003

If no, who is responsible for assuring that the deed restrictions are recorded?

_____

Who is the DTSC contact person?

Henry Wong
Hazardous Substances Engineer
Brownfields and Environmental Restoration Program
(510) 540-3770
hwong@dtsc.ca.gov

E. Has cost recovery been initiated? Yes _X_ No _____

Has DTSC received all payments? Yes _____ No _X_

If yes, amount received $ _____; _____% of DTSC costs billed.

On November 13, 2008, DTSC determined that the Army has failed to meet certain obligations of the Memorandum of Agreement (MOA) entered into between the Army, DTSC, RWQCB in April 2003. Specifically, the Army has failed to provide funds for DTSC and RWQCB oversight under Section 27.1 of the MOA. Section 27.1 requires that oversight funds will be "... provided through the Defense/State Memorandum of Agreement (DSMOA), executed August 21, 1992 ... or some other appropriate mechanism as agreed upon by the parties ..."

To date the Army has not provided alternative mechanism for payment of oversight costs to DTSC and RWQCB. Accordingly, DTSC and RWQCB have not been paid for oversight costs since July 2008. The Army's and DTSC's management teams are working toward a resolution on this issue.

F. Were local planning agencies notified of the cleanup action?

Yes _X_ No _____ If yes, the name and address of agency:

Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371

marniola@oaklandnet.com

16. **Expenditure of Funds and Source:**

(Information to be supplied by Accounting Unit)

Funding Source and Amount Expended:

_____ HWCA $ _____ _____ HSA $ _____
_____ HSCF $ _____ _____ RCRA$ _____
_____ RP $ _____ _____ Other $ _____
_____ Federal Cooperative Agreement $ _____

17. **Problems Encountered Which Caused Major Delays:** None

18. **Accomplishment Unique to the Project:** None

19. **Final Use of Site:** The City of Oakland plans to develop RMP Locations 7, 22, and 29 and vicinity areas for commercial and industrial land uses.

Exhibit O- RMP- RAP Information

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

July 19, 2010

Mr. Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
marniola@oaklandnet.com

DTSC APPROVAL, COMPLETION REQUEST, RMP LOCATIONS 23, 24, 25, 87, 88, 113, 114, and 123, FORMER OAKLAND ARMY BASE – ECONOMIC DEVELOPMENT CONVEYANCE AREA, OAKLAND, CALIFORNIA

Dear Mr. Arniola:

The Department of Toxic Substances Control (DTSC) has received the June 29, 2010 *Request for Completion – RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123 in the East Gateway Area* (Completion Request). The Completion Request reports the remedial action implemented at eight Risk Management Plan (RMP) Locations totaling approximately 1.55-acre within the East Gateway Area of the Former Oakland Army Base – Economic Development Conveyance Area (also known as the Oakland Gateway Development Area) in Oakland, California. The City of Oakland is requesting completion of the following eight RMP Locations:

- RMP Location 23 – Former Facility 815 consisted of a washrack, a sand trap, and five collection sumps,
- RMP Location 24 – Former oil water separator (OWS-2) near former Facility 815,
- RMP Location 25 – Former Building T-815 used as a paint and solvent storage shed,
- RMP Location 87 – Building 812,
- RMP Location 88 – Building 823,
- RMP Location 113 – Former 1,000-gallon fuel oil Underground Storage Tank-A (UST-A),
- RMP Location 114 – Former 550-gallon waste oil UST-8A, and

Mr. Mark Arniola
July 19, 2010
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- RMP Location 123 – Two former 550-gallon waste oil USTs (Tanks 7 and 8).

In 1999, the Army excavated the RMP Location 23 area and removed stained soils associated with the sand trap and washrack; however, the Army encountered an active fire main, fire hydrant, and power poles on the north side of excavation. Residual chemical of concern (COC) concentrations in soil at the north sidewall have slightly exceeded remediation goals. The City of Oakland has created a new RMP Location identified as "*RMP Location 159 – Residual soil at North Side of Building 815 Excavation.*" RMP Location 159 will be addressed during future site redevelopment.

The September 27, 2002 DTSC-approved Remedial Action Plan (RAP) for the former Oakland Army Base requires remediation of RAP Sites and RMP Locations. The Completion Request reports soil and groundwater data at the RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123, summarizes previous impacted-soil removal activities at RMP Locations 23, 113, and 123, and demonstrates that the residual COC concentrations at these RMP Locations meet the remedial action objectives specified in the RAP. The City of Oakland plans to develop the East Gateway Area for commercial and industrial land uses.

On June 25, 2010, DTSC provided comments on the draft Completion Request. The City of Oakland has responded to DTSC's comments and revised the Completion Request satisfactorily. Based on the information presented in the Completion Request, DTSC concludes that the City of Oakland (a) has investigated RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123 adequately, (b) has removed impacted-soil from RMP Locations 23, 113, and 123, (c) has demonstrated achievement of the remedial action objectives, and (d) has implemented the required institutional control remedy for the subject RMP Locations. DTSC hereby approves the Completion Request and concurs with identification of RMP Location 159.

Please note that all RMP Locations and RAP Sites, upon remedy implementation, continue to be parts of the RMP Implementation Area. Such areas will still be subject to the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction, redevelopment, and/or post-development activities. In the event that the City of Oakland, future landowners, and/or developers discover unknown contamination and the RMP cannot address such new contamination, DTSC reserves the right to require additional environmental work, as appropriate.

Mr. Mark Arniola
July 19, 2010
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If you have any questions, please contact me at (510) 540-3770.

Sincerely,

Henry Wong
Remedial Project Manager
Brownfields and Environmental Restoration Program

Email Distribution:

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Project Manager
Erler & Kalinowski, Incorporated
1870 Ogden Drive
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Ms. Lydia Huang, P.E.
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Region 9
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Mr. George Leyva, P.G.
Project Manager
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
gleyva@waterboards.ca.gov

Mr. Bill Brawner
Army's Program Manager for
Oakland Gateway Development Area
Operational Army and Medical Branch
Department of the Army
2530 Crystal Drive
Room 5066E
Arlington, Virginia 22202
bill.brawner@conus.army.mil

Mr. Scott Armstrong
Army's BRAC Environmental Coordinator for
Oakland Gateway Development Area
CALIBRE
5200 Oleander Drive
Carmichael, California 95608
scott.armstrong@calibresys.com

Exhibit O- RMP- RAP Information

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

REMEDIAL ACTION CERTIFICATION

RMP Locations 98 and 159
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

---

1. **Certification of Remedial Action:**

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Henry Wong, P.E. — 6/27/2013 Date
Remedial Project Manager
Brownfields and Environmental Restoration Program

Karen M. Toth, P.E. — 6/26/2013 Date
Unit Chief
Brownfields and Environmental Restoration Program

Gerard Aarons, PG 7430, CHG 771 — 6/27/2013 Date
Engineering Geologist
Geological Services Unit
Office of Geology
Brownfields and Environmental Restoration Program

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2. **Certification Statement:** Based upon the information which is currently and actually known to the Department of Toxic Substances Control (DTSC),

__ DTSC has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

__ DTSC has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

X DTSC has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

3. **Site Name and Location:**

RMP Locations 98 and 159
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

A. List of any other names that have been used to identify the site:

RMP Locations

- RMP Location 98: A former 550-gallon gasoline above ground storage tank (AST) located west of Building 14
- RMP Location 159: The location of a former sand trap and vehicle wash rack

Alternative Names for the Project Site

- Base Realignment and Closure Parcels 4 and 11
- Operable Unit 1
- Gateway Development Area
- Former Oakland Army Base – Economic Development Conveyance Area
- Oakland Army Base

B. Address of site if different from above:

RMP Location 98 is located on the south side of Burma Road, west of its intersection with Maritime Street, in the City of Oakland, California. RMP Location 159 is located on the south side of Urkraine Street, east of its intersection with Maritime Street, in the City of Oakland, California.

C. Assessor's Parcel Number: O000-0507-001-11
(This number starts with the letter "O" and is followed by three zeros.)

D. DTSC Identification Numbers:

Site Code: 201537
EnviroStor ID: 01970016

4. Responsible Parties:

Landowner
City of Oakland

Contact Person:
Mr. Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

5. Project History:

Prior to 1916, much of the area encompassing the former Oakland Army Base was natural tidal marsh or shallow open water. Subsequent land reclamation activities in the general areas created the land where the Army property is situated. The Army began operation at the former Oakland Army Base in the early 1940s, closed the base in September 1999, and transferred 363.5 acres of property to the City of Oakland in July 2003. In August 2006 the City of Oakland deeded approximately half of the transferred area to the Port of Oakland. DTSC has renamed the transferred 363.5-acre property as the "Oakland Gateway Development Area."

On September 27, 2002, DTSC approved the Remedial Action Plan (RAP) and selected remedies for seven RAP Sites and approximately 150 Risk

Management Plan (RMP) Locations. RAP Sites are large areas with contaminated soil and/or groundwater that must be remediated before infrastructure installation or redevelopment. In contrast, RMP Locations and features include washracks, sumps, oil/water separators, miscellaneous operations, underground storage tanks, aboveground storage tanks, former industrial and chemical handling locations, historical spills and stains, lead in soil around buildings, former polychlorinated biphenyl (PCB)-transformers and equipment locations, storm drains and sanitary sewers, railroad tracks, and marine sediments. The RAP has selected a presumptive remedy outlined in the Risk Management Plan (Appendix E of the RAP) for supplementing environmental data and implementing necessary cleanup actions during infrastructure installation or redevelopment.

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Covenant) for the Oakland Gateway Development Area, which includes RMP Locations 98 and 159. Since the former base property is not being remediated to residential or drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management.

6. RMP Locations 98 and 159:

On June 18, 2013, the City of Oakland finalized the *Request for Completion and Summary of Remediation Activities RMP Locations 98 and 159* (Completion Request) (a) presenting soil and groundwater data collected by the Army and supplemented by the City of Oakland, (b) summarizing the soil remediation activities, (c) evaluating whether the data satisfy RMP sampling requirements, and (d) documenting achievement of the remedial action objectives at the RMP Locations.

RMP Location 98

RMP Location 98 is the former 550-gallon gasoline AST located near the southwest corner of Building 14. The AST was removed in 1998; its installation date is unknown. The AST was reportedly used to store unleaded gasoline drained from vehicles before they were loaded onto ships and to fuel vehicles off-loaded from ships. The RAP identifies lead impacted soil at RMP Location 98.

- *1997 through 2000 Investigation*:

  In July 1997, August 1998, and February 2000, the Army collected a total of 17 soil samples at depths from the ground surface to 7 feet below ground surface (bgs). The soil samples were analyzed for volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), total petroleum hydrocarbons in gasoline range (TPH-g), TPH in diesel range

(TPH-d), TPH in motor oil range (TPH-mo), and metals. For these 17 soil samples, lead concentrations in two samples at 2 feet bgs and 1.5 feet bgs were detected at 2,910 mg/kg and 883 mg/kg, respectively, above the lead remediation goal of 750 mg/kg. All other chemicals of concern (COCs) were detected with soil concentrations below the remediation goals.

In July 1997 and August 1998, the Army collected five grab groundwater samples from four borings for VOC, TPH-g, TPH-d, TPH-mo, and metal analyses. All COCs were detected with groundwater concentrations below remediation goals.

- *2011 Remediation*:

In June 2011 the City of Oakland excavated the lead-impacted soil to a depth of three feet within a 10-foot by 30-foot area. Five soil samples (RMP98CS001 through RMP98CS005) were collected from the four sidewalls and the bottom for lead analysis. The analytical result of bottom sample (RMP98CS005) indicated the lead was present at a concentration of 950 mg/kg. The sidewall samples were all below the remediation goal. In July 2011 the City of Oakland continued excavation down to the water table (approximately 5 feet bgs). Following the over-excavation extension, a soil sample (RMP98CS007) was collected from the excavation bottom for lead analysis; the lead concentration was detected at a concentration of 19 mg/kg in this bottom confirmation sample.

During the initial excavation activities conducted in June 2011, an area of stained soil with a petroleum-like odor was encountered in the northeast corner of the excavation. A sample of this material (RMP98CS006) was collected and submitted for VOC, PAH, PCB, TPH-d, TPH-g, and TPH-mo analyses. Analytical results indicated the presence of VOCs, PAHs, and TPH-d at concentrations above the respective remediation goals. In July 2011 the excavation was extended five feet beyond the initial boundary to "chase" the petroleum impacted material. Following this over-excavation, three additional sidewall samples (RMP 98CS008 through RMP 98CS010) and one bottom sample (RMP98CS011) were collected for VOC, PAH, and TPH-d analyses. All COC concentrations from the four additional confirmation samples were below remediation goal.

- *2012 Data Gap Investigation*:

In April 2012 the City of Oakland conducted a data gap investigation to further evaluate the extent of lead in soil near sampling location ICFAS04S01, because the July 2011 excavation was obstructed by the presence of a tenant trailer and a buried electrical power line. Nine soil samples were collected from four borings (RMP98SL001 through RMP98SL004) advanced to 3.5 feet bgs. Analytical results from the nine soil samples indicated that the 2 to 2.5-

feet bgs sample in three of the four borings had lead concentrations that exceeded the remediation goal. Concentrations at the 2 to 2.5-feet bgs samples ranged from 340 mg/kg (RMP98SL003-2-2.5) to 12,000 mg/kg (RMP98SL002-2.5). None of the samples collected from 3 to 3.5-feet bgs depths exceeded the lead remediation goal. No evidence of petroleum hydrocarbons (visual or olfactory) was identified within the soil samples suggesting that the lead contamination may not have been associated with the 550-gallon gasoline AST.

- *2013 Remediation*:

  In February 2013 the City of Oakland excavated the lead-impacted area identified in April 2012 to a depth of 3 feet. Following the excavation, five soil samples (RMP98CS012 through RMP98CS016) were collected from the four sidewalls and bottom for lead analysis.

  In addition, soil was excavated in an area down to 1.5 feet bgs that was not excavated during the 2011 excavation due to the presence of a buried electrical power line. Care was taken to avoid damaging the electrical line that was encountered within a concrete covered utility conduit at a depth of 1.5 feet bgs. Once the concrete overlying the electric line was uncovered, a bucket width (3 feet) was excavated west of the electrical line to collect one soil sample (RMP98CS017) for VOC, semi-volatile organic compounds (SVOCs), TPH-d, and lead analyses.

  Analytical results from soil samples (RMP98CS012 through RMP98CS017) were detected with COCs below remediation goals.

  Four-point composite samples collected from the excavated soil placed into the two stockpiles were also analyzed for VOCs, SVOCs, PCBs, TPH-g, TPH-d, TPH-mo, and metals. Based on the analytical results, approximately 28 cubic yards of soil was disposed of as a RCRA hazardous waste at a landfill in Buttonwillow, California. Another 28 cubic yards of soil was disposed of as nonhazardous solid waste at at Keller Canyon Landfill in Bay Point, California.

RMP Location 159

RMP Location 159 is located at the northwestern corner of Facility 815. Former Facility 815 (RMP Location 23) consisted of a vehicle washrack, a sand trap, an oil water separator (RMP Location 24), and two waste oil underground storage tanks (USTs) (RMP Location 123). The two RMP Location 123 USTs were removed in 1990 and Facility 815 and the associated RMP Locations 23 and 24 features were dismantled and removed in 1999. Excavation, over-excavation, confirmation sampling and soil and groundwater investigations performed at Facility 815 resulted in completion of RMP Locations 24 and 123 and all but the

northwestern portion of RMP Location 23. The northwestern portion of RMP 23 was subsequently split apart from RMP Location 23 and identified as new RMP Location 159. DTSC approved the completion request for RMP Locations 23, 24, and 123 in July 2010.

- *1999 Army Excavation of Former Facility 815*:

  During excavation at the Former Facility 815 (i.e., RMP Location 23) in November 1999, the Army collected nine confirmation soil samples (11S26, 11S28 through 11S31, 11S35, 11S36, and 11S41) at the northeastern sidewall, which are in the southwestern margin of RMP Location 159. Stained soil was present on the northeastern excavation sidewall, indicative of COC impacted soil; however, excavation was halted due to the presence of a fire main, two power poles, and a fire hydrant located near the northeastern limit of the excavation. Analytical results of excavation soil samples 11S31, 11S35, and 11S41 indicated that COCs were present above their respective remediation goals at northeastern sidewall of the Former Facility 815.

  In December 1999, the Army subsequently collected 11 soil samples from five borings (11S42 through 11S45 and 11S47) drilled during a data gap investigation along a transect parallel to the excavation just north of the power poles to determine if COCs were present within soil just north fire main, power poles, and the fire hydrant that halted excavation in November 1999. In January 2000, two additional soil samples were collected from one boring (11S46) located west the Former Facility 815. Analytical results of excavation soil samples 11S31, 11S35, and 11S41 indicated that COCs were present above their respective remediation goals at northeastern sidewall of the Former Facility 815. Soil samples collected in December 1999 and January 2000 were below laboratory reporting levels or detected at concentrations below remediation goals.

  Groundwater samples were previously collected from five wells and seven grab groundwater soil borings in the vicinity of the Former Facility 815 for VOC, PAH, PCB, pesticide, petroleum hydrocarbons, and metal analyses. All analytes in the groundwater samples were detected at concentrations below their respective remediation goals.

- *2010 Creation of RMP 159*:

  During the review of a completion request for RMP Location 23 in early 2010, DTSC designated the northeastern sidewall, where samples 11S31, 11S35, and 11S41 were located, as RMP Location 159. Analytical results of excavation confirmation samples 11S31, 11S35, and 11S41 indicated that COCs were present above their respective remediation goals at RMP Location 159 as follows:

- TPH-d was detected at a concentration of 11,000 mg/kg at 6-feet bgs in soil sample 11S31 (TPH-d remediation goal is 8,000 mg/kg),
- TPH-g was detected at a concentration of 2,500 mg/kg at 5.5-feet bgs in soil sample 11S41 (TPH-g remediation goal is 2,400 mg/kg),
- Total xylenes were detected at a concentration of 2.5 mg/kg at 5.5-feet in soil sample 11S41 and at a concentration of 1.66 mg/kg at 3.5 feet bgs in soil sample 11S35 (total xylenes remediation goal is 1 mg/kg),
- Naphthalene was detected at a concentration of 6 mg/kg at 5.5-feet in soil sample 11S41 (naphthalene remediation goal is 4.9 mg/kg),
- Chrysene was detected at a concentration of 7.7 mg/kg at a depth of 3.5-feet in soil sample 11S35 (chrysene remediation goal is 4.7 mg/kg).

- *2013 Soil Excavation*:

In February 2013 the City of Oakland excavated a 2-foot by 20-foot trench to approximately 6 feet bgs at RMP Location 159. Following the excavation, five soil samples (RMP 159CS001 through RMP 159CS005) were collected from the four sidewalls and bottom for VOC, SVOCs, TPH-g, TPH-d, and TPH-mo analyses. Soil analytical results do not show COC concentrations above remediation goals.

One four-point composite sample collected from the excavated soil was also analyzed for VOCs, SVOCs, PCBs, TPHs, and metals. Based on the analytical results, approximately 9 cubic yards of soil was disposed of as non-hazardous solid waste at a permitted landfill in Bay Point, California.

The excavation was backfilled in March 2013 with clean fill to a depth of approximately 2.5 feet bgs. From 2.5 feet bgs to the surface, the excavation was backfilled with 2-sack sand cement slurry to insure that areas near the sewer line would be supported.

A 2-foot by 20-foot trench was the only area excavated out of the proposed 7-foot by 43-foot excavation to encompass sample location 11S31 due to the presence of buried utility lines, the fire main, two power poles, and a fire hydrant. In addition to a water line that was previously known to run the down the middle of the proposed excavation, an AT&T distribution line was identified by Underground Service Alert and an unknown utility was identified during the geophysical utility clearance. The unknown utility was determined to be a 6-inch sewer line located approximately 2 feet bgs.

The excavations conducted at RMP Location 159 in 1999 and 2013 removed the maximum amount of soil that could be accessed without risking worker safety or causing damage to underground utilities. The residual TPH-d concentration at soil sample location 11S31 at 6 feet bgs contains TPH-d at 11,000 mg/kg (remediation goal is 8,000 mg/kg). Since TPH-d concentrations at 11S26 (9.4 mg/kg), 11S28 (1.4 mg/kg), 11S35 (530 mg/kg excavated), 11S42 at 2 feet bgs (5 mg/kg), 11S42 at 5 feet bgs (5 mg/kg), and 11S42 at 5.5 feet bgs (4 mg/kg) were all collected within approximately 12 feet of location 11S31, it seems the elevated TPH-d concentration at 11S31 is well bounded.

RMP Location 159 is still part of the RMP Implementation Area and hence subject to the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction or other redevelopment or post-development subsurface construction activities.

Approval of Completion Request

On June 27, 2013, DTSC approved the June 18, 2013 Completion Request and concluded that the City of Oakland (a) had adequately assessed, investigated, and remediated RMP Locations 98 and 159, (b) had demonstrated achievement of the remedial action objectives, and (c) had implemented the required institutional control remedy for the subject areas.

All RAP Sites and RMP Locations within the Oakland Gateway Development Area, upon remedy implementation, continue to be parts of the RMP Implementation Area. The August 8, 2003 *Covenant to Restrict Use of Property, Environmental Restriction* requires landowner(s) to follow the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction, redevelopment, and/or post-development activities.

7. Type of Site:

Included in EnviroStor? Yes

RCRA Permitted Facility	_____	Bond Funded	_____
RCRA Facility Closure	_____	RP Funded	_____
NPL	_____	Federal Facility	_____
Other (i.e., walk-in):	X		

8. Size of Site:

Approximately 810 square feet

Small X Medium _____ Large _____ Extra Large _____

9. Dates of Remedial Action

The Army, City of Oakland, and Port of Oakland assessed, investigated and remediated RMP Locations 98 and 159 from April 2002 through June 2013. On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* for the Oakland Gateway Development Area, which includes RMP Locations 98 and 159.

10. Response Action Taken on Site: (check appropriate action)

____ Initial removal or remedial action (site inspection/sampling)

_X_ Final remedial action

____ RCRA enforcement/closure action

____ No action, further investigation verified that no cleanup action at site was needed

A. Type of Remedial Action:

The RAP selects the following remedies:

- In-situ chemical oxidation/reduction; and
- Implementation of institutional controls to:
  - Prohibit sensitive land uses;
  - Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
  - Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
  - Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

B. Estimated quantity of remediation waste/hazardous waste associated with the site (i.e., tons/gallons/ cubic yards) was:

1. _____ Waste Treated Off-Site Amount: _____
2. _____ Untreated (capped sites) Amount: _____
3. _X_ Soil Removed Amount: 65 cubic yards

4. _____ Groundwater Disposed Off-Site Amount: _____

5. __X__ Institutional Controls
The institutional controls remedy applies to all Oakland Gateway Development Area property including RMP Locations 98 and 159.

11. Cleanup Levels/Standards

A. What were the cleanup standards established by DTSC pursuant to the final remedial action plan or workplan (if cleanup occurred as the result of a removal action workplan or interim remedial measures prior to development of a RAP)?

The RAP, Table 7-11 lists numerical cleanup targets as the soil and groundwater remediation goals that correspond to a 1×10^{-6} incremental lifetime cancer risk for each COC. When more than ten carcinogenic COCs are present at concentrations exceeding remediation goals, the overarching remedial action objective is the cumulative target risk level of 1×10^{-5} for carcinogenic COCs applicable at each RAP Site and RMP Location.

Remediation goals represent the maximum allowable concentrations for the respective COCs and cannot be increased to allocate amongst the residual COCs to meet the overarching cumulative risk of 1×10^{-5}. However, remediation goals can be adjusted downward, as need, if the cumulative cancer risk level exceeds 1×10^{-5} or the total hazard index (HI) exceeds 1. Remedial action objectives are achieved when residual COCs in soil and groundwater are no greater than a cumulative HI of 1 or a cumulative carcinogenic risk of 1×10^{-5} for each potentially exposed population.

B. Were the specified cleanup standards met? Yes __X__ No _____

C. If "no", why not:

12. DTSC Involvement in the Remedial Action:

A. Did DTSC order the Removal Action?

Yes _____ No __X__ Date of Order _____

B. Did DTSC review and approve (check appropriate action and indicate date of review/approval if done):

Exhibit O- RMP- RAP Information

_____ Sampling Analysis Procedures Date: _____

_____ Health & Safety Protections Date: _____

_____ Removal/Disposal Procedures Date: _____

__X__ Remedial Action Plan Date: September 27, 2002

_____ Removal Action Workplan Date: _____

C. If site was abated by a responsible party, did DTSC receive a signed statement from a licensed professional on all Remedial Action?

Yes __X__ No ____ Name: Bethany P. Flynn, PG 5710

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes __X__ No ____ Name: Gerard Aarons, PG 7430
Henry Wong, P.E., C81458

E. Did DTSC confirm completion of all remedial action?

Yes __X__ No ____ Date of verification: June 27, 2013

F. Did DTSC (directly or through a contractor) actually perform the Remedial Action?
Yes ____ No __X__

G. Was there a community relations plan in place?
Yes __X__ No ____

H. Was a remedial action plan or removal action workplan developed for this site?
Yes __X__ No ____

I. Did DTSC hold a public meeting regarding the draft RAW or RAP?
Yes __X__ No ____

J. Were public comments addressed?
Yes __X__ No ____
Date of DTSC analysis and response: September 27, 2002

K. Are all of the facts cited above adequately documented in the DTSC files?
Yes __X__ No ____

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If no, identify areas where documentation is lacking.

_____

13. EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup?
Yes _X_ No ____

B. If yes, did EPA concur with all remedial actions?
Yes _X_ No ____

C. EPA comments: EPA staff provided consultative services on this project.

EPA staff involved in cleanup:

Xuan-Mai Tran
Remedial Project Manager
U.S. Environmental Protection Agency
Region IX
Federal Facilities Cleanup Branch
75 Hawthorne Street, (SFD-8-2)
San Francisco, California 94105
(415) 972-3002
tran.xuan-mai@epamail.epa.gov

14. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
_X_ RWQCB	The Regional Water Quality Control Board staff provided consultative services on this project.
____ ARB	_____
____ CHP	_____
____ Caltrans	_____
____ Other	_____

Name of contact persons and agency:

George Leyva, PG
Project Manager
California Regional Water Quality Control Board

1515 Clay Street, Suite 1400
Oakland, California 94612
(510) 622-2352
george.leyva@waterboards.ca.gov

15. Post-Closure / Post-Remedy Activities:

A. Will there be post-closure / post-remedy activities at this site? (e.g., Operation and Maintenance)
Yes X No ____

If yes, describe:

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Alameda County Series Number 2003466371) for the Oakland Gateway Development Area, which includes Building 991 RAP Site. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential and drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management. The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

The remedial action objectives were based on commercial and industrial land uses. Since residual chemicals in soil and groundwater at the site render the property not suitable for unrestricted use, five-year statutory reviews are required for RMP Locations 98 and 159. The trigger date for a statutory five-year review was the mobilization date of first remedy implementation for the Port-owned portion of the Oakland Gateway Development Area project (i.e., UST 11/12/13 RAP Site on August 1, 2007). On August 30, 2012, the Port of Oakland submitted the draft Five-Year Review to DTSC for review. DTSC plans to complete its review of the Five-Year Review by July 2013.

B. Have post-closure plans been prepared and approved by DTSC?
Yes ____ No X
A post-closure plan is not required or necessary for this site.

C. What is the estimated duration of post-closure (including operations and maintenance activities) activities?

Unless ended in accordance with the *Covenant to Restriction Use of Property, Environmental Restriction*, by law, or by DTSC in the exercise of

its discretion, the Covenant and five-year review requirements shall continue in effect in perpetuity.

D. Are deed restrictions proposed or in place? Yes _X_ No ____

If yes, have deed restrictions been recorded with the County recorder?

Yes _X_ No _____ Date: August 8, 2003

If no, who is responsible for assuring that the deed restrictions are recorded?

_____

Who is the DTSC contact person?

Henry Wong, P.E.
Hazardous Substances Engineer
Brownfields and Environmental Restoration Program
(510) 540-3770
henry.wong@dtsc.ca.gov

E. Has cost recovery been initiated? Yes _X_ No _____

Has DTSC received all payments? Yes _____ No _X_

If yes, amount received $ _____; _____% of DTSC costs billed.

On November 13, 2008, DTSC determined that the Army has failed to meet certain obligations of the Memorandum of Agreement (MOA) entered into between the Army, DTSC, and RWQCB in April 2003. Specifically, the Army has failed to provide funds for DTSC and RWQCB oversight under Section 27.1 of the MOA. Section 27.1 requires that oversight funds will be "... provided through the Defense/State Memorandum of Agreement (DSMOA), executed on August 21, 1992 ... or some other appropriate mechanism as agreed upon by the parties..." Accordingly, DTSC and RWQCB have not been paid for oversight costs since July 2008.

The City's, Port's, Army's and DTSC's management teams are working toward a resolution on this issue.

F. Were local planning agencies notified of the cleanup action?

Yes _X_ No _____ If yes, the name and address of agency:

Mark Arniola, PG

Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

16. **Expenditure of Funds and Source:**

(Information to be supplied by Accounting Unit)

Funding Source and Amount Expended:

_____ HWCA $ _____ _____ HSA $ _____
_____ HSCF $ _____ _____ RCRA$ _____
_____ RP $ _____ _____ Other $ _____
_____ Federal Cooperative Agreement $ _____

17. **Problems Encountered Which Caused Major Delays:** None

18. **Accomplishment Unique to the Project:** None

19. **Final Use of Site:** The City of Oakland plans to develop RMP Locations 98 and 159 and vicinity for commercial and industrial land uses.

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

REMEDIAL ACTION CERTIFICATION

Buildings 808 and 823 Remedial Action Plan Site
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

---

1. **Certification of Remedial Action:**

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Henry Wong
Remedial Project Manager — Date: 6/18/2009

Dot Lofstrom, P.G.
Leader
East Bay Urban Infill Team — Date: 6-18-09

REGISTERED PROFESSIONAL ENGINEER
DANIEL EDWARD MURPHY
No. 049465
Exp. 9/30/2010
CIVIL
STATE OF CALIFORNIA

Daniel Murphy, P.E.
DTSC Civil Engineer in Responsible Charge — Date: 6/18/09

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2. **Certification Statement:** Based upon the information which is currently and actually known to the Department of Toxic Substances Control (DTSC),

__ DTSC has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

__ DTSC has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

X DTSC has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

3. **Site Name and Location:**

Buildings 808 and 823 Remedial Action Plan (RAP) Site
(aka: VOCs in Groundwater at Buildings 808 and 823)
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

A. List of any other names that have been used to identify the site:

VOCs in Groundwater at Buildings 808 and 823
Former Oakland Army Base – Economic Development Conveyance Area
Oakland Army Base
A portion of Base Realignment and Closure (BRAC) Parcel 11
A portion of Operable Unit 1

B. Address of site if different from above:

Areas east of 2413 Ukraine Street, Oakland, California

C. Assessor's Parcel Number: O000-0507-001-11

D. DTSC Identification Numbers:

Operable Unit:	Buildings 808 and 823
Site Code:	201537
EnviroStor ID:	01970016

4. Responsible Parties:

Landowner
City of Oakland

Contact Person
Mr. Mark Arniola
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

Relationship to Site: *Contact person for responsible party*

5. Brief Description and History of the Site:

The Buildings 808 and 823 RAP Site, also known as "VOCs in Groundwater at Buildings 808 and 823," is an approximately 1.3-acre site within the former Oakland Army Base (OARB), Oakland, California. Prior to 1916, much of the area encompassing the OARB was natural tidal marsh or shallow open water. Subsequent to 1916, land was created and industrial buildings constructed that predate OARB activities.

The Army constructed Building 808 in 1942 and used it as a general purpose warehouse. Building 808 is currently occupied by a commercial tenant, Lighting by Steinheimer, and is used as a warehouse and production office for lighting and set design. Inactive railroad tracks are adjacent to Building 808.

The Army also constructed Building 823 in 1942. Army historical documents show that Building 823 contained a paint room, paint booth finishing room, and carpenter shop. Currently, Building 823 is occupied by a commercial tenant, Arthur Freyer Lighting, and is used as a warehouse and production office for lighting design. Records indicate that Army personnel stripped paint at Building

823 with chemicals such as chlorinated solvents. Other reports indicate that Building 823 was also used as a heavy equipment maintenance facility. Specific locations and types of equipment and chemicals that were involved with these historical operations by the Army are unknown.

Vinyl chloride and lesser concentrations of other volatile organic compounds (VOCs) were present in shallow groundwater in an area north of Building 808 and south of Building 823. No significant soil contamination has been identified and the source of the VOCs in shallow groundwater is not known. Possible sources include Building 823, and storm drains and sanitary sewers that run through the area.

Maximum VOC concentrations detected in shallow groundwater from grab groundwater locations near Buildings 808 and 823 are vinyl chloride at 267 micrograms per liter (µg/L), cis-1,2 dichloroethene at 13 µg/L, trans 1,2 dichloroethene at 3.6 µg/L, trichloroethene at 4.1 µg/L, and 1,1 dichloroethene at 2 µg/L. VOCs in shallow groundwater near Buildings 808 and 823 appear to be in steady state and are not migrating.

The lateral extent of VOC-impacted shallow groundwater was further delineated as part of the City of Oakland's Phase II Investigation in May 2002. Vinyl chloride at concentrations of less than 5 µg/L were detected in groundwater samples collected along the southern edge of this area. VOC-impacted groundwater near Buildings 808 and 823 was defined as a RAP Site because vinyl chloride in two grab groundwater samples (Locations 11S49 and 11S50 with 267 and 111 µg/L of vinyl chloride, respectively) collected in January 2000 exceeded the remediation goal of 32 µg/L.

On September 27, 2002, DTSC approved the RAP for the former Oakland Army Base. The RAP selected in-situ bioremediation of vinyl chloride in groundwater, groundwater monitoring, and institutional controls as the remedy for the Buildings 808 and 823 RAP Site.

On May 19, 2003, the City of Oakland and DTSC entered into a Consent Agreement to bind the City to enter into environmental restrictions for the Oakland Gateway Development Area as necessary to protect human health and the environment, and to require the remediation of the former base by the City in accordance with the RAP and associated Risk Management Plan (RMP). The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

On August 6, 2003, Governor Davis approved the early transfer of approximately 363.5 acres of the former Oakland Army Base to the City of Oakland. The Buildings 808 and 823 RAP Site is a portion of the transferred property.

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Covenant) for the Oakland Gateway Development Area, which includes the Buildings 808 and 823 RAP Site. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential or drinking water standards to allow for unrestricted reuse, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management.

On October 24, 2005, DTSC approved the *Pre-Design Investigation Memorandum* (PDIM) for additional four quarters of groundwater monitoring to better define the plume boundary and to aid preparation of the remedial design document. Vinyl chloride is the only COC for the Buildings 808 and 823 RAP Site. The maximum detected concentration of vinyl chloride in groundwater from four recent quarterly monitoring events was 26 µg/L, which is below the remediation goal of 32 µg/L. All other VOCs were below the respective remediation goals.

On March 20, 2009, DTSC issued the "Risk Management Plan Modification" letter specifying new language for RMP, Section 6.2 regarding vapor intrusion mitigation measures. This RMP Modification requires additional evaluation and consultation with DTSC if new buildings were to be constructed at the Buildings 808 and 823 RAP Site and vicinity areas.

6. Type of Site:

Included in EnviroStor? Yes

RCRA Permitted Facility	_____	Bond Funded	_____
RCRA Facility Closure	_____	RP Funded	_____
NPL	_____	Federal Facility	_____

Other (i.e., walk-in): Please see Section 14.E of this Certification.

7. Size of Site:

Approximately 1.3 Acres

Small _____ Medium __X__ Large _____ Extra Large _____

8. Dates of Remedial Action

The City of Oakland conducted four quarterly groundwater monitoring events pursuant to the DTSC-approved PDIM from December 2005 to September 2006. On April 24, 2009, the City of Oakland submitted the final Completion Report summarizing the monitoring activities, presenting analytical data, and requesting closure of the subject RAP Site.

9. Response Action Taken on Site: (check appropriate action)

____ *Initial removal or remedial action (site inspection/sampling)*

_X_ Final remedial action

____ RCRA enforcement/closure action

____ No action, further investigation verified that no cleanup action at site was needed

A. Type of Remedial Action:

The RAP selected the following remedy for the Buildings 808 and 823 RAP Site:

- In-situ bioremediation of vinyl chloride in groundwater and groundwater monitoring;
- Remediation to allow for planned land uses (i.e., commercial and industrial) consistent with the Amended Reuse Plan; and
- Implementation of institutional controls to:
  - Prohibit sensitive land uses;
  - Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
  - Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
  - Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

B. Estimated quantity of waste associated with the site (i.e., tons/gallons/ cubic yards) was:

1. _____ Waste Treated Amount: _____
2. _____ Untreated (capped sites) Amount: _____
3. _____ Soil Removed Amount: _____
4. _____ Wastewater Removed Amount: _____
5. _____ Institutional Controls Amount: 1.3 Acres

10. Cleanup Levels/Standards

A. What were the cleanup standards established by DTSC pursuant to the final remedial action plan (RAP) or workplan (if cleanup occurred as the result of a removal action workplan (RAW) or interim remedial measures (IRM) prior to development of a RAP)?

Risk-based remediation goals developed for OARB are utilized to meet the remedial action objectives. These goals were developed and presented in the RAP, including the rationale, calculation, and input parameters used in establishing the remediation goals. Remediation goals for most chemical are risk-based and represent the lowest calculated values of the non-carcinogenic or carcinogenic risk goal for each chemical of concern that are protective of all potentially exposed populations. However, some remediation goals are based on other chemical-specific parameters (such as potential leachability of a chemical from soil to groundwater) when these values are more stringent that the calculated human health goals.

Achievement of the Remedial Action Objectives

Are COC concentrations below the respective remediation goals?

Vinyl chloride is the only COC for the Buildings 808 and 823 RAP Site. The maximum detected concentration of vinyl chloride in groundwater from four recent quarterly monitoring events was 26 µg/L, which is below the remediation goal of 32 µg/L. All other VOCs were below the respective remediation goals.

Are cumulative excess cancer risk less than 1.0E-05 and non-cancer hazard index less than 1 for potential human receptors?

Using the maximum detected vinyl chloride of 26 µg/L and other VOC concentrations from the 2005 and 2006 groundwater data sets and all soil

data, the cumulative risks and hazardous index (HI) for the indoor commercial worker (i.e., potential human receptors) are as follows:

Groundwater Risk:	8.1E-07		
Soil Risk:	2.0E-07		
Total Risk:	1.1E-06	→	*Less than 1.0E-05*

Groundwater HI:	3.6E-04		
Soil HI:	1.9E-04		
Total HI:	5.5E-04	→	*Less than 1*

The total risk and hazard index are less than the remedial action objectives.

B. Were the specified cleanup standards met? Yes __X__ No _____

C. If "no", why not:

11. DTSC Involvement in the Remedial Action:

A. Did DTSC order the Removal Action?

Yes _____ No __X__ Date of Order _____

B. Did DTSC review and approve (check appropriate action and indicate date of review/approval if done):

_____ Sampling Analysis Procedures Date: _____

_____ Health & Safety Protections Date: _____

_____ Removal/Disposal Procedures Date: _____

__X__ Remedial Action Plan Date: September 27, 2002

_____ Removal Action Workplan Date: _____

C. If site was abated by a responsible party, did DTSC receive a signed statement from a licensed professional on all Remedial Action?

Yes __X__ No ____ Name: Michael Steiger, P.E., C63348

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes __X__ No ____ Name: Daniel Murphy, P.E., C49465

E. Did DTSC confirm completion of all Remedial Action?

Yes __X__ No ____ Date of verification: June 8, 2009

F. Did DTSC (directly or through a contractor) actually perform the Remedial Action?
Yes ____ No __X__

G. Was there a community relations plan in place?
Yes __X__ No ____

H. Was a remedial action plan or removal action workplan developed for this site?
Yes __X__ No ____

I. Did DTSC hold a public meeting regarding the draft RAW or RAP?
Yes __X__ No ____

J. Were public comments addressed?
Yes __X__ No ____
Date of DTSC analysis and response: September 27, 2002

K. Are all of the facts cited above adequately documented in the DTSC files?
Yes __X__ No ____

If no, identify areas where documentation is lacking.

_____

12. EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup?
Yes __X__ No ____

B. If yes, did EPA concur with all remedial actions?
Yes __X__ No ____

C. EPA comments: EPA staff provided consultative services on this project.

EPA staff involved in cleanup:

Xuan-Mai Tran

Remedial Project Manager
U.S. Environmental Protection Agency
Region IX
Federal Facilities Cleanup Branch
75 Hawthorne Street, (SFD-8-2)
San Francisco, California 94105
(415) 972-3002

13. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
____ RWQCB	The Regional Water Quality Control Board (RWQCB) staff provided consultative services on this project.
____ ARB	_____
____ CHP	_____
____ Caltrans	_____
____ Other	_____

Name of contact persons and agency:

Devender Narala
Project Manager
California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
(510) 622-2309

14. Post-Closure / Post-Remedy Activities:

A. Will there be post-closure / post-remedy activities at this site? (e.g., Operation and Maintenance)
Yes _X_ No ____

If yes, describe:

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Covenant) for the Oakland Gateway Development Area, which includes

the Buildings 808 and 823 RAP Site. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential and drinking water standards to allow for unrestricted reuse, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management. The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

The City of Oakland and DTSC executed the *Covenant to Restrict Use of Property, Environmental Restriction* on August 8, 2003, which:

- Prohibit sensitive land uses;
- Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
- Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
- Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

The remedial action objectives were based on commercial and industrial land uses. Since residual chemicals in soil and groundwater at the site render the property not suitable for unrestricted use, five-year statutory reviews are required for the Buildings 808 and 823 RAP Site. The trigger date for a statutory five-year review was the mobilization date of first remedy implementation for the Oakland Gateway Development Area project (i.e., Building 1 RAP Site on November 28, 2005). Therefore, DTSC should review and approve the first statutory five-year review report on or before November 28, 2010. As a result, DTSC shall receive the first Draft Five-Year Review Report in May 2010.

B. Have post-closure plans been prepared and approved by DTSC?
Yes ____ No _X__
Post-closure plan is not required or necessary for this site.

C. What is the estimated duration of post-closure (including operations and maintenance activities) activities?

Unless ended in accordance with the *Covenant to Restriction Use of Property, Environmental Restriction*, by law, or by DTSC in the exercise of its discretion, the covenant and five-year review requirements shall continue in effect in perpetuity.

D. Are deed restrictions proposed or in place? Yes _X__No ____

Exhibit O- RMP- RAP Information

If yes, have deed restrictions been recorded with the County recorder?

Yes _X_ No _____ Date: August 8, 2003

If no, who is responsible for assuring that the deed restrictions are recorded?

_____

Who is the DTSC contact person?

Henry Wong, (510) 540-3770
Name/Phone Number

E. Has cost recovery been initiated? Yes _X_ No _____

Has DTSC received all payments? Yes _____ No _X_

If yes, amount received $ _____; _____% of DTSC costs billed.

On November 13, 2008, DTSC determined that the Army has failed to meet certain obligations of the Memorandum of Agreement (MOA) enter into between the Army, DTSC, RWQCB in April 2003. Specifically, the Army has failed to provide funds for DTSC and RWQCB oversight under Section 27.1 of the MOA. Section 27.1 requires that oversight funds will be "... provided through the Defense/State Memorandum of Agreement (DSMOA), executed August 21, 1992 ... or some other appropriate mechanism as agreed upon by the parties..."

To date the Army has provided no alternative mechanism for payment of oversight costs to DTSC and RWQCB. Accordingly, DTSC and RWQCB have not been paid for oversight costs since July 2008.

F. Were local planning agencies notified of the cleanup action?

Yes _X_ No _____ If yes, the name and address of agency:

Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371

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marniola@oaklandnet.com

15. **Expenditure of Funds and Source:**

(Information to be supplied by Accounting Unit)

Funding Source and Amount Expended:

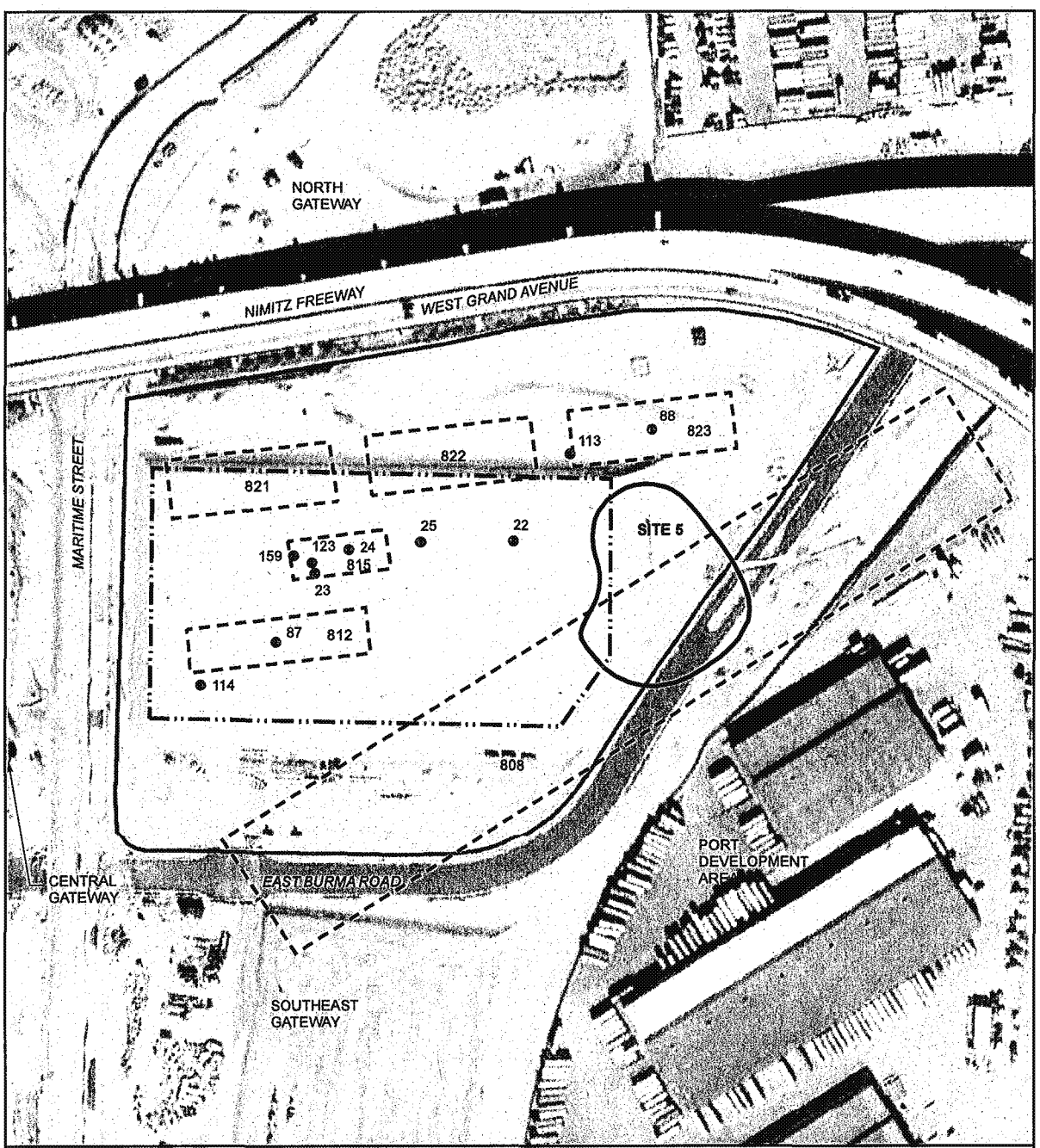
_____ HWCA $ _____ _____ HSA $ _____
_____ HSCF $ _____ _____ RCRA$ _____
_____ RP $ _____ _____ Other $ _____
_____ Federal Cooperative Agreement $ _____

16. **Problems Encountered Which Caused Major Delays:** None.

17. **Accomplishment Unique to the Project:** None.

18. **Final Use of Site:** The City of Oakland plans to develop the site for commercial and/or industrial land uses.

Exhibit O- RMP- RAP Information



LEGEND

- RMP LOCATION
- REMEDIAL ACTION PLAN
- SITE BOUNDARY
- APPROXIMATE PROPOSED FUTURE BUILDING LOCATION
- APPROXIMATE FORMER BUILDING LOCATION

N

0 200
SCALE IN FEET

NOTES:
812 = FORMER BUILDING DESIGNATION
113 = RMP NUMBER
RMP = REMEDIAL ACTION PLAN

FARALLON CONSULTING
Washington: Issaquah | Bellingham | Seattle
Oregon: Portland | Bend | Baker City
California: Oakland | Sacramento | Irvine
Quality Service for Environmental Solutions | farallonconsulting.com

FIGURE 1
SITE PLAN
NORTHEAST GATEWAY PROPERTY
OAKLAND, CALIFORNIA

FARALLON PN: 1071-009

Drawn By: lperrin Checked By: SA Date: 5/19/2016 Disc Reference:
Document Path: G:\Projects\1071 Prologis\1071009 2015 Due Diligence I\009 Oakland Army Base\GIS\Figure NE_RMP-RAP-Future-FormerBldg.mxd

PROLOGIS WT

Exhibit O.1- Categorical RMP Response

PROLOGIS WT

Exhibit P- Neighborhood Survey & Notice

NEIGHBORHOOD SURVEY/ NOTICE

Project Name

Project Address

RE: PROPOSED SATURDAY WORK SCHEDULE: [Insert Dates]

Dear Neighbor:

[Explain the purpose of letter is to inform neighbors that a 'request' has been made to Building Services to authorize work on numerous upcoming Saturdays, and that input from neighbors is being solicited.)

[Insert explanation of WHY this work needs to be accomplished outside of normal working DAYS or HOURS (i.e. M-F, 7am – 7pm).

[Explain the site management measures that are and will remain in place to control noise, dust, parking, traffic and other impacts related to this job site].

WHAT: Scope of Construction Activity that you are requesting to do, including size of work force, equipment to be used, etc... **[Work scope must be limited to relatively quiet work to satisfy the Oakland Noise Ordinance limit of 55 dba on weekends in residential areas. No material deliveries, off hauling, or other loud unenclosed activities]**

WHERE: Work location to be limited to inside only with windows and doors closed.

WHEN: 9am – 5pm, Saturdays from xx/xx/xx to yy/yy/yy. **[Our Office will only authorize up to 4 Saturdays at a time, until a track record of complaint-free performance is established that we can support. We also reserve the right to withdraw Saturday authorization for failure to satisfy important construction-related Planning Conditions of Approval]**

Please forward your comments, questions, or concerns to (contact info for project managers, including phone # and email address] or to Bill Quesada, Oakland Building Services, (510) 238-6345, bquesada@oaklandnet.com.

For emergencies or site complaints regarding this construction site, please contact the job superintendent (contact # and email of the on-site job superintendent). **[The GC must maintain a job superintendent on-site all day for each requested Saturday, to manage construction and complaints. No subs working alone].**

PROLOGIS WT

Exhibit Q- Preconstruction Video

Municon Consultants
Vibration Monitoring, Construction Instrumentation, Photo Surveys

July 29, 2016

The Whiting-Turner Contracting Company
4690 Chabot Drive, Suite 120
Pleasanton, California 94588
Attn: Ryan Dotson

RE: **OAKLAND GLOBAL LOGISTICS CENTER PHASE I, NORTH EAST GATEWAY, OAKLAND, CA**
SUBJECT: **Proposal for Pre-construction and Post-Construction Haul Route Video Survey**

Please find herein our proposal for the truck haul route video survey for your project at **Oakland Global Logistics Center Phase I, North East Gateway, Oakland, California (the Project).** With extensive experience with all phases of construction monitoring and litigation mitigation in urban environments, we are uniquely qualified to handle this assignment. We have over 24 years of experience in the execution and document control for large and small scale pre-construction photo and video surveys.

**** * We are Reliable * ****
We have over 24 years of experience and a strong record of repeat clients.

**** * We are Experienced * ****
We have conducted more pre-construction photo surveys than other West Coast firms.

**** * We are Safety Conscious * ****
We hold regular weekly "toolbox" safety meetings as our personnel are regularly tending our equipment on or adjacent to contractor heavy construction sites.

**** * We are Certified * ****
▪ CA UCP - UDBE (12867) ▪ CA DGS-SBE (18229) ▪
SF HRC LBE/W CMD 31810741 ▪ SBA SBE (Woman-Owned) 79-9371554
CA DIR # 1000002530

PROLOGIS WT Whiting-Turner

Exhibit Q- Preconstruction Video

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PRE-CONSTRUCTION PHOTO AND VIDEO SURVEYS

Municon specializes in pre-construction photo and video surveys with large numbers of buildings (as many as 350) and the document control of data. We have performed photo surveys for the Cathedral Hill Hospital, the San Francisco City Hall, the Transbay Terminal demolition, demolition of San Francisco Pier 36, the Warren Avenue/BART/UPRR undercrossing in Fremont, the BART Oakland Airport Connector, and multiple other public works and private projects in San Francisco and the Bay Area. We have performed video surveys of the route leading to the Harry Tracy Water Treatment Plant, the project site for the Warren Avenue Undercrossing in Fremont, the route to the Calaveras Dam, and multiple other public works and private projects in San Francisco and the Bay Area.

PROJECT DESCRIPTION

On the Northeast Gateway site Prologis will construct a new 256,000 sf warehouse on a site covering approximately 702,000sf bordered by Maritime Street, Burma Road and West Grand Ave. The project site improvements will include new underground utilities, landscaping, concrete and ac paving and bio-swales. The new warehouse building will include 55 truck docks, 78 trailer parking stalls, 171 auto parking stalls and two electric vehicle charging stations.

Yours truly,
MUNICON Consultants

Aemero L. Hailemichael

Aemero L. Hailemichael

Barry C. Roth

Barry Roth, P.E. 16090
Principal Engineer

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PROLOGIS WT Whiting Turner

Exhibit Q- Preconstruction Video

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1.00 PRE- AND POST-CONSTRUCTION VIDEO SURVEY OF TRUCK HAUL ROUTES.
1.01 General.

You have informed us that you need a pre- and post-construction video survey of the approved inbound and outbound truck haul routes of your project. The truck haul route map shows the use of city streets, freeway on- and-off ramps and city streets. We will perform a video survey of the pavement conditions of the streets you identified as truck haul routes. Maritime Street from West Grand Avenue to 7th Street, West Grand avenue from Frontage Road to Maritime Street and E. Burma Road which runs alongside the site, 7th Street from Maritime Street to Brush Street and Brush Street from 7th Street to 19th Street.

Our video survey is not a "Pavement condition evaluation" as we will offer no recommendations or conclusions as to the causes of distress observed or remaining service life of the pavement, and we will not perform deflectometer or other tests on the pavement.

1.10 Scope.

1.11 PRE-CONSTRUCTION VIDEO SURVEY

Municon will perform a pre-construction video survey of pavement conditions of **Maritime Street** from West Grand Avenue to 7th Street, **West Grand Avenue** from Frontage Road to Maritime Street, **Burma Road** from its intersection with Maritime Street to its end at the cul de sac of Burma, **7th Street** from Maritime Street to Brush Street and **Brush Street** from 7th Street to 19th Street. We will survey all the lanes, sidewalks, gutters and other existing facilities. We will document existing conditions in high definition digital videography using a HD digital video camera. We will contemporaneously narrate the video with descriptions of the location being viewed and any distress, damage or other anomalies, the direction of the camera view, and the date and time at the time of videotaping. We will perform the video survey of the pavement conditions for a:

LUMP SUM.....**$6,000.**

1.12 POST-CONSTRUCTION VIDEO SURVEY

Upon the end of your project, Municon will perform a post-construction video survey of pavement conditions of the same roads documented in our pre-construction video survey. We will perform the post-construction video survey of the pavement conditions for a:

LUMP SUM.....**$6,000.**

PROLOGIS WT

Municon Consultants

Vibration Monitoring, Construction Instrumentation, Photo Surveys

1.13 WORK PRODUCTS –VIDEO SURVEY RECORDS.

We will submit to you two (2) bound copies of our report, which will include DVDs (or, if permitted, USB storage device) with the original HD video files as recorded, a letter describing our survey and attesting to taking the video, and a site plan showing the areas surveyed. Electronic copies of the documentation will be included on the DVDs.

The costs for preparing the documentation and production of our reports are included in the costs for the survey above.

1.20 TIMING AND SCHEDULE.

We anticipate that we can complete our video survey in one full day in the field, including travel time. We request one week of advance notice, if possible, to begin work on the surveys.

Processing of the data and report production require additional office efforts beyond the field time. Reports will be delivered within two (2) weeks of the completion of the field survey.

VIDEO SURVEY TOTAL.....$12,000.

*** * * No sections 2, 3 or 4 in this proposal * * ***

Municon Consultants

Vibration Monitoring, Construction Instrumentation, Photo Surveys

5.00 CONTRACTUAL TERMS CONDITIONS & LIMITATIONS.

1. Authorization can be by simple purchase order or professional agreement referencing this proposal.

2. No certified payrolls; we are not a contractor, labor, trade nor union signatory. No retention. Payment within 30 days of invoicing.

3. We will provide insurance up to our existing limits and statutory workers compensation limits.

4. No indemnification of any person's active negligence.

5. Access arrangements to be provided by project owner unless explicitly offered herein.

6. Unless specifically called for or explicitly offered herein, written interpretations or professional opinions, and other data reports are not included.

7. Usage rates for equipment apply for each month, or part of a month, the equipment is deployed for use on your project. These rates will apply each month, if your work durations exceed our estimates.

We believe that the estimate and proposal herein addresses the requirements of the permit conditions for photo documentation, and we look forward to working with you on this project. All work proposed here will be under the direction of the undersigned.

Yours truly,
MUNICON Consultants

Aemero L. Hailemichael

Aemero L. Hailemichael

Barry C. Roth

Barry Roth, P.E. 16090
Principal Engineer

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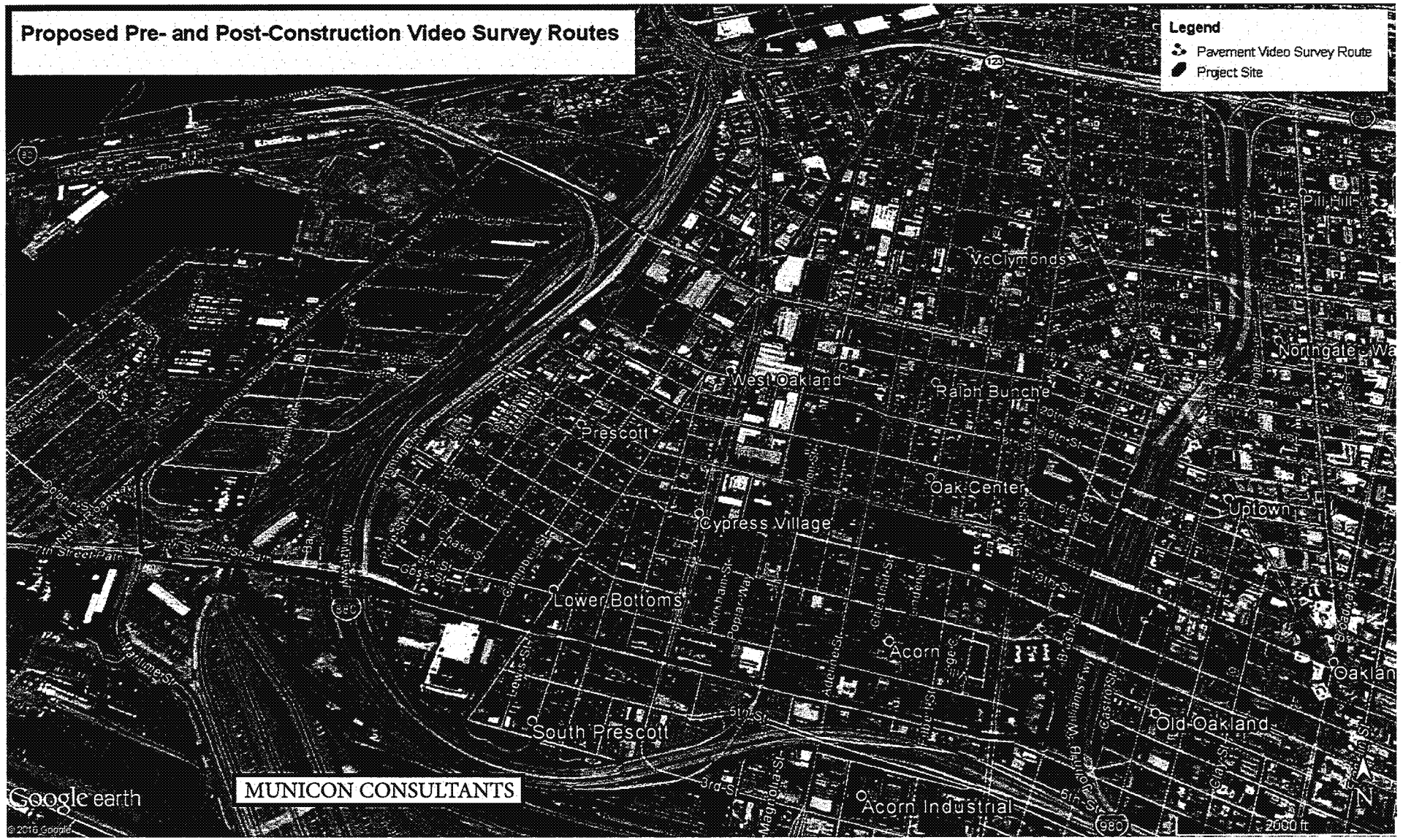
Exhibit Q- Preconstruction Video



PROLOGIS

WT

Exhibit R - Noise Consultant Review Letter

JGL ACOUSTICS, INC

July 15, 2016

Prologis, L.P.
3353 Gateway Blvd.
Fremont, CA 94538

Attention: Cory Chung
Subject: Oakland Global Logistics Center, Phase 1
Construction Noise Impacts

Ladies & Gentlemen:

This report addresses the issue of construction noise impacts from the proposed project located on the south side of West Grand Avenue between Maritime Street and Burma Road in Oakland, CA. Figure 1 shows the site location relative to the nearby freeways with the proposed project location highlighted in yellow. The proposed project will consist of a single warehouse building with an approximate floor area of 256, 216 square feet. The building will have loading docks on the north and south sides and a parking lot in the northeast corner. Figure 2 presents a site plan for the project. This report specifically addresses the issue of environmental noise impacts resulting from the construction of the Phase 1 building.

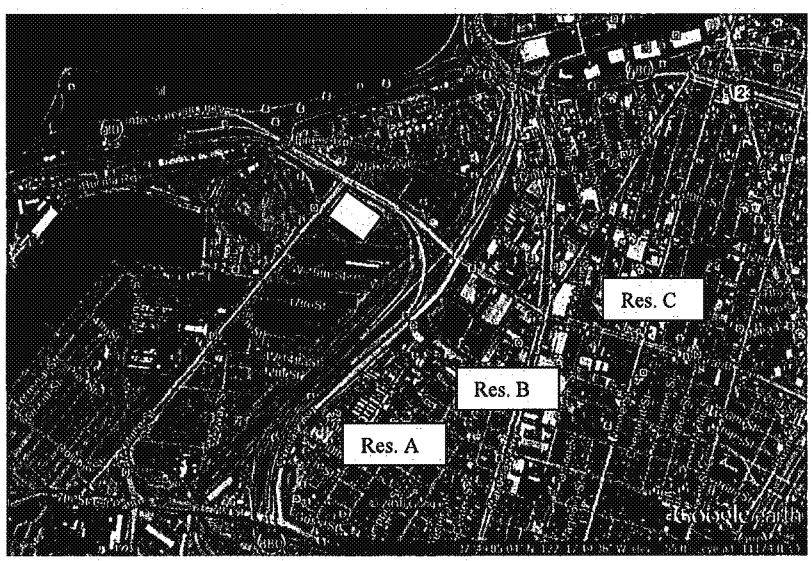


Figure 1.

Aerial view showing the location of the site (shown in yellow) relative to nearby freeways and nearest residences (shown by red triangles).

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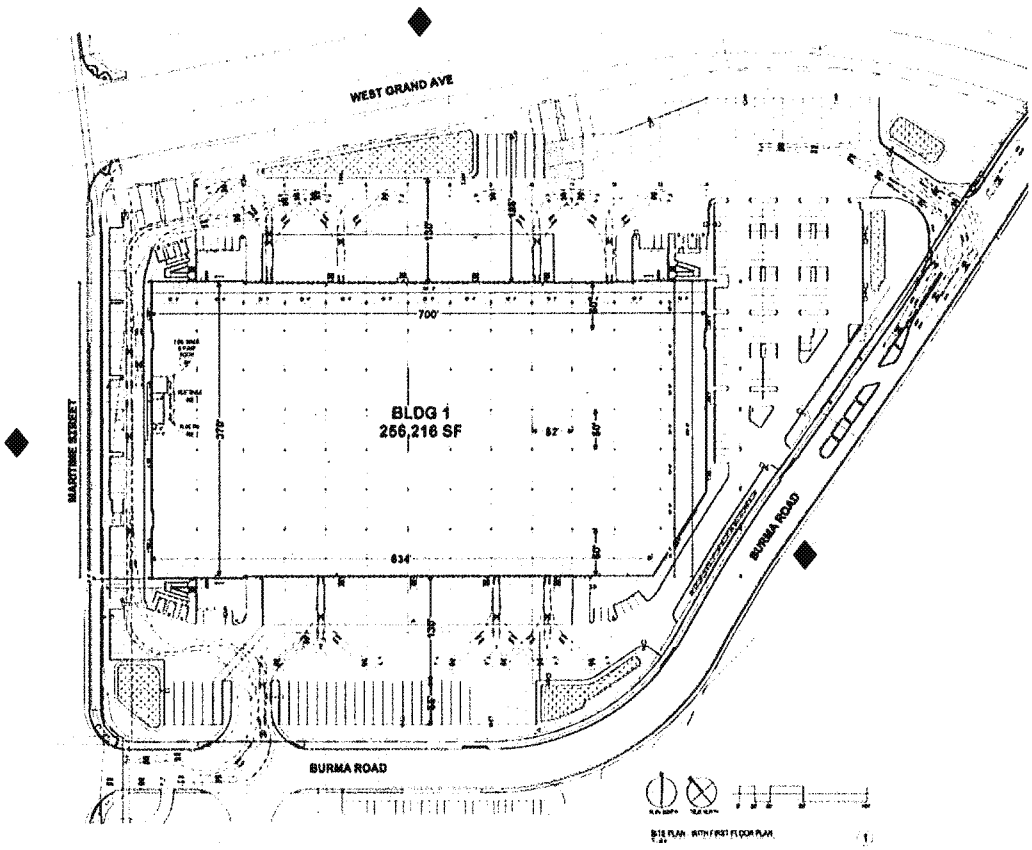

Figure 2. Site plan for the Phase 1 building showing noise model receiver locations.

As shown in Figure 2 the project is surrounded on all sides by local streets, and beyond these streets is additional industrial property. The nearest residential property is on the east side of I-880, more than 2,500 feet southeast of the proposed project.

Standard Conditions of Approval

This project has received several conditions of approval related to noise. SCA NOI-1 requires that construction activities are limited to 7:00 AM to 7:00 PM Monday through Saturday. It is my understanding that concrete work will occur outside of the allowed

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construction hours for a period of 6 days to pour the building slab and 8 days to pour the tilt up walls. It will be important to ensure that late night construction work meets the requirements of OMC 8.18.020 relating to nuisance noise impacts to residential areas.

Oakland Construction Noise Ordinance

Table 17.120.04 in the Oakland Noise Ordinance establishes maximum allowable noise levels for construction projects impacting industrial, commercial, and residential receiving properties. The maximum allowable noise level during the 7 AM to 7 PM weekday period on commercial and industrial property is 85 dB for short term operations and 70 dBA for long term operations. . The maximum allowable noise level during the 7 AM to 7 PM weekday period on residential property is 80 dBA for short term operations and 65 dBA for long term operations. On weekends the maximum allowable levels are 15 dBA lower for short term operations and 10 dBA lower for long term operations.

Construction Noise Sources

According to the Contractor, Table 1 presents a listing of the major noise sources associated with the late night construction phase of this project. Table 2 identifies the noise sources that are expected to operate during normal construction hours. Equipment sound levels and usage factors were obtained from the FHWA Construction Noise Handbook. The usage factor represents the percentage of the time that the noise source is generating its maximum noise level.

Late night work is expected to last for 6 days to pour the building floor slab, with as many as 13 concrete trucks per hour and start times beginning as early as 1:00 AM and as late as 4:00 AM. Late night work for pouring the tilt up walls is expected to last for 8 days, with as many as 8 trucks per hour and a proposed start time of 4 AM. At any one time, the maximum number of concrete trucks on the construction site is expected to be 7.

Predicted Construction Noise Levels

Construction noise levels were computed in the vicinity of the subject project using the internationally recognized computer model CadnaA (ver. 4.6.156). The assessment of late night operations assumed continuous operation of 7 concrete trucks on site with 4 diesel generators to create power for the lights. The total on-site sound power level for all of the late night sources is126 dB (ref. 1 picowatt), taking into account the usage factor and the total number of concrete truck on site at one time. The predicted total late night construction noise level at the adjacent properties and at the nearest residences is shown in Table 3.

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Table 1. Late night noise sources and expected source noise level.

Source Description	Number of Sources/Hr.	Usage Factor (%)	LpA (dBA @ 50 feet)	Est. LwA (dB ref. 1 pW)
Concrete Trucks	13	40%	85	117
Generator (lights)	4	100%	80	112

Table 2. Construction noise sources and noise levels occurring from 7 AM to 7 PM.

Source Description	Number of Sources	Usage Factor (%)	LpA (dBA @ 50 feet)	Est. LwA (dB ref. 1 pW)
Grading Scraper	1	40	85	117
Loader	2	40	80	112
Grader	1	40	85	117
Water Truck	2	40	84	116
Skip Loader	2	40	80	112
Paving Machine	1	50	85	117
Roller Compactor	1	20	85	117
Vibratory Plate Compactor	1	20	80	112
Transfer Dump Truck	1	40	84	116
Power Tool Generator	2	50	82	114
Power Tool Compressor	1	40	80	112
Backhoe	2	40	80	112
Dump Truck	2	40	84	116
Concrete Truck	2	40	85	117
Concrete Pump	1	20	82	114
Concrete Saw	1	50	85	117
Crawler Crane	1	16	85	117
Diesel Boom Lift	2	20	85	117
Diesel Forklift	2	50	85	117
Street Sweeper	1	50	85	117
Excavator	1	40	85	117
Diesel Scissor Lift	1	20	85	117

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Table 3. Predicted late night noise levels (dBA).

Receiver	Distance to Nearest Source	Predicted	Max. Allowed
Across Maritime St.	120 feet	68.7	70
Across Burma Rd.	296 feet	68.6	70
Across W. Grand Ave.	120 feet	62.3	70
Residence A	2,516 feet	44.5	45
Residence B	2,621 feet	44.6	45
Residence C	3,661 feet	40.9	45

The predicted construction noise level shown in Table 3 meet the requirements of the Oakland noise ordinance. It should be emphasized that the nearest residences are all located on the other side of I-880, and the background noise level from this freeway will likely exceed the predicted construction noise levels by a significant margin, even in the middle of the night. As a result, it is extremely unlikely that the construction noise would be audible in the residential area.

Table 4 presents the predicted daytime noise level at each of the six receiver locations of interest. Interestingly enough, the total sound power level of all 31 daytime noise sources is virtually the same as the late night noise sources. As a result, the predicted daytime noise levels are nearly the same as the predicted nighttime noise levels.

Table 4. Predicted daytime noise levels (dBA).

Receiver	Distance to Nearest Source	Predicted	Max. Allowed
Across Maritime St.	120 feet	67.7	70
Across Burma Rd.	296 feet	66.6	70
Across W. Grand Ave.	120 feet	62.3	70
Residence A	2,516 feet	44.1	65
Residence B	2,621 feet	44.2	65
Residence C	3,661 feet	40.5	65

Note that the predicted daytime noise levels are at or below the maximum allowed noise levels, so the proposed project is expected to fully comply with the Oakland noise ordinance.

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JGL ACOUSTICS, INC

If you have any questions or comments regarding these findings, do not hesitate to contact me directly.

Very truly yours,
JGL Acoustics, Inc.

Jerry G. Lilly, P.E., FASA
President
Member INCE (*Bd. Cert.*), ASHRAE, ASTM, NCAC

PROLOGIS WT

Attachment E

Air Quality Plan Implementation at Army Base – Tentative Timeline

Oakland Army Base Redevelopment Project
Tentative Timeline for Air Quality Plan Implementation (subject to change)
September 8, 2016

Horizontal Infrastructure				
Site	**Developer**	**Facility Type**	**Construction-Phase Air Quality Plan**	**Construction Timeline**
Entire Site (City portion of Army Base)	City/CCIG	Infrastructure (e.g., streets & utilities)	Approved Dec. 2013	Dec. 2013 – Jun. 2017

Vertical Development						
Site	**Developer**	**Facility Type**	**Construction-Phase Air Quality Plan Estimated Timeline**	**Construction Estimated Timeline**	**Operational-Phase Air Quality Plan Estimated Timeline**	**Estimated Start of Operations**
Northeast Gateway[1]	Prologis	Trade & Logistics Warehouse	Mar. – Sep. 2016	Sep. 2016 – Jun. 2017	Jan. – Jun. 2017	Jun. 2017
New Central Gateway – Phase 1[2]	Prologis	Ancillary Maritime Support Services	Sep. – Nov. 2016	Nov. 2016 – Mar. 2017	Oct. 2016 – Mar. 2017	Mar. 2017
West Gateway	Oakland Bulk & Oversized Terminal	Marine Bulk Terminal	Oct. 2016 – Mar. 2017	Mar. 2017 – Aug. 2018	Mar. – Aug. 2018	Aug. 2018
Southeast Gateway[3]	Prologis	Trade & Logistics Warehouse	Feb. – Jul. 2017	Jul. 2017 – Mar. 2018	Oct. 2017 – Mar. 2018	Mar. 2018
New Central Gateway – Phase 2[4]	Prologis	Trade & Logistics Warehouse	Mar. – Aug. 2017	Aug. 2017 – Apr. 2018	Nov. 2017 – Apr. 2018	Apr. 2018
AMS Site	OMSS	Ancillary Maritime Support Services	May – Sep. 2017	Sep. 2017 – Dec. 2017	Jul. – Dec. 2017	Dec. 2017
North Gateway 1	CASS	Recycling	May – Sep. 2017	Sep. 2017 – Feb. 2019	Sep. 2018 – Feb. 2019	Feb. 2019
North Gateway 2	CWS	Recycling	Oct. 2017 – Mar. 2018	Mar. 2018 – Sep. 2020	Apr. – Sep. 2020	Sep. 2020
MH-1[5]	CCIG	Trade & Logistics Warehouse	Nov. 2019 – Apr. 2020	Apr. 2020 – Mar. 2021	Oct. 2020 – Mar. 2021	Mar. 2021

[1] "Northeast Gateway" is the northern portion of the East Gateway area.
[2] "New Central Gateway" is the eastern portion of the former Central Gateway area.
[3] "Southeast Gateway" is the southern portion of the East Gateway area.
[4] "New Central Gateway" is the eastern portion of the former Central Gateway area.
[5] "MH-1" is the western portion of the former Central Gateway area.

Oakland Army Base Redevelopment Project
Tentative Timeline for Air Quality Plan Implementation (subject to change)
September 8, 2016

Air Quality Plan Components
The list below identifies which air quality-related requirements from the Oakland Army Base Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCAMMRP") are anticipated to be addressed in the Construction-Phase Air Quality Plan and the Operational-Phase Air Quality Plan.

Construction-Phase Air Quality Plan:

- Construction Management Plan (SCA AIR-1)
- Construction-Related Air Pollution Controls (SCA AIR-2)
- Construction Traffic and Parking (SCA TRANS-2)
- Traffic Control Plan – Hazardous Materials (Mitigation 4.3-13)

Operational-Phase Air Quality Plan:

- Truck Management Plan (Mitigation 4.3-7)
- Maritime and Rail-Related Emissions Reduction Plan (Mitigation 4.4-3b)
- Truck Diesel Emission Reduction Plan (Mitigation 4.4-4)
- Transportation Control Measures (Mitigation 4.4-5)
- Energy-Conserving Fixtures and Designs (Mitigation 4.4-6)
- Demonstration Projects (Mitigation 5.4-1)
- Parking and Transportation Demand Management (SCA TRANS-1)

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area

ABAG

Mr. David R. Lloyd
Office of Land and Emergency Response
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., MC:5105T
Washington, DC 20460

December 18, 2015

R09-16-A-003

RE: Transmittal Letter

Dear Mr. Lloyd:

This constitutes the Transmittal Letter for the Association of Bay Area Government's Brownfields Coalition Assessment Grant application.

Applicant:	Association of Bay Area Governments
DUNS number:	07-907-392000000
Funding Requested	
Grant type:	Brownfields Coalition Assessment Grant
Amount:	$600,000
Contamination:	Hazardous Substances ($300,000) and Petroleum Products ($300,000)
Location:	Cities of Oakland, San Leandro, and Hayward and County of Alameda California
Contacts:	Project Manager JoAnna Bullock, Senior Planner and Grants Administrator MetroCenter, 101 8th Street, Oakland, CA 510 464-7968 office 510 464-7985 fax joannab@abag.ca.gov
	Chief Executive Ezra Rapport, Executive Director MetroCenter, 101 8th Street, Oakland, CA 510 464-7900 office 510 464-7985 fax ezrar@abag.ca.gov
Date submitted:	December 18, 2015
Project Period:	July 2016 – July 2019
Population:	180,000

Joseph P. Bort MetroCenter, 101 8th Street, Oakland, California 94607-4756 P.O. Box 2050, Oakland, California 94604-2050
(510) 464 7900 Fax (510) 464 7985 www.abag.ca.gov info@abag.ca.gov

Thank you for your consideration of our grant application. We hope that we have developed a compelling justification for funding site assessments in the along the San Francisco Bay Area and look forward to advancing this important work to transform the East 14th Street/Mission Boulevard corridor.

Respectfully,

Ezra Rapport
Executive Director

East Bay Coalition Brownfields Assessment Grant Application

1. Community Need

1.a Economic and Community Benefits

1.a.i. Targeted Community Description: The target area is located in the cities of Oakland, San Leandro and Hayward as well as the Ashland and Cherryland Census Designated Places in unincorporated Alameda County, within the East Bay of the San Francisco Bay Area. Together with the Association of Bay Area Governments (the coalition lead), these jurisdictions make up the coalition.

The coalition's proposal focuses on a 15 mile corridor of downtowns and mixed-use neighborhoods that have been identified by coalition members as Priority Development Areas (PDAs)—places with adopted local plans for sustainable, location-efficient redevelopment that also support the Bay Area's regional vision for an equitable, low carbon future.

The corridor is defined by the East Bay's historic main street—known as International Boulevard in Oakland, East 14th Street in San Leandro, and Mission Boulevard in unincorporated Alameda County and Hayward—and five adjacent Bay Area Rapid Transit (BART) stations. It served as a primary road and streetcar route through the East Bay from its urbanization in the 19th century until the completion of Interstates 880 and 580 in the late 1950s and continues to be a critical link between Oakland and Hayward. The five BART stations within the target area connect its residents to nearly a million jobs, as well as educational and cultural opportunities throughout the region.[1] To complement BART, the region's first Bus Rapid Transit (BRT) route will begin service in the corridor in 2017.

Historically, the corridor was an employment center with abundant industrial and commercial jobs, particularly for people of color.[2] Major corporations including Magnavox, General Electric and Montgomery Ward operated large scale divisions beginning in the 1920s through the mid-1970s. A significant portion of the Bay Area's African American and Latino residents formed communities in the corridor. As the target area's neighborhoods experienced suburban flight and industry moved away, jobs dwindled and the area began to fall into significant decline.[3] Accompanying this decline was a spike in crime, blight and the abandonment of commercial and industrial buildings and parcels—many of which are known or suspected brownfields.

Today the corridor is characterized by vacant lots, abandoned industrial facilities, gas stations, and dilapidated structures occupied by auto-repair shops, liquor stores, nail salons, and storefront churches. The current economic recovery has provided very limited benefits to the area while creating displacement pressure on corridor residents and businesses.[4] Environmental contamination—both documented and perceived—continues to pose an obstacle to community health and economic development.

1.a.ii. Demographic Information: As Table 1 illustrates, sensitive populations with greater susceptibility to many of the contaminants and cumulative environmental issues in the target area make up a disproportionate share of its residents—including minorities, the unemployed, the poor, children, and very young children. The target area also has high concentrations of populations with multiple risk factors that can exacerbate exposure to contaminants and cumulative issues, including children living in poverty (triple the rate in Alameda County and nearly double the state and national

---

[1] Association of Bay Area Governments. (2013). *Plan Bay Area: Final Forecast of Jobs, Population and Housing.*

[2] Johnson, Marilyn S. (1993). *The Second Gold Rush: Oakland and the East Bay in World War II.*

[3] Self, Robert O. (2003). *American Babylon: race and the struggle for postwar Oakland.*

[4] Zuk, Miriam. (2015). *Regional Early Warning System for Displacement.* (Data on Target Area: http://www.urbandisplacement.org/research, accessed November 30, 2015)

rate), and the percentage of new single mothers in poverty (more than double the county rate and a well above the state rate).[5]

Table 1. Demographic Information

	Target Area	Remainder of Target Area Jurisdictions (portion outside target area)	Alameda County	California	United States
Population	191,000	512,000	1,560,000	38,100,000	314,000,000
% Minority	90%	64%	67%	61%	37%
% Unemployed	15%	10%	10%	11%	9%
Poverty Rate	22%	8%	9%	16%	16%
% Children (under 18)	27%	20%	22%	24%	23%
% Children in Poverty (under 18)	9%	3%	3%	5%	5%
% Very Young Children (under 5)	8%	6%	5%	7%	6%
Single mothers in poverty as % of women that gave birth in past year	24%	12%	10%	16%	18%
% Senior Citizens (over 65)	9%	14%	12%	12%	14%
Median HH Income	$42,826	$76,550	$ 73,775	$ 61,489	$ 53,482

Source for all data: 2009-2014 American Community Survey (ACS) (numbers rounded)

1.a.iii. Description of Brownfields: Suspected and known brownfields are present throughout the corridor, located directly adjacent to the homes, schools and parks of the sensitive populations disproportionately represented in its communities. Built before the advent of modern environmental standards, the corridor is a checkerboard of industrial, residential, civic and commercial land uses. Industrial operations that once attracted working families in search of better lives are now sources of contamination, blight and disinvestment that damage the health and welfare of an at-risk population. Oakland's General Electric (GE) transformer assembly plant provided 300 middle wage jobs during its operation between 1927 and 1975. Today, it remains abandoned with no solid plans for reuse, its soils contaminated with polychlorinated biphenyls (PCBs) from coolants and lubricants in electrical equipment.[6] Groundwater contamination from trichloroethylene (TCE) (commonly used to clean metal parts)[7] extends beyond the site, which is surrounded on two sides by neighborhoods. Residents of these neighborhoods, which are in the top 4 percentile statewide for impaired water risk and face elevated levels of toxic releases, have the highest cancer mortality rate in Alameda County—more than 60% above the county as a whole and well above neighborhoods with similar demographic characteristics.[8] These neighborhoods also have elevated incidence of low birth weight–which, like cancer, has been identified as a potential impact of PCB and TCE exposure, and

[5] 2009-2014 American Community Survey (ACS)
[6] CA DTSC Public Notice, "Approval of Final Remediation Plan, Former General Electric Facility," July 2011
[7] Ibid
[8] California Office of Environmental Health Hazard Assessment *Enviroscreen*, 2015; Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*

which is especially harmful to a community with a high proportion of young children and single mothers in poverty.[9] Between mid-June and mid-December 2015, 485 violent crimes were recorded in a one-mile radius of the site, including 96 robberies and 3 murders.[10]

The GE plant is a microcosm of the impact of brownfields on the corridor; a symbol of disinvestment, poor health, and lost opportunity. It is one of 670 brownfields in the target area identified by the California Department of Toxic Substances Control (DTSC),[11] all of which are located within 1,000 feet of a residential area and many of which share a property line with a residence. 170 of the sites identified by DTSC remain open, including 90 Leaking Underground Storage Tanks (LUST)—primarily former gas and service stations. Frequently identified contaminants at the LUST sites include TPH (particularly benzene) as well as PCBs, TCEs and PCEs—creating soil, groundwater, and indoor air contamination. A wide variety of contaminants have been identified at the other open cleanup sites, reflecting a diversity of historic land uses that available records indicate ranged from heavy manufacturing plants (producing glass containers, plastic, and many other products) to an excavation pit and a bulk petroleum distribution facility. Frequently identified contaminants from these sites include PCE, PCBs and TCEs, with contamination from volatile organic compounds (VOCs), TCA, and lead also found at several locations.[12]

In addition to known brownfields left behind by historic land uses, many businesses operating today in the target area are associated with contaminants. This includes 65 gas stations, 81 laundromats, and 529 manufacturing businesses.[13] Like identified brownfields in the target area, all of these businesses are within 1,000 feet of a residential area, which as noted in *Demographic Information* are made up of a disproportionate share of sensitive populations such as children in poverty.

1.a.vi. Cumulative Environmental Issues: Contributing to the risks created by brownfields, one operating and nine non-operating hazardous waste facilities are within one mile or less of the target area, among them an active electronics and universal waste recycling plant and several plating and beverage container companies.[14] The target area is also adjacent Interstate 880, which is used heavily by trucks in route to the Port of Oakland, one of the busiest ports in the country, leading to elevated particulate matter emissions—particularly during commute hours when trucks idle.[15] Exposure is increased by the frequent use of operable windows to ventilate homes and other buildings, as well as the proximity of public spaces such as playgrounds and parks to I-880 and to the target area's other high-pollution roadway, International Blvd/East 14th St/Mission Blvd.

Based upon a cumulative analysis of all mobile and stationary sources of pollution, the target area was identified by the Bay Area Air Quality Management District (BAAQMD) as a cumulative impact area, reflecting elevated levels of Toxic Air Contaminants (TAC) and fine particulate matter (PM).[16] BAAQMD also designated the target area a CARE community—a designation used to identify communities with sensitive populations overburdened by air quality and other environmental risks.[17] In addition to these challenges, much of the target area is underserved by grocery stores, has a deficit of parks relative to population compared to other parts of the county, and is more susceptible to the

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[9] Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*; 2009-2014 ACS
[10] Oakland Police Department and crimemapping.com, accessed 12/13/15
[11] DTSC *Geotracker Database*, accessed 12/14/15
[12] Ibid.
[13] Dunn and Bradstreet NETS data 2014
[14] DTSC *EnviroStor Database*, accessed 12/16/15
[15] Ibid
[16] MTC and ABAG. (2013). *Plan Bay Area Environmental Impact Report*
[17] BAAQMD Community Air Risk Evaluation Program (CARE), http://www.baaqmd.gov/plans-and-climate/community-air-risk-evaluation-care-program, accessed 12/16/15

urban heat island effect than other areas.[18]

1.b. Impacts on Targeted Communities: Target area residents have dramatically lower health outcomes than residents of adjacent neighborhoods, Alameda County, and California. Many of these negative outcomes are potentially linked to exposure to the contaminants present in target area brownfields—which can take place through direct contact, overland flow dispersion of toxic compounds, wind, groundwater drainage and vapor intrusion—and the cumulative environmental issues in the area. The presence of sensitive populations highlighted above in *Demographic Information* likely exacerbates the impact of these exposures.

The cancer mortality rate, which is a potential effect of exposure to the PCBs and TCE contamination in the target area, ranges from 168 per 10,000 to 230 per 10,000 in the zip codes within the target area, compared to 146 per 10,000 in Alameda County and 131 per 10,000 in California. Asthma hospitalization, potentially liked to exposure to the high levels of PM and TAC in the target area, is 40% above the county and 240% percent above the state for children under 5 and 44% above the county and 350% percent above the state overall. The prevalence of diabetes and obesity are 17% and 28% above county averages, respectively.[19]

Hospitalization from violent assault (which includes murder) is 200% higher in target area zip codes than the county, resulting from a higher crime rate potentially related to blight and lack of access to opportunity. Reflecting the confluence of multiple risk factors, life expectancy at birth in parts of the target area is 70, 10 years below the county average and as many as 29 years below wealthier communities in the county. This ranks 117th worldwide, equal to Bangladesh.[20]

In addition to explicit health and safety impacts, vacant brownfields contribute to a land use pattern that does not provide the basic necessities needed by community members such as community centers, grocery stores and parks. The underutilization of the area's land also represents a missed opportunity to provide space for job training, small business incubation, and much-needed housing within walking distance of inexpensive public transit that in less than half an hour reaches the region's major job centers and educational opportunities (and in the process provides an environmentally sustainable commute mode).

1.c. Financial Need

1.c.i. Economic Conditions: Regional and local funding is not available to conduct the assessments that will be supported by this grant. In 2011, the State of California eliminated Redevelopment Agencies, which had utilized tax increment financing for the acquisition, assessment, remediation, and reuse of blighted properties—including many brownfields. The elimination of Redevelopment resulted in an estimated $28 million budget shortfall for the City of Oakland in Fiscal Years 2011-12 and 2012-13 alone.[21] In Alameda County, this figure is $60 million annually, and in Hayward $5 million annually.[22] The loss of Redevelopment compounded longstanding fiscal crises in coalition jurisdictions, which face rising costs for government services coupled with stagnant sales taxes and local property taxes capped by state law at 1%.

The area's protracted industrial decline, beginning with the closure of major factories in the 1960s and 1970s and compounded by decades of vacancy on the large parcels of land left behind (many of them known or suspected brownfields), has contributed to the persistently high unemployment and

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[18] Greenbelt Alliance; UC-Berkeley (2014). *Mapping Climate Change Exposures*

[19] All data in this paragraph: Alameda County Public Health Department, *Alameda County Vital Statistics Files, 2011-2013*

[20] Ibid., US Central Intelligence Agency (2013). *2013 CIA Factbook.*

[21] City of Oakland Press Release, 11/29/11 "Community and Economic Development Agency Dissolved", http://www2.oaklandnet.com/Government/o/CEDA/index.htm, accessed 12/18/ 14

[22] City of Hayward, 2012 *Comprehensive Annual Financial Report* http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2012/FY2012_Hayward_CAFR.pdf, accessed 12/18/14

poverty rates highlighted in *Demographic Information.* The GE plant closure described above, which cost the area 350 jobs, was part of a broader trend of lost economic opportunity: between 1950 and 1970, Oakland alone lost 10,000 jobs alone, many of them like GE along the International Blvd/East 14th Street corridor. The resulting lack of buying power has for decades depressed sales taxes—a critical revenue source for California cities and a potential source of funding for remediation and cleanup. This was exacerbated by the closure of major department stores along the corridor, including a 9 story Montgomery Ward in 1989 in Oakland and Mervyn's 340,000 flagship store and headquarters in Hayward. The area's industrial decline also led to dramatically lower home values and rental rates, as highlighted in *Economic Effects of Brownfields* below.

Together, these factors severely limit the ability of any of the Coalition members to address the shared brownfields challenge alone. The formation of the Coalition and its collaborative proposal reflect the need to work together to overcome an economic and fiscal obstacle that no member can tackle individually.

1.c.ii. Economic Effects of Brownfields: The prevalence of vacant and underutilized parcels in the target area contributes to a lack of economic activity, reducing potential demand for local businesses, dampening sales and property taxes while also reducing opportunities for community-building and visual surveillance—potentially facilitating the hubs of criminal activity on the corridor.[23] Data collected by the US Postal service indicates that vacancies at business addresses are 24% higher in target area Census Block groups with clusters of four or more brownfields than elsewhere in Alameda County.[24]

These conditions have created a negative perception among businesses and potential investors that are reflected in rents and property values. A comparison on Loopnet.com in December 2015 found that the average price of retail space along the corridor averages $19/square foot; in contrast, rents along three retail corridors in surrounding areas averaged $26/sf (Castro Valley Blvd), $34/sf (Alameda Park St), and $54/s (Oakland Lakeshore/Grand).[25] According to the 2014 American Community Survey, the median residential rent in the corridor is $1,150—17% below the rent in other parts of coalition jurisdictions and 20% below Alameda County. Negative perceptions are also reflected in home values, which are a proxy for property taxes: At $250,000, the median home value in the target area is $200,000 below neighborhoods elsewhere in coalition jurisdictions and more than $230,000 below Alameda County.[26] These figures underscore the opportunity costs created by underutilized known or suspected brownfields. While no comprehensive analysis has been completed of the economic impact of blight and brownfields on the corridor, if the median value of the corridor's 28,000 homes were equal to the County, these homes would generate approximately $90 million each year in additional property taxes.[27]

Combined with other risk factors, the preponderance of vacant lots and blight created by known and suspected brownfields has reduced access to opportunity for local residents by limiting the number of potential jobs and local services within target area communities, contributing to the disproportionately high unemployment and poverty rates illustrated in *Table 1.*

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[23] For example, the northern part of the corridor is known as a hub for child trafficking in the western United States: http://www.sfgate.com/crime/article/How-girls-fall-into-clutches-of-pimps-4705407.php, accessed 12/1/15.

[24] HUD, 2014, *HUD Aggregated USPS Administrative Data On Address Vacancies*; Calculations by ABAG.

[25] Loopnet.com: http://www.loopnet.com/xNet/MainSite/Listing/Search/SearchResults.aspx#/Retail/For-Lease/clARYC$BAQIBDYVTQG2U20JAtunRyAThQkABAACoB4xewAEAANgphV7A, accessed 12/1/15. Note that Loopnet is a site to advertise properties, not a comprehensive data source.

[26] 2009-2014 American Community Survey.

[27] ACS 2009-2014; Assumes a typical 1.2% property tax rate in the target area (including locally imposed and voter adopted taxes)

2. Project Description and Feasibility of Success

2.a. Project Description, Project Timing and Site Selection

2.a.i. Project Description: This grant will fund 20 Phase I and 6 Phase II environmental site assessments (ESAs) of high-impact suspected brownfields, implementing an integrated regional and local strategy for environmental, social and economic sustainability. In 2013, Bay Area elected officials adopted Plan Bay Area—a blueprint for growth and transportation investment that achieves the State of California's GHG emissions reduction target for the region. The foundation of Plan Bay Area's sustainable growth strategy is a network of Priority Development Areas (PDAs)—transit-rich places planned by cities for mixed-income housing, commercial development, and local services. The PDAs that make up the target area are expected to add 44,000 new housing units and 58,000 new jobs by 2040.[28] Land use plans recently adopted by coalition members for these PDAs set the stage for implementation by identifying opportunity sites for a mix of housing, employment, local services, and public spaces to create dense walkable communities. These sites are typically vacant, large enough for significant redevelopment that fulfills a community vision, and in need of assessment to confirm or remove suspicion of the presence of contaminants.

Because a comprehensive environmental review was conducted as part of each local PDA plan, projects on opportunity sites are exempt from most aspects of the entitlement process—reducing much of the uncertainty associated with development in disinvested areas. However, parcel-level analysis of potential contamination has still not been completed on most sites. Combined with longstanding concerns about known and suspected brownfields, the uncertainty surrounding many sites presents a barrier to both private and public investment. The perceived complexity and potential delays involved in conducting assessments deter investors from taking on the additional cost and instead investing in an area with fewer perceived issues. The ESAs funded by this grant will fill this gap, setting the stage for catalyst projects that align with local and regional plans, as well as state and federal sustainability principles.

The Memorandum of Agreement (MOA) established between coalition members at the outset of the grant will create a framework for defining site selection criteria, conducting site selection, creating a community engagement plan, and selecting consultants to perform ESAs. A minimum of four sites will be assessed in each jurisdiction. To prime the assessed sites for reuse, the coalition will conduct preliminary schematic design with engagement from Bay Area LISC, which has funded numerous reuse projects, set the stage for a more detailed cleanup plan.

The activities funded by this grant will position the high-impact sites selected by coalition members to acquire and leverage funding sources such as the state of California's Affordable Housing and Sustainable Communities program, the Golden State Acquisition Fund, the Bay Area Transit-Oriented Affordable Housing fund and the DTSC revolving loan fund, as well as to forge public-private partnerships and to take advantage of the influx of private capital seeking development sites in the Bay Area.

Outputs: 20 Phase I and 6 Phase II ESAs; 6 Preliminary Schematic Site Designs; Priority Sites Inventory; at least 7 Community Meetings

Outcomes: $230-$560 Million in investment; 2,050-4,100 Jobs; $7-$14 Million in ongoing revenues; Reduced community exposure to contaminants; Improved health outcomes

2.a.ii. Project Timing: The project is anticipated to commence in spring 2016 and close in spring 2019. Within a month of the grant award, the coalition members will sign a Memorandum of Agreement and the Association of Bay Area Governments (the project sponsor) will complete a Work Plan and schedule that will be included in the Cooperative Agreement with EPA. Project tasks and milestones established in the Work Plan will be tracked on a weekly basis and reported to EPA

[28] ABAG and MTC (2013). *Plan Bay Area Final Forecast of Jobs, Population and Housing*

as part of the Quarterly Report. The report will identify percentage completion of each task and progress toward milestones. In the case of delays, ABAG will provide EPA's project manager with an explanation for the delay and identify corrective action.
ABAG will coordinate site selection, contractor selection and oversight, public outreach, site access, and development of reuse strategy, working with Coalition Members through the process formalized in the MOA.

Table 2. Project Schedule

	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017	Q3 2017	Q4 2017	Q1 2018	Q2 2018
Notice of Award	x								
MOA Adoption	x								
Issue RFP & Consultant Selection		x							
Contract Award									
Site Selection		x	x	x					
Public Engagement	x	x		x			x		x
Assessments					x	x	x	x	
Schematic Designs							x	x	x

2.a.iii. Site Selection: Through the MOA, coalition members will establish a governance structure for establishing site selection criteria and for selecting sites. Detailed criteria will expand upon several general principles, prioritizing parcels that are: identified as opportunity sites with significant redevelopment potential in locally adopted plans; within 1/2 mile of frequent transit service; and meet EPA Brownfield site eligibility guidelines. Each coalition member jurisdiction will submit a set of preliminary priority sites from which a final set will be identified utilizing the process established by the coalition. A minimum of four ESAs will be performed in each local coalition member's jurisdiction.
Coalition members will pursue securing Site Access Agreements and once agreements are in place, public and privately-owned sites will be assessed. If access cannot be obtained for a blighted vacant priority site, coalition members may consider utilizing state laws such as the Gatto Act to gain access, or another site on the priority list may be assessed instead. Assessment sites are expected to be evenly divided between those with suspected petroleum contamination and those with suspected hazardous substances contamination.

2.b. Task Description and Budget Table

2.b.i. Task Description: With the exception of reporting, project tasks will be performed in collaboration with local jurisdiction and community based partners. ABAG staff will convene a series of meetings with local jurisdiction partners to assist with the process of developing a list of sites. Sites under consideration for inclusion on the list will first be screened using EPA site eligibility criteria and vetted with the California Department of Toxic Substances Control (DTSC). While the list is under development, we will convene community organization partners and begin the community engagement process. Regular meetings with local jurisdiction and community organization partners will be convened for the duration of the project.

Task 1 – Partner Engagement and Site Identification ***$35,472***

Local jurisdiction partners will develop an initial list of potential sites. Sites will be evaluated using the criteria and process established by the Coalition following adoption of the MOA. The list of potential sites will be vetted using EPA guidelines and in consultation with the community

organization partners, resulting in a final list of sites and site access as discussed in *Site Selection.*
Outputs: MOA, Priority sites inventory; Site assessment list
Staff time: Senior Regional Planner: 11.1 hours/month @88.68/hour for 36 months = $35,472
Total: $35,472
Cost Basis (Petroleum Products): $17,736 Cost Basis (Hazardous Substances): $17,736

Task 2 – Community Engagement ***$34,318***
Community engagement efforts are an integral component of the MOA and will include community communication materials, regular community briefings, project web site, and messaging developed by local jurisdictions and community based organization partners. This effort will be coordinated by ABAG's Communication Specialist in collaboration with community organization partners resulting in a community engagement plan, at least five community meetings and two focus group meetings.
Outputs: Community engagement plan, Minimum five community meetings; Minimum two focus group meetings
Cost Basis
Pass-through: Capacity building for Community Based Organizations = $5,000
Supplies: printed material, website = $4,698
Staff time: Communication Specialist: 5.5 hours/month @$98.10/hour for 36 months = $19,620
Total: $34,318
Cost Basis (Petroleum Products): $17,159 Cost Basis (Hazardous Substances): $17,159

Task 3 – Phase I and Phase II Assessments ***$460,000***
The partnership will conduct a thorough consultant selection process to identify the most appropriate firm for this project. This portion of the project includes consultants performing Phase I and II Environmental Assessments as well as Quality Assurance Project Plans, Health and Safety Plans, Sampling and Analysis Plans, and other related reports as warranted.
Outputs: 20 Phase I ESAs; 6 Phase II ESAs
Cost Basis
Contractual: 20 Phase I ESAs @ $8,000 per Phase I ESA = $160,000
Contractual: 6 Phase II ESAs @ 50,000 per Phase II ESA = $300,000
Total: $460,000
Cost Basis (Petroleum Products):$230,000 Cost Basis (Hazardous Substances): $230,000

Task 4 –Preliminary Schematic Designs ***$13,302***
As land reuse is one of the primary goals of the project, ABAG staff and the project partnership will produce schematic designs for up to five sites that are deemed locations with high redevelopment potential and aligned with adopted local plans. Bay Area LISC will be consulted regarding feasibility.
Outputs: 6 Preliminary Schematic Designs
Cost Basis
Staff time: Regional Planner: 12.5 hours/month @88.68/hour for 12 months = $13,302
Total: $13,302
Cost Basis (Petroleum Products): $6,651 Cost Basis (Hazardous Substances): $6,651

Task 5 - Project Management and Reporting **$56,908**
This task includes staff time for general oversight of the project ACRES and general reporting requirements for the grant award. ABAG project staff will hold weekly project meetings to monitor progress, identify and develop strategies to resolve issues that arise, and generate quarterly reports.
Outputs: Quarterly Reports
Cost Basis

Staff time: Senior Regional Planner: 2.7 hours/month @$110.12/ hour for 36 months = $15,416
Senior Regional Planner: 5.5 hours/month@ $88.68/hour for 36 months = $17,736
Finance Specialist: 2.2 hours/month @ $76.35/hour for 36 months = $6,108
Indirect costs of financial and performance reporting: = $17,648
Total: $56,908
Cost Basis (Petroleum Products): $28,454 Cost Basis (Hazardous Substances): $28,454

2.b.ii. Budget Table: Separate budget tables are included for the hazardous substance and petroleum work that distinguish hazardous substances related tasks from petroleum related tasks.

Table 3. Hazardous Substance Budget

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	$17,736	$9,810		$6,651	$19,630	**$53,827**
Indirect Cost					$8,824	**$8,824**
Travel		$100				**$100**
Website		$475				**$475**
Printing		$630				**$630**
Contractual			$230,000			**$230,000**
CBO Support		$5,000				**$5,000**
Meetings		$1,144				**$1,144**
Total	**$17,736**	**$17,159**	**$230,000**	**$6,651**	**$28,454**	**$300,000**

Table 4. Petroleum Products Budget

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	$17,736	$9,810		$6,651	$19,630	**$53,827**
Indirect Cost					$8,824	**$8,824**
Travel		$100				**$100**
Website		$475				**$475**
Printing		$630				**$630**
Contractual			$230,000			**$230,000**
CBO Support		$5,000				**$5,000**
Meetings		$1,144				**$1,144**
Total	**$17,736**	**$17,159**	**$230,000**	**$6,651**	**$28,454**	**$300,000**

2.c. Ability to Leverage: ABAG is a regional planning agency that enables its members to develop sustainable projects. The coalition members have resources and leveraging opportunities to bring projects along this corridor to redevelopment. The coalition proposal is designed to position projects in corridor opportunity sites to attract investment that leverages existing and future funding sources, providing a substantial return on investment for the ESAs funded by the EPA.
Existing sources for cleanup and redevelopment include: the California DTSC Revolving Loan Fund, which provides up to $2.5M in low-cost financing for cleanup to facilitate projects similar to those anticipated on corridor opportunity sites; the California Water Resources Board's $200M Storm Water Grant Program, which can be used to fund new public spaces such as parks and community gardens identified on brownfield sites in community plans; the $400M state Affordable Housing and Sustainable Communities fund, which provides grants for mixed-income housing, active

transportation and green infrastructure in PDAs (including more than $7M won by Coalition Members in 2015); more than $100M in annual Low-Income Housing Tax Credits available to Bay Area Community Development Finance Institutions (such as community partner Bay Area LISC) to support affordable housing and community facilities; the $60M Transit Oriented Affordable Housing (TOAH) fund administered by MTC in partnership with ABAG. In addition to these existing sources, a range of potential new sources are under discussion, such as a Bay Area regional housing bond (potentially $500M annually) and a state housing bond similar to Proposition 1C ($3B), which was used successfully to support multiple brownfields reuse projects.

Local government partners may also choose to utilize California's Gatto Act to recover cleanup costs in cases where assessments reveal contamination for which there is a viable responsible party. The City of Oakland, for example, previously negotiated a $700,000 settlement from Chevron Corporation for cleanup of contamination characterized under a prior US EPA Assessment Grant for Oakland's Uptown Area.

In future years, coalition members may also establish Enhanced Infrastructure Finance Districts (EIFD), which would also become a source of leveraging. Enabled by a recent state law, EIFDs permit limited tax increment financing to fund infrastructure as well as remediation in areas (such as target area PDAs) consistent with regional Sustainable Communities Strategies (i.e. Plan Bay Area).

3 Community Engagement and Partnerships

3.a. Plan for Involving Targeted Community & Other Stakeholders; and Communicating Project Outcomes

3.a.i. Community Involvement Plan: The coalition's proposal leverages deep relationships with community stakeholders built during recent local and regional initiatives including Plan Bay Area, the HUD-funded Regional Prosperity Strategy, and recently adopted plans for the corridor's Priority Development Areas. After completing the MOA, coalition members will work with established partner community organizations to develop a community engagement plan tailored to the needs of the corridor's communities. We anticipate the community engagement plan will include the following:

- Convene five public meetings to: share information including project overview, composition and goals of the coalition, desired project outcomes, and timeline; receive input and feedback from community groups, property owners, local businesses and residents about site selection and land reuse planning; and share outcomes and discuss next steps
- Hold focus group meetings with interested members of the community to receive detailed input into project goals, site selection, and reuse planning
- Develop printed and online material on the overall project, opportunities for engagement, ESAs, and reuse planning; disseminate brochures in heavily traveled places along the corridor where they will be highly visible and accessible

3.a.ii. Communicating progress: The coalition will utilize methods that have proven successful in past regional and local planning initiatives. We are confident these methods will prove useful for this project but are continuously seeking best practices and open to modifying our approach if more effective methods are discovered. We anticipate that these will include:

- Establish community assistance telephone line to respond to inquiries from interested parties and residents; this will be particularly helpful for those without access to internet
- Create a web site that describes short and long term plans for the corridor, provides status of projects, and updates on overall progress (with translation as appropriate)

3.b. Partnerships with Government Agencies

3.b.i. Local/State Environmental Authority: The **California Department of Toxic Substances Control** (DTSC) oversees the investigation and remediation of Brownfield sites in the state. The target area is located in DTSC's Region IX Brownfield program. DTSC will be available to consult on the grant and provide input on site selection and other key decisions, as well as provide guidance on opportunities obtain future cleanup funding through sources such as its voluntary cleanup program and revolving loan fund.

3.b.ii. Other relevant Governmental Partnerships: ABAG is the sister organization to the Metropolitan Transportation Commission, which oversees regional transportation project funding. Together, ABAG and MTC are responsible for developing and implementing Plan Bay Area. In addition, ABAG maintains strong longstanding relationships with other regional planning and regulatory organizations including the San Francisco Regional Water Quality Control Board, Bay Area Air Quality Management District, and the County of Alameda's Department of Health Services and Public Health Department.

3.c. Partnerships with Community Organizations

3.c.i. Community Organization Description and Role: Community organization partners for this project include organizations that participated in the development of Plan Bay Area and community plans in coalition jurisdictions. ABAG and local coalition members have long standing relationships with many of these organizations and has successfully worked with them on many issues including housing, land use and social justice.

These organizations serve large communities along the corridor and focus on a number of issues including housing, open space and social equity. In addition to the organizations named, we will build on relationships and capacity developed through the HUD Sustainable Communities Grant. The coalition's goal is to design the work so that community organizations can maximize their effectiveness. To ensure community participation in this project, the budget includes funds to increase capacity and support these vital organizations.

Within 3 months of establishment of the MOA, ABAG will convene the community partners to provide a project overview, develop the community engagement plan, and solicit input about issues relevant to their areas of expertise. With assistance from the Coalition, community organization partners will organize and conduct public meetings in the portions of the corridor in which they have an established presence.

OCCUR is a community organization that brings together East Bay residents, merchants and governments to stimulate the economic development potential of emerging communities; it will focus on outreach and meeting facilitation. The **Unity Council** is a non-profit community development corporation with expertise in mixed-use development and building health communities; the Unity Council will provide insight into the development process as well as conduct outreach. **TRANSFORM** is a sustainable transportation organization active across the Bay Area and California, with a particular focus on the East Bay; TRANSFORM will focus on meeting facilitation and technical assistance around Transit-Oriented Development. **Greenbelt Alliance** is a Bay Area non-profit with expertise in meeting facilitation and smart growth policy; it will focus on meeting facilitation and providing technical assistance around conservation. **Bay Area LISC** is a community development finance institution (CDFI) responsible for distributing federal low-income tax credits and providing comprehensive place-based support to low income communities; LISC, which has built nearly 12,000 homes and apartments and over 1.4M square feet of community-serving development in the East Bay and larger Bay Area, will provide insight into funding strategies for projects on opportunity sites.

4. Project Benefits

4.a.i. Health and/or Welfare Benefits: The ESAs and reuse strategies funded by this grant are an important step in addressing the severe health impacts discussed in *Community Need.* Assessment followed by cleanup and redevelopment will help eliminate the risks of exposure to site contaminants, thereby protecting nearby and sensitive populations such as children and young single mothers in poverty. Reducing the population's exposure to contaminants will have the long term effect of potentially reducing cancer rates, increasing life expectancy and improving quality of life while also reducing risks to workers involved in future construction projects on these sites. Assessments that remove suspicions of contamination would provide the additional level of certainty required for public and private investment, allowing projects that implement community priorities to move ahead.

As local PDA plans recommend land uses that serve the existing community, including parks and affordable housing, the redevelopment of opportunity sites facilitated by this grant will combine health, welfare and economic benefits. In addition to creating job opportunities and reducing blight, many projects will provide services that address the immediate challenges facing corridor residents. Health and wellness centers, for example, are integrated into recent mixed-use housing developments in the area such as the Lion Creek Crossings in Oakland, a Phoenix Award winner. Other recent projects, such as the REACH Ashland Youth Center, a park with youth services, provide comprehensive wrap-around services including literacy, job training, and health.

Bringing new homes and businesses into target area will also help address disproportionately high levels of obesity and diabetes by increasing the number of local services, such as grocery stores, that can be reached on foot while also supporting higher levels of transit service. Consistent with local plans, projects on opportunity sites will provide easements for new pedestrian and bicycle connections, improving opportunities for active transportation and increasing greenspace. By increasing the use of sustainable modes of transportation, reuse will also help reduce emissions associated with asthma such as TAC and PM.

4.a.ii. Environmental Benefits: The ESAs funded by this grant will facilitate the removal of an array of contaminants that have for years damaged the soil, groundwater, stormwater, and indoor air quality of the target area such as PCBs, TCE, PCE, and TPH. In addition to addressing community environmental quality, contaminant removal will reduce risks to the health of the San Francisco Estuary from contaminated stormwater and the East Bay's water supply from groundwater contamination. The ESAs will also provide clarity on the relative risk of different sites, allowing future cleanup efforts to focus on locations that pose the greatest risks.

As development in the target area advances—spurred by the brownfield revitalization that this project and major transit investments will support—transportation options will expand and travel along the corridor will shift toward more sustainable modes. This will help reduce the pollution associated with auto travel, reducing concentrations of PM and TAC due to growing congestion on I-880. The addition of urban greening as amenities and required mitigation measures in new projects will also play an important role in comprehensively addressing air quality and other potential environmental and health risks. Parks, for example, will mitigate air quality impacts by adding trees that filter airborne contaminants while also mitigating soil and groundwater contamination through stormwater features such as bioswales that remove silt and pollution from surface runoff water.

4.b. Environmental Benefits from Infrastructure/Sustainable Reuse

4.b.i. Policies, Planning and Other Tools: The project will leverage a host of local and regional policies, tools and infrastructure investments. Community plans adopted across the target area provide zoning, anti-displacement and environmental mitigation measures that together support the development of affordable and mixed-income housing, retention of local residents, and increased

transportation choices, and healthier. Green building programs in each of the coalition partner cities will help insure that redevelop in the corridor is energy-efficient and promotes human health.

Supporting these policy tools is: regional technical assistance on placemaking, active transportation, and parking management provided by ABAG and the Metropolitan Transportation Commission through the regional PDA planning program; forthcoming Healthy Communities guidelines from the Bay Area Air Quality Management District; and stormwater best management practices disseminated by the SF Estuary Partnership.

Redevelopment in the target area spurred by the grant will leverage major federal, state and regional transit investments, including: the $200 million East Bay BRT, the first full Bus Rapid Transit route in the Bay Area; more than $1B in improvements to BART to increase frequency, capacity and safety; and multiple complete streets projects that support active transportation funded by Plan Bay 2013 regional transportation funding.

4.b.ii. Integrating Equitable Development or Livability Principles: The project will implement HUD-DOT-EPA Livability Principles as well as the equitable development policies integrated in the adopted local and regional plans of coalition members. To achieve HUD-DOT-EPA Livability Principles, it will **provide more transportation choices** by focusing mixed-use development at transit-supportive densities within walking distance of frequent, affordable public transit (BART and East Bay BRT), improving the public realm and travel conditions for healthy, active transportation such as walking and bicycling; **promote equitable, affordable housing** by setting the stage for projects that implement community plans calling for mixed-income housing that serves all age groups and backgrounds, addresses displacement pressures that are increasingly pushing low-income Bay Area families to move to outer areas of the region with higher transportation costs, and building homes in places with strong green building codes; **enhance economic competitiveness** by reducing the blight in the target area to make it more attractive to investors and small businesses, enlarging the customer base for local shops and services, setting the stage for major job-producing projects envisioned in local plans, and increasing access to transit that reaches the region's major employment and educational opportunities within ½ hour ; **support existing communities** by facilitating land recycling that will revitalize the corridor's communities, make efficient use of existing infrastructure, and focusing development on opportunity sites identified in plans driven by existing communities; **coordinate and leverage federal policies and investment** by taking an integrated implementation approach that aligns with recent federal investments including East Bay BART ($81M FTA Small Starts Grant), eight pilot projects in the target area to support equitable transit-oriented development and job creation (through the Bay Area's $5M HUD Sustainable Communities Grant), and hundreds of energy retrofits and renewable energy installations funded through Renewable Energy and Consumer Energy Efficiency Tax Credits; and **value communities and neighborhoods** by facilitating future development that includes much-needed public space, public realm improvements, and health care and other supportive services currently not adequately provided—improving community health, safety and walkability.

The project will also implement Play Bay Area policy to increase community stability and support affordable housing in transit-rich.[29] By helping build the mixed-income projects identified in local plans for opportunity sites, it implements anti-displacement policies in community plans for target area neighborhoods, such as the International Blvd TOD Plan's policy to provide equitable housing choices that leverage East Bay BRT stops[30] and the Ashland/Cherryland Business District Specific

[29] ABAG and MTC (2013), *Plan Bay Area*

[30] City of Oakland (2011). *International Blvd TOD Plan*

Plan's policy to reinforce the area's cultural diversity by promoting the area as a cultural and economy center.[31]

4.c Economic and Community Benefits

4.c.i. Economic and Other Benefits: Completion of these assessments will build a pipeline of mixed-use transit-oriented projects in locally identified opportunity sites along the corridor, positioning these struggling neighborhoods to take advantage of private investment and new local, state and regional funding. In addition to a growing pool of private real estate investment, new competitive public funding sources such as California's Affordable Housing and Sustainable Communities (AHSC) program (which uses the proceeds of Cap and Trade auctions) have emerged to support affordable housing and active transportation. The target area is among the most competitive in the state for this funding as a result of its demographic and environmental challenges; in the fund's first year alone, the corridor received $13 million in funding which will support construction of 220 units, leveraging $60 million in additional funds. The fund more than triples in 2016 and is expected to grow further in future years, increasing the timeliness of completing ESAs. The anticipated economic benefit of redevelopment facilitated by this grant is estimated at between $230 million to $560 million in immediate benefits and between $7 million to $14 million in ongoing annual local government revenue—enough to fund 35 to 70 mid-level police officers. Job creation is estimated at between 1,600 to 3,200 immediate jobs and between 450 and 900 ongoing positions supported by the redevelopment. One to two thousand new mixed-income homes are expected, as well as commercial development, community services and retail.[32] A 1% increase in the value of existing homes in the corridor spurred by reinvestment would create approximately $10 million in additional property taxes per year.

4.c.ii: Job Creation Potential: Partnerships with Workforce Development Programs: The Coalition will identify a process for integrating workforce development programs into the assessment, cleanup and redevelopment of sites for which ESAs are conducted. This will involve consulting with and identifying partners such as the Alameda County Workforce Investment Board (WIB) and recent EPA Environmental Workforce Development and Job Training Grantees in Oakland and Richmond. In the redevelopment process, local first source hiring policies would leverage workforce development programs as well.

5 Programmatic Capability and Past Performance

5.a. Programmatic Capability: ABAG is the Council of Governments for the San Francisco Bay Area and is well qualified to undertake the role of administering the Brownfields Coalition Assessment grant. As the designated regional planning agency for the Bay Area, ABAG has a long standing history of successfully tackling complex regional issues such as housing, hazard mitigation, resilience, economic development, regional land use, and the conservation. The staff that will administer the grant are directed by the Executive Director, the Finance Director and Planning Director. **JoAnna Bullock** is a Senior Planner and Grant Administrator; she will oversee the overall project ensuring that coalition partnerships, community engagement and site assessments are managed and projected outcomes are achieved. She has 30 years of project management experience and expertise in grant management, environmental issues including hazardous waste sites and community engagement. **Mark Shorett** is a Senior Regional Planner; he will lead day to day

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[31] County of Alameda (2014).

[32] Calculations in this paragraph based upon National Association of Homebuilders *Economic Impact of Home Building in a Typical Local Area* (2015), assuming between 10 and 20 100-unit multifamily housing projects as a result of redevelopment, consistent with a parcel size of 2 acres at 50 du/acre per local zoning. Similarly sized projects in the area include the Marea Alta apartments and Fruitvale Transit Village.

engagement with coalition members and community partners. Currently managing PDA Implementation and the East Bay Corridor Initiative, he has twelve years of experience in project management, redevelopment, urban design (including schematic architectural and site design), and economic development.

Through a consensus process established in the MOA, ABAG and other coalition members will hire contractors with the expertise required to conduct the ESAs involved in completing the grant. All procurements will follow EPA requirements.

5.b. Audit Findings: ABAG's most recent audit did not disclose any significant deficiencies, or material weaknesses or instances of noncompliance material to the basic financial statements. ABAG has implemented procedures to ensure compliance with all reporting requirements of federal grants and maintain evidence of submission accordingly.

5.c. Past Performance and Accomplishments

5.c.i. Currently or Has Ever Received an EPA Brownfields Grant (N/A)

5.c.ii. Has Not Received an EPA Brownfields Grant but has Received Other Federal or Non-Federal Assistance Agreements:

Purpose: ABAG's Resilience Program has received five grant awards from the US Geological Survey (USGS) since 2010 (a total of $412, 087) to advance hazard mitigation and recovery efforts in the region including: "Using Risk Communication Research for Improved Integration of Hazard, Risk, and Mitigation Information into ABAG's Bay Area Earthquake Website" (2010, $80,000); "A Sub-Regional Review of Earthquake-related Hazards in the San Francisco Bay Area" (2012, $80,000); "Bay Area Population and Earthquake Risk" (2013, $93,000); "Local Government Resilience Toolkit" (2014, $90,816); "Bay Area Housing Risk Communication" (2015, $68,271). ABAG also received a Smart Growth Implementation Assistance grant from the Environmental Protection Agency (EPA)'s Smart Growth Program (2014, $93,000), entitled Creating Safe, Smart Growth Strategies for the San Francisco Bay Area.

Accomplishments: ABAG utilized 2010 and 2012 USGS grants to redesign its natural hazards resilience website and to improve overall communication of risk and distribute mitigation strategies to local governments and the general public. The 2013 USGS grant enabled ABAG to assess the overlapping risks of disaster-vulnerable housing types, vulnerable populations, and areas subject to earthquakes and current and future flooding; this effort culminated in a suite of strategies for local governments for housing and community resilience. ABAG utilized a 2014 grant to refine a selection of these strategies to assist local governments in adopting mitigation and adaptation actions such as soft-story ordinances. A 2015 grant is enabling ABAG to more accurately model housing loss during major disasters and to improve tools to assist residents in retrofitting their homes and preparing for disasters.

The EPA Smart Growth Implementation Assistance grant leveraged the USGS 2013 grant to develop responsive, regionally-appropriate strategies to address the housing and vulnerable population risks identified in the project for both existing and future development.

2.Compliance with Grant Requirements: Our staff worked cooperatively with USGS; tasks were performed according to work plans, work products were delivered on schedule, terms and conditions of past grants were strictly adhered to, all reporting requirements were met, and the grants were properly closed. Staff worked closely with USGS, meeting monthly to develop the deliverable and ensure that the schedule was met.

ATTACHMENT A

Letter from California Department of Toxic Substances Control

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Barbara A. Lee, Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

November 20, 2015

Ms. Noemi Emeric-Ford
Site Assessment Manager
Brownfields and Site Assessment Section
USEPA Region 9
600 Wilshire Boulevard
Los Angeles, California 90017-3212

Dear Ms. Emeric-Ford:

The California Department of Toxic Substances Control (DTSC) has lead regulatory responsibility for investigating and remediating hazardous substances release sites in California. DTSC fully supports the Association of Bay Area Governments (ABAG) grant application for a $600,000 ($300,000 for hazardous substances and $300,000 for petroleum) Community-wide U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County. ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, Hayward and Alameda County.

The coalition proposes to use the Community-Wide Assessment Grant, to assess sites identified by the local jurisdictions based on previous land use and location. Assessments would focus on areas within low-income neighborhoods that have been disproportionately impacted by pollutants and contamination. These Brownfields funds would help advance the growth of housing, local businesses and services within these communities.

We appreciate the opportunity to voice our support for this crucial funding.

Please contact me at (510) 540-3833 or janet.naito@dtsc.ca.gov if you have any questions.

Sincerely,

Janet Naito, Branch Chief
Berkeley Cleanup Operations Branch
Brownfields and Environmental Restoration Program

cc: JoAnna Bullock (via electronic mail to: JoAnnaB@abag.ca.gov)
Association of Bay Area Governments

ATTACHMENT B

Memorandum of Agreement

East Bay Corridor Brownfields Coalition

MEMORANDUM OF AGREEMENT
EAST BAY CORRIDOR BROWNFIELDS COALITION

This Memorandum of Agreement (MOA) is entered into by and between the following participating entities:
Association of Bay Area Governments
County of Alameda
City of Hayward
City of Oakland
City of San Leandro

I. Purpose of the Agreement

The purpose of this agreement sets out the terms by which the participating entities will work together to implement a Brownfields site identification and assessment program along the East Bay Corridor. This agreement will remain in effect from July 2016 to June 2019 and Senior Regional Planner Mark Shorett will be the key contact for ABAG.
This agreement sets out the terms by which the County of Alameda and the Cities of Oakland and Hayward will meet, make decisions, select sites, hire consultants and work with stakeholders and the communities surrounding the project area.

II. Background

In September 2013, the East Bay Corridors Initiative was formed as an implementation strategy for realizing Plan Bay Area, the region's long range sustainable growth plan. The East Bay Corridor is divided into two segments: the Oakland-Union City Corridor and the San Pablo Corridor. This agreement concerns a significant portion of the Oakland-Union City segment.

The activities to be undertaken by coalition Participants of the East Bay Corridor Initiative include:

- develop strategies to create thriving neighborhoods and downtowns
- identify and develop funding sources for plan implementation
- endorse joint applications by coalition Participants for grants and other funding that support agreed upon strategies

The East Bay Corridor Brownfields Coalition Assessments align well with the activities of the East Bay Corridors Initiative. Identifying and conducting site assessments along the Oakland, San Leandro, Hayward, Alameda County segment of the corridor will improve public health, advance implementation of local plans, increase marketability of land and greatly enhance land re-use along the corridor.

III. Proposed Activities

The Participants of the coalition will undertake the following activities.

- Meet on a regular basis as determined by coalition Participants
- In partnership with community organizations, develop a robust community engagement plan
- Allocate funding to increase capacity of community organization partners
- Develop a site selection process that prioritizes sites with high redevelopment impact potential

- Hire most appropriate and qualified consultants to conduct site assessments
- Assist with the development of land re-use plans

IV. Roles and Responsibilities
Each Participant of the coalition will have the following responsibilities:

- Each coalition Participant will assign a representative to the EBC Brownfields Program
- Each coalition Participant will participate in regular meetings, development of public engagement plan, site selection and consultant hiring process

V. Structure and Governance
For ease of formation and administration and to maintain flexibility, the East Bay Corridor Brownfields Coalition is structured as an unincorporated association of local and regional public entities. The coalition Participants agree that this MOA is independent of any other contract(s) or agreement(s) between or among the coalition Participants, or the contracts(s) or agreement(s) between or among any Corridor Jurisdiction that are promulgated to implement a grant or local plan.

Each coalition Participant will assign a representative and these representatives will collectively coordinate activities undertaken pursuant to this MOA. Through a unanimous vote representatives may establish rules related to decision making for the coalition.

Every representative has the right to appoint an alternative to the coalition.

VI. Participant Resources and Compensation
The coalition Participants acknowledge that the East Bay Corridor Brownfields Coalition is likely to require some investment of resource to be effective. Each coalition Participant will assign staff, at no cost, to act as its representative.

Financial support will be provided to community and non-profit organizations to facilitate their active participation in the project.

VII. Withdrawal and Termination
This MOA will continue until terminated by majority vote of the representatives, but coalition Participants may withdraw from this MOA on sixty (60) days notice to other coalition Participants. If a coalition Participant withdraws from the coalition, management of active Phase I and II assessments in their jurisdiction will be transferred to ABAG.

VIII. Amendments
This MOA may be amended by written agreement executed by the Participants in the same manner as this MOA.

IX. Effective Date
This MOA is effective upon the date the Participants execute the MOA

X. Signatures of Parties' Principals

ATTACHMENT C

Letters of Support

East Bay Corridor Brownfields Coalition Participants

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

Chris Bazar
Agency Director

Albert Lopez
Planning Director

224
West Winton Ave.
Room 1[illegible]

Hayward
California
94544

phone
510.670.5400
fax
510.785.8793

www.acgov.org/cda

December 14, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport:

The County of Alameda is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the County's Ashland-Cherryland Business District (ABCD) Specific Plan, Plan Bay Area, and our ongoing partnership to collaborate with ABAG and our neighboring jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by community members and in the ABCD Specific Plan. Strong support exists for creating much-needed community services, mixed-income housing, and economic development in this area, but ongoing concerns regarding environmental issues have limited the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city projects, including our update to the Ashland-Cherryland Specific Plan funded by MTC and ABAG, the REACH youth center, and multiple streetscape improvements. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact us with any questions regarding these commitments.

Sincerely,

Albert Lopez
Planning Director

CITY OF
HAYWARD
HEART OF THE BAY

November 20, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport:

The City of Hayward is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's Mission Blvd Corridor Specific Plan/Form-Based Code and South Hayward/Mission Boulevard Form-Based Code, Plan Bay Area, and the East Bay Corridors Initiative—our ongoing effort to collaborate with ABAG and our neighboring East Bay jurisdictions.

The grant award would set the stage for the redevelopment of key opportunity properties identified in our recently adopted plans for Mission Boulevard. Strong support exists for creating new mixed-income housing, community services, and job-creating land uses in this area. However, ongoing concerns regarding environmental issues have limited somewhat the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city efforts, including the current Downtown Hayward Specific Plan project, transportation improvements to Mission Boulevard and Foothill Boulevard, and redevelopment sites along Mission Boulevard and in Downtown. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect our cities. Please feel free to contact me with any questions regarding these commitments.

Sincerely,

David Rizk
Development Services Director
City of Hayward

Development Services Department
777 B Street, Hayward, CA 94541-5007
Tel: 510/583-4234 Fax: 510/583-3650 TDD: 510/247-3340 Website: www.hayward-ca.gov

CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Office of the City Administrator
Department of Economic and Workforce Development

(510) 238-3627
FAX (510) 238-2226
TDD (510) 238-3254

December 17, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

The City of Oakland is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the International Boulevard/East 14th Street/Mission Boulevard corridor, including five Bay Area Rapid Transit (BART) station areas, in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's recently adopted Coliseum Area Specific Plan, International Boulevard Transit-Oriented Development (TOD) plan, Plan Bay Area, and our ongoing partnership with ABAG and our neighboring jurisdictions in the East Bay Corridors Initiative.

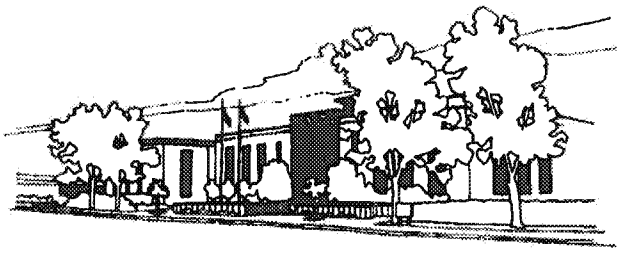
The grant award would set the stage for the redevelopment of key opportunity properties identified by community members. Our recent planning efforts have created momentum for implementing community priorities (i.e. affordable housing, local parks, and job creation) on these sites, but ongoing concerns regarding safety and environmental issues have limited public and private capacity for redevelopment. In addition, the loss of redevelopment agencies and city budgetary limitations has significantly diminished our resources to fund the type of effort that would be supported by this grant. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and continue to participate in the creation of a successful transit corridor between Oakland and Hayward.

The grant would leverage multiple planning and infrastructure investments, including the Oakland Sustainable Neighborhoods Initiative (OSNI) and International Blvd TOD Plan supported by the California Strategic Growth Council (SGC), the East Bay Bus Rapid Transit (BRT) project funded by AC Transit, ongoing investments in BART and improvements to International Blvd and other streets in the corridor funded by the Alameda County Transportation Commission. This application provides an opportunity to build upon these resources while implementing a collaborative local, regional, and corridor vision for smart, healthy, equitable development.

Sincerely,

Mark Sawicki
Director
Economic & Workforce Development Department

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577
www.sanleandro.org



December 3, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

The City of San Leandro is pleased to support and participate in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of two key City specific plans, the Downtown TOD Strategy and East 14th South Area Strategy, as well as Plan Bay Area and our ongoing partnership with ABAG and neighboring East Bay jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by the City Council and community in our adopted Downtown and East 14th Street plans. Strong public support exists for creating much-needed community services, mixed-income housing, and economic development in these areas, but ongoing concerns regarding environmental issues are a factor in developing some of the opportunity sites. The recent loss of our redevelopment agency and our ongoing budgetary limitations have also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple and recent grant-funded City projects including streetscape improvements in the Downtown TOD plan area and the Bay Fair TOD Specific Plan currently underway. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact Tom Liao, Deputy Community Development Director, 510-577-6003, with any questions regarding these commitments.

Sincerely,

Cynthia Battenberg, Community Development Director

Pauline Russo Cutter, Mayor

City Council: Deborah Cox, Jim Prola, Benny Lee, Ursula Reed, Corina N. López, Lee Thomas

ATTACHMENT D

Letters of Support

East Bay Corridor Brownfields Coalition

Community Organization Partners

SAN FRANCISCO SAN JOSE SANTA ROSA WALNUT CREEK

GREENBELT ALLIANCE

San Francisco Office
312 Sutter Street, Suite 510
San Francisco, CA 94108
(415) 543-6771

December 17, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

RE: U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor

Dear Mr. Rapport:

Greenbelt Alliance is the champion of the places that make the Bay Area special. We ensure the right development happens in the right places. Through land-us policy and planning expertise, engagement with decision makers, and efforts to educate and engage Bay Area residents, we work to protect the region's open spaces and make sure cities grow in a way that creates great neighborhoods for everyone.

Greenbelt Alliance has worked with community leaders and residents across the Bay Area to develop plans and approaches to bring development that will help meet community needs to areas around transit stations and along major transportation corridors. Done right, growth of this type will help reduce pressure to sprawl into the Bay Area's greenbelt, mitigate our region's impact on the climate, revitalize long neglected areas, and provide homes and access to jobs for Bay Area residents most in need.

Because of its consistency with our objectives, **Greenbelt Alliance supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG).** ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Greenbelt Alliance looks forward to participating in the community engagement process and the overall project. We anticipate that this will be a successful project that has the potential to improve services and increase mixed-income housing and economic development in East 14th Street/Mission Boulevard communities.

Sincerely

Jeremy Madsen
Executive Director

LISC Bay Area

December 14, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

Bay Area Local Initiatives Support Corporation (LISC) supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Bay Area LISC will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

Marsha G. Murrington
Director of Economic Development

LOCAL INITIATIVES SUPPORT CORPORATION
369 Pine Street, Suite 350 • San Francisco, CA 94104 • Phone 415-397-7322 • Fax 415-397-8605
WWW.BAYAREALISC.ORG

occur
Creating Communities of Opportunity

December 16, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

OCCUR supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application of behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The Grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members.The funds will be utilized to assess high priority potential Brownfields sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

OCCUR will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

Sondra Alexander
Executive Director

1330 Broadway, Suite 905 | Oakland, CA 94612 ph(510) 839-2440 fax (510) 268-9065 occur@sbcglobal.net
www.occurnow.org

TransForm

Our communities. Our transportation. Our future.

December 11, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

TransForm supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself; Alameda County; and the Cities of Oakland, San Leandro and Hayward.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

TransForm will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely

Stuart Cohen

Stuart Cohen
Executive Director

MAIN OFFICE: 436 14TH STREET, SUITE 600, OAKLAND, CA 94612 | T: 510.740.3150 |
SACRAMENTO: 717 K STREET, SUITE 300, SACRAMENTO, CA 95814 | T: 916.441.0204 |
SILICON VALLEY: 48 SOUTH 7TH STREET, SUITE 103, SAN JOSE, CA 95112 | T: 408.406.8074 |

WWW.TRANSFORMCA.ORG

THE UNITY COUNCIL

Date: December 9, 2015

The Unity Council supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward, and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. In light of the current Bus Rapid Transit line in development along International Boulevard/E. 14th Street, this vital artery is poised to play a center role in the area's ability to undergo sustainable growth.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential Brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

The Unity Council will participate in the community engagement plan and the overall project. We look forward to successful project outcomes including improved services and increased mixed-income housing and economic development in our communities.

Sincerely,

X

Erin Patch
Executive Vice President

The Unity Council
1900 Fruitvale Ave Ste 2A, Oakland, CA 94601
510-535-6900 Office • 510-534-7771 Fax • www.unitycouncil.org

OMB Number: 4040-0004
Expiration Date: 8/31/2016

Application for Federal Assistance SF-424

* 1. Type of Submission:
- [ ] Preapplication
- [x] Application
- [ ] Changed/Corrected Application

* 2. Type of Application:
- [x] New
- [ ] Continuation
- [ ] Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received: 12/18/2015

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: Association of Bay Area Governments

* b. Employer/Taxpayer Identification Number (EIN/TIN): 94-2832478

* c. Organizational DUNS: 0790739200000

d. Address:

* Street1: MetroCenter, 101 8th Street
Street2:
* City: Oakland
County/Parish:
* State: CA: California
Province:
* Country: USA: UNITED STATES
* Zip / Postal Code: 94607-4756

e. Organizational Unit:

Department Name: Planning Department

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: Ms.
* First Name: JoAnna
Middle Name:
* Last Name: Bullock
Suffix:

Title: Senior Grants Administrator

Organizational Affiliation: Association of Bay Area Governments

* Telephone Number: 510 464-7968
Fax Number: 510 464-7985

* Email: joannab@abag.ca.gov

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

E: Regional Organization

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

Environmental Protection Agency

11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

*** 12. Funding Opportunity Number:**

EPA-OSWER-OBLR-15-04

* Title:

FY16 Guidelines for Brownfields Assessment Grants

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment Delete Attachment View Attachment

*** 15. Descriptive Title of Applicant's Project:**

East Bay Corridor Brownfields Coalition Assessments

Attach supporting documents as specified in agency instructions.

Add Attachments Delete Attachments View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: CA-013
* b. Program/Project: CA-013

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 07/01/2016
* b. End Date: 06/30/2017

18. Estimated Funding ($):

* a. Federal	600,000.00
* b. Applicant	0.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	600,000.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☒ a. This application was made available to the State under the Executive Order 12372 Process for review on 12/18/2015.

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☐ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix:	Ms.
* First Name:	JoAnna
Middle Name:	
* Last Name:	Bullock
Suffix:	
* Title:	Senior Grants Administrator
* Telephone Number:	510 464-7968
Fax Number:	510 464-7985
* Email:	joannab@abag.ca.gov
* Signature of Authorized Representative:	JoAnna Bullock
* Date Signed:	12/18/2015

Message

From: Title VI Complaints [Title_VI_Complaints@epa.gov]
Sent: 4/6/2017 11:49:15 AM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: FW: WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
Attachments: 2017-04-04 WOEIP Title VI Complaint Final.pdf

Received via T6 website.

From: Rikki Weber [mailto:rweber@earthjustice.org]
Sent: Tuesday, April 04, 2017 8:06 PM
To: Daria.neal@usdoj.gov; Title VI Complaints <Title_VI_Complaints@epa.gov>; ryan.fitzpatrick@dot.gov
Cc: pcort@earthjustice.org; Yana Garcia <ygarcia@earthjustice.org>; Aadeyeye@earthjustice.org
Subject: WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Counsel,

Please see the attached complaint for electronic service. Paper copies have been mailed by certified U.S. mail.

Rikki Weber
Litigation Assistant
50 California Street, Suite 500
San Francisco, CA 94111
T: 415.217.2000
F: 415.217.2040

www.earthjustice.org

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ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

By electronic and certified U.S .mail

April 4, 2017

Attn: Ryan Fitzpatrick
Lead Civil Rights Analyst, Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, D.C. 20590
ryan.fitzpatrick@dot.gov

Attn: Velveta Golightly-Howell
Director, Office of Civil Rights
United States Environmental Protection Agency
U.S. EPA Office of Civil Rights (Mail Code 1201A)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
Title_VI_Complaints@epa.gov

Attn: Daria Neil
Deputy Chief, Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Daria.neal@usdoj.gov

Re: <u>Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d</u>

On behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP or "Complainant") submits this Complaint regarding the City of Oakland's ("City") pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB") while failing to ensure adequate health and safety protections for the surrounding community. Complainant also files this complaint against the Port and the Board of Port Commissioners (collectively referred to as "Port"), for continuously expanding the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation.

The City and Port have engaged in the activities described in this Complaint to manipulate decision making and push through harmful expansions of freight activities for decades. Both parties have refused to engage in a meaningful analysis or process by which to address the negative health and environmental implications of their actions. Time and time

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again, both the City and Port have dismissed the consistent input and opposition to their actions from directly impacted West Oakland residents, nearly 80% of whom are people of color, as well as from other agencies concerned about the problems such activities are creating.

The most recent example of the actions that are the subject of this Complaint is the City's approval of the first of a series of development-specific air quality management plans authorizing the construction of a new large-scale global trade and logistics development project located on OAB property. On October 4, 2016, the City Administrator approved a construction management plan for the Northeast Gateway development project site of the OAB, allowing developers, Prologis and the California Capital and Investment Group ("CCIG") to break ground on November 1, 2016, and begin construction for an expansive new warehouse and logistics development project – the "Oakland Global Logistics Center" – the full effects of which neither the City nor the Port have fully analyzed or addressed. This approval, and the City's continued authorization of new development and expanded activities at the Port and OAB create an unjustified disproportionate adverse impact on the basis of race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the implementing regulations of the United States Department of Transportation ("DOT"), 49 C.F.R. Part 21, and the United States Environmental Protection Agency ("EPA"), 40 C.F.R. Part 7.

Title VI prohibits entities receiving federal financial assistance from engaging in activities that subject individuals to discrimination on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Both the City and Port receive federal financial assistance from DOT, EPA and other federal agencies.[1] They are, therefore, subject to Title VI's prohibition against discrimination. The City and Port violate that prohibition by forcing through freight expansion projects that disproportionately subject the communities of color that surround both the Port and OAB properties to air pollution and other serious health threats on the basis of their race.

As an initial step in addressing the violations set forth in this complaint, Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this Complaint, and investigate whether the City and Port have indeed violated, and/or continue to violate Title VI of the Civil Rights Act and its implementing regulations in issuing their approvals to expand freight-related activities at the Port and OAB.[2] For reasons of economy, Complainant further requests that these investigations be consolidated and that EPA and DOT collaborate and coordinate the development and implementation of remedial approaches designed to address the City's and Port's violations. Because both the City and Port are most consistently funded by DOT in matters pertaining to the approvals and the activities at issue here, DOT is well poised to take the lead role at the federal level. Complainant also includes the Civil Rights Division of the Department of Justice in this Complaint, in anticipation

[1] While not the subject of this complaint, the Port, which operates as a fully independent department of the City, receives substantial federal assistance in the form of monetary grants and gifts consisting of real property from the Department of Defense, the United States Army, and the United States Department of Homeland Security.
[2] Complainant also specifically requests that if either DOT or EPA rejects this complaint, the other agency conduct an investigation alone or jointly with other federal agencies, as appropriate, in accordance with federal regulations. *See* 28 C.F.R. § 42.408(b) ("Where a federal agency lacks jurisdiction over a complaint, the agency shall, wherever possible, refer the complaint to another federal agency . . . .").

that they too would play an active role in coordinating these federal investigative and enforcement actions, consistent with the mission of the Federal Coordination & Compliance Section.

In order to remedy the violations set forth in detail below, Complainant requests that DOT and EPA condition all future grants and awards of federal funds to the City and Port on both entities furnishing adequate assurances that their actions with respect to the activities taking place at the Port and OAB properties will address disproportionate impacts on the surrounding community. Specifically, WOEIP requests that the City and Port implement and adhere to appropriately tailored, updated mitigation measures that will address the harmful externalities of the Port's industrial and freight activities – including any and all new and expanded activities occurring at the OAB – and that both the City and Port commit to a meaningful, continuous process for receiving and incorporating input from the West Oakland community.

I. PARTIES

A. Complainant

WOEIP is a neighborhood resident-led, community-based environmental justice organization located in West Oakland, California. The organization is dedicated to achieving healthy homes, healthy jobs, and healthy neighborhoods for all who live, work, learn and play in their community. Through engaging in research projects and participating in agency advisory committees as well as stakeholder groups, WOEIP focuses on leveraging community power to support residents in developing and achieving their own vision for healthy neighborhoods, which includes, among other things, clean soil and vibrant surroundings, clean air and clean water, and a resident-led comprehensive vision for redevelopment and economic revitalization in and around West Oakland.[3]

B. Recipients

The City is a municipal corporation, ordained and established under the California Constitution. *See* Charter of the City of Oakland art. I. § 100[4]; *see, also*, Cal. Const. art. XI, § 5. As such, the City has the right and the power to make and enforce all laws and regulations relating to its municipal affairs. Charter of the City of Oakland art I. § 106. The City is a recipient of federal funds, as detailed below.

The Port was established in 1927. It operates as a fully independent City department, created by the City pursuant to the City's governing charter. Charter of the City of Oakland art. VII, §700. In creating the Port Department, the City vested "exclusive control and management" of the Port in the Board of Port Commissioners, which is comprised of members nominated by

[3] *See* West Oakland Environmental Indicators Project website, *available at* https://www.woeip.org (last accessed, March 28, 2017).
[4] *Available at*: https://www.municode.com/library/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIIPOOA (last accessed on March 28, 2017).

the City's Mayor and appointed by the City Council. *Id.* §701. The Board of Port Commissioners has "complete and exclusive power" over the "Port Area." *Id.* All moneys appropriated by the Board and all revenue from the operation of the Port are under the exclusive control of the Board and are deposited in a special "Port Revenue Fund" in the City's treasury. *Id.* §§ 717(2), (3). Like the City, the Port is a recipient of federal funds, as detailed below.

II. JURISDICTION

The prohibition against racial discrimination set forth in Title VI applies to all recipients of federal funds: "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 200d. The acceptance of federal funds in itself creates an obligation on the part of the recipient to comply with Title VI and the federal agencies' implementing regulations.

As explained below, the City and Port are recipients of federal funds and implement programs or activities receiving continuous federal financial assistance. They are, therefore, subject to the requirements of Title VI and its applicable implementing regulations.

A. Program or activity

Title VI defines a program or activity as "all of the operations of . . . a department, agency, special purpose district, or other instrumentality of a State or of a local government . . . any part of which is extended Federal financial assistance." 42 U.S.C. § 2000d-4a. Accordingly, if any part of a listed entity receives federal funds, the whole entity is covered by Title VI. *Ass'n. of Mex.-Am. Educ. v. California*, 195 F.3d 465, 474-5 (9th Cir. 1999), rev'd in part on other grounds, 231 F.3d 572 (9th Cir. 2000) (en banc).

The actions undertaken by the City and Port are taken as part of a program or activity because the City is its own municipal government entity, and the Port is a department of the City as set forth in the City's charter. Charter of the City of Oakland art. VII, §§ 700, 701. Indeed, the City created the Port's Board of Commissioners specifically to act for and on behalf of the City in any matter within the jurisdiction of the Board, which includes all areas that are part of the Port's operations. Charter of the City of Oakland art. VII, §701. Both the City and Port, including the Board of Port Commissioners, receive federal funds, as explained below.

The City Administrator is also appointed by the City's Mayor, subject to confirmation by the City Council, and is directly accountable to the Mayor's office. *See*, City of Oakland Municipal Code, Title 2, Ch. 2.29, sec. 170 (establishing the Office of the City Administrator). The Administrator is responsible for the day-to-day administrative and fiscal operations of the City, and directs City agencies and departments to ensure the goals and policy directives of the Mayor and City Council are implemented. *See, id.* The responsibilities of the Administrator's Office include: enforcing all laws, ordinances, and policies of the Council; attending all meetings of the Council, Council Committees, boards, and commissions; making recommendations to the Council concerning City affairs; controlling and administering the financial affairs of the City and keeping the Council apprised of these affairs; preparing or directing preparation of the plans,

specifications, and contracts for work the Mayor or Council may order; and coordinating all projects, policies, and directives assigned to the Administrator by the Council or by the Mayor.[5] Accordingly, the specific actions and approvals undertaken by the City Administrator are also part of a program or activity, as they are taken with the full authority of the City. As outlined below, the infrastructure, shipping, transport, and logistics programs and activities approved by the City, Port, and the City Administrator that are the basis for this Complaint receive federal financial assistance.

B. Federal Financing/Federal Financial Assistance

The City and Port receive federal financial assistance as defined in DOT's and EPA's Title VI implementing regulations.

1. DOT Funds Received by the City and Port

DOT regulations define "[r]ecipient" as "any State . . . or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State . . . to whom Federal financial assistance is extended, directly or through another recipient. . . ." 49 C.F.R. § 21.23.

In Fiscal Year (FY) 2010, the City of Oakland received a considerable Transportation Investment Generating Economic Recovery (TIGER) planning grant in the amount of $2 million to support the City's estimated $9,220,000 planning efforts for "sustainable transit oriented planning" at the "[OAB] Redevelopment Area."[6] According to the grant description, DOT's grant of these funds was aimed at aiding the City's development of "an Infrastructure Master Plan", and associated environmental review, "to direct needed utilities and roadway improvements for the former [OAB]."[7] The project considered under the terms of this grant also involved a "Specific Plan" and associated environmental review "to guide future development in West Oakland" and to specifically develop a framework for addressing "undervalued and blighted land in the West Oakland community" where the per capita income was, in that year, less than fifty percent of the county average.[8]

DOT has also awarded substantial TIGER funds to the Port. For example, in FY 2012 DOT awarded the Port approximately $15 million in TIGER grant funds to develop a new Port

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[5] City of Oakland, *City Administration: Welcome*, available at: http://www2.oaklandnet.com/government/o/CityAdministration/index htm (last accessed March 30, 2017).
[6] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[7] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[8] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).

Rail Terminal serving Port property.[9] Moreover, DOT consistently funds the Port with large grants specifically intended for airport improvements. While these funds do not directly benefit the OAB properties at issue here, the duration and scale of this funding is important to note. The following is a list of DOT's airport improvement program grants to the Port between FY 2008 and FY 2016:

FY 2008 - $11,967,919
FY 2009 - $18,317,487
FY 2010 - $15,706,402
FY 2011 - $7,559,904
FY 2012 - $32,753,747
FY 2013 - $18,245,770
FY 2014 - $41,578,114
FY 2015 - $11,395,060
FY 2016 - $7,324,847

In FYs 2013 and 2014, the Port was also sub-granted $983,928 and $312,263, respectively, in funds originating from DOT, but awarded to the California Department of Transportation (Caltrans) to pay for ongoing operations at the Port.[10]

2. EPA Funds Received by the City and Port

Similar to DOT's regulations, EPA's Title VI regulations define a "[r]ecipient" as "any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient . . . ." 40 C.F.R. § 7.25.

Between FY 2006 and FY 2010, the City received two consecutive two-year block grants totaling $800,000 over the course of four years, from EPA, to ensure brownfield cleanup, including clean up in and around the community of West Oakland.[11]

Starting in 2013, EPA awarded the Port $282,293 to reduce air pollution from the Port's gantry cranes, through EPA's National Clean Diesel Reduction Program.[12] In FY 2014 EPA also

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[9] *See* United States Department of Transportation, *TIGER 2012 Awards, available at:* https://www.transportation.gov/sites/dot.gov/files/docs/fy2012tiger_0.pdf (last accessed March 30, 2017).
[10] USASpending.gov, *Recipient Profile: Port of Oakland, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2013 (last accessed March 30, 2017).
[11] *See*, USASpending.gov, *Recipient Profile: City of Oakland California, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=137137977&FiscalYear=2010 (last accessed, March 30, 2017), and see USASpending.gov, *Award Summary: City of Oakland, available at*: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=14192643 (last accessed, March 30, 2017).
[12] *See*, USASpending.gov, *Award Summary: Board of Port of Commissioners of the Port of* [sic], available at: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=12519152 (last accessed, March 30, 2017).

awarded the Port and additional $415,932 through the same program,[13] and in FY 2015, EPA granted another $133,639 to the Port, to support the Port's continued efforts to reduce air pollution from port-related operations.[14]

C. Timeliness

This complaint is timely because it is based on the City's and the City Administrator's continuous and ongoing approvals of a series of construction and operation management plans concerning the OAB "Gateway" Redevelopment Project, which is one part of a multi-stage large scale development project called the Oakland Global Logistics Center development, and is likewise part of the Port's continued expansion of its shipping, receiving, storage distribution and freight transport activities. Both DOT and EPA instruct Title VI complainants to file their complaints within 180 days of the alleged discriminatory act.[15] 49 C.F.R. § 21.11(b) (DOT Title VI regulations); 40 C.F.R. § 7.120(b) (EPA Title VI regulations).

On October 4, 2016, the City approved a construction management plan that allowed Prologis and CCIG to break ground on the Northeast Gateway OAB site on November 1, 2016.[16] The operation management plan for the Northeast Gateway project, and the construction and operation management plans for the remaining "Gateway" areas of the OAB remain subject to ongoing similar approvals from the City. The City's October 4, 2016 action is, therefore, one of many piecemealed development-related approvals that will continue to occur.

This complaint is timely because it is filed within 180 days of the City's October 4, 2017 approval and subsequent construction at the Northeast Gateway site. Moreover, because the actions alleged in this Complaint are part of a long history of discriminatory actions that are both ongoing, and slated to continue in subsequent approval processes, Complaint requests that DOT and EPA waive any potential objections related to the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

D. Other Prudential Factors and/or Jurisdictional Considerations

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[13] *See*, USASpending.gov, recipient profile for the "Port of Oakland" and "Board of Port Commissioners," FY 2014, DUNS no. 009235326, available at: https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2014 (last accessed, March 30, 2017).

[14] USASpending.gov, *Recipient Profile: Board of Port Commissioners of the Port of Oa* [sic], *available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2015 (last accessed, March 30, 2017).

[15] DOT and EPA, moreover, have the authority and the discretion to waive or extend the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

[16] *See,* Annie Sciacca, *Oakland Army Base redevelopment project breaks ground*, East Bay Times, (November 1, 2016), *available at:* http://www.eastbaytimes.com/2016/11/01/oakland-army-base-redevelopment-project-breaks-ground/ (last accessed, March 30, 2017).

This Complaint satisfies all other jurisdictional and prudential considerations laid out in both DOT's and EPA's regulations implementing Title VI. The Complaint also meets EPA's guidance set forth its Interim Case Resolution Manual.[17]

Specifically, this Complaint is submitted to both agencies in writing, by and on behalf of a Complainant group that is authorized to submit such a complaint to redress the adverse impacts this group experiences directly and which other, similarly situated residents also experience as a result of both the Port's and City's violations of Title VI.

DOT and EPA have subject matter jurisdiction over this Complaint because it alleges discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. This Complaint also contains unique civil rights allegations that have not been alleged in any court or administrative proceeding, and which are specific to the City's and Port's systemic pattern of issuing project approvals and/or engaging in activity at and surrounding the Port and OAB properties in a manner that causes disproportionate effects to the surrounding residential community, on the basis of race.

Moreover, this Complaint seeks unique relief from DOT and EPA — compliance with Title VI. Complainant asks DOT and EPA to investigate this Complaint and take steps to remedy noncompliance with Title VI by the City and Port, including conditioning any and all future federal funding. This relief is not available through other means.

III. FACTUAL BACKGROUND

A. The Residents and Community of West Oakland

1. West Oakland's History and Demographics

West Oakland is a diverse community with a rich history and a historically vibrant culture dating back to the late nineteenth century. In the 1800s and early 1900s, West Oakland was home to many European, Japanese, and Chinese immigrants, Mexicans, and a large number of African Americans who migrated from the South for jobs in the auto and rail industries. As military activities expanded at the OAB, and new job opportunities in the Port's shipyards increased, West Oakland experienced an even greater influx of mostly small-business growth, which, in addition to the OAB's activities included many local shops that were owned by, and served, West Oakland residents.[18]

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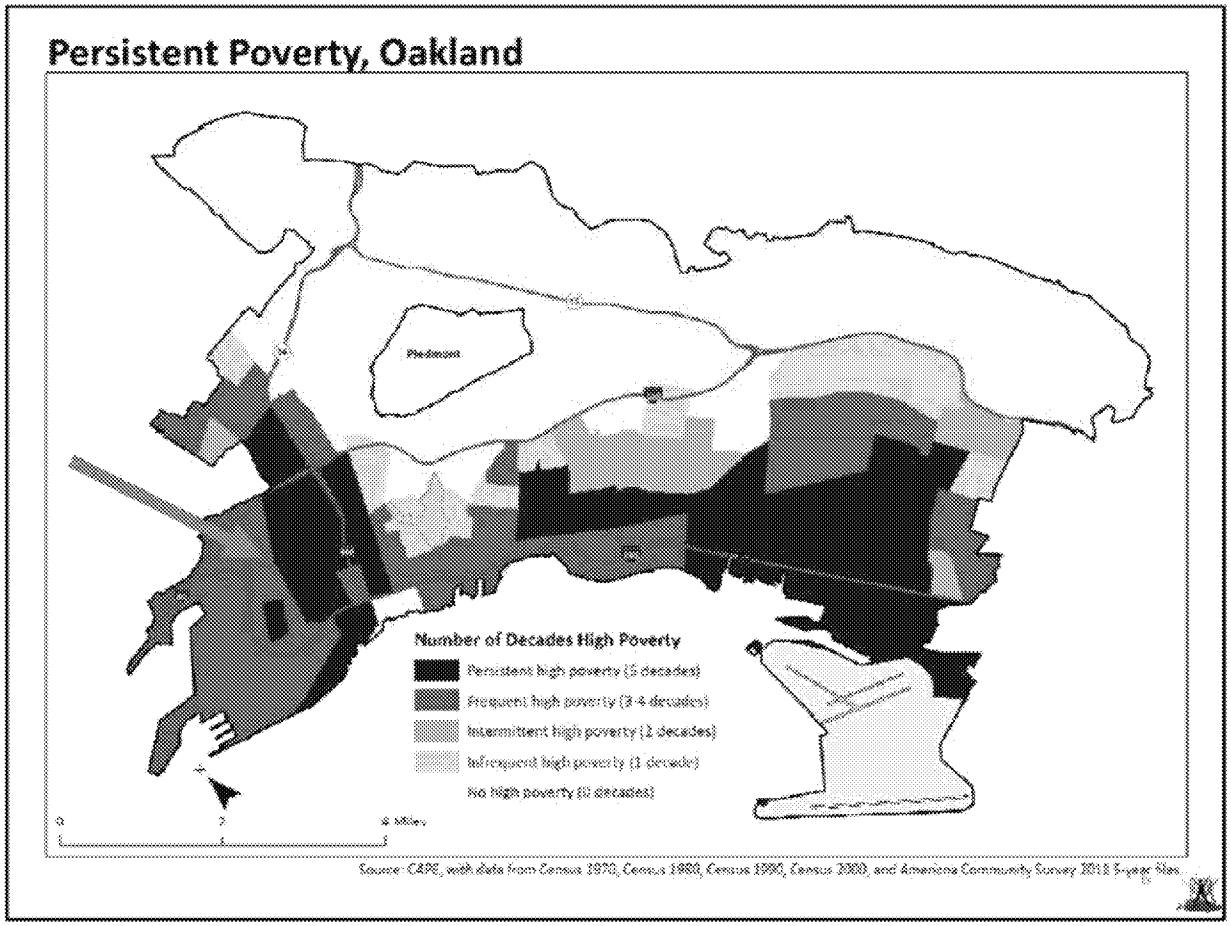
[17] *See, e.g.*, United States Environmental Protection Agency, *Case Resolution Manual*, Chapter 2 (January 2017), *available at* https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf (last accessed, March 30, 2017).

[18] *See, e.g.*, Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Ch. 1.1 "[OAB] Location, History and Setting", p. 13 (July 31, 2012) (describing some of the historical background of the region, and in particular of the OAB, and its surroundings), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

In the late 1900's, however, West Oakland experienced a decline in its relative economic vitality.[19] While it remains a mostly working-class community, the median household income in zip code 94607, which encompasses most of West Oakland today, is $35,837.[20] For comparison, the median income of Alameda County is $67,169.[21] Over 30% of individuals living in zip code 94607 live below the poverty level.[22] In Alameda County as a whole, only 13.5% of individuals live below the poverty level.[23] As *Figure 1* indicates, poverty has been a long term issue in West Oakland, with the entire community experiencing either persistent (five decades long), or frequent (three to four decades long), high poverty rates.



[19] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017); United States Census Bureau, *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[20] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[21] County of Alameda, CA. *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

[22] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

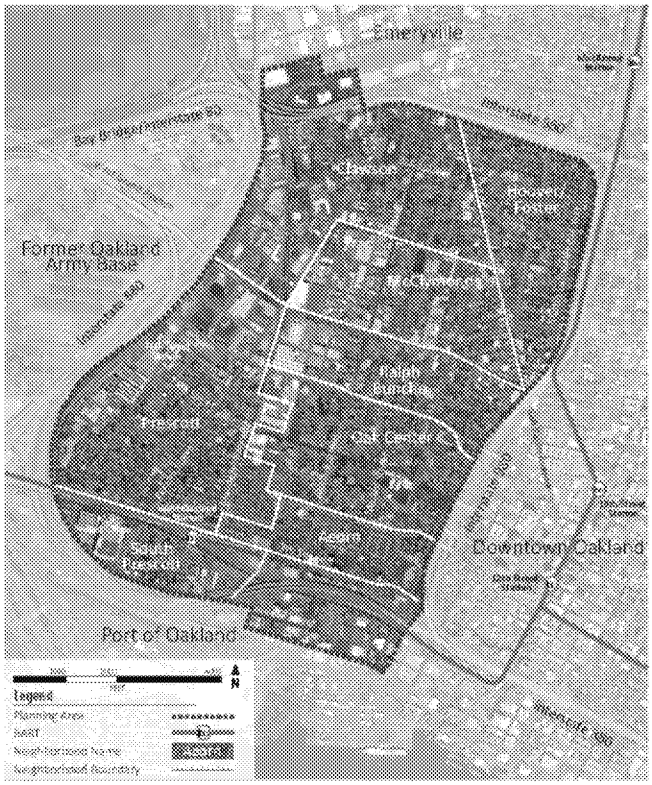
[23] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

Figure 1 Map of areas of persistent poverty in Oakland (with arrow pointing to West Oakland).[24]

Most importantly for the purpose of this Complaint, and the allegations set forth herein, West Oakland remains primarily a community of color. Approximately 49 percent of West Oakland residents today are Black, 17 percent identify as Latino, 15 percent identify as White, and nearly 13 percent identify as Asian.[25] In Alameda County overall, 51 percent of Alameda County residents are White, only 12 percent are Black, 30 percent are Asian, and 23 percent are Latino.[26]

2. Health and Pollution Burdens Affecting West Oakland

The largely residential community of West Oakland is surrounded by the Port and OAB, and by freeways. Specifically, as shown in *Figure 2*, three interstate freeways, the I-580, I-880 and I-980 freeways, surround West Oakland with the Port and OAB surrounding the community to the West and South.



[24] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 6.
[25] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts,* West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 3.
[26] United States Census Bureau, *Quick Facts: Alameda County, California* (2015), *available at* https://www.census.gov/quickfacts/table/PST045216/06001 (last accessed March 30, 2017).

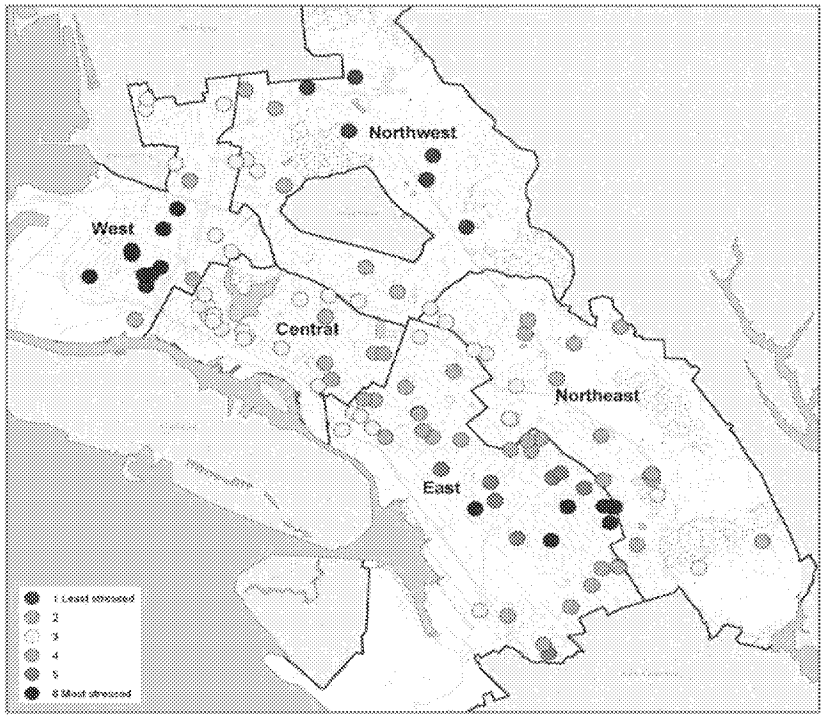
Figure 2 Map of the community of West Oakland.[27]

In addition to housing the Port, which is the fifth busiest container port in the United States, West Oakland is also home to two rail yards, with expansive and growing rail road tracks that are owned and operated by Union Pacific ("UP"), and the Burlington Northern and Santa Fe Railroad Company ("BNSF"). While not pictured above, West Oakland also has numerous trucking-based distribution centers and a host of related businesses including mechanical and body repair shops as well as large diesel gas stations that serve various activities taking place at the Port and OAB.

Thus, while this community has many aspects of unique physical beauty, including many nineteenth century Victorian-era historical buildings, an important and meaningful history, as well as vibrant cultural traditions, today, its residents experience an overwhelming and disproportionate burden of health and environmental risks caused by the activities surrounding their homes and schools. For example, the Oakland Unified School District (OUSD) has identified the three elementary schools, two middle schools, and three high schools located in West Oakland and serving the West Oakland community as showing the highest "environmental stress indicators" based on students' exposure to poor air quality and inadequate access to healthy foods, among other environmental risks.

[27] City of Oakland, *West Oakland Specific Plan* (area map), *available at* http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/OAK028334 (last accessed, April 3, 2017).

Environmental Stress Factors



REGION	# Schools	Average Index*[1]
Central	18	3.21
East	55	4.32
Northeast	22	2.90
Northwest	16	1.73
West	19	4.47

*Index scale 1-6, 6 being the highest concentration of environmental stress factors

Environmental stress factors tend to be interrelated and concentrated in certain geographic areas of Oakland where:

- violent crime, unemployment, residential vacancy, and poverty rates are high;
- air quality is poor;
- access to fresh food is limited;
- liquor stores may outnumber grocery stores.

These environmental factors have a compounding effect on schools located in the most disinvested parts of the city, largely serving students who come from the surrounding communities.

[1]No new environmental stress data was processed for SRA2015-16. Update includes six new charter schools opened in 2015-16.

OUSD SRA 2015-16 38

Figure 3 Environmental stress factors by school.

In addition, there are two preschools and at least one formal, reported day-care center, which, while not included in the OUSD map above, are located in close proximity to the Port and the freeways surrounding West Oakland.[28] These childcare facilities are exposed to the same stress indicators, including poor air quality, as the OUSD-reported schools shown in *Figure 3*, yet with potentially even more devastating impacts, considering the age and size of the children attending these care facilities.

[28] Harriett Tubman Preschool is located on 3rd street, in the Hoover/Foster neighborhood of West Oakland, adjacent to the I-580 and I-980 intersections, which experience heavy traffic to reach the Port and Port facilities. See, map location, *available at*: https://www.google.com/maps/place/Harriet+R+Tubman+CDC/@37.8236086,-122.2731381,15z/data=!4m5!3m4!1s0x0:0x1b8f115e05028cb2!8m2!3d37.8236086!4d-122.2731381 (last accessed, March 30, 2017). The Baby Academy and Infant Day Care Center is also located in Wes Oakland's Prescott neighborhood, which is adjacent to the I-880 or "Nimitz Freeway" that feeds directly onto frontage roads serving the Port. See, map location, *available at*: https://www.google.com/maps/place/The+Baby+Academy+Infant+Care+%26+Preschool/@37.8094548,-122.2975516,15z/data=!4m5!3m4!1s0x0:0x891cc2ecd329e327!8m2!3d37.8094548!4d-122.2975516 (last accessed, March 30, 2017).

Notably, most of the pollution burden West Oakland residents shoulder directly results from the activities taking place at and around the Port and OAB. Trucks serving the Port bring heavy air pollutant emissions, including emissions of diesel particulate matter; the traffic they cause disrupts neighborhoods, and damages local streets that were not intended for heavy trucks.

Air pollution has been proven to cause and/or exacerbate respiratory and cardiovascular illness, and can trigger asthma attacks.[29] Diesel particulate matter emitted by heavy duty trucks and other freight vehicles and equipment like ships and trains, is a known carcinogen. The California Air Resources Board ("ARB") has found that West Oakland residents are "exposed to diesel particulate matter ambient concentrations that are almost three times the average background diesel particulate matter ambient concentrations in the [Bay Area Air Quality Management District]."[30] Indeed, West Oakland residents experience a lifetime potential cancer risk of 1,200 excess cancers per million due to diesel particulate matter emissions. In comparison, the ARB found an excess cancer risk due to diesel particulate matter of 480 excess cancers per million across the entire San Francisco Bay Area.[31] The risk that West Oakland residents face is nearly three times the risk that Bay Area residents generally face. Diesel particulate matter emissions from the Port alone are responsible for a risk of approximately 200 excess cancers per million.[32]

In 2008, the ARB conducted a diesel particulate matter Health Risk Assessment in West Oakland. The 2005 baseline emission inventory used in the assessment showed that heavy duty trucks accounted for 112 tons per year of diesel particulate matter emissions, or 13% of the total diesel particulate matter emissions inventory for the West Oakland area, with the remaining diesel particulate matter emissions coming from trains and ships serving the Port area.[33] An estimated 2,800 medium sized, short distance trucks, also known as drayage trucks, serve the Port of Oakland multiple times per week, and there are approximately 10,000 truck trips to and from the Port, with an additional 1,400 truck trips daily between the Port and distribution centers in West Oakland.[34] These figures are expected to grow as the Port expands, which will result in additional truck traffic through the West Oakland community. Further expansions of the Port's activities will bring more ships and more trains to the area, further elevating the amount of diesel particulate matter in the air throughout West Oakland, and increasing the resulting adverse health impacts affecting West Oakland residents.

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[29] Saffet Tanrikulu, Cuong Tran, and Scott Beaver, Bay Area Air Quality Management District, *Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area* (September 2011), *available at* http://www.baaqmd.gov/~/media/files/planning-and-research/research-and-modeling/cost-analysis-of-fine-particulate-matter-in-the-bay-area.pdf (last accessed March 30, 2017).

[30] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

[31] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 22, (December 2008).

[32] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

[33] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 15, Table 3 (December 2008).

[34] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Air-6 (March 2010).

As demonstrated through ARB's 2008 Health Risk Assessment, truck traffic hurts communities and makes it more difficult to build thriving, resilient neighborhoods. People living on busy streets, with trucks rumbling by frequently, are more reluctant to go outside to exercise; residents have fewer opportunities to meet their neighbors and to build a close-knit community within their neighborhood.[35] If they are parents they are also more reluctant to let their children play outside. Closely connected communities can provide important physical and mental health benefits;[36] truck traffic impedes these benefits for residents of West Oakland.

Moreover, while diesel particulate matter emissions from the Port alone are responsible for approximately 200 excess cancers per million,[37] West Oakland residents are consistently exposed to a variety of other, cumulative impacts that result in poor health outcomes in the community. All-cause death rates in West Oakland are higher than all-cause death rates in the city of Oakland overall.[38] As a result, West Oakland has one of the lowest life expectancies of all communities in Oakland (see
Figure 4).

[35] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-9 (March 2010) (showing that communities with higher traffic volumes are not as close-knit as communities with lower traffic volumes).
[36] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-10 – Transportation-11 (March 2010).
[37] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).
[38] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 13, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

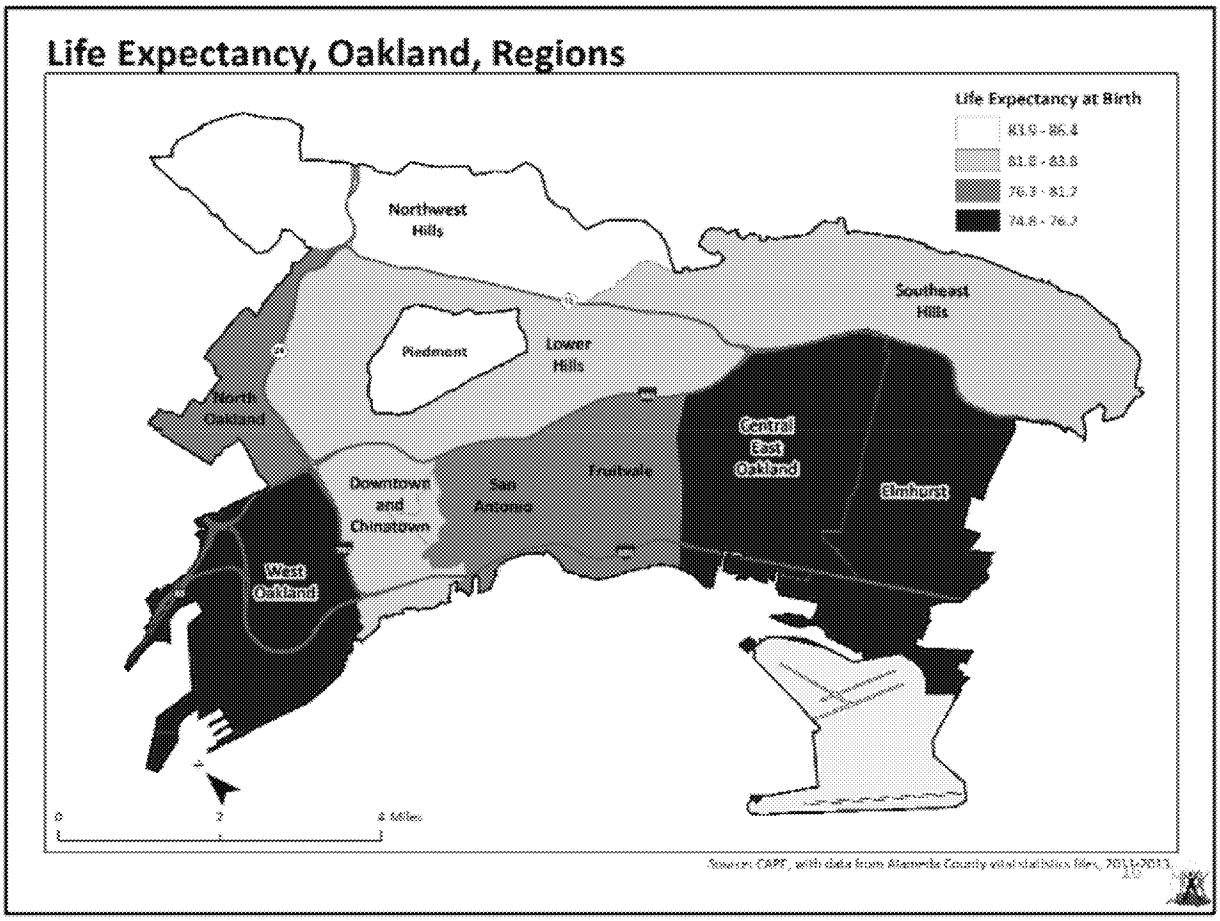

Figure 4 Life expectancies in Oakland's communities.[39]

When compared to other areas of Alameda County, West Oakland also has elevated rates of emergency room visits due to stroke-related and congestive heart failure hospitalizations, and asthma hospitalizations in children older than 5.[40]

B. History of the Port and Army Base

The Port is the fifth largest container port in the United States and the second largest in the State of California, behind the combined ports of Los Angeles and Long Beach. Established in 1927, the Port is home to 18 ship berths, 236 container cranes, two rail yards and approximately 500 pieces of cargo handling equipment, as well as 2,500 trucks. In 2016, the Port moved over 2 million 20-foot equivalent units of containers in and out of the Bay area.

[39] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 16, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).
[40] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, pp. 9-12, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

OAB is a 425-acre facility located along the Oakland waterfront, just north of the Port and south of the eastern portion of the San Francisco Bay Bridge.[41] It was originally commissioned to serve as a United States Army base in 1941, and during World War II it developed to serve as a major cargo port.[42] Following the end of the war, OAB continued to serve as a shipping and rail terminal, providing logistical support for the subsequent Korean, Vietnam and Persian Gulf wars.[43] In 1995 the United States Defense Base Closure and Realignment Commission recommended closure of OAB, and it officially closed OAB's operations as an army base in 1999.[44]

Following its decision to close the base, the United States Department of Defense designated a local reuse authority – the Oakland Army Base Reuse Authority – as the entity charged with the oversight of all post-closure redevelopment at OAB.[45] In order to assist in informing and influencing the ongoing land use changes at OAB, prior to the completion of OAB's closure, the Reuse Authority established the West Oakland Community Advisory Group (WOCAG).[46] In line with its purpose, the WOCAG met for over ten years to discuss and present community recommendations relating to the new uses and businesses that would benefit West Oakland residents. These recommendations were collected, reviewed an compiled by the Redevelopment Agency until its dissolution, and they were, to an extent, incorporated into the early planning stages for the OAB closure.

In 2000, the Oakland City Council designated OAB and its surrounding properties as a "Redevelopment Area," then under the jurisdiction of the City's Redevelopment Agency, the Port and the County of Alameda, pursuant to a Joint Powers Agreement. The closure process was guided by a "Preliminary Redevelopment Plan" that was formulated with some early input from the WOCAG.[47] Pursuant to this "Preliminary Redevelopment Plan", the City broadly committed to the "redevelopment, rehabilitation, and revitalization of the area within the boundaries of the [OAB]" and its surroundings. [48] The City also sub-divided OAB into two general development areas, shown in *Figure 1*, below. The first was a 140-acre "Gateway Development Area," situated in the north and northwest portion of the sub-district, owned by the City and the OAB Redevelopment Agency. [49] The second was a 170-acre "Port Development

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[41] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Executive Summary, p. 1 (July 2012), *available at*: http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).
[42] *Id.*, p. 14.
[43] *Ibid.*
[44] *Ibid.*
[45] *Id.*, p. 15.
[46] *Id*, p. 16.
[47] *See* Redevelopment Plan for the Oakland Army Base Redevelopment Project, Adopted June 11, 2000, Amended and Restated on December 21, 2004 (Ordinance No. 12644 C.M.S.), and on June 7, 2005 (Ordinance No. 12672 C.M.S.), p. 2.
[48] City of Oakland, *Redevelopment Plan for the Oakland Army Base Redevelopment Project* (June 11, 2000)(Amended and restated December 21, 2004 and June 7, 2005), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak030544.pdf.
[49] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.

Area" located in the west and southeast portions of the OAB, owned and operated by the Port.[50] In addition to these two main sub-areas, the City also designated two additional sub-districts – the "Maritime" sub-district, which is comprised of 1,290 acres owned and operated by the Port; and the "16th and Wood" sub-district – an additional 41 acres owned by various private entities.[51]

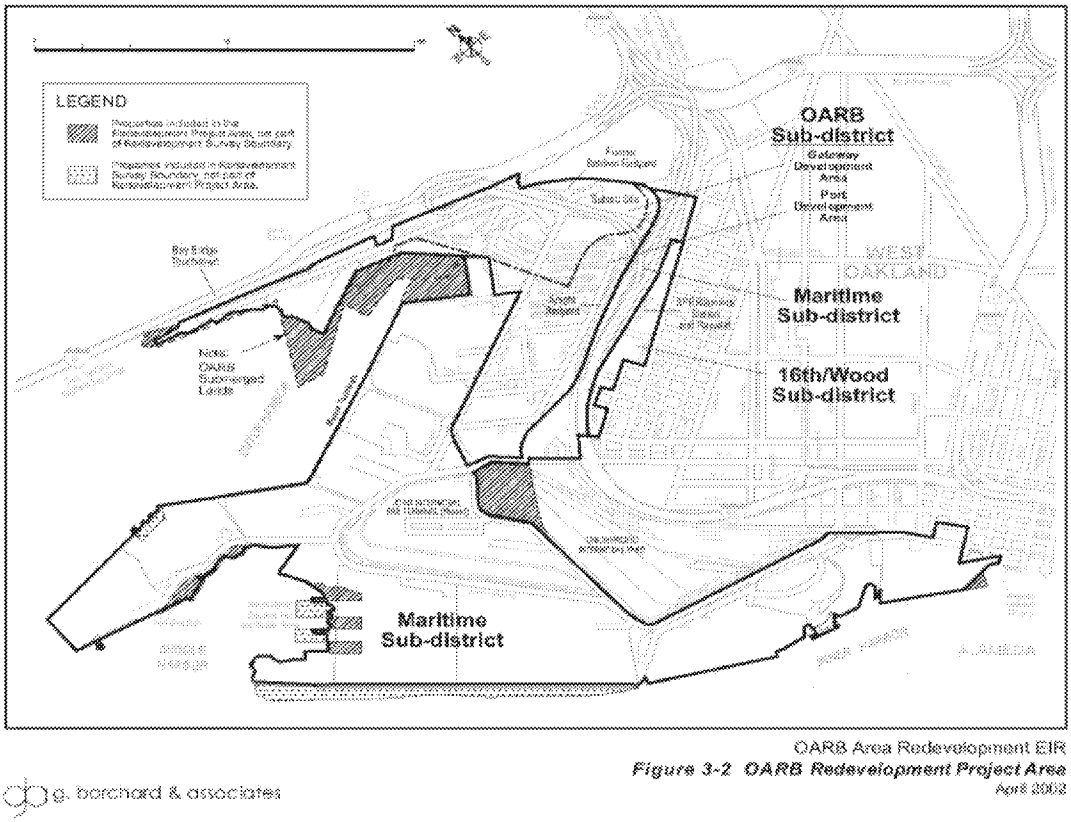

Figure 5 Oakland Army Base Redevelopment Area EIR, April 2002[52]

In 2002, the City approved a new and more detailed "Oakland Army Base Redevelopment Area Plan" and a supporting Environmental Impact Report (EIR) analyzing the effects of the OAB closure and the City's updated planning proposals for redevelopment on OAB property under the California Environmental Quality Act.[53] According to the City's 2002

[50] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.
[51] *Id.*
[52] City of Oakland, *Oakland Army Base Project: Maps*, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/image/dowd007621.jpg (last accessed April 4, 2017).
[53] *See* Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, p. 1 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

approval, the Gateway Development Area would be redeveloped pursuant to a "flexible" alternative land use plan, which specifically contemplated the construction and operation of waterfront light-industrial and flexible office space including research and development ("R&D") offices, as well as other "business-serving retail" and "high-end commercial development" spaces like a "Four Star Hotel."[54] While the 2002 plan also included some warehousing and distribution, as well as ancillary maritime support facilities, the majority of land uses specified in the plan consisted of light industrial development, so as to attract businesses focused on industries other than heavy freight industrial activities.[55]

Despite the generally beneficial land-uses considered and approved in the City's 2002 Redevelopment Plan approval, the community was concerned, at the time, that the Plan did not demonstrate an honest commitment by the City to redevelop the OAB in a way that would genuinely benefit surrounding residents in West Oakland. In 2002, the WOCAG issued recommendations in response to the City's EIR and proposed Redevelopment Plan, which expressed the community's concerns with the direction of the City's land use and planning decisions, and its displeasure with the way their recommendations had been treated up to that point.[56] Specifically, the WOCAG explained that the 2002 plan approval and related EIR did not provide enough detail regarding the City's proposed development plans to assure that the OAB redevelopment would confer tangible, direct community benefits.[57]

Just as feared by the community, as both the City and Port continued to receive federal land grants of former OAB land, they began discussions with potential developers seeking to expand Port-related freight activities at OAB, even though the approved Redevelopment Plan designated very limited land for such activities. Notably, these discussions were held while parallel discussions were still taking place among WOCAG members and City staff – thus, while the WOCAG was still developing its input on the OAB development process.[58]

Between 2006 and 2008, WOCAG continued to submit its recommendations to the City. During that time, the WOCAG focused its recommendations on the City prioritizing development proposals that result in less truck traffic through West Oakland, due to health

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[54] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Section 3.2.1, p. 27 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[55] *Ibid.*; *see also*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 20, Table 2-1 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (comparing the land-use designations approved in 2002, with those considered and ultimately approved by the City a decade later).

[56] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002) (noting that "it is an insult to the many citizens of the City of Oakland who have given freely of their time and effort to serve the [Oakland Army Base Reuse Authority] and the City of Oakland in the base conversion process [only] to have their efforts ignored and not evaluated in this EIR").

[57] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002).

[58] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, pp. 4-5 (June 2008).

impacts many residents were already facing due to the Port's growing activity.[59] WOCAG wanted businesses such as truck servicing and truck parking to be relocated out of the community, and to "leave their former sites available for more appropriate, i.e. lower impact commercial use."[60]

Notwithstanding the input received from WOCAG, however, the City continued its discussions with Prologis and CCIG, and began negotiating an agreement with the developers, to build a large-scale warehouse and shipping development project for portions of all three sub-districts created under the City's prior approvals, which became jointly termed, the "Gateway Development Area," pictured in *Figure 6*, below.[61]

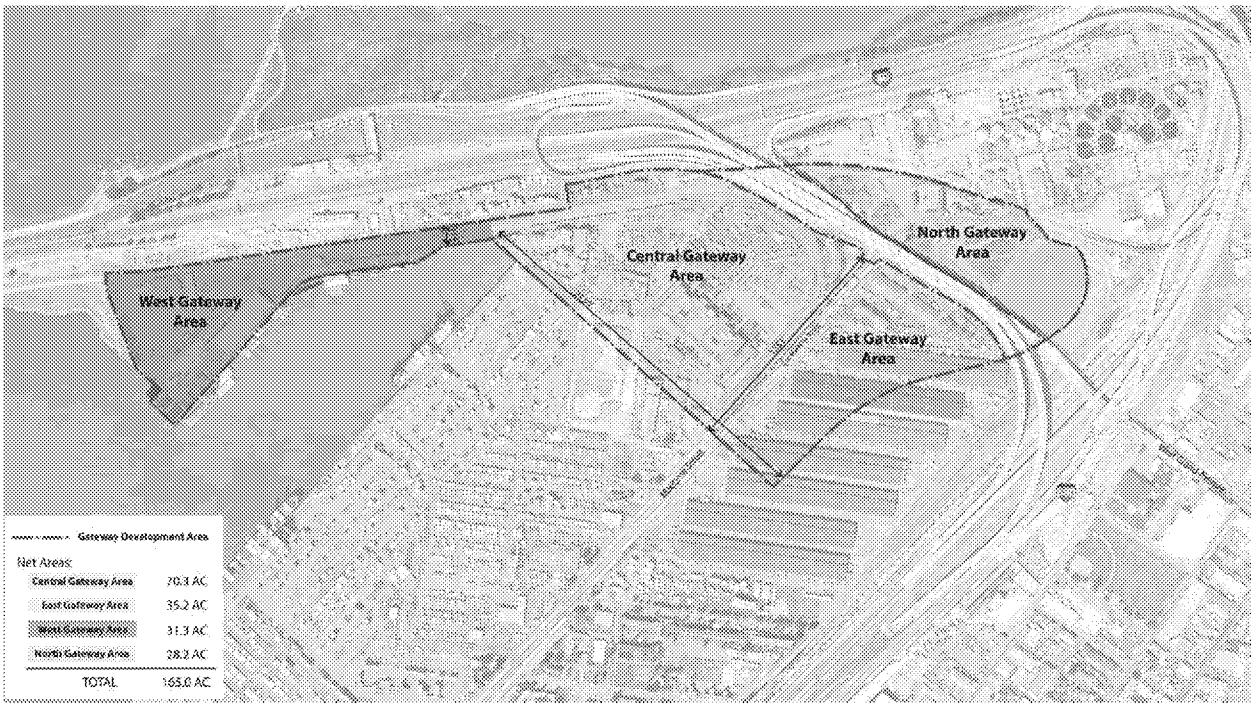

Figure 6 Gateway Development Area.[62]

[59] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).
[60] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, p. 7 (June 2008).
[61] LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, p. 21 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) ("in 2009 the joint venture between Prologis and [CCIG] was selected as the master developer").
[62] Oakland Redevelopment Agency, *Pre-Development Planning for the Oakland Army Base Gateway Development Area*, Figure 3-1, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/dowd007624.pdf (last accessed April 4, 2017).

C. The City's Port Expansion and "Gateway Development", or 'Oakland Global", Approvals

The land uses proposed in the City's 2002 Redevelopment Plan included a "tech park" comprised of R&D office buildings, and light to moderate industrial and retail development including big box retail stores, hotels and a Cineplex.[63] These land uses did not include as the predominant use for the area the type of heavy industrial, large-scale warehouse, shipping, distribution and maritime activity that the City began to consider through its subsequent negotiations with Prologis and CCIG. Yet, in 2012, the same year the City received its $2 million comprehensive TIGER 2 planning grant from DOT, the City approved the "Oakland Army Base: Outer Harbor Terminal Project" and executed an exclusive development agreement with Prologis and CCIG to expand port-related maritime activities at OAB.[64] Rather than conduct a new environmental review, however, the City re-approved its decade-old environmental review document that the City's staff presented to the Council as a mere addendum to the EIR analysis prepared and approved in 2002.[65] Rather than designing new and more appropriate mitigation corresponding to the City's new development proposals, the City also claimed that specific mitigation would be determined at a later date, when specific projects were approved.

To give an example of the drastic deviation the City took from its prior approvals, the City's 2012 Redevelopment Plan for the Outer Harbor Terminal Project involved approximately 2.5 million square feet of warehouse/distribution and maritime-related logistics uses, as compared to only 175,000 square feet of office/R&D, where as its 2002 approvals involved only 300,000 square feet of warehouse and distribution development and approximately 1.5 million square feet of office/R&D. [66]

Unsurprisingly, BAAQMD as well as other agencies including ARB, as well as West Oakland residents expressed their concern with the City's proposed "Outer Harbor Terminal Project," which soon simply became known as the Gateway or Oakland Global Logistics Center development project. BAAQMD in particular encouraged the City to analyze how its new development plans would impact future residents near new and existing sources of pollution, and

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[63] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Attachment B, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

[64] *See*, Development Agreement By and Between the City of Oakland and Rpologis CCIG Oakland Global LLC, Regarding the Property and Project Known as "Gateways Development/Oakland Global, dated July 16, 2013, available at: http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak055211.pdf (last accessed, March 30, 2017).

[65] *See, ibid.* ("The primary difference between the 2012 Project and what was proposed for the same geographic location in the 2002 Project is a shift from office R&D to a greater amount of warehouse distribution and maritime logistics uses as the predominant use.")

[66] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

provided specific suggestions for doing so.[67] But the City refused to conduct an additional impact analysis, again claiming that it was appropriate to defer any such analysis to a later time, and a later approval.[68]

On December 4, 2013, the City approved an "Army-Base Construction-Related Air Quality Plan," purporting to address construction related impacts but again declining to analyze or mitigate impacts from the long-term operation of the Gateway development projects, or the cumulative construction and operation of the related additional Gateway development projects. The City again received letters from BAAQMD and other agencies, identifying shortcomings in the City's proposed mitigation set forth in the "Construction-Related Air Quality Plan."[69] The City again refused to incorporate the types of analysis or mitigation suggested by the agencies.

Most recently, on October 4, 2016, the City approved an additional Northeast Gateway construction management plan allowing Prologis and CCIG to begin construction at the Northeast Gateway site on November 1, 2016, and to eventually operate a global trade and logistics complex that is worlds different than what the City proposed and approved in its initial land use decisions relating to the OAB, and greater "Redevelopment Area." After the City approved this most recent construction management plan, Prologis issued three "45-day notices" in the month of February, 2017, which relate to three additional air quality plans currently under review by the City: (1) an operations air quality plan for the Northeast Gateway project, which was issued on February 2, 2017; (2) a "Construction and Operations" air quality plan, for the Southeast and Central Gateway Projects, issued on February 3, 2017; and (3) a "Phase 3 Construction" air quality plan, issued on February 9, 2017. To this day, neither the City nor Port has updated the cumulative air quality analysis to analyze or mitigate, in a meaningful manner, the ongoing air pollutant emissions from the construction and operation of the full Gateway, or Oakland Global Logistics Center development project.

IV. LEGAL BACKGROUND

DOT regulations implementing Title VI state that "[n]o person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies." 49 C.F.R. § 21.5(a).

These regulations also include the following prohibitions of specific discriminatory acts by recipients of federal funds:

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[67] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: West Oakland Specific Plan Notice of Preparation of a Draft Environmental Impact Report* (November 21, 2012).
[68] *See* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, pp. 4-21 to 4-22 (May 2014).
[69] *See, generally*, Rachel Flynn, Director, Department of Planning and Building to Deanna J. Santana, City Administrator, *Subject: Approval of Army Base Construction-Related Air Plan* (December 4, 2013), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak044541.pdf (last accessed April 4, 2017).

> (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program. . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.
>
> (3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

49 C.F.R. § 21.5(b).

> A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.

49 C.F.R. § 21.5(d).

EPA regulations implementing Title VI state that "[n]o person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, [or] national origin[.]" 40 C.F.R. § 7.30. The regulations also provide a non-exclusive list of specific, prohibited discriminatory acts:

> (b) A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.
>
> (c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

40 C.F.R. § 7.35.

These regulations make clear that discrimination on the basis of race is a violation of Title VI whether it is the purpose of the decision or its effect. 49 C.F.R. § 21.5(d); 40 C.F.R. § 7.35(c).

V. VIOLATIONS OF TITLE VI

A. Discriminatory Acts

The City's approval of the Northeast Gateway Construction Management Plan on October 4, 2016 is the latest example of the City and Port's discriminatory actions regarding the development and expansion of harmful freight activities at the Port and OAB. The approval is part of a continuing pattern of actions utilizing criteria and methods that have the purpose or effect of subjecting the surrounding community of color to the disproportionate externalities of that freight activity.

Since 2012, the City, in particular, has sought to abandon the original commitment to develop the OAB in a way that would benefit the surrounding community. While the WOCAG was asked to provide input on recommendations for development early in the OAB Redevelopment process, the City proceeded with its own negotiations to expand freight-related activities notwithstanding the community recommendations, and notwithstanding the fact that such activities would add to the impacts on the already overburdened surrounding communities of color. The City has also consistently refused to consider the input of advisory and stakeholder groups including the WOCAG, who urged the City to prioritize development proposals that would result in less truck traffic through West Oakland.[70] At each step of the way, the City has declined to analyze the impacts of expanded freight activities, and has declined to adopt specific mitigation by claiming that such analysis and mitigations were not required or that they would be addressed at a later point.

Since the abrupt change in the proposed OAB redevelopment plan in 2012, the community and concerned agencies have been demanding analysis of the impacts, and assurances that the effects of expanding freight activities will be mitigated. At each step, the City has declined to do any more than assure that the project will comply with existing minimum regulatory requirements.

In 2013, BAAQMD wrote to the City to highlight the City's lax mitigation measures for the OAB redevelopment project, pointing out that the City's plan for reducing construction emissions from the OAB included mitigation measures with easy loopholes for industry. The plan required lower-emitting equipment to the extent that it was "readily available" in the Bay

[70] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).

Area.[71] The BAAQMD noted that "the Plan does not include any guidance on how it will be determined if the equipment is 'readily available' or 'cost effective.'"[72] BAAQMD concluded its letter with a list of specific recommended requirements for all OAB construction activity. But the City declined to make any of the recommended changes.

In 2014, both BAAQMD and the Alameda County Public Health Department submitted letters raising new concerns with the City's planning activities. The Alameda County Public Health Department's letter urged the City to strengthen the proposed mitigation measures, because "[impacts from development at the Port and OAB] will further exacerbate existing health conditions in West Oakland."[73] BAAQMD contacted the City's Strategic Planning Division to recommend additional air quality controls, noting that the West Oakland community experiences a higher cancer risk than any other Bay Area community and compliance with minimum regulatory requirements will not be sufficient to reduce health risks in the community to a safe level.[74] Again, the City took no action.

In 2015, BAAQMD expressed concern about the Port's and the City's continued reliance on the environmental review conducted in 2002, and re-approved in 2012 as a basis for the continued expansion of port-related infrastructure development at OAB. Among other concerns, BAAQMD expressed serious trepidation regarding the facts that both the 2002 and 2012 reports were based on outdated national ambient air quality standards for fine particulate matter emissions.[75] In addition, the air quality analysis provided in the City's subsequent air quality management plan analyses only considered construction emissions, and not the long-term impacts from continued development at the Port and OAB.[76]

Most recently, in 2016, BAAQMD, ARB and WOEIP all submitted comments on the Northeast Gateway Construction Management Plan. In a letter addressed to the City, dated June 3, 2016, BAAQMD expressed its concern that, again, the City's proposed management plan exclusively dealt with the air quality impacts associated with construction, and failed to consider the long-term air quality impacts that would result from the project. BAAQMD also complained that even within its limited scope, the plan did not include air quality mitigation measures

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[71] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[72] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[73] Muntu Davis, Alameda County Health Care Services Agency, Public Health Department to Ulla-Britt Jonsson, City of Oakland, *Subject: Re: West Oakland Specific Plan Draft Environmental Impact Report and Public Health* (March 17, 2014).
[74] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: Draft Environmental Impact Report for the West Oakland Specific Plan* (March 20, 2014).
[75] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).
[76] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).

necessary to protect health.[77] ARB's letter similarly detailed recommendations for additional mitigation measures that ARB described as "critical to reducing emissions and protecting public health." WOEIP also urged the City to commit to mitigation to address the adverse impacts its approval would have on the surrounding community, These included installing solar panels on warehouses that will be constructed as part of the Gateway project development, and requiring zero-emission technologies for short-haul trucks, including drayage trucks, and cargo handling equipment.[78] Despite the fact that the mitigation measures requested were consistent with the City's minimal mitigation measures approved in 2002, the City declined to include any of the recommended mitigation.

This history of rejecting recommended mitigation is the product of a piecemealed process that denies meaningful public participation by narrowing the scope of the issues that will be considered at each step of the development approvals. When WOEIP raised concerns about the lack of zero-emission technology requirements for the Northeast Gateway project, and the failure to create an emission reduction plan for the development,[79] Prologis, the developer of the Northeast Gateway/Global Logistics Center project, argued that these concerns were not appropriate for the air quality plan under consideration, and that they could be raised when the Air Quality Operations Plan is developed.[80] As a result, the City Administrator dismissed the community concerns in the approved plan.[81] All involved in these approvals, however, know that the opportunities to mitigate emissions from operations will be limited by the physical projects that have been built as a result of the October 4, 2016 approval.

The October 4, 2016 approval demonstrates that the City's promise of future analysis and mitigation are empty. It is not sufficient to consider mitigation after construction is complete because mitigation must be designed into the project, prior to its construction. The October 4, 2016 approval, and subsequent initiation of construction at the Northeast Gateway site show that the City intends to allow development that will disproportionately impact the surrounding communities of color without mitigation. Whether purposeful or just in effect, the City's October 4, 2016 approval denied the benefits of redevelopment investments to the surrounding communities of color. This decision, like the various decisions that have preceded it, was made with the clear intention to streamline approval of expanded freight activities by setting up a process that precluded meaningful public participation. The decision also avoided mitigation requirements that would minimize or prevent impacts on the surrounding communities of color.

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[77] Jean Roggenkamp, Bay Area Air Quality Management District to Darin Ranelletti, City of Oakland, *Subject: Northeast Gateway Construction Management Plan* (June 3, 2016).
[78] Heather Arias, California Air Resources Board to Darin Ranelletti, City of Oakland (May 31, 2016).
[79] Margaret Gordon, West Oakland Environmental Indicators Project to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis* [sic] (May 23, 2016); Ditching Dirty Diesel Collaborative to Robbie Morris, California Air Resources Board (May 25, 2016).
[80] Cory Chung, Development Manager, Prologis to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: RE: DRX151553 – Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCA-MMRP Public Outreach Element (Mitigation Measure PO-1)* (August 30, 2016).
[81] Rachel Flynn, Director, Planning and Building Department to Sabrina B. Landreth, City Administrator, *Subject: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site,* p. 4 (September 8, 2016).

The City's October 4, 2016 approval is, moreover, a single component of the City's and Port's continuous, systemic pattern of approving, or directly engaging in, the expansion of port-related infrastructure development. This pattern will continue as the City and Port pursue their expansion goals in the OAB Gateway/Oakland Global Logistics Center development. This pattern of conduct results in direct and immediate adverse effects on West Oakland residents who are predominantly people of color, and therefore violates Title VI of the Civil Right Act of 1964.

B. Adverse Impacts

As outlined above, freight activity in and around the West Oakland community is responsible for a host of adverse impacts including elevated cancer risks, higher rates of asthma attacks, and disruption of the basic quality of life in the community.[82] The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan and the City's ongoing approvals of the construction and operations of the full OAB Gateway/Oakland Global Logistics Center development area will add to the already adverse impacts suffered by the surrounding community as a result of freight activities. The October 4, 2016 approval was the first approval of one of several components to the Oakland Global Logistics Center project. This approval provided the City with an opportunity to ensure that the project was designed, and would be built in a way to limit impacts on the surrounding community, but the City refused to ensure that adequate health and safety protections were in place before allowing the developers to break ground on November 1, 2016.

In its 2008 Health Risk Assessment, ARB found that on-road heavy duty diesel trucks were the largest source of cancer risk in the community, followed by ocean going vehicles, harbor craft, locomotives, and cargo handling equipment.[83] All of these sources are associated with the Port's, and now with the OAB's, expanded activities.

While ARB's assessment indicated that emissions would decrease in the future as a result of regulatory actions, the assessment estimated that even after emissions reductions, "the remaining cancer risk will [still] be greater than 200 in a million in the West Oakland community," and that any reduction in emissions would not resolve the disparate impacts that West Oakland residents face when compared to residents living elsewhere throughout the City or the County.[84] ARB's assessment recommended "collective and innovative efforts" at all levels of government to reduce emissions and improve health outcomes in West Oakland, including a

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[82] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2 kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[83] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2 (December 2008).

[84] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 4 (December 2008).

transition to clean technologies.[85] The City's approval of the Northeast Gateway Construction Management Plan, however, fails to provide any innovative or good faith effort to reduce emissions at and around the project. The City's approval does the opposite by rubber stamping the construction and operation of new large-scale port related infrastructure that will only exacerbate the existing pollution burdens West Oakland residents face.

The Alameda County Public Health Department urged the City to require a more comprehensive evaluation of, and mitigation for, the Northeast Gateway Project's increase in diesel emissions, which are also a major concern given the existing health burdens in West Oakland. Yet the City, as always, refused to adhere to the County Public Health Department's recommendations, and instead chose to adhere to its construction-only approval decision.

C. Disproportionality

The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan is the latest action by the City and Port to push through more freight-related development that already disproportionately impacts the communities of color in West Oakland. The Alameda County Public Health Department has found that racial disparities impact health outcomes throughout the county, and especially in West Oakland.[86] People of color are more likely to experience the negative health outcomes detailed above. As described by the Alameda County Public Health Department, "even at the same rung, African Americans typically have worse health and die sooner than their White counterparts. In many cases, so do other populations of color."[87]

As described above, West Oakland residents are also more likely to face decades of persistent poverty. Black people in Oakland are far more likely to be homeless than any other ethnic group.[88] These same factors are at play within West Oakland, a community that is predominantly populated by people of color. West Oakland faces higher rates of illness, crime, and higher death rates than predominantly White communities in Oakland. Residents of West Oakland face stresses that residents of other communities may never endure.

In recent years, various Bay Area media outlets have published heartbreaking stories of West Oakland residents who fear for their children's lives due to air pollution that triggers

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[85] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, pp. 4-6 (December 2008).

[86] *See* Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County – Executive Summary* (2008); UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, p. ES-2 (March 2010), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[87] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, pp. 7-8 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[88] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, p. 71, Figure 33 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

possibly fatal asthma attacks.[89] These media reports, as well as anecdotal reports that have been relayed to WOEIP staff, describe parents making the difficult decision to uproot their lives in West Oakland and move to communities that are less polluted and less disrupted by truck traffic.[90] People want to build communities that allow them to connect with their neighbors, to enjoy parks, and to send their children to play outside. The land gifts of the former OAB properties along with multiple federal grants were intended to spur redevelopment that would benefit the surrounding communities. Instead, the City and Port have decided to "double-down" on the harmful activities that created the current conditions in West Oakland. The City and Port have manipulated their decision-making processes to prevent public participation and avoid costly mitigation investments that might interfere with such development. The October 4, 2016 approval is the latest in a string of decisions that, in purpose or effect, are destroying the vision of a sustainable and healthy West Oakland that residents want to see, and forcing those residents, mostly people of color, to either bear the disproportionate burdens or pack up and move elsewhere.

D. Less Discriminatory Alternatives

Throughout the various actions outlined above, the City and Port have declined to accept recommendations from either the community or expert agencies on process, analysis, and mitigations. The following less discriminatory alternatives were available, and continue to be available to both the City and Port:

1. The City and Port have the option and opportunity, but have continuously refused, to engage the community in a meaningful process by which to receive and incorporate their input, including their opposition to the Gateway and Oakland Global Logistics Center development proposals, and the continued expansion of the Port's activities.

   Specifically, the City has the opportunity, but has refused, to send notifications regarding each of its piecemealed construction and operation related approvals to all neighborhood residents. The City has also failed to provide clear and consistent opportunities for neighboring residents to provide their input regarding the City's process for ensuring that the immediate community health and safety concerns from its development approvals are addressed.

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[89] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2 kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[90] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2 kqed.org/news/air-pollution-dispute-west-oakland-army-base/; *See also* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, p. 4-6 (May 2014), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049140.pdf (last accessed April 4, 2017) ("While West Oakland's population has increased by nearly 2,000 people between 1990 and 2010 (at a rapid rate of 15%), the African American population of West Oakland has declined by nearly 5,000 people during the same time period.").

The City and Port also have the opportunity, but have refused, to post project-related approval documents at the various community organizations, institutions and gathering places around West Oakland, including but not limited to: the West Oakland Senior Center, city libraries, the West Oakland Youth Center and the Hoover Resident Action Council. The City has also refused to require the developers, Prologis/CCIG, to do the same.

The City has also consistently refused, despite being urged by various state, local, county and federal agencies, to convene a transparent interagency and community inclusive process by which to develop and implement a comprehensive assessment of the impacts caused by its land-use and development decisions at the Port and OAB and to both established and implement an updated mitigation, monitoring and reporting program that considers the level and extent of the full Gateway and Oakland Global Logistics Center and expanded Port operations.

2. The City has the option, but refuses, to consider the effects of the full operation of the Prologis and CCIG development of all three Gateway sub-areas prior to issuing its piecemealed approvals. The City and Port also have the option to update their analysis of impacts instead of relying on the outdated 2002 analyses for a redevelopment plan that was drastically different than the current development plans and approvals before the City.

3. The City and Port have had numerous opportunities, but have refused, to develop, or require the development of, a meaningful emissions reduction plan based on an accurate and updated assessment of the current and foreseeable levels of increased freight transport and other heavy infrastructure, maritime, shipping, distribution, storage and Port-related activities occurring at and along the Port and OAB including increases in rail and maritime emissions that are inconsistent with existing rail and maritime emission reduction standards.

4. The City and Port have had the option, but have failed, to produce or, at a minimum, require, a comprehensive truck management plan to address impacts from growing freight activities on the community of West Oakland.[91]

   Specifically, both the City and Port have had the opportunity to, but have refused, to develop any requirements for zero-emission technologies at OAB or the Port, which would alleviate some of the air pollution impacts of additional truck traffic in and near West Oakland neighborhoods. They have also refused to require stricter limits (e.g. two minute limits) on diesel truck idling times to address existing health burdens affecting West Oakland residents, and in particular school children throughout West Oakland.

[91] The Port's approval a drayage truck management plan for the Port fails to address the impacts that increased truck traffic has on the Port-*adjacent* roadways and trick traffic problems on off-Port property, e.g., the West Oakland community.

The City and Port also have the opportunity but refuse to require plug-in infrastructure as a design feature of all construction, for the Gateway and Oakland Global Logistics Center development to minimize emissions specifically caused by highly polluting refrigerated truck units serving the new Gateway developments.

The City and Port have also had the opportunity, but have refused, to engage in the planning, implementation and enforcement of Truck hauling routes that are designed to minimize community exposures to emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.

Both the City and Port have had the opportunity, but have refused, to enforce parking restrictions throughout the West Oakland residential community. The City has similarly refused to develop or require an enforceable West Oakland Truck Route as a part of its approved construction management Plan for the Northeast Gateway project, or as part of its ongoing approvals for the larger Gateway or Oakland Global Logistics Center project.

Both the City and Port have also had numerous opportunities, but have refused, to accept or apply for additional funding to support targeted emission reduction efforts at the Port, OAB and throughout West Oakland.

5. In large part due to their failure to require either a comprehensive truck management plan, or a meaningful emission reduction plan, both the City and Port have similarly refused to mitigate the negative air quality and resulting health impacts or other disruptions and adverse effects on the quality of life of West Oakland residents, caused by the continued increase in truck traffic to and from the Port and the OAB Gateway/Oakland Global Logistics Center properties.

VI. Relief

Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this complaint and investigate whether the City and Port have violated Title VI of the Civil Rights Act and its implementing regulations, and indeed whether they continue to violate Title VI of the Civil Rights Act.

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Complainant further requests that the City and Port be brought into compliance by: (a) requiring the City to withdraw its approvals of the Gateway construction management plans unless and until the City conducts a full review of the construction and long-term operation of all of the Gateway areas, and unless and until the City engages the surrounding community in a meaningful process by which to incorporate their input into new mitigation measures, emission controls, and conditions of approval for the development of the Gateway projects; (b) requiring the Port to coordinate with the City to develop a truly comprehensive truck management and Port emission reduction plan; and (c) Conditioning all future grants and awards from both EPA and DOT to both the City and Port on adequate assurances that the actions of both recipients will comply with Title VI as detailed above.

Sincerely,

Yana Garcia
Paul Cort
Attorneys for West Oakland Environmental Indicators Project

Adenike Adeyeye
Research and Policy Analyst

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San Francisco, CA 94111
ygarcia@earthjustice.org
pcort@earthjustice.org
adeyeye@earthjustice.org

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 11/13/2017 5:09:32 PM
To: Rhines, Dale [rhines.dale@epa.gov]; Rhodes, Julia [Rhodes.Julia@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Subject: FW: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9
Attachments: City and Port Joint Proposed Informal Resolution Agreement.pdf; ATT00001.htm; City and Port DRAFT Informal Resolution Agreement REDLINE to EPA DOT Draft.pdf; ATT00002.htm; CLEAN Port Draft Informal Resolution Agreement.docx; ATT00003.htm

Hello. Following up on the email I just sent to DOT. Would it be possible for the EPA team to meet and discuss this Thursday? Please let me know if that will or will not work.

Thanks,

Kurt

From: Dorka, Lilian
Sent: Sunday, November 12, 2017 4:15 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Yvette Rivera <yvette.rivera@dot.gov>; ryan.fitzpatrick@dot.gov
Subject: Fwd: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Sent from my iPhone

Begin forwarded message:

> **From:** "Michele Heffes" <mheffes@portoakland.com>
> **To:** "charles.james@dot.gov" <charles.james@dot.gov>, "Dorka, Lilian" <Dorka.Lilian@epa.gov>
> **Cc:** "Parker, Barbara" <BParker@oaklandcityattorney.org>, "Bee, Maria" <MBee@oaklandcityattorney.org>, "Cappio, Claudia (CCappio@oaklandnet.com)" <CCappio@oaklandnet.com>, "Danny Wan" <dwan@portoakland.com>, "Michele Heffes" <mheffes@portoakland.com>, "Chris Lytle" <clytle@portoakland.com>, "Michele Heffes" <mheffes@portoakland.com>, "Smith, Jamie" <JSmith@OaklandCityAttorney.org>, "Laurice Henry-Ross" <lhenry@portoakland.com>
> **Subject: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9**
>
> Dear Ms. Dorka and Mr. James:
>
> Attached please find a November 10, 2017, letter (including the 2 referenced attachments) from Oakland City Attorney, Barbara J. Parker, and Port Attorney, Danny Wan, concerning the above-referenced matter. Hard copies will be sent via First Class Mail. Please let me know if you have any questions.
>
> Michele
>
> Michele Heffes

Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

CONFIDENTIAL COMMUNICATION

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Message

From: Yana Garcia [ygarcia@earthjustice.org]
Sent: 7/18/2017 10:58:16 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: Automatic reply: ACCEPTANCE FOR INVESTIGATION OF: DOT Complaint # 2017-0093, EPA File No.: 13R-17-R9 (City of Oakland) and 14R-17-R9 (Port of Oakland and Board of Port Commissioners)

You are receiving this email because Yana Garcia no longer works at Earthjustice. If you need to reach someone, please email Yana's litigation assistants: Rikki Weber (rweber@earthjustice.org<mailto:rweber@earthjustice.org>) or John Wall (jwall@earthjustice.org<mailto:jwall@earthjustice.org>). Thank you.

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 7/6/2017 11:03:29 AM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Farrell, Ericka [Farrell.Ericka@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Subject: Re: Oakland JR and Acceptance Letters for review

Will do

Kurt

> On Jul 6, 2017, at 6:28 AM, Dorka, Lilian <Dorka.Lilian@epa.gov> wrote:
>
> Could you please take a look at these? Thanks!
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> From: "Garnett, Desean" <Garnett.Desean@epa.gov<mailto:Garnett.Desean@epa.gov>>
> To: "Dorka, Lilian" <Dorka.Lilian@epa.gov<mailto:Dorka.Lilian@epa.gov>>, "Strauss, Alexis" <Strauss.Alexis@epa.gov<mailto:Strauss.Alexis@epa.gov>>
> Cc: "Goerke, Ariadne" <Goerke.Ariadne@epa.gov<mailto:Goerke.Ariadne@epa.gov>>, "O'Lone, Mary" <OLone.Mary@epa.gov<mailto:OLone.Mary@epa.gov>>, "Redden, Kenneth" <Redden.Kenneth@epa.gov<mailto:Redden.Kenneth@epa.gov>>, "Temple, Kurt" <Temple.Kurt@epa.gov<mailto:Temple.Kurt@epa.gov>>, "Farrell, Ericka" <Farrell.Ericka@epa.gov<mailto:Farrell.Ericka@epa.gov>>, "Keeler, Katsumi" <Keeler.Katsumi@epa.gov<mailto:Keeler.Katsumi@epa.gov>>, "Grow, Richard" <Grow.Richard@epa.gov<mailto:Grow.Richard@epa.gov>>, "Reyes, Deldi" <Reyes.Deldi@epa.gov<mailto:Reyes.Deldi@epa.gov>>, "Miller, Amy" <Miller.Amy@epa.gov<mailto:Miller.Amy@epa.gov>>, "Jordan, Deborah" <Jordan.Deborah@epa.gov<mailto:Jordan.Deborah@epa.gov>>
> Subject: RE: Oakland JR and Acceptance Letters for review
>
> Lilian,
>
> I have attached Region 9's edits and comments to the documents that you sent us. Please reach out to us if there is anything that you would like to discuss.
>
> Thanks!
> Desean
>
> Desean Garnett
> U.S. EPA Region 9
> Attorney-Advisor
> (415) 972-3046
>
> -----Original Message-----
> From: Dorka, Lilian
> Sent: Wednesday, July 05, 2017 10:25 AM
> To: Strauss, Alexis <Strauss.Alexis@epa.gov<mailto:Strauss.Alexis@epa.gov>>
> Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov<mailto:Goerke.Ariadne@epa.gov>>; O'Lone, Mary <OLone.Mary@epa.gov<mailto:OLone.Mary@epa.gov>>; Redden, Kenneth <Redden.Kenneth@epa.gov<mailto:Redden.Kenneth@epa.gov>>; Temple, Kurt <Temple.Kurt@epa.gov<mailto:Temple.Kurt@epa.gov>>; Farrell, Ericka <Farrell.Ericka@epa.gov<mailto:Farrell.Ericka@epa.gov>>; Keeler, Katsumi <Keeler.Katsumi@epa.gov<mailto:Keeler.Katsumi@epa.gov>>; Grow, Richard <Grow.Richard@epa.gov<mailto:Grow.Richard@epa.gov>>; Reyes, Deldi <Reyes.Deldi@epa.gov<mailto:Reyes.Deldi@epa.gov>>; Garnett, Desean <Garnett.Desean@epa.gov<mailto:Garnett.Desean@epa.gov>>; Miller, Amy <Miller.Amy@epa.gov<mailto:Miller.Amy@epa.gov>>; Jordan, Deborah <Jordan.Deborah@epa.gov<mailto:Jordan.Deborah@epa.gov>>
> Subject: RE: Oakland JR and Acceptance Letters for review
>
> Thanks very much Alexis!
>
> -----Original Message-----
> From: Strauss, Alexis
> Sent: Wednesday, July 5, 2017 11:35 AM
> To: Dorka, Lilian <Dorka.Lilian@epa.gov<mailto:Dorka.Lilian@epa.gov>>
> Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov<mailto:Goerke.Ariadne@epa.gov>>; O'Lone, Mary <OLone.Mary@epa.gov<mailto:OLone.Mary@epa.gov>>; Redden, Kenneth

<Redden.Kenneth@epa.gov<mailto:Redden.Kenneth@epa.gov>>; Temple, Kurt
<Temple.Kurt@epa.gov<mailto:Temple.Kurt@epa.gov>>; Farrell, Ericka
<Farrell.Ericka@epa.gov<mailto:Farrell.Ericka@epa.gov>>; Keeler, Katsumi
<Keeler.Katsumi@epa.gov<mailto:Keeler.Katsumi@epa.gov>>; Grow, Richard
<Grow.Richard@epa.gov<mailto:Grow.Richard@epa.gov>>; Reyes, Deldi
<Reyes.Deldi@epa.gov<mailto:Reyes.Deldi@epa.gov>>; Garnett, Desean
<Garnett.Desean@epa.gov<mailto:Garnett.Desean@epa.gov>>; Miller, Amy
<Miller.Amy@epa.gov<mailto:Miller.Amy@epa.gov>>; Jordan, Deborah
<Jordan.Deborah@epa.gov<mailto:Jordan.Deborah@epa.gov>>
> Subject: Re: Oakland JR and Acceptance Letters for review
>
> Lilian
> Can do!
> Thx, Alexis
>
> On Jul 5, 2017, at 7:53 AM, Dorka, Lilian <Dorka.Lilian@epa.gov<mailto:Dorka.Lilian@epa.gov>> wrote:
>
>

Deliberative Process / Ex. 5

> <Port - City Oakland Draft JURISDICTIONAL REVIEW 6.20.17.docx>
> <Oakland City Recipient Acceptance 7-3-17.docx> <Oakland Port
> Recipient Acceptance 7-3-17.docx> <Oakland City and Port Complainant
> Acceptance 7-3-17.docx>
> <Dft Port - City Oakland Draft JURISDICTIONAL REVIEW 6.20.17R9rev7_5_17.docx>
> <Oakland City and Port Complainant Acceptance 7-3-17.docx>
> <Oakland City Recipient Acceptance 7-3-17.docx>
> <Oakland Port Recipient Acceptance 7-3-17.docx>

Message

From: Title VI Complaints [Title_VI_Complaints@epa.gov]
Sent: 4/6/2017 11:47:41 AM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
Attachments: 2017-04-04 WOEIP Title VI Complaint Final Format.pdf

Received via Title VI Complaints website.

From: Rikki Weber [mailto:rweber@earthjustice.org]
Sent: Tuesday, April 04, 2017 9:11 PM
To: Daria.neal@usdoj.gov; Title VI Complaints <Title_VI_Complaints@epa.gov>; ryan.fitzpatrick@dot.gov
Cc: Yana Garcia <ygarcia@earthjustice.org>; pcort@earthjustice.org; Aadeyeye@earthjustice.org; Rikki Weber <rweber@earthjustice.org>
Subject: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Counsel,

Please refer to this re-formatted copy of the previously served complaint.

Rikki Weber
Litigation Assistant
50 California Street, Suite 500
San Francisco, CA 94111
T: 415.217.2000
F: 415.217.2040

www.earthjustice.org

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ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

By electronic and certified U.S .mail

April 4, 2017

Attn: Ryan Fitzpatrick
Lead Civil Rights Analyst, Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, D.C. 20590
ryan.fitzpatrick@dot.gov

Attn: Velveta Golightly-Howell
Director, Office of Civil Rights
United States Environmental Protection Agency
U.S. EPA Office of Civil Rights (Mail Code 1201A)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
Title_VI_Complaints@epa.gov

Attn: Daria Neil
Deputy Chief, Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Daria.neal@usdoj.gov

Re: **Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d**

On behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP or "Complainant") submits this Complaint regarding the City of Oakland's ("City") pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB") while failing to ensure adequate health and safety protections for the surrounding community. Complainant also files this complaint against the Port and the Board of Port Commissioners (collectively referred to as "Port"), for continuously expanding the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation.

The City and Port have engaged in the activities described in this Complaint to manipulate decision making and push through harmful expansions of freight activities for decades. Both parties have refused to engage in a meaningful analysis or process by which to address the negative health and environmental implications of their actions. Time and time

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again, both the City and Port have dismissed the consistent input and opposition to their actions from directly impacted West Oakland residents, nearly 80% of whom are people of color, as well as from other agencies concerned about the problems such activities are creating.

The most recent example of the actions that are the subject of this Complaint is the City's approval of the first of a series of development-specific air quality management plans authorizing the construction of a new large-scale global trade and logistics development project located on OAB property. On October 4, 2016, the City Administrator approved a construction management plan for the Northeast Gateway development project site of the OAB, allowing developers, Prologis and the California Capital and Investment Group ("CCIG") to break ground on November 1, 2016, and begin construction for an expansive new warehouse and logistics development project – the "Oakland Global Logistics Center" – the full effects of which neither the City nor the Port have fully analyzed or addressed. This approval, and the City's continued authorization of new development and expanded activities at the Port and OAB create an unjustified disproportionate adverse impact on the basis of race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the implementing regulations of the United States Department of Transportation ("DOT"), 49 C.F.R. Part 21, and the United States Environmental Protection Agency ("EPA"), 40 C.F.R. Part 7.

Title VI prohibits entities receiving federal financial assistance from engaging in activities that subject individuals to discrimination on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Both the City and Port receive federal financial assistance from DOT, EPA and other federal agencies.[1] They are, therefore, subject to Title VI's prohibition against discrimination. The City and Port violate that prohibition by forcing through freight expansion projects that disproportionately subject the communities of color that surround both the Port and OAB properties to air pollution and other serious health threats on the basis of their race.

As an initial step in addressing the violations set forth in this complaint, Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this Complaint, and investigate whether the City and Port have indeed violated, and/or continue to violate Title VI of the Civil Rights Act and its implementing regulations in issuing their approvals to expand freight-related activities at the Port and OAB.[2] For reasons of economy, Complainant further requests that these investigations be consolidated and that EPA and DOT collaborate and coordinate the development and implementation of remedial approaches designed to address the City's and Port's violations. Because both the City and Port are most consistently funded by DOT in matters pertaining to the approvals and the activities at issue here, DOT is well poised to take the lead role at the federal level. Complainant also includes the Civil Rights Division of the Department of Justice in this Complaint, in anticipation

[1] While not the subject of this complaint, the Port, which operates as a fully independent department of the City, receives substantial federal assistance in the form of monetary grants and gifts consisting of real property from the Department of Defense, the United States Army, and the United States Department of Homeland Security.
[2] Complainant also specifically requests that if either DOT or EPA rejects this complaint, the other agency conduct an investigation alone or jointly with other federal agencies, as appropriate, in accordance with federal regulations. *See* 28 C.F.R. § 42.408(b) ("Where a federal agency lacks jurisdiction over a complaint, the agency shall, wherever possible, refer the complaint to another federal agency . . . .").

that they too would play an active role in coordinating these federal investigative and enforcement actions, consistent with the mission of the Federal Coordination & Compliance Section.

In order to remedy the violations set forth in detail below, Complainant requests that DOT and EPA condition all future grants and awards of federal funds to the City and Port on both entities furnishing adequate assurances that their actions with respect to the activities taking place at the Port and OAB properties will address disproportionate impacts on the surrounding community. Specifically, WOEIP requests that the City and Port implement and adhere to appropriately tailored, updated mitigation measures that will address the harmful externalities of the Port's industrial and freight activities – including any and all new and expanded activities occurring at the OAB – and that both the City and Port commit to a meaningful, continuous process for receiving and incorporating input from the West Oakland community.

I. PARTIES

A. Complainant

WOEIP is a neighborhood resident-led, community-based environmental justice organization located in West Oakland, California. The organization is dedicated to achieving healthy homes, healthy jobs, and healthy neighborhoods for all who live, work, learn and play in their community. Through engaging in research projects and participating in agency advisory committees as well as stakeholder groups, WOEIP focuses on leveraging community power to support residents in developing and achieving their own vision for healthy neighborhoods, which includes, among other things, clean soil and vibrant surroundings, clean air and clean water, and a resident-led comprehensive vision for redevelopment and economic revitalization in and around West Oakland.[3]

B. Recipients

The City is a municipal corporation, ordained and established under the California Constitution. *See* Charter of the City of Oakland art. I. § 100[4]; *see, also*, Cal. Const. art. XI, § 5. As such, the City has the right and the power to make and enforce all laws and regulations relating to its municipal affairs. Charter of the City of Oakland art I. § 106. The City is a recipient of federal funds, as detailed below.

The Port was established in 1927. It operates as a fully independent City department, created by the City pursuant to the City's governing charter. Charter of the City of Oakland art. VII, §700. In creating the Port Department, the City vested "exclusive control and management" of the Port in the Board of Port Commissioners, which is comprised of members nominated by

[3] *See* West Oakland Environmental Indicators Project website, *available at* https://www.woeip.org (last accessed, March 28, 2017).
[4] *Available at*: https://www.municode.com/library/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIIPOOA (last accessed on March 28, 2017).

the City's Mayor and appointed by the City Council. *Id.* §701. The Board of Port Commissioners has "complete and exclusive power" over the "Port Area." *Id.* All moneys appropriated by the Board and all revenue from the operation of the Port are under the exclusive control of the Board and are deposited in a special "Port Revenue Fund" in the City's treasury. *Id.* §§ 717(2), (3). Like the City, the Port is a recipient of federal funds, as detailed below.

II. JURISDICTION

The prohibition against racial discrimination set forth in Title VI applies to all recipients of federal funds: "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 200d. The acceptance of federal funds in itself creates an obligation on the part of the recipient to comply with Title VI and the federal agencies' implementing regulations.

As explained below, the City and Port are recipients of federal funds and implement programs or activities receiving continuous federal financial assistance. They are, therefore, subject to the requirements of Title VI and its applicable implementing regulations.

A. Program or Activity

Title VI defines a program or activity as "all of the operations of . . . a department, agency, special purpose district, or other instrumentality of a State or of a local government . . . any part of which is extended Federal financial assistance." 42 U.S.C. § 2000d-4a. Accordingly, if any part of a listed entity receives federal funds, the whole entity is covered by Title VI. *Ass'n. of Mex.-Am. Educ. v. California*, 195 F.3d 465, 474-5 (9th Cir. 1999), rev'd in part on other grounds, 231 F.3d 572 (9th Cir. 2000) (en banc).

The actions undertaken by the City and Port are taken as part of a program or activity because the City is its own municipal government entity, and the Port is a department of the City as set forth in the City's charter. Charter of the City of Oakland art. VII, §§ 700, 701. Indeed, the City created the Port's Board of Commissioners specifically to act for and on behalf of the City in any matter within the jurisdiction of the Board, which includes all areas that are part of the Port's operations. Charter of the City of Oakland art. VII, §701. Both the City and Port, including the Board of Port Commissioners, receive federal funds, as explained below.

The City Administrator is also appointed by the City's Mayor, subject to confirmation by the City Council, and is directly accountable to the Mayor's office. *See*, City of Oakland Municipal Code, Title 2, Ch. 2.29, sec. 170 (establishing the Office of the City Administrator). The Administrator is responsible for the day-to-day administrative and fiscal operations of the City, and directs City agencies and departments to ensure the goals and policy directives of the Mayor and City Council are implemented. *See, id.* The responsibilities of the Administrator's Office include: enforcing all laws, ordinances, and policies of the Council; attending all meetings of the Council, Council Committees, boards, and commissions; making recommendations to the Council concerning City affairs; controlling and administering the financial affairs of the City and keeping the Council apprised of these affairs; preparing or directing preparation of the plans,

specifications, and contracts for work the Mayor or Council may order; and coordinating all projects, policies, and directives assigned to the Administrator by the Council or by the Mayor.[5] Accordingly, the specific actions and approvals undertaken by the City Administrator are also part of a program or activity, as they are taken with the full authority of the City. As outlined below, the infrastructure, shipping, transport, and logistics programs and activities approved by the City, Port, and the City Administrator that are the basis for this Complaint receive federal financial assistance.

B. Federal Financing/Federal Financial Assistance

The City and Port receive federal financial assistance as defined in DOT's and EPA's Title VI implementing regulations.

1. DOT Funds Received by the City and Port

DOT regulations define "[r]ecipient" as "any State . . . or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State . . . to whom Federal financial assistance is extended, directly or through another recipient. . . ." 49 C.F.R. § 21.23.

In Fiscal Year (FY) 2010, the City of Oakland received a considerable Transportation Investment Generating Economic Recovery (TIGER) planning grant in the amount of $2 million to support the City's estimated $9,220,000 planning efforts for "sustainable transit oriented planning" at the "[OAB] Redevelopment Area."[6] According to the grant description, DOT's grant of these funds was aimed at aiding the City's development of "an Infrastructure Master Plan", and associated environmental review, "to direct needed utilities and roadway improvements for the former [OAB]."[7] The project considered under the terms of this grant also involved a "Specific Plan" and associated environmental review "to guide future development in West Oakland" and to specifically develop a framework for addressing "undervalued and blighted land in the West Oakland community" where the per capita income was, in that year, less than fifty percent of the county average.[8]

DOT has also awarded substantial TIGER funds to the Port. For example, in FY 2012 DOT awarded the Port approximately $15 million in TIGER grant funds to develop a new Port

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[5] City of Oakland, *City Administration: Welcome*, available at: http://www2.oaklandnet.com/government/o/CityAdministration/index.htm (last accessed March 30, 2017).
[6] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[7] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[8] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).

Rail Terminal serving Port property.[9] Moreover, DOT consistently funds the Port with large grants specifically intended for airport improvements. While these funds do not directly benefit the OAB properties at issue here, the duration and scale of this funding is important to note. The following is a list of DOT's airport improvement program grants to the Port between FY 2008 and FY 2016:

FY 2008 - $11,967,919
FY 2009 - $18,317,487
FY 2010 - $15,706,402
FY 2011 - $7,559,904
FY 2012 - $32,753,747
FY 2013 - $18,245,770
FY 2014 - $41,578,114
FY 2015 - $11,395,060
FY 2016 - $7,324,847

In FYs 2013 and 2014, the Port was also sub-granted $983,928 and $312,263, respectively, in funds originating from DOT, but awarded to the California Department of Transportation (Caltrans) to pay for ongoing operations at the Port.[10]

2. EPA Funds Received by the City and Port

Similar to DOT's regulations, EPA's Title VI regulations define a "[r]ecipient" as "any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient . . . ." 40 C.F.R. § 7.25.

Between FY 2006 and FY 2010, the City received two consecutive two-year block grants totaling $800,000 over the course of four years, from EPA, to ensure brownfield cleanup, including clean up in and around the community of West Oakland.[11]

Starting in 2013, EPA awarded the Port $282,293 to reduce air pollution from the Port's gantry cranes, through EPA's National Clean Diesel Reduction Program.[12] In FY 2014 EPA also

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[9] *See* United States Department of Transportation, *TIGER 2012 Awards, available at:* https://www.transportation.gov/sites/dot.gov/files/docs/fy2012tiger_0.pdf (last accessed March 30, 2017).
[10] USASpending.gov, *Recipient Profile: Port of Oakland, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2013 (last accessed March 30, 2017).
[11] *See*, USASpending.gov, *Recipient Profile: City of Oakland California, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=137137977&FiscalYear=2010 (last accessed, March 30, 2017), and see USASpending.gov, *Award Summary: City of Oakland, available at*: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=14192643 (last accessed, March 30, 2017).
[12] *See*, USASpending.gov, *Award Summary: Board of Port of Commissioners of the Port of* [sic], available at: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=12519152 (last accessed, March 30, 2017).

awarded the Port and additional $415,932 through the same program,[13] and in FY 2015, EPA granted another $133,639 to the Port, to support the Port's continued efforts to reduce air pollution from port-related operations.[14]

C. Timeliness

This complaint is timely because it is based on the City's and the City Administrator's continuous and ongoing approvals of a series of construction and operation management plans concerning the OAB "Gateway" Redevelopment Project, which is one part of a multi-stage large scale development project called the Oakland Global Logistics Center development, and is likewise part of the Port's continued expansion of its shipping, receiving, storage distribution and freight transport activities. Both DOT and EPA instruct Title VI complainants to file their complaints within 180 days of the alleged discriminatory act.[15] 49 C.F.R. § 21.11(b) (DOT Title VI regulations); 40 C.F.R. § 7.120(b) (EPA Title VI regulations).

On October 4, 2016, the City approved a construction management plan that allowed Prologis and CCIG to break ground on the Northeast Gateway OAB site on November 1, 2016.[16] The operation management plan for the Northeast Gateway project, and the construction and operation management plans for the remaining "Gateway" areas of the OAB remain subject to ongoing similar approvals from the City. The City's October 4, 2016 action is, therefore, one of many piecemealed development-related approvals that will continue to occur.

This complaint is timely because it is filed within 180 days of the City's October 4, 2017 approval and subsequent construction at the Northeast Gateway site. Moreover, because the actions alleged in this Complaint are part of a long history of discriminatory actions that are both ongoing, and slated to continue in subsequent approval processes, Complaint requests that DOT and EPA waive any potential objections related to the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

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[13] *See*, USASpending.gov, recipient profile for the "Port of Oakland" and "Board of Port Commissioners," FY 2014, DUNS no. 009235326, available at: https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2014 (last accessed, March 30, 2017).

[14] USASpending.gov, *Recipient Profile: Board of Port Commissioners of the Port of Oa* [sic], *available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2015 (last accessed, March 30, 2017).

[15] DOT and EPA, moreover, have the authority and the discretion to waive or extend the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

[16] *See,* Annie Sciacca, *Oakland Army Base redevelopment project breaks ground*, East Bay Times, (November 1, 2016), *available at:* http://www.eastbaytimes.com/2016/11/01/oakland-army-base-redevelopment-project-breaks-ground/ (last accessed, March 30, 2017).

D. Other Prudential Factors and/or Jurisdictional Considerations

This Complaint satisfies all other jurisdictional and prudential considerations laid out in both DOT's and EPA's regulations implementing Title VI. The Complaint also meets EPA's guidance set forth its Interim Case Resolution Manual.[17]

Specifically, this Complaint is submitted to both agencies in writing, by and on behalf of a Complainant group that is authorized to submit such a complaint to redress the adverse impacts this group experiences directly and which other, similarly situated residents also experience as a result of both the Port's and City's violations of Title VI.

DOT and EPA have subject matter jurisdiction over this Complaint because it alleges discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. This Complaint also contains unique civil rights allegations that have not been alleged in any court or administrative proceeding, and which are specific to the City's and Port's systemic pattern of issuing project approvals and/or engaging in activity at and surrounding the Port and OAB properties in a manner that causes disproportionate effects to the surrounding residential community, on the basis of race.

Moreover, this Complaint seeks unique relief from DOT and EPA — compliance with Title VI. Complainant asks DOT and EPA to investigate this Complaint and take steps to remedy noncompliance with Title VI by the City and Port, including conditioning any and all future federal funding. This relief is not available through other means.

III. FACTUAL BACKGROUND

A. The Residents and Community of West Oakland

1. West Oakland's History and Demographics

West Oakland is a diverse community with a rich history and a historically vibrant culture dating back to the late nineteenth century. In the 1800s and early 1900s, West Oakland was home to many European, Japanese, and Chinese immigrants, Mexicans, and a large number of African Americans who migrated from the South for jobs in the auto and rail industries. As military activities expanded at the OAB, and new job opportunities in the Port's shipyards increased, West Oakland experienced an even greater influx of mostly small-business growth,

[17] *See, e.g.*, United States Environmental Protection Agency, *Case Resolution Manual*, Chapter 2 (January 2017), *available at* https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf (last accessed, March 30, 2017).

which, in addition to the OAB's activities included many local shops that were owned by, and served, West Oakland residents.[18]

In the late 1900's, however, West Oakland experienced a decline in its relative economic vitality.[19] While it remains a mostly working-class community, the median household income in zip code 94607, which encompasses most of West Oakland today, is $35,837.[20] For comparison, the median income of Alameda County is $67,169.[21] Over 30% of individuals living in zip code 94607 live below the poverty level.[22] In Alameda County as a whole, only 13.5% of individuals live below the poverty level.[23] As *Figure 1* indicates, poverty has been a long term issue in West Oakland, with the entire community experiencing either persistent (five decades long), or frequent (three to four decades long), high poverty rates.

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[18] *See, e.g.*, Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Ch. 1.1 "[OAB] Location, History and Setting", p. 13 (July 31, 2012) (describing some of the historical background of the region, and in particular of the OAB, and its surroundings), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[19] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017); United States Census Bureau, *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[20] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[21] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

[22] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[23] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

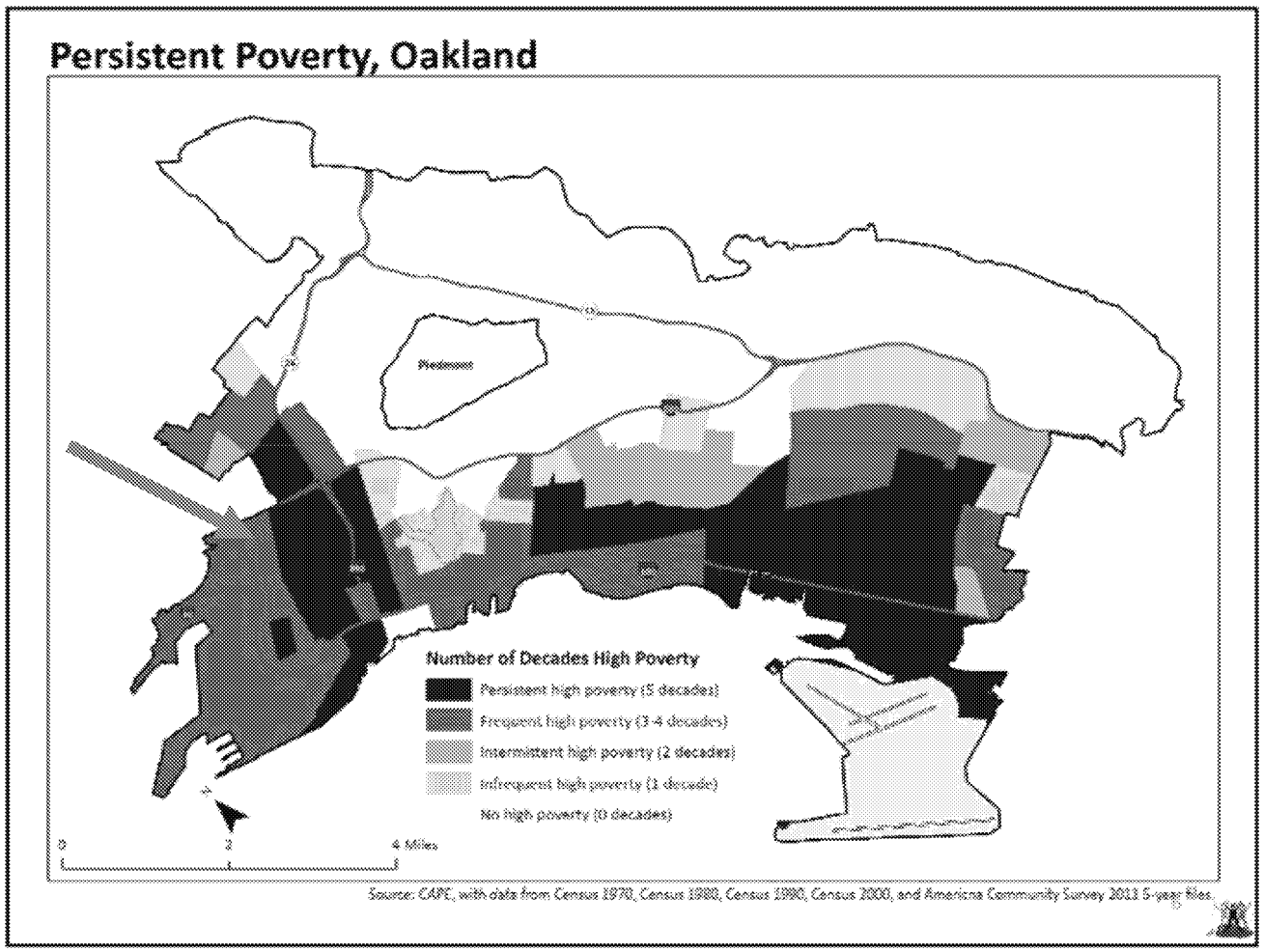

Figure 1 Map of areas of persistent poverty in Oakland (with arrow pointing to West Oakland).[24]

Most importantly for the purpose of this Complaint, and the allegations set forth herein, West Oakland remains primarily a community of color. Approximately 49 percent of West Oakland residents today are Black, 17 percent identify as Latino, 15 percent identify as White, and nearly 13 percent identify as Asian.[25] In Alameda County overall, 51 percent of Alameda County residents are White, only 12 percent are Black, 30 percent are Asian, and 23 percent are Latino.[26]

[24] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 6.
[25] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts,* West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 3.
[26] United States Census Bureau, *Quick Facts: Alameda County, California* (2015), *available at* https://www.census.gov/quickfacts/table/PST045216/06001 (last accessed March 30, 2017).

2. Health and Pollution Burdens Affecting West Oakland

The largely residential community of West Oakland is surrounded by the Port and OAB, and by freeways. Specifically, as shown in *Figure 2*, three interstate freeways, the I-580, I-880 and I-980 freeways, surround West Oakland with the Port and OAB surrounding the community to the West and South.

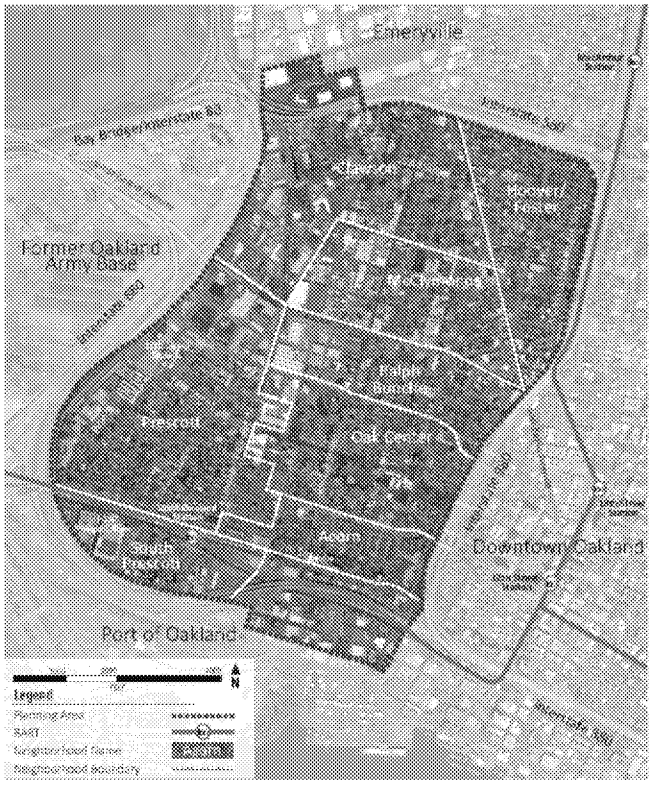

Figure 2 Map of the community of West Oakland.[27]

In addition to housing the Port, which is the fifth busiest container port in the United States, West Oakland is also home to two rail yards, with expansive and growing rail road tracks that are owned and operated by Union Pacific ("UP"), and the Burlington Northern and Santa Fe Railroad Company ("BNSF"). While not pictured above, West Oakland also has numerous trucking-based distribution centers and a host of related businesses including mechanical and body repair shops as well as large diesel gas stations that serve various activities taking place at the Port and OAB.

Thus, while this community has many aspects of unique physical beauty, including many nineteenth century Victorian-era historical buildings, an important and meaningful history, as

[27] City of Oakland, *West Oakland Specific Plan* (area map), *available at* http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/OAK028334 (last accessed, April 3, 2017).

well as vibrant cultural traditions, today, its residents experience an overwhelming and disproportionate burden of health and environmental risks caused by the activities surrounding their homes and schools. For example, the Oakland Unified School District (OUSD) has identified the three elementary schools, two middle schools, and three high schools located in West Oakland and serving the West Oakland community as showing the highest "environmental stress indicators" based on students' exposure to poor air quality and inadequate access to healthy foods, among other environmental risks.

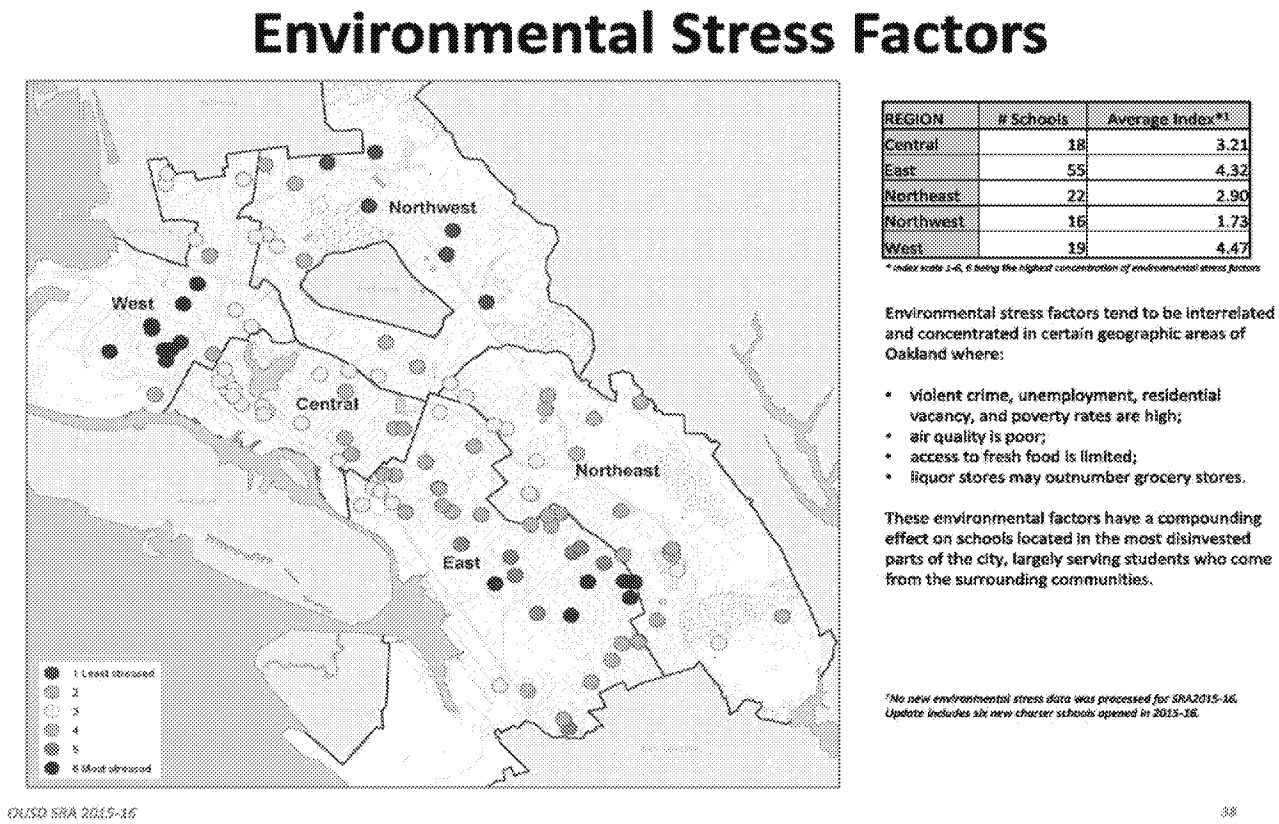

Figure 3 Environmental stress factors by school.

In addition, there are two preschools and at least one formal, reported day-care center, which, while not included in the OUSD map above, are located in close proximity to the Port and the

freeways surrounding West Oakland.[28] These childcare facilities are exposed to the same stress indicators, including poor air quality, as the OUSD-reported schools shown in *Figure 3*, yet with potentially even more devastating impacts, considering the age and size of the children attending these care facilities.

Notably, most of the pollution burden West Oakland residents shoulder directly results from the activities taking place at and around the Port and OAB. Trucks serving the Port bring heavy air pollutant emissions, including emissions of diesel particulate matter; the traffic they cause disrupts neighborhoods, and damages local streets that were not intended for heavy trucks.

Air pollution has been proven to cause and/or exacerbate respiratory and cardiovascular illness, and can trigger asthma attacks.[29] Diesel particulate matter emitted by heavy duty trucks and other freight vehicles and equipment like ships and trains, is a known carcinogen. The California Air Resources Board ("ARB") has found that West Oakland residents are "exposed to diesel particulate matter ambient concentrations that are almost three times the average background diesel particulate matter ambient concentrations in the [Bay Area Air Quality Management District]."[30] Indeed, West Oakland residents experience a lifetime potential cancer risk of 1,200 excess cancers per million due to diesel particulate matter emissions. In comparison, the ARB found an excess cancer risk due to diesel particulate matter of 480 excess cancers per million across the entire San Francisco Bay Area.[31] The risk that West Oakland residents face is nearly three times the risk that Bay Area residents generally face. Diesel particulate matter emissions from the Port alone are responsible for a risk of approximately 200 excess cancers per million.[32]

In 2008, the ARB conducted a diesel particulate matter Health Risk Assessment in West Oakland. The 2005 baseline emission inventory used in the assessment showed that heavy duty trucks accounted for 112 tons per year of diesel particulate matter emissions, or 13% of the total

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[28] Harriett Tubman Preschool is located on 3rd street, in the Hoover/Foster neighborhood of West Oakland, adjacent to the I-580 and I-980 intersections, which experience heavy traffic to reach the Port and Port facilities. See, map location, *available at*: https://www.google.com/maps/place/Harriet+R+Tubman+CDC/@37.8236086,-122.2731381,15z/data=!4m5!3m4!1s0x0:0x1b8f115e05028cb2!8m2!3d37.8236086!4d-122.2731381 (last accessed, March 30, 2017). The Baby Academy and Infant Day Care Center is also located in Wes Oakland's Prescott neighborhood, which is adjacent to the I-880 or "Nimitz Freeway" that feeds directly onto frontage roads serving the Port. See, map location, *available at*: https://www.google.com/maps/place/The+Baby+Academy+Infant+Care+%26+Preschool/@37.8094548,-122.2975516,15z/data=!4m5!3m4!1s0x0:0x891cc2ecd329e327!8m2!3d37.8094548!4d-122.2975516 (last accessed, March 30, 2017).

[29] Saffet Tanrikulu, Cuong Tran, and Scott Beaver, Bay Area Air Quality Management District, *Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area* (September 2011), *available at* http://www.baaqmd.gov/~/media/files/planning-and-research/research-and-modeling/cost-analysis-of-fine-particulate-matter-in-the-bay-area.pdf (last accessed March 30, 2017).

[30] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

[31] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 22, (December 2008).

[32] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

diesel particulate matter emissions inventory for the West Oakland area, with the remaining diesel particulate matter emissions coming from trains and ships serving the Port area.[33] An estimated 2,800 medium sized, short distance trucks, also known as drayage trucks, serve the Port of Oakland multiple times per week, and there are approximately 10,000 truck trips to and from the Port, with an additional 1,400 truck trips daily between the Port and distribution centers in West Oakland.[34] These figures are expected to grow as the Port expands, which will result in additional truck traffic through the West Oakland community. Further expansions of the Port's activities will bring more ships and more trains to the area, further elevating the amount of diesel particulate matter in the air throughout West Oakland, and increasing the resulting adverse health impacts affecting West Oakland residents.

As demonstrated through ARB's 2008 Health Risk Assessment, truck traffic hurts communities and makes it more difficult to build thriving, resilient neighborhoods. People living on busy streets, with trucks rumbling by frequently, are more reluctant to go outside to exercise; residents have fewer opportunities to meet their neighbors and to build a close-knit community within their neighborhood.[35] If they are parents they are also more reluctant to let their children play outside. Closely connected communities can provide important physical and mental health benefits;[36] truck traffic impedes these benefits for residents of West Oakland.

Moreover, while diesel particulate matter emissions from the Port alone are responsible for approximately 200 excess cancers per million,[37] West Oakland residents are consistently exposed to a variety of other, cumulative impacts that result in poor health outcomes in the community. All-cause death rates in West Oakland are higher than all-cause death rates in the city of Oakland overall.[38] As a result, West Oakland has one of the lowest life expectancies of all communities in Oakland (see *Figure 4*).

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[33] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 15, Table 3 (December 2008).
[34] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Air-6 (March 2010).
[35] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-9 (March 2010) (showing that communities with higher traffic volumes are not as close-knit as communities with lower traffic volumes).
[36] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-10 – Transportation-11 (March 2010).
[37] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).
[38] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 13, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

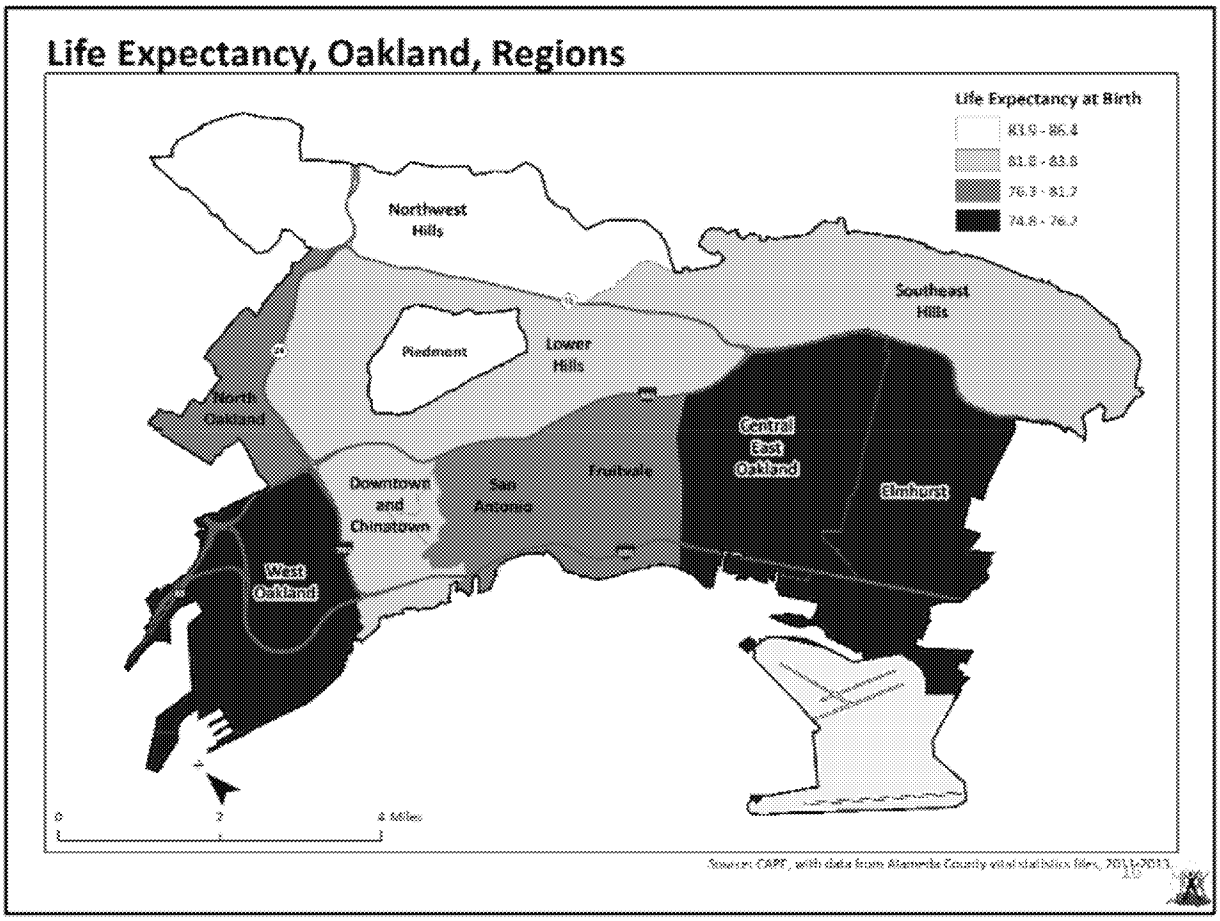

Figure 4 Life expectancies in Oakland's communities.[39]

When compared to other areas of Alameda County, West Oakland also has elevated rates of emergency room visits due to stroke-related and congestive heart failure hospitalizations, and asthma hospitalizations in children older than 5.[40]

B. History of the Port and Army Base

The Port is the fifth largest container port in the United States and the second largest in the State of California, behind the combined ports of Los Angeles and Long Beach. Established in 1927, the Port is home to 18 ship berths, 236 container cranes, two rail yards and approximately 500 pieces of cargo handling equipment, as well as 2,500 trucks. In 2016, the Port moved over 2 million 20-foot equivalent units of containers in and out of the Bay area.

[39] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 16, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).
[40] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, pp. 9-12, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

OAB is a 425-acre facility located along the Oakland waterfront, just north of the Port and south of the eastern portion of the San Francisco Bay Bridge.[41] It was originally commissioned to serve as a United States Army base in 1941, and during World War II it developed to serve as a major cargo port.[42] Following the end of the war, OAB continued to serve as a shipping and rail terminal, providing logistical support for the subsequent Korean, Vietnam and Persian Gulf wars.[43] In 1995 the United States Defense Base Closure and Realignment Commission recommended closure of OAB, and it officially closed OAB's operations as an army base in 1999.[44]

Following its decision to close the base, the United States Department of Defense designated a local reuse authority – the Oakland Army Base Reuse Authority – as the entity charged with the oversight of all post-closure redevelopment at OAB.[45] In order to assist in informing and influencing the ongoing land use changes at OAB, prior to the completion of OAB's closure, the Reuse Authority established the West Oakland Community Advisory Group (WOCAG).[46] In line with its purpose, the WOCAG met for over ten years to discuss and present community recommendations relating to the new uses and businesses that would benefit West Oakland residents. These recommendations were collected, reviewed an compiled by the Redevelopment Agency until its dissolution, and they were, to an extent, incorporated into the early planning stages for the OAB closure.

In 2000, the Oakland City Council designated OAB and its surrounding properties as a "Redevelopment Area," then under the jurisdiction of the City's Redevelopment Agency, the Port and the County of Alameda, pursuant to a Joint Powers Agreement. The closure process was guided by a "Preliminary Redevelopment Plan" that was formulated with some early input from the WOCAG.[47] Pursuant to this "Preliminary Redevelopment Plan", the City broadly committed to the "redevelopment, rehabilitation, and revitalization of the area within the boundaries of the [OAB]" and its surroundings. [48] The City also sub-divided OAB into two general development areas, shown in *Figure 5*, below. The first was a 140-acre "Gateway Development Area," situated in the north and northwest portion of the sub-district, owned by the City and the OAB Redevelopment Agency. [49] The second was a 170-acre "Port Development

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[41] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Executive Summary, p. 1 (July 2012), *available at*: http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).
[42] *Id.*, p. 14.
[43] *Ibid.*
[44] *Ibid.*
[45] *Id.*, p. 15.
[46] *Id*, p. 16.
[47] *See* Redevelopment Plan for the Oakland Army Base Redevelopment Project, Adopted June 11, 2000, Amended and Restated on December 21, 2004 (Ordinance No. 12644 C.M.S.), and on June 7, 2005 (Ordinance No. 12672 C.M.S.), p. 2.
[48] City of Oakland, *Redevelopment Plan for the Oakland Army Base Redevelopment Project* (June 11, 2000)(Amended and restated December 21, 2004 and June 7, 2005), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak030544.pdf.
[49] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.

Area" located in the west and southeast portions of the OAB, owned and operated by the Port.[50] In addition to these two main sub-areas, the City also designated two additional sub-districts – the "Maritime" sub-district, which is comprised of 1,290 acres owned and operated by the Port; and the "16th and Wood" sub-district – an additional 41 acres owned by various private entities.[51]

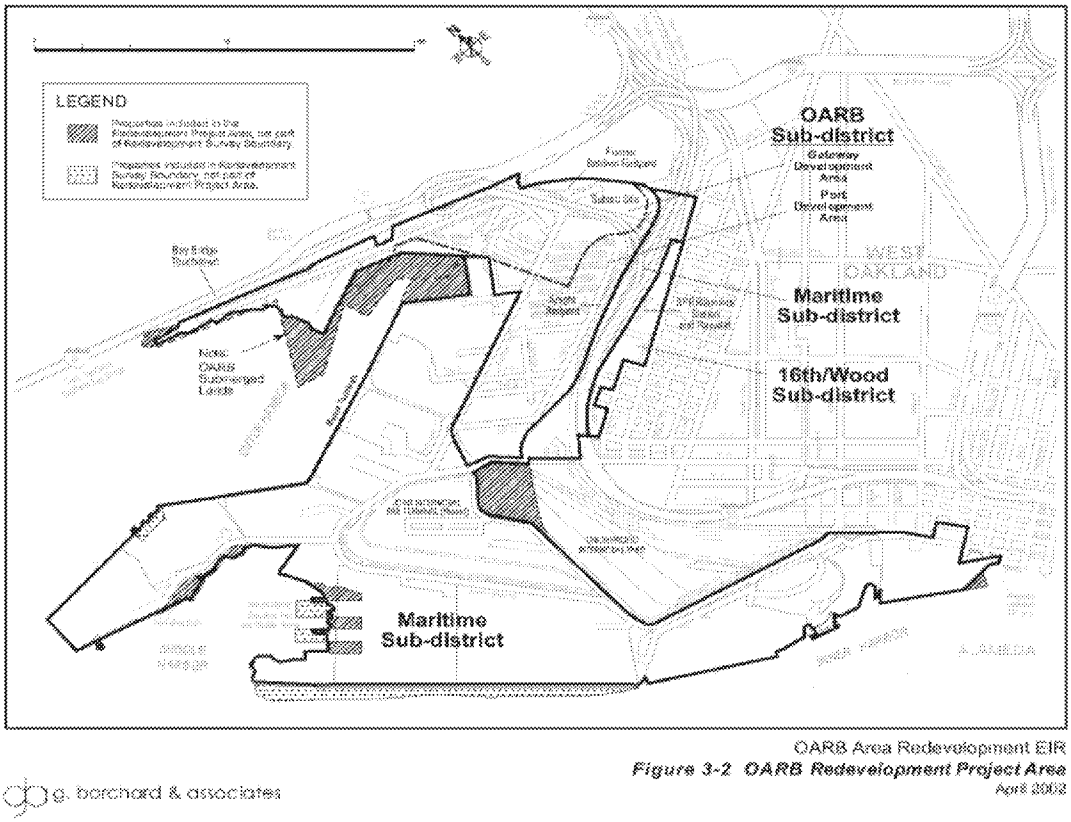

Figure 5 Oakland Army Base Redevelopment Area Sub-Districts, April 2002[52]

In 2002, the City approved a new and more detailed "Oakland Army Base Redevelopment Area Plan" and a supporting Environmental Impact Report (EIR) analyzing the effects of the OAB closure and the City's updated planning proposals for redevelopment on OAB property under the California Environmental Quality Act.[53] According to the City's 2002 approval, the Gateway Development Area would be redeveloped pursuant to a "flexible" alternative land use plan, which specifically contemplated the construction and operation of

[50] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.
[51] *Id.*
[52] City of Oakland, *Oakland Army Base Project: Maps*, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/image/dowd007621.jpg (last accessed April 4, 2017).
[53] *See* Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, p. 1 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

waterfront light-industrial and flexible office space including research and development ("R&D") offices, as well as other "business-serving retail" and "high-end commercial development" spaces like a "Four Star Hotel."[54] While the 2002 plan also included some warehousing and distribution, as well as ancillary maritime support facilities, the majority of land uses specified in the plan consisted of light industrial development, so as to attract businesses focused on industries other than heavy freight industrial activities.[55]

Despite the generally beneficial land-uses considered and approved in the City's 2002 Redevelopment Plan approval, the community was concerned, at the time, that the Plan did not demonstrate an honest commitment by the City to redevelop the OAB in a way that would genuinely benefit surrounding residents in West Oakland. In 2002, the WOCAG issued recommendations in response to the City's EIR and proposed Redevelopment Plan, which expressed the community's concerns with the direction of the City's land use and planning decisions, and its displeasure with the way their recommendations had been treated up to that point.[56] Specifically, the WOCAG explained that the 2002 plan approval and related EIR did not provide enough detail regarding the City's proposed development plans to assure that the OAB redevelopment would confer tangible, direct community benefits.[57]

Just as feared by the community, as both the City and Port continued to receive federal land grants of former OAB land, they began discussions with potential developers seeking to expand Port-related freight activities at OAB, even though the approved Redevelopment Plan designated very limited land for such activities. Notably, these discussions were held while parallel discussions were still taking place among WOCAG members and City staff – thus, while the WOCAG was still developing its input on the OAB development process.[58]

Between 2006 and 2008, WOCAG continued to submit its recommendations to the City. During that time, the WOCAG focused its recommendations on the City prioritizing development proposals that result in less truck traffic through West Oakland, due to health

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[54] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Section 3.2.1, p. 27 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[55] *Ibid.*; *see also*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 20, Table 2-1 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (comparing the land-use designations approved in 2002, with those considered and ultimately approved by the City a decade later).

[56] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002) (noting that "it is an insult to the many citizens of the City of Oakland who have given freely of their time and effort to serve the [Oakland Army Base Reuse Authority] and the City of Oakland in the base conversion process [only] to have their efforts ignored and not evaluated in this EIR").

[57] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002).

[58] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, pp. 4-5 (June 2008).

impacts many residents were already facing due to the Port's growing activity.[59] WOCAG wanted businesses such as truck servicing and truck parking to be relocated out of the community, and to "leave their former sites available for more appropriate, i.e. lower impact commercial use."[60]

Notwithstanding the input received from WOCAG, however, the City continued its discussions with Prologis and CCIG, and began negotiating an agreement with the developers, to build a large-scale warehouse and shipping development project for portions of all three sub-districts created under the City's prior approvals, which became jointly termed, the "Gateway Development Area," pictured in *Figure 6*, below.[61]

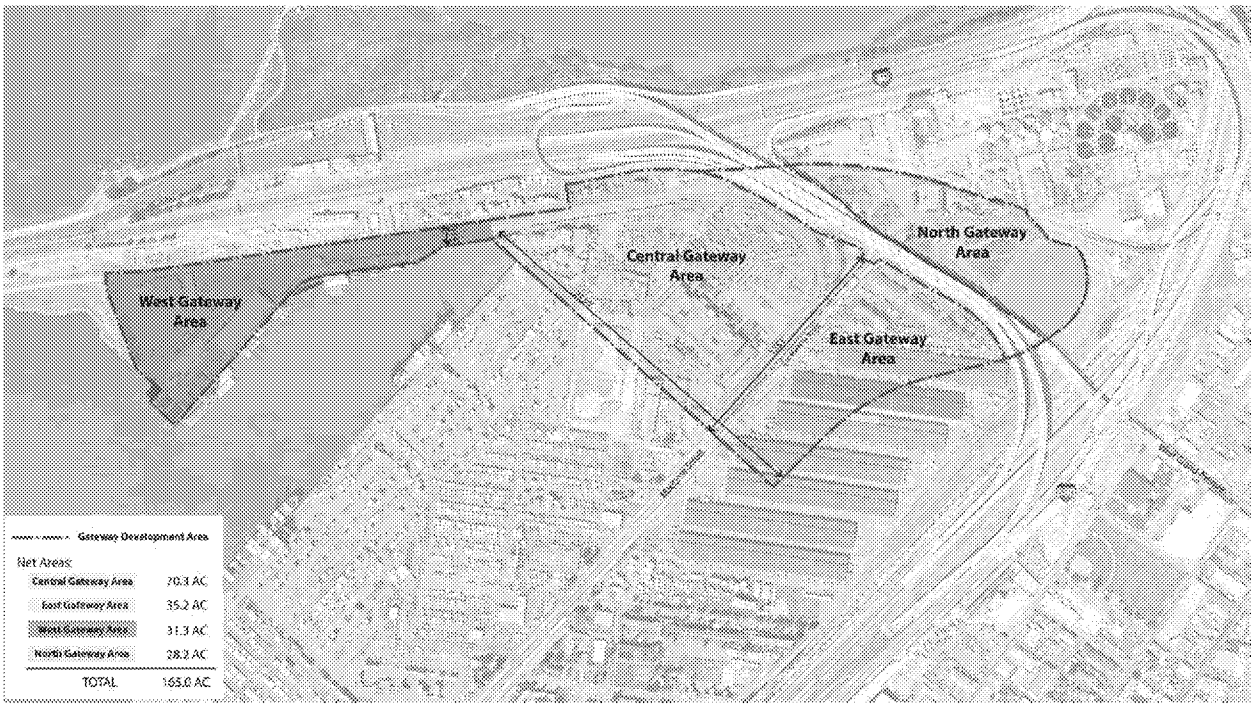

Figure 6 Gateway Development Area.[62]

[59] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).
[60] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, p. 7 (June 2008).
[61] LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, p. 21 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) ("in 2009 the joint venture between Prologis and [CCIG] was selected as the master developer").
[62] Oakland Redevelopment Agency, *Pre-Development Planning for the Oakland Army Base Gateway Development Area*, Figure 3-1, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/dowd007624.pdf (last accessed April 4, 2017).

C. The City's Port Expansion and "Gateway Development", or 'Oakland Global", Approvals

The land uses proposed in the City's 2002 Redevelopment Plan included a "tech park" comprised of R&D office buildings, and light to moderate industrial and retail development including big box retail stores, hotels and a Cineplex.[63] These land uses did not include as the predominant use for the area the type of heavy industrial, large-scale warehouse, shipping, distribution and maritime activity that the City began to consider through its subsequent negotiations with Prologis and CCIG. Yet, in 2012, the same year the City received its $2 million comprehensive TIGER 2 planning grant from DOT, the City approved the "Oakland Army Base: Outer Harbor Terminal Project" and executed an exclusive development agreement with Prologis and CCIG to expand port-related maritime activities at OAB.[64] Rather than conduct a new environmental review, however, the City re-approved its decade-old environmental review document that the City's staff presented to the Council as a mere addendum to the EIR analysis prepared and approved in 2002.[65] Rather than designing new and more appropriate mitigation corresponding to the City's new development proposals, the City also claimed that specific mitigation would be determined at a later date, when specific projects were approved.

To give an example of the drastic deviation the City took from its prior approvals, the City's 2012 Redevelopment Plan for the Outer Harbor Terminal Project involved approximately 2.5 million square feet of warehouse/distribution and maritime-related logistics uses, as compared to only 175,000 square feet of office/R&D, where as its 2002 approvals involved only 300,000 square feet of warehouse and distribution development and approximately 1.5 million square feet of office/R&D. [66]

Unsurprisingly, BAAQMD as well as other agencies including ARB, as well as West Oakland residents expressed their concern with the City's proposed "Outer Harbor Terminal Project," which soon simply became known as the Gateway or Oakland Global Logistics Center development project. BAAQMD in particular encouraged the City to analyze how its new development plans would impact future residents near new and existing sources of pollution, and

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[63] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Attachment B, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

[64] *See*, Development Agreement By and Between the City of Oakland and Rpologis CCIG Oakland Global LLC, Regarding the Property and Project Known as "Gateways Development/Oakland Global, dated July 16, 2013, available at: http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak055211.pdf (last accessed, March 30, 2017).

[65] *See, ibid.* ("The primary difference between the 2012 Project and what was proposed for the same geographic location in the 2002 Project is a shift from office R&D to a greater amount of warehouse distribution and maritime logistics uses as the predominant use.")

[66] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

provided specific suggestions for doing so.[67] But the City refused to conduct an additional impact analysis, again claiming that it was appropriate to defer any such analysis to a later time, and a later approval.[68]

On December 4, 2013, the City approved an "Army-Base Construction-Related Air Quality Plan," purporting to address construction related impacts but again declining to analyze or mitigate impacts from the long-term operation of the Gateway development projects, or the cumulative construction and operation of the related additional Gateway development projects. The City again received letters from BAAQMD and other agencies, identifying shortcomings in the City's proposed mitigation set forth in the "Construction-Related Air Quality Plan."[69] The City again refused to incorporate the types of analysis or mitigation suggested by the agencies.

Most recently, on October 4, 2016, the City approved an additional Northeast Gateway construction management plan allowing Prologis and CCIG to begin construction at the Northeast Gateway site on November 1, 2016, and to eventually operate a global trade and logistics complex that is worlds different than what the City proposed and approved in its initial land use decisions relating to the OAB, and greater "Redevelopment Area." After the City approved this most recent construction management plan, Prologis issued three "45-day notices" in the month of February, 2017, which relate to three additional air quality plans currently under review by the City: (1) an operations air quality plan for the Northeast Gateway project, which was issued on February 2, 2017; (2) a "Construction and Operations" air quality plan, for the Southeast and Central Gateway Projects, issued on February 3, 2017; and (3) a "Phase 3 Construction" air quality plan, issued on February 9, 2017. To this day, neither the City nor Port has updated the cumulative air quality analysis to analyze or mitigate, in a meaningful manner, the ongoing air pollutant emissions from the construction and operation of the full Gateway, or Oakland Global Logistics Center development project.

IV. LEGAL BACKGROUND

DOT regulations implementing Title VI state that "[n]o person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies." 49 C.F.R. § 21.5(a).

These regulations also include the following prohibitions of specific discriminatory acts by recipients of federal funds:

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[67] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: West Oakland Specific Plan Notice of Preparation of a Draft Environmental Impact Report* (November 21, 2012).
[68] *See* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, pp. 4-21 to 4-22 (May 2014).
[69] *See, generally*, Rachel Flynn, Director, Department of Planning and Building to Deanna J. Santana, City Administrator, *Subject: Approval of Army Base Construction-Related Air Plan* (December 4, 2013), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak044541.pdf (last accessed April 4, 2017).

> (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program. . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.
>
> (3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

49 C.F.R. § 21.5(b).

> A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.

49 C.F.R. § 21.5(d).

EPA regulations implementing Title VI state that "[n]o person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, [or] national origin[.]" 40 C.F.R. § 7.30. The regulations also provide a non-exclusive list of specific, prohibited discriminatory acts:

> (b) A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.
>
> (c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

40 C.F.R. § 7.35.

These regulations make clear that discrimination on the basis of race is a violation of Title VI whether it is the purpose of the decision or its effect. 49 C.F.R. § 21.5(d); 40 C.F.R. § 7.35(c).

V. VIOLATIONS OF TITLE VI

A. Discriminatory Acts

The City's approval of the Northeast Gateway Construction Management Plan on October 4, 2016 is the latest example of the City and Port's discriminatory actions regarding the development and expansion of harmful freight activities at the Port and OAB. The approval is part of a continuing pattern of actions utilizing criteria and methods that have the purpose or effect of subjecting the surrounding community of color to the disproportionate externalities of that freight activity.

Since 2012, the City, in particular, has sought to abandon the original commitment to develop the OAB in a way that would benefit the surrounding community. While the WOCAG was asked to provide input on recommendations for development early in the OAB Redevelopment process, the City proceeded with its own negotiations to expand freight-related activities notwithstanding the community recommendations, and notwithstanding the fact that such activities would add to the impacts on the already overburdened surrounding communities of color. The City has also consistently refused to consider the input of advisory and stakeholder groups including the WOCAG, who urged the City to prioritize development proposals that would result in less truck traffic through West Oakland.[70] At each step of the way, the City has declined to analyze the impacts of expanded freight activities, and has declined to adopt specific mitigation by claiming that such analysis and mitigations were not required or that they would be addressed at a later point.

Since the abrupt change in the proposed OAB redevelopment plan in 2012, the community and concerned agencies have been demanding analysis of the impacts, and assurances that the effects of expanding freight activities will be mitigated. At each step, the City has declined to do any more than assure that the project will comply with existing minimum regulatory requirements.

In 2013, BAAQMD wrote to the City to highlight the City's lax mitigation measures for the OAB redevelopment project, pointing out that the City's plan for reducing construction emissions from the OAB included mitigation measures with easy loopholes for industry. The plan required lower-emitting equipment to the extent that it was "readily available" in the Bay

[70] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).

Area.[71] The BAAQMD noted that "the Plan does not include any guidance on how it will be determined if the equipment is 'readily available' or 'cost effective.'"[72] BAAQMD concluded its letter with a list of specific recommended requirements for all OAB construction activity. But the City declined to make any of the recommended changes.

In 2014, both BAAQMD and the Alameda County Public Health Department submitted letters raising new concerns with the City's planning activities. The Alameda County Public Health Department's letter urged the City to strengthen the proposed mitigation measures, because "[impacts from development at the Port and OAB] will further exacerbate existing health conditions in West Oakland."[73] BAAQMD contacted the City's Strategic Planning Division to recommend additional air quality controls, noting that the West Oakland community experiences a higher cancer risk than any other Bay Area community and compliance with minimum regulatory requirements will not be sufficient to reduce health risks in the community to a safe level.[74] Again, the City took no action.

In 2015, BAAQMD expressed concern about the Port's and the City's continued reliance on the environmental review conducted in 2002, and re-approved in 2012 as a basis for the continued expansion of port-related infrastructure development at OAB. Among other concerns, BAAQMD expressed serious trepidation regarding the facts that both the 2002 and 2012 reports were based on outdated national ambient air quality standards for fine particulate matter emissions.[75] In addition, the air quality analysis provided in the City's subsequent air quality management plan analyses only considered construction emissions, and not the long-term impacts from continued development at the Port and OAB.[76]

Most recently, in 2016, BAAQMD, ARB and WOEIP all submitted comments on the Northeast Gateway Construction Management Plan. In a letter addressed to the City, dated June 3, 2016, BAAQMD expressed its concern that, again, the City's proposed management plan exclusively dealt with the air quality impacts associated with construction, and failed to consider the long-term air quality impacts that would result from the project. BAAQMD also complained that even within its limited scope, the plan did not include air quality mitigation measures

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[71] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[72] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[73] Muntu Davis, Alameda County Health Care Services Agency, Public Health Department to Ulla-Britt Jonsson, City of Oakland, *Subject: Re: West Oakland Specific Plan Draft Environmental Impact Report and Public Health* (March 17, 2014).
[74] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: Draft Environmental Impact Report for the West Oakland Specific Plan* (March 20, 2014).
[75] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).
[76] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).

necessary to protect health.[77] ARB's letter similarly detailed recommendations for additional mitigation measures that ARB described as "critical to reducing emissions and protecting public health." WOEIP also urged the City to commit to mitigation to address the adverse impacts its approval would have on the surrounding community. These included installing solar panels on warehouses that will be constructed as part of the Gateway project development, and requiring zero-emission technologies for short-haul trucks, including drayage trucks, and cargo handling equipment.[78] Despite the fact that the mitigation measures requested were consistent with the City's minimal mitigation measures approved in 2002, the City declined to include any of the recommended mitigation.

This history of rejecting recommended mitigation is the product of a piecemealed process that denies meaningful public participation by narrowing the scope of the issues that will be considered at each step of the development approvals. When WOEIP raised concerns about the lack of zero-emission technology requirements for the Northeast Gateway project, and the failure to create an emission reduction plan for the development,[79] Prologis, the developer of the Northeast Gateway/Global Logistics Center project, argued that these concerns were not appropriate for the air quality plan under consideration, and that they could be raised when the Air Quality Operations Plan is developed.[80] As a result, the City Administrator dismissed the community concerns in the approved plan.[81] All involved in these approvals, however, know that the opportunities to mitigate emissions from operations will be limited by the physical projects that have been built as a result of the October 4, 2016 approval.

The October 4, 2016 approval demonstrates that the City's promise of future analysis and mitigation are empty. It is not sufficient to consider mitigation after construction is complete because mitigation must be designed into the project, prior to its construction. The October 4, 2016 approval, and subsequent initiation of construction at the Northeast Gateway site show that the City intends to allow development that will disproportionately impact the surrounding communities of color without mitigation. Whether purposeful or just in effect, the City's October 4, 2016 approval denied the benefits of redevelopment investments to the surrounding communities of color. This decision, like the various decisions that have preceded it, was made with the clear intention to streamline approval of expanded freight activities by setting up a process that precluded meaningful public participation. The decision also avoided mitigation requirements that would minimize or prevent impacts on the surrounding communities of color.

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[77] Jean Roggenkamp, Bay Area Air Quality Management District to Darin Ranelletti, City of Oakland, *Subject: Northeast Gateway Construction Management Plan* (June 3, 2016).
[78] Heather Arias, California Air Resources Board to Darin Ranelletti, City of Oakland (May 31, 2016).
[79] Margaret Gordon, West Oakland Environmental Indicators Project to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis* [sic] (May 23, 2016); Ditching Dirty Diesel Collaborative to Robbie Morris, California Air Resources Board (May 25, 2016).
[80] Cory Chung, Development Manager, Prologis to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: RE: DRX151553 – Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCA-MMRP Public Outreach Element (Mitigation Measure PO-1)* (August 30, 2016).
[81] Rachel Flynn, Director, Planning and Building Department to Sabrina B. Landreth, City Administrator, *Subject: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site,* p. 4 (September 8, 2016).

The City's October 4, 2016 approval is, moreover, a single component of the City's and Port's continuous, systemic pattern of approving, or directly engaging in, the expansion of port-related infrastructure development. This pattern will continue as the City and Port pursue their expansion goals in the OAB Gateway/Oakland Global Logistics Center development. This pattern of conduct results in direct and immediate adverse effects on West Oakland residents who are predominantly people of color, and therefore violates Title VI of the Civil Right Act of 1964.

B. Adverse Impacts

As outlined above, freight activity in and around the West Oakland community is responsible for a host of adverse impacts including elevated cancer risks, higher rates of asthma attacks, and disruption of the basic quality of life in the community.[82] The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan and the City's ongoing approvals of the construction and operations of the full OAB Gateway/Oakland Global Logistics Center development area will add to the already adverse impacts suffered by the surrounding community as a result of freight activities. The October 4, 2016 approval was the first approval of one of several components to the Oakland Global Logistics Center project. This approval provided the City with an opportunity to ensure that the project was designed, and would be built in a way to limit impacts on the surrounding community, but the City refused to ensure that adequate health and safety protections were in place before allowing the developers to break ground on November 1, 2016.

In its 2008 Health Risk Assessment, ARB found that on-road heavy duty diesel trucks were the largest source of cancer risk in the community, followed by ocean going vehicles, harbor craft, locomotives, and cargo handling equipment.[83] All of these sources are associated with the Port's, and now with the OAB's, expanded activities.

While ARB's assessment indicated that emissions would decrease in the future as a result of regulatory actions, the assessment estimated that even after emissions reductions, "the remaining cancer risk will [still] be greater than 200 in a million in the West Oakland community," and that any reduction in emissions would not resolve the disparate impacts that West Oakland residents face when compared to residents living elsewhere throughout the City or the County.[84] ARB's assessment recommended "collective and innovative efforts" at all levels of government to reduce emissions and improve health outcomes in West Oakland, including a

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[82] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[83] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2 (December 2008).

[84] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 4 (December 2008).

transition to clean technologies.[85] The City's approval of the Northeast Gateway Construction Management Plan, however, fails to provide any innovative or good faith effort to reduce emissions at and around the project. The City's approval does the opposite by rubber stamping the construction and operation of new large-scale port related infrastructure that will only exacerbate the existing pollution burdens West Oakland residents face.

The Alameda County Public Health Department urged the City to require a more comprehensive evaluation of, and mitigation for, the Northeast Gateway Project's increase in diesel emissions, which are also a major concern given the existing health burdens in West Oakland. Yet the City, as always, refused to adhere to the County Public Health Department's recommendations, and instead chose to adhere to its construction-only approval decision.

C. Disproportionality

The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan is the latest action by the City and Port to push through more freight-related development that already disproportionately impacts the communities of color in West Oakland. The Alameda County Public Health Department has found that racial disparities impact health outcomes throughout the county, and especially in West Oakland.[86] People of color are more likely to experience the negative health outcomes detailed above. As described by the Alameda County Public Health Department, "even at the same rung, African Americans typically have worse health and die sooner than their White counterparts. In many cases, so do other populations of color."[87]

As described above, West Oakland residents are also more likely to face decades of persistent poverty. Black people in Oakland are far more likely to be homeless than any other ethnic group.[88] These same factors are at play within West Oakland, a community that is predominantly populated by people of color. West Oakland faces higher rates of illness, crime, and higher death rates than predominantly White communities in Oakland. Residents of West Oakland face stresses that residents of other communities may never endure.

In recent years, various Bay Area media outlets have published heartbreaking stories of West Oakland residents who fear for their children's lives due to air pollution that triggers

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[85] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, pp. 4-6 (December 2008).

[86] *See* Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County – Executive Summary* (2008); UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, p. ES-2 (March 2010), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[87] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, pp. 7-8 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[88] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, p. 71, Figure 33 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

possibly fatal asthma attacks.[89] These media reports, as well as anecdotal reports that have been relayed to WOEIP staff, describe parents making the difficult decision to uproot their lives in West Oakland and move to communities that are less polluted and less disrupted by truck traffic.[90] People want to build communities that allow them to connect with their neighbors, to enjoy parks, and to send their children to play outside. The land gifts of the former OAB properties along with multiple federal grants were intended to spur redevelopment that would benefit the surrounding communities. Instead, the City and Port have decided to "double-down" on the harmful activities that created the current conditions in West Oakland. The City and Port have manipulated their decision-making processes to prevent public participation and avoid costly mitigation investments that might interfere with such development. The October 4, 2016 approval is the latest in a string of decisions that, in purpose or effect, are destroying the vision of a sustainable and healthy West Oakland that residents want to see, and forcing those residents, mostly people of color, to either bear the disproportionate burdens or pack up and move elsewhere.

D. Less Discriminatory Alternatives

Throughout the various actions outlined above, the City and Port have declined to accept recommendations from either the community or expert agencies on process, analysis, and mitigations. The following less discriminatory alternatives were available, and continue to be available to both the City and Port:

1. The City and Port have the option and opportunity, but have continuously refused, to engage the community in a meaningful process by which to receive and incorporate their input, including their opposition to the Gateway and Oakland Global Logistics Center development proposals, and the continued expansion of the Port's activities.

   Specifically, the City has the opportunity, but has refused, to send notifications regarding each of its piecemealed construction and operation related approvals to all neighborhood residents. The City has also failed to provide clear and consistent opportunities for neighboring residents to provide their input regarding the City's process for ensuring that the immediate community health and safety concerns from its development approvals are addressed.

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[89] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[90] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/; *See also* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, p. 4-6 (May 2014), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049140.pdf (last accessed April 4, 2017) ("While West Oakland's population has increased by nearly 2,000 people between 1990 and 2010 (at a rapid rate of 15%), the African American population of West Oakland has declined by nearly 5,000 people during the same time period.").

The City and Port also have the opportunity, but have refused, to post project-related approval documents at the various community organizations, institutions and gathering places around West Oakland, including but not limited to: the West Oakland Senior Center, city libraries, the West Oakland Youth Center and the Hoover Resident Action Council. The City has also refused to require the developers, Prologis/CCIG, to do the same.

The City has also consistently refused, despite being urged by various state, local, county and federal agencies, to convene a transparent interagency and community inclusive process by which to develop and implement a comprehensive assessment of the impacts caused by its land-use and development decisions at the Port and OAB and to both established and implement an updated mitigation, monitoring and reporting program that considers the level and extent of the full Gateway and Oakland Global Logistics Center and expanded Port operations.

2. The City has the option, but refuses, to consider the effects of the full operation of the Prologis and CCIG development of all three Gateway sub-areas prior to issuing its piecemealed approvals. The City and Port also have the option to update their analysis of impacts instead of relying on the outdated 2002 analyses for a redevelopment plan that was drastically different than the current development plans and approvals before the City.

3. The City and Port have had numerous opportunities, but have refused, to develop, or require the development of, a meaningful emissions reduction plan based on an accurate and updated assessment of the current and foreseeable levels of increased freight transport and other heavy infrastructure, maritime, shipping, distribution, storage and Port-related activities occurring at and along the Port and OAB including increases in rail and maritime emissions that are inconsistent with existing rail and maritime emission reduction standards.

4. The City and Port have had the option, but have failed, to produce or, at a minimum, require, a comprehensive truck management plan to address impacts from growing freight activities on the community of West Oakland.[91]

   Specifically, both the City and Port have had the opportunity to, but have refused, to develop any requirements for zero-emission technologies at OAB or the Port, which would alleviate some of the air pollution impacts of additional truck traffic in and near West Oakland neighborhoods. They have also refused to require stricter limits (e.g. two minute limits) on diesel truck idling times to address existing health burdens affecting West Oakland residents, and in particular school children throughout West Oakland.

[91] The Port's approval a drayage truck management plan for the Port fails to address the impacts that increased truck traffic has on the Port-*adjacent* roadways and trick traffic problems on off-Port property, e.g., the West Oakland community.

The City and Port also have the opportunity but refuse to require plug-in infrastructure as a design feature of all construction, for the Gateway and Oakland Global Logistics Center development to minimize emissions specifically caused by highly polluting refrigerated truck units serving the new Gateway developments.

The City and Port have also had the opportunity, but have refused, to engage in the planning, implementation and enforcement of Truck hauling routes that are designed to minimize community exposures to emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.

Both the City and Port have had the opportunity, but have refused, to enforce parking restrictions throughout the West Oakland residential community. The City has similarly refused to develop or require an enforceable West Oakland Truck Route as a part of its approved construction management Plan for the Northeast Gateway project, or as part of its ongoing approvals for the larger Gateway or Oakland Global Logistics Center project.

Both the City and Port have also had numerous opportunities, but have refused, to accept or apply for additional funding to support targeted emission reduction efforts at the Port, OAB and throughout West Oakland.

5. In large part due to their failure to require either a comprehensive truck management plan, or a meaningful emission reduction plan, both the City and Port have similarly refused to mitigate the negative air quality and resulting health impacts or other disruptions and adverse effects on the quality of life of West Oakland residents, caused by the continued increase in truck traffic to and from the Port and the OAB Gateway/Oakland Global Logistics Center properties.

VI. Relief

Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this complaint and investigate whether the City and Port have violated Title VI of the Civil Rights Act and its implementing regulations, and indeed whether they continue to violate Title VI of the Civil Rights Act.

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Complainant further requests that the City and Port be brought into compliance by: (a) requiring the City to withdraw its approvals of the Gateway construction management plans unless and until the City conducts a full review of the construction and long-term operation of all of the Gateway areas, and unless and until the City engages the surrounding community in a meaningful process by which to incorporate their input into new mitigation measures, emission controls, and conditions of approval for the development of the Gateway projects; (b) requiring the Port to coordinate with the City to develop a truly comprehensive truck management and Port emission reduction plan; and (c) Conditioning all future grants and awards from both EPA and DOT to both the City and Port on adequate assurances that the actions of both recipients will comply with Title VI as detailed above.

Sincerely,

Yana Garcia
Paul Cort
Attorneys for West Oakland Environmental Indicators Project

Adenike Adeyeye
Research and Policy Analyst

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San Francisco, CA 94111
ygarcia@earthjustice.org
pcort@earthjustice.org
adeyeye@earthjustice.org

Appointment

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/2/2017 1:25:48 PM
To: Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Burroughs, Marian (OST) [marian.burroughs@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Neal, Daria (CRT) [Daria.Neal@usdoj.gov]; iris.goldschmidt@usdoj.gov
CC: Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]

Subject: Oakland investigation next steps
Attachments: 2017-0213 Investigative Plan DRAFT 08.01.2017 .docx; Meeting Agenda 08.02.2017.docx
Location: DOCR Conference Room, W78-124 1200 New Jersey Ave SE

Start: 8/2/2017 5:00:00 PM
End: 8/2/2017 6:00:00 PM
Show Time As: Tentative

Recurrence: (none)

Attached is a draft Investigative Plan that we have put together. We can discuss it, and particularly the "roles and responsibilities" portion of it, at today's meeting. I've also included a draft agenda. For those coming in person, please allow a short period of time to go through security. I'll be waiting in the main lobby to escort everyone upstairs. My cell is Personal Matters / Ex. 6 in case you don't see me.

Conference Line/Code / Ex. 6

Good morning all:

The purpose of this meeting is to discuss our next steps in the Oakland investigation, and to begin a discussion on our respective roles and responsibilities here. DOT is currently drafting an investigative plan that we hope to be ready to share at the meeting as well.

Ryan

Oakland Joint Title VI Investigation Next Steps

DOCR Conference Room, W78-124
1200 New Jersey Ave, SE
Washington, DC

Conference Line/Code / Ex. 6

August 2, 2017
1:00pm – 2:00pm

I. Introductions

II. Roles and Responsibilities for DOT and EPA

III. Investigative Plan

IV. Open Discussion

V. Next steps

VI. Conclusion

Message

From: Temple, Kurt [Temple.Kurt@epa.gov]
Sent: 1/16/2018 11:04:22 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: FW: R9/ECRCO call

Lilian: FYI- see below. Kurt

-----Original Message-----
From: Grow, Richard
Sent: Tuesday, January 16, 2018 4:17 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Subject: R9/ECRCO call

Hi Kurt, thanks for the update. Alexis and I would like to have a call with you and Lilian if at all possible later this week, preferably Friday. This wouldn't be the full "team" but hopefully a frank chat about tactics and touching on the concerns raised in my note below. Please let me know if this would work for you and Lilian.

Richard

-----Original Message-----
From: Grow, Richard
Sent: Friday, January 12, 2018 10:55 AM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Subject: W.O. status check, fallback ?

Hi Kurt -

Deliberative Process / Ex. 5 Law Enforcement 7a

Richard
cell: Personal Matters / Ex. 6

Message

From: Strauss, Alexis [Strauss.Alexis@epa.gov]
Sent: 7/18/2017 10:57:57 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: Fwd: This army base once drove West Oakland's economy. Now it drives discrimination.

Begin forwarded message:

From: "Nazmi, Niloufar" <Nazmi.Niloufar@epa.gov>
To: "Grow, Richard" <Grow.Richard@epa.gov>, "Israels, Ken" <Israels.Ken@epa.gov>, "Zito, Kelly" <ZITO.KELLY@EPA.GOV>, "Strauss, Alexis" <Strauss.Alexis@epa.gov>
Cc: "Adams, Elizabeth" <Adams.Elizabeth@epa.gov>, "BANDROWSKI, MIKE" <Bandrowski.Mike@epa.gov>, "Lakin, Matt" <Lakin.Matthew@epa.gov>
Subject: This army base once drove West Oakland's economy. Now it drives discrimination.

FYI

This army base once drove West Oakland's economy. Now it drives discrimination.

By Emma Foehringer Merchant on Jul 18, 2017
Part of a series on communities overcoming obstacles to become cleaner and greener.

A veil of dust covers the windowsills of Ray Kidd's home. Outside, in his backyard, particles coat a lemon tree, sticking to the fruit's pimpled, yellow skin.
"Diesel pollution," says the 72-year-old Kidd, who has lived in West Oakland since 1973. "It's just pervasive." Across town, close to Lake Merritt — a more affluent part of the city — his mother's backyard lemon tree grows untarnished.
West Oakland sits directly across the water from San Francisco, putting it effectively in the center of the Bay Area. It's bounded on all sides by freeways — the 880, 980, and 580 — and hugs the Port of Oakland. The bustling docks hold the distinction of being the city's economic heartbeat, and its worst enemy.
Adjacent to the port is the former Oakland Army Base. The outpost was once "a city within the city," says community activist Margaret Gordon, who lives nearby. It provided jobs and services, giving residents a reason to look past the diesel fog that spewed into the air from the base, the port, and the trucks that served each.
The base shuttered in 1999. For more than a decade, both the port and the city of Oakland, which divided the land, have contemplated how to use the 310 acres — twice the area of the Washington Mall. The city has considered a Costco, a casino, and an auto mall. At one point the famous Wayans brothers even proposed a movie studio and amusement park.
The city and port eventually settled on a mix of warehouse complexes and shipping infrastructure that will expand the capacity of the port — currently the fifth busiest in the country.

Reuters / Beck Diefenbach

Many residents, including Kidd, saw the redevelopment as an opportunity to invest in West Oakland, where more than 30 percent of the residents live in poverty. "It seemed like the most reasonable thing to do," says Kidd, who is part of the West Oakland Community Advisory Group.

But more warehouses and shipping mean more trucks, and that all leads to more pollution. Other residents opposed a plan that presented further risks to their health; West Oakland already has some of the highest asthma rates in the state.

Now that construction has started, it might be too late, says Brian Beveridge, who has lived in the area since being driven out of San Francisco by rising rents in the late '90s. Local activists say their concerns about the redevelopment project continue to fall on deaf ears.

"Having a seat at the table doesn't really mean anything," Beveridge says, if decision-makers don't listen. "That just means they let you in the room."

This spring, the West Oakland Environmental Indicators Project, a community group cofounded in 2004 by Beveridge and Margaret Gordon, reached its breaking point.

In April, the group filed a federal civil rights complaint against the city and the port. Aided by attorneys at Earthjustice, the group alleged that the city of Oakland has, for decades, systematically ignored input from West Oakland residents, favoring industry over the community's health.

Under Title VI of the U.S. Civil Rights Act, entities that receive money from the federal government, like the port and the city, cannot discriminate on the basis of race, color, or national origin. The Environmental Indicators Project claims that both the port and Oakland have violated that tenet by neglecting the concerns of residents in this historically African American enclave.

Eighty-five percent of West Oakland's approximately 40,000 residents are people of color. For decades, they have coped with the fine diesel soot on their windows, fruit trees, and, more importantly, in their bodies. The number of emergency room visits due to asthma in West Oakland is nearly two times the rate of Alameda County as a whole. Three generations of Gordon's family have asthma. And Kidd talks about his neighbor's daughter, whose breathing is fine when she stays with her mother in San Leandro, a city to the south of Oakland. But when she's in West Oakland, she has to use a special device to help her breathe.

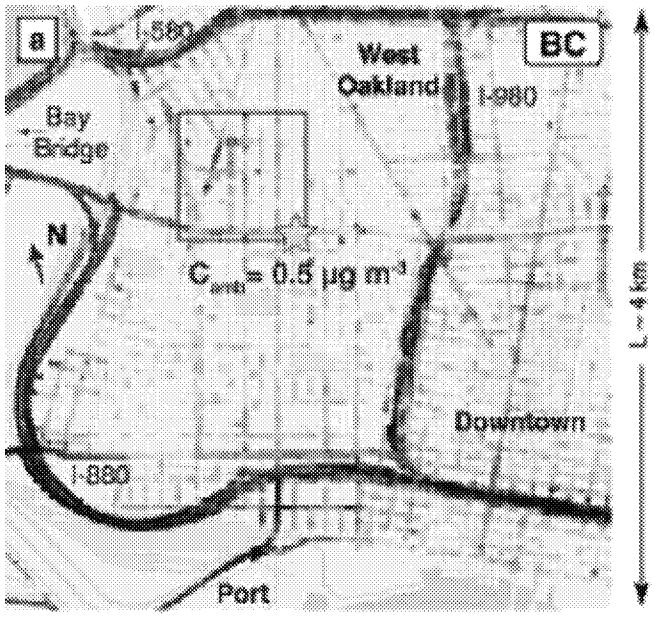
Margaret Gordon Encore.org

"It's a widespread problem," said Kidd, who doesn't experience breathing issues. "All you can do is sympathize."

Air pollution-related deaths from heart disease, stroke, and lung cancer are higher in West Oakland than in both the city and county. A white child growing up in the Oakland Hills, living on its winding streets overlooking the Bay, can expect to live more than 12 years longer than a black child born in West Oakland, part of the city's "flatlands."

"West Oakland wasn't a place that people were standing in line to live," says a nearly 100-year-old member of the community advisory group who has lived in the area for more than a half-century (and asked to remain anonymous). She attributes a lot of the health problems in West Oakland to activity at the army base.

But it was just the beginning. In 1957, freeway construction obliterated whole blocks and physically divided the area. Over the next two decades, a giant post office distribution center and an elevated Bay Area Rapid Transit station wiped out more homes and businesses, including many along historic 7th Street.



A study mapped the prevalence of black carbon in the air around the Port of Oakland. The highest concentrations, denoted in black, are at the interface between the port and the community of West Oakland. American Chemical Society

Today, while the shells of former warehouses have become art collectives, heavy industries like metal recycler Custom Alloy Scrap Sales, which Beveridge says supplies high-end car manufacturer Tesla, operate catty-corner from homes. And the port keeps hauling in cargo — 2.37 million 20-foot containers in 2016 — and shuttling trucks through West Oakland's neighborhoods and onto the freeways.

The proximity of industry to homes naturally has its hazards: A study released in June, which used Google Street View cars to monitor air pollution for a full year, identified hotspots of black carbon throughout West Oakland's neighborhoods. Black carbon is a tiny molecule found in soot, and a major contributor to climate change. In maps from the study, crimson lines denoting high black carbon levels follow the border that the port shares with adjacent communities.

Even after the closing of the army base nearly two decades ago, the port has continued to shuttle big money through West Oakland. But little gets reinvested in the local economy, says Beveridge. Truckers may stop at a repair shop or a convenience store, but residents say the traffic makes it difficult for local businesses to thrive.

"It's the economic engine of the region," Beveridge says. "It's just not the economic engine for West Oakland."

Before it closed, the army base — which at one point employed 7,000 people — provided plenty of jobs for locals. The city has estimated its redevelopment project would bring thousands of new opportunities to an area that desperately needs economic investment. But Beveridge, Gordon, and other residents worry that the promise of jobs is intended to assuage the community's environmental opposition. (Positions are not guaranteed to go to West Oakland residents though the city has a goal of hiring half employees from Oakland.) The city, the Environmental Indicators Project team asserts, refuses to adequately invest in a comprehensive analysis of the increased pollution from truck traffic and industry — or develop a plan for how to reduce emissions.

"I've seen the community used over and over again to get what other people want," says the anonymous community advisory member, who is in her 90s. "Most other people have been winners. We've been losers."

Other community members seem reluctantly supportive of any investment in West Oakland, even if it centers on industry.

Steve Lowe, a 77-year-old property developer and member of the community advisory group, says he's "more or less" happy with the army base plan. But he, too, recognizes the environmental challenges facing the area — and supports calls for more air-quality monitoring and pollution mitigation. It's not the first time the city has ignored input from West Oakland residents, he adds.

"Little by little," Lowe says, "the ideas that we wanted to see happen were compressed, or eventually cut out."

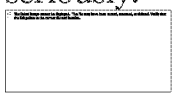
Oakland says it will use some federal funds for air-quality monitoring and environmental remediation. The last environmental review of the project, however, occurred before the city settled on logistics operations for its section of the site. Warehouses, like ports, attract a whole lot of vehicle traffic.

The mayor's office did not comment before this piece was set to publish. But Mike Zampa, a spokesman for the Port of Oakland, says that over the years, it has upgraded to newer, cleaner trucks and reduced vehicle-idling time, so its operations emit less. Some residents also mentioned improvement in recent years.

"These folks are our neighbors," he says. "We breathe the same air they do."

Apart from cleaner air, residents simply want to see some response to the public health concerns they've lodged over the years. The civil rights complaint asks the U.S. Department of Transportation and the Environmental Protection Agency to investigate potential discrimination. But under the Trump administration, the federal government's already dismal civil rights-investigation record is unlikely to improve.

Still, Earthjustice and the West Oakland Environmental Indicators Project say they're hopeful the complaint will jolt the city and port into taking their concerns more seriously.



Brian Beveridge stands at Middle Harbor Shoreline Park Grist / Emma Foehringer Merchant

On a sunny Friday in June, Beveridge drives me down to the port in his white Ford pickup truck. "Usually there's trucks in both lanes and in four directions," he says above a classical symphony on the radio, as we turn towards the ocean.
A few minutes later, we stop at 38-acre Middle Harbor Shoreline Park, a slice of picturesque land sandwiched between port terminals where cranes stack royal blue, mustard, and rust-colored corrugated containers. The port built the park as part of its "Vision 2000" initiative, during an earlier expansion of operations. It opened in 2004.
"As beautiful as it is," Beveridge says, standing in the grass and looking across the water to San Francisco, "it couldn't be more surrounded by the port."

http://grist.org/justice/an-old-army-base-could-mean-new-pollution-for-beleaguered-residents-of-west-oakland/

Niloufar Nazmi
Air Division, EPA Region 9
Desk: 415-972-3684; Cell: 415-328-1143

Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 4/5/2017 9:39:23 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Covington, Jeryl [Covington.Jeryl@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]
Subject: RE: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Great, we'll be in touch

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, April 05, 2017 5:38 PM
To: Fitzpatrick, Ryan (OST)
Cc: Rivera, Yvette (OST); Covington, Jeryl; Temple, Kurt; McGhee, Debra
Subject: RE: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Sounds good! I am out between 4/10 and 4/19 so if you need to talk before the 20th, please reach out to Kurt who will be acting for me. Kurt knows the background on this too re the Oakland Army Base. Thanks!

Lilian Sotolongo Dorka
Director, External Civil Rights Compliance Office
EPA, Office of General Counsel
202-564-9649
WJC-N Room 2450

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, April 05, 2017 5:35 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Subject: RE: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Thanks Lily, we'll need to talk soon. We can bring you all up to speed on this, as I've been working on the issues in here for a while now.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Wednesday, April 05, 2017 5:33 PM

To: Fitzpatrick, Ryan (OST)
Cc: Rivera, Yvette (OST); Covington, Jeryl; Temple, Kurt; McGhee, Debra
Subject: FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Hi Ryan, hope you are well! Thanks for sending this to me as I don't think anyone here has received it. We will process accordingly and, as it's addressed to both agencies, we will coordinate on how to review and possibly accept, etc. Thanks! Lily

Lilian Sotolongo Dorka
Director, External Civil Rights Compliance Office
EPA, Office of General Counsel
202-564-9649
WJC-N Room 2450

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, April 05, 2017 3:28 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>
Subject: FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Hey Lilian:

I hope all is well. This complaint came in last night, but it was addressed to Velveta so I wanted to make sure that you saw it. The reference to "re-serving" has to do with an e-mail sent earlier yesterday, which they attempted to recall and replace with this one.

Thanks,

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Rikki Weber [mailto:rweber@earthjustice.org]
Sent: Tuesday, April 04, 2017 9:11 PM
To: Daria.neal@usdoj.gov; Title_VI_Complaints@epa.gov; Fitzpatrick, Ryan (OST)
Cc: Yana Garcia; Paul Cort; Adenike Adeyeye; Rikki Weber
Subject: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Counsel,

Please refer to this re-formatted copy of the previously served complaint.

Rikki Weber
Litigation Assistant
50 California Street, Suite 500
San Francisco, CA 94111
T: 415.217.2000
F: 415.217.2040

www.earthjustice.org

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Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/16/2017 12:52:30 PM
To: Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Rivera, Yvette (OST)
Sent: Wednesday, August 16, 2017 8:37 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Let's try that. Thank you for coordinating.

From: Fitzpatrick, Ryan (OST)
Sent: Wednesday, August 16, 2017 8:36 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

It doesn't look like we have much of a choice. I can tell Michele at the Port that if they can't come next Wednesday the 23rd, then it will have to wait until after Labor Day. Maybe they'll choose to eschew the City and come the 23rd, or maybe the City will change its schedule.

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering is week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> **From:** Fitzpatrick, Ryan (OST)
> **Sent:** Tuesday, August 15, 2017 3:57 PM
> **To:** 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
> **Subject:** RE: Meeting Week of 8/28/17?
>
> Yes. But we'll need to push this back
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> **From:** Rhines, Dale [mailto:rhines.dale@epa.gov]
> **Sent:** Tuesday, August 15, 2017 3:56 PM
> **To:** Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
> **Subject:** RE: Meeting Week of 8/28/17?

Just to clarify, we are talking about August 31 or September 1 at this pont,correct?

From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Tuesday, August 15, 2017 3:51 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Next Thursday or Friday does not work. I will be out on training.
<image001.png>

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:40 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)
Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights

Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

Appointment

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/2/2017 12:43:10 PM
To: Jang, Deeana (OST) [deeana.jang@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Burroughs, Marian (OST) [marian.burroughs@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]

Subject: City and Port of Oakland complaint discussion
Location: Teleconference

Start: 8/7/2017 7:30:00 PM
End: 8/7/2017 8:30:00 PM
Show Time As: Tentative

Recurrence: (none)

Good morning:

This meeting was requested by the attorneys representing the City and Port of Oakland. The purpose is to introduce ourselves and answer questions about our Title VI investigative processes.

Conference Line/Code / Ex. 6

Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 4/5/2017 7:27:37 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]
Subject: FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
Attachments: 2017-04-04 WOEIP Title VI Complaint Final Format.pdf

Hey Lilian:

I hope all is well. This complaint came in last night, but it was addressed to Velveta so I wanted to make sure that you saw it. The reference to "re-serving" has to do with an e-mail sent earlier yesterday, which they attempted to recall and replace with this one.

Thanks,

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Rikki Weber [mailto:rweber@earthjustice.org]
Sent: Tuesday, April 04, 2017 9:11 PM
To: Daria.neal@usdoj.gov; Title_VI_Complaints@epa.gov; Fitzpatrick, Ryan (OST)
Cc: Yana Garcia; Paul Cort; Adenike Adeyeye; Rikki Weber
Subject: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Counsel,

Please refer to this re-formatted copy of the previously served complaint.

Rikki Weber
Litigation Assistant
50 California Street, Suite 500
San Francisco, CA 94111
T: 415.217.2000
F: 415.217.2040

www.earthjustice.org

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ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

By electronic and certified U.S .mail

April 4, 2017

Attn: Ryan Fitzpatrick
Lead Civil Rights Analyst, Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, D.C. 20590
ryan.fitzpatrick@dot.gov

Attn: Velveta Golightly-Howell
Director, Office of Civil Rights
United States Environmental Protection Agency
U.S. EPA Office of Civil Rights (Mail Code 1201A)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
Title_VI_Complaints@epa.gov

Attn: Daria Neil
Deputy Chief, Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Daria.neal@usdoj.gov

Re: **Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d**

On behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP or "Complainant") submits this Complaint regarding the City of Oakland's ("City") pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB") while failing to ensure adequate health and safety protections for the surrounding community. Complainant also files this complaint against the Port and the Board of Port Commissioners (collectively referred to as "Port"), for continuously expanding the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation.

The City and Port have engaged in the activities described in this Complaint to manipulate decision making and push through harmful expansions of freight activities for decades. Both parties have refused to engage in a meaningful analysis or process by which to address the negative health and environmental implications of their actions. Time and time

CALIFORNIA OFFICE 50 CALIFORNIA STREET, SUITE 500 SAN FRANCISCO, CA 94111
T: 415.217.2000 F: 415.217.2040 CAOFFICE@EARTHJUSTICE.ORG WWW.EARTHJUSTICE.ORG

again, both the City and Port have dismissed the consistent input and opposition to their actions from directly impacted West Oakland residents, nearly 80% of whom are people of color, as well as from other agencies concerned about the problems such activities are creating.

The most recent example of the actions that are the subject of this Complaint is the City's approval of the first of a series of development-specific air quality management plans authorizing the construction of a new large-scale global trade and logistics development project located on OAB property. On October 4, 2016, the City Administrator approved a construction management plan for the Northeast Gateway development project site of the OAB, allowing developers, Prologis and the California Capital and Investment Group ("CCIG") to break ground on November 1, 2016, and begin construction for an expansive new warehouse and logistics development project – the "Oakland Global Logistics Center" – the full effects of which neither the City nor the Port have fully analyzed or addressed. This approval, and the City's continued authorization of new development and expanded activities at the Port and OAB create an unjustified disproportionate adverse impact on the basis of race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the implementing regulations of the United States Department of Transportation ("DOT"), 49 C.F.R. Part 21, and the United States Environmental Protection Agency ("EPA"), 40 C.F.R. Part 7.

Title VI prohibits entities receiving federal financial assistance from engaging in activities that subject individuals to discrimination on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Both the City and Port receive federal financial assistance from DOT, EPA and other federal agencies.[1] They are, therefore, subject to Title VI's prohibition against discrimination. The City and Port violate that prohibition by forcing through freight expansion projects that disproportionately subject the communities of color that surround both the Port and OAB properties to air pollution and other serious health threats on the basis of their race.

As an initial step in addressing the violations set forth in this complaint, Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this Complaint, and investigate whether the City and Port have indeed violated, and/or continue to violate Title VI of the Civil Rights Act and its implementing regulations in issuing their approvals to expand freight-related activities at the Port and OAB.[2] For reasons of economy, Complainant further requests that these investigations be consolidated and that EPA and DOT collaborate and coordinate the development and implementation of remedial approaches designed to address the City's and Port's violations. Because both the City and Port are most consistently funded by DOT in matters pertaining to the approvals and the activities at issue here, DOT is well poised to take the lead role at the federal level. Complainant also includes the Civil Rights Division of the Department of Justice in this Complaint, in anticipation

[1] While not the subject of this complaint, the Port, which operates as a fully independent department of the City, receives substantial federal assistance in the form of monetary grants and gifts consisting of real property from the Department of Defense, the United States Army, and the United States Department of Homeland Security.
[2] Complainant also specifically requests that if either DOT or EPA rejects this complaint, the other agency conduct an investigation alone or jointly with other federal agencies, as appropriate, in accordance with federal regulations. *See* 28 C.F.R. § 42.408(b) ("Where a federal agency lacks jurisdiction over a complaint, the agency shall, wherever possible, refer the complaint to another federal agency . . . .").

that they too would play an active role in coordinating these federal investigative and enforcement actions, consistent with the mission of the Federal Coordination & Compliance Section.

In order to remedy the violations set forth in detail below, Complainant requests that DOT and EPA condition all future grants and awards of federal funds to the City and Port on both entities furnishing adequate assurances that their actions with respect to the activities taking place at the Port and OAB properties will address disproportionate impacts on the surrounding community. Specifically, WOEIP requests that the City and Port implement and adhere to appropriately tailored, updated mitigation measures that will address the harmful externalities of the Port's industrial and freight activities – including any and all new and expanded activities occurring at the OAB – and that both the City and Port commit to a meaningful, continuous process for receiving and incorporating input from the West Oakland community.

I. PARTIES

A. Complainant

WOEIP is a neighborhood resident-led, community-based environmental justice organization located in West Oakland, California. The organization is dedicated to achieving healthy homes, healthy jobs, and healthy neighborhoods for all who live, work, learn and play in their community. Through engaging in research projects and participating in agency advisory committees as well as stakeholder groups, WOEIP focuses on leveraging community power to support residents in developing and achieving their own vision for healthy neighborhoods, which includes, among other things, clean soil and vibrant surroundings, clean air and clean water, and a resident-led comprehensive vision for redevelopment and economic revitalization in and around West Oakland.[3]

B. Recipients

The City is a municipal corporation, ordained and established under the California Constitution. *See* Charter of the City of Oakland art. I. § 100[4]; *see, also*, Cal. Const. art. XI, § 5. As such, the City has the right and the power to make and enforce all laws and regulations relating to its municipal affairs. Charter of the City of Oakland art I. § 106. The City is a recipient of federal funds, as detailed below.

The Port was established in 1927. It operates as a fully independent City department, created by the City pursuant to the City's governing charter. Charter of the City of Oakland art. VII, §700. In creating the Port Department, the City vested "exclusive control and management" of the Port in the Board of Port Commissioners, which is comprised of members nominated by

[3] *See* West Oakland Environmental Indicators Project website, *available at* https://www.woeip.org (last accessed, March 28, 2017).
[4] *Available at*: https://www.municode.com/library/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIIPOOA (last accessed on March 28, 2017).

the City's Mayor and appointed by the City Council. *Id.* §701. The Board of Port Commissioners has "complete and exclusive power" over the "Port Area." *Id.* All moneys appropriated by the Board and all revenue from the operation of the Port are under the exclusive control of the Board and are deposited in a special "Port Revenue Fund" in the City's treasury. *Id.* §§ 717(2), (3). Like the City, the Port is a recipient of federal funds, as detailed below.

II. JURISDICTION

The prohibition against racial discrimination set forth in Title VI applies to all recipients of federal funds: "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 200d. The acceptance of federal funds in itself creates an obligation on the part of the recipient to comply with Title VI and the federal agencies' implementing regulations.

As explained below, the City and Port are recipients of federal funds and implement programs or activities receiving continuous federal financial assistance. They are, therefore, subject to the requirements of Title VI and its applicable implementing regulations.

A. Program or Activity

Title VI defines a program or activity as "all of the operations of . . . a department, agency, special purpose district, or other instrumentality of a State or of a local government . . . any part of which is extended Federal financial assistance." 42 U.S.C. § 2000d-4a. Accordingly, if any part of a listed entity receives federal funds, the whole entity is covered by Title VI. *Ass'n. of Mex.-Am. Educ. v. California*, 195 F.3d 465, 474-5 (9th Cir. 1999), rev'd in part on other grounds, 231 F.3d 572 (9th Cir. 2000) (en banc).

The actions undertaken by the City and Port are taken as part of a program or activity because the City is its own municipal government entity, and the Port is a department of the City as set forth in the City's charter. Charter of the City of Oakland art. VII, §§ 700, 701. Indeed, the City created the Port's Board of Commissioners specifically to act for and on behalf of the City in any matter within the jurisdiction of the Board, which includes all areas that are part of the Port's operations. Charter of the City of Oakland art. VII, §701. Both the City and Port, including the Board of Port Commissioners, receive federal funds, as explained below.

The City Administrator is also appointed by the City's Mayor, subject to confirmation by the City Council, and is directly accountable to the Mayor's office. *See*, City of Oakland Municipal Code, Title 2, Ch. 2.29, sec. 170 (establishing the Office of the City Administrator). The Administrator is responsible for the day-to-day administrative and fiscal operations of the City, and directs City agencies and departments to ensure the goals and policy directives of the Mayor and City Council are implemented. *See, id.* The responsibilities of the Administrator's Office include: enforcing all laws, ordinances, and policies of the Council; attending all meetings of the Council, Council Committees, boards, and commissions; making recommendations to the Council concerning City affairs; controlling and administering the financial affairs of the City and keeping the Council apprised of these affairs; preparing or directing preparation of the plans,

specifications, and contracts for work the Mayor or Council may order; and coordinating all projects, policies, and directives assigned to the Administrator by the Council or by the Mayor.[5] Accordingly, the specific actions and approvals undertaken by the City Administrator are also part of a program or activity, as they are taken with the full authority of the City. As outlined below, the infrastructure, shipping, transport, and logistics programs and activities approved by the City, Port, and the City Administrator that are the basis for this Complaint receive federal financial assistance.

B. Federal Financing/Federal Financial Assistance

The City and Port receive federal financial assistance as defined in DOT's and EPA's Title VI implementing regulations.

1. DOT Funds Received by the City and Port

DOT regulations define "[r]ecipient" as "any State . . . or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State . . . to whom Federal financial assistance is extended, directly or through another recipient. . . ." 49 C.F.R. § 21.23.

In Fiscal Year (FY) 2010, the City of Oakland received a considerable Transportation Investment Generating Economic Recovery (TIGER) planning grant in the amount of $2 million to support the City's estimated $9,220,000 planning efforts for "sustainable transit oriented planning" at the "[OAB] Redevelopment Area."[6] According to the grant description, DOT's grant of these funds was aimed at aiding the City's development of "an Infrastructure Master Plan", and associated environmental review, "to direct needed utilities and roadway improvements for the former [OAB]."[7] The project considered under the terms of this grant also involved a "Specific Plan" and associated environmental review "to guide future development in West Oakland" and to specifically develop a framework for addressing "undervalued and blighted land in the West Oakland community" where the per capita income was, in that year, less than fifty percent of the county average.[8]

DOT has also awarded substantial TIGER funds to the Port. For example, in FY 2012 DOT awarded the Port approximately $15 million in TIGER grant funds to develop a new Port

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[5] City of Oakland, *City Administration: Welcome*, available at: http://www2.oaklandnet.com/government/o/CityAdministration/index.htm (last accessed March 30, 2017).
[6] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[7] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).
[8] *See*, United States Department of Transportation, *US DOT TIGER II Planning Grants, available at*: https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%202%20Planning%20GRANTS%20Highlights.pdf (last accessed March 30, 2017).

Rail Terminal serving Port property.[9] Moreover, DOT consistently funds the Port with large grants specifically intended for airport improvements. While these funds do not directly benefit the OAB properties at issue here, the duration and scale of this funding is important to note. The following is a list of DOT's airport improvement program grants to the Port between FY 2008 and FY 2016:

FY 2008 - $11,967,919
FY 2009 - $18,317,487
FY 2010 - $15,706,402
FY 2011 - $7,559,904
FY 2012 - $32,753,747
FY 2013 - $18,245,770
FY 2014 - $41,578,114
FY 2015 - $11,395,060
FY 2016 - $7,324,847

In FYs 2013 and 2014, the Port was also sub-granted $983,928 and $312,263, respectively, in funds originating from DOT, but awarded to the California Department of Transportation (Caltrans) to pay for ongoing operations at the Port.[10]

2. EPA Funds Received by the City and Port

Similar to DOT's regulations, EPA's Title VI regulations define a "[r]ecipient" as "any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient . . . ." 40 C.F.R. § 7.25.

Between FY 2006 and FY 2010, the City received two consecutive two-year block grants totaling $800,000 over the course of four years, from EPA, to ensure brownfield cleanup, including clean up in and around the community of West Oakland.[11]

Starting in 2013, EPA awarded the Port $282,293 to reduce air pollution from the Port's gantry cranes, through EPA's National Clean Diesel Reduction Program.[12] In FY 2014 EPA also

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[9] *See* United States Department of Transportation, *TIGER 2012 Awards, available at:* https://www.transportation.gov/sites/dot.gov/files/docs/fy2012tiger_0.pdf (last accessed March 30, 2017).
[10] USASpending.gov, *Recipient Profile: Port of Oakland, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2013 (last accessed March 30, 2017).
[11] *See*, USASpending.gov, *Recipient Profile: City of Oakland California, available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=137137977&FiscalYear=2010 (last accessed, March 30, 2017), and see USASpending.gov, *Award Summary: City of Oakland, available at*: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=14192643 (last accessed, March 30, 2017).
[12] *See*, USASpending.gov, *Award Summary: Board of Port of Commissioners of the Port of* [sic], available at: https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=12519152 (last accessed, March 30, 2017).

awarded the Port and additional $415,932 through the same program,[13] and in FY 2015, EPA granted another $133,639 to the Port, to support the Port's continued efforts to reduce air pollution from port-related operations.[14]

C. Timeliness

This complaint is timely because it is based on the City's and the City Administrator's continuous and ongoing approvals of a series of construction and operation management plans concerning the OAB "Gateway" Redevelopment Project, which is one part of a multi-stage large scale development project called the Oakland Global Logistics Center development, and is likewise part of the Port's continued expansion of its shipping, receiving, storage distribution and freight transport activities. Both DOT and EPA instruct Title VI complainants to file their complaints within 180 days of the alleged discriminatory act.[15] 49 C.F.R. § 21.11(b) (DOT Title VI regulations); 40 C.F.R. § 7.120(b) (EPA Title VI regulations).

On October 4, 2016, the City approved a construction management plan that allowed Prologis and CCIG to break ground on the Northeast Gateway OAB site on November 1, 2016.[16] The operation management plan for the Northeast Gateway project, and the construction and operation management plans for the remaining "Gateway" areas of the OAB remain subject to ongoing similar approvals from the City. The City's October 4, 2016 action is, therefore, one of many piecemealed development-related approvals that will continue to occur.

This complaint is timely because it is filed within 180 days of the City's October 4, 2017 approval and subsequent construction at the Northeast Gateway site. Moreover, because the actions alleged in this Complaint are part of a long history of discriminatory actions that are both ongoing, and slated to continue in subsequent approval processes, Complaint requests that DOT and EPA waive any potential objections related to the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

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[13] *See*, USASpending.gov, recipient profile for the "Port of Oakland" and "Board of Port Commissioners," FY 2014, DUNS no. 009235326, available at: https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2014 (last accessed, March 30, 2017).

[14] USASpending.gov, *Recipient Profile: Board of Port Commissioners of the Port of Oa* [sic], *available at:* https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2015 (last accessed, March 30, 2017).

[15] DOT and EPA, moreover, have the authority and the discretion to waive or extend the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

[16] *See,* Annie Sciacca, *Oakland Army Base redevelopment project breaks ground*, East Bay Times, (November 1, 2016), *available at:* http://www.eastbaytimes.com/2016/11/01/oakland-army-base-redevelopment-project-breaks-ground/ (last accessed, March 30, 2017).

D. Other Prudential Factors and/or Jurisdictional Considerations

This Complaint satisfies all other jurisdictional and prudential considerations laid out in both DOT's and EPA's regulations implementing Title VI. The Complaint also meets EPA's guidance set forth its Interim Case Resolution Manual.[17]

Specifically, this Complaint is submitted to both agencies in writing, by and on behalf of a Complainant group that is authorized to submit such a complaint to redress the adverse impacts this group experiences directly and which other, similarly situated residents also experience as a result of both the Port's and City's violations of Title VI.

DOT and EPA have subject matter jurisdiction over this Complaint because it alleges discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. This Complaint also contains unique civil rights allegations that have not been alleged in any court or administrative proceeding, and which are specific to the City's and Port's systemic pattern of issuing project approvals and/or engaging in activity at and surrounding the Port and OAB properties in a manner that causes disproportionate effects to the surrounding residential community, on the basis of race.

Moreover, this Complaint seeks unique relief from DOT and EPA — compliance with Title VI. Complainant asks DOT and EPA to investigate this Complaint and take steps to remedy noncompliance with Title VI by the City and Port, including conditioning any and all future federal funding. This relief is not available through other means.

III. FACTUAL BACKGROUND

A. The Residents and Community of West Oakland

1. West Oakland's History and Demographics

West Oakland is a diverse community with a rich history and a historically vibrant culture dating back to the late nineteenth century. In the 1800s and early 1900s, West Oakland was home to many European, Japanese, and Chinese immigrants, Mexicans, and a large number of African Americans who migrated from the South for jobs in the auto and rail industries. As military activities expanded at the OAB, and new job opportunities in the Port's shipyards increased, West Oakland experienced an even greater influx of mostly small-business growth,

[17] *See, e.g.*, United States Environmental Protection Agency, *Case Resolution Manual*, Chapter 2 (January 2017), *available at* https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf (last accessed, March 30, 2017).

which, in addition to the OAB's activities included many local shops that were owned by, and served, West Oakland residents.[18]

In the late 1900's, however, West Oakland experienced a decline in its relative economic vitality.[19] While it remains a mostly working-class community, the median household income in zip code 94607, which encompasses most of West Oakland today, is $35,837.[20] For comparison, the median income of Alameda County is $67,169.[21] Over 30% of individuals living in zip code 94607 live below the poverty level.[22] In Alameda County as a whole, only 13.5% of individuals live below the poverty level.[23] As *Figure 1* indicates, poverty has been a long term issue in West Oakland, with the entire community experiencing either persistent (five decades long), or frequent (three to four decades long), high poverty rates.

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[18] *See, e.g.*, Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Ch. 1.1 "[OAB] Location, History and Setting", p. 13 (July 31, 2012) (describing some of the historical background of the region, and in particular of the OAB, and its surroundings), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[19] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017); United States Census Bureau, *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[20] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[21] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

[22] United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, *available at* https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml (last accessed March 30, 2017).

[23] County of Alameda, CA, *Demographics, available at* https://www.acgov.org/about/demographics.htm (last accessed March 30, 2017).

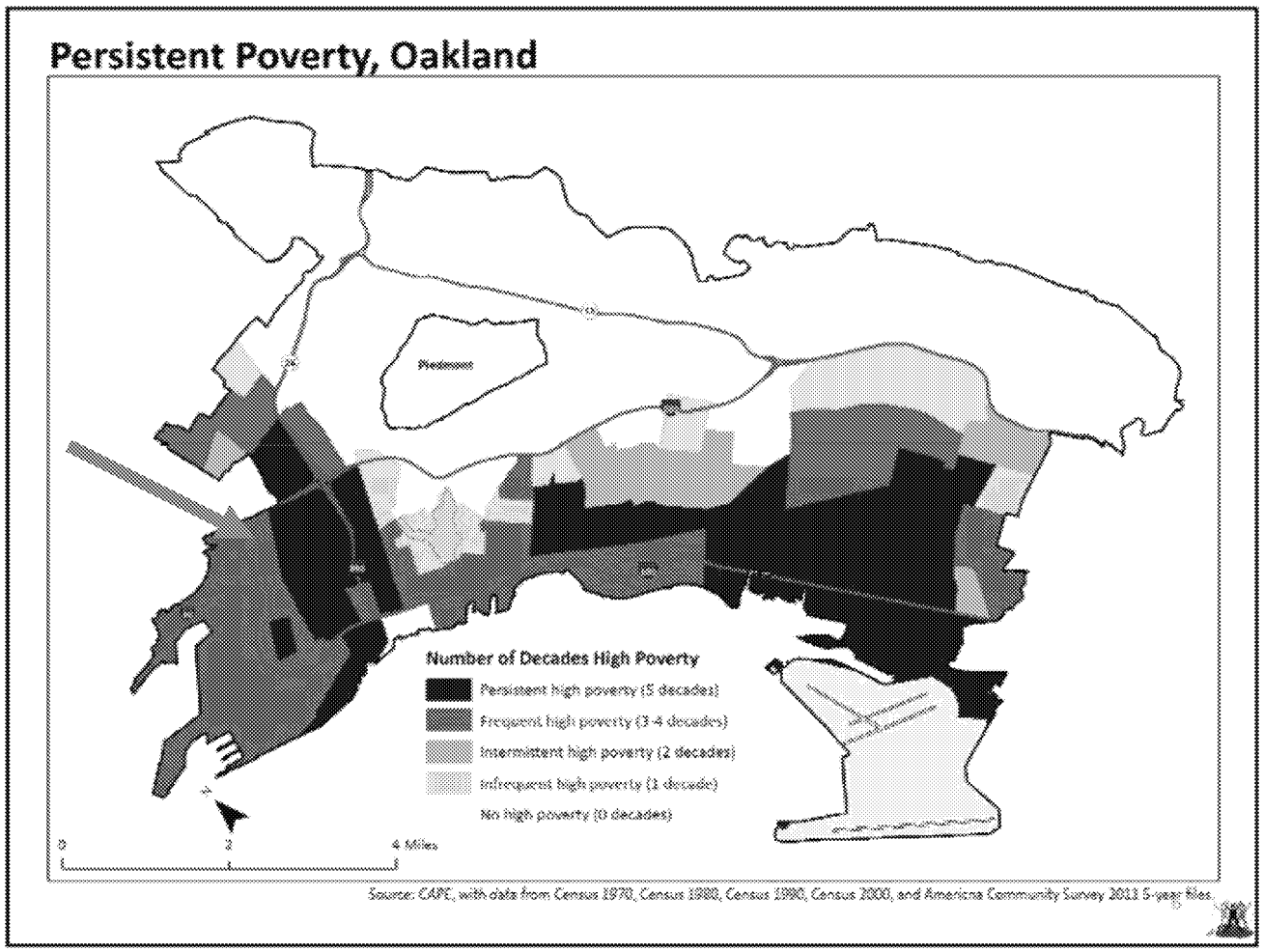

Figure 1 Map of areas of persistent poverty in Oakland (with arrow pointing to West Oakland).[24]

Most importantly for the purpose of this Complaint, and the allegations set forth herein, West Oakland remains primarily a community of color. Approximately 49 percent of West Oakland residents today are Black, 17 percent identify as Latino, 15 percent identify as White, and nearly 13 percent identify as Asian.[25] In Alameda County overall, 51 percent of Alameda County residents are White, only 12 percent are Black, 30 percent are Asian, and 23 percent are Latino.[26]

[24] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 6.
[25] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts,* West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 3.
[26] United States Census Bureau, *Quick Facts: Alameda County, California* (2015), *available at* https://www.census.gov/quickfacts/table/PST045216/06001 (last accessed March 30, 2017).

2. Health and Pollution Burdens Affecting West Oakland

The largely residential community of West Oakland is surrounded by the Port and OAB, and by freeways. Specifically, as shown in *Figure 2*, three interstate freeways, the I-580, I-880 and I-980 freeways, surround West Oakland with the Port and OAB surrounding the community to the West and South.

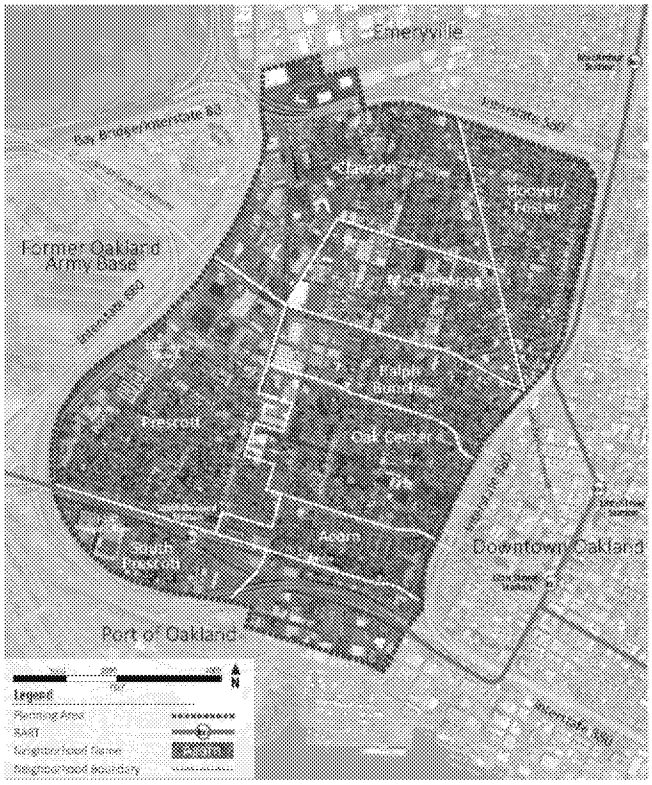

Figure 2 Map of the community of West Oakland.[27]

In addition to housing the Port, which is the fifth busiest container port in the United States, West Oakland is also home to two rail yards, with expansive and growing rail road tracks that are owned and operated by Union Pacific ("UP"), and the Burlington Northern and Santa Fe Railroad Company ("BNSF"). While not pictured above, West Oakland also has numerous trucking-based distribution centers and a host of related businesses including mechanical and body repair shops as well as large diesel gas stations that serve various activities taking place at the Port and OAB.

Thus, while this community has many aspects of unique physical beauty, including many nineteenth century Victorian-era historical buildings, an important and meaningful history, as

[27] City of Oakland, *West Oakland Specific Plan* (area map), *available at* http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/OAK028334 (last accessed, April 3, 2017).

well as vibrant cultural traditions, today, its residents experience an overwhelming and disproportionate burden of health and environmental risks caused by the activities surrounding their homes and schools. For example, the Oakland Unified School District (OUSD) has identified the three elementary schools, two middle schools, and three high schools located in West Oakland and serving the West Oakland community as showing the highest "environmental stress indicators" based on students' exposure to poor air quality and inadequate access to healthy foods, among other environmental risks.

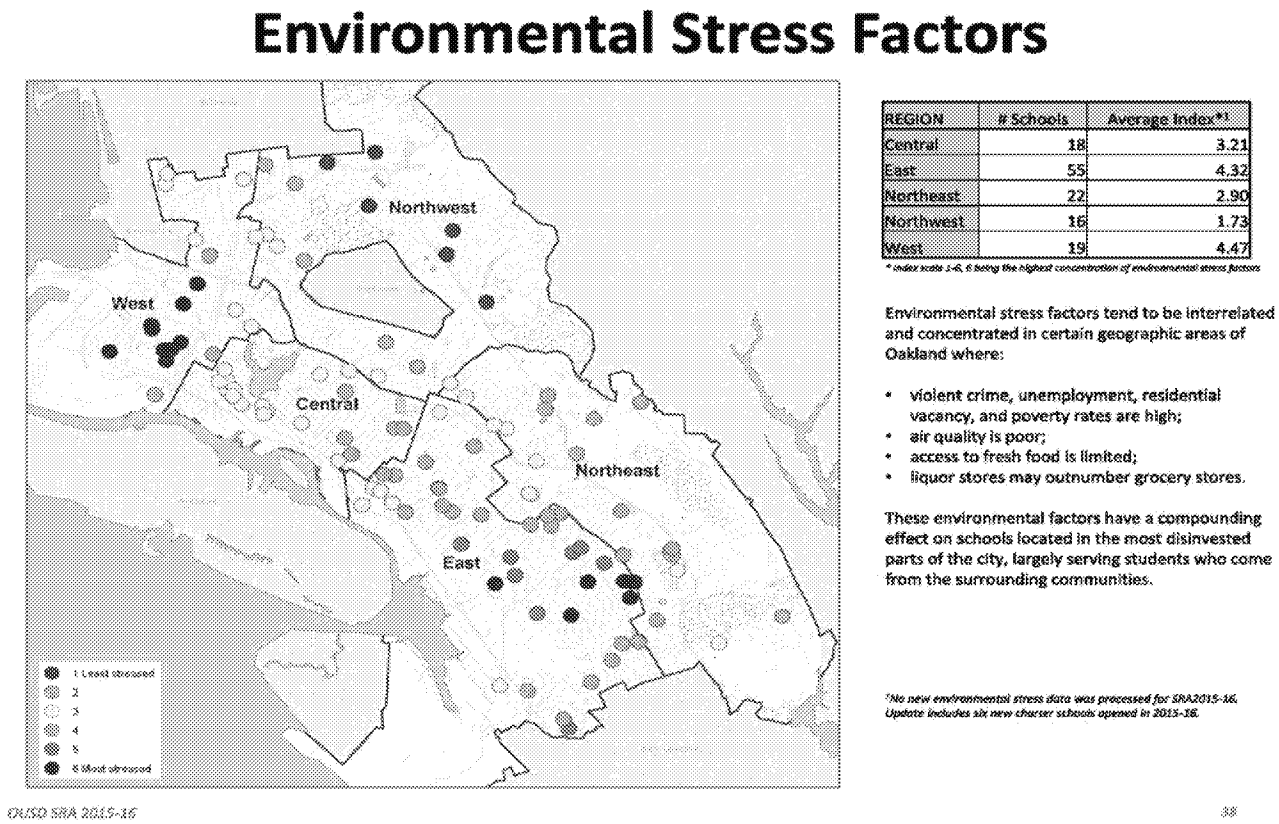

Figure 3 Environmental stress factors by school.

In addition, there are two preschools and at least one formal, reported day-care center, which, while not included in the OUSD map above, are located in close proximity to the Port and the

freeways surrounding West Oakland.[28] These childcare facilities are exposed to the same stress indicators, including poor air quality, as the OUSD-reported schools shown in *Figure 3*, yet with potentially even more devastating impacts, considering the age and size of the children attending these care facilities.

Notably, most of the pollution burden West Oakland residents shoulder directly results from the activities taking place at and around the Port and OAB. Trucks serving the Port bring heavy air pollutant emissions, including emissions of diesel particulate matter; the traffic they cause disrupts neighborhoods, and damages local streets that were not intended for heavy trucks.

Air pollution has been proven to cause and/or exacerbate respiratory and cardiovascular illness, and can trigger asthma attacks.[29] Diesel particulate matter emitted by heavy duty trucks and other freight vehicles and equipment like ships and trains, is a known carcinogen. The California Air Resources Board ("ARB") has found that West Oakland residents are "exposed to diesel particulate matter ambient concentrations that are almost three times the average background diesel particulate matter ambient concentrations in the [Bay Area Air Quality Management District]."[30] Indeed, West Oakland residents experience a lifetime potential cancer risk of 1,200 excess cancers per million due to diesel particulate matter emissions. In comparison, the ARB found an excess cancer risk due to diesel particulate matter of 480 excess cancers per million across the entire San Francisco Bay Area.[31] The risk that West Oakland residents face is nearly three times the risk that Bay Area residents generally face. Diesel particulate matter emissions from the Port alone are responsible for a risk of approximately 200 excess cancers per million.[32]

In 2008, the ARB conducted a diesel particulate matter Health Risk Assessment in West Oakland. The 2005 baseline emission inventory used in the assessment showed that heavy duty trucks accounted for 112 tons per year of diesel particulate matter emissions, or 13% of the total

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[28] Harriett Tubman Preschool is located on 3rd street, in the Hoover/Foster neighborhood of West Oakland, adjacent to the I-580 and I-980 intersections, which experience heavy traffic to reach the Port and Port facilities. See, map location, *available at*: https://www.google.com/maps/place/Harriet+R+Tubman+CDC/@37.8236086,-122.2731381,15z/data=!4m5!3m4!1s0x0:0x1b8f115e05028cb2!8m2!3d37.8236086!4d-122.2731381 (last accessed, March 30, 2017). The Baby Academy and Infant Day Care Center is also located in Wes Oakland's Prescott neighborhood, which is adjacent to the I-880 or "Nimitz Freeway" that feeds directly onto frontage roads serving the Port. See, map location, *available at*: https://www.google.com/maps/place/The+Baby+Academy+Infant+Care+%26+Preschool/@37.8094548,-122.2975516,15z/data=!4m5!3m4!1s0x0:0x891cc2ecd329e327!8m2!3d37.8094548!4d-122.2975516 (last accessed, March 30, 2017).

[29] Saffet Tanrikulu, Cuong Tran, and Scott Beaver, Bay Area Air Quality Management District, *Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area* (September 2011), *available at* http://www.baaqmd.gov/~/media/files/planning-and-research/research-and-modeling/cost-analysis-of-fine-particulate-matter-in-the-bay-area.pdf (last accessed March 30, 2017).

[30] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

[31] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 22, (December 2008).

[32] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

diesel particulate matter emissions inventory for the West Oakland area, with the remaining diesel particulate matter emissions coming from trains and ships serving the Port area.[33] An estimated 2,800 medium sized, short distance trucks, also known as drayage trucks, serve the Port of Oakland multiple times per week, and there are approximately 10,000 truck trips to and from the Port, with an additional 1,400 truck trips daily between the Port and distribution centers in West Oakland.[34] These figures are expected to grow as the Port expands, which will result in additional truck traffic through the West Oakland community. Further expansions of the Port's activities will bring more ships and more trains to the area, further elevating the amount of diesel particulate matter in the air throughout West Oakland, and increasing the resulting adverse health impacts affecting West Oakland residents.

As demonstrated through ARB's 2008 Health Risk Assessment, truck traffic hurts communities and makes it more difficult to build thriving, resilient neighborhoods. People living on busy streets, with trucks rumbling by frequently, are more reluctant to go outside to exercise; residents have fewer opportunities to meet their neighbors and to build a close-knit community within their neighborhood.[35] If they are parents they are also more reluctant to let their children play outside. Closely connected communities can provide important physical and mental health benefits;[36] truck traffic impedes these benefits for residents of West Oakland.

Moreover, while diesel particulate matter emissions from the Port alone are responsible for approximately 200 excess cancers per million,[37] West Oakland residents are consistently exposed to a variety of other, cumulative impacts that result in poor health outcomes in the community. All-cause death rates in West Oakland are higher than all-cause death rates in the city of Oakland overall.[38] As a result, West Oakland has one of the lowest life expectancies of all communities in Oakland (see *Figure 4*).

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[33] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 15, Table 3 (December 2008).
[34] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Air-6 (March 2010).
[35] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-9 (March 2010) (showing that communities with higher traffic volumes are not as close-knit as communities with lower traffic volumes).
[36] UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-10 – Transportation-11 (March 2010).
[37] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).
[38] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 13, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

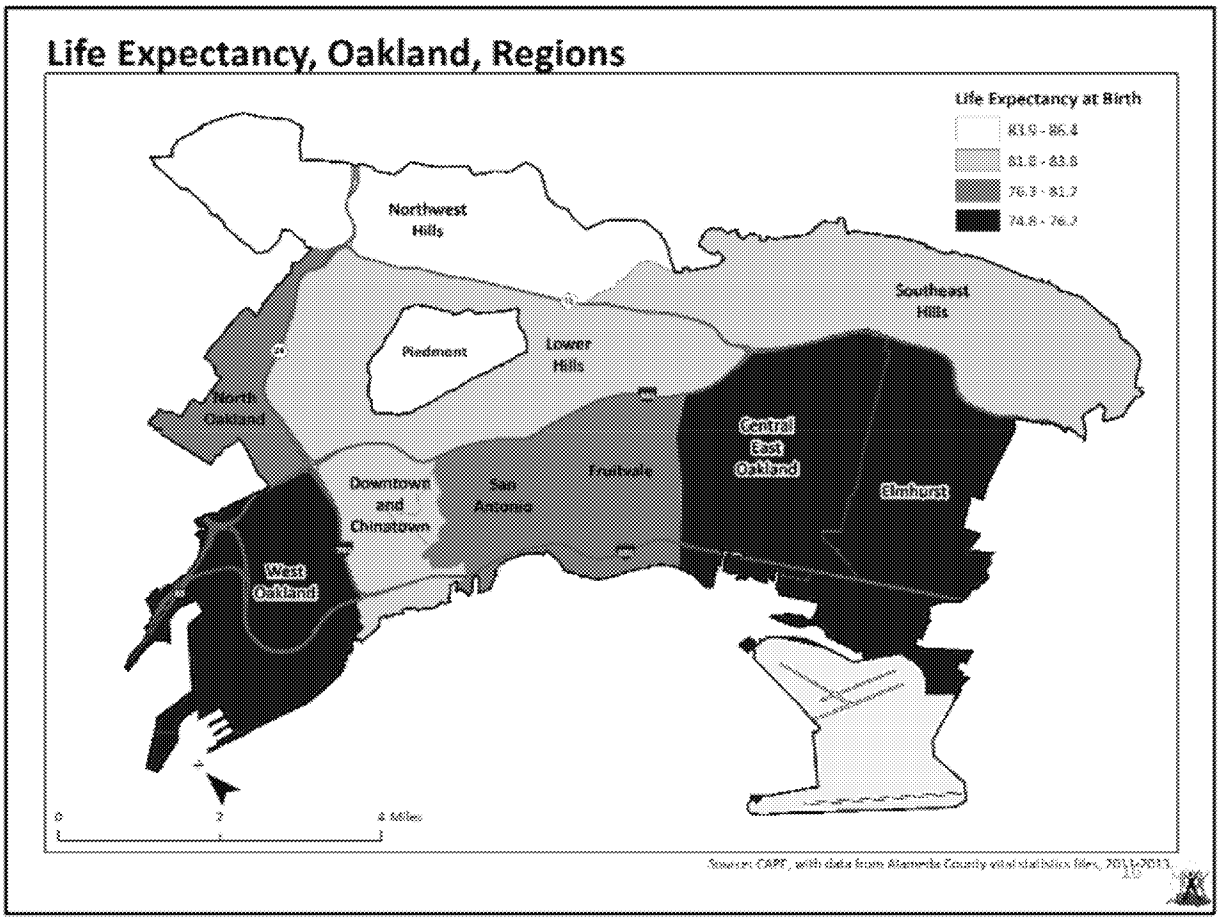

Figure 4 Life expectancies in Oakland's communities.[39]

When compared to other areas of Alameda County, West Oakland also has elevated rates of emergency room visits due to stroke-related and congestive heart failure hospitalizations, and asthma hospitalizations in children older than 5.[40]

B. History of the Port and Army Base

The Port is the fifth largest container port in the United States and the second largest in the State of California, behind the combined ports of Los Angeles and Long Beach. Established in 1927, the Port is home to 18 ship berths, 236 container cranes, two rail yards and approximately 500 pieces of cargo handling equipment, as well as 2,500 trucks. In 2016, the Port moved over 2 million 20-foot equivalent units of containers in and out of the Bay area.

[39] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 16, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).
[40] Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, pp. 9-12, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

OAB is a 425-acre facility located along the Oakland waterfront, just north of the Port and south of the eastern portion of the San Francisco Bay Bridge.[41] It was originally commissioned to serve as a United States Army base in 1941, and during World War II it developed to serve as a major cargo port.[42] Following the end of the war, OAB continued to serve as a shipping and rail terminal, providing logistical support for the subsequent Korean, Vietnam and Persian Gulf wars.[43] In 1995 the United States Defense Base Closure and Realignment Commission recommended closure of OAB, and it officially closed OAB's operations as an army base in 1999.[44]

Following its decision to close the base, the United States Department of Defense designated a local reuse authority – the Oakland Army Base Reuse Authority – as the entity charged with the oversight of all post-closure redevelopment at OAB.[45] In order to assist in informing and influencing the ongoing land use changes at OAB, prior to the completion of OAB's closure, the Reuse Authority established the West Oakland Community Advisory Group (WOCAG).[46] In line with its purpose, the WOCAG met for over ten years to discuss and present community recommendations relating to the new uses and businesses that would benefit West Oakland residents. These recommendations were collected, reviewed an compiled by the Redevelopment Agency until its dissolution, and they were, to an extent, incorporated into the early planning stages for the OAB closure.

In 2000, the Oakland City Council designated OAB and its surrounding properties as a "Redevelopment Area," then under the jurisdiction of the City's Redevelopment Agency, the Port and the County of Alameda, pursuant to a Joint Powers Agreement. The closure process was guided by a "Preliminary Redevelopment Plan" that was formulated with some early input from the WOCAG.[47] Pursuant to this "Preliminary Redevelopment Plan", the City broadly committed to the "redevelopment, rehabilitation, and revitalization of the area within the boundaries of the [OAB]" and its surroundings. [48] The City also sub-divided OAB into two general development areas, shown in *Figure 5*, below. The first was a 140-acre "Gateway Development Area," situated in the north and northwest portion of the sub-district, owned by the City and the OAB Redevelopment Agency. [49] The second was a 170-acre "Port Development

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[41] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Executive Summary, p. 1 (July 2012), *available at*: http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).
[42] *Id.*, p. 14.
[43] *Ibid.*
[44] *Ibid.*
[45] *Id.*, p. 15.
[46] *Id*, p. 16.
[47] *See* Redevelopment Plan for the Oakland Army Base Redevelopment Project, Adopted June 11, 2000, Amended and Restated on December 21, 2004 (Ordinance No. 12644 C.M.S.), and on June 7, 2005 (Ordinance No. 12672 C.M.S.), p. 2.
[48] City of Oakland, *Redevelopment Plan for the Oakland Army Base Redevelopment Project* (June 11, 2000)(Amended and restated December 21, 2004 and June 7, 2005), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak030544.pdf.
[49] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.

Area" located in the west and southeast portions of the OAB, owned and operated by the Port.[50] In addition to these two main sub-areas, the City also designated two additional sub-districts – the "Maritime" sub-district, which is comprised of 1,290 acres owned and operated by the Port; and the "16th and Wood" sub-district – an additional 41 acres owned by various private entities.[51]

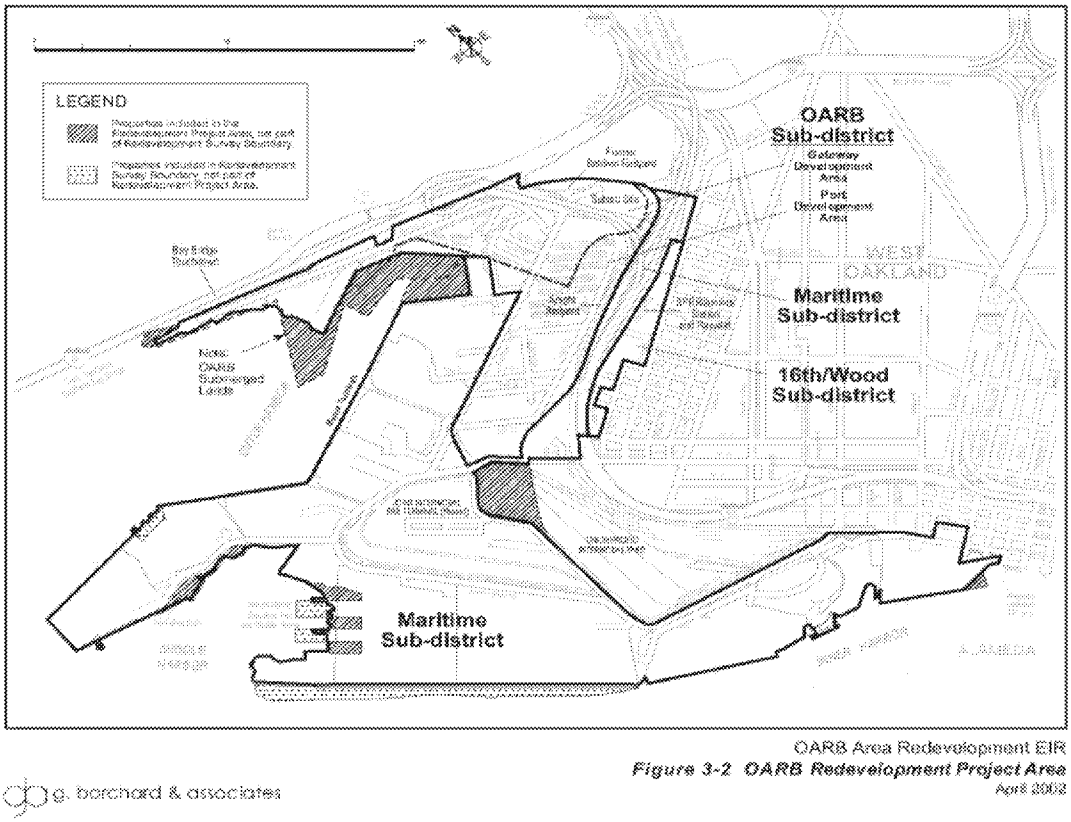

Figure 5 Oakland Army Base Redevelopment Area Sub-Districts, April 2002[52]

In 2002, the City approved a new and more detailed "Oakland Army Base Redevelopment Area Plan" and a supporting Environmental Impact Report (EIR) analyzing the effects of the OAB closure and the City's updated planning proposals for redevelopment on OAB property under the California Environmental Quality Act.[53] According to the City's 2002 approval, the Gateway Development Area would be redeveloped pursuant to a "flexible" alternative land use plan, which specifically contemplated the construction and operation of

[50] *See* LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf.
[51] *Id.*
[52] City of Oakland, *Oakland Army Base Project: Maps*, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/image/dowd007621.jpg (last accessed April 4, 2017).
[53] *See* Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, p. 1 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

waterfront light-industrial and flexible office space including research and development ("R&D") offices, as well as other "business-serving retail" and "high-end commercial development" spaces like a "Four Star Hotel."[54] While the 2002 plan also included some warehousing and distribution, as well as ancillary maritime support facilities, the majority of land uses specified in the plan consisted of light industrial development, so as to attract businesses focused on industries other than heavy freight industrial activities.[55]

Despite the generally beneficial land-uses considered and approved in the City's 2002 Redevelopment Plan approval, the community was concerned, at the time, that the Plan did not demonstrate an honest commitment by the City to redevelop the OAB in a way that would genuinely benefit surrounding residents in West Oakland. In 2002, the WOCAG issued recommendations in response to the City's EIR and proposed Redevelopment Plan, which expressed the community's concerns with the direction of the City's land use and planning decisions, and its displeasure with the way their recommendations had been treated up to that point.[56] Specifically, the WOCAG explained that the 2002 plan approval and related EIR did not provide enough detail regarding the City's proposed development plans to assure that the OAB redevelopment would confer tangible, direct community benefits.[57]

Just as feared by the community, as both the City and Port continued to receive federal land grants of former OAB land, they began discussions with potential developers seeking to expand Port-related freight activities at OAB, even though the approved Redevelopment Plan designated very limited land for such activities. Notably, these discussions were held while parallel discussions were still taking place among WOCAG members and City staff – thus, while the WOCAG was still developing its input on the OAB development process.[58]

Between 2006 and 2008, WOCAG continued to submit its recommendations to the City. During that time, the WOCAG focused its recommendations on the City prioritizing development proposals that result in less truck traffic through West Oakland, due to health

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[54] Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Section 3.2.1, p. 27 (July 31, 2002), *available at* http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829 (last accessed April 3, 2017).

[55] *Ibid.*; *see also*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 20, Table 2-1 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (comparing the land-use designations approved in 2002, with those considered and ultimately approved by the City a decade later).

[56] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002) (noting that "it is an insult to the many citizens of the City of Oakland who have given freely of their time and effort to serve the [Oakland Army Base Reuse Authority] and the City of Oakland in the base conversion process [only] to have their efforts ignored and not evaluated in this EIR").

[57] George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002).

[58] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, pp. 4-5 (June 2008).

impacts many residents were already facing due to the Port's growing activity.[59] WOCAG wanted businesses such as truck servicing and truck parking to be relocated out of the community, and to "leave their former sites available for more appropriate, i.e. lower impact commercial use."[60]

Notwithstanding the input received from WOCAG, however, the City continued its discussions with Prologis and CCIG, and began negotiating an agreement with the developers, to build a large-scale warehouse and shipping development project for portions of all three sub-districts created under the City's prior approvals, which became jointly termed, the "Gateway Development Area," pictured in *Figure 6*, below.[61]

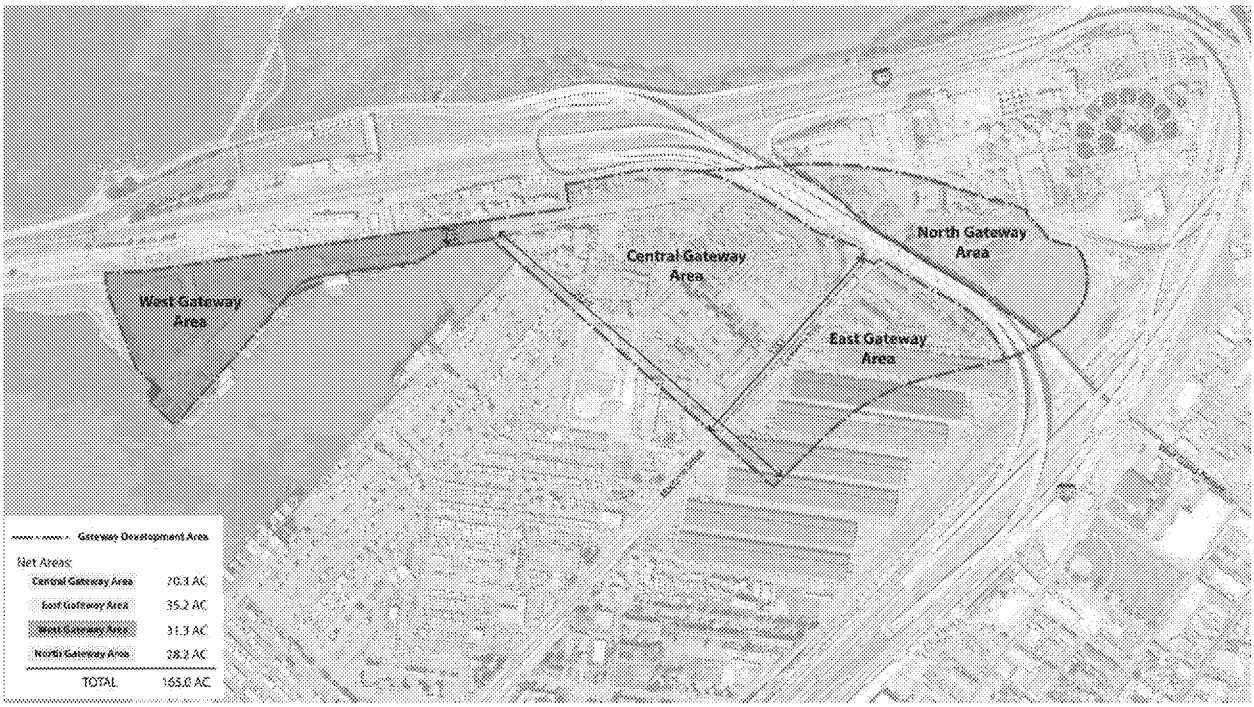

Figure 6 Gateway Development Area.[62]

[59] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).
[60] West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, p. 7 (June 2008).
[61] LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, p. 21 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) ("in 2009 the joint venture between Prologis and [CCIG] was selected as the master developer").
[62] Oakland Redevelopment Agency, *Pre-Development Planning for the Oakland Army Base Gateway Development Area*, Figure 3-1, *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/dowd007624.pdf (last accessed April 4, 2017).

C. The City's Port Expansion and "Gateway Development", or 'Oakland Global", Approvals

The land uses proposed in the City's 2002 Redevelopment Plan included a "tech park" comprised of R&D office buildings, and light to moderate industrial and retail development including big box retail stores, hotels and a Cineplex.[63] These land uses did not include as the predominant use for the area the type of heavy industrial, large-scale warehouse, shipping, distribution and maritime activity that the City began to consider through its subsequent negotiations with Prologis and CCIG. Yet, in 2012, the same year the City received its $2 million comprehensive TIGER 2 planning grant from DOT, the City approved the "Oakland Army Base: Outer Harbor Terminal Project" and executed an exclusive development agreement with Prologis and CCIG to expand port-related maritime activities at OAB.[64] Rather than conduct a new environmental review, however, the City re-approved its decade-old environmental review document that the City's staff presented to the Council as a mere addendum to the EIR analysis prepared and approved in 2002.[65] Rather than designing new and more appropriate mitigation corresponding to the City's new development proposals, the City also claimed that specific mitigation would be determined at a later date, when specific projects were approved.

To give an example of the drastic deviation the City took from its prior approvals, the City's 2012 Redevelopment Plan for the Outer Harbor Terminal Project involved approximately 2.5 million square feet of warehouse/distribution and maritime-related logistics uses, as compared to only 175,000 square feet of office/R&D, where as its 2002 approvals involved only 300,000 square feet of warehouse and distribution development and approximately 1.5 million square feet of office/R&D. [66]

Unsurprisingly, BAAQMD as well as other agencies including ARB, as well as West Oakland residents expressed their concern with the City's proposed "Outer Harbor Terminal Project," which soon simply became known as the Gateway or Oakland Global Logistics Center development project. BAAQMD in particular encouraged the City to analyze how its new development plans would impact future residents near new and existing sources of pollution, and

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[63] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Attachment B, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

[64] *See*, Development Agreement By and Between the City of Oakland and Rpologis CCIG Oakland Global LLC, Regarding the Property and Project Known as "Gateways Development/Oakland Global, dated July 16, 2013, available at: http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak055211.pdf (last accessed, March 30, 2017).

[65] *See, ibid.* ("The primary difference between the 2012 Project and what was proposed for the same geographic location in the 2002 Project is a shift from office R&D to a greater amount of warehouse distribution and maritime logistics uses as the predominant use.")

[66] *See*, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 4 (May 2012), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

provided specific suggestions for doing so.[67] But the City refused to conduct an additional impact analysis, again claiming that it was appropriate to defer any such analysis to a later time, and a later approval.[68]

On December 4, 2013, the City approved an "Army-Base Construction-Related Air Quality Plan," purporting to address construction related impacts but again declining to analyze or mitigate impacts from the long-term operation of the Gateway development projects, or the cumulative construction and operation of the related additional Gateway development projects. The City again received letters from BAAQMD and other agencies, identifying shortcomings in the City's proposed mitigation set forth in the "Construction-Related Air Quality Plan."[69] The City again refused to incorporate the types of analysis or mitigation suggested by the agencies.

Most recently, on October 4, 2016, the City approved an additional Northeast Gateway construction management plan allowing Prologis and CCIG to begin construction at the Northeast Gateway site on November 1, 2016, and to eventually operate a global trade and logistics complex that is worlds different than what the City proposed and approved in its initial land use decisions relating to the OAB, and greater "Redevelopment Area." After the City approved this most recent construction management plan, Prologis issued three "45-day notices" in the month of February, 2017, which relate to three additional air quality plans currently under review by the City: (1) an operations air quality plan for the Northeast Gateway project, which was issued on February 2, 2017; (2) a "Construction and Operations" air quality plan, for the Southeast and Central Gateway Projects, issued on February 3, 2017; and (3) a "Phase 3 Construction" air quality plan, issued on February 9, 2017. To this day, neither the City nor Port has updated the cumulative air quality analysis to analyze or mitigate, in a meaningful manner, the ongoing air pollutant emissions from the construction and operation of the full Gateway, or Oakland Global Logistics Center development project.

IV. LEGAL BACKGROUND

DOT regulations implementing Title VI state that "[n]o person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies." 49 C.F.R. § 21.5(a).

These regulations also include the following prohibitions of specific discriminatory acts by recipients of federal funds:

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[67] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: West Oakland Specific Plan Notice of Preparation of a Draft Environmental Impact Report* (November 21, 2012).
[68] *See* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, pp. 4-21 to 4-22 (May 2014).
[69] *See, generally*, Rachel Flynn, Director, Department of Planning and Building to Deanna J. Santana, City Administrator, *Subject: Approval of Army Base Construction-Related Air Plan* (December 4, 2013), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak044541.pdf (last accessed April 4, 2017).

> (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program. . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.
>
> (3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

49 C.F.R. § 21.5(b).

> A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.

49 C.F.R. § 21.5(d).

EPA regulations implementing Title VI state that "[n]o person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, [or] national origin[.]" 40 C.F.R. § 7.30. The regulations also provide a non-exclusive list of specific, prohibited discriminatory acts:

> (b) A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.
>
> (c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

40 C.F.R. § 7.35.

These regulations make clear that discrimination on the basis of race is a violation of Title VI whether it is the purpose of the decision or its effect. 49 C.F.R. § 21.5(d); 40 C.F.R. § 7.35(c).

V. VIOLATIONS OF TITLE VI

A. Discriminatory Acts

The City's approval of the Northeast Gateway Construction Management Plan on October 4, 2016 is the latest example of the City and Port's discriminatory actions regarding the development and expansion of harmful freight activities at the Port and OAB. The approval is part of a continuing pattern of actions utilizing criteria and methods that have the purpose or effect of subjecting the surrounding community of color to the disproportionate externalities of that freight activity.

Since 2012, the City, in particular, has sought to abandon the original commitment to develop the OAB in a way that would benefit the surrounding community. While the WOCAG was asked to provide input on recommendations for development early in the OAB Redevelopment process, the City proceeded with its own negotiations to expand freight-related activities notwithstanding the community recommendations, and notwithstanding the fact that such activities would add to the impacts on the already overburdened surrounding communities of color. The City has also consistently refused to consider the input of advisory and stakeholder groups including the WOCAG, who urged the City to prioritize development proposals that would result in less truck traffic through West Oakland.[70] At each step of the way, the City has declined to analyze the impacts of expanded freight activities, and has declined to adopt specific mitigation by claiming that such analysis and mitigations were not required or that they would be addressed at a later point.

Since the abrupt change in the proposed OAB redevelopment plan in 2012, the community and concerned agencies have been demanding analysis of the impacts, and assurances that the effects of expanding freight activities will be mitigated. At each step, the City has declined to do any more than assure that the project will comply with existing minimum regulatory requirements.

In 2013, BAAQMD wrote to the City to highlight the City's lax mitigation measures for the OAB redevelopment project, pointing out that the City's plan for reducing construction emissions from the OAB included mitigation measures with easy loopholes for industry. The plan required lower-emitting equipment to the extent that it was "readily available" in the Bay

[70] West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).

Area.[71] The BAAQMD noted that "the Plan does not include any guidance on how it will be determined if the equipment is 'readily available' or 'cost effective.'"[72] BAAQMD concluded its letter with a list of specific recommended requirements for all OAB construction activity. But the City declined to make any of the recommended changes.

In 2014, both BAAQMD and the Alameda County Public Health Department submitted letters raising new concerns with the City's planning activities. The Alameda County Public Health Department's letter urged the City to strengthen the proposed mitigation measures, because "[impacts from development at the Port and OAB] will further exacerbate existing health conditions in West Oakland."[73] BAAQMD contacted the City's Strategic Planning Division to recommend additional air quality controls, noting that the West Oakland community experiences a higher cancer risk than any other Bay Area community and compliance with minimum regulatory requirements will not be sufficient to reduce health risks in the community to a safe level.[74] Again, the City took no action.

In 2015, BAAQMD expressed concern about the Port's and the City's continued reliance on the environmental review conducted in 2002, and re-approved in 2012 as a basis for the continued expansion of port-related infrastructure development at OAB. Among other concerns, BAAQMD expressed serious trepidation regarding the facts that both the 2002 and 2012 reports were based on outdated national ambient air quality standards for fine particulate matter emissions.[75] In addition, the air quality analysis provided in the City's subsequent air quality management plan analyses only considered construction emissions, and not the long-term impacts from continued development at the Port and OAB.[76]

Most recently, in 2016, BAAQMD, ARB and WOEIP all submitted comments on the Northeast Gateway Construction Management Plan. In a letter addressed to the City, dated June 3, 2016, BAAQMD expressed its concern that, again, the City's proposed management plan exclusively dealt with the air quality impacts associated with construction, and failed to consider the long-term air quality impacts that would result from the project. BAAQMD also complained that even within its limited scope, the plan did not include air quality mitigation measures

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[71] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[72] Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).
[73] Muntu Davis, Alameda County Health Care Services Agency, Public Health Department to Ulla-Britt Jonsson, City of Oakland, *Subject: Re: West Oakland Specific Plan Draft Environmental Impact Report and Public Health* (March 17, 2014).
[74] Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: Draft Environmental Impact Report for the West Oakland Specific Plan* (March 20, 2014).
[75] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).
[76] Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).

necessary to protect health.[77] ARB's letter similarly detailed recommendations for additional mitigation measures that ARB described as "critical to reducing emissions and protecting public health." WOEIP also urged the City to commit to mitigation to address the adverse impacts its approval would have on the surrounding community. These included installing solar panels on warehouses that will be constructed as part of the Gateway project development, and requiring zero-emission technologies for short-haul trucks, including drayage trucks, and cargo handling equipment.[78] Despite the fact that the mitigation measures requested were consistent with the City's minimal mitigation measures approved in 2002, the City declined to include any of the recommended mitigation.

This history of rejecting recommended mitigation is the product of a piecemealed process that denies meaningful public participation by narrowing the scope of the issues that will be considered at each step of the development approvals. When WOEIP raised concerns about the lack of zero-emission technology requirements for the Northeast Gateway project, and the failure to create an emission reduction plan for the development,[79] Prologis, the developer of the Northeast Gateway/Global Logistics Center project, argued that these concerns were not appropriate for the air quality plan under consideration, and that they could be raised when the Air Quality Operations Plan is developed.[80] As a result, the City Administrator dismissed the community concerns in the approved plan.[81] All involved in these approvals, however, know that the opportunities to mitigate emissions from operations will be limited by the physical projects that have been built as a result of the October 4, 2016 approval.

The October 4, 2016 approval demonstrates that the City's promise of future analysis and mitigation are empty. It is not sufficient to consider mitigation after construction is complete because mitigation must be designed into the project, prior to its construction. The October 4, 2016 approval, and subsequent initiation of construction at the Northeast Gateway site show that the City intends to allow development that will disproportionately impact the surrounding communities of color without mitigation. Whether purposeful or just in effect, the City's October 4, 2016 approval denied the benefits of redevelopment investments to the surrounding communities of color. This decision, like the various decisions that have preceded it, was made with the clear intention to streamline approval of expanded freight activities by setting up a process that precluded meaningful public participation. The decision also avoided mitigation requirements that would minimize or prevent impacts on the surrounding communities of color.

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[77] Jean Roggenkamp, Bay Area Air Quality Management District to Darin Ranelletti, City of Oakland, *Subject: Northeast Gateway Construction Management Plan* (June 3, 2016).
[78] Heather Arias, California Air Resources Board to Darin Ranelletti, City of Oakland (May 31, 2016).
[79] Margaret Gordon, West Oakland Environmental Indicators Project to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis* [sic] (May 23, 2016); Ditching Dirty Diesel Collaborative to Robbie Morris, California Air Resources Board (May 25, 2016).
[80] Cory Chung, Development Manager, Prologis to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: RE: DRX151553 – Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCA-MMRP Public Outreach Element (Mitigation Measure PO-1)* (August 30, 2016).
[81] Rachel Flynn, Director, Planning and Building Department to Sabrina B. Landreth, City Administrator, *Subject: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site,* p. 4 (September 8, 2016).

The City's October 4, 2016 approval is, moreover, a single component of the City's and Port's continuous, systemic pattern of approving, or directly engaging in, the expansion of port-related infrastructure development. This pattern will continue as the City and Port pursue their expansion goals in the OAB Gateway/Oakland Global Logistics Center development. This pattern of conduct results in direct and immediate adverse effects on West Oakland residents who are predominantly people of color, and therefore violates Title VI of the Civil Right Act of 1964.

B. Adverse Impacts

As outlined above, freight activity in and around the West Oakland community is responsible for a host of adverse impacts including elevated cancer risks, higher rates of asthma attacks, and disruption of the basic quality of life in the community.[82] The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan and the City's ongoing approvals of the construction and operations of the full OAB Gateway/Oakland Global Logistics Center development area will add to the already adverse impacts suffered by the surrounding community as a result of freight activities. The October 4, 2016 approval was the first approval of one of several components to the Oakland Global Logistics Center project. This approval provided the City with an opportunity to ensure that the project was designed, and would be built in a way to limit impacts on the surrounding community, but the City refused to ensure that adequate health and safety protections were in place before allowing the developers to break ground on November 1, 2016.

In its 2008 Health Risk Assessment, ARB found that on-road heavy duty diesel trucks were the largest source of cancer risk in the community, followed by ocean going vehicles, harbor craft, locomotives, and cargo handling equipment.[83] All of these sources are associated with the Port's, and now with the OAB's, expanded activities.

While ARB's assessment indicated that emissions would decrease in the future as a result of regulatory actions, the assessment estimated that even after emissions reductions, "the remaining cancer risk will [still] be greater than 200 in a million in the West Oakland community," and that any reduction in emissions would not resolve the disparate impacts that West Oakland residents face when compared to residents living elsewhere throughout the City or the County.[84] ARB's assessment recommended "collective and innovative efforts" at all levels of government to reduce emissions and improve health outcomes in West Oakland, including a

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[82] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[83] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2 (December 2008).

[84] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 4 (December 2008).

transition to clean technologies.[85] The City's approval of the Northeast Gateway Construction Management Plan, however, fails to provide any innovative or good faith effort to reduce emissions at and around the project. The City's approval does the opposite by rubber stamping the construction and operation of new large-scale port related infrastructure that will only exacerbate the existing pollution burdens West Oakland residents face.

The Alameda County Public Health Department urged the City to require a more comprehensive evaluation of, and mitigation for, the Northeast Gateway Project's increase in diesel emissions, which are also a major concern given the existing health burdens in West Oakland. Yet the City, as always, refused to adhere to the County Public Health Department's recommendations, and instead chose to adhere to its construction-only approval decision.

C. Disproportionality

The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan is the latest action by the City and Port to push through more freight-related development that already disproportionately impacts the communities of color in West Oakland. The Alameda County Public Health Department has found that racial disparities impact health outcomes throughout the county, and especially in West Oakland.[86] People of color are more likely to experience the negative health outcomes detailed above. As described by the Alameda County Public Health Department, "even at the same rung, African Americans typically have worse health and die sooner than their White counterparts. In many cases, so do other populations of color."[87]

As described above, West Oakland residents are also more likely to face decades of persistent poverty. Black people in Oakland are far more likely to be homeless than any other ethnic group.[88] These same factors are at play within West Oakland, a community that is predominantly populated by people of color. West Oakland faces higher rates of illness, crime, and higher death rates than predominantly White communities in Oakland. Residents of West Oakland face stresses that residents of other communities may never endure.

In recent years, various Bay Area media outlets have published heartbreaking stories of West Oakland residents who fear for their children's lives due to air pollution that triggers

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[85] California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, pp. 4-6 (December 2008).

[86] *See* Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County – Executive Summary* (2008); UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, p. ES-2 (March 2010), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[87] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, pp. 7-8 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

[88] Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, p. 71, Figure 33 (2008), *available at* http://www.acphd.org/media/53628/unnatcs2008.pdf (last accessed April 4, 2017).

possibly fatal asthma attacks.[89] These media reports, as well as anecdotal reports that have been relayed to WOEIP staff, describe parents making the difficult decision to uproot their lives in West Oakland and move to communities that are less polluted and less disrupted by truck traffic.[90] People want to build communities that allow them to connect with their neighbors, to enjoy parks, and to send their children to play outside. The land gifts of the former OAB properties along with multiple federal grants were intended to spur redevelopment that would benefit the surrounding communities. Instead, the City and Port have decided to "double-down" on the harmful activities that created the current conditions in West Oakland. The City and Port have manipulated their decision-making processes to prevent public participation and avoid costly mitigation investments that might interfere with such development. The October 4, 2016 approval is the latest in a string of decisions that, in purpose or effect, are destroying the vision of a sustainable and healthy West Oakland that residents want to see, and forcing those residents, mostly people of color, to either bear the disproportionate burdens or pack up and move elsewhere.

D. Less Discriminatory Alternatives

Throughout the various actions outlined above, the City and Port have declined to accept recommendations from either the community or expert agencies on process, analysis, and mitigations. The following less discriminatory alternatives were available, and continue to be available to both the City and Port:

1. The City and Port have the option and opportunity, but have continuously refused, to engage the community in a meaningful process by which to receive and incorporate their input, including their opposition to the Gateway and Oakland Global Logistics Center development proposals, and the continued expansion of the Port's activities.

   Specifically, the City has the opportunity, but has refused, to send notifications regarding each of its piecemealed construction and operation related approvals to all neighborhood residents. The City has also failed to provide clear and consistent opportunities for neighboring residents to provide their input regarding the City's process for ensuring that the immediate community health and safety concerns from its development approvals are addressed.

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[89] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/ (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), *available at* http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/ (last accessed March 31, 2017).

[90] Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), *available at* https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/; *See also* City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, p. 4-6 (May 2014), *available at* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049140.pdf (last accessed April 4, 2017) ("While West Oakland's population has increased by nearly 2,000 people between 1990 and 2010 (at a rapid rate of 15%), the African American population of West Oakland has declined by nearly 5,000 people during the same time period.").

The City and Port also have the opportunity, but have refused, to post project-related approval documents at the various community organizations, institutions and gathering places around West Oakland, including but not limited to: the West Oakland Senior Center, city libraries, the West Oakland Youth Center and the Hoover Resident Action Council. The City has also refused to require the developers, Prologis/CCIG, to do the same.

The City has also consistently refused, despite being urged by various state, local, county and federal agencies, to convene a transparent interagency and community inclusive process by which to develop and implement a comprehensive assessment of the impacts caused by its land-use and development decisions at the Port and OAB and to both established and implement an updated mitigation, monitoring and reporting program that considers the level and extent of the full Gateway and Oakland Global Logistics Center and expanded Port operations.

2. The City has the option, but refuses, to consider the effects of the full operation of the Prologis and CCIG development of all three Gateway sub-areas prior to issuing its piecemealed approvals. The City and Port also have the option to update their analysis of impacts instead of relying on the outdated 2002 analyses for a redevelopment plan that was drastically different than the current development plans and approvals before the City.

3. The City and Port have had numerous opportunities, but have refused, to develop, or require the development of, a meaningful emissions reduction plan based on an accurate and updated assessment of the current and foreseeable levels of increased freight transport and other heavy infrastructure, maritime, shipping, distribution, storage and Port-related activities occurring at and along the Port and OAB including increases in rail and maritime emissions that are inconsistent with existing rail and maritime emission reduction standards.

4. The City and Port have had the option, but have failed, to produce or, at a minimum, require, a comprehensive truck management plan to address impacts from growing freight activities on the community of West Oakland.[91]

   Specifically, both the City and Port have had the opportunity to, but have refused, to develop any requirements for zero-emission technologies at OAB or the Port, which would alleviate some of the air pollution impacts of additional truck traffic in and near West Oakland neighborhoods. They have also refused to require stricter limits (e.g. two minute limits) on diesel truck idling times to address existing health burdens affecting West Oakland residents, and in particular school children throughout West Oakland.

[91] The Port's approval a drayage truck management plan for the Port fails to address the impacts that increased truck traffic has on the Port-*adjacent* roadways and trick traffic problems on off-Port property, e.g., the West Oakland community.

The City and Port also have the opportunity but refuse to require plug-in infrastructure as a design feature of all construction, for the Gateway and Oakland Global Logistics Center development to minimize emissions specifically caused by highly polluting refrigerated truck units serving the new Gateway developments.

The City and Port have also had the opportunity, but have refused, to engage in the planning, implementation and enforcement of Truck hauling routes that are designed to minimize community exposures to emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.

Both the City and Port have had the opportunity, but have refused, to enforce parking restrictions throughout the West Oakland residential community. The City has similarly refused to develop or require an enforceable West Oakland Truck Route as a part of its approved construction management Plan for the Northeast Gateway project, or as part of its ongoing approvals for the larger Gateway or Oakland Global Logistics Center project.

Both the City and Port have also had numerous opportunities, but have refused, to accept or apply for additional funding to support targeted emission reduction efforts at the Port, OAB and throughout West Oakland.

5. In large part due to their failure to require either a comprehensive truck management plan, or a meaningful emission reduction plan, both the City and Port have similarly refused to mitigate the negative air quality and resulting health impacts or other disruptions and adverse effects on the quality of life of West Oakland residents, caused by the continued increase in truck traffic to and from the Port and the OAB Gateway/Oakland Global Logistics Center properties.

VI. Relief

Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this complaint and investigate whether the City and Port have violated Title VI of the Civil Rights Act and its implementing regulations, and indeed whether they continue to violate Title VI of the Civil Rights Act.

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Complainant further requests that the City and Port be brought into compliance by: (a) requiring the City to withdraw its approvals of the Gateway construction management plans unless and until the City conducts a full review of the construction and long-term operation of all of the Gateway areas, and unless and until the City engages the surrounding community in a meaningful process by which to incorporate their input into new mitigation measures, emission controls, and conditions of approval for the development of the Gateway projects; (b) requiring the Port to coordinate with the City to develop a truly comprehensive truck management and Port emission reduction plan; and (c) Conditioning all future grants and awards from both EPA and DOT to both the City and Port on adequate assurances that the actions of both recipients will comply with Title VI as detailed above.

Sincerely,

Yana Garcia
Paul Cort
Attorneys for West Oakland Environmental Indicators Project

Adenike Adeyeye
Research and Policy Analyst

Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
ygarcia@earthjustice.org
pcort@earthjustice.org
adeyeye@earthjustice.org

Message

From: Strauss, Alexis [Strauss.Alexis@epa.gov]
Sent: 12/13/2017 5:14:24 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: RE: City of Oakland/Port of Oakland

Dear Lillian,
4 pm EST Friday would be superb. My mobile is 415 640 5478. I'll send you an e-vite with this number.
Alexis

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: Dorka, Lilian
Sent: Tuesday, December 12, 2017 7:33 PM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>
Subject: Re: City of Oakland/Port of Oakland

Great! I have a meeting that ends at 3:30 on Friday so just in case it goes over a bit, why don't I call you at 4:00 est? Does that work for you?

Sent from my iPhone

On Dec 12, 2017, at 4:49 PM, Strauss, Alexis <Strauss.Alexis@epa.gov> wrote:

> Dear Lilian,
> It will be most reassuring to talk with you. I'm definitely available Friday from 3:30 EST to 5 pm EST. Let me know what might work best for you,
> Alexis
>
> Alexis Strauss
> Acting Regional Administrator
> E.P.A. Region 9
> 75 Hawthorne Street
> San Francisco, CA 94105
> 415-972-3572
>
> ---
>
> **From:** Dorka, Lilian
> **Sent:** Tuesday, December 12, 2017 1:45 PM
> **To:** Strauss, Alexis <Strauss.Alexis@epa.gov>
> **Cc:** Temple, Kurt <Temple.Kurt@epa.gov>
> **Subject:** RE: City of Oakland/Port of Oakland
>
> Hello Alexis, good to hear from you! Thanks for your email. I totally understand your concerns and fully appreciate the urgency of this matter. Would love to talk with you this week and share my thoughts. Do you have any time this Thursday after 3:30 EST or Friday after 3:30 EST? I can give you a call. Thanks!

Lilian Sotolongo Dorka, Esq.
Director, External Civil Rights Compliance Office
EPA, Office of General Counsel
202-564-9649
WJC-N Room 2450

From: Strauss, Alexis
Sent: Tuesday, December 12, 2017 2:46 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: City of Oakland/Port of Oakland

Dear Lillian and Kurt,

Deliberative Process / Ex. 5

Warm regards,
Alexis

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

Message

From: Rivera, Yvette (OST) [yvette.rivera@dot.gov]
Sent: 8/16/2017 12:37:20 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

Let's try that. Thank you for coordinating.

From: Fitzpatrick, Ryan (OST)
Sent: Wednesday, August 16, 2017 8:36 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

It doesn't look like we have much of a choice. I can tell Michele at the Port that if they can't come next Wednesday the 23rd, then it will have to wait until after Labor Day. Maybe they'll choose to eschew the City and come the 23rd, or maybe the City will change its schedule.

Deliberative Process / Ex. 5 f we do it after Labor Day, we may be able to finish it and present it to them then and use it as a topic for discussion, which they can then present to their boards.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering is week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:57 PM
To: 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Yes. But we'll need to push this back

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Rhines, Dale [mailto:rhines.dale@epa.gov]
Sent: Tuesday, August 15, 2017 3:56 PM
To: Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Just to clarify, we are talking about August 31 or September 1 at this pont,correct?

From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Tuesday, August 15, 2017 3:51 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Next Thursday or Friday does not work. I will be out on training.
<image001.png>

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:40 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation

(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)
Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312

(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979

Message

From: Grow, Richard [Grow.Richard@epa.gov]
Sent: 8/1/2017 10:19:36 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]
CC: Temple, Kurt [Temple.Kurt@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

If/when this is tied down could someone pls send out an invite ? Thx.

Richard

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 01, 2017 10:06 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 01, 2017 1:01 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

If you think Monday wont' be a problem - in terms of getting together on our message, I'm good for Monday.

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 1, 2017 12:45 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

The Monday times work for me, and its late enough in the day that hopefully it will accommodate Region 9. Let me know if those times work for EPA, and I'll respond to Allison

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 01, 2017 12:43 PM
To: Farrell, Ericka <Farrell.Ericka@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Hi Ryan and Ericka,

I am available on Monday and also on Tuesday 12-2. Wednesday looks bad for me though. Ericka, please check also with region 9 – Richard and Desean and also CRFLO, copying them here. Thanks!

From: Farrell, Ericka
Sent: Tuesday, August 1, 2017 12:34 PM
To: 'Fitzpatrick, Ryan (OST)' <ryan.fitzpatrick@dot.gov>
Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Hey Ryan,

Based on the schedules here at EPA the only time we can accommodate this meeting is on Monday, August 7, 3:30-5 p.m. I however, will be on vacation and will not be back in the office until Thursday, but this meeting can occur without me.

Ericka Farrell
Case Manager
External Civil Rights Compliance Office

202-564-0717

From: Torrence, Allison A. [mailto:ATorrence@jenner.com]
Sent: Tuesday, August 01, 2017 12:08 PM
To: 'Fitzpatrick, Ryan (OST)' <ryan.fitzpatrick@dot.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: 'Michele Heffes' <mheffes@portoakland.com>; 'David H. McCray' <DMcCray@bdlaw.com>; jauslander bdlaw.com <jauslander@bdlaw.com>; 'Stacey J. Sublett' <SSublett@bdlaw.com>; Bee, Maria <MBee@oaklandcityattorney.org>; Spoerl, Peter <PSpoerl@oaklandcityattorney.org>; 'Wald, Mark' <MWald@oaklandcityattorney.org>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Ryan,

Thanks for the quick response. Next week we can be available for a call on the following days/times:

Mon. 8/7 – 3:30 – 5 pm ET
Tues. 8/8 – 12 – 2 pm ET
Wed. 8/9 – 4 – 6 pm ET

Let me know if one of these time frames works for both of you.

Thank you,

Allison

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Monday, July 31, 2017 1:28 PM
To: Torrence, Allison A. <ATorrence@jenner.com>; 'farrell.ericka@epa.gov' <farrell.ericka@epa.gov>
Cc: 'Michele Heffes' <mheffes@portoakland.com>; 'David H. McCray' <DMcCray@bdlaw.com>; jauslander bdlaw.com <jauslander@bdlaw.com>; 'Stacey J. Sublett' <SSublett@bdlaw.com>; Bee, Maria <MBee@oaklandcityattorney.org>; Spoerl, Peter <PSpoerl@oaklandcityattorney.org>; 'Wald, Mark' <MWald@oaklandcityattorney.org>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Good afternoon Ms. Torrence:

Thanks for reaching out. Neither DOT nor EPA are available for a teleconference this week, but we would love to introduce ourselves and answer any questions that we can about our investigative processes next week. Please suggest some dates that will work well for you, and I'll coordinate our teams here.

Thanks,

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Torrence, Allison A. [mailto:ATorrence@jenner.com]
Sent: Monday, July 31, 2017 1:27 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; 'farrell.ericka@epa.gov' <farrell.ericka@epa.gov>
Cc: 'Michele Heffes' <mheffes@portoakland.com>; 'David H. McCray' <DMcCray@bdlaw.com>; jauslander bdlaw.com <jauslander@bdlaw.com>; 'Stacey J. Sublett' <SSublett@bdlaw.com>; Bee, Maria <MBee@oaklandcityattorney.org>; Spoerl, Peter <PSpoerl@oaklandcityattorney.org>; 'Wald, Mark' <MWald@oaklandcityattorney.org>
Subject: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Mr. Fitzpatrick and Ms. Farrell,

I represent the Port of Oakland with regard to the Title VI Civil Rights complaint filed by the West Oakland Environmental Indicators Project on April 4, 2017, and accepted for investigation by DOT and EPA on July 18, 2017. Counsel for the Port of Oakland and the City of Oakland (copied on this email), would like to schedule a call to introduce ourselves and discuss the investigation.

Are you available tomorrow, Tuesday 8/1, at 3 pm ET for a call? Please let me know your availability and I will circulate a conference call-in number.

Thank you,
Allison Torrence

Allison A. Torrence

Jenner & Block LLP
353 N. Clark Street, Chicago, IL 60654-3456 | jenner.com
+1 312 923 8347 | TEL
ATorrence@jenner.com
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Message

From: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Sent: 8/16/2017 12:35:42 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
CC: Rhines, Dale [rhines.dale@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Temple, Kurt [Temple.Kurt@epa.gov]
Subject: RE: Meeting Week of 8/28/17?

It doesn't look like we have much of a choice. I can tell Michele at the Port that if they can't come next Wednesday the 23rd, then it will have to wait until after Labor Day. Maybe they'll choose to eschew the City and come the 23rd, or maybe the City will change its schedule.

That said, **Deliberative Process / Ex. 5** if we do it after Labor Day, we may be able to finish it and present it to them then and use it as a topic for discussion, which they can then present to their boards.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 15, 2017 10:11 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Re: Meeting Week of 8/28/17?

Hi folks I am out Friday the 8th. May need to leave a little early on the 7th. Please keep in mind we will need to allow for region 9 participation by phone so will need to meet after 12 pm.

Finally, I am wondering is week of 9/4 is too late for recipients given they need to prepare for board meeting which is 2 weeks later? Thanks so much for coordinating!

Sent from my iPhone

On Aug 15, 2017, at 4:52 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> I can see what their schedule looks like the week after. Its Labor Day that Monday, September 4, but maybe after.
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> (202) 366-1583
>
> **From:** Fitzpatrick, Ryan (OST)
> **Sent:** Tuesday, August 15, 2017 3:57 PM

To: 'Rhines, Dale'; Rivera, Yvette (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Yes. But we'll need to push this back

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Rhines, Dale [mailto:rhines.dale@epa.gov]
Sent: Tuesday, August 15, 2017 3:56 PM
To: Rivera, Yvette (OST); Fitzpatrick, Ryan (OST); Dorka, Lilian
Subject: RE: Meeting Week of 8/28/17?

Just to clarify, we are talking about August 31 or September 1 at this pont,correct?

From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Tuesday, August 15, 2017 3:51 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: Meeting Week of 8/28/17?

Next Thursday or Friday does not work. I will be out on training.
<image001.png>

From: Fitzpatrick, Ryan (OST)
Sent: Tuesday, August 15, 2017 3:40 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian (Dorka.Lilian@epa.gov) <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: FW: Meeting Week of 8/28/17?

This is going to be a big meeting. Can you let me know your availabilities for this week?

For our team, only Thursday (and potentially Friday) will work. We are all participating in a DOJ training Monday through Wednesday that week, as a team.

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 3:35 PM
To: Fitzpatrick, Ryan (OST)
Cc: Michele Heffes
Subject: Meeting Week of 8/28/17?

Ryan: Thanks. I just left you a voice mail message. Good news. The City of Oakland team can actually be available for the meeting as well, but we were hoping to schedule it for the week of 8/28/17 instead of 8/23/17. Sorry for the multiple scheduling emails, but can you let me know what days the week of 8/28/17 work for you, Lilian Dorka, and Charles James? Thanks very much. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 15, 2017 9:36 AM
To: Michele Heffes <mheffes@portoakland.com>
Subject: RE: Next Wednesday

We're still working on where to meet. It'll either be here or at EPA HQ. They are pretty close to each other.

DOT is located at:

1200 New Jersey Avenue SE
Washington, DC 20590

EPA is located at:

1200 Pennsylvania Avenue
Washington, DC 20460

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Michele Heffes [mailto:mheffes@portoakland.com]
Sent: Tuesday, August 15, 2017 11:55 AM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Re: Next Wednesday

Hi Ryan-thanks. I'll get back to you shortly about a proposed time. Will we be meeting in your office? Can you please send me the address? We look forward to seeing you soon. Thanks. Michele

Michele Heffes
Assistant Port Attorney
(510) 627-1348

On Aug 15, 2017, at 6:28 AM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> Hey Michele:
>
> Next Wednesday, August 23, will work well. Just working on the times that will work for everyone and we'll get it set up.
>
> Ryan
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979

Message

From: Garnett, Desean [Garnett.Desean@epa.gov]
Sent: 8/1/2017 5:18:27 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]
CC: Temple, Kurt [Temple.Kurt@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

I'm available all day Monday. Also generally available for a pre-call Thurs and all day Friday.

Desean

Desean Garnett
U.S. EPA Region 9
Attorney-Advisor
(415) 972-3046

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 01, 2017 10:06 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 01, 2017 1:01 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale

<rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

If you think Monday wont' be a problem - in terms of getting together on our message, I'm good for Monday.

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, August 1, 2017 12:45 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

The Monday times work for me, and its late enough in the day that hopefully it will accommodate Region 9. Let me know if those times work for EPA, and I'll respond to Allison

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Tuesday, August 01, 2017 12:43 PM
To: Farrell, Ericka <Farrell.Ericka@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Cc: Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Hi Ryan and Ericka,

I am available on Monday and also on Tuesday 12-2. Wednesday looks bad for me though. Ericka, please check also with region 9 – Richard and Desean and also CRFLO, copying them here. Thanks!

From: Farrell, Ericka
Sent: Tuesday, August 1, 2017 12:34 PM
To: 'Fitzpatrick, Ryan (OST)' <ryan.fitzpatrick@dot.gov>
Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Hey Ryan,

Based on the schedules here at EPA the only time we can accommodate this meeting is on Monday, August 7, 3:30-5 p.m. I however, will be on vacation and will not be back in the office until Thursday, but this meeting can occur without me.

Ericka Farrell
Case Manager
External Civil Rights Compliance Office
202-564-0717

From: Torrence, Allison A. [mailto:ATorrence@jenner.com]
Sent: Tuesday, August 01, 2017 12:08 PM
To: 'Fitzpatrick, Ryan (OST)' <ryan.fitzpatrick@dot.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>
Cc: 'Michele Heffes' <mheffes@portoakland.com>; 'David H. McCray' <DMcCray@bdlaw.com>; jauslander bdlaw.com <jauslander@bdlaw.com>; 'Stacey J. Sublett' <SSublett@bdlaw.com>; Bee, Maria <MBee@oaklandcityattorney.org>; Spoerl, Peter <PSpoerl@oaklandcityattorney.org>; 'Wald, Mark' <MWald@oaklandcityattorney.org>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Ryan,

Thanks for the quick response. Next week we can be available for a call on the following days/times:

Mon. 8/7 – 3:30 – 5 pm ET
Tues. 8/8 – 12 – 2 pm ET
Wed. 8/9 – 4 – 6 pm ET

Let me know if one of these time frames works for both of you.

Thank you,

Allison

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Monday, July 31, 2017 1:28 PM
To: Torrence, Allison A. <ATorrence@jenner.com>; 'farrell.ericka@epa.gov' <farrell.ericka@epa.gov>
Cc: 'Michele Heffes' <mheffes@portoakland.com>; 'David H. McCray' <DMcCray@bdlaw.com>; jauslander bdlaw.com <jauslander@bdlaw.com>; 'Stacey J. Sublett' <SSublett@bdlaw.com>; Bee, Maria <MBee@oaklandcityattorney.org>; Spoerl, Peter <PSpoerl@oaklandcityattorney.org>; 'Wald, Mark' <MWald@oaklandcityattorney.org>
Subject: RE: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Good afternoon Ms. Torrence:

Thanks for reaching out. Neither DOT nor EPA are available for a teleconference this week, but we would love to introduce ourselves and answer any questions that we can about our investigative processes next week. Please suggest some dates that will work well for you, and I'll coordinate our teams here.

Thanks,

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst

Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Torrence, Allison A. [mailto:ATorrence@jenner.com]
Sent: Monday, July 31, 2017 1:27 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; 'farrell.ericka@epa.gov' <farrell.ericka@epa.gov>
Cc: 'Michele Heffes' <mheffes@portoakland.com>; 'David H. McCray' <DMcCray@bdlaw.com>; jauslander bdlaw.com <jauslander@bdlaw.com>; 'Stacey J. Sublett' <SSublett@bdlaw.com>; Bee, Maria <MBee@oaklandcityattorney.org>; Spoerl, Peter <PSpoerl@oaklandcityattorney.org>; 'Wald, Mark' <MWald@oaklandcityattorney.org>
Subject: West Oakland EIP Civil Rights Complaint against City of Oakland and Port of Oakland, DOT # 2017-0093, EPA File Nos. 13R-17-R9 and 14R-17-R9

Mr. Fitzpatrick and Ms. Farrell,

I represent the Port of Oakland with regard to the Title VI Civil Rights complaint filed by the West Oakland Environmental Indicators Project on April 4, 2017, and accepted for investigation by DOT and EPA on July 18, 2017. Counsel for the Port of Oakland and the City of Oakland (copied on this email), would like to schedule a call to introduce ourselves and discuss the investigation.

Are you available tomorrow, Tuesday 8/1, at 3 pm ET for a call? Please let me know your availability and I will circulate a conference call-in number.

Thank you,
Allison Torrence

Allison A. Torrence

Jenner & Block LLP
353 N. Clark Street, Chicago, IL 60654-3456 | jenner.com
+1 312 923 8347 | TEL
ATorrence@jenner.com
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Message

From: McGhee, Debra [mcghee.debra@epa.gov]
Sent: 9/26/2017 2:42:44 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]
Subject: FW: West Oakland - Contacting attorneys for Port & City

FYI - Mary was the lead, as agreed when we met, in setting up the calls.

Debra E. McGhee
Team Lead
External Civil Rights Compliance Office
Office Phone: 202-564-4646

"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." *~~ Martin Luther King, Jr. , 18th April, 1959*

From: O'Lone, Mary
Sent: Tuesday, September 12, 2017 6:12 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Cc: McGhee, Debra <mcghee.debra@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland - Contacting attorneys for Port & City

FYI. I got a call a call back from Barbara's office. A staff attorney there (Daniel Rossi) will give me a call tomorrow who can answer our questions.

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: Temple, Kurt
Sent: Tuesday, September 12, 2017 4:25 PM
To: O'Lone, Mary <OLone.Mary@epa.gov>
Cc: Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: Re: West Oakland - Contacting attorneys for Port & City

Thanks

Sent from my iPhone

On Sep 12, 2017, at 3:28 PM, O'Lone, Mary <OLone.Mary@epa.gov> wrote:

> FYI.
>
> I left message on Michele's voicemail explaining what we were interested in talking about.

I left message on Barbara's assistant's voicemail with the basic question & asking if I should be talking to them or to Beveridge & Diamond. I said if I didn't hear from the City by tomorrow, I would try B&D. Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: Temple, Kurt
Sent: Tuesday, September 12, 2017 8:16 AM
To: O'Lone, Mary <OLone.Mary@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland - Contacting attorneys for Port & City

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

Barbara Parker, City Attorney for Oakland, is the one that submitted the City's response. Her phone number is (510) 238-3601. Stacey Sublett (former EPA), though, is the one that sent the response by email to Lilian. It may be worth reaching out to her first.
BEVERIDGE & DIAMOND, P.C.
1350 I Street, NW, Suite 700, Washington, DC 20005
T +1.202.789.6074 F +1.202.789.6190 SSublett@bdlaw.com

Kurt

From: Temple, Kurt
Sent: Tuesday, September 12, 2017 8:09 AM
To: O'Lone, Mary <olone.mary@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: RE: West Oakland - Contacting attorneys for Port & City

Mary: I was walking when I responded to your last email, so hence my note that I would follow up. I actually reached out yesterday to Michelle Heffes from the Port to set something up. I didn't get a hold of her so I didn't leave a specific message. Just to call back. She called back very early this morning, like 1 am-ish. She said she is out of the country but can talk if we are able to reach out to her by voice or email with some times.

I would ask you and Debra to coordinate on talking with her at this point, as I am at FOIA training all day today, tomorrow and half of Thursday. If you don't have her email or contact, I will send. I haven't done anything with the City. Also, I talked to Ryan Fitzpatrick and he is okay with us handling this issue.

Kurt

From: O'Lone, Mary
Sent: Monday, September 11, 2017 6:19 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>
Subject: West Oakland - Contacting attorneys for Port & City

All-

Attorney Client / Ex. 5

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

Message

From: Keeler, Katsumi [Keeler.Katsumi@epa.gov]
Sent: 7/18/2017 8:19:53 PM
To: Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]
Subject: RE: Oakland T6 Complaint

Deliberative Process / Ex. 5

-----Original Message-----
From: Dorka, Lilian
Sent: Tuesday, July 18, 2017 3:56 PM
To: Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>; Goldschmidt, Iris (CRT) <Iris.Goldschmidt@usdoj.gov>
Subject: RE: Oakland T6 Complaint

Thanks Daria! BTW, we plan to issue the acceptance letter today. Will send you a copy once we do. Lily

-----Original Message-----
From: Neal, Daria (CRT) [mailto:Daria.Neal@usdoj.gov]
Sent: Tuesday, July 18, 2017 2:50 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>; Goldschmidt, Iris (CRT) <Iris.Goldschmidt@usdoj.gov>
Subject: RE: Oakland T6 Complaint

Hi all,
Thought this article would be of interest.
Daria
http://grist.org/justice/an-old-army-base-could-mean-new-pollution-for-beleaguered-residents-of-west-oakland/

-----Original Message-----
From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
Sent: Tuesday, July 18, 2017 10:54 AM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@crt.usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>
Subject: RE: Oakland T6 Complaint

Yvette: Attached are the most recent drafts of the joint acceptance letters for your review and approval. We added some clarifying edits to the draft you sent forward last week. You will see those changes highlighted in the text. Also, DOT needs to insert its file number into the subject line. Please let me know if you have any questions about what we have done, or if you're ready to exchange signatures on final drafts. Thanks for your help.

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460

202-564-7299

-----Original Message-----
From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Thursday, July 13, 2017 3:49 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Ferguson, Selina (OST) <Selina.Ferguson@dot.gov>
Subject: RE: Oakland T6 Complaint

Dear Lily,

We have an approved version of the OAB letter. Please see the attached. If you have no objections, we can execute the letter and get the original to you for signature tomorrow. Thank you!

Yvette

-----Original Message-----
From: Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]
Sent: Thursday, July 13, 2017 12:29 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
Subject: RE: Oakland T6 Complaint

Hi Yvette, just following up on this. Thanks! Lily

-----Original Message-----
From: Rivera, Yvette (OST) [mailto:yvette.rivera@dot.gov]
Sent: Friday, July 7, 2017 2:51 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
Subject: RE: Oakland T6 Complaint

Thank you Kurt. We will get right on it. Hoping that we can respond by Monday or Tuesday. Again, thank you. Have a nice weekend! Yvette

-----Original Message-----
From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
Sent: Friday, July 07, 2017 2:13 PM
To: Rivera, Yvette (OST) <yvette.rivera@dot.gov>
Cc: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Neal, Daria (CRT) <Daria.Neal@usdoj.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>
Subject: Oakland T6 Complaint

Hello Yvette. Thanks for the good conversation yesterday regarding the Oakland T6 matter. As we promised on the call, I have attached for DOT's review draft joint acceptance letters to complainant and recipients. Deliberative Process / Ex. 5 Let us know if DOT has any edits, comments or concerns. We look forward to issuing these letters soon. Please give me a call if you need anything.

Deliberative Process / Ex. 5

Sincerely,

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524B
Washington, D.C. 20460
202-564-7299

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 4/12/2017 7:38:16 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Subject: RE: Oakland complaint investigation DOT and EPA

Okay. I've invited:

Richard Grow - Region 9
Mary O'lone – attorney
Ericka Farrell – Case Manager
Katsumi Keeler – Enviro Specailist
Debra McGhee – Team Lead.

From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Wednesday, April 12, 2017 3:35 PM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Subject: RE: Oakland complaint investigation DOT and EPA

I've reached out to her but haven't heard back.

On our end, its just going to be a few of us within the civil rights office. Who can we expect from EPA?

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
Sent: Wednesday, April 12, 2017 1:41 PM
To: Fitzpatrick, Ryan (OST)
Subject: RE: Oakland complaint investigation DOT and EPA

Ryan: Are you going to invite Daria to this initial call?

Kurt

-----Original Appointment-----
From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, April 11, 2017 1:35 PM
To: Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Temple, Kurt; Caro-Lopez, Howard (OST)
Subject: Oakland complaint investigation DOT and EPA
When: Thursday, April 13, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference

To discuss the Earthjustice complaint filed against the Port and City of Oakland, with DOT and EPA

Number: Conference Line/Code / Ex. 6
Passcode: Conference Line/Code / Ex. 6

Appointment

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 4/12/2017 7:14:45 PM
To: Keeler, Katsumi [Keeler.Katsumi@epa.gov]

Subject: FW: Oakland complaint investigation DOT and EPA
Location: Teleconference

Start: 4/13/2017 3:00:00 PM
End: 4/13/2017 4:00:00 PM
Show Time As: Tentative

-----Original Appointment-----
From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, April 11, 2017 1:35 PM
To: Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Temple, Kurt; Caro-Lopez, Howard (OST)
Subject: Oakland complaint investigation DOT and EPA
When: Thursday, April 13, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference

To discuss the Earthjustice complaint filed against the Port and City of Oakland, with DOT and EPA
Number: Conference Line/Code / Ex. 6
Passcode: Conference Line/Code / Ex. 6

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 6/19/2017 9:16:23 PM
To: Temple, Kurt [Temple.Kurt@epa.gov]
Subject: Port - City Oakland Draft JURISDICTIONAL REVIEW 6.19.17.docx
Attachments: Port - City Oakland Draft JURISDICTIONAL REVIEW 6.19.17.docx

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 4/12/2017 5:40:56 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Subject: RE: Oakland complaint investigation DOT and EPA

Ryan: Are you going to invite Daria to this initial call?

Kurt

-----Original Appointment-----
From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, April 11, 2017 1:35 PM
To: Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Temple, Kurt; Caro-Lopez, Howard (OST)
Subject: Oakland complaint investigation DOT and EPA
When: Thursday, April 13, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference

To discuss the Earthjustice complaint filed against the Port and City of Oakland, with DOT and EPA

Conference Line/Code / Ex. 6

Appointment

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 4/11/2017 7:38:42 PM
To: O'Lone, Mary [olone.mary@epa.gov]

Subject: FW: Oakland complaint investigation DOT and EPA
Location: Teleconference

Start: 4/13/2017 3:00:00 PM
End: 4/13/2017 4:00:00 PM
Show Time As: Tentative

-----Original Appointment-----
From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Tuesday, April 11, 2017 1:35 PM
To: Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Temple, Kurt; Caro-Lopez, Howard (OST)
Subject: Oakland complaint investigation DOT and EPA
When: Thursday, April 13, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference

To discuss the Earthjustice complaint filed against the Port and City of Oakland, with DOT and EPA

Conference Line/Code / Ex. 6

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 4/11/2017 2:32:31 PM
To: Goerke, Ariadne [Goerke.Ariadne@epa.gov]
Subject: FW: Title VI complaint about West Oakland FW: EJ News 04/07/17
Attachments: Race, ethnicity, and air pollution new directions in environmental justice..pdf; Building a Resilient and Equitable City How to Advance Environmental Justice Through the OneNYC Plan.pdf

Ariadne: Good morning. Who from CRFLO do you wish to work with us on this new West Oakland matter? DOT reached out late yesterday and suggested a call for Thursday morning. I was going to respond and propose 11 am. Our Region 9 partners are available at that time.

Thanks,

Kurt

From: O'Lone, Mary
Sent: Thursday, April 06, 2017 4:14 PM
To: Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>
Cc: Spiegelman, Nina <Spiegelman.Nina@epa.gov>; Israels, Ken <Israels.Ken@epa.gov>
Subject: Title VI complaint about West Oakland FW: EJ News 04/07/17

FYI – in case you hadn't heard or seen it. See first BNA article about Title VI complaint filed re: West Oakland Port. There is a link to the complaint.

Thanks, Mary

Mary M. O'Lone
Civil Rights and Finance Law Office
Office of General Counsel, US EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-4992

From: OGCLibrary
Sent: Thursday, April 06, 2017 3:26 PM
To: Andrews, Mary <Andrews.Mary@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Buzzelle, Stanley <Buzzelle.Stanley@epa.gov>; DeMocker, Jim <DeMocker.Jim@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Guadagno, Tony <Guadagno.Tony@epa.gov>; Hall, Katherin <hall.katherin@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; Lee, Charles <Lee.Charles@epa.gov>; Knorr, Michele <knorr.michele@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Ruhl, Suzi <Ruhl.Suzi@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Tripathi, Arati <Tripathi.Arati@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; 'Marcus.england@faa.gov' <Marcus.england@faa.gov>; 'Wilbur.barham@faa.gov' <Wilbur.barham@faa.gov>; 'lori.pierce@faa.gov' <lori.pierce@faa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Biffl, Betsy <Biffl.Betsy@epa.gov>
Subject: EJ News 04/07/17

Bloomberg BNA

Daily Environment Report™

Port Expansion Polluting West Oakland, Calif., Complaint Says

BNA - Daily Environment Report 05 Apr 2017 18:58

Air Pollution • Group files complaint with the EPA and Transportation Department • Seeks halt to federal funds while port project is studied By Carolyn Whetzel Environmental justice advocates April 5 asked the federal government to halt funding for...

Australia Fails to Address Coal Plant Pollution: Legal Group

BNA - Daily Environment Report 05 Apr 2017 00:00

Air Pollution • Annual pollution database shows spikes in airborne pollutants, group says • Government data is Australia's version of a toxics release inventory By Murray Griffin Annual pollutant discharge data from nearly 1,700 Australian business sites...

Attorneys Must 'Step Up' to Environmental Justice Challenges

BNA - Daily Environment Report 03 Apr 2017 19:30

Environmental Justice • Environmental justice must be a priority for corporations, said the speaker of the California State Assembly • Urges attorneys to pay attention to justice issues early on By Carolyn Whetzel and Tiffany Stecker Environmental...

National Environmental Justice Advisory Council Meeting

BNA - EHS Federal Regulatory Alert 03 Apr 2017 08:33

GENERAL ENVIRONMENT AND SAFETY Notice of the EPA announces a meeting of the National Environmental Justice Advisory Council. The meeting will include discussion on environmental justice concerns of communities in Minneapolis and surrounding areas and...

INSIDEEPA.COM

an online news service from the publishers of Inside EPA

No stories this week.

GREENWIRE

EPA

Senior official who just quit warns of 'devastating' impacts

Amanda Reilly, E&E News reporter

Published: Monday, April 3, 2017

HOLLYWOOD, Calif. — The former head of environmental justice at U.S. EPA on Friday warned that proposed cuts to the agency's budget would be "devastating" to minority and low-income communities.

Mustafa Ali, who quit his position at EPA a few weeks ago, urged the Trump administration to work collaboratively with communities, swiftly appoint a new environmental justice head and step up enforcement activities.

If not, "we will see many more egregious types of actions that will happen inside of those communities and the surrounding area," Ali said at the American Bar Association's annual spring environmental law conference here.

Mustafa Ali. Photo courtesy of the Berkley Center for Religion, Peace and World Affairs at Georgetown University.

Ali formerly served as EPA's assistant associate administrator for environmental justice after working at the agency for nearly two decades under several administrators. He was a founding member of EPA's environmental justice office and also formerly worked on Capitol Hill as a fellow for Rep. John Conyers (D-Mich.).

Last month, Ali wrote a public letter resigning his post and told reporters that he couldn't "in good conscience be supportive" of the Trump administration's agenda (*Greenwire*, March 9).

On Friday, Ali expanded on his decision to write the letter, which offers advice to new EPA Administrator Scott Pruitt.

"Our new administrator had said in his Senate confirmation testimony that he understood some basic concepts around environmental justice but he did not have any in-depth knowledge of that space," Ali said. "So I thought that it was important to be able to share the challenges that still exist inside of communities but also to share with him some of the opportunities that exist in working with these communities."

Ali also revealed that he had not had any conversations with Trump administration officials before or after the inauguration about the agency's environmental justice work.

He said he was pleased with the attention that his resignation letter has gotten over the past few weeks.

"I feel comfort in the fact that the perceptions that I was receiving from the administration on their commitment, or lack thereof, to our most vulnerable communities has really come to light now," he said.

Ali also warned that the Trump administration's budget proposal — which would cut EPA's budget by 31 percent and eliminate a host of staff positions — would cut enforcement of environmental laws inside of low-income communities.

The budget has proposed cutting environmental justice, environmental education, climate initiatives and other EPA programs.

While it's unclear whether the Congress will enact those proposals or pass more limited cuts to EPA's budget, certain agency programs are likely to be axed, and enforcement dollars will likely be decreased.

Ali slammed the administration as hypocritical for its focus on "certain types of enforcement" and not others in urban areas.

"Our new administration sees great value in certain types of enforcement inside of communities — making sure we have more law enforcement there, which can play a positive role if it's done properly," he said. "But doesn't seem to have the same level of commitment in making sure that we have inspectors and other enforcement personnel around making sure that folks are doing the right thing."

Ali also said reductions in state grants would hurt efforts to work with communities on environmental justice and efforts to gather scientific data needed for enforcement.

Since leaving EPA, Ali has become senior vice president of climate, environmental justice and community revitalization at the nonprofit Hip Hop Caucus.

The former official urged the administration to find a replacement for him as soon as possible.

"In the development of policy, if you do not have someone who is well-versed in this area, then you could have gaps," he said.

Jeff Wood, President Trump's acting top environmental lawyer, said Friday that environmental justice remains a concern for the administration and that the Clinton administration's 1994 executive order directing agencies to address environmental justice issues remains in effect.

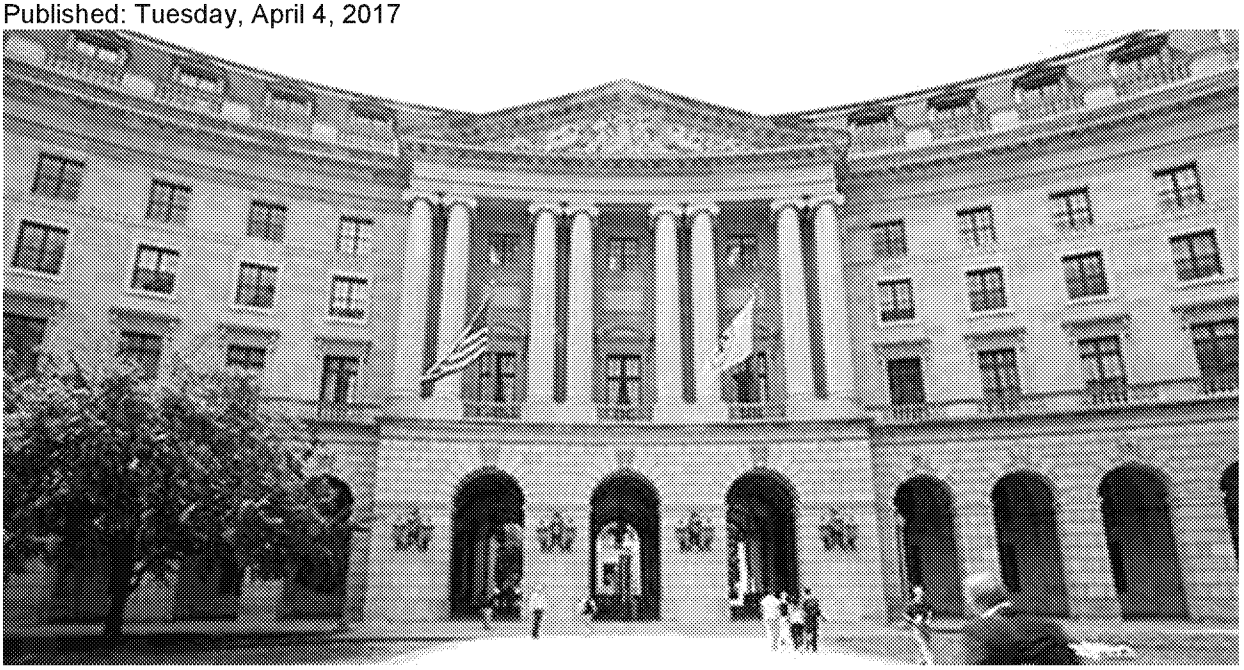
CLIMATEWIRE

BUDGET

EPA proposal cuts hundreds of climate change employees

Emily Holden, E&E News reporter

Published: Tuesday, April 4, 2017



Cuts to U.S. EPA are even deeper than expected. Photo courtesy of the Federal Privacy Council.

A memo detailing how U.S. EPA would cut its budget by one-third shows that the agency would eliminate hundreds of employees working on climate change, including 20 lawyers who provide support for the Clean Power Plan.

Overall, EPA would reduce staffing from about 15,000 to a full-time equivalent (FTE) ceiling of 11,547, according to the document, which was first reported by *The Washington Post*.

Acting Chief Financial Officer David Bloom sent the blueprint to the heads of EPA departments on March 21. They are supposed to provide feedback and explain how they would make the cuts and still fulfill statutory requirements. Acting assistant administrators are meant to certify the budget plan by April 25.

"This resource level will require taking a comprehensive look at our priorities and thinking differently about the best ways to accomplish our core statutory responsibilities," Bloom wrote.

The proposal lists many programs slated for elimination as duplicative, outside EPA's essential duties or "mature." It also seeks to fund some programs with more industry fees.

President Trump has proposed halving the budget of EPA's Office of Research and Development. The memo shows that would mean eliminating $19.4 million of EPA's climate change research that is conducted in coordination with the U.S. Global Change Research Program and cutting 47 FTE. It would also mean getting rid of $10.6 million for the Science to Achieve Results grant program, which funds research at universities.

As previously reported, the proposal would eliminate the $69.7 million Climate Protection Program, which houses voluntary partnerships like Energy Star. It would cut 224 FTE from that program.

EPA would eliminate $7.2 million and 11 FTE for environmental education, and $1.8 million and 12 FTE for the Office of Public Engagement. EPA would also cut $2 million and 40 FTE for environmental justice.

In addition, the proposal would move money around at the Office of the General Counsel, nixing lawyers working on the Obama administration's climate standards for power plants, which Trump has moved to gut.

Outside of climate, the budget document attempts to shift responsibility for many federal environmental laws to states. It would cut categorical grants like those for air quality, lead, pesticides enforcement and diesel emissions, resulting in a reduction to $597 million from $1.1 billion.

Bill Becker, head of the National Association of Clean Air Agencies, which represents state air regulators, said that taken together, the cuts are dramatic, and states would have trouble footing even more of the bill than they already do.

"Everyone is assuming that Congress will come to the rescue, but the problem is Congress is responding to a budget the administration has proposed, and it's doubtful that they're going to go in blindly," he said.

He added that Congress has been legitimately criticizing EPA for failing to publish air standard guidance on time, but this budget would make that even harder to accomplish.

The proposal also assumes the agency would see a decrease in new regulatory actions and would cut 24 FTE from EPA's Regulatory, Economic, Management and Analysis program, which evaluates the impact of regulations on business and the economy.

The blueprint directs two EPA departments to look at legislative options for privatizing Energy Star, the energy efficiency labeling program for consumer products. It aims to do something similar for vehicle emissions standards. EPA appears to want to recover the costs of ensuring vehicles meet standards by instituting more fees on industry, which would require action from Congress and likely create a budget shortfall in the meantime.

ENERGYWIRE

No stories this week.

Race, ethnicity, and air pollution: new directions in environmental justice.

Ahlers, Christopher D.
Environmental Law 46 4 713(46)

Environmental justice recognizes that low-income, minority communities are disproportionately affected by air

pollution, and that this problem should be addressed through environmental law and policy While it is easy to identify general relationships between poverty, demographic patterns, and air pollution, it is far more difficult to demonstrate that companies build industrial facilities at particular sites based on the racial or ethnic composition of the neighboring
community, or even that a minority community would be subject to disproportionate health and welfare impacts from a particular facility It is even more difficult to prohibit the construction of industrial facilities based on a disproportionate impact on low income, minority communities. This Article reviews the reported cases considering the decimation-based claims of the environmental justice movement, in the context of permitting and environmental reviews for industrial facilities. It concludes that this approach has not been successful in limiting their construction and operation. (article attached)

Building a Resilient and Equitable City: How to Advance Environmental Justice Through the *OneNYC* Plan

Eddie Bautista, Juan Camilo Osorio, Pamela Soto, Annel Hernandez

Many of the challenges that cities face today stem from historic and entrenched systemic policies and processes that result in the inequitable distribution of environmental burdens. Eddie Bautista, Juan Camilo Osorio, Pamela Soto and Annel Hernandez explain the logic behind the New York City Environmental Justice Alliance's1 policy and advocacy work to strengthen their local government's climate-change adaptation efforts in response to particular risks affecting low-income
neighborhoods and communities of color. (article attached)

Jennifer Turley, Law Librarian
U.S. Environmental Protection Agency
202/564-3971
turley.jennifer@epa.gov

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http://www.surveymonkey.com/s/epalibsurvey

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 2/1/2018 6:27:15 PM
To: ryan.fitzpatrick@dot.gov
CC: yvette.rivera@dot.gov
Subject: Re: Call from Port and City

Thanks Ryan

Sent from my iPhone

On Feb 1, 2018, at 1:08 PM, "ryan.fitzpatrick@dot.gov" <ryan.fitzpatrick@dot.gov> wrote:

Deliberative Process / Ex. 5

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
(202) 366-1583

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 12/11/2017 8:45:41 PM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Subject: Re: Touching base this week

Okay. That's fine. It's during our holiday party, but I believe we are only looking at a short call so won't be an issue.

Sent from my iPhone

On Dec 11, 2017, at 3:21 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

> The 12/13 date works best for me. Looks they are available from 2-4:30. Which time works best for you?
>
> **Ryan N. Fitzpatrick, Esq.**
> Lead Civil Rights Analyst
> Departmental Office of Civil Rights
> Office of the Secretary
> U.S. Department of Transportation
> W78-312
> (202) 366-1979
>
> **From:** Temple, Kurt [mailto:Temple.Kurt@epa.gov]
> **Sent:** Monday, December 11, 2017 3:08 PM
> **To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
> **Subject:** Re: Touching base this week
>
> Ryan: Let me know what works best for you. Tomorrow is not good for me. Also our Region 9 colleagues requested a brief touch base before our conversation with recipients.
>
> Sent from my iPhone
>
> On Dec 11, 2017, at 3:04 PM, Michele Heffes <mheffes@portoakland.com> wrote:
>
>> Hi Ryan: Thanks for reaching out. Hope you are well too. I could participate in a call this week as follows (ALL PACIFIC):
>>
>> 12/12: 9:30am-3pm
>> 12/13: 11am-4pm
>> 12/14: 9:30am-11am
>> 12/15: 9:30am-12pm
>>
>> Maria: Do any of those work for you?
>>
>> Hope we can make a match soon. I look forward to the discussion. Enforcement/Investigatory / Ex. 7(a)
>>
> Enforcement/Investigatory / Ex. 7(a)
>
> may help inform Maria and me on who else from the City and Port should be on the call.

Thanks. Michele

Michele Heffes
Assistant Port Attorney
Port Attorney's Office
530 Water Street
Oakland, CA 94607
Phone: (510) 627-1348
mheffes@portoakland.com

ATTORNEY-CLIENT PRIVILEGED

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From: Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
Sent: Monday, December 11, 2017 10:48 AM
To: Bee, Maria <MBee@oaklandcityattorney.org>; Michele Heffes <mheffes@portoakland.com>
Cc: Temple, Kurt (Temple.Kurt@epa.gov) <Temple.Kurt@epa.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>
Subject: Touching base this week

Good afternoon Michele and Maria:

I hope all is well out west with you both this holiday season. It's been a while since we spoke, so Kurt Temple at EPA and myself wanted to reach and try and schedule a short informal telephone call between the two of us and whoever you think is appropriate at the City and the Port, so that we can touch base and see where we're at before we go forward here. It shouldn't take more than 20 minutes or so. Do you have some time this week for us to set something up? It'll just be Kurt and I from the federal side.

Let me know some possible days/times and we'll get it set up.

Thanks,

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 1/31/2018 8:58:12 PM
To: ryan.fitzpatrick@dot.gov
Subject: Fwd: Oakland Draft Informal Resolution Agreement EPA and DOT reconciliation 2018.1.30.docx
Attachments: Oakland Draft Informal Resolution Agreement EPA and DOT reconciliation 2018.1.30.docx; ATT00001.htm

Ryan: I am out sick. Enforcement/Investigatory / Ex. 7(a)
Enforcement/Investigatory / Ex. 7(a)
Enforcement/Investigatory / Ex. 7(a) Kurt

Kurt T. Temple

Senior Advisor

External Civil Rights Compliance Office

EPA Office of General Counsel

1200 Pennsylvania Avenue, NW

Room 2524R

Washington, D.C. 20460

202-564-7299

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 12/11/2017 8:08:00 PM
To: ryan.fitzpatrick@dot.gov
Subject: Re: Touching base this week

Ryan: Let me know what works best for you. Tomorrow is not good for me. Also our Region 9 colleagues requested a brief touch base before our conversation with recipients.

Sent from my iPhone

On Dec 11, 2017, at 3:04 PM, Michele Heffes <mheffes@portoakland.com> wrote:

> Hi Ryan: Thanks for reaching out. Hope you are well too. I could participate in a call this week as follows (ALL PACIFIC):
>
> 12/12: 9:30am-3pm
> 12/13: 11am-4pm
> 12/14: 9:30am-11am
> 12/15: 9:30am-12pm
>
> Maria: Do any of those work for you?
>
> Hope we can make a match soon. I look forward to the discussion. Enforcement/Investigatory / Ex. 7(a)
> Enforcement/Investigatory / Ex. 7(a)
> Enforcement/Investigatory / Ex. 7(a) or is there some other topic? Knowing the agenda may help inform Maria and me on who else from the City and Port should be on the call.
>
> Thanks. Michele
>
> Michele Heffes
> Assistant Port Attorney
> Port Attorney's Office
> 530 Water Street
> Oakland, CA 94607
> Phone: (510) 627-1348
> mheffes@portoakland.com
>
> *ATTORNEY-CLIENT PRIVILEGED*
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> *This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.*
>
> ---
>
> **From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]
> **Sent:** Monday, December 11, 2017 10:48 AM
> **To:** Bee, Maria <MBee@oaklandcityattorney.org>; Michele Heffes <mheffes@portoakland.com>
> **Cc:** Temple, Kurt (Temple.Kurt@epa.gov) <Temple.Kurt@epa.gov>; Kizito-Ramos, Rachel (MARAD)

<Rachel.Kizito-Ramos@dot.gov>
Subject: Touching base this week

Good afternoon Michele and Maria:

I hope all is well out west with you both this holiday season. It's been a while since we spoke, so Kurt Temple at EPA and myself wanted to reach and try and schedule a short informal telephone call between the two of us and whoever you think is appropriate at the City and the Port, so that we can touch base and see where we're at before we go forward here. It shouldn't take more than 20 minutes or so. Do you have some time this week for us to set something up? It'll just be Kurt and I from the federal side.

Let me know some possible days/times and we'll get it set up.

Thanks,

Ryan

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

CITY OF OAKLAND

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OAKLAND
2016 NOV 22 AM 11:09

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Darin Ranelletti
Interim Director, PBD

SUBJECT: Informational Report on Army Base Northeast Gateway Construction-Related Air Quality Plan

DATE: November 14, 2016

City Administrator Approval Date: 11/21/16

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Construction-Related Air Quality Plan Prepared by Prologis And Approved By The City Administrator For The Northeast Gateway Site Of The Oakland Army Base Redevelopment Project.

EXECUTIVE SUMMARY

Prologis, one of the developers of the Oakland Army Base Redevelopment Project, has prepared an Air Quality Plan to reduce potential air quality impacts during construction of the proposed trade and logistics warehouse located in the Northeast Gateway. The City Administrator approved the Air Quality Plan on October 4, 2016. The mitigation measures for the project require an informational report be submitted to the City Council following the City Administrator's approval.

The City Administrator's approval is attached to this report and contains the approved Air Quality Plan, public comment letters, and additional background information.

BACKGROUND / LEGISLATIVE HISTORY

The Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCA/MMRP") approved on July 16, 2013, by the City Council for the Army Base project contains requirements for reducing the potential environmental impacts of the project, including requirements to reduce impacts related to air quality and trucking.

Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans) requires the City to conduct a public process in the development and review of the plans to comply with the above requirements and requires City Administrator approval of these plans.

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On December 5, 2013, the City Administrator approved the plan to comply with construction-related air quality requirements for the horizontal infrastructure phase of the project (e.g., new streets and utilities).

As the Army Base project is developed over time, individual developers of the project's vertical elements (e.g., new buildings and permanent activities) will submit plans to meet these air quality requirements. The first vertical development being implemented is the trade and logistics warehouse project by Prologis at the Northeast Gateway.

ANALYSIS

The process to develop and approve the Construction-Related Air Quality Plan followed the requirements specified by the City Council in Mitigation Measure PO-1 and included a public outreach component, as further discussed below under the "Public Outreach / Interest" section of this report.

Public comments received on the draft Air Quality Plan ranged from detailed comments targeting a specific issue to larger, general comments about the overall project. Comments could be loosely grouped into the following three categories: Overall Army Base Project Implementation; Construction vs. Operational Phases; and Details Regarding Construction-Phase Compliance. These categories are further discussed below.

Overall Army Base Project Implementation

Some stakeholders sought clarity on how the different Air Quality Plans and environmental requirements are being implemented over the construction phases and operational phases of the different elements of the overall Army Base project being developed at different times by different parties. The attached City Administrator approval contains an exhibit prepared by staff to better identify the different Air Quality Plans associated with the project.

In order to better track the construction and operational phases of the overall Army Base project, and their corresponding Air Quality Plans, the Bay Area Air Quality Management District and the California Air Resources Board requested notification when construction of the subject Prologis building begins. The City Administrator included this requirement in the approval of the Plan.

Construction vs. Operational Phases

The air quality requirements for the Army Base project address both the construction phase and operational phase of the project. Prologis received approval of an Air Quality Plan for the construction phase of the first building; it will seek approval of an Air Quality Plan for the operational phase of the first building at a later date, prior to operation of the facility. Like the construction-phase Air Quality Plan, the operational-phase Air Quality Plan will also require public outreach, stakeholder review/comment and City Administrator review/comment/approval.

Many of the strategies recommended in the public comments to reduce air quality impacts relate to the operational phase of the development that are implemented when a tenant occupies the

building and property. According to Prologis a tenant has not yet been identified for the property. Prologis is proposing to construct a "cold shell," meaning improvements for the individual tenant (e.g., office-restroom buildouts, equipment, and electrical, plumbing, and mechanical systems) will be installed later depending upon the needs of the tenant. Many of the strategies to reduce air emissions, such as electrification of warehouse and transportation equipment, can be implemented with the future tenant improvements and are not being precluded by the current design and construction of the building. Prologis will have guidelines for tenant improvements ("TI Guidelines") in individual leases that specify environmental and other requirements that the tenant must meet. Along with the environmental requirements from the Army Base SCA/MMRP, the proposed building is also subject to the City's green building regulations requiring the building to meet Leadership in Energy and Environmental Design ("LEED") Gold standards. Operational-related SCA/MMRP and LEED requirements can be adequately fulfilled by individual future tenants through the TI Guidelines or other lease-related, functionally equivalent mechanism. It is important for the operational-phase Air Quality Plan, particularly the elements related to individual tenant operations, to be in place before tenant operations begin. Accordingly, the City Administrator's approval included a requirement that the operational-phase Air Quality Plan be approved before any leases for the project are executed or operational activities at the site commence

Details Regarding Construction-Phase Compliance

Some stakeholders raised questions on the initial draft Air Quality Plan regarding how specific construction-related air quality requirements will be met. In response, Prologis added more specificity to the Plan. Below are some examples of where the Plan has been enhanced.

- Dust Monitoring: To control fugitive dust from the site, exposed dirt surfaces will be watered regularly. A wind speed sensor will be installed on the site and monitored periodically. Watering will be adjusted based on wind speed with increased watering during high winds (over 15 mph) and activities suspended during excessive wind (over 20 mph). Watering will occur until adequate moisture is achieved when the earth becomes tacky.

- Off-Road Equipment: To reduce emissions associated with off-road equipment, all contractors will use late-model equipment with lower-emission Tier 4 engines if available. At a minimum, Tier 3 engines will be required if Tier 4 engines are not available. The Air Quality Plan provides additional details on equipment compliance and monitoring. For example, contractors can provide documentation from the California Air Resources Board's Diesel Off-Road Online Reporting System ("DOORS") indicating engine specifications for equipment brought on-site. To assist with monitoring project performance with this requirement, the City Administrator's approval requires Prologis to submit the list of equipment brought on-site and the corresponding engine tier upon request by the City.

- Electric Power: Portable equipment will be powered by electricity from the project site's grid instead of diesel-powered generators thereby reducing emissions.

- Compliance: The Air Quality Plan identifies a Compliance Manager that will monitor and facilitate implementation of construction-related environmental requirements. All

contractors will maintain daily logs that can be submitted to the Compliance Manager. The Compliance Manager will complete training courses offered by the California Air Resources Board for emissions evaluation. To further promote compliance, the City Administrator's approval requires Prologis to obligate its construction contractor to comply with the Air Quality Plan and the requirements of the SCA/MMRP through the construction contract, agreement, or other functionally equivalent and enforceable mechanism.

FISCAL IMPACT

There are no fiscal impacts of the City Council's action to receive this informational report; the City Administrator has already approved the Air Quality Plan. Furthermore, there are no fiscal impacts of implementing the Air Quality Plan since the Plan will be implemented and funded by Prologis.

PUBLIC OUTREACH / INTEREST

On March 3, 2016, Prologis presented an initial version of a plan to comply with air quality requirements during construction (referred to as the "Air Quality Plan") at a quarterly meeting attended by air quality stakeholders, including community-based organizations, community residents, and interested government agencies.

On April 25, 2016, Prologis formally submitted the first draft of the Air Quality Plan to the City. On May 13, 2016, the draft Air Quality Plan was released to stakeholders for a 17-day public review period as required by Mitigation Measure PO-1. The City received comments from the following organizations: West Oakland Environmental Indicators Project; Ditching Dirty Diesel; Alameda County Public Health Department; Bay Area Air Quality Management District; and California Air Resources Board.

City staff met with Prologis numerous times to discuss potential enhancements to the Air Quality Plan to address public comments and reduce potential air quality impacts. In addition, staff conducted a visit to the site with staff from the Port of Oakland and the California Air Resources Board on July 21, 2016, and had a follow-up conference call with Prologis, the project contractor, the Bay Area Air Quality Management District, and the California Air Resources Board on August 3, 2016. In response to feedback from City staff and stakeholders, Prologis submitted revisions to the Air Quality Plan on July 18, July 27, and August 30, 2016. The latest draft of the Air Quality Plan, dated August 30, 2016, includes a cover letter from Prologis that responds to the public comments on the previous version of the Plan.

COORDINATION

The preparation of this report and the approved Air Quality Plan involved coordination between the Planning and Building Department and Army Base project staff in the City Administrator's Office.

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SUSTAINABLE OPPORTUNITIES

Economic: The Air Quality Plan will facilitate implementation of the Army Base project. In addition to the construction and operation jobs typically associated with new development, the Army Base project includes a Community Benefits Program with beneficial contracting and jobs requirements including funding for local jobs programs and construction wage and labor requirements.

Environmental: The Air Quality Plan will facilitate implementation of the Army Base project which the City Council determined to have beneficial environmental effects including the remediation of site contamination and increased access to open space. The Plan itself will reduce potential air quality and trucking impacts related to the construction at the Northeast Gateway. The project will also be subject to other environmentally-friendly construction and operation requirements, such as stormwater management requirements and green building requirements. The potential adverse environmental impacts of the project have also been analyzed under the California Environmental Quality Act ("CEQA") as discussed below.

Social Equity: The Air Quality Plan will facilitate implementation of the Army Base project which includes the Community Benefits Program and environmental benefits discussed above and the Air Quality Plan itself will reduce potential air quality and trucking impacts on nearby residents of West Oakland.

CEQA

An Environmental Impact Report was certified in 2002 when the Oakland Army Base Area Redevelopment Plan was adopted. An Initial Study/Addendum was prepared in 2012 when the City Council approved the master plan for the project and the Lease Disposition and Development Agreement with Prologis CCIG Oakland Global, LLC, the master developer of the site. The action of the City Administrator to approve the Air Quality Plan implements the environmental requirements previously imposed by the SCA/MMRP.

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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive an informational report on the construction-related Air Quality Plan prepared by Prologis and approved by the City Administrator for the Northeast Gateway site of the Oakland Army Base Redevelopment Project.

For questions regarding this report, please contact me at (510) 238-3663.

Respectfully submitted,

DARIN RANELLETTI
Interim Director, Planning and Building Department

Attachments (5):

A. *City Administrator's October 4, 2016, Approval of Construction-Related Air Quality Plan by Prologis for Northeast Gateway (without attachments, which are contained below)*
B. *Initial Draft Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan [Air Quality Elements]; dated April 25, 2016)*
C. *Public Comment Letters Received in Response to Draft Air Quality Plan dated April 25, 2016*
D. *Revised Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway A-D. Construction Management Plan" including related documents; dated August 30, 2016)*
E. *Air Quality Plan Implementation at Army Base – Tentative Timeline*

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Attachment A

City Administrator's October 4, 2016, Approval of Construction-Related Air Quality Plan by Prologis for Northeast Gateway

CITY OF OAKLAND

INTER OFFICE MEMORANDUM

TO: Sabrina B. Landreth
City Administrator

FROM: Rachel Flynn

SUBJECT: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site

DATE: September 8, 2016

City Administrator Approval

Date 10/4/16

RECOMMENDATION

Approve the construction-related Air Quality Plan for the Prologis development site located in the Northeast Gateway area of the former Oakland Army Base subject to the following conditions:

1. Prologis shall inform the Bay Area Air Quality Management District and the California Air Resources Board when construction commences at the site and provide contact information for a project representative at the site.

2. No lease for the development shall be executed and no operational activities at the site shall commence until the City Administrator approves the Air Quality Plan for the operational phase of the site.

3. Prologis shall submit the list of off-road construction equipment brought on-site and the corresponding engine tier upon request by the City.

4. Prologis shall obligate its construction contractor to comply with the Air Quality Plan and the requirements of the Standard Conditions of Approval / Mitigation Monitoring and Reporting Program through the construction contract, agreement, or other functionally equivalent and enforceable mechanism.

EXECUTIVE SUMMARY

Prologis, one of the developers of the Oakland Army Base redevelopment project, has prepared an Air Quality Plan to reduce potential air quality impacts during construction of the proposed trade and logistics warehouse located in the Northeast Gateway. The mitigation measures for the project require City Administrator approval of the Air Quality Plan.

BACKGROUND

The Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCAMMRP") for the Army Base project contains requirements for reducing the potential environmental impacts of the project, including requirements for the following plans and strategies to reduce impacts related to air quality and trucking:

- Construction Management Plan (SCA AIR-1)
- Construction-Related Air Pollution Controls (SCA AIR-2)
- Truck Management Plan (Mitigation 4.3-7)
- Maritime and Rail-Related Emissions Reduction Plan (Mitigation 4.4-3b)
- Truck Diesel Emission Reduction Plan (Mitigation 4.4-4)
- Transportation Control Measures (Mitigation 4.4-5)
- Energy-Conserving Fixtures and Designs (Mitigation 4.4-6)
- Demonstration Projects (Mitigation 5.4-1)
- Parking and Transportation Demand Management (SCA TRANS-1)
- Construction Traffic and Parking (SCA TRANS-2)
- Traffic Control Plan – Hazardous Materials (Mitigation 4.3-13)

Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans) requires the City to conduct a public process in the development and review of the plans to comply with the above requirements and requires City Administrator approval of these plans.

On December 5, 2013, the City Administrator approved the plan to comply with construction-related air quality requirements for the horizontal infrastructure phase of the project (e.g., new streets and utilities).

As the Army Base project is developed over time, individual developers of the project's vertical elements (e.g., new buildings and permanent activities) will submit plans to meet these air quality requirements. The first vertical development being implemented is the trade and logistics warehouse project by Prologis at the Northeast Gateway.[1]

On March 3, 2016, Prologis presented an initial version of a plan to comply with air quality requirements during construction (referred to as the "Air Quality Plan") at a quarterly meeting attended by air quality stakeholders, including community-based organizations, community residents, and interested government agencies.

On April 25, 2016, Prologis submitted the first draft of the Air Quality Plan to the City (see ***Attachment A***). On May 13, 2016, the draft Air Quality Plan was released to stakeholders for a 17-day public review period as required by Mitigation Measure PO-1. The City received comments from the following organizations: West Oakland Environmental Indicators Project; Ditching Dirty Diesel; Alameda County Public Health Department; Bay Area Air Quality

[1] The "Northeast Gateway" is a term used by Prologis to refer to the northern portion of the East Gateway area.

Management District; and California Air Resources Board (see ***Attachment B***). The comments are summarized and discussed in the "Key Issues" section below.

City staff met with Prologis numerous times to discuss potential enhancements to the Air Quality Plan to address public comments and reduce potential air quality impacts. In addition, staff conducted a visit to the site with staff from the Port of Oakland and the California Air Resources Board on July 21, 2016, and had a follow-up conference call with Prologis, the project contractor, the Bay Area Air Quality Management District, and the California Air Resources Board on August 3, 2016. In response to feedback from City staff and stakeholders, Prologis submitted revisions to the Air Quality Plan on July 18, July 27, and August 30, 2016.[2] The latest draft of the Air Quality Plan, dated August 30, 2016, is attached along with a cover letter from Prologis that responds to the public comments on the previous version of the Plan (see ***Attachment C***).

KEY ISSUES

Public comments received on the draft Air Quality Plan ranged from detailed comments targeting a specific issue to larger, general comments about the overall project. Comments could be loosely grouped into the following three categories: Overall Army Base Project Implementation; Construction vs. Operational Phases; and Details Regarding Construction-Phase Compliance. These categories are further discussed below. Also, refer to the cover letter prepared by Prologis (in ***Attachment C***) that contains a detailed response to the public comments.

Overall Army Base Project Implementation

Some stakeholders sought clarity on how the different Air Quality Plans and environmental requirements are being implemented over the construction phases and operational phases of the different elements of the overall Army Base project being developed at different times by different parties. Staff has prepared an exhibit to better identify the different Air Quality Plans associated with the project (see ***Attachment D***).

In order to better track the construction and operational phases of the overall Army Base project, and their corresponding Air Quality Plans, the Bay Area Air Quality Management District and the California Air Resources Board have requested notification when construction of the subject Prologis building begins. Staff believes this request is appropriate and recommends a corresponding condition to this effect when the City Administrator approves the subject Air Quality Plan (see Condition #1 in "Recommendation" section above).

[2] The initial draft Air Quality Plan submitted on April 25, 2106, only pertained to compliance with air quality requirements as required by the project mitigation measures. However, due to stakeholder interest in construction issues related to other topics besides air quality, Prologis submitted its entire Construction Management Plan – which addresses other topics in addition to air quality – when it submitted revisions to the Air Quality Plan.

Construction vs. Operational Phases

The air quality requirements for the Army Base project address both the construction phase and operational phase of the project. Prologis is currently seeking approval of an Air Quality Plan for the construction phase of the first building; it will seek approval of an Air Quality Plan for the operational phase of the first building at a later date. Like the construction-phase Air Quality Plan, the operational-phase Air Quality Plan will also require stakeholder review and City Administrator approval.

Many of the strategies recommended in the public comments to reduce air quality impacts relate to the operational phase of the development that are implemented when a tenant occupies the building and property. According to Prologis a tenant has not yet been identified for the property. Prologis is proposing to construct a "cold shell," meaning improvements for the individual tenant (e.g., office-restroom buildouts, equipment, and electrical, plumbing, and mechanical systems) will be installed later depending upon the needs of the tenant. Many of the strategies to reduce air emissions, such as electrification of warehouse and transportation equipment, can be implemented with the future tenant improvements and are not being precluded by the current design and construction of the building. Prologis will have guidelines for tenant improvements ("TI Guidelines") in individual leases that specify environmental and other requirements that the tenant must meet. Along with the environmental requirements from the Army Base SCAMMRP, the proposed building is also subject to City green building regulations requiring the building to meet Leadership in Energy and Environmental Design ("LEED") Gold standards. Operational-related SCAMMRP and LEED requirements can be adequately fulfilled by individual future tenants through the TI Guidelines or other lease-related, functionally equivalent mechanism. It is important for the operational-phase Air Quality Plan, particularly the elements related to individual tenant operations, to be in place before tenant operations begin. Accordingly, staff recommends a condition be attached when the City Administrator approves the subject Air Quality Plan that requires City Administrator approval of the operational-phase Air Quality Plan before any leases for the project are executed or operational activities at the site commence (see Condition #2 in "Recommendation" section above).

Details Regarding Construction-Phase Compliance

Some stakeholders raised questions on the initial draft Air Quality Plan regarding how specific construction-related air quality requirements will be met. In response, Prologis added more specificity to the Plan. Below are some examples of where the Plan has been enhanced.

- Dust Monitoring: To control fugitive dust from the site, exposed dirt surfaces will be watered regularly. A wind speed sensor will be installed on the site and monitored periodically. Watering will be adjusted based on wind speed with increased watering during high winds (over 15 mph) and activities suspended during excessive wind (over 20 mph). Watering will occur until adequate moisture is achieved when the earth becomes tacky.

- Off-Road Equipment: To reduce emissions associated with off-road equipment, all contractors will use late-model equipment with lower-emission Tier 4 engines if available. At a minimum, Tier 3 engines will be required if Tier 4 engines are not available. The Air Quality Plan provides additional details on equipment compliance and monitoring. For example, contractors can provide documentation from the California Air Resources Board's Diesel Off-Road Online Reporting System ("DOORS") indicating engine specifications for equipment brought on-site. To assist with monitoring project performance with this requirement, staff recommends a condition be attached when the City Administrator approves the subject Air Quality Plan that requires Prologis to submit the list of equipment brought on-site and the corresponding engine tier upon request by the City (see Condition #3 in "Recommendation" section above).

- Electric Power: Portable equipment will be powered by electricity from the project site's grid instead of diesel-powered generators thereby reducing emissions.

- Compliance: The Air Quality Plan identifies a Compliance Manager that will monitor and facilitate implementation of construction-related environmental requirements. All contractors will maintain daily logs that can be submitted to the Compliance Manager. The Compliance Manager will complete training courses offered by the California Air Resources Board for emissions evaluation. To further promote compliance, staff recommends a condition be attached when the City Administrator approves the subject Air Quality Plan that requires Prologis to obligate its construction contractor to comply with the Air Quality Plan and the requirements of the SCAMMRP through the construction contract, agreement, or other functionally equivalent and enforceable mechanism (see Condition #4 in "Recommendation" section above).

CONCLUSION

The stakeholder review requirements for the proposed Air Quality Plan have been satisfied and the Air Quality Plan has been revised in response to comments received from the public. Staff believes the Air Quality Plan is adequate and recommends that the City Administrator approve the Plan.

Pursuant to Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans), following the City Administrator's approval of the Air Quality Plan staff will make an informational presentation on the Air Quality Plan to the City Council.

Please contact Darin Ranelletti, Deputy Director, at (510) 238-3663, if you have any questions.

RACHEL FLYNN
Director, Planning and Building Department

Prepared by:
Darin Ranelletti
Deputy Director, Planning and Building Department

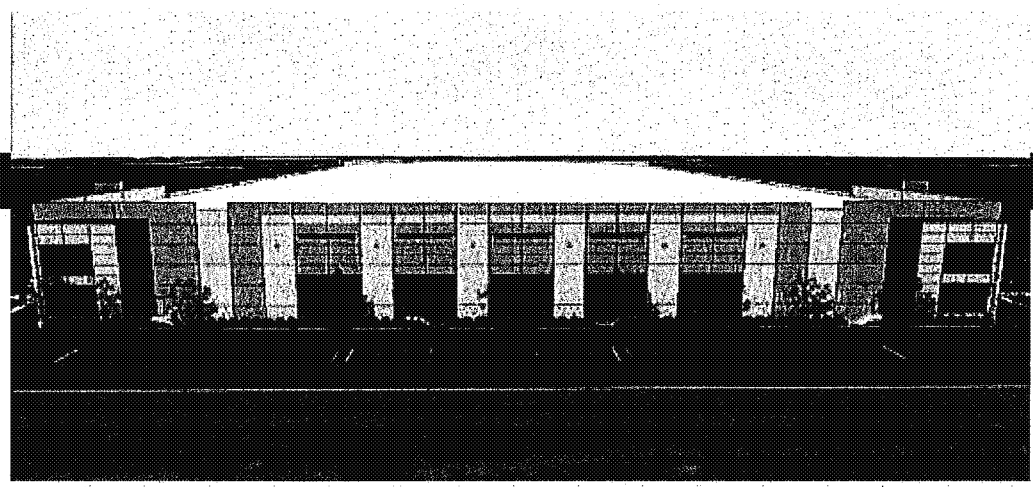
Attachments:

A. *Initial Draft Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan [Air Quality Elements]; dated April 25, 2016)*
B. *Public Comment Letters Received in Response to Draft Air Quality Plan dated April 25, 2016*
C. *Revised Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan" including related documents; dated August 30, 2016)*
D. *Air Quality Plan Implementation at Army Base – Tentative Timeline*

Attachment B

Initial Draft Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway Construction Management Plan [Air Quality Elements]; dated April 25, 2016)

NORTHEAST GATEWAY CONSTRUCTION MANAGEMENT PLAN (AIR QUALITY ELEMENTS)



Initial Submittal: April 25, 2016

PROLOGIS

WT WHITING-TURNER

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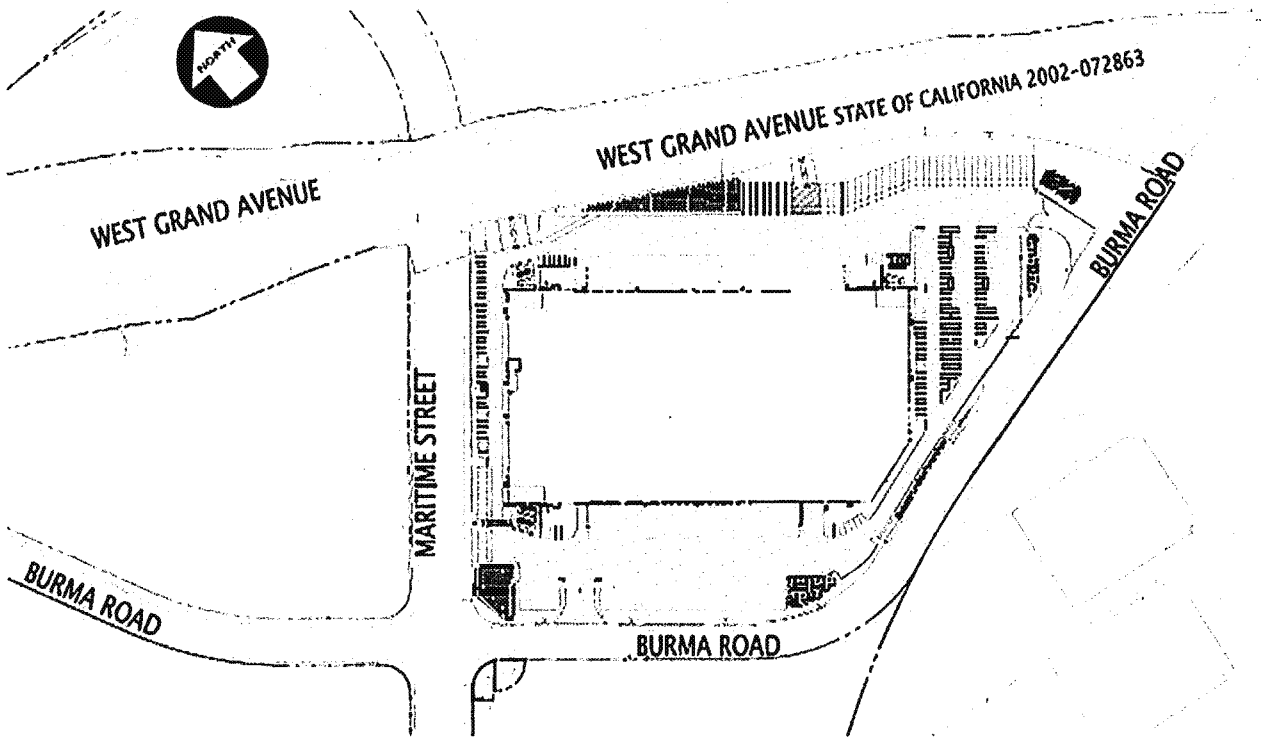
B. Erosion Control Plan.....
C. Project Schedule.....
D. Project Logistics Plan.....
E. Approved Traffic Control Plan-*TBD*...
F. Approved Truck Haul Route.....
G. Signage: Speed Limit.....
H. Sigange: Dust Reporting, Noise Complaints, and Construction Work Hours.....
I. Log: Dust and Noise Complaints..
J. Signage: Equipment Idle Time Restrictions.....
K. Sample Public Notice.....
L. Project Truck Log.....
M. Daily Site Inspection Log.....

PROLOGIS WT

1. Project Overview and General Information



On the Northeast Gateway site Prologis will construct a new 256,000 sf warehouse on a site covering approximately 702,000sf bordered by Maritime Street, Burma Road and West Grand Ave. The project site improvements will include new underground utilities, landscaping, concrete and ac paving and bio-swales. The new warehouse building will include 55 truck docks, 78 trailer parking stalls, 171 auto parking stalls and two electric vehicle charging stations.

PROLOGIS WT

2. Air Quality - Construction Related Air Pollution Controls

SCA-AIR-2 Construction Related Air Pollution Controls

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

During Construction, the project applicant shall require the construction contractor to implement all of the following applicable measures recommended by the Bay Area Air Quality Management District (BAAQMD):

a. Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.

b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).

c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

d. Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

e. Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).

f. Requirement: Limit vehicle speeds on unpaved roads to 15 miles per hour.

g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes (as required by Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.

h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes and fleet operators must develop a written idling policy (as required by Title 13, Section 2449 of the California Code of Regulations.)

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

j. Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.

k. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

2. Air Quality - Construction Related Air Pollution Controls

l. All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.

m. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

n. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).

o. Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.

p. Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.

q. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

r. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

s. All trucks and equipment, including tires, shall be washed off prior to leaving the site.

t. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

u. All equipment to be used on the construction site and subject to the requirements of Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") must meet Emissions and Performance Requirements one year in advance of any fleet deadlines. The project applicant shall provide written documentation that the fleet requirements have been met.

v. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).

Dust Control Mitigation Plan:

The Erosion Control Plan (Exhibit B) was submitted to the City as part of the 02/08/2016 Issue for Permit Drawings. In addition to the dust control measures included in The Erosion Control Plan the following items will be implemented to control dust -

a. Use water trucks to water exposed surfaces during construction activities at least twice daily or more frequently if winds exceed 15 mph. Suspend excavation, grading, and demolition activities when average wind speed exceeds 20 mph. Maintain minimum soil moisture of 12% as indicated by laboratory samples or a moisture meter. Use reclaimed water for dust mitigation whenever feasible.

2. Air Quality - Construction Related Air Pollution Controls

b. Cover truck loads with tarpaulins or keep loads 2 feet below the sideboard of the truck bed to eliminate wind contact with soil or other loaded materials.

c. Require all operators tracking dirt/mud onto public roadways to have a wet power vacuum sweeper present daily during these activities and remove tracked dirt/mud at the end of each day or more frequently if needed.

d. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. Construction area entrances will be built using fabric and 3x5 rock to facilitate tire soil removal prior to leaving the site (or as defined by the guidelines in the Best Management Practice Handbook). Ingress/egress sites will also provide dry brushing of loose soil from tires and fenders.

e. As soon as practical and prior to rainy season, cover all access roads and/or permanent roads and building pads with aggregate or asphalt concrete to mitigate tracking of dirt and/or mud offsite.

f. Cover all inactive soil material stockpiles with plastic sheeting or non-toxic soil binders. Water all active stockpiles to maintain 12% moisture.

g. Install fencing with attached windscreen fabric on the windward side of the actively disturbed area of the construction site.

h. Replant vegetation in disturbed areas as quickly as possible.

i. Limit simultaneous occurrence of excavation, grading, and ground disturbance activities on the same area at any one time when feasible.

j. Draft and implement a Project SWPPP. The onsite QSP (Randy Knaus) will monitor runoff before, during, and after rain events. Deficiencies will be logged and corrected immediately. Inactive construction areas will be properly addressed with BMPs to eliminate erosion. Required BMPs will be outlined in the SWPPP and enforced with reporting and inspection.

k. Post signage and enforce 15 mph speed limit requirement for unpaved roads (Exhibit G).

l. Post signage and enforce dust complaint reporting requirement (Exhibit H). Take corrective action to remedy complaints within no more than 48 hours after receiving the complaint.

m. The Project Dust Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. The Contractor will maintain Daily Inspection Logs throughout the Project.

Emission Control Mitigation Plan:

To reduce emissions generated by equipment operating onsite the following protocols will be implemented –

a. Use late model heavy-duty diesel-powered equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment.

b. Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and

2. Air Quality - Construction Related Air Pollution Controls

unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.

c. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.

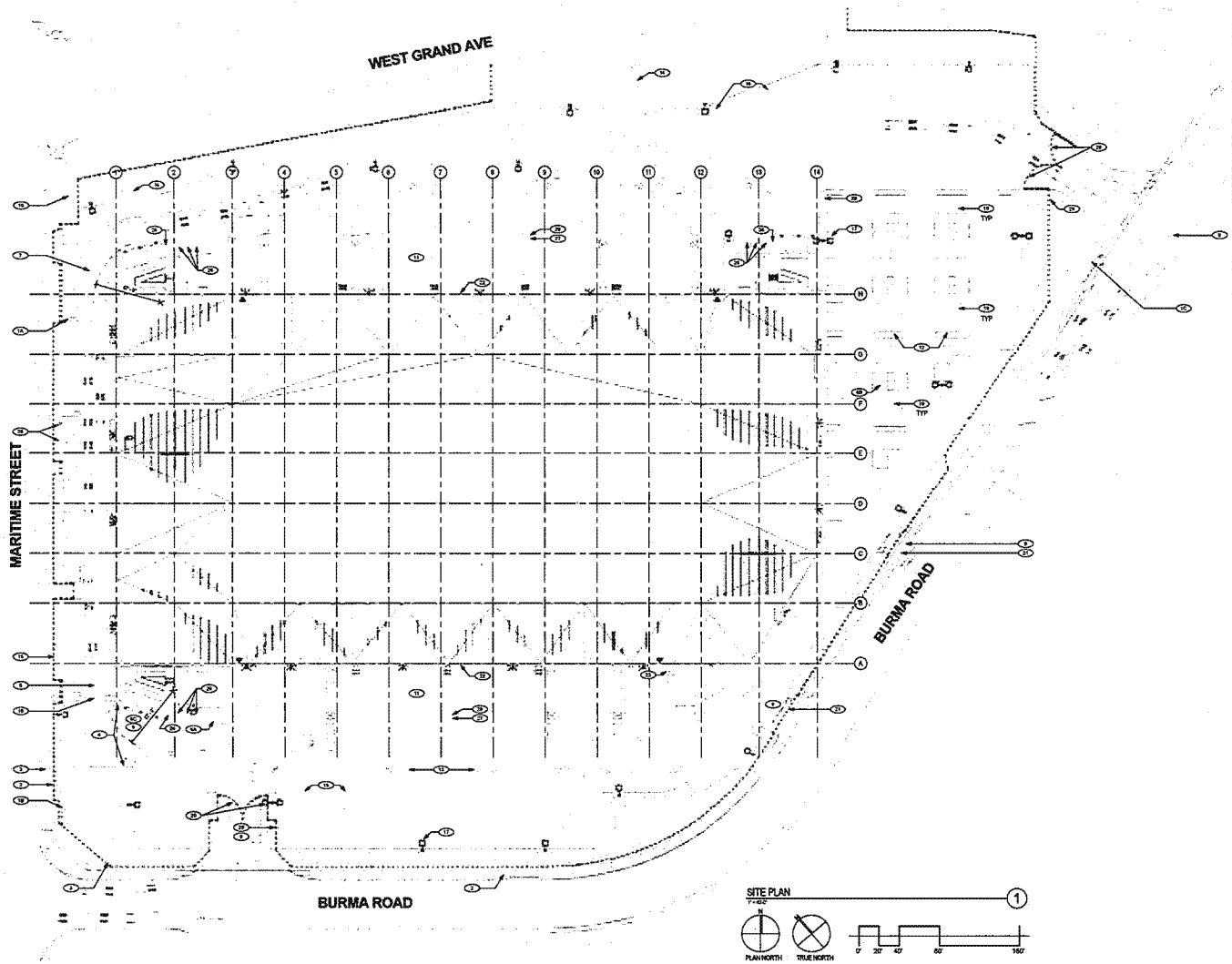
d. Keep all construction equipment properly tuned by a certified mechanic in accordance with the manufacturer's specifications. Operators will provide the Contractor with written documentation of equipment maintenance for all equipment to be used onsite.

e. Enforce requirements of CCR Title 13, Section 2449 (CARB OffRoadDiesel Regulations) and Title 13, Section 2485 with reporting and/or inspection and enforce construction equipment maintenance requirements.

f. The Project Compliance Manager (Randy Knaus) will to monitor and facilitate the implementation of mitigation measures. All contractors subject this provision will maintain Daily Inspection Logs throughout the Project.

g. Post signage limiting truck and equipment idling time to five minutes or less. (Exhibit J)

Exhibit A- Site Plan and Elevation



SITE STATISTICS

PARCEL NUMBER:	018-0507-001-00
ZONING:	D-OI
HEIGHT - CENTRAL BUSINESS DISTRICT:	N/A
HEIGHT - COMMERCIAL CORRIDOR:	N/A
MAXIMUM BUILDING HEIGHT:	65'-0" (PER OAKLAND ZONING 17.101F.050)
MAXIMUM FLOOR AREA RATIO:	5 (PER OAKLAND ZONING 17.101F.050)
GENERAL PLAN:	BUSINESS MIX
CONDO CONVERSION IMPACT AREA:	NO
CITY COUNCIL DISTRICT:	CCD3
SDS SERVICE DISTRICT:	1
PORT OF OAKLAND JURISDICTION:	NO
LOCAL HISTORIC PROPERTY CATEGORY:	LOCAL REGISTER
LOCAL HISTORIC DISTRICT:	
OCHS RATING:	
CONSTRUCTION DATE:	
LOCAL LANDMARK:	NO
NATIONAL HISTORIC LANDMARK :	NO
HERITAGE PROPERTY:	NO
DESIGNATED HISTORIC DISTRICT:	NO
MILLS ACT	NO
WHIPSNAKE CRITICAL HABITAT:	NO
FLOOD ZONE:	NO
HAYWARD FAULT ZONE:	NO
LIQUEFACTION HAZARD ZONE:	YES, LIQUEFACTION SEVERITY 5
WILD FIRE ASSESSMENT DISTRICT:	NO
TOTAL SITE AREA =	702,071.2175 G.S.F. = 16.12 ACRES
TOTAL BLDG AREA =	256,136 G.S.F.
SITE COVERAGE =	36.48 %
TOTAL VEHICLE PARKING =	214 STALLS = .84 / 1000 S.F.
TOTAL TRAILER PARKING =	71 TRAILER STALLS (12' X 55')
PARKING STANDARDS (17.116.200):	
STANDARD PARKING STALLS	18' DEEP X 8.5' WIDE
COMPACT PARKING STALLS	15' DEEP X 7.5' WIDE (50% MAX)
PARALLEL PARKING STALLS	20.5' DEEP X 7.5' WIDE
DRIVE ISLE WIDTH (17.116.210) AT 90 DEGREE PARKING:	21 FEET MINIMUM
REQUIRED PARKING PER ZONING CODE:	
OFFICE (17.116.080 C, BUSINESS):	1 / 600 S.F.
INDUSTRIAL ACTIVITIES (17.116.090)	1 / 1500 S.F. OR 1 FOR EACH 3 EMPLOYEES (WHICHEVER IS GREATER)
REQUIRED PARKING BY USE:	
OFFICE = (8,349 S.F. @ 1/600 S.F.)	14 STALLS
WAREHOUSE = (247,787 S.F. @ 1/1500 S.F.)	165 STALLS
TOTAL PARKING REQUIRED =	179 STALLS = .70 / 1000 S.F.
TOTAL PARKING PROVIDED =	179 STALLS = .70 / 1000 S.F.
BIORETENTION AREAS	12' X 14' GRADE LEVEL SECTIONAL ROLL UP DOOR
	9' X 10' DOCK LEVEL SECTIONAL ROLL UP DOOR

WT
160 Pine Street
San Francisco, CA 94111
Tel 415.781.9800
Fax 415.788.5216
www.wt-a.com

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Description	Date
ISSUE FOR PERMIT	14.06.02

ISSUE: ISSUE FOR PERMIT FEB 09 2016

OAKLAND GLOBAL LOGISTICS CENTER

PHASE 1, NORTH EAST OA DEWAY
OAKLAND
CALIFORNIA

PROLOGIS
1763 GATEWAY BLVD
FREMONT, CALIFORNIA
94538
TELEPHONE: 510.656.1900

Date: DATE: Project No.: 16024.00

Sheet Title: SITE PLAN

Sheet No.: A1.0.1

Released for Construction
Not Released for Construction

KEY NOTES

1A SITE SIGNAGE FOR REFERENCE ONLY - OVERALL DEVELOPMENT PROVISION
1B SITE SIGNAGE FOR REFERENCE ONLY - BUILDING NUMBER/ADDRESS
1C SITE SIGNAGE FOR REFERENCE ONLY - DUAL TENANT DIRECTORY SIGNS (2 TOTAL)
2 PROPERTY LINES TO REMAIN
3 5'-0" WIDE MINIMUM SIDEWALK AT MARITIME AND BURMA RD
4 TYPICAL 6" TALL 18" WIDE CONCRETE CURBS
5 TYPICAL 4" WIDE TRAFFIC STRIPS
6A TYPICAL PARKING - STANDARD STALLS 18' X 8.5' MIN, 19' X 9' SHOWN THROUGHOUT
6B TYPICAL PARKING - COMPACT STALLS 15' X 7.5' MIN, 16' X 8' SHOWN THROUGHOUT, (50%)
6C TYPICAL PARKING - ACCESSIBLE PARKING STALLS 9' X 18' WITH 7' PARKING OVERHANG WITH 8' ON AISLE WIDE LOADING ZONE AS SHOWN
7 TYPICAL DRIVE ISLE, 25'-0" MIN ACTUAL DIMENSIONS VARIES
8 PARKING AND DRIVE ISLES TO BE ASPHALTIC CONCRETE
9 PROPOSED LOCATION OF NEW SITE ACCESS DRIVE CURB OUT AT BURMA RD
10 NEW ZONE PEDESTRIAN WALKS TO BE 4' WIDE MIN, ADJACENT ALL SIDEWALKS TO BE ACCESSIBLE PATH OF TRAVEL, SLOPE NOT TO EXCEED 1:20 (5%) IN DIRECTION OF TRAVEL, CROSS SLOPE NOT TO EXCEED 1:50 (2%) WHERE PARKING OVERHANG OCCURS, INCREASE WIDTH OF SIDEWALK TO 6'-0" MIN
11 TRASH DOCK
12 TYP LANDSCAPE PLANTER AREA
13 NOMA TRACTOR TRAILER TEMPLATE SHOWN FOR REFERENCE ONLY
14 CAN'TE BILLBOARD LOCATION (2 TOTAL)
15 8' TALL PAINTED WROUGHT IRON FENCE, SEE SPECS
16 TYP 12" CSP TRAILER PARKING STALL
17 SITE LIGHTING, POLE MOUNTED LIGHT FIXTURE
18 SEE CIVIL DRAWINGS FOR EASEMENTS LOCATIONS AND INFORMATION
19 PLANTED FLEXIBLE STORAGE ZONES
20 TRANSONS SECURITY GATES
21 SLIDING SECURITY GATE
22 PROPOSED BUILDING EXTERIOR WALLS TO BE SITE CAST TILT-UP CONCRETE WALLS WITH REVEALS & TEXTURED ELASTOMERIC (DRYVIT) AND A MIX OF EARTH TONE PAINT. PALETTE. EXTERIOR WALLS ARE ACCENTED WITH GLAZING, STEEL, COMPOSITE ALUMINUM PANELS AND ARCHITECTURAL METAL PANELS. SEE EXTERIOR ELEVATIONS
23 LOCATION OF BICYCLE PARKING TO ACCOMMODATE A TOTAL OF 16 BICYCLES, PER CALGREEN REQUIREMENTS
24 AREA OF ASSISTED RESCUE
25 ELECTRIC VEHICLE CHARGING STATIONS (2 TOTAL, SERVICING 4 PARKING SPOTS). PROVIDE CHARGING STATION SIGNAGE.
26 2 HIGH EFFICIENCY VEHICLE STALLS (HEV) - 9 TOTAL IN PROJECT (GREATER THAN THE REQUIREMENT 5% OF TOTAL)
27 PROVIDE BOLLARDS AT FOUR CORNERS OF FH. CONTRACTOR TO COORD BOLLARDS TO NOT CONFLICT WITH FH
28 FRESH TOWING, TYP, SEE CIVIL DWGS
29 FRESH NYLON HIGH SECURITY INTEGRATED INTO FENCE

Exhibit A- Site Plan and Elevation

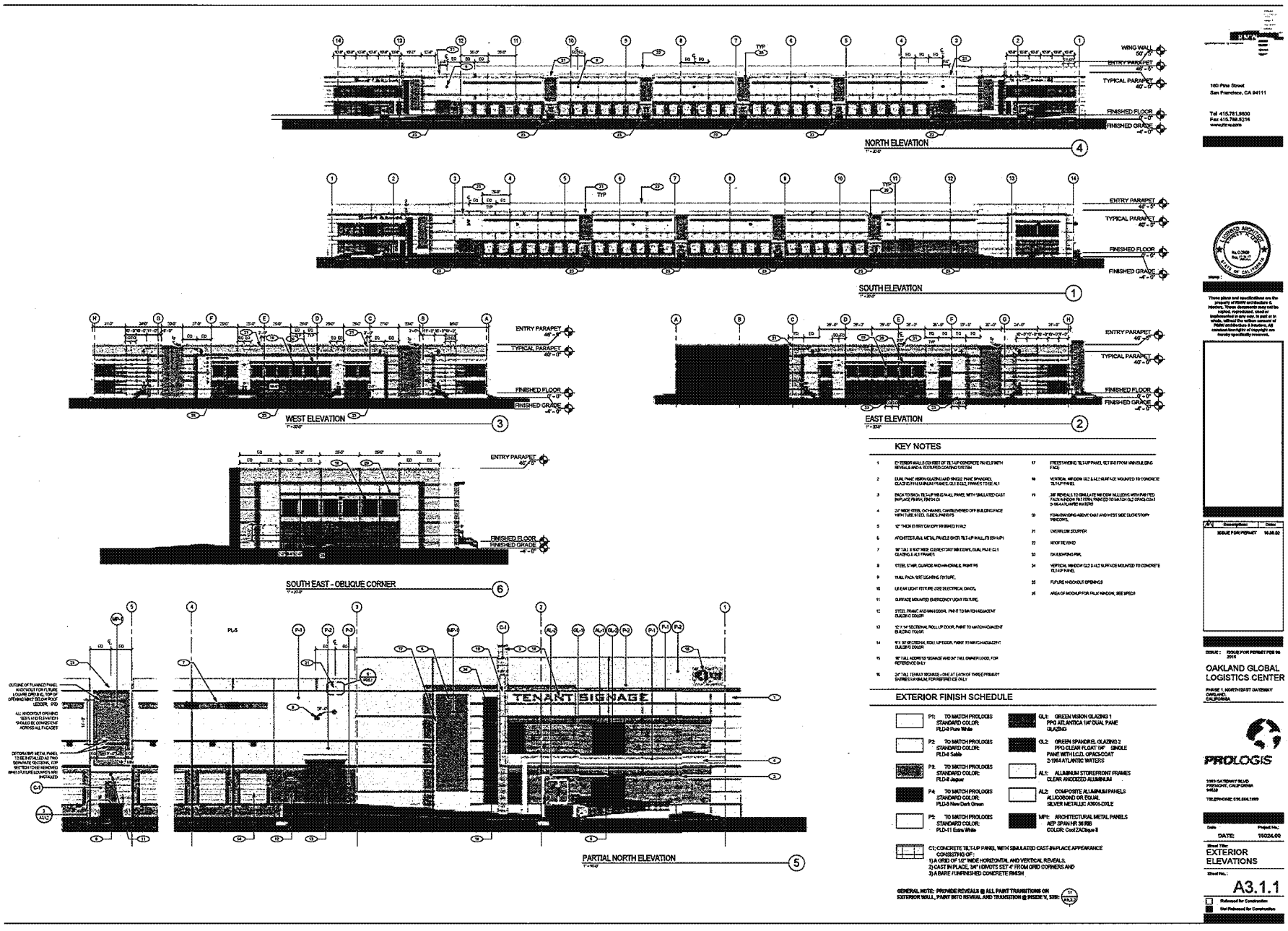
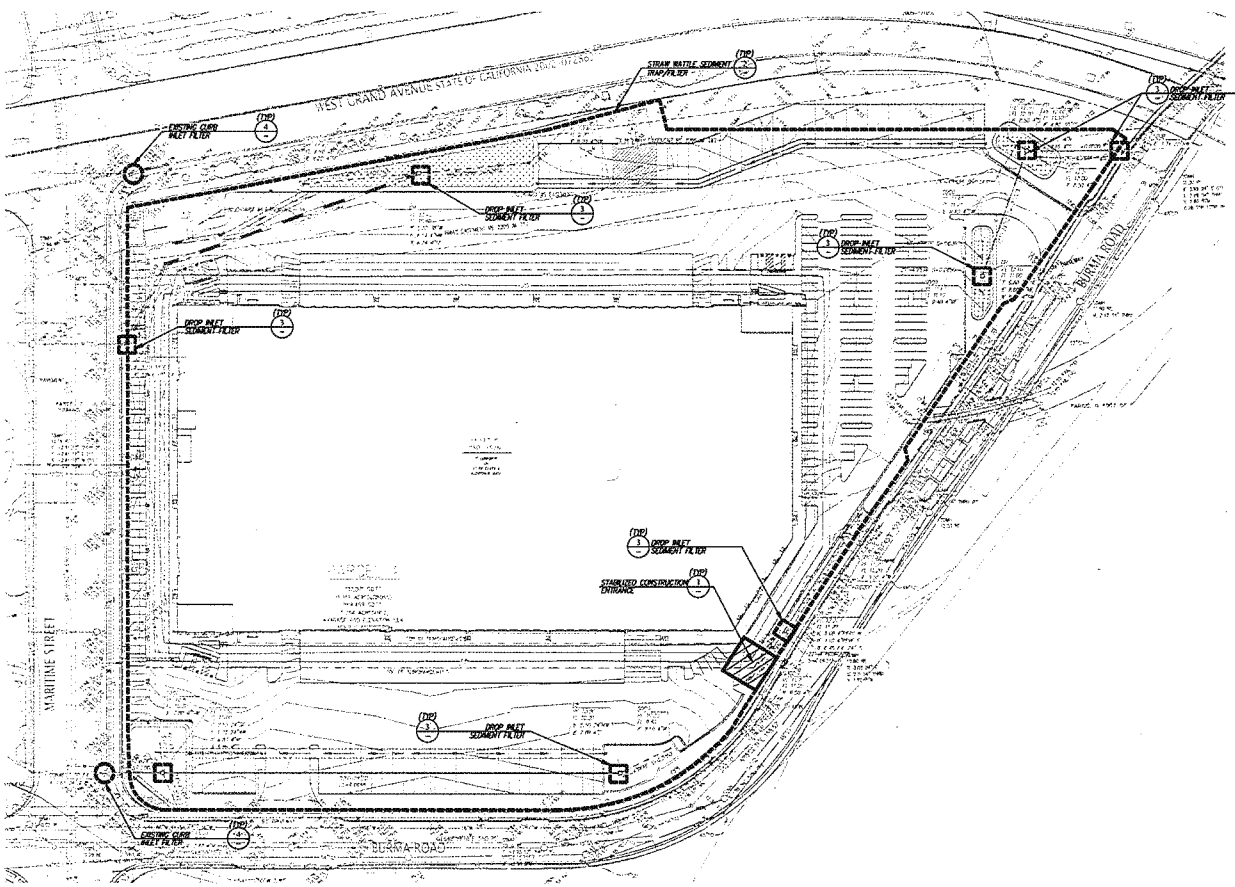
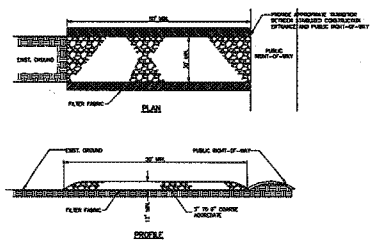
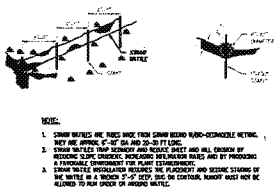


Exhibit B- Erosion Control Plan

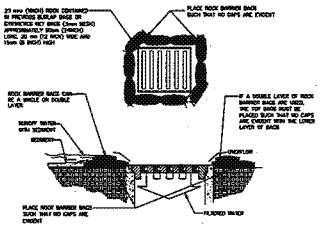




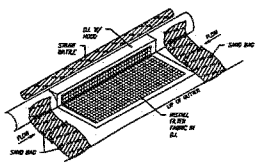
STABILIZED CONSTRUCTION ENTRANCE (1)



STRAW WATTLE SEDIMENT TRAP/FILTER (2)



DROP INLET SEDIMENT FILTER UTILIZING ROCK BARRIER BAGS (3)



EXISTING CURB INLET FILTER DETAIL (4)

KIER & WRIGHT

2850 Collier Canyon Road
Livermore, California 94551

Phone (925) 245-8786
Fax (925) 245-8796

OAKLAND GLOBAL LOGISTICS CENTER

PROLOGIS

Date: JAN. 2016
Project No.: A13633-1

Sheet Title: EROSION CONTROL PLAN

Sheet No.: C6

Released for Construction
Not Released for Construction

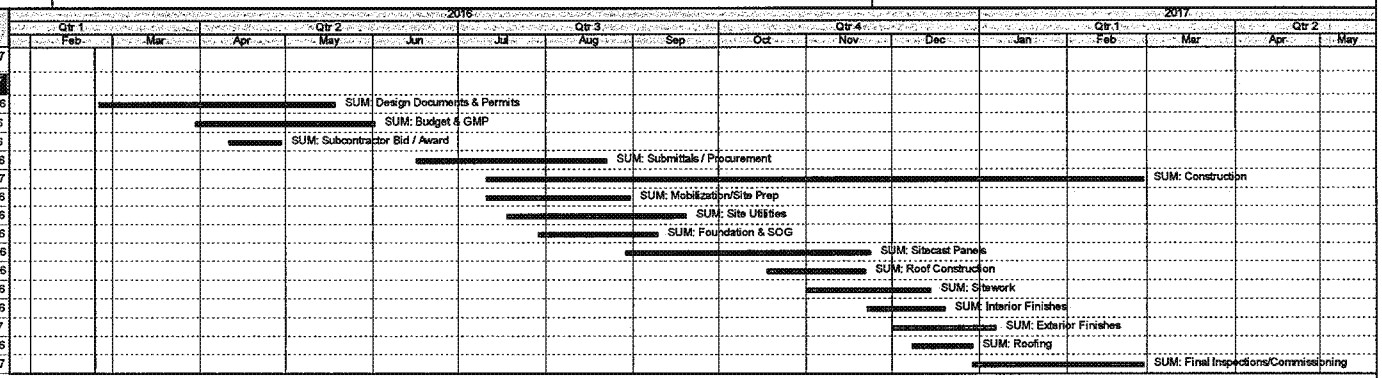
Exhibit C- Project Schedule

WHITING-TURNER

PROLOGIS - OAB NORTHEAST GATEWAY
PROJECT SUMMARY SCHEDULE: 31-Mar-16

PROLOGIS

#	Activity ID	Activity Name	OD	Start	Finish
1	**PROLOGIS PHASE 1**		256	25-Feb-16	27-Feb-17
2	PROJECT SUMMARY		256	25-Feb-16	27-Feb-17
3	SUM-1130	SUM: Design Documents & Permits	60	25-Feb-16	18-May-16
4	SUM-1120	SUM: Budget & GMP	46	30-Mar-16	01-Jun-16
5	SUM-1140	SUM: Subcontractor Bid / Award	15	11-Apr-16	29-Apr-16
6	SUM-1150	SUM: Submittals / Procurement	47	16-Jun-16	22-Aug-16
7	SUM-1110	SUM: Construction	160	11-Jul-16	27-Feb-17
8	SUM-1180	SUM: Mobilization/Site Prep	37	11-Jul-16	30-Aug-16
9	SUM-1160	SUM: Site Utilities	45	18-Jul-16	19-Sep-16
10	SUM-1190	SUM: Foundation & SOG	30	29-Jul-16	09-Sep-16
11	SUM-1170	SUM: Sitecast Panels	62	29-Aug-16	23-Nov-16
12	SUM-1200	SUM: Roof Construction	25	18-Oct-16	21-Nov-16
13	SUM-1230	SUM: Sitework	30	01-Nov-16	14-Dec-16
14	SUM-1220	SUM: Interior Finishes	18	22-Nov-16	19-Dec-16
15	SUM-1210	SUM: Exterior Finishes	25	01-Dec-16	06-Jan-17
16	SUM-1250	SUM: Roofing	15	08-Dec-16	29-Dec-16
17	SUM-1240	SUM: Final Inspections/Commissioning	41	29-Dec-16	27-Feb-17



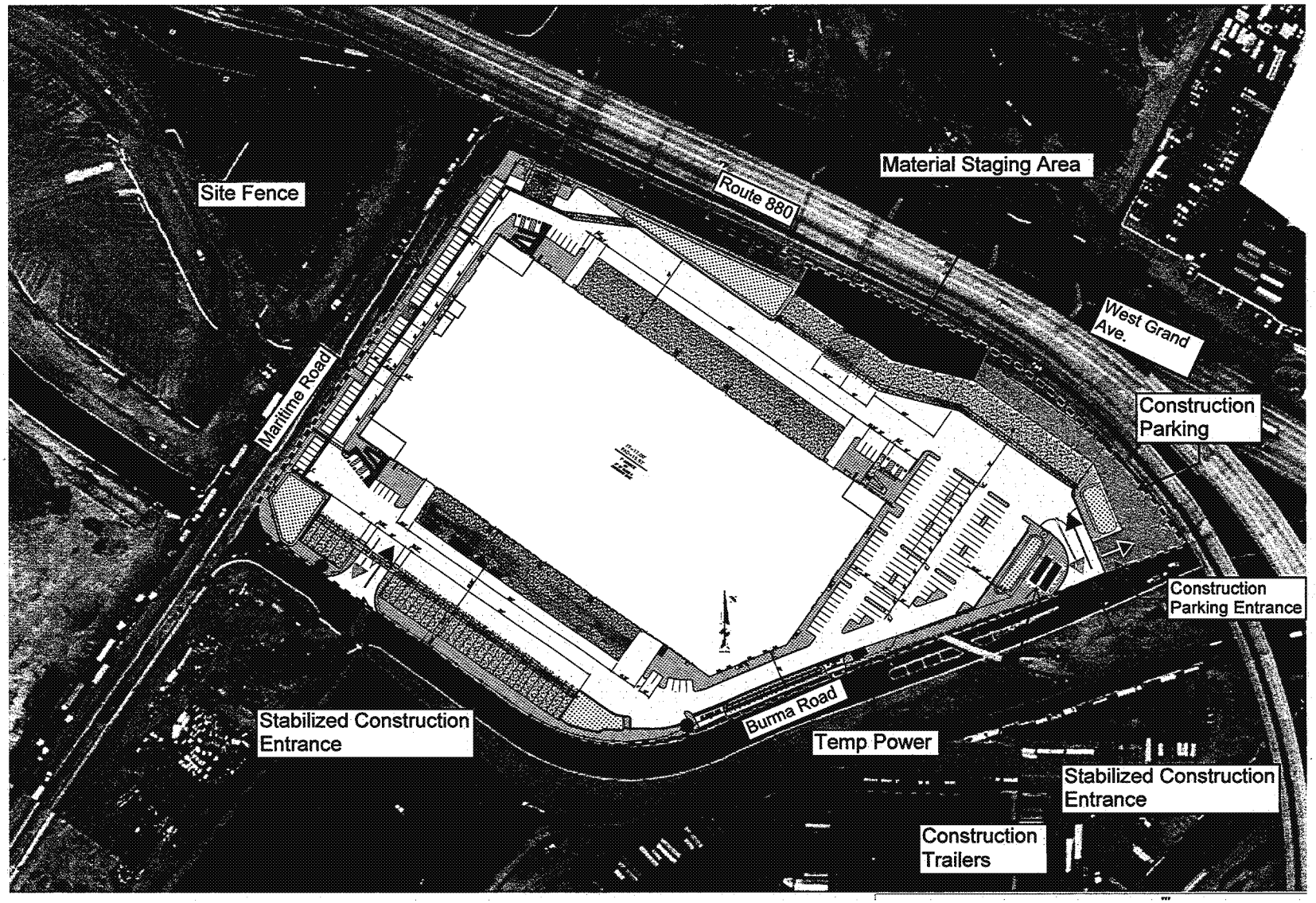
Project ID: PROLOGIS-P1, Project Name: PROLOGIS PHASE 1
Data Date: 24-Feb-16

Page 1 of 1

Layout: WT Large Project Layout
Filter: TASK filter: Submittals.

PROLOGIS WT

Exhibit D- Project Logistics Plan



● Fire Hydrant
⊙ Construction Signage
- - - Construction Fence

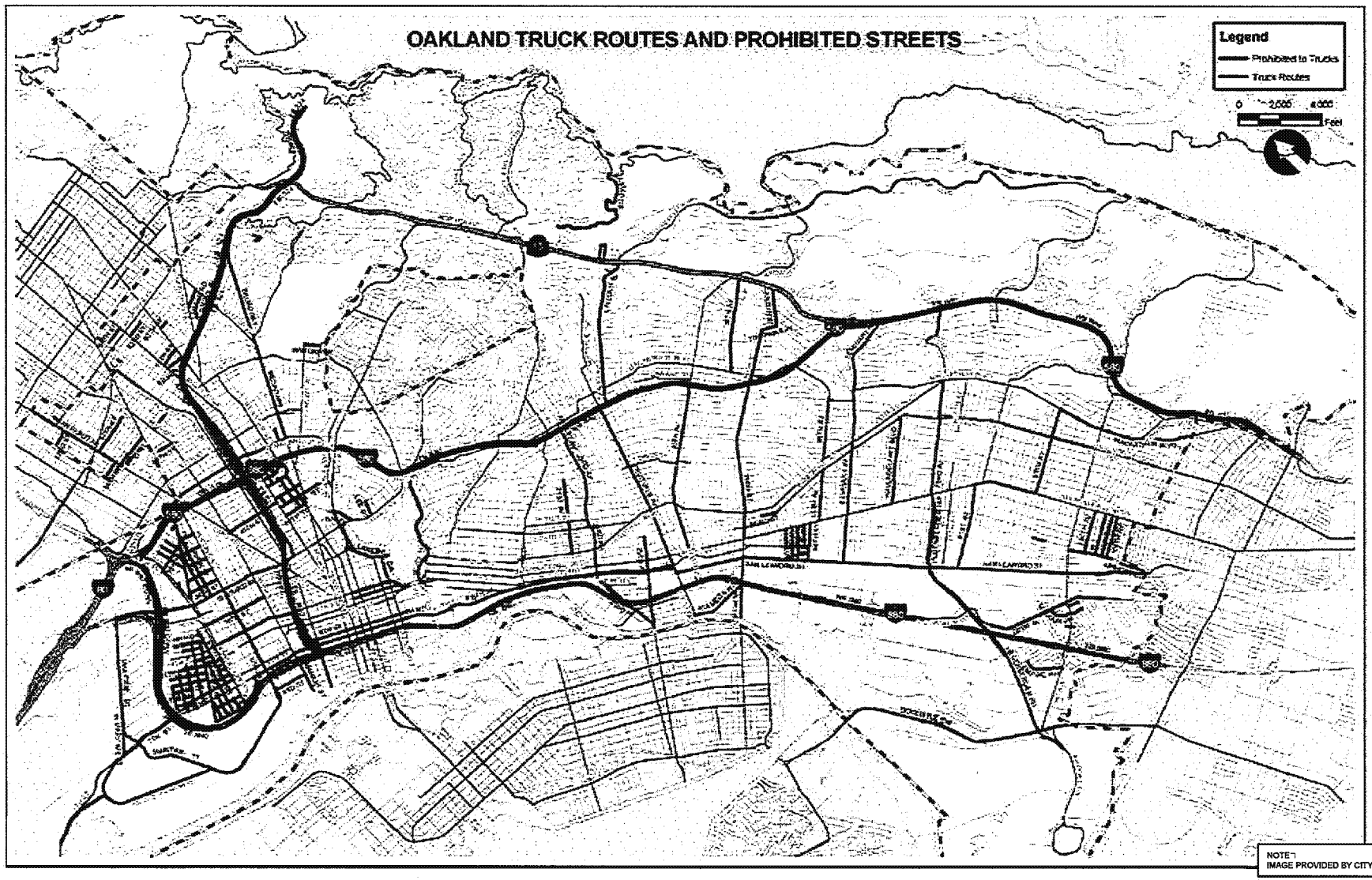
PROLOGIS WT

Exhibit E- Approved Traffic Control Plan

The Developer, its Contractor, or its consultant will prepare a Traffic Control Plan if encroachment into the public right-of-way is required. When required, a Traffic Control Plan will be submitted to EBMUD, the Port, and CalTrans for review and comment no less than 10 days prior to submittal to the City. Incorporate comments and revise plan as appropriate.

PROLOGIS WT

Exhibit F- Approved Truck Haul Route



OAKLAND GLOBAL

ARCHITECTURAL DIMENSIONS

ARCHITECTURAL DIMENSIONS
JAMES HILBERONNER
510-463-8300
300 FRANK H. OGAWA PLAZA, SUITE 375
OAKLAND, CA 94612

PROJECT INFO.
CITY OF OAKLAND TRUCK ROUTES AND PROHIBITED STREETS
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

CAT. NO 25945
INV. NO. AD-0335.01

REV	DATE	COMMENT

JOB NO.	OAB02
SCALE	1" = 100'
DATE	8/23/2013
DRAWN BY:	J. ARMADA
CHECKED BY:	E. ROSSO

DRAWING NO.
TCP-2
SHEET 1 OF 1

PROLOGIS

WT

Exhibit G- Signage: Speed Limit

PROLOGIS WT

Exhibit H- Signage: Dust Reporting, Noise Complaints, & Construction Work Hours

ATTENTION

PERMITTED CONSTRUCTION HOURS:
Monday-Friday 7AM-7PM

There will be no work on site outside of permitted hours without written permission from City of Oakland.

FOR CONCERNS REGARDING DUST, CONSTRUCTION NOISE, EROSION OR ANY CONSTRUCTION ACTIVITY ON THIS PROJECT PLEASE CONTACT:

During Construction Hours – Randy Knaus (925)-271-6023
After Construction Hours – Steve Rodriguez (925-)-271-6590

CITY OF OAKLAND CODE COMPLIANCE:
(510) 238-3381

OAKLAND POLICE DEPARTMENT 24 HR LINE:
(510) 777-3333

BAY AREA AIR QUALITY MANAGEMENT DISTRICT:
(800) 334-6367

PROLOGIS WT

Exhibit I - Log: Dust and Noise Complaints

Project Name: Prologis Northeast Gateway

Complaint Log

Name and Address of Notifier	Telephone Number and/or Email	Date and Time of Call/Email	Nature of Complaint (Traffic/Noise/Dust/Etc.)
	Received By	Directed To	
	Received By	Directed To	
	Received By	Directed T	

date: June, 2016

PROLOGIS WT

Exhibit J- Signage: Equipment Idle Time Restrictions

IDLING POLICY

IDLING TIMES ON ALL DIESEL-FUELED COMMERCIAL VEHICLES OVER 10,000 LBS AND DIESEL-FUELED OFF-ROAD VEHICLES OVER 25 HORSEPOWER SHALL BE MINIMIZED EITHER BY SHUTTING EQUIPMENT OFF WHEN NOT IN USE OR REDUCING THE MAXIMUM IDLING TIME TO FIVE MINUTES.
(CCR TITLE 13, SECTION 2485 & 2449)

VIOLATIONS SUBJECT TO MINIMUM FINE OF $300.

PROLOGIS WT

Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
www.whiting-turner.com

CONSTRUCTION MANAGEMENT
GENERAL CONTRACTING
DESIGN-BUILD
SPECIALTY CONTRACTING
OFFICE/HEADQUARTERS
RETAIL/SHOPPING CENTERS
HEALTHCARE
BIOTECH/PHARMACEUTICAL
HIGH TECH/CLEANROOM

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

I am writing to inform you of the upcoming work at the Prologis Northeast Gateway project located in the City of Oakland. The project site is located on the cross streets of Maritime and Burma Road.

Commencement of construction work is scheduled to begin on or around 7/15/2016. Your property address is within a 300' radius of the project site and this letter is providing notice that construction activities involved with construction may exceed the 90dBA level for a period of 10 working days between 7/28/2016 and 8/11/16.

Any construction work over 90dBA is considered an extreme noise generating activity. The City of Oakland requires all property owners within 300' of the project to be notified 30 days prior to any extreme noise activities taking place. Any work over 90dBA will be performed between the hours of 8:00 a.m. and 4:00 p.m. Monday thru Friday. Construction work that may exceed 90dBA will include:

1. The installation and erection of concrete panels.
2. Removal of construction debris into trucks via excavators and front loader equipment.
3. Construction equipment including, but not limited to, excavators, loaders, mobile crane, and dump trucks.

Whiting-Turner looks forward to working closely with our new neighbors and would like to create a solid relationship with them. If a complaint shall arise, please contact the undersigned below, and all complaints received will be noted in a Complaint Log. The log will include at a minimum the following information: The date of complaint, contact information for all complainant(s), reason for complaint, action taken, and resolution notes. Corrective measures will be immediately taken to address any and all complaints, should they occur. Copies of the Complaint Log will be submitted to Inspections Services monthly and, if so desired, upon request. These noise complaint procedures will be posted along the perimeter of the construction site prior to the commencement of construction. Should you have any noise complaints during construction please follow these procedures.

Most of the extreme noise generating activities will take place during the excavation work during the early stages of the project. We will send additional notices as required for additional upcoming work. If you would like to receive email notifications in lieu of or in addition to a hard copy please provide your email address to Steve.Rodriguez@whiting-turner.com.

Additional project information may be requested should you have any questions by contacting the undersigned.

Sincerely,

Steve Rodriguez
Whiting-Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT

Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
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INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

Due to safety reasons, pedestrian traffic will be periodically shut down on Maritime Street between Tuesday 9/15/2016 and Friday 10/16/2016 while demolition and excavation activities are in progress. Pedestrian barricades will be set in place to re-route all pedestrian traffic to the detour per the approved Traffic Control Plan. Please reference the included closure plan exhibit from our Traffic Control Plan that shows the areas that will be closed. The shutdown dates will be posted on our website within 2 days prior to shut down.

If you should have any problems or questions we encourage you to call or stop by our construction trailer located on site.

Additional project information may be requested should you have any questions using the contact below.

Sincerely,
Steve Rodriguez
Whiting -Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT

Exhibit L- Project Truck Log

Project: Prologis Northeast Gateway
Date:

Truck Information Form

Time In	Time Out	Vehicle Type	License Plate Number	Trucker's Name	Driver's Name	Material	Documentation [1]	Destination	Quantity

Documentation carried by the driver will include:

- Bills of lading or non-hazardous or hazardous waste manifests;
- Proof of insurance, valid registration, and current driver's license;
- Material profile information (reflecting chemical analysis results);
- Material weight records; and
- Complete copy of the Traffic Control Plan.

date: May 8, 2016

PROLOGIS WT

Exhibit M- Daily Site Inspection Log

Project Name: Prologis Northeast Gateway

Construction Site Condition Log

Location:	Decription of Damage:	Date:	Inspected

date: June, 2016

PROLOGIS WT

Attachment C

Public Comment Letters Received in Response to Draft Air Quality Plan dated April 25, 2016

From: Margaret Gordon
To: Ranelletti, Darin; robbie.morris@arb.ca.gov; Marvin, Cynthia@ARB; dvintze@baaqmd.gov; Richard Grow; Lee, Anna, Public Health, CAPE
Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis:
Date: Monday, May 23, 2016 11:52:06 AM

Comments Standard Conditions of Approval/Mitigation Measures for the Prologtis:

1. Nothing about Solar
2. Shuttle Services to not bring cars into West Oakland
3. No traffic study cars or trucks
4. There's not an emission reduction plan
5. EIR is over ten years old
6. No Zero emission plan or new technology
7. No Green Infrastructure
8. No use of electric truck for local freight transportation
9. No spraying of water from an enclosed fence during construction
10. No hours of operation
11. Nothing in the plan green house gases reduction
12. The item on the warehouse is not subject to Planning Commission
13. We don't if there will be indoor air filtration for workers.
14. There nothing about recycling and no waste added to the project

Thank you,

Ms. Margaret Gordon/Co-Director
West Oakland Environmental Indicators Project
349 Mandela Pkwy.
Oakland, Ca. 94607
510-257-5645
WWW.WOEIP.ORG

DITCHING DIRTY DIESEL

Robbie Morris
California Air Resources Board
Freight Transport Branch
Transportation and Toxics Division

May 25, 2016

Dear Robbie ,

Thank you for providing us the documents and opportunity to comment on the Pologis project in West Oakland . As you undoubtedly know, West Oakland has long been suffering cumulative impacts from the Freight Industry and as such was designated by BAAQMD as one of their CARE communities .

Given the existing conditions and forecasts for expanded freight operations (rail, maritime, air, and trucking), we ask that CARB take an extra critical look at this project and determine what measures can be implemented to eliminate or at least reduce impacts on this community from this company's operations.

Following are our comments and recommendations on the project:

* The AQ measures outlined in the documents to control dust seem adequate if they are actually implemented for the duration of the construction project. We have had examples of large scale projects (Bay View/Hunters Point) where the measures were initially implemented but later dropped. The affected residents had little recourse and suffered health hazards as a result.

* The designated person or persons assigned to monitor the dust control program and to order the increased watering to prevent transport of dust should be identified to the public along with their phone numbers. That their duties should include holidays and weekend periods

when construction work is not in progress demonstrates a more serious commitment to mitigation and is welcomed.

* The Construction Signage near the Construction Parking Entrance appears to be set back too far into property – one should not have to go behind the fence to be able to read it . The sign should be easily readable from the street.

* This document is primarily about outlining and regulating construction procedures. However, there are important considerations in the design of the building and development of the project that should be addressed. For example, will the building and finished property create yet another Heat Island that will raise energy demands, elevate emissions of air pollutants and Green House gases, and impair water quality? This is a very large project that has a significant footprint in the area and should be required to incorporate cool roofs, cool pavement, and vegetation to mitigate its impacts on the area.

* This Prologis project includes 55 Trucks, 78 trailer parking stalls, 171 parking stalls and only 2 electric charging stations (for passenger vehicles only we believe).

There is no mention of utility design , planning , and infrastructure for future Heavy Duty charging stations , forklifts, and cargo handling equipment. It would be very helpful to have ARB provide aggressive guidance here in accordance with its Sustainable Freight Policy. If this policy is to be "Transformative" as the governor has declared it must seriously weigh in on projects such as this in a comprehensive manner. If the current plans do not account for the future energy needs of zero emission HD trucks it will probably be prohibitively expensive to install these needed technologies later.

We have many concerns about this project and believe it needs more scrutiny and adaptations to be up to date with current thinking and compliance with reducing GHG and a Sustainable Freight Policy. Please consider the following :

1. The EIR for the Prologis project is over 10 years old. Freight in all sectors has risen dramatically during this time and is on track to continue; hence projects such as this. It is inappropriate to pretend that it is still accurate and valid.
2. This project has not used any Green Infrastructure. There is an opportunity here to follow the example the Port has shown works. One example being the solar panel carports .
3. West Oakland is a very busy hub of Freight activity yet there has not been a Traffic Study for cars and trucks for this project.
4. We would like Prologis to establish Shuttle Services for their employees in order to reduce the number of cars coming into West Oakland. This should not be an undue

burden as BART is nearby and measures to reduce VMT are an important part of the Region's and State's Freight Policies.

5. The hours of operation might be a problem and we have not been informed if there are any limits.
6. We are uncertain of the extent of the Planning Commission's rulings here.
7. We have no information about conditions for workers at this site. Will there be indoor air filtration?
8. An Emission Reduction Plan has not been presented or formulated as far as we know.
9. As previously stated, there is no plan presented for the future use of Zero emission vehicles and their associated infrastructure. We understand that Prologis is primarily in the Short Haul Freight business and would therefore be an ideal candidate for Zero emission Trucks or hybrids.
10. We have not seen how Prologis plans to handle recycling and not add waste to the project.

Before it's too late, we really need a pro-active push by ARB here to get our decision makers, planners, and developers to be "Transformative" with a Sustainable Freight System we are striving to achieve.

Sincerely,

Frank Gallo
Ditching Dirty Diesel
CCFC

Ms Margaret Gordon
WOEIP
CCFC

Brian Beveridge
WOEIP

Sincerely,

Frank Gallo

Ditching Dirty Diesel

CCFC

From: Lee, Anna, Public Health, OOD
To: Ranelletti, Darin
Cc: Davis M.D., Muntu, Public Health, OOD; Galvez, Sandi, Public Health, OOD
Subject: RE: Notice of Availability of Northeast Gateway Air Quality Plan for Construction (Prologis)
Date: Tuesday, May 31, 2016 5:04:36 PM

Dear Darin:

My comments on the Air Quality Plan for Construction prepared by Prologis are below. I'm sorry if some of this is already addressed. I wasn't back from maternity leave when they gave their presentation, so I'm just going off of what I gathered from the written materials and checking in with Jen Lucky. I hope these comments are helpful to strengthening the measures to reduce air pollution at the Prologis site.

Please let me know if you have any questions.

Best,
Anna

Sustainable Attributes

- Given the proximity of the Prologis site to the Bay, I wonder if the developer is aware and has thought about site design features that could help thwart sea level rise and flooding. This is a reality we need to consider and it could be a preventative cost saving and safety measure.

Green Building

- Pleased to see the green building aspects of the plan and hope that if Prologis hasn't already, that they align this with the City's Green Building Checklist to ensure the plan promotes Oakland's vision and meets the requirements around Sustainability. Doing this exercise could also help showcase how the project measures against the goals of the City.

Dust

- Dust is a major concern especially because of the weather patterns and existing health inequities in West Oakland; the prevailing wind carries visible dust and air pollution into the West Oakland community.
- It is unclear if there will be demolition of any structures on the site. If so, ensure that watering measures are included in the dust mitigation plan.

Diesel emissions

- Diesel emissions are also a major concern given the existing health burdens in West Oakland.
- Question for the City: How does the Prologis plan align or support the development of the Standard Condition of Approval Mitigation 4.4-3b (West Gateway Rail and Maritime Emissions Reduction Program) and Mitigation 4.4-4 (City and Port truck diesel emission program)? I didn't see any mention of these programs in the Prologis Plan.
- The plan includes ensuring maintenance of the diesel equipment used during construction and operations. The plan does not explicitly say that the developer and sub-contractors must comply with the engine requirements from CARB. Please ensure that it does.
- Although the regulatory limit for idling is 5 minutes, it would be beneficial to reducing air pollution if the developer and sub-contractors minimized idling to 2 minutes when feasible.
- Another way to minimize idling, particularly for highly polluting refrigerated truck units (so

this might be an operations measure), is utilizing truck plug-in capability. If it is feasible, it would be great to include this into the Plan as a pollution reduction measure.

Truck Routes and Circulation

- Truck hauling routes should be designed to minimize exposure to community from emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.
- There is a West Oakland Truck Route that should be noted and included in the Plan.
- Concerning Exhibit F, Truck Haul Route, it should be noted that there is an updated East Oakland truck route that occurred in 2015 that includes 98th Avenue and a number of other revisions. They can contact the City's Transportation Services Division for these revisions.

Community Engagement

- Public Notice - Sending notification and giving opportunity to engage neighbors is important to ensuring immediate health and safety concerns from the development are addressed and gaining community confidence and support of the project. In West Oakland, there are a number of community organizations and institutions that would be great places to post information and engage, including sending the letter about the project and phone numbers for project managers and making regular presentations. The developer should contact local community leaders for a comprehensive list, but some places and groups to include are: West Oakland Senior Center, libraries, the West Oakland Youth Center and the Hoover Resident Action Council (I can help connect to the Council).
- Public Process - A question for the City: After City Administrator approval, will there be a public process for the Planning Commission and City Council to review and adopt the plan or is this an administrative process moving forward?

Anna Lee
Local Policy Coordinator
Place Matters, Office of the Director
Alameda County Public Health Department
1000 Broadway, Suite 500
Oakland, CA 94607
anna.lee@acgov.org | Phone: (510) 267-8019
Like us on Facebook | Visit our Website

Please consider the environment **before** printing this email.

From: Ranelletti, Darin [mailto:DRanelletti@oaklandnet.com]
Sent: Friday, May 20, 2016 12:37 PM
To: 'Jahmese Myres'; Cole, Doug; Cappio, Claudia; 'Mark McClure'; 'Megan Morodomi'; 'Joanne Park'; 'Jack Broadbent'; 'Hhilken@baaqmd.gov'; 'akirk@baaqmd.gov'; 'jroggenkamp@baaqmd.gov'; 'David Vintze'; 'jkitowski@arb.ca.gov'; 'Cynthia Marvin'; McElhaney, Lynette; Cook, Brigitte; Thao, Sheng; 'rebecca.flournoy@acgov.org'; 'Jared Blumenfeld'; 'Richard Grow'; 'stew.sonnerberg@dot.gov'; 'Richard Sinkoff'; 'Anne Whittington'; 'tleong@portoakland.com'; 'Brent Bucknum'; 'bill@oaklandmss.com'; 'brian.woeip@gmail.com'; 'Margaret Gordon'; 'Cory'; 'jmajor@prologis.com'; 'robbie.morris@arb.ca.gov'; 'sydney.vergis@arb.ca.gov'; Klein, Heather; 'Maile.smith@ngem.com'; 'James Heilbronner'; Kaplan, Rebecca; Lee, Anna, Public Health, OOD; 'Jess@sfbaysc.org'; Jones, Andre
Subject: RE: Notice of Availability of Northeast Gateway Air Quality Plan for Construction (Prologis)

Dear Army Base Air Quality Stakeholders:

In my previous email to you (see below), I stated that the deadline for comments on the Air Quality

Pan for Construction prepared by Prologis for the Northeast Gateway site is 5:00 pm on Monday, May 30, 2016, which is Memorial Day. Pursuant to the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program for the Oakland Army Base Project, if the deadline falls on a holiday, the deadline is extended to the next business day. Therefore, the deadline for comments is **5:00 pm on Tuesday, May 31, 2016**.

Please contact me at 510-238-3663 or dranelletti@oaklandnet.com if you have any questions.

Regards,

Darin Ranelletti

Darin Ranelletti, Deputy Director | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 3315 | Oakland, CA 94612 | Phone: (510) 238-3663 | Fax: (510) 238-6538 | Email: dranelletti@oaklandnet.com | Website: www.oaklandnet.com/planning

From: Ranelletti, Darin
Sent: Friday, May 13, 2016 12:51 PM
To: 'Jahmese Myres'; Cole, Doug; Cappio, Claudia; 'Mark McClure'; 'Megan Morodomi'; 'Joanne Park'; 'Jack Broadbent'; 'Hhilken@baaqmd.gov'; 'akirk@baaqmd.gov'; 'jroggenkamp@baaqmd.gov'; 'David Vintze'; 'jkitowski@arb.ca.gov'; 'Cynthia Marvin'; McElhaney, Lynette; Cook, Brigitte; Thao, Sheng; 'rebecca.flournoy@acgov.org'; 'Jared Blumenfeld'; 'Richard Grow'; 'stew.sonnerberg@dot.gov'; 'Richard Sinkoff'; 'Anne Whittington'; 'tleong@portoakland.com'; 'Brent Bucknum'; 'bill@oaklandmss.com'; 'brian.woeip@gmail.com'; 'Margaret Gordon'; 'Cory'; 'jmajor@prologis.com'; 'robbie.morris@arb.ca.gov'; 'sydney.vergis@arb.ca.gov'; Klein, Heather; 'Maile.smith@ngem.com'; 'James Heilbronner'; Kaplan, Rebecca; 'Anna.lee@acgov.org'; 'Jess@sfbaysc.org'; Jones, Andre
Subject: Notice of Availability of Northeast Gateway Air Quality Plan for Construction (Prologis)

Dear Army Base Air Quality Stakeholders:

The City of Oakland has received a draft of the Air Quality Plan for Construction at the Northeast Gateway from the developer, Prologis. Prologis presented an overview of this Plan at the Quarterly Air Quality Stakeholder Meeting on March 3, 2016. Pursuant to the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program for the Oakland Army Base Project, the City is providing 17 calendar days for public review and comment on the draft Plan.

The draft Plan is available on the City's website:
http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak058692.pdf

Written comments must be received no later than **5:00pm on Monday, May 30, 2016**. Written comments should be sent via email, mail or fax to:

Darin Ranelletti, Deputy Director
City of Oakland, Planning and Building Department
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
Email: dranelletti@oaklandnet.com
Fax: 510-238-6538

The Plan is subject to approval by the City Administrator. The City will review the written comments that are received and revise or supplement the draft Plan as appropriate prior to approval by the City Administrator. Within 90 days of the approval, there will be an informational presentation to the City Council concerning the Plan.

Please contact me at 510-238-3663 or dranelletti@oaklandnet.com if you have any questions.

Regards,

Darin Ranelletti

Darin Ranelletti, Deputy Director | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 3315 | Oakland, CA 94612 | Phone: (510) 238-3663 | Fax: (510) 238-6538 | Email: dranelletti@oaklandnet.com | Website: www.oaklandnet.com/planning

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Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Connect with the
Bay Area Air District:

June 3, 2016

Darin Ranelletti
City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Subject: Northeast Gateway Construction Management Plan

Dear Mr. Ranelletti,

Bay Area Air Quality Management District (Air District) staff appreciates the opportunity to review the Northeast Gateway Construction Management Plan (Plan) submitted to the City of Oakland (City) by Prologis for construction of a 256,000 square foot warehouse (Project) within a portion of the Oakland Army Base. As part of the former Oakland Army Base, the site and therefore this Project is subject to eight air quality mitigation measures described in the Oakland Army Base Project (OAB) 2002 Final Environmental Impact Report, the 2012 Initial Study/Addendum, the Mitigation Monitoring and Reporting Program, and the Lease Disposition and Development Agreement (LDDA). Air District staff understands that approval of the Plan by the City Administrator will allow construction to proceed without any further discretionary approvals from the City.

Air District staff is concerned that the Plan submitted by the developer, Prologis, only addresses air quality impacts associated with construction activity and does not address long term operational emissions associated with the Project. The Plan for this Project does not implement six of the eight air quality mitigation measures that future development is required to implement within the OAB. It should be noted that the eight air quality mitigation measures, which include the City's Standard Conditions of Approval, and which were approved by the Oakland City Council, were expected to be applied to future development within the OAB to lessen significant air quality impacts identified in the environmental documents for the OAB. Approval of the Northeast Gateway Construction Management Plan in its current form would preclude this Project from being required to implement legally binding mitigation measures promised to the surrounding community and approved by the Oakland City Council.

In the Attachment to this letter, Air District staff has provided specific comments on the proposed strategies in the Plan to ensure that construction related

emissions are reduced to the extent feasible. In addition, Air District staff is also recommending that the Plan be amended to include the other adopted air quality mitigation measures identified in the previous environmental documents to reduce the significant air quality impacts anticipated to occur in the West Oakland community, including impacts from Project operations. Air District staff believes that full implementation of all previously adopted mitigation measures is needed for the Project as proposed to assure that West Oakland air quality is not adversely affected. This was the promise of *A Bold Vision: Redeveloping the Former Oakland Army Base,* which was approved by the Oakland City Council.

Air District staff is available to assist the City in addressing these comments. If you have any questions, please contact Alison Kirk, Senior Environmental Planner at (415) 749-5169 or akirk@baaqmd.gov.

Sincerely,

Jean Roggenkamp
Deputy Executive Officer

Cc: Director Tom Bates
Director Scott Haggerty
Director Rebecca Kaplan
Director Nate Miley
Oakland Mayor Libby Schaaf
Heather Arias, California Air Resources Board

Attachment

Attachment

The comments provided below are in response to the Northeast Gateway Construction Management Plan (Plan) recently submitted to the City of Oakland by Prologis; and in relation to the California Environmental Quality Act (CEQA) mitigation requirements adopted by the City of Oakland to lessen the impacts from operational activities associated with development within the Oakland Army Base. As identified in the comments below, the Plan only addresses the CEQA mitigation requirements related to construction activity and does not address the mitigation requirements for operational activities at the Oakland Army Base.

SCA-AIR-1 and SCA-AIR-2

SCA-AIR-1 requires the project applicant to submit a construction management plan that "identifies the conditions of approval and mitigation measures to construction impacts of the project and explains how the project applicant will comply." SCA-AIR-2 provides the list of conditions of approval and mitigation measures that projects are required to implement to lessen significant air quality impacts related to construction and operation.

The Northeast Gateway Construction Management Plan submitted to comply with SCA-AIR-1 includes all the construction related mitigation measures listed in SCA-AIR-2, but does not provide the specificity needed to "explain how the project applicant will comply". There are a number of measures that provide an "option" for compliance; in these instances, Air District staff recommends that the applicant identify the criteria for choosing one option over another and identify the process for making that decision. For example, measure (a) requires the Project to increase dust control watering when wind speeds exceed 15 miles per hour; and measure (k) requires soil moisture to be maintained at a minimum of 12 percent; and measure (l) requires all excavation, grading, and demolition activities to be suspended when wind speeds exceed 20 miles per hour. The Plan should identify specifically how wind speeds and soil moisture will be monitored and who is required to maintain compliance logs.

Measure (u) requires all equipment used on the construction site and subject to Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") to meet emissions requirements one year in advance of any fleet deadlines. To comply, the proposed Plan indicates that "The project applicant shall provide written documentation that fleet requirements have been met." It is not clear who the written documentation will be submitted to and who will ensure that the appropriate equipment is used at the construction site. Air District staff recommends that this and all projects at the Oakland Army Base submit off-road registration documents approved by the Air Resources Board to determine a fleet's compliance with this requirement. In addition, Air District staff also recommends that only Tier 4 off-road engines be used at the OAB, and if Tier 4 off-road engines are not available for a particular use, then Tier 3 off-road engines be used.

Measure (v) requires the use of low VOC "coatings beyond local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings)." Air District staff recommends that the Plan identify what the current regulations require and demonstrate how the Project will reduce VOC emissions beyond these requirements.

SCA-AIR-3
SCA-AIR-3 is not currently proposed to be implemented by the Project. This measure addresses public exposure to toxic air contaminants (TACs) and requires measures be implemented by new development to reduce indoor and outdoor concentrations to TACs. The Air District recommends that the Plan be amended to include the requirements of SCA AIR-3.

Mitigation 4.4-3
Mitigation 4.4-3 3 is not currently proposed to be implemented by the Project. This measure requires the Port of Oakland to implement a criteria pollutant reduction program aimed at reducing or off-setting Port-related emissions in West Oakland from its maritime and rail operations to less than significant levels *prior to the start of operations*. Since this Project will facilitate operations at the Port of Oakland, the Air District recommends that the Project include measures within the Plan to comply with this requirement. These measures could include electrification of the 55 loading docks within the Project, and requiring the Port of Oakland to use only the lowest emitting off-road cargo handling equipment to load trucks using the Project site.

Mitigation 4.4-4
Mitigation 4.4-4 3 is not currently proposed to be implemented by the Project. This measure requires the City of Oakland and the Port of Oakland to jointly create, maintain, and fund on a fair share basis a truck diesel emission reduction program *prior to the start of operations*. The program shall be sufficiently funded to strive to "reduce redevelopment related contributions to local West Oakland diesel emissions to less than significant levels". This Project will have 55 truck loading docks and 78 trailer parking stalls. Diesel particulate matter emissions, a known toxic air contaminant, will substantially increase in the West Oakland community. The environmental documents identified significant air quality impacts from exactly this type of development. Air District staff recommends that the Plan be amended to include the development of an off-site mitigation program such that there is no net increase in emissions from this Project within the West Oakland community.

Mitigation 4.4-5
Mitigation 4.4-5 3 is not currently proposed to be implemented by this project. This measure requires major developers to fund feasible Transportation Control Measures (TCMs) for reducing vehicle emissions from commercial, institutional, and industrial operations. Air District staff recommends that the Plan be amended to include this mitigation measure and specifically identify this Project's share of funding for the TCMs listed below

- Provide incentives to encourage workers to carpool or use public transportation (TCM 4)
- Provide shuttles to and from the West Oakland BART station, and mid-day shuttles to food service establishments/commercial areas (TCM 5 and 8)
- Provide preferential parking for carpool and vanpool vehicles (TCM 9)
- Charge parking fees for single occupancy vehicle commuters (TCM 10)
- Install weather-protected bicycle parking for employees (TCM 11)
- Provide safe, direct access for bicycles to adjacent bicycle routes (TCM 12)

- Provide showers and lockers for employees bicycling or walking to work (TCM 13)
- Provide direct, safe, attractive pedestrian access from the project to transit stops and adjacent developments (TCM 14).

Mitigation 4.4-6

Mitigation 4.4-6 3 is not currently proposed to be implemented by this Project. This measure requires the City of Oakland and the Port of Oakland to implement sustainable development policies and strategies related to new development design and construction. Air District staff recommends that the Plan include this mitigation measure and explain how the construction practices at the Project are consistent with this measure. In addition, Air District staff recommends that the Plan include measures to address sustainable development, such as installation of on-site renewable energy generation, use of ground source space heating, and thermal hot water heating.

Mitigation 5.4-1

Mitigation 5.4.-1 3 is not currently proposed to be implemented by this project. This measure requires the City of Oakland and the Port of Oakland to encourage, lobby, and potentially participate in emission reduction demonstration projects that promote technological advances in improving air quality. Air District staff recommends that the Project identify potential new technological advances that could be demonstrated at this Project.

Air Resources Board

Mary D. Nichols, Chair
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov

Matthew Rodriquez
Secretary for
Environmental Protection

Edmund G. Brown Jr.
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CITY OF OAKLAND
BUREAU OF PLANNING

May 31, 2016

Mr. Darin Ranelletti
City of Oakland
Planning and Building Department
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, California 94612

Dear Mr. Ranelletti:

Thank you for providing the Air Resources Board (ARB) the opportunity to comment on the Northeast Gateway Construction Management Plan (Air Quality Elements) (Plan). This Plan provides an opportunity to ensure the cleanest possible construction practices while constructing the Northeast Gateway site. Eliminating and minimizing air quality impacts from the construction of this project is vital to protecting the health of nearby communities.

Overall, we find that the Plan contains measures that will achieve reductions in emissions generated by onsite construction activity. Specifically, the Dust Control Mitigation Plan and the use of the electricity infrastructure surrounding the construction site over electrical generators powered by internal combustion are helpful in reducing emissions.

Documents like this Plan are important to the public as they can help to provide transparency and accountability while following through with commitments made during the environmental review period. It is important to develop specific actions to ensure that the public is well informed about the project and proposed solutions to the project's potential impacts. Although several measures in the Plan provide sufficient detail, others need further clarification in order to ensure proper implementation and enforcement of the measures included in the Plan as well as ensure meaningful public engagement. This further clarification will help ensure the project ultimately avoids or substantially lessens the significant and unavoidable impact to air quality identified in the 2002 Draft Environmental Impact Report and Final Environmental Impact Report, and achieves the less-than-significant impacts determination made in the 2012 Addendum, by implementing all feasible mitigation.

General Recommendations

For both this and subsequent Subject Plans, consider the following:

1) Coordinate and consult with the community on construction and operations related vehicle circulation, identify selected routes that divert traffic away from neighborhood streets and is least impactful to the surrounding communities. Include details of the agreed upon truck routes in the Plan. Meaningful coordination with the community takes time, and to ensure that project development stays on schedule, we recommend that this work be initiated as soon as possible if you have not already done so.

2) Specify the public review release date and expected content for each of the remaining Subject Plans for this project, subject to Mitigation Measure PO-1 (Stakeholder Review of Air Quality and Trucking Plans). It is expected that the remaining Subject Plans will be released in a timeframe that will allow for meaningful public review and response by the City of Oakland and project developer prior to when they are scheduled according to the Standard Conditions of Approval and Mitigation Monitoring and Reporting Program.

3) Include Plan requirements in the contractual agreement between Prologis and the construction management company in order to strengthen enforceability.

Construction Related Recommendations

To ensure that the Plan meets the goals of Mitigation Measure SCA Air-2, and to ensure that the project's construction-related impacts to air quality remain less than significant, ARB recommends clarifying several measures, strengthening enforceability, and including additional measures that ARB staff finds feasible and critical to reducing emissions and protecting public health. Details of these recommendations are below:

1) Define "late model" under Emission Control Mitigation Plan, protocol "a". We suggest requiring all medium-heavy and heavy-heavy duty trucks, including any alternative fuel vehicles, meet or exceed 2010 emission standards. In addition, consider clarifying the parameters of this measure by requiring all off-road vehicles and equipment meet Tier 4 engine standards. If Tier 4 is not available, the off-road equipment should meet Tier 3 engine standards. Also, consider requiring each contracted fleet to provide an ARB Certificate of Compliance to the onsite Project Compliance Manager prior to commencing operations.

2) Clarify the intention of "low-emission diesel fuel" in the Emission Control Mitigation Plan, protocol "a". This type of fuel is already standard in California; therefore, it is unclear what additional control this measure is offering. As written, this protocol also seems to limit equipment onsite to diesel power. Please consider editing to allow for the flexibility to use zero and near-zero emission equipment as well.

3) Define "alternative fuel construction equipment" under Emission Control Mitigation Plan protocol "b". Without specifying equipment type, it is difficult to determine if this protocol provides appropriate mitigation. We recommend requiring the use of electric construction tools or amending the Plan to identify a target for the minimum amount of electric power tools that will be used onsite, explaining how this measure will be enforced, and clarifying for the public how the target was derived. In addition, we suggest requiring all off-road vehicles and equipment meet Tier 4 engine standards. If Tier 4 is not available, the off-road equipment should meet Tier 3 engine standards.

4) In Emission Control Mitigation Plan measure "f", there are several areas where further clarification and strengthening of the provision is needed:

    a. In addition to monitoring and facilitating implementation of the mitigation measures, the Project Compliance Manager should also ensure compliance with mitigation measures and the Plan. Specify that the Project Compliance Manager will refer any non-compliant fleets to the Bay Area Air Quality Management District for investigation or potential penalties.
    b. Clarify which contractors are subject to this provision. It is our expectation that all contractors should be subject to oversight by the Project Compliance Manager.
    c. Specify what the Daily Inspection Logs will include and how often they will be reviewed by the Project Compliance Manager.

5) In the Emission Control Mitigation Plan, define the phrases "extent that it is readily available" under protocol "a", "extent that the equipment is readily available and cost effective" under protocol "b", and "extent feasible" under protocol "c". As currently written, it is unclear what criteria will be used, making it difficult to ensure implementation and enforcement of the protocols.

6) Consider requiring each equipment operator or sub-contractor to show proof of compliance for each on-road vehicle subject to ARB's Periodic Smoke Inspection Program prior to operating at the site. Additionally, any off-road equipment that

exhibits conditions outside of the manufacturer's specifications, or emits excessive visible smoke, should be prohibited from operating on-site. Please detail how these requirements will be enforced, in the Plan.

We understand that the Plan relates directly to construction activities at the project site. However, we want to take this opportunity to also support the incorporation of zero and near-zero emission technologies, especially for yard and on-road trucks, that are commercially available throughout operation of the facility. ARB's Technology and Fuels Assessments provide information on the current and projected development of mobile source technologies and fuels, including current and anticipated costs at widespread deployment. The assessments can be found at http://www.arb.ca.gov/msprog/tech/tech.htm. Additionally, please consider implementing, and planning accordingly for, the necessary infrastructure to support the zero emission and near-zero emission technology vehicles and equipment that will be operating at the Northeast Gateway in the future. There are several ways ARB could support implementing these recommendations, including technical assistance and funding programs. More information on ARB funding programs can be found at http://www.arb.ca.gov/ba/fininfo.htm.

Closing

ARB staff appreciates the opportunity to comment on the Plan. We are pleased to provide assistance for successful implementation and enforcement of this effort that serves the region's distribution and air quality needs, while protecting public health. If you would like to understand more about ARB's freight related work, please see our Sustainable Freight: Pathways to Zero and Near-Zero Emissions Discussion Document at http://www.arb.ca.gov/gmp/sfti/sfti.htm.

Please include ARB on the City of Oakland's Stakeholder List to receive information on the Subject Plans, pursuant to Mitigation Measure PO-1. If you have questions, please contact Ms. Robbie Morris, Air Pollution Specialist, Freight Transport Branch, at (916) 327-0006 or via email at Robbie.Morris@arb.ca.gov.

Sincerely,

Heather Arias, Chief
Freight Transport Branch
Transportation and Toxics Division

cc: See next page.

cc: Mr. Connell Dunning
Transportation Team Supervisor
U.S. Environmental Protection Agency,
Region 9
75 Hawthorne Street, ENF-4-2
San Francisco, California 94105

Ms. Margaret Gordon
Co-Director
West Oakland Environmental
Indicators Project
349 Mandela Parkway
Oakland, California 94607

Ms. Alison Kirk
Senior Environmental Planner
Bay Area Air Quality Management
District
939 Ellis Street
San Francisco, California 94109

Mr. Chuck McKetney
Community Assessment, Planning,
& Evaluation Director
Alameda County Public Health Department
1000 Broadway, Suite 500
Oakland, CA 94607

Ms. Robbie Morris
Air Pollution Specialist
Freight Transport Branch
Transportation and Toxics Division

Attachment D

Revised Air Quality Plan for Construction Prepared by Prologis (titled "Northeast Gateway A-D. Construction Management Plan" including related documents; dated August 30, 2016)

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August 30, 2016

Darin Ranelletti, Deputy Director
City of Oakland – Bureau of Planning
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Via Email

RE: DRX151553 - Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCA-MMRP Public Outreach Element (Mitigation Measure PO-1)

Dear Darin:

We are in receipt of the Stakeholder comments to the construction related Air Quality Standard Conditions of Approval (SCA AIR-1 and SCA AIR-2), which you forwarded via email on June 7, 2016. Subsequent to the conference call we had with various stakeholders on 8/3/16, and for your use in staff recommendation that the public outreach process has been satisfied, we are pleased to present the following responses:

Global Responses:
We received comments from several different stakeholder groups relating to the same topic, which we address by providing the following clarifications:

1. EIR Date/Update – Several comments pertained to the EIR for the project being 10+ years old. We are working from the entitlements provided under the 2012 Development Agreement and SCA-MMRP as amended by City Council 7/16/2013, and includes the 2012 OARB Initial Study/EIR Addendum.
2. Sustainable Design/Attributes – Several groups commented on the lack of Green Building and/or sustainable design elements. The air quality plans submitted for review pertained primarily to the air quality measures during construction. There is a separate Mitigation Measure (MM4.4-6) that relates to energy conserving fixtures and design. To that end, this project will meet and exceed the minimum requirements for MM4.4-6, as well as acheive a LEED Gold certification. Some specific examples of sustainable project design include but not are limited to: building finish floor above the 50-year projected sea level rise, high reflectance "cool" TPO roof, low VOC paints, high recycled content building materials, water efficient irrigation and plantings, energy efficient LED lighting, and low E glazing.
3. Operational Issues – There were several comments pertaining to operational issues that will be addressed at a separate time. The purpose of this phase of public outreach was to get feedback regarding **construction related** air quality items only. The future Air Quality Operations Plan will be subject to the same stakeholder review and any operational comments will be addressed at that time.
4. Future Tenant Improvements - The Project currently under consideration is a "Cold Shell", meaning that no tenant improvements ("TI") are being constructed. The Cold Shell does not involve any interior improvements such as warehouse lighting, office/restroom buildouts, equipment, or racking. The space is unoccupiable until a TI permit is approved, for which the Landlord (Prologis) will have approval rights over. As part of the LEED process, Prologis will have an TI Guidelines exhibit to the Tenant lease, which will

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require the Tenant to implement certain sustainable elements into their design, for example – low flow toilets, or 240v+ plugs for truck refrigerated units. It is important to note that the Cold Shell building design will not preclude mitigations to emmissions during Operations phase.

5. Covered Elsewhere in SCA-MMRP – Several comments address items covered elsewhere in the SCA-MMRP, not specifically a part of Air Quality conditions.

Specific Responses:

1. West Oakland Environmental Indicators Project (WOEIP) Comments:

Comment 1: Nothing about solar
Response: Solar (rooftop or carport) is not a project requirement. We do note that the rooftop is solar-ready - if an energy off-taker is determined in the future, the roof structure has been designed to take an ancillary load of 3 to 5 psf and could be added on.

Comment 2: Shuttle Services do not bring cars into West Oakland
Response: See global response #3 - future Air Quality Operations Plan.

Comment 3: No traffic study cars or trucks
Response: See global response #1 – EIR Update.

Comment 4: There's not an emission reduction plan
Response: See global response #3 - future Air Quality Operations Plan.

Comment 5: EIR is over ten years old
Response: See global response #1 – EIR Update.

Comment 6: No zero emission plan or new technology
Response: See global response #3 - future Air Quality Operations Plan.

Comment 7: No Green Infrastructure
Response: See global response #2 – sustainable design.

Comment 8: No use of electric truck for local freight transportation
Response: See global response #3 - future Air Quality Operations Plan.

Comment 9: No spraying of water from an enclosed fence during construction.
Response: Water must be used during construction to keep dust down. All water used will be contained onsite, behind the fence.

Comment 10: No hours of operations
Response: See global response #4. Standard hours of operations are per SCA NOI-1, Mon – Sat, 7am to 7pm, other hours with prior approval by the City. See CMP, Section 7a.

Comment 11: Nothing in the plan about greenhouse gases reduction.
Response: See global response #4. Not a part of Air Quality. See SCA GCC-1, Greenhouse Gas Reduction. Timing is at Certificate of Occupancy, not prior to permits.

Comment 12: The item on the warehouse is not subject to Planning Commission.
Response: Confirmed, staff approves conformance with Project Design Guidelines.

Comment 13: We don't if there will be indoor air filtration for workers.

Response: Project will comply with mandatory LEED Indoor Environmental Quality Prerequisite #1 – Minimum IAQ performance.

Comment 14: There nothing about recycling and no waste added to the project.
Response: Not a part of Air Quality. See SCA UTL-2, CMP Section 10.

2. Ditching Dirty Diesel Asterick #5 – Charging Stations and Sustainable Freight Policy:

* **This Prologis project includes 55 Trucks, 78 trailer parking stalls, 171 parking stalls and only 2 electric charging stations (for passenger vehicles only we believe).**

There is no mention of utility design , planning , and infrastructure for future Heavy Duty charging stations , forklifts, and cargo handling equipment. It would be very helpful to have ARB provide aggressive guidance here in accordance with its Sustainable Freight Policy. If this policy is to be "Transformative" as the governor has declared it must seriously weigh in on projects such as this in a comprehensive manner. If the current plans do not account for the future energy needs of zero emission HD trucks it will probably be prohibitively expensive to install these needed technologies later.

Response: EV chargers are for passenger vehicle charging only and are provided voluntarily by Prologis. Forklift charging stations are typically provided with tenant improvements as their location is critical to a user's operations. As we understand it, the Sustainable Freight Action Plan is in the implementation phase, with proposed pilot projects already in motion. By virtue of geography, the Project is located within close proximity to intermodal, first-mile, last-mile,and transportation infrastructure of the freight supply chain, which are all goals of the Sustainable Freight Action Plan.

3. ACPH Diesel Emissions Bullet Point #5 – Truck Plug-in Capability

- Another way to minimize idling, particularly for highly polluting refrigerated truck units (so this might be an operations measure), is utilizing truck plug-in capability. If it is feasible, it would be great to include this into the Plan as a pollution reduction measure.

Response: If Prologis leases to a tenant that has refrigerated storage space, it is standard practice to install charging outlets at dock doors designated for cold deliveries. Tenant is not known at this time so this item is still to be determined, but it is commonly part of Tenant Improvements. As we develop the Air Quality Operations Plan, we will work with the City to incorporate appropriate operations requirements regarding charging outlets at dock doors, which would be enforced via TI Guidelines within the Tenant's lease.

4. BAAQMD Attachment re: SCA-AIR-1 – Dust Monitoring

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The Northeast Gateway Construction Management Plan submitted to comply with SCA-AIR-1 includes all the construction related mitigation measures listed in SCA-AIR-2, but does not provide the specificity needed to "explain how the project applicant will comply". There are a number of measures that provide an "option" for compliance; in these instances, Air District staff recommends that the applicant identify the criteria for choosing one option over another and identify the process for making that decision. For example, measure (a) requires the Project to increase dust control watering when wind speeds exceed 15 miles per hour; and measure (k) requires soil moisture to be maintained at a minimum of 12 percent; and measure (l) requires all excavation, grading, and demolition activities to be suspended when wind speeds exceed 20 miles per hour. The Plan should identify specifically how wind speeds and soil moisture will be monitored and who is required to maintain compliance logs.

Response: The contractor monitoring process will include: 1) Checking weather reports daily prior to starting construction activity to prepare for wind speeds as necessary. 2) Monitoring weather and dust as day progresses by setting up an anemometer wind speed sensor and checking periodically. 3) Increasing dust control watering as wind speeds increase to maintain minimum 12% moisture content, or to a point at which the earth becomes tacky. See CMP, Section 2, Dust Mitigation Control Plan.

5. BAAQMD Attachment re: measure (u) – CARB verification

Measure (u) requires all equipment used on the construction site and subject to Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") to meet emissions requirements one year in advance of any fleet deadlines. To comply, the proposed Plan indicates that "The project applicant shall provide written documentation that fleet requirements have been met." It is not clear who the written documentation will be submitted to and who will ensure that the appropriate equipment is used at the construction site. Air District staff recommends that this and all projects at the Oakland Army Base submit off-road registration documents approved by the Air Resources Board to determine a fleet's compliance with this requirement. In addition, Air District staff also recommends that only Tier 4 off-road engines be used at the OAB, and if Tier 4 off-road engines are not available for a particular use, then Tier 3 off-road engines be used.

Response: See CMP Section 2, Emission Control Mitigation Plan, part e:
All contractors will be bound by contract to comply with the requirements of CCR Title 13, Section 2449. All written documentation that fleet requirements have been met will be submitted to the City of Oakland for record.
See CMP Section 2, Emission Control Mitigation Plan, part h:
All contractors will be encouraged to use Tier 4 off-road engines for all equipment brought to the site if available. At a minimum, required to use Tier 3 off-road engines for all equipment brought on-site. Contractors shall provide documentation from CARBS DOORS website with fleet summary. Compliance officer to use this documentation to verify equipment meets either Tier 4 orTier 3 requirement.

6. BAAQMD Attachment re: measure (v) – Low VOC Coatings

Measure (v) requires the use of low VOC "coatings beyond local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings)." Air District staff recommends that the Plan identify what the current regulations require and demonstrate how the Project will reduce VOC emissions beyond these requirements.

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Response: All coatings will meet VOC Content requirements specified in the attached Project Specification – See Attachment A. This specification meets or exceeds the limits per BAAQMD Regulation 8, Rule 3.

7. ARB Construction Related Recommendations ("CRR's") #1 – CARB verification

1) **Define "late model" under Emission Control Mitigation Plan, protocol "a". We suggest requiring all medium-heavy and heavy-heavy duty trucks, including any alternative fuel vehicles, meet or exceed 2010 emission standards. In addition, consider clarifying the parameters of this measure by requiring all off-road vehicles and equipment meet Tier 4 engine standards. If Tier 4 is not available, the off-road equipment should meet Tier 3 engine standards. Also, consider requiring each contracted fleet to provide an ARB Certificate of Compliance to the onsite Project Compliance Manager prior to commencing operations.**

Response: See CMP Section 2, Emission Control Mitigation Plan, part a & h:
All Contractors will be required to use minimum Tier 3 off-road engines for all equipment brought on-site. Contractors shall provide documentation from CARBS DOORS(Diesel Off-road Online Reporting System) website with their fleet summary. Compliance officer to use this documentation to verify equipment meets Tier 4 or Tier 3 requirement.

8. ARB CRR's #2 – Low Emmission Fuel

Clarify the intention of "low-emission diesel fuel" in the Emission Control Mitigation Plan, protocol "a". This type of fuel is already standard in California; therefore, it is unclear what additional control this measure is offering. As written, this protocol also seems to limit equipment onsite to diesel power. Please consider editing to allow for the flexibility to use zero and near-zero emission equipment as well.

Response: See CMP Section 2, Emission Control Mitigation Plan, part a - d:
Fuel being used will be compliant with California standards and consistent with regulatory requirements for ULSD (Ultra Low Sulfur Diesel). Contractors shall use late model (defined as Tier 4 or Tier 3 heavy-duty diesel-powered equipment, as well as zero and near-zero emission equipment to the extent that it is readily available in the San Francisco Bay Area. Electric boom lifts, scissors lifts, and small tools will be utilized to the extent feasible.

9. ARB CRR's #3 – Alternative Fuel Equipment

Define "alternative fuel construction equipment" under Emission Control Mitigation Plan protocol "b". Without specifying equipment type, it is difficult to determine if this protocol provides appropriate mitigation. We recommend requiring the use of electric construction tools or amending the Plan to identify a target for the minimum amount of electric power tools that will be used onsite, explaining how this measure will be enforced, and clarifying for the public how the target was derived. In addition, we suggest requiring all off-road vehicles and

Response: See CMP Section 2, Emission Control Mitigation Plan, part e:
Temporary electric service from existing infrastructure will be provided on the job-site for contractors to use for small tools and equipment.

10. ARB CRR's #4 – measure (f) response

In addition to monitoring and facilitating implementation of the mitigation measures, the Project Compliance Manager should also ensure compliance with mitigation measures and the Plan. Specify that the Project Compliance Manager will refer any non-compliant fleets to the Bay Area Air Quality Management District for investigation or potential penalties.

Response: See CMP Section 2, Emission Control Mitigation Plan, part f:
The Project Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. Any off-road equipment that exhibits conditions outside of the manufacturer's specifications, or emits excessive visible smoke, shall be prohibited from operating on-site. All contractors will be subject to this provision and will maintain Inspection Logs daily throughout the project. In addition,the Compliance Manager will complete ARB courses for Visible Emissions Evaluation to enhance ability to ensure equipment is in compliance.

Please note that not every comment was individually addressed in the specific comments section as the responses may have been redundant to other specific responses or covered by one of the global responses.

If you have any questions or comments regarding the responses to the stakeholder review comments, please do not hesitate to contact me.

Sincerely,

Cory Chung
Development Manager

Cc: John Monetta, City of Oakland
Bill Quesada, City of Oakland
Jeff Major, Prologis
Janet Frentzel, Prologis
Jakub Swander, Whiting-Turner
Adam Smith, Whiting-Turner
Steve Rodriguez, Whiting-Turner

Encl: Attachment A – Painting Specification for Low VOC Content Applications
Attachment B – Construction Management Plan, Rev. 3 – August 30, 2016

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PLAN CHECK RESPONSE
April 25, 2016
REVISED SECTION – New text is bold italics

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SECTION 099123

INTERIOR PAINTING

SUMMARY

A. **Section Includes**: Surface preparation and the application of paint systems on interior substrates as scheduled at the end of the section.

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General Conditions, and other Division 01 Sections, apply to this Section.

1.2 LEED REQUIREMENTS

A. VOC Content: For field applications that are inside the weatherproofing system, paints and coatings shall comply with VOC content limits of authorities having jurisdiction and the following VOC content limits:

1. Flat Paints and Coatings: 50 g/L.
2. Nonflat Paints and Coatings: 150 g/L.
3. Dry-Fog Coatings: 400 g/L.
4. Primers, Sealers, and Undercoaters: 200 g/L.
5. Anticorrosive and Antirust Paints Applied to Ferrous Metals: 250 g/L.
6. Zinc-Rich Industrial Maintenance Primers: 340 g/L.
7. Pretreatment Wash Primers: 420 g/L.
8. Shellacs, Clear: 730 g/L.
9. Shellacs, Pigmented: 550 g/L.

1.3 LEED SUBMITTALS

A. Product Data: For paints and coatings, indicating VOC content.

1.1 ACTION SUBMITTALS

A. Product Data: **For each type of product**. Include preparation requirements and application instructions.

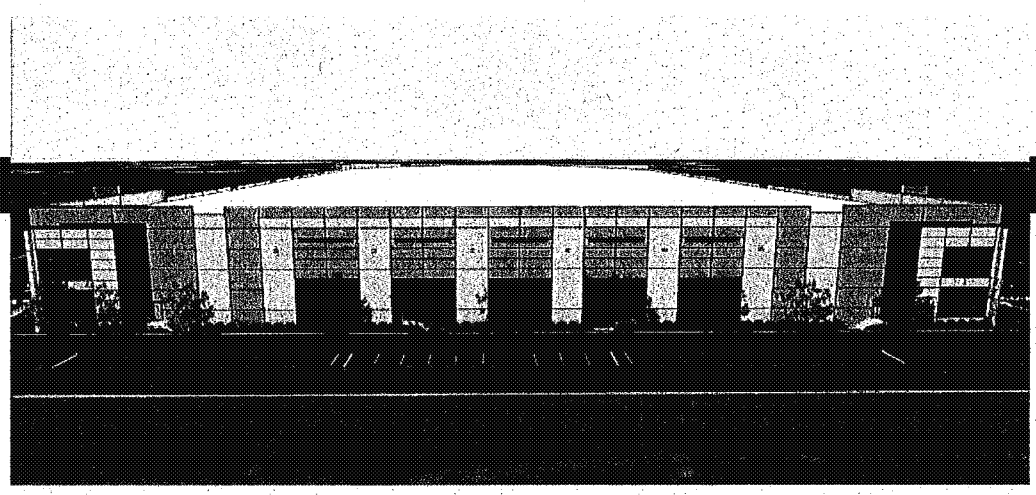
B. **Samples for Verification**: For each type of paint system and in each color and gloss of topcoat.

1. Submit Samples on rigid backing, 8 inches square.

C. **Product List**: Include color designations.

NORTHEAST GATEWAY CONSTRUCTION MANAGEMENT PLAN

Original: April 15th, 2016
Rev #1: July 18th, 2016
Rev #2: July 27th, 2016
Rev #3: August 30th, 2016



THE WHITING-TURNER CONTRACTING COMPANY
4690 Chabot Drive, Suite 120
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STEVE RODRIGUEZ
Assistant Project Manager
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WHITING-TURNER

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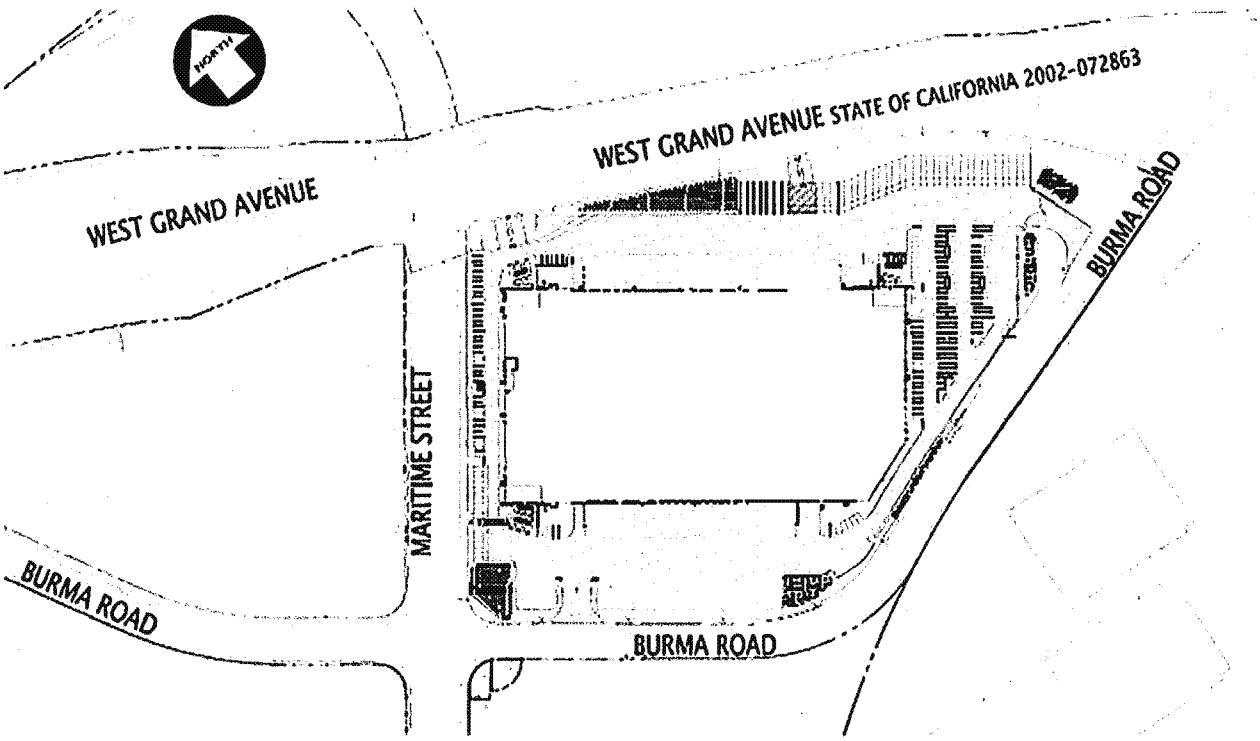
1. Project Overview and General Information



On the Northeast Gateway site Prologis will construct a new 256,000 sf warehouse on a site covering approximately 702,000sf bordered by Maritime Street, Burma Road and West Grand Ave. The project site improvements will include new underground utilities, landscaping, concrete and ac paving and bio-swales. The new warehouse building will include 55 truck docks, 78 trailer parking stalls, 171 auto parking stalls and two electric vehicle charging stations.

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2. Air Quality - Construction Related Air Pollution Controls

SCA-AIR-2 Construction Related Air Pollution Controls

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

During Construction, the project applicant shall require the construction contractor to implement all of the following applicable measures recommended by the Bay Area Air Quality Management District (BAAQMD):

a. Water all exposed surfaces of active construction areas at least twice daily (using reclaimed water if possible). Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.

b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).

c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

d. Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

e. Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).

f. Requirement: Limit vehicle speeds on unpaved roads to 15 miles per hour.

g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes (as required by Title 13, Section 2485, of the California Code of Regulations. Clear signage to this effect shall be provided for construction workers at all access points.

h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be shall be minimized either by shutting equipment off when not is use or reducing the maximum idling time to five minutes and fleet operators must develop a written idling policy (as required by Title 13, Section 2449 of the California Code of Regulations.)

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

j. Post a publicly visible sign that includes the contractor's name and telephone number to contact regarding dust complaints. When contacted, the contractor shall respond and take corrective action within 48 hours. The telephone numbers of contacts at the City and the BAAQMD shall also be visible. This information may be posted on other required on-site signage.

k. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

2. Air Quality - Construction Related Air Pollution Controls

l. All excavation, grading, and demolition activities shall be suspended when average wind speeds exceed 20 mph.

m. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

n. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).

o. Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.

p. Install appropriate wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of the construction site to minimize wind blown dust. Wind breaks must have a maximum 50 percent air porosity.

q. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

r. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

s. All trucks and equipment, including tires, shall be washed off prior to leaving the site. Tire washing station will be included at each construction entrance. Water will be contained on-site and reused where possible.

t. Site accesses to a distance of 50 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel over filter fabric.

u. All equipment to be used on the construction site and subject to the requirements of Title 13, Section 2449 of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations") must meet Emissions and Performance Requirements one year in advance of any fleet deadlines. The project applicant shall provide written documentation that the fleet requirements have been met.

v. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., BAAQMD Regulation 8, Rule 3: Architectural Coatings).

Dust Control Mitigation Plan:

The Erosion Control Plan (Exhibit B) was submitted to the City as part of the 02/08/2016 Issue for Permit Drawings. In addition to the dust control measures included in The Erosion Control Plan the following items will be implemented to control dust -

a. Use water trucks to water exposed surfaces during construction activities at least twice daily or more frequently if winds exceed 15 mph. Suspend excavation, grading, and demolition activities when average wind speed exceeds 20 mph. Maintain minimum soil moisture of 12% as indicated by laboratory samples or a moisture meter. Use reclaimed water for dust mitigation whenever feasible. Monitoring process will include:

2. Air Quality - Construction Related Air Pollution Controls

1) Checking weather reports daily prior to starting construction activity to prepare for wind speeds as necessary.
2) Monitoring weather and dust as day progresses by setting up an anemometer wind speed sensor and checking periodically.
3) Increasing dust control watering as wind speeds increase to maintain minimum 12% moisture content, or to a point at which the earth becomes tacky.

b. Cover truck loads with tarpaulins or keep loads 2 feet below the sideboard of the truck bed to eliminate wind contact with soil or other loaded materials.

c. Require all operators tracking dirt/mud onto public roadways to have a wet power vacuum sweeper present daily during these activities and remove tracked dirt/mud at the end of each day or more frequently if needed.

d. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. Construction area entrances will be built using fabric and 3x5 rock to facilitate tire soil removal prior to leaving the site (or as defined by the guidelines in the Best Management Practice Handbook). Ingress/egress sites will also provide dry brushing of loose soil from tires and fenders.

e. As soon as practical and prior to rainy season, cover all access roads and/or permanent roads and building pads with aggregate or asphalt concrete to mitigate tracking of dirt and/or mud offsite.

f. Cover all inactive soil material stockpiles with plastic sheeting or non-toxic soil binders. Water all active stockpiles to maintain 12% moisture.

g. Install fencing with attached windscreen fabric on the windward side of the actively disturbed area of the construction site.

h. Replant vegetation in disturbed areas as quickly as possible.

i. Limit simultaneous occurrence of excavation, grading, and ground disturbance activities on the same area at any one time when feasible.

j. Draft and implement a Project SWPPP. The onsite QSP (Randy Knaus) will monitor runoff before, during, and after rain events. Deficiencies will be logged and corrected immediately. Inactive construction areas will be properly addressed with BMPs to eliminate erosion. Required BMPs will be outlined in the SWPPP and enforced with reporting and inspection.

k. Post signage and enforce 15 mph speed limit requirement for unpaved roads (Exhibit G).

l. Post signage and enforce dust complaint reporting requirement (Exhibit H). Take corrective action to remedy complaints within no more than 48 hours after receiving the complaint.

m. The Project Dust Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. The Contractor will maintain Daily Inspection Logs throughout the Project.

n. Limit inactive construction areas (previously graded areas inactive for one month or more) by installing planting, finished hardscape, and paving as soon as possible.

2. Air Quality - Construction Related Air Pollution Controls

o. Designate Randy Knaus (WT Superintendent) as the person to monitor the dust control program and to order increased watering, as necessary.

p. Install fencing with attached windscreen fabric on the windward side of the actively disturbed area of the construction site.

q. Replant vegetation in disturbed areas as quickly as possible.

r. Limit simultaneous occurrence of excavation, grading, and ground disturbance activities on the same area at any one time when feasible.

s. Tire washing station will be included at each construction entrance and all equipment, including tires will be washed off prior to leaving the site.

t. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. Construction area entrances will be built using fabric and 3x5 rock to facilitate tire soil removal prior to leaving the site (or as defined by the guidelines in the Best Management Practice Handbook). Ingress/ egress sites will also provide dry brushing of loose soil from tires and fenders

u. All contractors will be bound by contract to comply with the requirements of CCR Title 13, Section 2449. All written documentation that fleet requirements have been met will be submitted to the City of Oakland for record.

v. Install coatings meeting VOC content requirements specified in Project Specification.

Emission Control Mitigation Plan:

To reduce emissions generated by equipment operating onsite the following protocols will be implemented –

Equipment and Fuel Requirements

a. All contractors will be encouraged to use Tier 4 off-road engines for all equipment brought to the site, as available. At a minimum, contractors will be required to use Tier 3 off-road engines for all equipment brought on-site. All contractors will be encouraged to use post 2010 model water trucks, as available. Contractors shall provide Reporting and Labeling documentation required and enforced by CARB. In addition, each contractor shall submit specific list of equipment being proposed for this project site. Compliance officer to use this documentation to verify equipment meets requirement meets either Tier 4 or Tier 3 engine requirement.

b. Fuel being used will be compliant with California standards and consistent with regulatory requirements for Ultra Low Sulfur Diesel (USLD). Use late model (defined as Tier 4, manufactured post 2008, or Tier 3, manufactured post 2006) heavy-duty diesel-powered equipment, as well as zero and near-zero emission equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area.

c. Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.

2. Air Quality - Construction Related Air Pollution Controls

d. Electric boom lifts, scissor lifts, and small tools will be utilized to the extent feasible. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment.

e. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible. Temporary electric service from existing infrastructure will be provided on the job-site for contractors to use for small tools and equipment.

f. Keep all construction equipment properly tuned by a certified mechanic in accordance with the manufacturer's specifications. Operators will provide the Contractor with written documentation of equipment maintenance for all equipment to be used onsite.

g. All contractors will be bound by contract to comply with the requirements of CCR Title 13, Section 2449 (CARB Off-Road Diesel Regulations). All written documentation that fleet requirements for equipment to be used onsite have been met will be submitted to the City of Oakland for record.

h. The CARB Off-Road Diesel Vehicle Regulations will be enforced on this project using the requirements currently in effect and enforced by CARB. All emission standards and related requirements set forth in the CARB Regulations apply on the schedules set forth in the Regulations.
https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm

The requirements outlined below are currently in effect and being enforced by CARB:

Idling

Equipment operators must limit their unnecessary idling to 5 minutes. There are exceptions for vehicles that need to idle to perform work (such as a crane providing hydraulic power to the boom), vehicles being serviced, or in a queue waiting for work. See Exhibit J for signage describing the Project Idling Policy.

Disclosure, Reporting and Labeling

Sellers of any equipment to be used on the Project must provide disclosure of the Off-Road regulation (exact language provided in the regulation) on the bill of sale or invoice, and must keep records that the disclosure was provided for three years after the sale. The seller must also report the vehicle sale to CARB via DOORS within 30 days of the sale.

Reporting can be completed using DOORS (Diesel Off-road online Reporting System), which is CARB's free online reporting tool for the Off-Road regulation. Additionally, hard copy reporting forms may be submitted. All equipment providers must review and update their information by March 1 of each year that annual reporting is required. Large fleets (fleet size > 5,000 HP) must report annually from 2012 to 2023, medium fleets from 2016 to 2023, and small fleets (fleet size < 2,500 HP) from 2018 to 2028. For each annual reporting date, a fleet must report any changes to the fleet, hour meter readings (for low-use vehicles and vehicles used a majority of the time, but not solely, for agricultural operations), and also must submit the Responsible Official Affirmation of Reporting (ROAR) form. All of these items should be submitted using DOORS. In the event that a fleet cannot, or does not want to meet the fleet average emissions target in a given year, it may instead choose to comply with the BACT (Best Available Control Technology) requirements, which requires installation of VDECS (Verified Diesel Emission Control Strategies), ie. exhaust retrofits, on a certain percentage of their fleet.

All fleet equipment used onsite shall be properly labeled. After a fleet reports their vehicles to CARB, each vehicle is assigned a unique Equipment Identification Number (EIN). The fleet must label its vehicles within

2. Air Quality - Construction Related Air Pollution Controls

30 days of receiving EINs. Labeling provisions of the Off-Road regulation were amended in December 2010 to require labels on both sides of each vehicle. Additionally, fleets reported as 'captive attainment area fleets' must have labels with a green background instead of red.

Restrictions on Adding Vehicles

The Off-Road regulation restricts fleets from adding vehicles with older tier engines. Contractors adding fleet equipment to be used on the Project shall comply with the following restrictions at a minimum of one year in advance of dates listed below.

Ban on adding Tier 0s – Effective January 1, 2014, a fleet may not add a vehicle with a Tier 0 engine to its fleet. (Note no Tier 0 engines will be permitted onsite).

Prohibition on adding Tier 1s – Also effective January 1, 2014, for large and medium fleets, and January 1 2016 for small fleets, a fleet may not add any vehicle with Tier 1 engine. The engine tier must be tier 2 or higher. (Note no Tier 1 engines will be permitted onsite).

Prohibition on adding Tier 2s – Beginning January 1, 2018, for large and medium fleets, and January 1, 2023, for small fleets, a fleet may not add a vehicle with a Tier 2 engine to its fleet. The engine tier must be Tier 3 or higher. (Note no Tier 2 engines will be permitted onsite).

Enforcement

i. Signage will be posted notifying Contractors that all equipment onsite is subject to the requirements of CCR Title 13, Section 2449 (CARB Off-Road Diesel Regulations) and must meet Emissions and Performance Requirements one year in advance of any fleet deadlines and enforced with inspection and reporting.

j. The Project Compliance Manager (Randy Knaus) will monitor and facilitate the implementation of mitigation measures. Any off-road equipment that exhibits conditions outside of the manufacturer's specifications, or emits excessive visible smoke, shall be prohibited from operating on-site. All contractors will be subject to this provision and will maintain Inspection Logs daily throughout the project. Compliance Manager will complete online ARB courses for Visible Emissions Evaluation to enhance ability to ensure fleets are in compliance with CARB Regulations.

k. Post signage limiting truck and equipment idling time to five minutes or less, in accordance with CCR Title 13, Section 2485 & 2449. (Exhibit J)

l. A program to enforce and monitor vehicle compliance will be developed to ensure that vehicles associated with the Project comply with applicable local, regional, state, and federal air quality requirements. The program will include a gate check component to control vehicle access to and from the Project site and may include a voluntary decal program (i.e., "sticker program") whereby vehicles determined to be in compliance with Project requirements will be issued an exterior decal to assist in identifying compliant vehicles.

3. Cultural Resources

SCA-CULT-1: Archaeological Resources

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted.

Archaeological Resource Discovery Plan:

a. Halt all activities within a 50-foot radius of discovery of prehistoric or historic subsurface cultural resources, contact a qualified archaeologist or paleontologist to review discovery, and immediately notify the City.

b. Determine avoidance measures and/or further actions in consultation with City and a qualified archaeologist or paleontologist.

SCA-CULT-3: Paleontological Resources

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

Pursuant to Section 15064.5 of the CEQA Guidelines in the event of an unanticipated discovery of a paleontological resource during ground disturbing activities the following provisions shall be instituted:

Paleontological Resource Discovery Plan:

a. Halt all activities within a 50-foot radius of discovery of prehistoric or historic subsurface cultural resources, to review discovery, and immediately notify the City.

b. Determine avoidance measures and/or further actions in consultation with City and a qualified archaeologist or paleontologist. Basin Research Associates, Inc. Ph: 510-430-8441

SCA-CULT-2: Human Remains

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading and/or construction.

Requirements:

Pursuant to Section 15064.5 of the CEQA Guidelines in the event of an unanticipated discovery of human skeletal remains during ground disturbing activities the following provisions shall be instituted:

Human Remains Discovery Plan:

a. Halt all activities upon discovery of human skeletal remains, contact the Alameda County Coroner to review discovery, and immediately notify the City.

b. Cease all activities within a 50-foot radius of discovery if the Alameda County Coroner determines that the remains are Native American, until appropriate arrangements are made.

4. Geology and Soils- Erosion and Sedimentation Controls

SCA-GEO-1: Erosion & Sedimentation Plan

Prior to issuance of a demolition, grading, or building permit; and ongoing throughout demolition, grading, and/or construction:

Requirements:

The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.660 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive storm water runoff or carrying by storm water runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and storm water retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated storm water runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

Erosion and Sediment Control Action:

An Erosion Control Plan (Exhibit B) was submitted to the Oakland Building Services Department as required for a grading permit pursuant to Section 15.04.660 of the Oakland Municipal Code. As required by code the Erosion Control Plan provides for the following:

a. Prevents excessive storm water runoff

b. Utilizes appropriate short-term erosion control methods, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, storm water retention basins, and devices to trap, store, and filter sediment.

c. The storm drain system shall be inspected to verify that the onsite system is cleared of debris and/or sediment. A copy of the survey shall be submitted to the City for review and approval.

d. Grading will be prohibited between October 15 and April 15 unless written authorization is obtained from the City Building Services Division.

5. Hazards and Hazardous Materials

SCA-HAZ-1: Best Management Practices for Soil and Groundwater Hazards

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities.

Requirements:
The project applicant shall implement all of the following Best Management Practices (BMPs) regarding potential soil and groundwater hazards:

a. Soil generated by construction activities shall be stockpiled onsite in a secure and safe manner or if designated for off-site disposal at a permitted facility, the soil shall be loaded, transported and disposed of in a safe and secure manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state and federal agencies laws, in particular, the Regional Water Quality Control Board (RWQCB) and/ or the Alameda County Department of Environmental Health (ACDEH) and policies of the City of Oakland. The excavation, on-site management, and off-site disposal of soil from Project areas within the OARB shall follow the DTSC-approved RAP/RMP.

b. Groundwater pumped from the subsurface shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Oakland, the RWQCB and/or the ACDEH. The on-site management and off-site disposal of groundwater extracted from Project areas within the OARB shall follow the DTSC-approved RAP/RMP for Project areas within the OARB. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building (pursuant to the Standard Condition of Approval regarding Radon or Vapor Intrusion from Soil and Groundwater Sources.

c. Prior to issuance of any demolition, grading, or building permit, the applicant shall submit for review and approval by the City of Oakland, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the ACDEH, have granted all required clearances and confirmed that the all applicable standards, regulations and conditions for all previous contamination at the site. The applicant also shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the Standard Condition of Approval requiring a Site Review by the Fire Services Division pursuant to City Ordinance No. 12323, and compliance with the Standard Condition of Approval requiring a Phase I and/or Phase II Reports.

Hazards and Hazardous Material Mitigation Plan:

See Exhibit O for closure reports related to RMP/RAP. See Exhibit N for Fire Safety Phasing Plan.

All subcontractors shall be required by to comply with the RAP/RMP and Soils Management Plan which includes provisions for the following:

a. All soil stockpiles shall be consolidated in a safe and secure manner.

b. Soil shall be profiled prior to off-haul and disposal.

c. All soils determined to be unsuitable for reuse onsite shall be loaded, transported and disposed of in a secure and safe manner and in accordance with applicable local, state, and federal laws, regulations, and/or policies.

d. Groundwater pumped onsite shall be contained in a safe and secure manner and will only be disposed of at permitted facilities.

5. Hazards and Hazardous Materials

SCA-HAZ-2: Hazards Best Management Practices

See Exhibit O for closure reports related to RMP/RAP
Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities.

Requirements:

The project applicant and construction contractor shall ensure Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

a. Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction.

b. Avoid overtopping construction equipment fuel gas tanks.

c. During routine maintenance of construction equipment, properly contain and remove grease and oils.

d. Properly dispose of discarded containers of fuels and other chemicals.

e. Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all USTs, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.

f. If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval (and DTSC-approved RAP/RMP for Project area within the OARB), as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

Hazards Best Management Practices Mitigation Plan:

a. During construction comply with the RAP/RMP and Soils Management Plan.

b. Prepare a Project Storm Water Pollution Prevention Plan (SWPPP) that includes site hazardous materials and waste management BMPs, proper procedures for storing and handling construction materials onsite, and cleanup measures for accidental releases.

c. Collect environmental samples if suspected contamination, abandoned drums, USTs, elevator shafts, clarifiers, or subsurface hydraulic lifts are encountered during construction, and immediately notify Mark Arniola at (510) 238-7371.

d. Prepare task-specific Health and Safety Plan for construction activities in areas with known or suspected contamination.

e. Follow recommendations provided by a qualified environmental consultant for the profiling, handling, treating, transportation, and/or disposal of any other materials classified as potentially hazardous waste.) (Farallon Consulting, LLC Ph: 510-879-6800)

6. Hydrology and Water Quality

SCA-HYD-1: Storm Water Pollution Prevention Plan (SWPPP)

Mitigation Implementation/Monitoring: Prior to and ongoing throughout demolition, grading, and/or construction activities.

Requirements:

The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a storm water pollution prevention plan (SWPPP) and submit the plan for review and approval by the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact storm water; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to storm water; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.

Storm Water Pollution Prevention Action Items:

a. Prepare a construction SWPPP signed by a Qualified SWPPP Developer (QSD).

b. File a NOI with the SWRCB.

c. Submit SWPPP to the Water Board and City for review and approval.

d. File a NOT with the SWRCB at the completion of construction.

e. On behalf of the Developer and/or its Contractor, a QSP will perform periodic inspections to confirm compliance.

7. Noise Controls

SCA-NOI-1: Days/Hours of Construction Operation

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities. The project applicant shall require construction contractors to limit standard construction activities as follows:

Requirements:

The project applicant shall require construction contractors to limit standard construction activities as follows:

a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Saturday, except that barging and unloading of soil shall be allowed 24 hours per day, 7 days per week for about 15 months.

b. Any construction activity proposed to occur outside of the standard hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division. The project applicant shall also submit an air quality report prepared by a qualified professional evaluating the air quality impacts of the special activities, if the duration of each activity exceeds 6 months.

c. No construction activity shall take place on Sundays or Federal holidays, except as noted above.

d. Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

e. Applicant shall use temporary power poles instead of generators where feasible.

f. All requests to Building Services to work outside normal work days & hours require a Neighborhood Survey (Exhibit P) to be circulated at least 10-days in advance of proposed work to nearby residents and businesses within 300 feet of the job site. A draft of the Neighborhood Survey needs to be approved by Building Services prior to circulating it for community input. Results of the survey are forwarded to Building Services 2 days in advance of scheduled work, to be considered prior to granting written authorization.

Construction Work Hours Plan:

Developer and/or its Contractor will specify in the Project Plans, install signage, and perform periodic inspections, including gate checks, to confirm the following actions:

a. Construction activities will be conducted Monday through Saturday from 7:00am to 7:00 pm. (Exhibit H)

b. Sunday and holiday hours will be from 7:00 am to 4:00 pm with prior City approval.

c. Utilize temporary power poles instead of generators when feasible.

7. Noise Controls

SCA-NOI-2: Noise Control & SCA-NOI-5: Operational Noise – General

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities. Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services. To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

Requirements:

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).

b. Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

c. Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.

d. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

Noise Control Mitigation Plans:

Developer and/or its Contractor will specify in the Project Plans, install signage (Exhibit H), and perform periodic inspections to confirm the following actions:

a. Use BACTs for noise control on construction equipment and trucks.

b. Use hydraulically or electrically powered impact tools.

c. Use exhaust mufflers when pneumatically powered tools are imperative.

d. Locate stationary noise sources as far from receptors as possible.

e. Limit the noisiest phases of construction to periods of no more than 10 consecutive days.

f. Comply with decibel levels and other aspects of the City of Oakland Noise Ordinance.

SCA-NOI-3: Noise Complaint Procedures

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities. Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

Requirements:

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

a. A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);

b. A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);

c. The designation of an on-site construction complaint and enforcement manager for the project;

d. Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and

e. A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Noise Complaint Mitigation Plan:

Developer and/or its Contractor will perform periodic inspections to confirm the following actions:

a. The project team will hold a pre-construction meeting with the Building Services Division staff to discuss noise control measures and to provide an opportunity for inspection and verification of noise control measures.

b. The project team will post signage with construction hours of operation and contact information for the Building Services Department, Oakland Police Department and the Contractor's noise enforcement representatives. Randy Knaus and Steve Rodriguez are the Contractor's noise enforcement representatives for this project. Randy and Steve are responsible for documenting complaints in the Noise Complaint Log and remedying complaints within 48 hours after receiving the complaint.

c. The project team will notify neighbors and occupants within 300 feet of the project site at least 30 days in advance of extreme noise generating activities.

d. All noise complaints received will be documented in the Noise Complaint Log (Exhibit I). At a minimum the following information will be documented in the log: date of complaint, contact information for person providing a noise complaint, reason for the complaint, action taken and/or resolution. Additionally, an email will be notified within 48 hours with an explanation of the corrective measures taken, if applicable. Complaint Logs (Exhibit I) will be maintained up to date and shall be submitted to the Building Services Division monthly and upon request.

SCA-NOI-6: Pile Driving and Other Extreme Noise Generators

Mitigation Implementation/Monitoring: Ongoing throughout demolition, grading, and/or construction activities.

Requirements:

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

a. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings.

b. Implement "quiet" pile driving technology (such as pre-drilling of piles, 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.

7. Noise Controls

c. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site.

d. 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 implement such measure if such measures are feasible and would noticeably reduce noise impacts.

e. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

Extreme Noise Generator Mitigation Plan:

Developer, its Contractor, and/or its consultant will:

a. In the event of a noise complaint, will contract with a qualified acoustical engineer to access construction noise levels at City approved monitoring locations, in order to verify compliance with Oakland Noise Regulations related to construction. The consultant will produce a site-specific noise reduction plan with recommended noise control measures for review and approval by Building Services, and the project sponsors will apply all prescribed noise reduction measures in this plan.

b. Developer and/or its Contractor will perform periodic inspections to confirm compliance.

c. Hire qualified noise consultant for initial noise assessment and provide written letter with findings. See Exhibit R – Noise Consultant Review Letter.

SCA-PSU-2: Fire Safety Phasing Plan – Mitigation 4.9-3

Mitigation Implementation/Monitoring: Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit.

Requirments:

The Port and City shall require developers within their respective jurisdictions to notify OES of their plans in advance of construction or remediation activities. Each developer proposing construction in the redevelopment project area would be required to notify OES prior to initiation of construction, so that OES may plan emergency access and egress taking into consideration possible conflicts or interference during the construction phase. The developer would also be required to notify OES once construction is complete.

Fire Safety Phasing Plan:

The Developer or its Contractor will:

a. Notify California Emergency Management Agency (CalEMA, formerly OES) prior to and at the completion of construction.

b. Submit a separate fire safety phasing plan (Exhibit N) to the Planning and Zoning Division and Fire Services Division for their review and approval. The fire safety plan shall include all of the fire safety features incorporated into the project and the schedule for implementation of the features.

9. Construction Parking and Traffic

SCA-TRANS-2: Construction Traffic and Parking

Mitigation Implementation/Monitoring: Prior to the issuance of a demolition, grading or building permit; and on-going throughout demolition, grading, and/or construction.

Requirement:

The project sponsor and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project (see also SCA TRANS-1, especially "h") and other nearby projects that could be simultaneously under construction. The project sponsor shall develop a construction management plan. The plan shall be submitted to EBMUD, the Port, and Caltrans for their review and comment ten (10) business days before submittal to the City. The project sponsor shall consider in good faith such comments and revise the plan as appropriate. The revised plan shall be submitted for review and approval by the City's Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

a. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.

b. Notification procedures for adjacent project sponsors and public safety personnel regarding when major deliveries, detours, and lane closures will occur.

c. Location of construction staging areas for materials, equipment, and vehicles at an approved location.

d. A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.

e. Provision for accommodation of pedestrian flow.

f. Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces (see also SCA TRANS-1, especially "h").

g. Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.

h. Any heavy equipment brought to the construction site shall be transported by truck, where feasible.

i. No materials or equipment shall be stored on the traveled roadway at any time.

9- Construction Parking and Traffic

j. Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.

k. All equipment shall be equipped with mufflers.

l. Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors. Specifically, to further implement SCA TRANS-2,

m. A traffic construction management analysis was performed which recommended certain improvements to the Adeline/5th and Adeline/3rd Street and Adeline Street intersection, which is discussed under construction impacts of the Traffic and Transportation section of the 2012 OARB Initial Study/Addendum. The requirement for these improvements is not applicable to Prologis's vertical project.

Construction Traffic and Parking Mitigation Plan:

The Developer, its Contractor, or its consultant will prepare a Traffic Control Plan if encroachment into the public right-of-way is required. When required, a Traffic Control Plan will be submitted to EBMUD, the Port, and CalTrans for review and comment no less than 10 days prior to submittal to the City. Incorporate comments and revise plan as appropriate.

a. Submit the Traffic Control Plan to the City for review and approval prior to undertaking any project construction that affects pedestrian or vehicular circulation in the public right-of-way.

b. Schedule major truck trips and deliveries to avoid peak traffic hours.

c. Designate construction access routes, construction staging areas, remediation staging areas, construction and visitor parking areas, and pedestrian walkways. Delineate these areas on Project plans. (Exhibit D & F) All truck traffic involving vehicles over 2 tons are restricted to pre-approved truck route. This will be a contractual requirement. In addition, this requirement will be communicated at the each subcontractor preconstruction meeting and weekly subcontractor meetings

d. Notify adjacent property owners and occupants and public safety personnel and erect electronic message boards in advance of major deliveries, detours, and/or lane closures. (Exhibit K)

e. Survey and document existing conditions prior to construction. Repair damage to streets caused by construction equipment within one week of occurrence unless damage is anticipated to continue. Immediately repair damage that is a threat to public health or safety.

f. Transport heavy equipment to the site by truck/trailer.

g. Require all operators tracking dirt/mud onto public roadways to have a wet power vacuum sweeper present daily during these activities and remove tracked dirt/mud at the end of each day or more frequently if needed. (See Dust Control Mitigation Plan)

h. Install construction area entrances at all ingress and egress sites to ensure dirt is kept off of public roads. (See Exhibit B and Dust Control Mitigation Plan)

i. Draft and implement a Project SWPPP. Required BMPs will be outlined in the SWPPP and enforced with reporting and inspection.

9- Construction Parking and Traffic

j. Inspect construction area and vicinity daily, and collect and properly dispose of construction-related litter, whether located on the property, within the public rights-of-way, or adjacent properties.

k. Post signage and enforce traffic control measures with reporting and/or inspection.

l. Develop a process for receiving, responding to, and tracking complaints. (See Exhibit I)

m. The Project Compliance Manager Randy Knaus will monitor and facilitate the implementation of mitigation measures. The Compliance Manager will maintain Daily Inspection Logs throughout the Project. (See exhibit M)

n. All equipment will be equipped with mufflers to reduce pollutants and noise. Developer, its Contractor, and/ or its consultant will perform periodic inspections to confirm compliance.

o. An updated Project Truck Log (Exhibit L) will be submitted to Building Services monthly and upon request. The log will summarize all deliveries and off-hauls involving weights (truck + haul load) of 2 to 5 tons, and > 5 tons.

p. Project Truck Log (Exhibit L) and pre-and post-construction videos (Exhibit Q) will be taken to assess potential wear and tear solely due to traffic directly and specifically attributable to construction of the North East Gateway.

SCA-UTL-2: Waste Reduction and Recycling

Mitigation Implementation/Monitoring: Prior to the issuance of a demolition, grading or building permit.

Requirements:

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency. Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of $50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at *http://www2.oaklandnet.com/Government/o/PWA/o/FE/s/GAR/OAK024368* or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

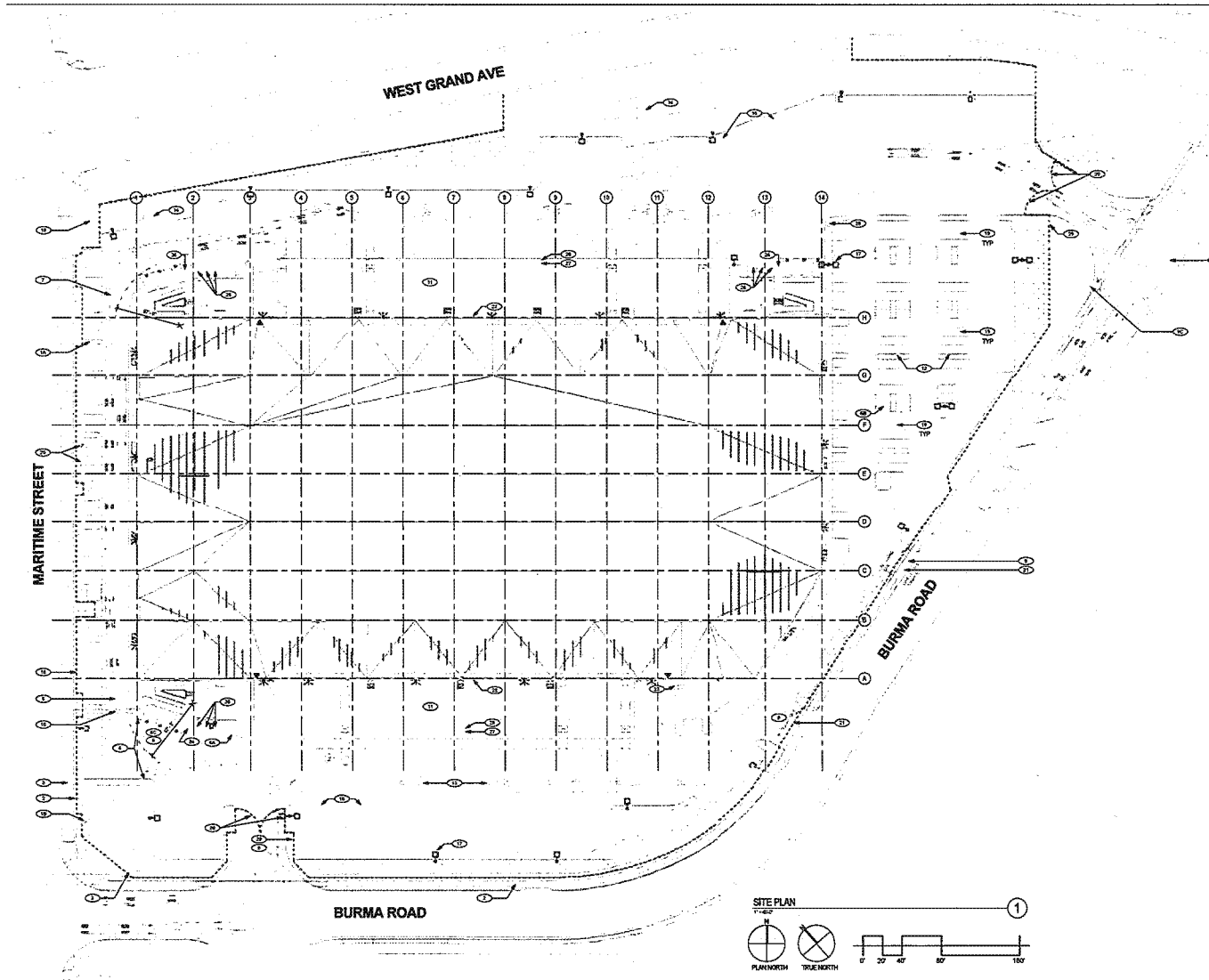
Waste Reduction and Recycling Action:

The Developer, its Contractor, or its consultant will:

a. Prepare a Waste Reduction and Recycling Plan. Submit the plan to the City for review and approval.

b. Identify and track all waste for applicability of reuse or diversion.

Exhibit A- Site Plan and Elevation



SITE STATISTICS

PARCEL NUMBER:	018 050701000
ZONING:	D-CE
HEIGHT - CENTRAL BUSINESS DISTRICT:	N/A
HEIGHT - COMMERCIAL CORRIDOR:	N/A
MAXIMUM BUILDING HEIGHT:	65'-0" (PER OAKLAND ZONING 17.101F.050)
MAXIMUM FLOOR AREA RATIO:	5 (PER OAKLAND ZONING 17.101F.050)
GENERAL PLAN:	BUSINESS MIX
CONDO CONVERSION IMPACT AREA:	NO
CITY COUNCIL DISTRICT:	CC03
SOS SERVICE DISTRICT:	1
PORT OF OAKLAND JURISDICTION:	NO
LOCAL HISTORIC PROPERTY CATEGORY:	LOCAL REGISTER
LOCAL HISTORIC DISTRICT:	
OCHS RATING:	
CONSTRUCTION DATE:	
LOCAL LANDMARK:	NO
NATIONAL HISTORIC LANDMARK:	NO
HERITAGE PROPERTY:	NO
DESIGNATED HISTORIC DISTRICT:	NO
MILLS ACT	NO
WHIPSNAKE CRITICAL HABITAT:	NO
FLOOD ZONE:	NO
HAYWARD FAULT ZONE:	NO
LIQUEFACTION HAZARD ZONE:	YES, LIQUEFACTION SEVERITY 5
WILD FIRE ASSESSMENT DISTRICT:	NO
TOTAL SITE AREA =	792,071.2175 G.S.F. = 18.12 ACRES
TOTAL BLDG AREA =	258,136 G.S.F.
SITE COVERAGE =	36.48 %
TOTAL VEHICLE PARKING =	214 STALLS = .84 / 1000 S.F.
TOTAL TRAILER PARKING =	71 TRAILER STALLS (12' X 55')
PARKING STANDARDS (17.116.200)	
STANDARD PARKING STALLS	18' DEEP X 8.5' WIDE
COMPACT PARKING STALLS	15' DEEP X 7.5' WIDE (50% MAX)
PARALLEL PARKING STALLS	20.5' DEEP X 7.5' WIDE
DRIVE ISLE WIDTH (17.116.210) AT 90 DEGREE PARKING:	21 FEET MINIMUM
REQUIRED PARKING PER ZONING CODE:	
OFFICE (17.116.080 C, BUSINESS)	1 / 600 S.F.
INDUSTRIAL ACTIVITIES (17.116.090)	1 / 1500 S.F. OR 1 FOR EACH 3 EMPLOYEES (WHICHEVER IS GREATER)
REQUIRED PARKING BY USE:	
OFFICE = (8,349 S.F. @ 1/600 S.F.)	14 STALLS
WAREHOUSE = (247,787 S.F. @ 1/1500 S.F.)	165 STALLS
TOTAL PARKING REQUIRED =	179 STALLS = .70 / 1000 S.F.
TOTAL PARKING PROVIDED =	179 STALLS = .70 / 1000 S.F.

BIORETENTION AREAS

12' X 14' GRADE LEVEL SECTIONAL ROLL UP DOOR

9' X 10' DOCK LEVEL SECTIONAL ROLL UP DOOR

KEY NOTES

1A SITE SIGNAGE FOR REFERENCE ONLY – OVERALL DEVELOPMENT PRELIMINARY
1B SITE SIGNAGE FOR REFERENCE ONLY – BUILDING MONUMENT SIGN
1C SITE SIGNAGE FOR REFERENCE ONLY – CUSTOMER DIRECTORY SIGNS (2 TOTAL)
2 PROPERTY LINES TO REMAIN
3 50' WIDE (MIN 8.5M SIDEWALK) AT MARITIME AND BURMA RD
4 TYPICAL 8" TALL 18" WIDE CONCRETE CURBS
5 TYPICAL 4" WIDE TRAFFIC STRIPING
6A TYPICAL PARKING – STANDARD STALLS 18'X8.5' MIN, 9' X 18' SHOWN THROUGHOUT
6B TYPICAL PARKING – COMPACT STALLS 15'X7.5' MIN, 15'X 9' SHOWN THROUGHOUT, (50%)
6C TYPICAL PARKING – ACCESSIBLE PARKING STALLS 9'X 18' WITH 7' PARKING OVERHANG WITH 8' DRIVE AISLE (VAN @ ZONE AS SHOWN
7 TYPICAL DRIVEABLE 30'-0" MIN ACTUAL DRIVE IS DEPICTED
8 PARKING AND DRIVE ISLES TO BE ASPHALTIC CONCRETE
9 PROPOSED LOCATION OF NEW SITE ACCESS (DRIVE CURB CUT AT BURMA RD)
10 NEW CONCRETE PEDESTRIAN WALKS TO BE 4' WIDE (MIN ADA REQ'D) SIDEWALKS TO BE ACCESSIBLE FOR ALL OF TRAVEL SLOPE NOT TO EXCEED 1:20 (5%) IN DIRECTION OF TRAVEL CROSS SLOPE NOT TO EXCEED 1:50 (2%) WHERE PARKING OVERHANG OCCURS, INCREASE WIDTH BY SIDE WALK TO 6' MIN
11 TRUCK DOCK
12 TYP LANDSCAPE PLANTER AREA
13 53' TRACTOR TRAILER TEMPLATE SHOWN FOR REFERENCE ONLY
14 DYNISITE BILLBOARD LOCATION (2 TOTAL)
15 8' TALL PAINTED WROUGHT IRON FENCE, SEE SPECS
16 TYP 12' X 55' TRAILER PARKING STALL
17 SITE LIGHTING, POLE MOUNTED LIGHT FIXTURE
18 SEE CIVIL DRAWINGS FOR EASEMENT LOCATIONS AND INFORMATION
19 PLANNED FUTURE STORAGE ZONES
20 SWINGING SECURITY GATES
21 SLIDING SECURITY GATE
22 PROPOSED BUILDING EXTERIOR WALL TO BE SITE CAST TILT UP CONCRETE WALLS WITH REVEALS & TEXTURED SUNTHERMER COATING AND A MULTI COLOR EARTH TONE PAINT PALETTE. EXTERIOR WALLS ARE ACCENTED WITH SCHEDULE STEEL, COMPOSITE ALUMINUM PANELS AND ARCHITECTURAL METAL PANELS. SEE EXTERIOR ELEVATIONS
23 LOCATION OF BICYCLE PARKING TO ACCOMMODATE A TOTAL OF 8 BICYCLES, PER CALGREEN REQUIREMENTS
24 AREA OF ASSISTED RESCUE
25 ELECTRIC VEHICLE CHARGING STATIONS (2 TOTAL), SERVICING 4 PARKING SPACES, PROVIDE CHARGE @ STATION SIGNAGE
26 2 HIGH STRIPED VEHICLE STALLS (VAN) – 8' TOTAL, 8' PROJECT GREATER THAN THE REQUIREMENT 5% OF TOTAL
27 PROVIDE BOLLARDS AT FOUR CORNERS OF PAL CONTRACTOR TO COORD BOLLARDS TO NOT CONFLICT WITH PAL
28 FINISH HOWAT, TYP, SEE CIVIL DWGS
29 FINISH WHITE VINYL 50/3 INTEGRATED WING FENCE

RMW architecture & interiors
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www.rmw.com

LICENSED ARCHITECT
No. C-29026
Exp. 12-31-19
STATE OF CALIFORNIA

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#	Description	Date
1	ISSUE FOR PERMIT	10.08.02

ISSUE : ISSUE FOR PERMIT FEB 08 2019

OAKLAND GLOBAL LOGISTICS CENTER

PHASE 1, NORTH EAST GATEWAY
OAKLAND, CALIFORNIA

PROLOGIS

3353 GATEWAY BLVD
FREMONT, CALIFORNIA
94539

TELEPHONE: 510.494.1000

Date DATE: 1/02/2019

Sheet Title: SITE PLAN

Sheet No.: A1.0.1

☐ Released for Construction
☑ Not Released for Construction

PROLOGIS

WT WEIDING TORNES

Release date: "April 18, 2019"

ED_002352_00009876-00089

EPA-HQ-2019-003701 000575 2019-04-18

Exhibit A- Site Plan and Elevation

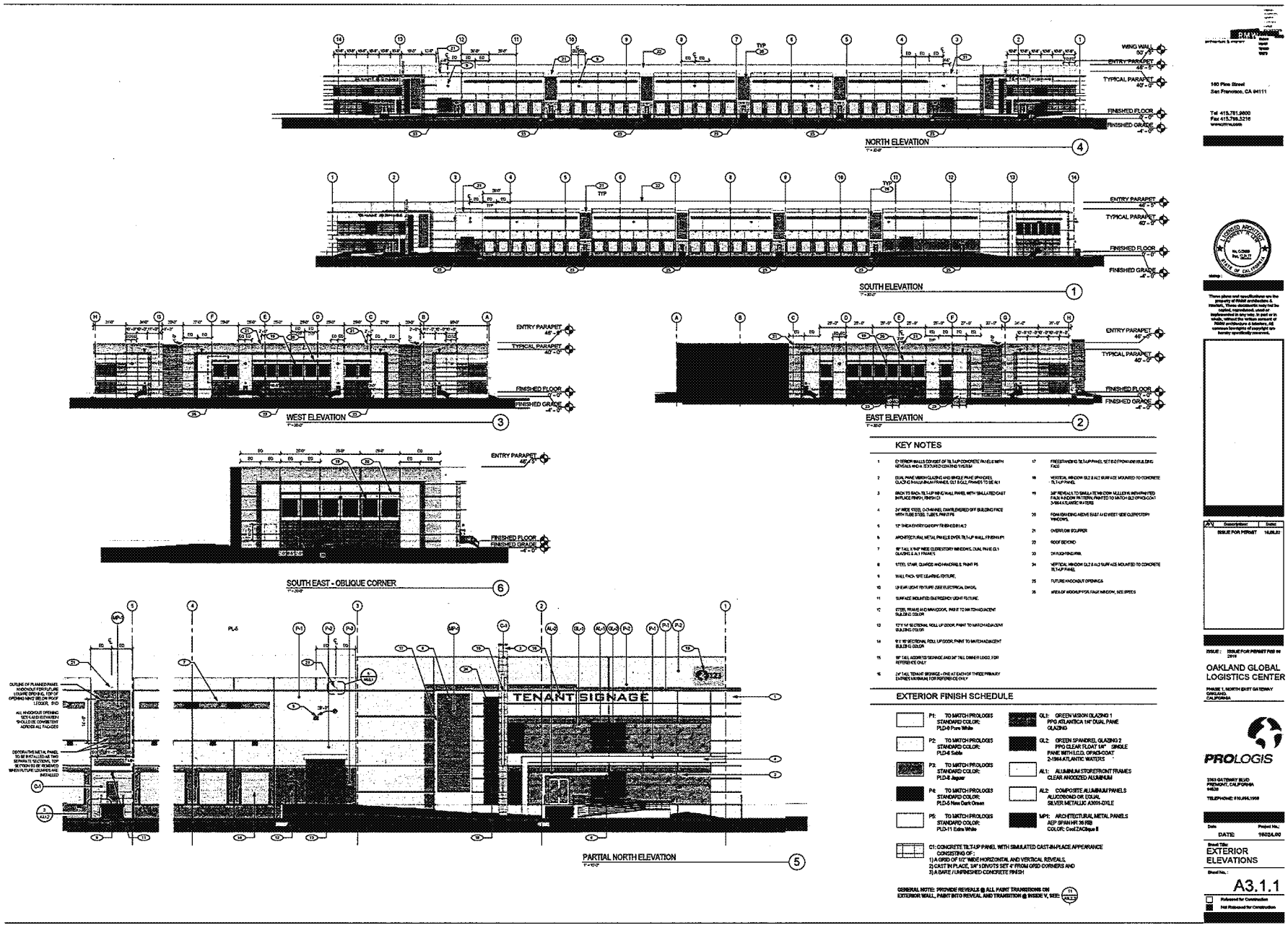
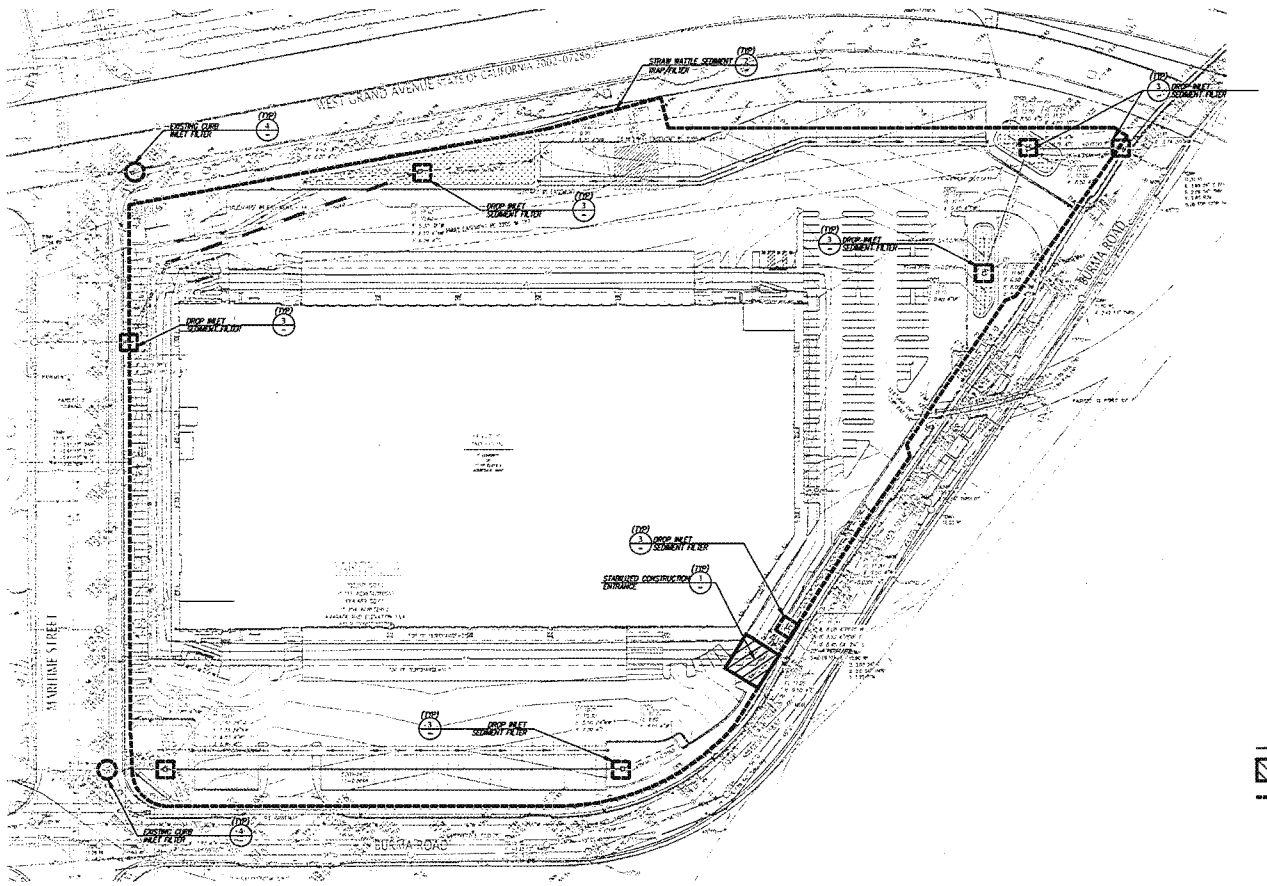
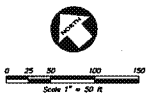


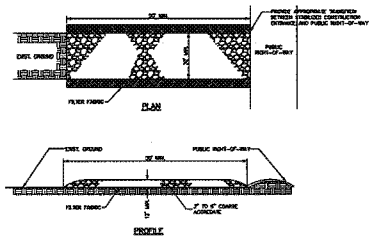
Exhibit B- Erosion Control Plan



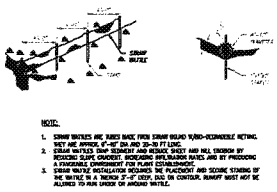


LEGEND

- STABILIZED CONSTRUCTION ENTRANCE (1)
- STRAW WATTLE SEDIMENT TRAP/FILTER (2)
- DROP INLET SEDIMENT FILTER (3)
- EXISTING CURB INLET FILTER (4)

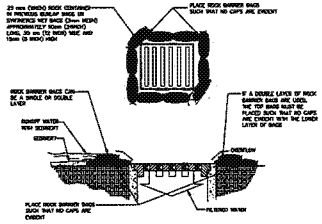


STABILIZED CONSTRUCTION ENTRANCE (1)
NOT TO SCALE

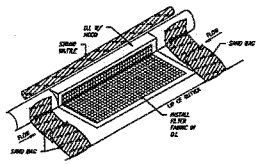


NOTE:
1. STRAW WATTLES ARE MADE BACK FROM STRAW BOUND NON-BIODEGRADABLE NETTING. WEIGHT ARE APPROX. 8"-10" DIA AND 25-30 FT LONG.
2. STRAW WATTLES CHECK SEDIMENT AND REDUCE SHEET AND RILL EROSION BY REDUCING SLOPE GRADIENT, INCREASING INFILTRATION RATES AND BY PROVIDING A FAVORABLE ENVIRONMENT FOR PLANT ESTABLISHMENT.
3. STRAW WATTLE INSTALLATION REQUIRES THE PLACEMENT AND SECURE STAKING OF THE WATTLE IN A TRENCH 3"-4" DEEP, DUG ON CONTOUR. RUNOFF MUST NOT BE ALLOWED TO RUN UNDER OR AROUND WATTLE.

STRAW WATTLE SEDIMENT TRAP/FILTER (2)
NOT TO SCALE



DROP INLET SEDIMENT FILTER UTILIZING ROCK BARRIER BAGS (3)
NOT TO SCALE



EXISTING CURB INLET FILTER DETAIL (4)
NOT TO SCALE

Z:\STANDARDS\DETAILS\ EROSION CONTROL\EC07.DWG

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road
Livermore, California 94551
Phone (925) 245-8788
Fax (925) 245-8796

Date	Description	Date
	PERMIT SUBMITTAL	3-8-19

ISSUE: ISSUE FOR PERMIT FEB 08 2019

OAKLAND GLOBAL LOGISTICS CENTER
PHASE II, NORTH EAST GATEWAY
OAKLAND, CALIFORNIA

PROLOGIS
3353 GATEWAY BLVD
FREMONT, CALIFORNIA
94520
TELEPHONE: 510.494.1000

Date: JAN. 2016
Project No.: A13533-1

Sheet Title: EROSION CONTROL PLAN

Sheet No.: C6

☐ Released for Construction
☒ Not Released for Construction

PROLOGIS

WT Wilding Turner

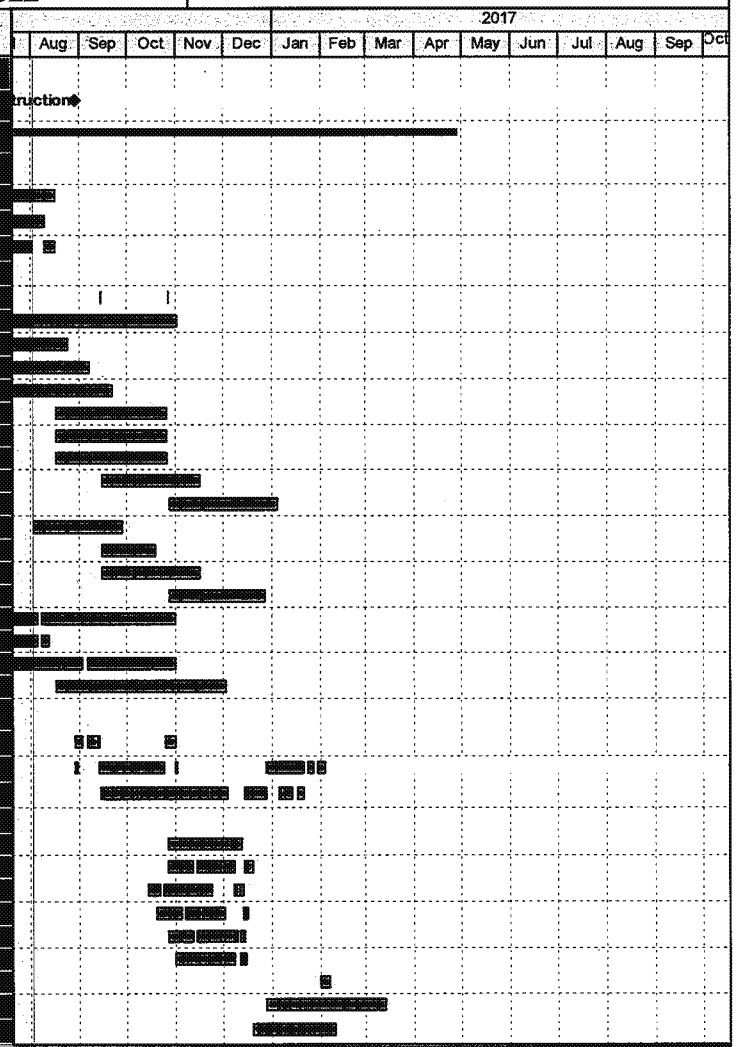
Exhibit C- Project Schedule

WHITING-TURNER CONTRACTING COMPANY
Page: 1 of 2

PROLOGIS - OAB NORTHEAST GATEWAY
PROJECT SCHEDULE

Prologis

Activity ID	Activity Name	OD	Start	Finish
	PROLOGIS PHASE 1 - Aug 4, 2016 Working	230	24-Feb-16 A	19-May-17
	PROJECT MILESTONES	199	25-Feb-16 A	28-Apr-17
	PROJECT SUMMARY	199	24-Feb-16 A	28-Apr-17
	PRECONSTRUCTION / CONTRACT / DESIGN	174	24-Feb-16 A	04-Jan-17
	BUDGET & GMP	65	24-Feb-16 A	16-Aug-16
	DESIGN DOCUMENTS & PERMITTING	35	24-Feb-16 A	10-Aug-16
	SUBCONTRACTOR BID / AWARD	31	09-May-16 A	16-Aug-16
	PROCUREMENT	174	22-Jun-16 A	04-Jan-17
	INCREMENTAL SUBMITTALS	61	18-Jul-16 A	27-Oct-16
	UNDERGROUND UTILITIES - EBMUD	80	12-Jul-16 A	01-Nov-16
	UNDERGROUND UTILITIES - WATER/SEWER/STORM	32	12-Jul-16 A	24-Aug-16
	UNDERGROUND UTILITIES- FIRE WATER	36	05-Jul-16 A	07-Sep-16
	CONCRETE	53	08-Jul-16 A	21-Sep-16
	BRBF'S	50	17-Aug-16	26-Oct-16
	COLUMNS & LEDGERS	50	17-Aug-16	26-Oct-16
	METAL STAIRS	50	17-Aug-16	26-Oct-16
	STOREFRONT	45	15-Sep-16	16-Nov-16
	METAL WALL PANELS	45	28-Oct-16	04-Jan-17
	HOLLOW METAL DOORS	40	03-Aug-16	28-Sep-16
	GLAZING SYSTEM	25	15-Sep-16	19-Oct-16
	OVERHEAD DOORS	45	15-Sep-16	16-Nov-16
	SITE PERIMETER FENCE	40	28-Oct-16	27-Dec-16
	FIRE PUMP	63	05-Jul-16 A	31-Oct-16
	FIRE SPRINKLER SYSTEM	39	22-Jun-16 A	12-Aug-16
	PANELIZED ROOF SYSTEM	63	18-Jul-16 A	31-Oct-16
	ELECTRICAL	75	17-Aug-16	02-Dec-16
	CONSTRUCTION	183	29-Aug-16	19-May-17
	MOBILIZATION/DEMO/SITE PREP	45	29-Aug-16	31-Oct-16
	SITE UTILITIES	168	29-Aug-16	28-Apr-17
	FOUNDATIONS & SOG	88	14-Sep-16	20-Jan-17
	SITECAST PANELS	77	14-Oct-16	06-Feb-17
	SITECAST FABRICATION - QUAD 1	31	27-Oct-16	12-Dec-16
	SITECAST FABRICATION - QUAD 2	36	27-Oct-16	19-Dec-16
	SITECAST FABRICATION - QUAD 3	41	14-Oct-16	13-Dec-16
	SITECAST FABRICATION - QUAD 4	40	20-Oct-16	16-Dec-16
	SITECAST FABRICATION - QUAD 5	33	27-Oct-16	14-Dec-16
	SITECAST FABRICATION - QUAD 6	31	01-Nov-16	15-Dec-16
	SITECAST ERECTION	4	01-Feb-17	06-Feb-17
	ROOF CONSTRUCTION & MEP EQUIPMENT	51	28-Dec-16	13-Mar-17
	EXTERIOR FINISHES	35	20-Dec-16	09-Feb-17



Date Date:03-Aug-16
Print Date: 18-Aug-16

Exhibit E - 8.4.16

TASK filter: All Activities
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PROLOGIS WT WHITING-TURNER

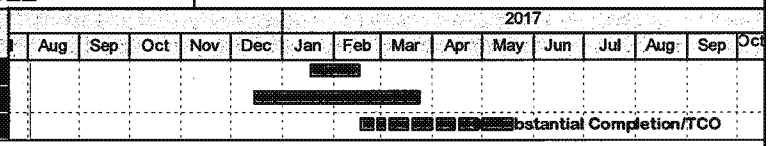
Exhibit C- Project Schedule

WHITING-TURNER CONTRACTING COMPANY
Page: 2 of 2

PROLOGIS - OAB NORTHEAST GATEWAY
PROJECT SCHEDULE

Prologis

Activity ID	Activity Name	OD	Start	Finish
	INTERIOR ROUGH-IN	22	18-Jan-17	16-Feb-17
	SITEWORK	68	15-Dec-16	24-Mar-17
	FINAL INSPECTIONS / PROJECT COMPLETION	65	17-Feb-17	19-May-17



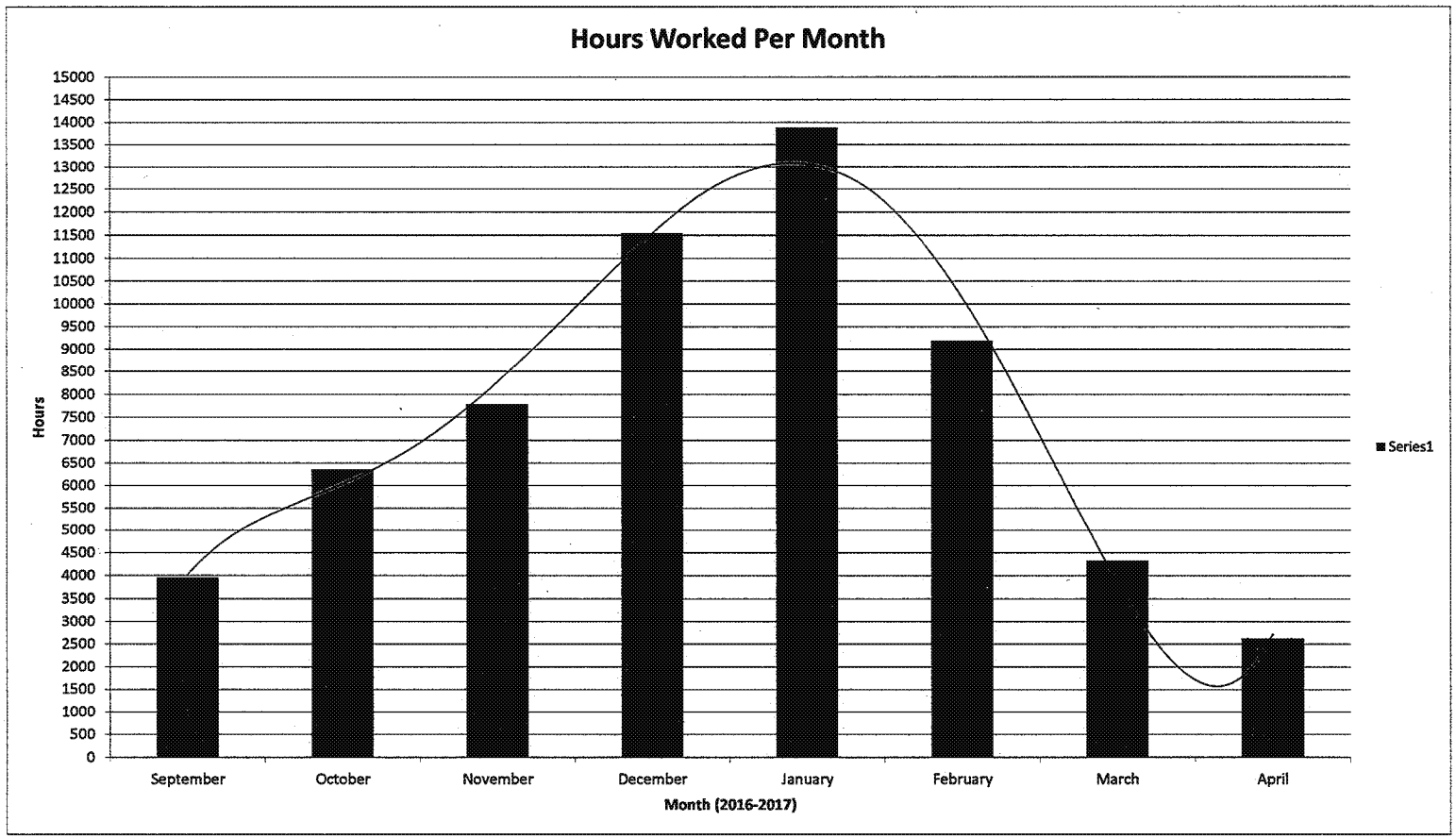
Date Date:03-Aug-16
Print Date: 18-Aug-16

Exhibit E - 8.4.16

TASK filter: All Activities
© Oracle Corporation

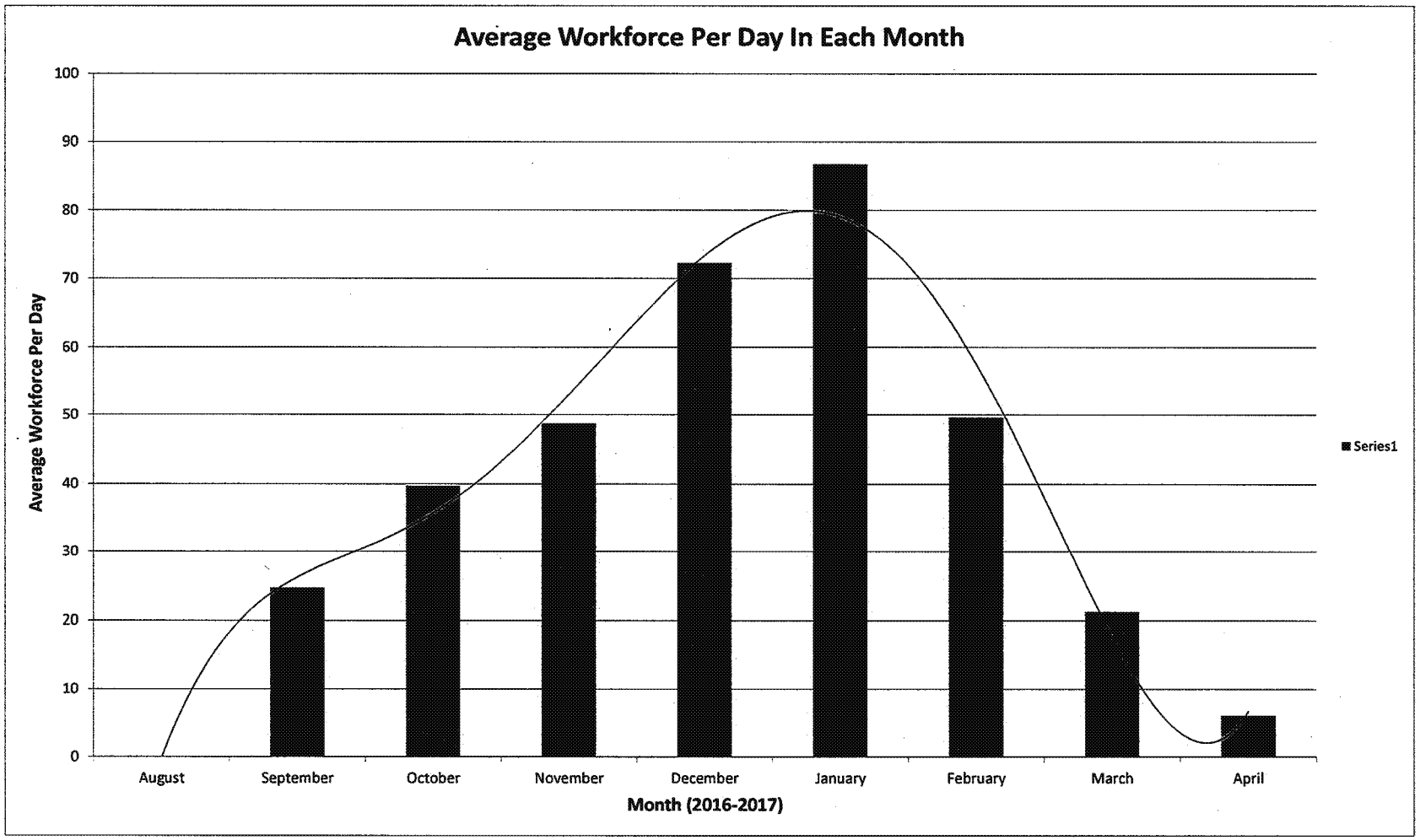
PROLOGIS WT

Exhibit C- Project Schedule



PROLOGIS WT

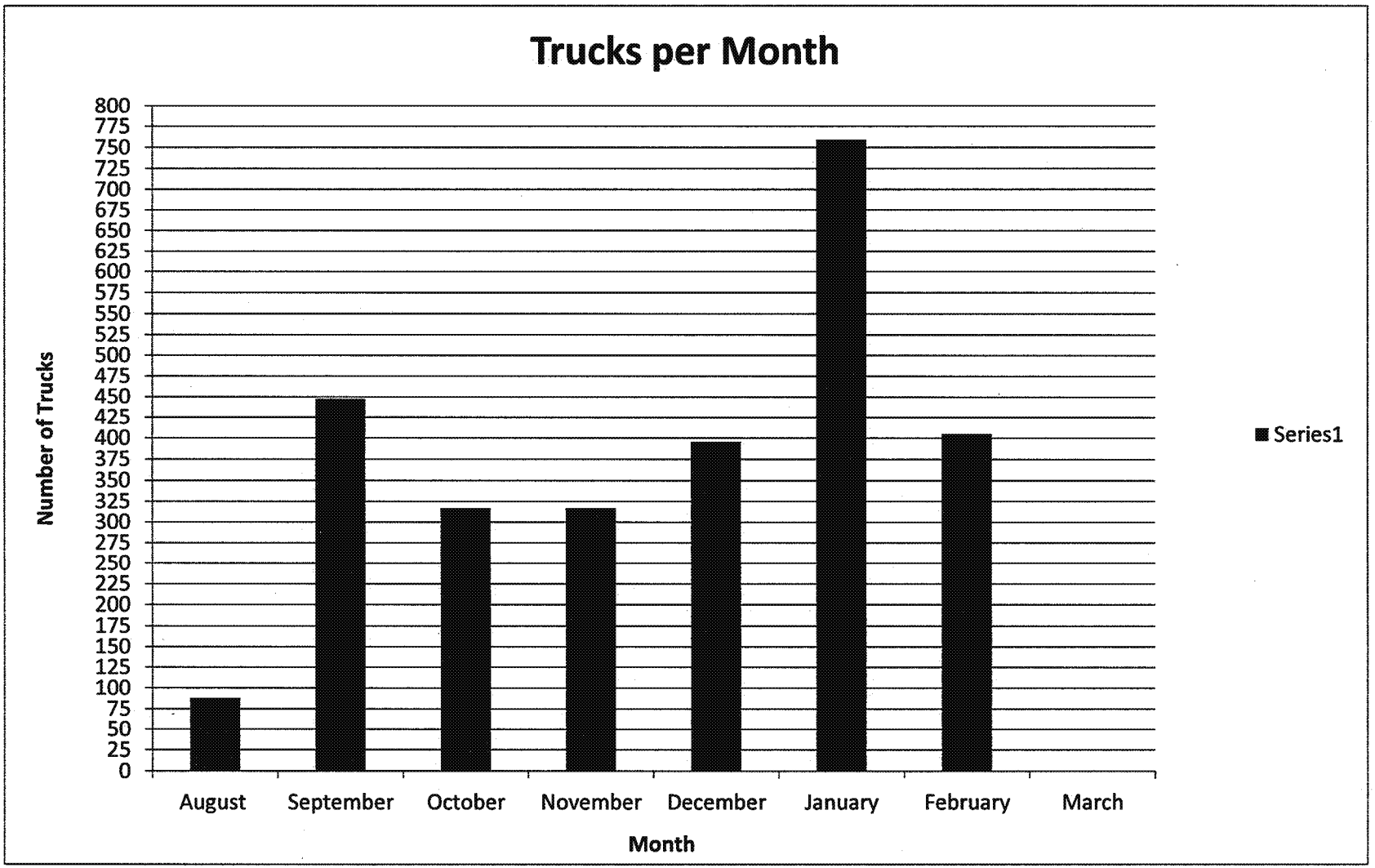
Exhibit C- Project Schedule



PROLOGIS

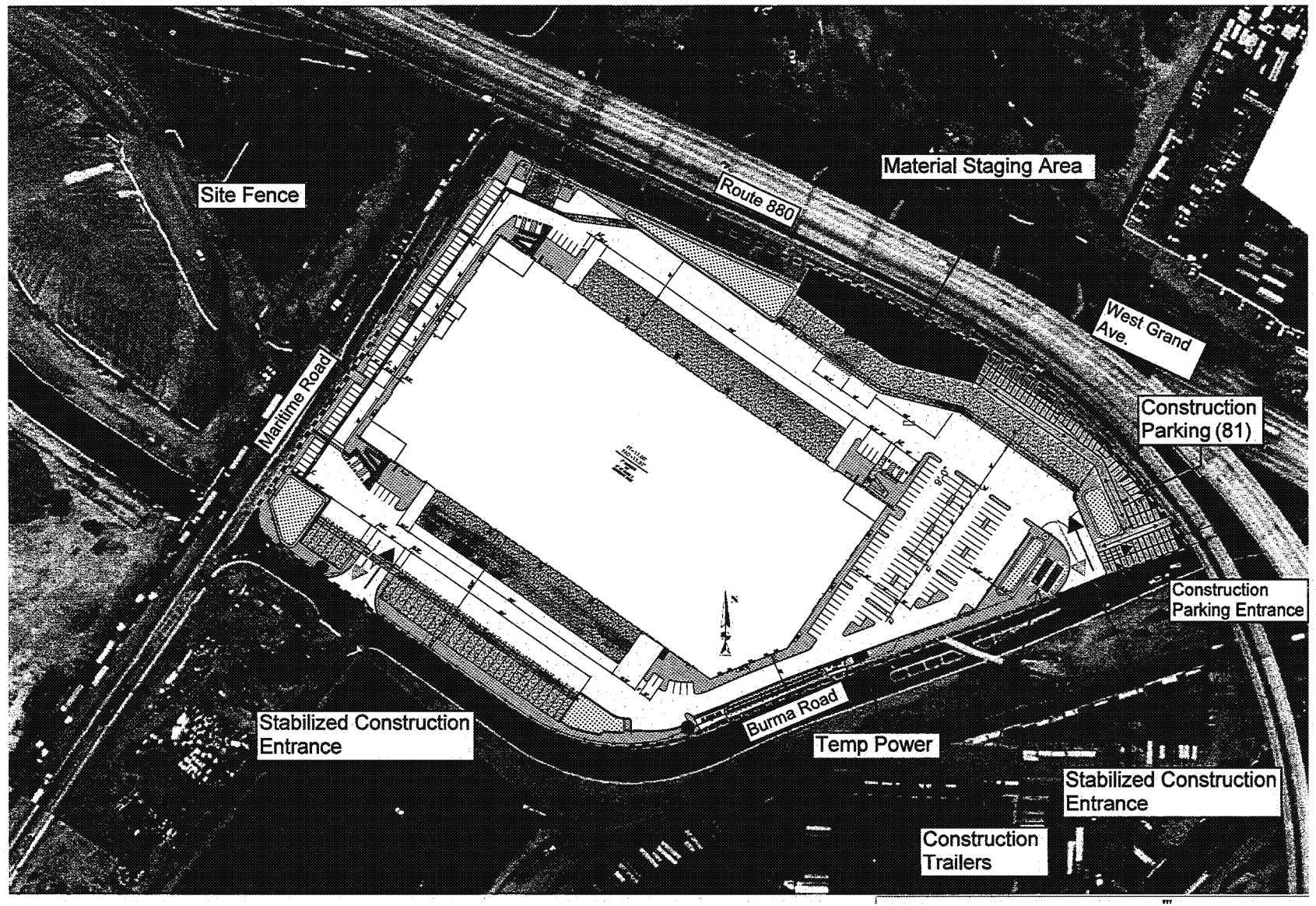
WT

Exhibit C- Project Schedule



PROLOGIS WT

Exhibit D- Project Logistics Plan



● Fire Hydrant
⊙ Construction Signage
- - - Construction Fence

*All truck queuing will be accommodated on-site. No queuing on public streets will be necessary.

PROLOGIS WT

Exhibit E- Approved Traffic Control Plan

The Developer, its Contractor, or its consultant will prepare a Traffic Control Plan if encroachment into the public right-of-way is required. When required, a Traffic Control Plan will be submitted to EBMUD, the Port, and CalTrans for review and comment no less than 10 days prior to submittal to the City. Incorporate comments and revise plan as appropriate.

Exhibit F- Approved Truck Haul Route

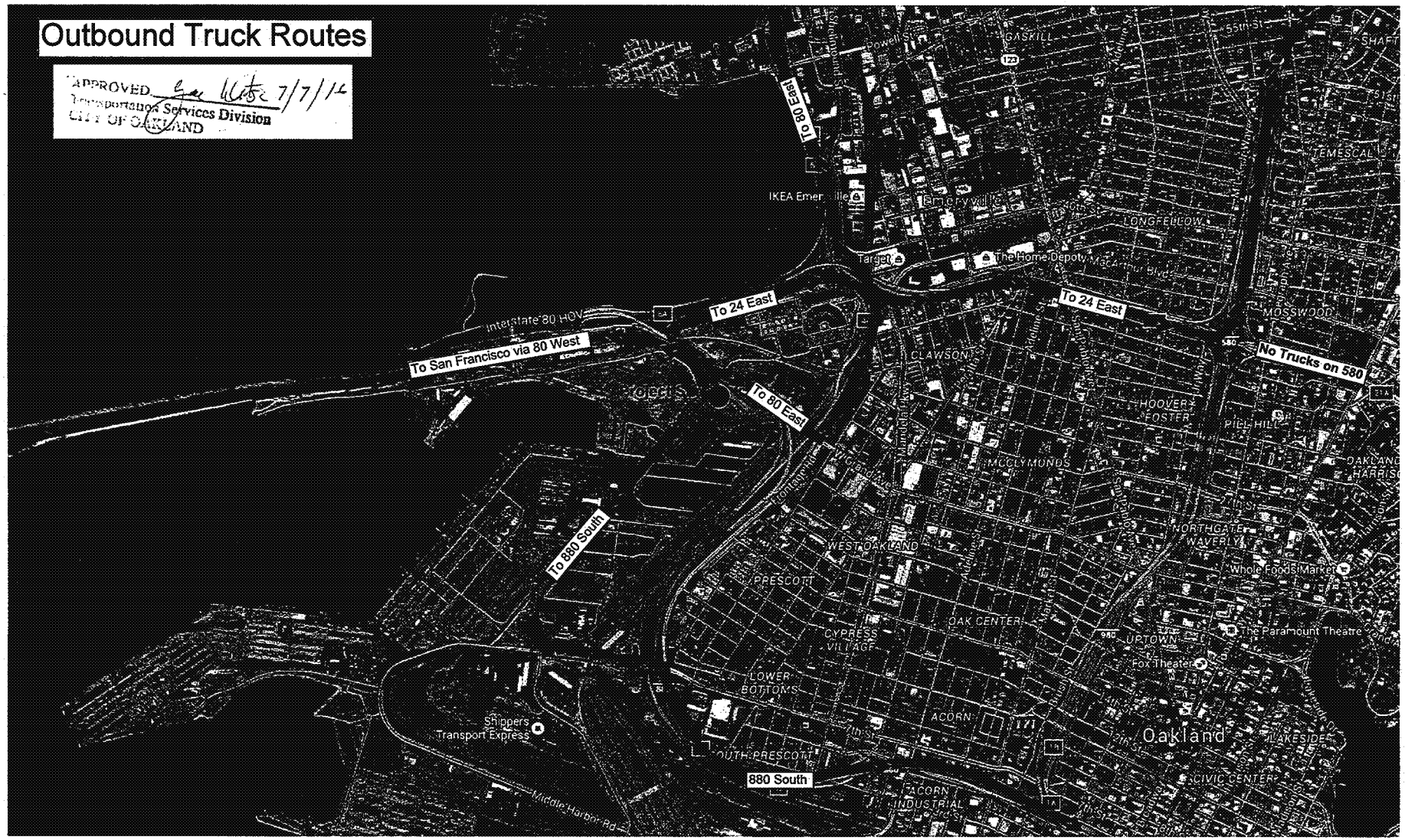


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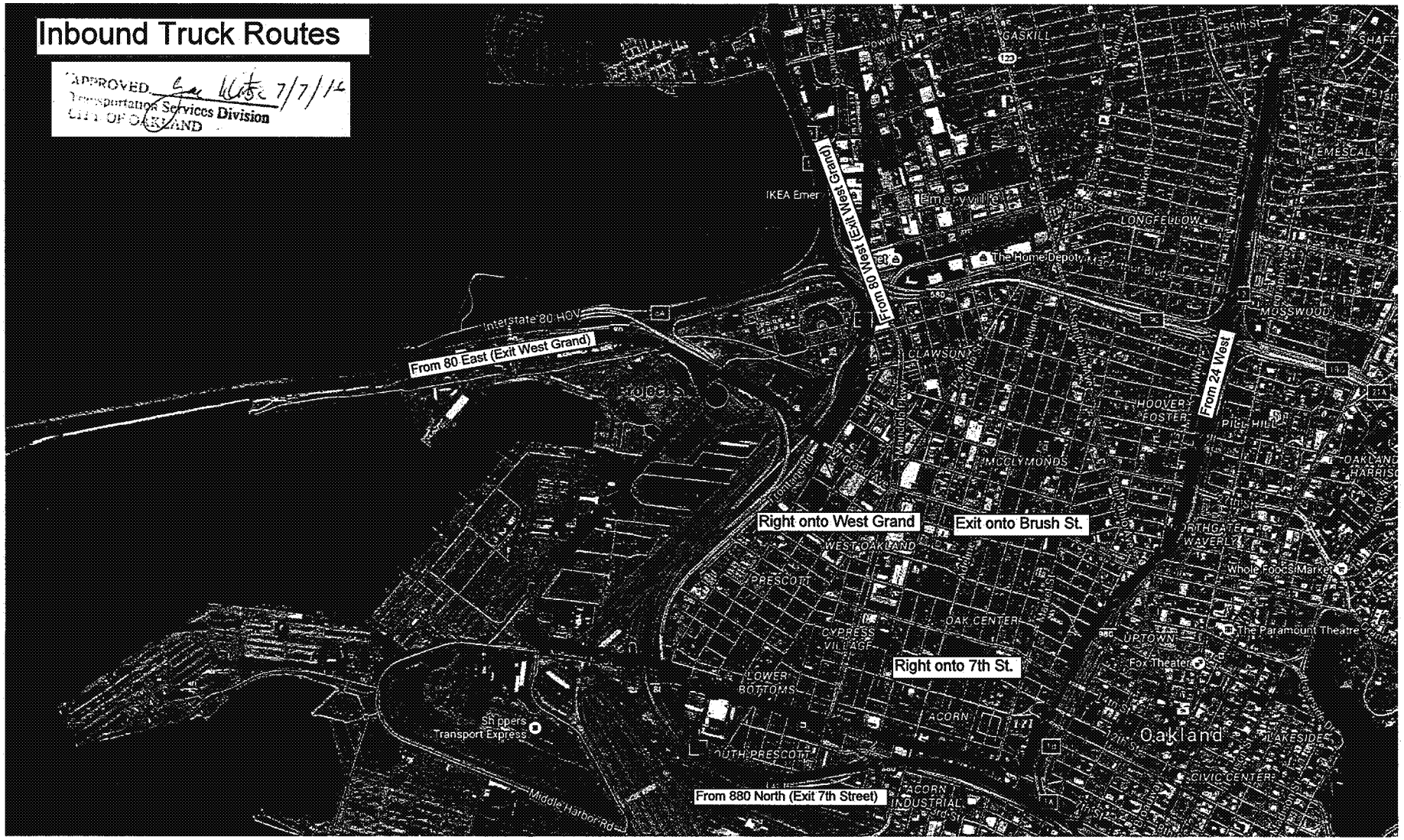
Exhibit F- Approved Truck Haul Route



PROLOGIS WT

Exhibit G- Signage: Speed Limit

PROLOGIS WT

Exhibit H- Signage: Dust Reporting, Noise Complaints, & Construction Work Hours

ATTENTION

PERMITTED CONSTRUCTION HOURS:
Monday-Friday 7AM-7PM

There will be no work on site outside of permitted hours without written permission from City of Oakland.

FOR CONCERNS REGARDING DUST, CONSTRUCTION NOISE, EROSION OR ANY CONSTRUCTION ACTIVITY ON THIS PROJECT PLEASE CONTACT:

During Construction Hours – Randy Knaus (925)-271-6023
After Construction Hours – Steve Rodriguez (925-)-271-6590

CITY OF OAKLAND CODE COMPLIANCE:
(510) 238-3381

OAKLAND POLICE DEPARTMENT 24 HR LINE:
(510) 777-3333

BAY AREA AIR QUALITY MANAGEMENT DISTRICT:
(800) 334-6367

PROLOGIS WT

Exhibit I - Log: Dust and Noise Complaints

Project Name: Prologis Northeast Gateway

Complaint Log

Name and Address of Notifier	Telephone Number and/or Email	Date and Time of Call/Email	Nature of Complaint (Traffic/Noise/Dust/Etc.)
	Received By	Directed To	
	Received By	Directed To	
	Received By	Directed T	

date: June, 2016

PROLOGIS WT WHITING-TURNER

Exhibit J- Signage: Equipment Idle Time Restrictions

IDLING POLICY

IDLING TIMES ON ALL DIESEL-FUELED COMMERCIAL VEHICLES OVER 10,000 LBS AND DIESEL-FUELED OFF-ROAD VEHICLES OVER 25 HORSEPOWER SHALL BE MINIMIZED EITHER BY SHUTTING EQUIPMENT OFF WHEN NOT IN USE OR REDUCING THE MAXIMUM IDLING TIME TO FIVE MINUTES.
(CCR TITLE 13, SECTION 2485 & 2449)

VIOLATIONS SUBJECT TO MINIMUM FINE OF $300.

PROLOGIS WT

Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
www.whiting-turner.com

CONSTRUCTION MANAGEMENT
GENERAL CONTRACTING
DESIGN-BUILD
SPECIALTY CONTRACTING
OFFICE/HEADQUARTERS
RETAIL/SHOPPING CENTERS
HEALTHCARE
BIOTECH/PHARMACEUTICAL
HIGH TECH/CLEANROOM

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

I am writing to inform you of the upcoming work at the Prologis Northeast Gateway project located in the City of Oakland. The project site is located on the cross streets of Maritime and Burma Road.

Commencement of construction work is scheduled to begin on or around 7/15/2016. Your property address is within a 300' radius of the project site and this letter is providing notice that construction activities involved with construction may exceed the 90dBA level for a period of 10 working days between 7/28/2016 and 8/11/16.

Any construction work over 90dBA is considered an extreme noise generating activity. The City of Oakland requires all property owners within 300' of the project to be notified 30 days prior to any extreme noise activities taking place. Any work over 90dBA will be performed between the hours of 8:00 a.m. and 4:00 p.m. Monday thru Friday. Construction work that may exceed 90dBA will include:

1. The installation and erection of concrete panels.
2. Removal of construction debris into trucks via excavators and front loader equipment.
3. Construction equipment including, but not limited to, excavators, loaders, mobile crane, and dump trucks.

Whiting-Turner looks forward to working closely with our new neighbors and would like to create a solid relationship with them. If a complaint shall arise, please contact the undersigned below, and all complaints received will be noted in a Complaint Log. The log will include at a minimum the following information: The date of complaint, contact information for all complainant(s), reason for complaint, action taken, and resolution notes. Corrective measures will be immediately taken to address any and all complaints, should they occur. Copies of the Complaint Log will be submitted to Inspections Services monthly and, if so desired, upon request. These noise complaint procedures will be posted along the perimeter of the construction site prior to the commencement of construction. Should you have any noise complaints during construction please follow these procedures.

Most of the extreme noise generating activities will take place during the excavation work during the early stages of the project. We will send additional notices as required for additional upcoming work. If you would like to receive email notifications in lieu of or in addition to a hard copy please provide your email address to Steve.Rodriguez@whiting-turner.com.

Additional project information may be requested should you have any questions by contacting the undersigned.

Sincerely,

Steve Rodriguez
Whiting-Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT

Exhibit K- Sample Public Notice

G.W.C. WHITING
(1883-1974)

WILLARD HACKERMAN
PRESIDENT AND CEO

FOUNDED 1909

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

4690 CHABOT DRIVE, SUITE 120
PLEASANTON, CALIFORNIA 94588
925-485-0800
FAX 925-485-0854
www.whiting-turner.com

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DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
925-271-6606

Dear Neighbors,

Due to safety reasons, pedestrian traffic will be periodically shut down on Maritime Street between Tuesday 9/15/2016 and Friday 10/16/2016 while demolition and excavation activities are in progress. Pedestrian barricades will be set in place to re-route all pedestrian traffic to the detour per the approved Traffic Control Plan. Please reference the included closure plan exhibit from our Traffic Control Plan that shows the areas that will be closed. The shutdown dates will be posted on our website within 2 days prior to shut down.

If you should have any problems or questions we encourage you to call or stop by our construction trailer located on site.

Additional project information may be requested should you have any questions using the contact below.

Sincerely,
Steve Rodriguez
Whiting -Turner Contracting Company
925-271-6590
Steve.Rodriguez@whiting-turner.com

PROLOGIS WT Whiting-Turner

Exhibit L- Project Truck Log

Project: Prologis Northeast Gateway
Date:

Truck Information Form

Time In	Time Out	Vehicle Type	License Plate Number	Trucker's Name	Driver's Name	Material	Documentation [1]	Destination	Quantity

Documentation carried by the driver will include:

- Bills of lading or non-hazardous or hazardous waste manifests;
- Proof of insurance, valid registration, and current driver's license;
- Material profile information (reflecting chemical analysis results);
- Material weight records; and
- Complete copy of the Traffic Control Plan.

date: May 8, 2016

PROLOGIS WT WHITING-TURNER

Exhibit M- Daily Site Inspection Log

Project Name: Prologis Northeast Gateway

Construction Site Condition Log

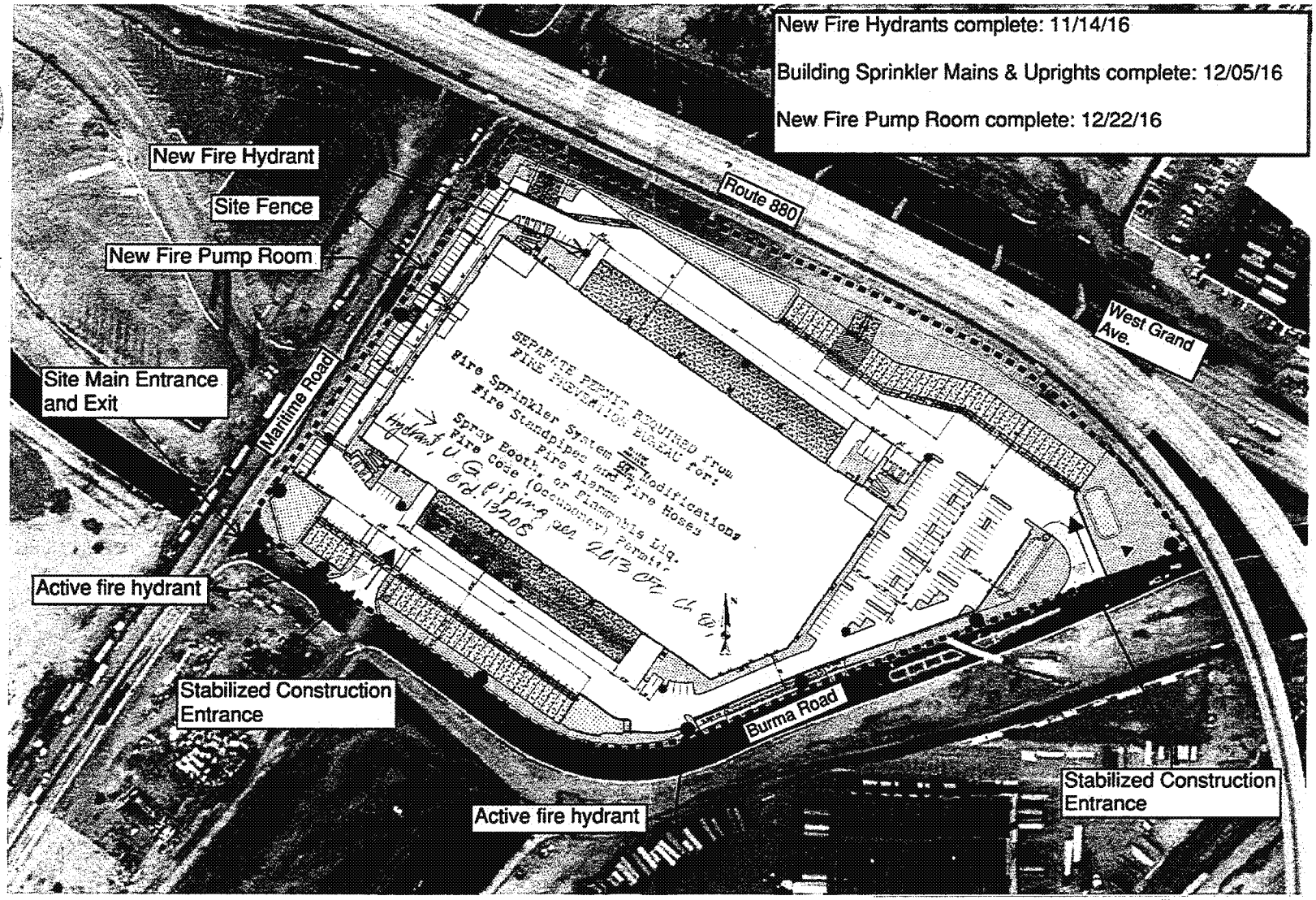
Location:	Decription of Damage:	Date:	Inspected

date: June, 2016

PROLOGIS WT WORKING TURNER

Exhibit N- Fire Safety Phasing Plan

Conceptual Review
As noted.
FIRE MARSHAL APPROVED By: Date: 6.08.16 CITY OF OAKLAND
Subject to approval of shop drawings & hydraulic calcs.



● Existing Active Fire Hydrant ● New Fire Hydrant
○ Construction Signage - - - Construction Fence

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Exhibit O- RMP- RAP Information

Table 1
Risk Management Plan and Remedial Action Plan Information
Northeast Gateway Property
Oakland, California

RAP/RMP Designation	Northing	Easting	Location/Description	Constituents of Concern	Summary of Actions	Final Report Reference	DTSC Remedial Action Certification Date
RMP 22	2126388.536	6041985.046	Bldg. T-816 was a hazardous waste accumulation shed. TPH was detected in a soil sample collected near the former shed. No VOCs or TPH were detected in groundwater.	TPH, PAHs, VOCs	No action required. TPH remains in soil less than remediation goals.	Mastic, 2011	3/15/2011
RMP 23	2126546.617	6041720.998	Facility 815 was a washrack with waste oil sump, associated sand trap, and two associated 550-gallon waste oil USTs (Tanks 7 and 8).	TPH, PAHs, VOCs, Metals	Tanks were removed in 1990. Other structures were removed and the area was overexcavated in 1999. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, VOCs, and PAHs remain in groundwater below remediation goals.	EKI, 2010	7/19/2010
RMP 24	2126541.346	6041784.181	An oil-water separator (OWS-2) was located near Facility 815, and was removed and overexcavated in 1999.	TPH, PAHs, VOCs, Metals	Overexcavated in 1999. TPH, VOCs, PAHs, and metals remain in soil below remediation goals. TPH, VOCs, and PAHs remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 25	2126479.042	6041875.34	Former Bldg. T-815 was a paint and solvent storage shed.	TPH, PAHs, VOCs, Metals	Shed was removed after 1999. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, and VOCs remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 87	2126504.825	6041606.784	Building 812 was a former vehicle and equipment maintenance shop.	TPH, PAHs, VOCs, Metals, PCBs	No action required. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, VOCs, and metal remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 88	2126383.153	6042258.566	Building 823 was a wood shop and heavy equipment maintenance shop with a paint room	TPH, PAHs, VOCs, Metals, PCBs	No action required. TPH, VOCs, and metals remain in soil less than remediation goals. TPH, VOCs, and metal remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 113	2126434.841	6042138.387	One former 1000-gallon fuel oil UST (Tank A, a.k.a. TK15).	TPH, PAHs, VOCs, Metals, PCBs	Tank A removed in 1990. TPH and VOCs remain in soil and groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 114	2126527.224	6041477.077	One former 550-gallon waste oil UST (Tank 8A).	TPH, PAHs, VOCs, Metals, PCBs	Removed in 1996. TPH and metals remain in soil less than remediation goals. TPH, VOCs, PAHs, and metals remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 123	2126562.164	6041727.832	Two former 550-gallon waste oil USTs (Tanks 7 and 8).	TPH, PAHs, VOCs, Metals	UST 7 removed in 1990 and UST 8 removed in 1981. TPH, VOCs, PAHs, and metals remain in soil less than remediation goals. TPH, VOCs, and PAHs remain in groundwater less than remediation goals.	EKI, 2010	7/19/2010
RMP 159	2126588.287	6041712.97	Confirmation soil samples near a utility line with PAHs in soil at concentrations exceeding Remediation Goals	TPH, PAHs, VOCs	Soil excavation in 2013. TPH, VOCs, and PAHs remain in soil less than remediation goals.	AMEC, 2013	6/27/2013
RAP Site 5	NA	NA	VOCs in groundwater proximate to Buildings 808 and 823. Vinyl chloride detected in reconnaissance groundwater samples at concentrations exceeding remediation goals, but less than remediation goals in monitoring well samples.	VOCs	No action. VOCs remain in groundwater less than remediation goals.	EKI, 2009	6/8/2009 and 6/18/09

AMEC, 2013 - AMEC Environment & Infrastructure, Inc. letter regarding Request for Completion and Summary of Remediation Activities, RMP Locations 98 and 159, Former Oakland Army Base, Economic Development Conveyance Area, Oakland, California. June 18.
EKI, 2009 - Erler & Kalinowski, Inc., Completion Report for VOCs in Groundwater at Buildings 808 and 823, Former Oakland Army Base - EDC Area, Oakland, California. April 24.
EKI, 2010 - Erler & Kalinowski, Inc. letter regarding Request for Completion - RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123 in the East Gateway Area, Former Oakland Army Base - EDC Area, Oakland, California. June 29.
Mastic, 2011 - Mastic Engineering and Consulting, Inc. letter regarding Revised Request for Completion - RMP Locations 7, 22, and 29, Former Oakland Army Base - Economic Development Conveyance Area, Oakland, California. February 25.
DTSC = California Department of Toxic Substances Control
PAHs = polycyclic aromatic hydrocarbons
PCBs = polychlorinated biphenyls
RAP = Remedial Action Plan
RMP = Risk Management Plan
TPH = total petroleum hydrocarbons
VOCs = volatile organic compounds

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Department of Toxic Substances Control

Linda S. Adams
Acting Secretary for
Environmental Protection

Leonard E. Robinson
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

REMEDIAL ACTION CERTIFICATION

Risk Management Plan Locations 7, 22, and 29
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

---

1. Certification of Remedial Action:

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Henry Wong — 3/15/2011 Date
Remedial Project Manager
Brownfields and Environmental Restoration Program

Karen M. Toth, P.E. — 3/17/2011 Date
Unit Chief
Brownfields and Environmental Restoration Program

Gerard Aarons, PG 7430, CHG 771 — 3/15/2011 Date
Engineering Geologist,
Geological Services Unit
Office of Geology
Brownfields and Environmental Restoration Program

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2. **Certification Statement:** Based upon the information which is currently and actually known to the Department of Toxic Substances Control (DTSC),

__ DTSC has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

__ DTSC has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

X DTSC has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

3. **Site Name and Location:**

Risk Management Plan (RMP) Locations 7, 22, and 29
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

A. List of any other names that have been used to identify the site:

RMP Locations
- RMP Location 7 – Former incinerator (Building 147) and an adjoining concrete garbage pit, 1 acre
- RMP Location 22 – Former hazardous waste accumulation shed (Building T-816), 0.1 acre
- RMP Location 29 – Hazardous material storage bay at the west end of Building 806, 0.8 acre

Alternative Names for the Project Site
- Gateway Development Area
- Former Oakland Army Base – Economic Development Conveyance Area
- Oakland Army Base (OARB)
- Base Realignment and Closure (BRAC) Parcels 3, 11, and 12
- Operable Units 1 and 4

B. Address of site if different from above:

RMP Location 7 is near Buildings 141 and 145 located the intersection of Burma Road and Bataan Avenue; RMP Location 22, is located near the intersection of Tobruk Street and Burma Road, RMP Location is located at the west end of Building 806 at West 19th Street, in the City of Oakland, California.

C. Assessor's Parcel Number: O000-0507-001-11
(This number starts with the letter "O" and follows by three zeros.)

D. DTSC Identification Numbers:

Site Code: 201537
EnviroStor ID: 01970016

4. Responsible Parties:

Landowner
City of Oakland

Contact Person:
Mr. Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

5. Brief History:

Prior to 1916, much of the area encompassing OARB was natural tidal marsh or shallow open water. Subsequent land reclamation activities in the general areas created the land where OARB is situated. The Army began operation at OARB in the early 1940s, closed the base in September 1999, and transferred 363.5 acres of property to the City of Oakland in July 2003. In August 2006, the City of Oakland deeded approximately half of the transferred area to the Port of Oakland. DTSC has renamed the transferred 363.5-acre property as the "Oakland Gateway Development Area."

On September 27, 2002, DTSC approved the Remedial Action Plan (RAP) and selected remedies for seven RAP Sites and approximately 150 RMP Locations.

RMP Locations and features include washracks, sumps, oil/water separators, miscellaneous operations, underground storage tanks, aboveground storage tanks, former industrial and chemical handling locations, historical spills and stains, lead in soil around buildings, former polychlorinated biphenyl (PCB)-transformers and equipment locations, storm drains and sanitary sewers, railroad tracks, and marine sediments. The RAP selects a presumptive remedy outlined in the Risk Management Plan (Appendix E of the RAP) for supplementing environmental data and implementing necessary cleanup actions during infrastructure installation or redevelopment.

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* for the Oakland Gateway Development Area, which includes RMP Locations 7, 22, and 29. Since the former base property is not being remediated to residential or drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management.

6. RMP Locations 7, 22, and 29:

On February 25, 2011, the City of Oakland finalized the *Request for Completion - RMP Location 7, 22, and 29* documenting the achievement of the remedial action objectives.

RMP Location 7

RMP Location 7 is a one-acre area where a former incinerator (Building 147) and an adjoining concrete garbage pit were located. The Army constructed the 10-ton incinerator and adjoining 16' x 6' x 3.5' adjoining concrete garbage pit in 1948; the Army demolished the incinerator and pit in 1964. The Army's record does not indicate the types of waste that were burned in the incinerator or stored in the pit. Since 1964, the area has been a mostly paved and gravel surface open area used for trailer and cargo container storage. The area is currently undeveloped.

The Army and City of Oakland collected six soil samples and two groundwater samples and analyzed for volatile organic compounds (VOC), semi-volatile SVOCs, polycyclic aromatic hydrocarbons (PAH), total petroleum hydrocarbons as diesel (TPH-d), TPH as motor oil (TPH-mo), metals, PCBs, dioxins, and furans. Soil and groundwater analytical results do not show chemical of concern (COC) concentrations above remediation goals.

RMP Location 22

RMP Location 22 measure approximately 0.1 acre and is an area where a former is a location a former hazardous waste accumulation shed (Building T-816) was located. The building is no longer on site and is assumed to have been

demolished. The area is currently undeveloped. No additional operational record regarding Building T-816 was available for review.

The Army and City of Oakland collected five soil samples and one groundwater sample and analyzed for VOCs, SVOCs, PAHs, TPH-d, TPH-mo, metals, and PCBs. Soil and groundwater analytical results do not show COC concentrations above remediation goals.

RMP Location 29

RMP Location 29 is a hazardous material storage bay of approximately 0.8 acre at the west end of Building 806. Hazardous material stored in this area included chlorinated hydrocarbons, pesticide, insecticides, mercuric solutions, and flammable materials. According to the Army's August 2001 report, the western-most bay of Building 806 was also the designated storage area for radioactive items. The Army report indicates that no spills of radiological items have occurred and that the results of surveys conducted in 1999 were free from any evidence of radiological contamination.

The Army and City of Oakland collected nine soil samples and two groundwater samples and analyzed for VOCs, SVOCs, PAHs, TPH-d, TPH-mo, metals, pesticides, and PCBs. Soil and groundwater analytical results do not show COC concentrations above remediation goals.

Approval of Request for Completion

On March 15, 2011, DTSC approved the Request for Completion and concluded that the City of Oakland (a) had adequately investigated RMP Locations 7, 22, and 29, (b) had demonstrated achievement of the remedial action objectives, and (c) had implemented the required institutional control remedy for the subject RMP Locations.

All RAP Sites and RMP Locations within the Oakland Gateway Development Area, upon remedy implementation, continue to be parts of the RMP Implementation Area. The August 8, 2003 *Covenant to Restrict Use of Property, Environmental Restriction* requires landowner(s) to follow the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction, redevelopment, and/or post-development activities.

7. Type of Site:

Included in EnviroStor? Yes

RCRA Permitted Facility	_____	Bond Funded	_____
RCRA Facility Closure	_____	RP Funded	_____
NPL	_____	Federal Facility	_____

Other (i.e., walk-in): Please see Section 14.E of this Certification for project funding.

8. Size of Site:

RMP Locations 7, 22, and 29 encompass approximately two acres.

Small __X__ Medium _____ Large _____ Extra Large _____

9. Dates of Remedial Action

The Army and the City of Oakland investigated RMP Locations 7, 22, and 29 from 2000 through 2010. On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* for the Oakland Gateway Development Area, which includes RMP Locations 7, 22, and 29.

10. Response Action Taken on Site: (check appropriate action)

____ Initial removal or remedial action (site inspection/sampling)

__X__ Final remedial action

____ RCRA enforcement/closure action

____ No action, further investigation verified that no cleanup action at site was needed

A. Type of Remedial Action:

The RAP selects the following remedies for the RMP Locations:

- For locations where no contamination has been found to date, the area will be inspected and sampled in accordance with the RMP during redevelopment to confirm no contamination exists above remediation goals at these locations;
- For locations requiring additional soil and groundwater characterization, the areas will be inspected and sampled/monitored during redevelopment as outlined in the RMP;
- For locations requiring removal of an existing structure or sites where impacted soil is anticipated, the RMP assumes that an average of about 50 cubic yards of debris and contaminated soil

will be removed at each site and disposed as hazardous substances at an off-site permitted facility; and

- Implementation of institutional controls to:
  - Prohibit sensitive land uses;
  - Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
  - Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
  - Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

B. Estimated quantity of waste associated with the site (i.e., tons/gallons/ cubic yards) was:

1. _____ Waste Treated Amount: _____
2. _____ Untreated (capped sites) Amount: _____
3. _____ Soil Removed Amount: _____
4. _____ Wastewater Removed Amount: _____
5. __X__ Institutional Controls
   The institutional controls remedy applies to all Oakland Gateway Development Area property including RMP Locations 7, 22, and 29.

11. Cleanup Levels/Standards

A. What were the cleanup standards established by DTSC pursuant to the final remedial action plan or workplan (if cleanup occurred as the result of a removal action workplan or interim remedial measures prior to development of a RAP)?

The RAP specifies risk-based remediation goals for meeting the remedial action objectives based on commercial and industrial reuses. Remediation goals for most chemicals are risk-based and represent the lowest calculated values of the non-carcinogenic or carcinogenic risk goal for each chemical of concern (COC) that are protective of all potentially exposed populations. However, some remediation goals are based on other chemical-specific parameters (such as potential leachability of a

chemical from soil to groundwater) when these values are more stringent that the calculated human health goals.

The RAP, Table 7-11 lists numerical cleanup targets as the soil and groundwater remediation goals that correspond to a 1×10^{-6} incremental lifetime cancer risk for each COC. When more than ten carcinogenic COCs are present at concentrations exceeding remediation goals, the overarching remedial action objective is the cumulative target risk level of 1×10^{-5} for carcinogenic COCs applicable at each RAP Site and RMP Location.

Remediation goals represent the maximum allowable concentrations for the respective COCs and cannot be increased to allocate amongst the residual COCs to meet the overarching cumulative risk of 1×10^{-5}. However, remediation goals can be adjusted downward, as need, if the cumulative cancer risk level exceeds 1×10^{-5} or the total hazard index (HI) exceeds 1. Remedial action objectives are achieved when residual COCs in soil and groundwater are no greater than a cumulative HI of 1 or a cumulative carcinogenic risk of 1×10^{-5} for each potentially exposed population.

The Army investigated RMP Locations 7, 22, and 29 from 2000 through 2010. COC concentrations in soil and groundwater samples are below remediation goals. The number of samples and types of analyses at the subject RMP Locations are adequate to demonstrate that the remedial action objectives established in the DTSC-approved RAP/RMP have been met. RMP Locations 7, 22, and 29 are not significant sources of soil and groundwater contamination and no significant data gaps are evident.

B. Were the specified cleanup standards met? Yes __X__ No _____

C. If "no", why not:

12. DTSC Involvement in the Remedial Action:

A. Did DTSC order the Removal Action?

Yes _____ No __X__ Date of Order _____

B. Did DTSC review and approve (check appropriate action and indicate date of review/approval if done):

_____ Sampling Analysis Procedures Date: _____

_____ Health & Safety Protections Date: _____

Exhibit O- RMP- RAP Information

_____ Removal/Disposal Procedures Date: _____

__X__ Remedial Action Plan Date: September 27, 2002

_____ Removal Action Workplan Date: _____

C. If site was abated by a responsible party, did DTSC receive a signed statement from a licensed professional on all Remedial Action?

Yes __X__ No ____ Name: Bethany P. Flynn, P.G., 5710

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes __X__ No ____ Name: Gerard Aarons, P.G., 7430

E. Did DTSC confirm completion of all remedial action?

Yes __X__ No ____ Date of verification: March 15, 2011

F. Did DTSC (directly or through a contractor) actually perform the Remedial Action?
Yes ____ No __X__

G. Was there a community relations plan in place?
Yes __X__ No ____

H. Was a remedial action plan or removal action workplan developed for this site?
Yes __X__ No ____

I. Did DTSC hold a public meeting regarding the draft RAW or RAP?
Yes __X__ No ____

J. Were public comments addressed?
Yes __X__ No ____
Date of DTSC analysis and response: September 27, 2002

K. Are all of the facts cited above adequately documented in the DTSC files?
Yes __X__ No ____

If no, identify areas where documentation is lacking.

_____

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13. EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup?
Yes _X_ No ____

B. If yes, did EPA concur with all remedial actions?
Yes _X_ No ____

C. EPA comments: EPA staff provided consultative services on this project.

EPA staff involved in cleanup:

Xuan-Mai Tran
Remedial Project Manager
U.S. Environmental Protection Agency
Region IX
Federal Facilities Cleanup Branch
75 Hawthorne Street, (SFD-8-2)
San Francisco, California 94105
(415) 972-3002
Tran.Xuan-Mai@epamail.epa.gov

14. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
_X_ RWQCB	The Regional Water Quality Control Board staff provided consultative services on this project.
____ ARB	_____
____ CHP	_____
____ Caltrans	_____
____ Other	_____

Name of contact persons and agency:

George Leyva, P.G.
Project Manager
California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
(510) 622-2379
gleyva@waterboards.ca.gov

15. Post-Closure / Post-Remedy Activities:

A. Will there be post-closure / post-remedy activities at this site? (e.g., Operation and Maintenance)
Yes _X_ No ____

If yes, describe:

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Series No. 2003466371) for the Oakland Gateway Development Area, which includes RMP Locations 7, 22, and 29. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential and drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management. The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

The remedial action objectives were based on commercial and industrial land uses. Since residual chemicals in soil and groundwater at the site render the property not suitable for unrestricted use, five-year statutory reviews are required for RMP Locations 7, 22, and 29. The trigger date for a statutory five-year review was the mobilization date of first remedy implementation for the Oakland Gateway Development Area project (i.e., Building 1 RAP Site on November 28, 2005). The City of Oakland has submitted the draft Five-Year Review Report in June 2010.

B. Have post-closure plans been prepared and approved by DTSC?
Yes ____ No _X_
Post-closure plan is not required or necessary for this site.

C. What is the estimated duration of post-closure (including operations and maintenance activities) activities?

Unless ended in accordance with the *Covenant to Restriction Use of Property, Environmental Restriction*, by law, or by DTSC in the exercise of its discretion, the Covenant and five-year review requirements shall continue in effect in perpetuity.

D. Are deed restrictions proposed or in place? Yes _X_ No ____

If yes, have deed restrictions been recorded with the County recorder?

Yes _X_ No _____ Date: August 8, 2003

If no, who is responsible for assuring that the deed restrictions are recorded?

_____

Who is the DTSC contact person?

Henry Wong
Hazardous Substances Engineer
Brownfields and Environmental Restoration Program
(510) 540-3770
hwong@dtsc.ca.gov

E. Has cost recovery been initiated? Yes _X_ No _____

Has DTSC received all payments? Yes _____ No _X_

If yes, amount received $ _____; _____% of DTSC costs billed.

On November 13, 2008, DTSC determined that the Army has failed to meet certain obligations of the Memorandum of Agreement (MOA) entered into between the Army, DTSC, RWQCB in April 2003. Specifically, the Army has failed to provide funds for DTSC and RWQCB oversight under Section 27.1 of the MOA. Section 27.1 requires that oversight funds will be "... provided through the Defense/State Memorandum of Agreement (DSMOA), executed August 21, 1992 ... or some other appropriate mechanism as agreed upon by the parties ..."

To date the Army has not provided alternative mechanism for payment of oversight costs to DTSC and RWQCB. Accordingly, DTSC and RWQCB have not been paid for oversight costs since July 2008. The Army's and DTSC's management teams are working toward a resolution on this issue.

F. Were local planning agencies notified of the cleanup action?

Yes _X_ No _____ If yes, the name and address of agency:

Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371

Exhibit O- RMP- RAP Information

marniola@oaklandnet.com

16. **Expenditure of Funds and Source:**

(Information to be supplied by Accounting Unit)

Funding Source and Amount Expended:

_____ HWCA $ _____ _____ HSA $ _____
_____ HSCF $ _____ _____ RCRA$ _____
_____ RP $ _____ _____ Other $ _____
_____ Federal Cooperative Agreement $ _____

17. **Problems Encountered Which Caused Major Delays:** None

18. **Accomplishment Unique to the Project:** None

19. **Final Use of Site:** The City of Oakland plans to develop RMP Locations 7, 22, and 29 and vicinity areas for commercial and industrial land uses.

Exhibit O- RMP- RAP Information

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

July 19, 2010

Mr. Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
marniola@oaklandnet.com

DTSC APPROVAL, COMPLETION REQUEST, RMP LOCATIONS 23, 24, 25, 87, 88, 113, 114, and 123, FORMER OAKLAND ARMY BASE – ECONOMIC DEVELOPMENT CONVEYANCE AREA, OAKLAND, CALIFORNIA

Dear Mr. Arniola:

The Department of Toxic Substances Control (DTSC) has received the June 29, 2010 *Request for Completion – RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123 in the East Gateway Area* (Completion Request). The Completion Request reports the remedial action implemented at eight Risk Management Plan (RMP) Locations totaling approximately 1.55-acre within the East Gateway Area of the Former Oakland Army Base – Economic Development Conveyance Area (also known as the Oakland Gateway Development Area) in Oakland, California. The City of Oakland is requesting completion of the following eight RMP Locations:

- RMP Location 23 – Former Facility 815 consisted of a washrack, a sand trap, and five collection sumps,
- RMP Location 24 – Former oil water separator (OWS-2) near former Facility 815,
- RMP Location 25 – Former Building T-815 used as a paint and solvent storage shed,
- RMP Location 87 – Building 812,
- RMP Location 88 – Building 823,
- RMP Location 113 – Former 1,000-gallon fuel oil Underground Storage Tank-A (UST-A),
- RMP Location 114 – Former 550-gallon waste oil UST-8A, and

Mr. Mark Arniola
July 19, 2010
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- RMP Location 123 – Two former 550-gallon waste oil USTs (Tanks 7 and 8).

In 1999, the Army excavated the RMP Location 23 area and removed stained soils associated with the sand trap and washrack; however, the Army encountered an active fire main, fire hydrant, and power poles on the north side of excavation. Residual chemical of concern (COC) concentrations in soil at the north sidewall have slightly exceeded remediation goals. The City of Oakland has created a new RMP Location identified as "*RMP Location 159 – Residual soil at North Side of Building 815 Excavation.*" RMP Location 159 will be addressed during future site redevelopment.

The September 27, 2002 DTSC-approved Remedial Action Plan (RAP) for the former Oakland Army Base requires remediation of RAP Sites and RMP Locations. The Completion Request reports soil and groundwater data at the RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123, summarizes previous impacted-soil removal activities at RMP Locations 23, 113, and 123, and demonstrates that the residual COC concentrations at these RMP Locations meet the remedial action objectives specified in the RAP. The City of Oakland plans to develop the East Gateway Area for commercial and industrial land uses.

On June 25, 2010, DTSC provided comments on the draft Completion Request. The City of Oakland has responded to DTSC's comments and revised the Completion Request satisfactorily. Based on the information presented in the Completion Request, DTSC concludes that the City of Oakland (a) has investigated RMP Locations 23, 24, 25, 87, 88, 113, 114, and 123 adequately, (b) has removed impacted-soil from RMP Locations 23, 113, and 123, (c) has demonstrated achievement of the remedial action objectives, and (d) has implemented the required institutional control remedy for the subject RMP Locations. DTSC hereby approves the Completion Request and concurs with identification of RMP Location 159.

Please note that all RMP Locations and RAP Sites, upon remedy implementation, continue to be parts of the RMP Implementation Area. Such areas will still be subject to the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction, redevelopment, and/or post-development activities. In the event that the City of Oakland, future landowners, and/or developers discover unknown contamination and the RMP cannot address such new contamination, DTSC reserves the right to require additional environmental work, as appropriate.

Mr. Mark Arniola
July 19, 2010
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If you have any questions, please contact me at (510) 540-3770.

Sincerely,

Henry Wong
Remedial Project Manager
Brownfields and Environmental Restoration Program

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Mr. Scott Armstrong
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Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

REMEDIAL ACTION CERTIFICATION

RMP Locations 98 and 159
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

1. **Certification of Remedial Action:**

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Henry Wong, P.E.
Remedial Project Manager
Brownfields and Environmental Restoration Program

6/27/2013
Date

Karen M. Toth, P.E.
Unit Chief
Brownfields and Environmental Restoration Program

6/26/2013
Date

Gerard Aarons, PG 7430, CHG 771
Engineering Geologist
Geological Services Unit
Office of Geology
Brownfields and Environmental Restoration Program

6/27/2013
Date

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2. **Certification Statement:** Based upon the information which is currently and actually known to the Department of Toxic Substances Control (DTSC),

__ DTSC has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

__ DTSC has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

X DTSC has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

3. **Site Name and Location:**

RMP Locations 98 and 159
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

A. List of any other names that have been used to identify the site:

RMP Locations

- RMP Location 98: A former 550-gallon gasoline above ground storage tank (AST) located west of Building 14
- RMP Location 159: The location of a former sand trap and vehicle wash rack

Alternative Names for the Project Site

- Base Realignment and Closure Parcels 4 and 11
- Operable Unit 1
- Gateway Development Area
- Former Oakland Army Base – Economic Development Conveyance Area
- Oakland Army Base

B. Address of site if different from above:

RMP Location 98 is located on the south side of Burma Road, west of its intersection with Maritime Street, in the City of Oakland, California. RMP Location 159 is located on the south side of Urkraine Street, east of its intersection with Maritime Street, in the City of Oakland, California.

C. Assessor's Parcel Number: O000-0507-001-11
(This number starts with the letter "O" and is followed by three zeros.)

D. DTSC Identification Numbers:

Site Code: 201537
EnviroStor ID: 01970016

4. Responsible Parties:

Landowner
City of Oakland

Contact Person:
Mr. Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

5. Project History:

Prior to 1916, much of the area encompassing the former Oakland Army Base was natural tidal marsh or shallow open water. Subsequent land reclamation activities in the general areas created the land where the Army property is situated. The Army began operation at the former Oakland Army Base in the early 1940s, closed the base in September 1999, and transferred 363.5 acres of property to the City of Oakland in July 2003. In August 2006 the City of Oakland deeded approximately half of the transferred area to the Port of Oakland. DTSC has renamed the transferred 363.5-acre property as the "Oakland Gateway Development Area."

On September 27, 2002, DTSC approved the Remedial Action Plan (RAP) and selected remedies for seven RAP Sites and approximately 150 Risk

Management Plan (RMP) Locations. RAP Sites are large areas with contaminated soil and/or groundwater that must be remediated before infrastructure installation or redevelopment. In contrast, RMP Locations and features include washracks, sumps, oil/water separators, miscellaneous operations, underground storage tanks, aboveground storage tanks, former industrial and chemical handling locations, historical spills and stains, lead in soil around buildings, former polychlorinated biphenyl (PCB)-transformers and equipment locations, storm drains and sanitary sewers, railroad tracks, and marine sediments. The RAP has selected a presumptive remedy outlined in the Risk Management Plan (Appendix E of the RAP) for supplementing environmental data and implementing necessary cleanup actions during infrastructure installation or redevelopment.

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Covenant) for the Oakland Gateway Development Area, which includes RMP Locations 98 and 159. Since the former base property is not being remediated to residential or drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management.

6. **RMP Locations 98 and 159:**

On June 18, 2013, the City of Oakland finalized the *Request for Completion and Summary of Remediation Activities RMP Locations 98 and 159* (Completion Request) (a) presenting soil and groundwater data collected by the Army and supplemented by the City of Oakland, (b) summarizing the soil remediation activities, (c) evaluating whether the data satisfy RMP sampling requirements, and (d) documenting achievement of the remedial action objectives at the RMP Locations.

RMP Location 98

RMP Location 98 is the former 550-gallon gasoline AST located near the southwest corner of Building 14. The AST was removed in 1998; its installation date is unknown. The AST was reportedly used to store unleaded gasoline drained from vehicles before they were loaded onto ships and to fuel vehicles off-loaded from ships. The RAP identifies lead impacted soil at RMP Location 98.

- *1997 through 2000 Investigation*:

  In July 1997, August 1998, and February 2000, the Army collected a total of 17 soil samples at depths from the ground surface to 7 feet below ground surface (bgs). The soil samples were analyzed for volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), total petroleum hydrocarbons in gasoline range (TPH-g), TPH in diesel range

(TPH-d), TPH in motor oil range (TPH-mo), and metals. For these 17 soil samples, lead concentrations in two samples at 2 feet bgs and 1.5 feet bgs were detected at 2,910 mg/kg and 883 mg/kg, respectively, above the lead remediation goal of 750 mg/kg. All other chemicals of concern (COCs) were detected with soil concentrations below the remediation goals.

In July 1997 and August 1998, the Army collected five grab groundwater samples from four borings for VOC, TPH-g, TPH-d, TPH-mo, and metal analyses. All COCs were detected with groundwater concentrations below remediation goals.

- *2011 Remediation*:

In June 2011 the City of Oakland excavated the lead-impacted soil to a depth of three feet within a 10-foot by 30-foot area. Five soil samples (RMP98CS001 through RMP98CS005) were collected from the four sidewalls and the bottom for lead analysis. The analytical result of bottom sample (RMP98CS005) indicated the lead was present at a concentration of 950 mg/kg. The sidewall samples were all below the remediation goal. In July 2011 the City of Oakland continued excavation down to the water table (approximately 5 feet bgs). Following the over-excavation extension, a soil sample (RMP98CS007) was collected from the excavation bottom for lead analysis; the lead concentration was detected at a concentration of 19 mg/kg in this bottom confirmation sample.

During the initial excavation activities conducted in June 2011, an area of stained soil with a petroleum-like odor was encountered in the northeast corner of the excavation. A sample of this material (RMP98CS006) was collected and submitted for VOC, PAH, PCB, TPH-d, TPH-g, and TPH-mo analyses. Analytical results indicated the presence of VOCs, PAHs, and TPH-d at concentrations above the respective remediation goals. In July 2011 the excavation was extended five feet beyond the initial boundary to "chase" the petroleum impacted material. Following this over-excavation, three additional sidewall samples (RMP 98CS008 through RMP 98CS010) and one bottom sample (RMP98CS011) were collected for VOC, PAH, and TPH-d analyses. All COC concentrations from the four additional confirmation samples were below remediation goal.

- *2012 Data Gap Investigation*:

In April 2012 the City of Oakland conducted a data gap investigation to further evaluate the extent of lead in soil near sampling location ICFAS04S01, because the July 2011 excavation was obstructed by the presence of a tenant trailer and a buried electrical power line. Nine soil samples were collected from four borings (RMP98SL001 through RMP98SL004) advanced to 3.5 feet bgs. Analytical results from the nine soil samples indicated that the 2 to 2.5-

feet bgs sample in three of the four borings had lead concentrations that exceeded the remediation goal. Concentrations at the 2 to 2.5-feet bgs samples ranged from 340 mg/kg (RMP98SL003-2-2.5) to 12,000 mg/kg (RMP98SL002-2.5). None of the samples collected from 3 to 3.5-feet bgs depths exceeded the lead remediation goal. No evidence of petroleum hydrocarbons (visual or olfactory) was identified within the soil samples suggesting that the lead contamination may not have been associated with the 550-gallon gasoline AST.

- *2013 Remediation*:

  In February 2013 the City of Oakland excavated the lead-impacted area identified in April 2012 to a depth of 3 feet. Following the excavation, five soil samples (RMP98CS012 through RMP98CS016) were collected from the four sidewalls and bottom for lead analysis.

  In addition, soil was excavated in an area down to 1.5 feet bgs that was not excavated during the 2011 excavation due to the presence of a buried electrical power line. Care was taken to avoid damaging the electrical line that was encountered within a concrete covered utility conduit at a depth of 1.5 feet bgs. Once the concrete overlying the electric line was uncovered, a bucket width (3 feet) was excavated west of the electrical line to collect one soil sample (RMP98CS017) for VOC, semi-volatile organic compounds (SVOCs), TPH-d, and lead analyses.

  Analytical results from soil samples (RMP98CS012 through RMP98CS017) were detected with COCs below remediation goals.

  Four-point composite samples collected from the excavated soil placed into the two stockpiles were also analyzed for VOCs, SVOCs, PCBs, TPH-g, TPH-d, TPH-mo, and metals. Based on the analytical results, approximately 28 cubic yards of soil was disposed of as a RCRA hazardous waste at a landfill in Buttonwillow, California. Another 28 cubic yards of soil was disposed of as nonhazardous solid waste at at Keller Canyon Landfill in Bay Point, California.

RMP Location 159

RMP Location 159 is located at the northwestern corner of Facility 815. Former Facility 815 (RMP Location 23) consisted of a vehicle washrack, a sand trap, an oil water separator (RMP Location 24), and two waste oil underground storage tanks (USTs) (RMP Location 123). The two RMP Location 123 USTs were removed in 1990 and Facility 815 and the associated RMP Locations 23 and 24 features were dismantled and removed in 1999. Excavation, over-excavation, confirmation sampling and soil and groundwater investigations performed at Facility 815 resulted in completion of RMP Locations 24 and 123 and all but the

northwestern portion of RMP Location 23. The northwestern portion of RMP 23 was subsequently split apart from RMP Location 23 and identified as new RMP Location 159. DTSC approved the completion request for RMP Locations 23, 24, and 123 in July 2010.

- *1999 Army Excavation of Former Facility 815*:

  During excavation at the Former Facility 815 (i.e., RMP Location 23) in November 1999, the Army collected nine confirmation soil samples (11S26, 11S28 through 11S31, 11S35, 11S36, and 11S41) at the northeastern sidewall, which are in the southwestern margin of RMP Location 159. Stained soil was present on the northeastern excavation sidewall, indicative of COC impacted soil; however, excavation was halted due to the presence of a fire main, two power poles, and a fire hydrant located near the northeastern limit of the excavation. Analytical results of excavation soil samples 11S31, 11S35, and 11S41 indicated that COCs were present above their respective remediation goals at northeastern sidewall of the Former Facility 815.

  In December 1999, the Army subsequently collected 11 soil samples from five borings (11S42 through 11S45 and 11S47) drilled during a data gap investigation along a transect parallel to the excavation just north of the power poles to determine if COCs were present within soil just north fire main, power poles, and the fire hydrant that halted excavation in November 1999. In January 2000, two additional soil samples were collected from one boring (11S46) located west the Former Facility 815. Analytical results of excavation soil samples 11S31, 11S35, and 11S41 indicated that COCs were present above their respective remediation goals at northeastern sidewall of the Former Facility 815. Soil samples collected in December 1999 and January 2000 were below laboratory reporting levels or detected at concentrations below remediation goals.

  Groundwater samples were previously collected from five wells and seven grab groundwater soil borings in the vicinity of the Former Facility 815 for VOC, PAH, PCB, pesticide, petroleum hydrocarbons, and metal analyses. All analytes in the groundwater samples were detected at concentrations below their respective remediation goals.

- *2010 Creation of RMP 159*:

  During the review of a completion request for RMP Location 23 in early 2010, DTSC designated the northeastern sidewall, where samples 11S31, 11S35, and 11S41 were located, as RMP Location 159. Analytical results of excavation confirmation samples 11S31, 11S35, and 11S41 indicated that COCs were present above their respective remediation goals at RMP Location 159 as follows:

- TPH-d was detected at a concentration of 11,000 mg/kg at 6-feet bgs in soil sample 11S31 (TPH-d remediation goal is 8,000 mg/kg),
- TPH-g was detected at a concentration of 2,500 mg/kg at 5.5-feet bgs in soil sample 11S41 (TPH-g remediation goal is 2,400 mg/kg),
- Total xylenes were detected at a concentration of 2.5 mg/kg at 5.5-feet in soil sample 11S41 and at a concentration of 1.66 mg/kg at 3.5 feet bgs in soil sample 11S35 (total xylenes remediation goal is 1 mg/kg),
- Naphthalene was detected at a concentration of 6 mg/kg at 5.5-feet in soil sample 11S41 (naphthalene remediation goal is 4.9 mg/kg),
- Chrysene was detected at a concentration of 7.7 mg/kg at a depth of 3.5-feet in soil sample 11S35 (chrysene remediation goal is 4.7 mg/kg).

- *2013 Soil Excavation*:

In February 2013 the City of Oakland excavated a 2-foot by 20-foot trench to approximately 6 feet bgs at RMP Location 159. Following the excavation, five soil samples (RMP 159CS001 through RMP 159CS005) were collected from the four sidewalls and bottom for VOC, SVOCs, TPH-g, TPH-d, and TPH-mo analyses. Soil analytical results do not show COC concentrations above remediation goals.

One four-point composite sample collected from the excavated soil was also analyzed for VOCs, SVOCs, PCBs, TPHs, and metals. Based on the analytical results, approximately 9 cubic yards of soil was disposed of as non-hazardous solid waste at a permitted landfill in Bay Point, California.

The excavation was backfilled in March 2013 with clean fill to a depth of approximately 2.5 feet bgs. From 2.5 feet bgs to the surface, the excavation was backfilled with 2-sack sand cement slurry to insure that areas near the sewer line would be supported.

A 2-foot by 20-foot trench was the only area excavated out of the proposed 7-foot by 43-foot excavation to encompass sample location 11S31 due to the presence of buried utility lines, the fire main, two power poles, and a fire hydrant. In addition to a water line that was previously known to run the down the middle of the proposed excavation, an AT&T distribution line was identified by Underground Service Alert and an unknown utility was identified during the geophysical utility clearance. The unknown utility was determined to be a 6-inch sewer line located approximately 2 feet bgs.

The excavations conducted at RMP Location 159 in 1999 and 2013 removed the maximum amount of soil that could be accessed without risking worker safety or causing damage to underground utilities. The residual TPH-d concentration at soil sample location 11S31 at 6 feet bgs contains TPH-d at 11,000 mg/kg (remediation goal is 8,000 mg/kg). Since TPH-d concentrations at 11S26 (9.4 mg/kg), 11S28 (1.4 mg/kg), 11S35 (530 mg/kg excavated), 11S42 at 2 feet bgs (5 mg/kg), 11S42 at 5 feet bgs (5 mg/kg), and 11S42 at 5.5 feet bgs (4 mg/kg) were all collected within approximately 12 feet of location 11S31, it seems the elevated TPH-d concentration at 11S31 is well bounded.

RMP Location 159 is still part of the RMP Implementation Area and hence subject to the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction or other redevelopment or post-development subsurface construction activities.

Approval of Completion Request

On June 27, 2013, DTSC approved the June 18, 2013 Completion Request and concluded that the City of Oakland (a) had adequately assessed, investigated, and remediated RMP Locations 98 and 159, (b) had demonstrated achievement of the remedial action objectives, and (c) had implemented the required institutional control remedy for the subject areas.

All RAP Sites and RMP Locations within the Oakland Gateway Development Area, upon remedy implementation, continue to be parts of the RMP Implementation Area. The August 8, 2003 *Covenant to Restrict Use of Property, Environmental Restriction* requires landowner(s) to follow the risk management protocols set forth in the RMP regarding planning and implementation of earthwork construction, redevelopment, and/or post-development activities.

7. Type of Site:

Included in EnviroStor? Yes

RCRA Permitted Facility	_____	Bond Funded	_____
RCRA Facility Closure	_____	RP Funded	_____
NPL	_____	Federal Facility	_____
Other (i.e., walk-in):	X		

8. Size of Site:

Approximately 810 square feet

Small X Medium _____ Large _____ Extra Large _____

9. Dates of Remedial Action

The Army, City of Oakland, and Port of Oakland assessed, investigated and remediated RMP Locations 98 and 159 from April 2002 through June 2013. On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* for the Oakland Gateway Development Area, which includes RMP Locations 98 and 159.

10. Response Action Taken on Site: (check appropriate action)

____ Initial removal or remedial action (site inspection/sampling)

_X_ Final remedial action

____ RCRA enforcement/closure action

____ No action, further investigation verified that no cleanup action at site was needed

A. Type of Remedial Action:

The RAP selects the following remedies:

- In-situ chemical oxidation/reduction; and
- Implementation of institutional controls to:
  - Prohibit sensitive land uses;
  - Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
  - Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
  - Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

B. Estimated quantity of remediation waste/hazardous waste associated with the site (i.e., tons/gallons/ cubic yards) was:

1. _____ Waste Treated Off-Site Amount: _____
2. _____ Untreated (capped sites) Amount: _____
3. _X_ Soil Removed Amount: 65 cubic yards

4. _____ Groundwater Disposed Off-Site Amount: _____

5. __X__ Institutional Controls
The institutional controls remedy applies to all Oakland Gateway Development Area property including RMP Locations 98 and 159.

11. Cleanup Levels/Standards

A. What were the cleanup standards established by DTSC pursuant to the final remedial action plan or workplan (if cleanup occurred as the result of a removal action workplan or interim remedial measures prior to development of a RAP)?

The RAP, Table 7-11 lists numerical cleanup targets as the soil and groundwater remediation goals that correspond to a 1×10^{-6} incremental lifetime cancer risk for each COC. When more than ten carcinogenic COCs are present at concentrations exceeding remediation goals, the overarching remedial action objective is the cumulative target risk level of 1×10^{-5} for carcinogenic COCs applicable at each RAP Site and RMP Location.

Remediation goals represent the maximum allowable concentrations for the respective COCs and cannot be increased to allocate amongst the residual COCs to meet the overarching cumulative risk of 1×10^{-5}. However, remediation goals can be adjusted downward, as need, if the cumulative cancer risk level exceeds 1×10^{-5} or the total hazard index (HI) exceeds 1. Remedial action objectives are achieved when residual COCs in soil and groundwater are no greater than a cumulative HI of 1 or a cumulative carcinogenic risk of 1×10^{-5} for each potentially exposed population.

B. Were the specified cleanup standards met? Yes __X__ No _____

C. If "no", why not:

12. DTSC Involvement in the Remedial Action:

A. Did DTSC order the Removal Action?

Yes _____ No __X__ Date of Order _____

B. Did DTSC review and approve (check appropriate action and indicate date of review/approval if done):

Exhibit O- RMP- RAP Information

_____ Sampling Analysis Procedures Date: _____

_____ Health & Safety Protections Date: _____

_____ Removal/Disposal Procedures Date: _____

__X__ Remedial Action Plan Date: September 27, 2002

_____ Removal Action Workplan Date: _____

C. If site was abated by a responsible party, did DTSC receive a signed statement from a licensed professional on all Remedial Action?

Yes __X__ No ____ Name: Bethany P. Flynn, PG 5710

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes __X__ No ____ Name: Gerard Aarons, PG 7430
Henry Wong, P.E., C81458

E. Did DTSC confirm completion of all remedial action?

Yes __X__ No ____ Date of verification: June 27, 2013

F. Did DTSC (directly or through a contractor) actually perform the Remedial Action?
Yes ____ No __X__

G. Was there a community relations plan in place?
Yes __X__ No ____

H. Was a remedial action plan or removal action workplan developed for this site?
Yes __X__ No ____

I. Did DTSC hold a public meeting regarding the draft RAW or RAP?
Yes __X__ No ____

J. Were public comments addressed?
Yes __X__ No ____
Date of DTSC analysis and response: September 27, 2002

K. Are all of the facts cited above adequately documented in the DTSC files?
Yes __X__ No ____

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If no, identify areas where documentation is lacking.

_____

13. EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup?
Yes _X_ No ____

B. If yes, did EPA concur with all remedial actions?
Yes _X_ No ____

C. EPA comments: EPA staff provided consultative services on this project.

EPA staff involved in cleanup:

Xuan-Mai Tran
Remedial Project Manager
U.S. Environmental Protection Agency
Region IX
Federal Facilities Cleanup Branch
75 Hawthorne Street, (SFD-8-2)
San Francisco, California 94105
(415) 972-3002
tran.xuan-mai@epamail.epa.gov

14. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
_X_ RWQCB	The Regional Water Quality Control Board staff provided consultative services on this project.
____ ARB	_____
____ CHP	_____
____ Caltrans	_____
____ Other	_____

Name of contact persons and agency:

George Leyva, PG
Project Manager
California Regional Water Quality Control Board

1515 Clay Street, Suite 1400
Oakland, California 94612
(510) 622-2352
george.leyva@waterboards.ca.gov

15. Post-Closure / Post-Remedy Activities:

A. Will there be post-closure / post-remedy activities at this site? (e.g., Operation and Maintenance)
Yes X No ____

If yes, describe:

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Alameda County Series Number 2003466371) for the Oakland Gateway Development Area, which includes Building 991 RAP Site. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential and drinking water standards, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management. The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

The remedial action objectives were based on commercial and industrial land uses. Since residual chemicals in soil and groundwater at the site render the property not suitable for unrestricted use, five-year statutory reviews are required for RMP Locations 98 and 159. The trigger date for a statutory five-year review was the mobilization date of first remedy implementation for the Port-owned portion of the Oakland Gateway Development Area project (i.e., UST 11/12/13 RAP Site on August 1, 2007). On August 30, 2012, the Port of Oakland submitted the draft Five-Year Review to DTSC for review. DTSC plans to complete its review of the Five-Year Review by July 2013.

B. Have post-closure plans been prepared and approved by DTSC?
Yes ____ No X
A post-closure plan is not required or necessary for this site.

C. What is the estimated duration of post-closure (including operations and maintenance activities) activities?

Unless ended in accordance with the *Covenant to Restriction Use of Property, Environmental Restriction*, by law, or by DTSC in the exercise of

its discretion, the Covenant and five-year review requirements shall continue in effect in perpetuity.

D. Are deed restrictions proposed or in place? Yes _X_ No ____

If yes, have deed restrictions been recorded with the County recorder?

Yes _X_ No _____ Date: August 8, 2003

If no, who is responsible for assuring that the deed restrictions are recorded?

_____

Who is the DTSC contact person?

Henry Wong, P.E.
Hazardous Substances Engineer
Brownfields and Environmental Restoration Program
(510) 540-3770
henry.wong@dtsc.ca.gov

E. Has cost recovery been initiated? Yes _X_ No _____

Has DTSC received all payments? Yes _____ No _X_

If yes, amount received $ _____; _____% of DTSC costs billed.

On November 13, 2008, DTSC determined that the Army has failed to meet certain obligations of the Memorandum of Agreement (MOA) entered into between the Army, DTSC, and RWQCB in April 2003. Specifically, the Army has failed to provide funds for DTSC and RWQCB oversight under Section 27.1 of the MOA. Section 27.1 requires that oversight funds will be "... provided through the Defense/State Memorandum of Agreement (DSMOA), executed on August 21, 1992 ... or some other appropriate mechanism as agreed upon by the parties..." Accordingly, DTSC and RWQCB have not been paid for oversight costs since July 2008.

The City's, Port's, Army's and DTSC's management teams are working toward a resolution on this issue.

F. Were local planning agencies notified of the cleanup action?

Yes _X_ No _____ If yes, the name and address of agency:

Mark Arniola, PG

Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

16. **Expenditure of Funds and Source:**

(Information to be supplied by Accounting Unit)

Funding Source and Amount Expended:

_____ HWCA $ _____ _____ HSA $ _____
_____ HSCF $ _____ _____ RCRA$ _____
_____ RP $ _____ _____ Other $ _____
_____ Federal Cooperative Agreement $ _____

17. **Problems Encountered Which Caused Major Delays:** None

18. **Accomplishment Unique to the Project:** None

19. **Final Use of Site:** The City of Oakland plans to develop RMP Locations 98 and 159 and vicinity for commercial and industrial land uses.

Exhibit O- RMP- RAP Information

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

REMEDIAL ACTION CERTIFICATION

Buildings 808 and 823 Remedial Action Plan Site
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

---

1. **Certification of Remedial Action:**

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

Henry Wong
Remedial Project Manager — 6/18/2009 Date

Dot Lofstrom, P.G.
Leader
East Bay Urban Infill Team — 6-18-09 Date

REGISTERED PROFESSIONAL ENGINEER
DANIEL EDWARD MURPHY
No. 049465
Exp. 9/30/2010
CIVIL
STATE OF CALIFORNIA

Daniel Murphy, P.E.
DTSC Civil Engineer in Responsible Charge — 6/18/09 Date

PROLOGIS WT Wilding Tucker

2. **Certification Statement:** Based upon the information which is currently and actually known to the Department of Toxic Substances Control (DTSC),

__ DTSC has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

__ DTSC has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

X DTSC has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

3. **Site Name and Location:**

Buildings 808 and 823 Remedial Action Plan (RAP) Site
(aka: VOCs in Groundwater at Buildings 808 and 823)
Oakland Gateway Development Area
700 Murmansk Street, Suite 3
Oakland, California 94607

A. List of any other names that have been used to identify the site:

VOCs in Groundwater at Buildings 808 and 823
Former Oakland Army Base – Economic Development Conveyance Area
Oakland Army Base
A portion of Base Realignment and Closure (BRAC) Parcel 11
A portion of Operable Unit 1

B. Address of site if different from above:

Areas east of 2413 Ukraine Street, Oakland, California

C. Assessor's Parcel Number: O000-0507-001-11

D. DTSC Identification Numbers:

Operable Unit:	Buildings 808 and 823
Site Code:	201537
EnviroStor ID:	01970016

4. Responsible Parties:

Landowner
City of Oakland

Contact Person
Mr. Mark Arniola
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371
marniola@oaklandnet.com

Relationship to Site: *Contact person for responsible party*

5. Brief Description and History of the Site:

The Buildings 808 and 823 RAP Site, also known as "VOCs in Groundwater at Buildings 808 and 823," is an approximately 1.3-acre site within the former Oakland Army Base (OARB), Oakland, California. Prior to 1916, much of the area encompassing the OARB was natural tidal marsh or shallow open water. Subsequent to 1916, land was created and industrial buildings constructed that predate OARB activities.

The Army constructed Building 808 in 1942 and used it as a general purpose warehouse. Building 808 is currently occupied by a commercial tenant, Lighting by Steinheimer, and is used as a warehouse and production office for lighting and set design. Inactive railroad tracks are adjacent to Building 808.

The Army also constructed Building 823 in 1942. Army historical documents show that Building 823 contained a paint room, paint booth finishing room, and carpenter shop. Currently, Building 823 is occupied by a commercial tenant, Arthur Freyer Lighting, and is used as a warehouse and production office for lighting design. Records indicate that Army personnel stripped paint at Building

823 with chemicals such as chlorinated solvents. Other reports indicate that Building 823 was also used as a heavy equipment maintenance facility. Specific locations and types of equipment and chemicals that were involved with these historical operations by the Army are unknown.

Vinyl chloride and lesser concentrations of other volatile organic compounds (VOCs) were present in shallow groundwater in an area north of Building 808 and south of Building 823. No significant soil contamination has been identified and the source of the VOCs in shallow groundwater is not known. Possible sources include Building 823, and storm drains and sanitary sewers that run through the area.

Maximum VOC concentrations detected in shallow groundwater from grab groundwater locations near Buildings 808 and 823 are vinyl chloride at 267 micrograms per liter (µg/L), cis-1,2 dichloroethene at 13 µg/L, trans 1,2 dichloroethene at 3.6 µg/L, trichloroethene at 4.1 µg/L, and 1,1 dichloroethene at 2 µg/L. VOCs in shallow groundwater near Buildings 808 and 823 appear to be in steady state and are not migrating.

The lateral extent of VOC-impacted shallow groundwater was further delineated as part of the City of Oakland's Phase II Investigation in May 2002. Vinyl chloride at concentrations of less than 5 µg/L were detected in groundwater samples collected along the southern edge of this area. VOC-impacted groundwater near Buildings 808 and 823 was defined as a RAP Site because vinyl chloride in two grab groundwater samples (Locations 11S49 and 11S50 with 267 and 111 µg/L of vinyl chloride, respectively) collected in January 2000 exceeded the remediation goal of 32 µg/L.

On September 27, 2002, DTSC approved the RAP for the former Oakland Army Base. The RAP selected in-situ bioremediation of vinyl chloride in groundwater, groundwater monitoring, and institutional controls as the remedy for the Buildings 808 and 823 RAP Site.

On May 19, 2003, the City of Oakland and DTSC entered into a Consent Agreement to bind the City to enter into environmental restrictions for the Oakland Gateway Development Area as necessary to protect human health and the environment, and to require the remediation of the former base by the City in accordance with the RAP and associated Risk Management Plan (RMP). The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

On August 6, 2003, Governor Davis approved the early transfer of approximately 363.5 acres of the former Oakland Army Base to the City of Oakland. The Buildings 808 and 823 RAP Site is a portion of the transferred property.

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Covenant) for the Oakland Gateway Development Area, which includes the Buildings 808 and 823 RAP Site. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential or drinking water standards to allow for unrestricted reuse, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management.

On October 24, 2005, DTSC approved the *Pre-Design Investigation Memorandum* (PDIM) for additional four quarters of groundwater monitoring to better define the plume boundary and to aid preparation of the remedial design document. Vinyl chloride is the only COC for the Buildings 808 and 823 RAP Site. The maximum detected concentration of vinyl chloride in groundwater from four recent quarterly monitoring events was 26 µg/L, which is below the remediation goal of 32 µg/L. All other VOCs were below the respective remediation goals.

On March 20, 2009, DTSC issued the "Risk Management Plan Modification" letter specifying new language for RMP, Section 6.2 regarding vapor intrusion mitigation measures. This RMP Modification requires additional evaluation and consultation with DTSC if new buildings were to be constructed at the Buildings 808 and 823 RAP Site and vicinity areas.

6. Type of Site:

Included in EnviroStor? Yes

RCRA Permitted Facility	_____	Bond Funded	_____
RCRA Facility Closure	_____	RP Funded	_____
NPL	_____	Federal Facility	_____

Other (i.e., walk-in): Please see Section 14.E of this Certification.

7. Size of Site:

Approximately 1.3 Acres

Small _____ Medium __X__ Large _____ Extra Large _____

8. Dates of Remedial Action

The City of Oakland conducted four quarterly groundwater monitoring events pursuant to the DTSC-approved PDIM from December 2005 to September 2006. On April 24, 2009, the City of Oakland submitted the final Completion Report summarizing the monitoring activities, presenting analytical data, and requesting closure of the subject RAP Site.

9. Response Action Taken on Site: (check appropriate action)

____ *Initial removal or remedial action (site inspection/sampling)*

_X_ Final remedial action

____ RCRA enforcement/closure action

____ No action, further investigation verified that no cleanup action at site was needed

A. Type of Remedial Action:

The RAP selected the following remedy for the Buildings 808 and 823 RAP Site:

- In-situ bioremediation of vinyl chloride in groundwater and groundwater monitoring;
- Remediation to allow for planned land uses (i.e., commercial and industrial) consistent with the Amended Reuse Plan; and
- Implementation of institutional controls to:
  - Prohibit sensitive land uses;
  - Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
  - Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
  - Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

B. Estimated quantity of waste associated with the site (i.e., tons/gallons/ cubic yards) was:

1. _____ Waste Treated Amount: _____
2. _____ Untreated (capped sites) Amount: _____
3. _____ Soil Removed Amount: _____
4. _____ Wastewater Removed Amount: _____
5. _____ Institutional Controls Amount: 1.3 Acres

10. Cleanup Levels/Standards

A. What were the cleanup standards established by DTSC pursuant to the final remedial action plan (RAP) or workplan (if cleanup occurred as the result of a removal action workplan (RAW) or interim remedial measures (IRM) prior to development of a RAP)?

Risk-based remediation goals developed for OARB are utilized to meet the remedial action objectives. These goals were developed and presented in the RAP, including the rationale, calculation, and input parameters used in establishing the remediation goals. Remediation goals for most chemical are risk-based and represent the lowest calculated values of the non-carcinogenic or carcinogenic risk goal for each chemical of concern that are protective of all potentially exposed populations. However, some remediation goals are based on other chemical-specific parameters (such as potential leachability of a chemical from soil to groundwater) when these values are more stringent that the calculated human health goals.

Achievement of the Remedial Action Objectives

Are COC concentrations below the respective remediation goals?

Vinyl chloride is the only COC for the Buildings 808 and 823 RAP Site. The maximum detected concentration of vinyl chloride in groundwater from four recent quarterly monitoring events was 26 µg/L, which is below the remediation goal of 32 µg/L. All other VOCs were below the respective remediation goals.

Are cumulative excess cancer risk less than 1.0E-05 and non-cancer hazard index less than 1 for potential human receptors?

Using the maximum detected vinyl chloride of 26 µg/L and other VOC concentrations from the 2005 and 2006 groundwater data sets and all soil

data, the cumulative risks and hazardous index (HI) for the indoor commercial worker (i.e., potential human receptors) are as follows:

Groundwater Risk:	8.1E-07		
Soil Risk:	2.0E-07		
Total Risk:	1.1E-06	→	*Less than 1.0E-05*

Groundwater HI:	3.6E-04		
Soil HI:	1.9E-04		
Total HI:	5.5E-04	→	*Less than 1*

The total risk and hazard index are less than the remedial action objectives.

B. Were the specified cleanup standards met? Yes __X__ No _____

C. If "no", why not:

11. DTSC Involvement in the Remedial Action:

A. Did DTSC order the Removal Action?

Yes _____ No __X__ Date of Order _____

B. Did DTSC review and approve (check appropriate action and indicate date of review/approval if done):

_____ Sampling Analysis Procedures Date: _____

_____ Health & Safety Protections Date: _____

_____ Removal/Disposal Procedures Date: _____

__X__ Remedial Action Plan Date: September 27, 2002

_____ Removal Action Workplan Date: _____

C. If site was abated by a responsible party, did DTSC receive a signed statement from a licensed professional on all Remedial Action?

Yes __X__ No ____ Name: Michael Steiger, P.E., C63348

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes __X__ No ____ Name: Daniel Murphy, P.E., C49465

E. Did DTSC confirm completion of all Remedial Action?

Yes __X__ No ____ Date of verification: June 8, 2009

F. Did DTSC (directly or through a contractor) actually perform the Remedial Action?
Yes ____ No __X__

G. Was there a community relations plan in place?
Yes __X__ No ____

H. Was a remedial action plan or removal action workplan developed for this site?
Yes __X__ No ____

I. Did DTSC hold a public meeting regarding the draft RAW or RAP?
Yes __X__ No ____

J. Were public comments addressed?
Yes __X__ No ____
Date of DTSC analysis and response: September 27, 2002

K. Are all of the facts cited above adequately documented in the DTSC files?
Yes __X__ No ____

If no, identify areas where documentation is lacking.

_____

12. EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup?
Yes __X__ No ____

B. If yes, did EPA concur with all remedial actions?
Yes __X__ No ____

C. EPA comments: EPA staff provided consultative services on this project.

EPA staff involved in cleanup:

Xuan-Mai Tran

Remedial Project Manager
U.S. Environmental Protection Agency
Region IX
Federal Facilities Cleanup Branch
75 Hawthorne Street, (SFD-8-2)
San Francisco, California 94105
(415) 972-3002

13. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
____ RWQCB	The Regional Water Quality Control Board (RWQCB) staff provided consultative services on this project.
____ ARB	_____
____ CHP	_____
____ Caltrans	_____
____ Other	_____

Name of contact persons and agency:

Devender Narala
Project Manager
California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
(510) 622-2309

14. Post-Closure / Post-Remedy Activities:

A. Will there be post-closure / post-remedy activities at this site? (e.g., Operation and Maintenance)
Yes _X_ No ____

If yes, describe:

On August 8, 2003, the City of Oakland and DTSC executed and recorded the *Covenant to Restrict Use of Property, Environmental Restriction* (Covenant) for the Oakland Gateway Development Area, which includes

the Buildings 808 and 823 RAP Site. The City of Oakland implemented the institutional control remedy by recording the Covenant with the Alameda County Assessor's Office. Since the former base property is not being remediated to residential and drinking water standards to allow for unrestricted reuse, the Covenant requires land and groundwater use restrictions and compliance with the RMP for proper soil and groundwater management. The RMP is Appendix E to the September 27, 2002 DTSC-approved RAP.

The City of Oakland and DTSC executed the *Covenant to Restrict Use of Property, Environmental Restriction* on August 8, 2003, which:

- Prohibit sensitive land uses;
- Restrict construction of groundwater wells and extraction of groundwater without DTSC's approval;
- Prevent disturbance of surface soil, subsurface soil, and groundwater monitoring wells, except as conducted pursuant to the RMP; and
- Comply with the RMP for soil and groundwater management, maintenance of ground covers, mitigation during earthwork, management of below grade structures, and construction dewatering.

The remedial action objectives were based on commercial and industrial land uses. Since residual chemicals in soil and groundwater at the site render the property not suitable for unrestricted use, five-year statutory reviews are required for the Buildings 808 and 823 RAP Site. The trigger date for a statutory five-year review was the mobilization date of first remedy implementation for the Oakland Gateway Development Area project (i.e., Building 1 RAP Site on November 28, 2005). Therefore, DTSC should review and approve the first statutory five-year review report on or before November 28, 2010. As a result, DTSC shall receive the first Draft Five-Year Review Report in May 2010.

B. Have post-closure plans been prepared and approved by DTSC?
Yes ____ No _X__
Post-closure plan is not required or necessary for this site.

C. What is the estimated duration of post-closure (including operations and maintenance activities) activities?

Unless ended in accordance with the *Covenant to Restriction Use of Property, Environmental Restriction*, by law, or by DTSC in the exercise of its discretion, the covenant and five-year review requirements shall continue in effect in perpetuity.

D. Are deed restrictions proposed or in place? Yes _X__No ____

Exhibit O- RMP- RAP Information

If yes, have deed restrictions been recorded with the County recorder?

Yes _X_ No _____ Date: August 8, 2003

If no, who is responsible for assuring that the deed restrictions are recorded?

_____

Who is the DTSC contact person?

Henry Wong, (510) 540-3770
Name/Phone Number

E. Has cost recovery been initiated? Yes _X_ No _____

Has DTSC received all payments? Yes _____ No _X_

If yes, amount received $ _____; _____% of DTSC costs billed.

On November 13, 2008, DTSC determined that the Army has failed to meet certain obligations of the Memorandum of Agreement (MOA) enter into between the Army, DTSC, RWQCB in April 2003. Specifically, the Army has failed to provide funds for DTSC and RWQCB oversight under Section 27.1 of the MOA. Section 27.1 requires that oversight funds will be "... provided through the Defense/State Memorandum of Agreement (DSMOA), executed August 21, 1992 ... or some other appropriate mechanism as agreed upon by the parties..."

To date the Army has provided no alternative mechanism for payment of oversight costs to DTSC and RWQCB. Accordingly, DTSC and RWQCB have not been paid for oversight costs since July 2008.

F. Were local planning agencies notified of the cleanup action?

Yes _X_ No _____ If yes, the name and address of agency:

Mark Arniola, P.G.
Environmental Program Specialist
Public Works Agency
Environmental Services Division
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5301
Oakland, California 94612-2034
(510) 238-7371

PROLOGIS WT

marniola@oaklandnet.com

15. **Expenditure of Funds and Source:**

(Information to be supplied by Accounting Unit)

Funding Source and Amount Expended:

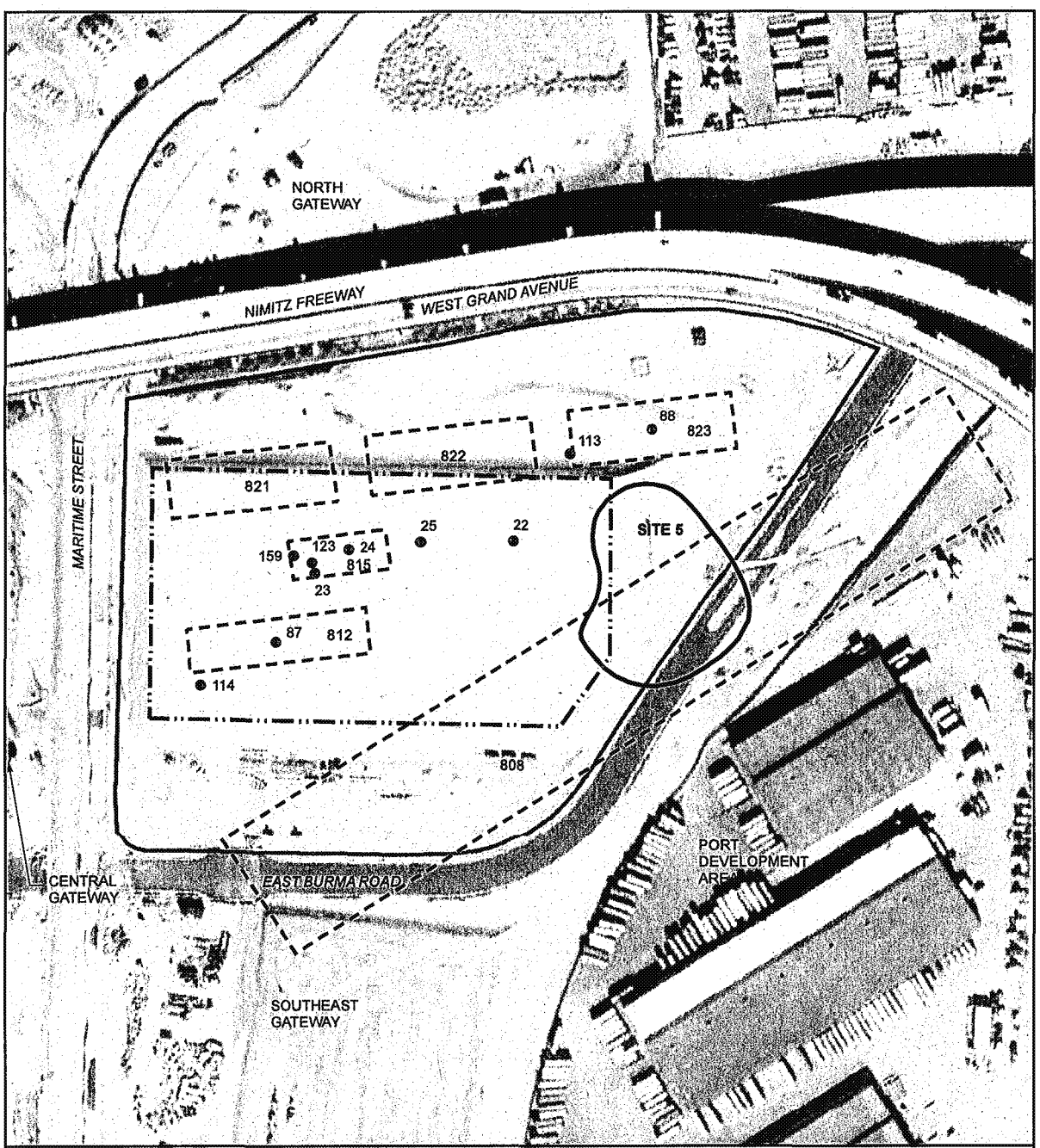
_____ HWCA $ _____ _____ HSA $ _____
_____ HSCF $ _____ _____ RCRA$ _____
_____ RP $ _____ _____ Other $ _____
_____ Federal Cooperative Agreement $ _____

16. **Problems Encountered Which Caused Major Delays:** None.

17. **Accomplishment Unique to the Project:** None.

18. **Final Use of Site:** The City of Oakland plans to develop the site for commercial and/or industrial land uses.

Exhibit O- RMP- RAP Information



LEGEND

- RMP LOCATION
- REMEDIAL ACTION PLAN
- SITE BOUNDARY
- APPROXIMATE PROPOSED FUTURE BUILDING LOCATION
- APPROXIMATE FORMER BUILDING LOCATION

N

0 200
SCALE IN FEET

NOTES:
812 = FORMER BUILDING DESIGNATION
113 = RMP NUMBER
RMP = REMEDIAL ACTION PLAN

FARALLON CONSULTING
Washington: Issaquah | Bellingham | Seattle
Oregon: Portland | Bend | Baker City
California: Oakland | Sacramento | Irvine
Quality Service for Environmental Solutions | farallonconsulting.com

FIGURE 1
SITE PLAN
NORTHEAST GATEWAY PROPERTY
OAKLAND, CALIFORNIA

FARALLON PN: 1071-009

Drawn By: lperrin Checked By: SA Date: 5/19/2016 Disc Reference:
Document Path: G:\Projects\1071 Prologis\1071009 2015 Due Diligence I\009 Oakland Army Base\GIS\Figure NE_RMP-RAP-Future-FormerBldg.mxd

PROLOGIS WT

Exhibit O.1- Categorical RMP Response

PROLOGIS WT

Exhibit P- Neighborhood Survey & Notice

NEIGHBORHOOD SURVEY/ NOTICE

Project Name

Project Address

RE: PROPOSED SATURDAY WORK SCHEDULE: [Insert Dates]

Dear Neighbor:

[Explain the purpose of letter is to inform neighbors that a 'request' has been made to Building Services to authorize work on numerous upcoming Saturdays, and that input from neighbors is being solicited.)

[Insert explanation of WHY this work needs to be accomplished outside of normal working DAYS or HOURS (i.e. M-F, 7am – 7pm).

[Explain the site management measures that are and will remain in place to control noise, dust, parking, traffic and other impacts related to this job site].

WHAT: Scope of Construction Activity that you are requesting to do, including size of work force, equipment to be used, etc... **[Work scope must be limited to relatively quiet work to satisfy the Oakland Noise Ordinance limit of 55 dba on weekends in residential areas. No material deliveries, off hauling, or other loud unenclosed activities]**

WHERE: Work location to be limited to inside only with windows and doors closed.

WHEN: 9am – 5pm, Saturdays from xx/xx/xx to yy/yy/yy. **[Our Office will only authorize up to 4 Saturdays at a time, until a track record of complaint-free performance is established that we can support. We also reserve the right to withdraw Saturday authorization for failure to satisfy important construction-related Planning Conditions of Approval]**

Please forward your comments, questions, or concerns to (contact info for project managers, including phone # and email address] or to Bill Quesada, Oakland Building Services, (510) 238-6345, bquesada@oaklandnet.com.

For emergencies or site complaints regarding this construction site, please contact the job superintendent (contact # and email of the on-site job superintendent). **[The GC must maintain a job superintendent on-site all day for each requested Saturday, to manage construction and complaints. No subs working alone].**

PROLOGIS WT

Exhibit Q- Preconstruction Video

Municon Consultants
Vibration Monitoring, Construction Instrumentation, Photo Surveys

July 29, 2016

The Whiting-Turner Contracting Company
4690 Chabot Drive, Suite 120
Pleasanton, California 94588
Attn: Ryan Dotson

RE: **OAKLAND GLOBAL LOGISTICS CENTER PHASE I, NORTH EAST GATEWAY, OAKLAND, CA**
SUBJECT: **Proposal for Pre-construction and Post-Construction Haul Route Video Survey**

Please find herein our proposal for the truck haul route video survey for your project at **Oakland Global Logistics Center Phase I, North East Gateway, Oakland, California (the Project).** With extensive experience with all phases of construction monitoring and litigation mitigation in urban environments, we are uniquely qualified to handle this assignment. We have over 24 years of experience in the execution and document control for large and small scale pre-construction photo and video surveys.

**** * We are Reliable * ****
We have over 24 years of experience and a strong record of repeat clients.

**** * We are Experienced * ****
We have conducted more pre-construction photo surveys than other West Coast firms.

**** * We are Safety Conscious * ****
We hold regular weekly "toolbox" safety meetings as our personnel are regularly tending our equipment on or adjacent to contractor heavy construction sites.

**** * We are Certified * ****
▪ CA UCP - UDBE (12867) ▪ CA DGS-SBE (18229) ▪
SF HRC LBE/W CMD 31810741 ▪ SBA SBE (Woman-Owned) 79-9371554
CA DIR # 1000002530

PROLOGIS WT Whiting-Turner

Exhibit Q- Preconstruction Video

Municon Consultants
Vibration Monitoring, Construction Instrumentation, Photo Surveys

PRE-CONSTRUCTION PHOTO AND VIDEO SURVEYS

Municon specializes in pre-construction photo and video surveys with large numbers of buildings (as many as 350) and the document control of data. We have performed photo surveys for the Cathedral Hill Hospital, the San Francisco City Hall, the Transbay Terminal demolition, demolition of San Francisco Pier 36, the Warren Avenue/BART/UPRR undercrossing in Fremont, the BART Oakland Airport Connector, and multiple other public works and private projects in San Francisco and the Bay Area. We have performed video surveys of the route leading to the Harry Tracy Water Treatment Plant, the project site for the Warren Avenue Undercrossing in Fremont, the route to the Calaveras Dam, and multiple other public works and private projects in San Francisco and the Bay Area.

PROJECT DESCRIPTION

On the Northeast Gateway site Prologis will construct a new 256,000 sf warehouse on a site covering approximately 702,000sf bordered by Maritime Street, Burma Road and West Grand Ave. The project site improvements will include new underground utilities, landscaping, concrete and ac paving and bio-swales. The new warehouse building will include 55 truck docks, 78 trailer parking stalls, 171 auto parking stalls and two electric vehicle charging stations.

Yours truly,
MUNICON Consultants

Aemero L. Hailemichael

Aemero L. Hailemichael

Barry C. Roth

Barry Roth, P.E. 16090
Principal Engineer

\\FILE-SERVER\Administration\proposals\Oakland Private Jobs\Whiting Turner-West Oakland\Pavement Video Survey Proposal.doc

PROLOGIS WT Whiting Turner

Exhibit Q- Preconstruction Video

Municon Consultants
Vibration Monitoring, Construction Instrumentation, Photo Surveys

1.00 PRE- AND POST-CONSTRUCTION VIDEO SURVEY OF TRUCK HAUL ROUTES.
1.01 General.

You have informed us that you need a pre- and post-construction video survey of the approved inbound and outbound truck haul routes of your project. The truck haul route map shows the use of city streets, freeway on- and-off ramps and city streets. We will perform a video survey of the pavement conditions of the streets you identified as truck haul routes. Maritime Street from West Grand Avenue to 7th Street, West Grand avenue from Frontage Road to Maritime Street and E. Burma Road which runs alongside the site, 7th Street from Maritime Street to Brush Street and Brush Street from 7th Street to 19th Street.

Our video survey is not a "Pavement condition evaluation" as we will offer no recommendations or conclusions as to the causes of distress observed or remaining service life of the pavement, and we will not perform deflectometer or other tests on the pavement.

1.10 Scope.

1.11 PRE-CONSTRUCTION VIDEO SURVEY

Municon will perform a pre-construction video survey of pavement conditions of **Maritime Street** from West Grand Avenue to 7th Street, **West Grand Avenue** from Frontage Road to Maritime Street, **Burma Road** from its intersection with Maritime Street to its end at the cul de sac of Burma, **7th Street** from Maritime Street to Brush Street and **Brush Street** from 7th Street to 19th Street. We will survey all the lanes, sidewalks, gutters and other existing facilities. We will document existing conditions in high definition digital videography using a HD digital video camera. We will contemporaneously narrate the video with descriptions of the location being viewed and any distress, damage or other anomalies, the direction of the camera view, and the date and time at the time of videotaping. We will perform the video survey of the pavement conditions for a:

LUMP SUM.....**$6,000.**

1.12 POST-CONSTRUCTION VIDEO SURVEY

Upon the end of your project, Municon will perform a post-construction video survey of pavement conditions of the same roads documented in our pre-construction video survey. We will perform the post-construction video survey of the pavement conditions for a:

LUMP SUM.....**$6,000.**

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Municon Consultants

Vibration Monitoring, Construction Instrumentation, Photo Surveys

1.13 WORK PRODUCTS –VIDEO SURVEY RECORDS.

We will submit to you two (2) bound copies of our report, which will include DVDs (or, if permitted, USB storage device) with the original HD video files as recorded, a letter describing our survey and attesting to taking the video, and a site plan showing the areas surveyed. Electronic copies of the documentation will be included on the DVDs.

The costs for preparing the documentation and production of our reports are included in the costs for the survey above.

1.20 TIMING AND SCHEDULE.

We anticipate that we can complete our video survey in one full day in the field, including travel time. We request one week of advance notice, if possible, to begin work on the surveys.

Processing of the data and report production require additional office efforts beyond the field time. Reports will be delivered within two (2) weeks of the completion of the field survey.

VIDEO SURVEY TOTAL.....$12,000.

*** * * No sections 2, 3 or 4 in this proposal * * ***

Municon Consultants

Vibration Monitoring, Construction Instrumentation, Photo Surveys

5.00 CONTRACTUAL TERMS CONDITIONS & LIMITATIONS.

1. Authorization can be by simple purchase order or professional agreement referencing this proposal.

2. No certified payrolls; we are not a contractor, labor, trade nor union signatory. No retention. Payment within 30 days of invoicing.

3. We will provide insurance up to our existing limits and statutory workers compensation limits.

4. No indemnification of any person's active negligence.

5. Access arrangements to be provided by project owner unless explicitly offered herein.

6. Unless specifically called for or explicitly offered herein, written interpretations or professional opinions, and other data reports are not included.

7. Usage rates for equipment apply for each month, or part of a month, the equipment is deployed for use on your project. These rates will apply each month, if your work durations exceed our estimates.

We believe that the estimate and proposal herein addresses the requirements of the permit conditions for photo documentation, and we look forward to working with you on this project. All work proposed here will be under the direction of the undersigned.

Yours truly,
MUNICON Consultants

Aemero L. Hailemichael

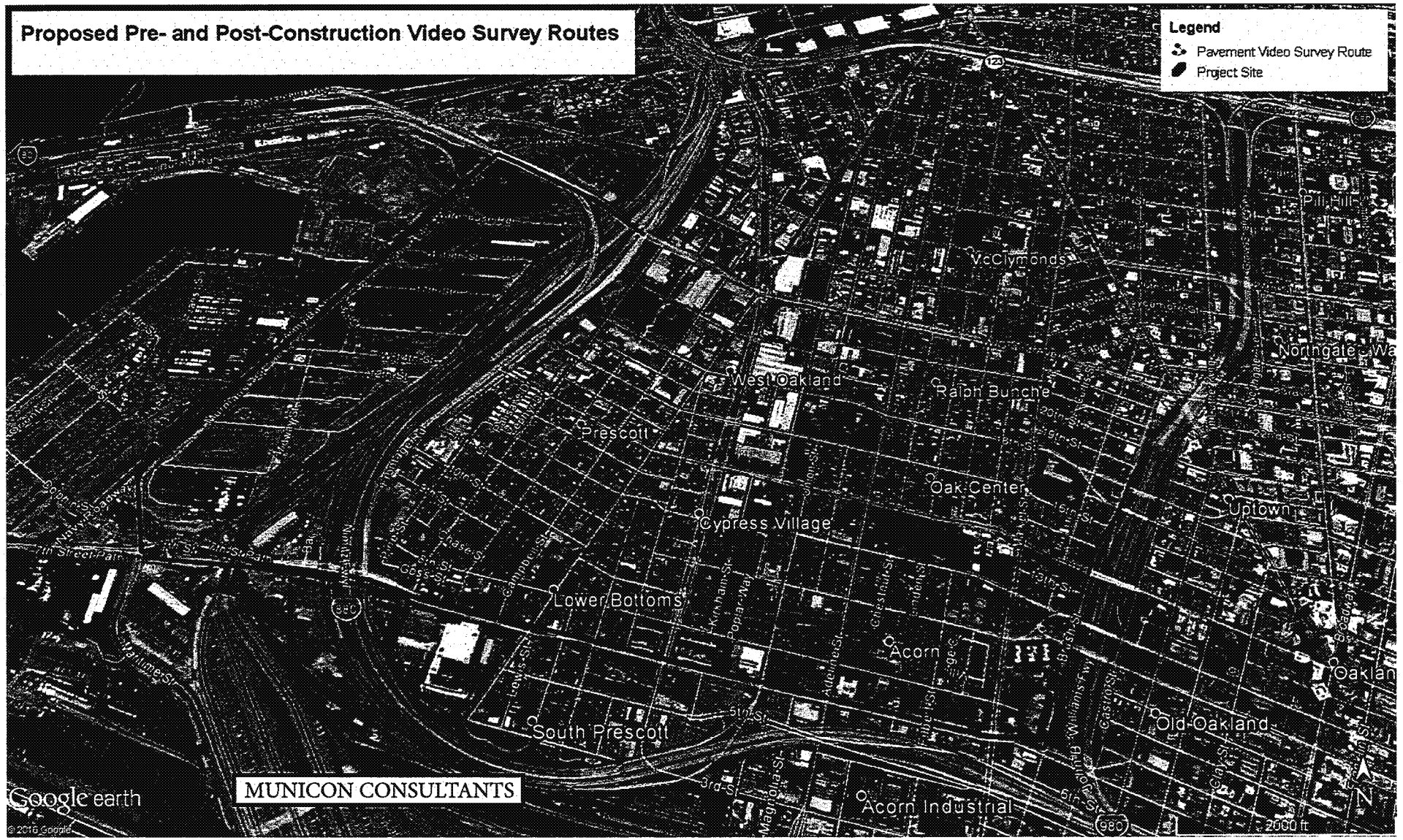
Aemero L. Hailemichael

Barry C. Roth

Barry Roth, P.E. 16090
Principal Engineer

\\FILE-SERVER\Administration\proposals\Oakland Private Jobs\Whiting Turner-West Oakland\Pavement Video Survey Proposal.doc

Exhibit Q- Preconstruction Video



PROLOGIS

WT

Exhibit R - Noise Consultant Review Letter

JGL ACOUSTICS, INC

July 15, 2016

Prologis, L.P.
3353 Gateway Blvd.
Fremont, CA 94538

Attention: Cory Chung
Subject: Oakland Global Logistics Center, Phase 1
Construction Noise Impacts

Ladies & Gentlemen:

This report addresses the issue of construction noise impacts from the proposed project located on the south side of West Grand Avenue between Maritime Street and Burma Road in Oakland, CA. Figure 1 shows the site location relative to the nearby freeways with the proposed project location highlighted in yellow. The proposed project will consist of a single warehouse building with an approximate floor area of 256, 216 square feet. The building will have loading docks on the north and south sides and a parking lot in the northeast corner. Figure 2 presents a site plan for the project. This report specifically addresses the issue of environmental noise impacts resulting from the construction of the Phase 1 building.

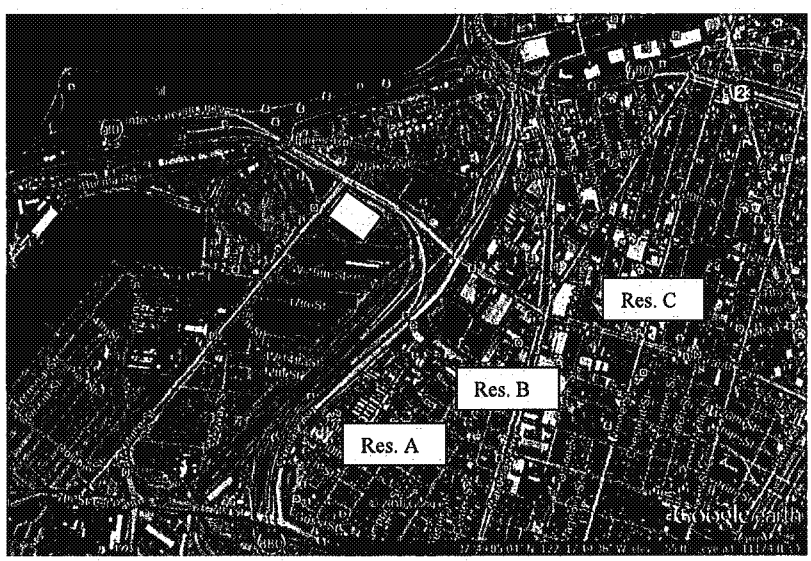


Figure 1.

Aerial view showing the location of the site (shown in yellow) relative to nearby freeways and nearest residences (shown by red triangles).

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Exhibit R - Noise Consultant Review Letter

JGL ACOUSTICS, INC

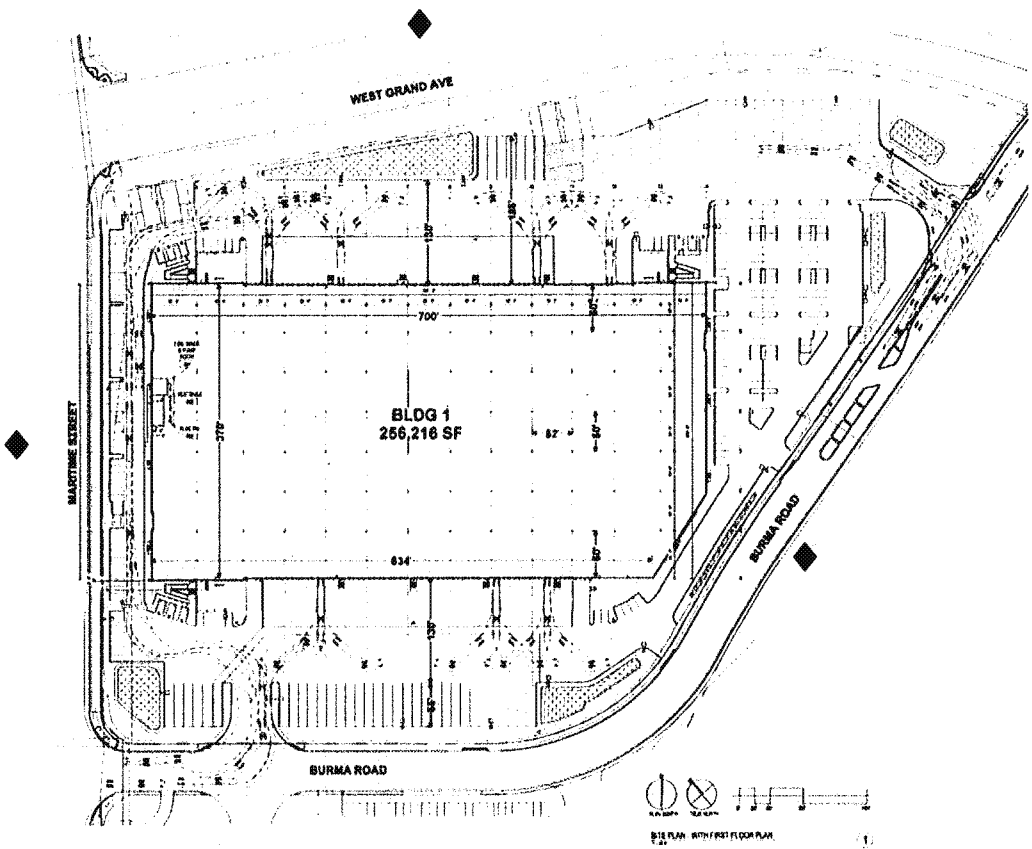

Figure 2. Site plan for the Phase 1 building showing noise model receiver locations.

As shown in Figure 2 the project is surrounded on all sides by local streets, and beyond these streets is additional industrial property. The nearest residential property is on the east side of I-880, more than 2,500 feet southeast of the proposed project.

Standard Conditions of Approval

This project has received several conditions of approval related to noise. SCA NOI-1 requires that construction activities are limited to 7:00 AM to 7:00 PM Monday through Saturday. It is my understanding that concrete work will occur outside of the allowed

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construction hours for a period of 6 days to pour the building slab and 8 days to pour the tilt up walls. It will be important to ensure that late night construction work meets the requirements of OMC 8.18.020 relating to nuisance noise impacts to residential areas.

Oakland Construction Noise Ordinance

Table 17.120.04 in the Oakland Noise Ordinance establishes maximum allowable noise levels for construction projects impacting industrial, commercial, and residential receiving properties. The maximum allowable noise level during the 7 AM to 7 PM weekday period on commercial and industrial property is 85 dB for short term operations and 70 dBA for long term operations. . The maximum allowable noise level during the 7 AM to 7 PM weekday period on residential property is 80 dBA for short term operations and 65 dBA for long term operations. On weekends the maximum allowable levels are 15 dBA lower for short term operations and 10 dBA lower for long term operations.

Construction Noise Sources

According to the Contractor, Table 1 presents a listing of the major noise sources associated with the late night construction phase of this project. Table 2 identifies the noise sources that are expected to operate during normal construction hours. Equipment sound levels and usage factors were obtained from the FHWA Construction Noise Handbook. The usage factor represents the percentage of the time that the noise source is generating its maximum noise level.

Late night work is expected to last for 6 days to pour the building floor slab, with as many as 13 concrete trucks per hour and start times beginning as early as 1:00 AM and as late as 4:00 AM. Late night work for pouring the tilt up walls is expected to last for 8 days, with as many as 8 trucks per hour and a proposed start time of 4 AM. At any one time, the maximum number of concrete trucks on the construction site is expected to be 7.

Predicted Construction Noise Levels

Construction noise levels were computed in the vicinity of the subject project using the internationally recognized computer model CadnaA (ver. 4.6.156). The assessment of late night operations assumed continuous operation of 7 concrete trucks on site with 4 diesel generators to create power for the lights. The total on-site sound power level for all of the late night sources is126 dB (ref. 1 picowatt), taking into account the usage factor and the total number of concrete truck on site at one time. The predicted total late night construction noise level at the adjacent properties and at the nearest residences is shown in Table 3.

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Table 1. Late night noise sources and expected source noise level.

Source Description	Number of Sources/Hr.	Usage Factor (%)	LpA (dBA @ 50 feet)	Est. LwA (dB ref. 1 pW)
Concrete Trucks	13	40%	85	117
Generator (lights)	4	100%	80	112

Table 2. Construction noise sources and noise levels occurring from 7 AM to 7 PM.

Source Description	Number of Sources	Usage Factor (%)	LpA (dBA @ 50 feet)	Est. LwA (dB ref. 1 pW)
Grading Scraper	1	40	85	117
Loader	2	40	80	112
Grader	1	40	85	117
Water Truck	2	40	84	116
Skip Loader	2	40	80	112
Paving Machine	1	50	85	117
Roller Compactor	1	20	85	117
Vibratory Plate Compactor	1	20	80	112
Transfer Dump Truck	1	40	84	116
Power Tool Generator	2	50	82	114
Power Tool Compressor	1	40	80	112
Backhoe	2	40	80	112
Dump Truck	2	40	84	116
Concrete Truck	2	40	85	117
Concrete Pump	1	20	82	114
Concrete Saw	1	50	85	117
Crawler Crane	1	16	85	117
Diesel Boom Lift	2	20	85	117
Diesel Forklift	2	50	85	117
Street Sweeper	1	50	85	117
Excavator	1	40	85	117
Diesel Scissor Lift	1	20	85	117

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Table 3. Predicted late night noise levels (dBA).

Receiver	Distance to Nearest Source	Predicted	Max. Allowed
Across Maritime St.	120 feet	68.7	70
Across Burma Rd.	296 feet	68.6	70
Across W. Grand Ave.	120 feet	62.3	70
Residence A	2,516 feet	44.5	45
Residence B	2,621 feet	44.6	45
Residence C	3,661 feet	40.9	45

The predicted construction noise level shown in Table 3 meet the requirements of the Oakland noise ordinance. It should be emphasized that the nearest residences are all located on the other side of I-880, and the background noise level from this freeway will likely exceed the predicted construction noise levels by a significant margin, even in the middle of the night. As a result, it is extremely unlikely that the construction noise would be audible in the residential area.

Table 4 presents the predicted daytime noise level at each of the six receiver locations of interest. Interestingly enough, the total sound power level of all 31 daytime noise sources is virtually the same as the late night noise sources. As a result, the predicted daytime noise levels are nearly the same as the predicted nighttime noise levels.

Table 4. Predicted daytime noise levels (dBA).

Receiver	Distance to Nearest Source	Predicted	Max. Allowed
Across Maritime St.	120 feet	67.7	70
Across Burma Rd.	296 feet	66.6	70
Across W. Grand Ave.	120 feet	62.3	70
Residence A	2,516 feet	44.1	65
Residence B	2,621 feet	44.2	65
Residence C	3,661 feet	40.5	65

Note that the predicted daytime noise levels are at or below the maximum allowed noise levels, so the proposed project is expected to fully comply with the Oakland noise ordinance.

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If you have any questions or comments regarding these findings, do not hesitate to contact me directly.

Very truly yours,
JGL Acoustics, Inc.

Jerry G. Lilly, P.E., FASA
President
Member INCE (*Bd. Cert.*), ASHRAE, ASTM, NCAC

PROLOGIS WT

Attachment E

Air Quality Plan Implementation at Army Base – Tentative Timeline

Oakland Army Base Redevelopment Project
Tentative Timeline for Air Quality Plan Implementation (subject to change)
September 8, 2016

Horizontal Infrastructure				
Site	**Developer**	**Facility Type**	**Construction-Phase Air Quality Plan**	**Construction Timeline**
Entire Site (City portion of Army Base)	City/CCIG	Infrastructure (e.g., streets & utilities)	Approved Dec. 2013	Dec. 2013 – Jun. 2017

Vertical Development						
Site	**Developer**	**Facility Type**	**Construction-Phase Air Quality Plan Estimated Timeline**	**Construction Estimated Timeline**	**Operational-Phase Air Quality Plan Estimated Timeline**	**Estimated Start of Operations**
Northeast Gateway[1]	Prologis	Trade & Logistics Warehouse	Mar. – Sep. 2016	Sep. 2016 – Jun. 2017	Jan. – Jun. 2017	Jun. 2017
New Central Gateway – Phase 1[2]	Prologis	Ancillary Maritime Support Services	Sep. – Nov. 2016	Nov. 2016 – Mar. 2017	Oct. 2016 – Mar. 2017	Mar. 2017
West Gateway	Oakland Bulk & Oversized Terminal	Marine Bulk Terminal	Oct. 2016 – Mar. 2017	Mar. 2017 – Aug. 2018	Mar. – Aug. 2018	Aug. 2018
Southeast Gateway[3]	Prologis	Trade & Logistics Warehouse	Feb. – Jul. 2017	Jul. 2017 – Mar. 2018	Oct. 2017 – Mar. 2018	Mar. 2018
New Central Gateway – Phase 2[4]	Prologis	Trade & Logistics Warehouse	Mar. – Aug. 2017	Aug. 2017 – Apr. 2018	Nov. 2017 – Apr. 2018	Apr. 2018
AMS Site	OMSS	Ancillary Maritime Support Services	May – Sep. 2017	Sep. 2017 – Dec. 2017	Jul. – Dec. 2017	Dec. 2017
North Gateway 1	CASS	Recycling	May – Sep. 2017	Sep. 2017 – Feb. 2019	Sep. 2018 – Feb. 2019	Feb. 2019
North Gateway 2	CWS	Recycling	Oct. 2017 – Mar. 2018	Mar. 2018 – Sep. 2020	Apr. – Sep. 2020	Sep. 2020
MH-1[5]	CCIG	Trade & Logistics Warehouse	Nov. 2019 – Apr. 2020	Apr. 2020 – Mar. 2021	Oct. 2020 – Mar. 2021	Mar. 2021

[1] "Northeast Gateway" is the northern portion of the East Gateway area.
[2] "New Central Gateway" is the eastern portion of the former Central Gateway area.
[3] "Southeast Gateway" is the southern portion of the East Gateway area.
[4] "New Central Gateway" is the eastern portion of the former Central Gateway area.
[5] "MH-1" is the western portion of the former Central Gateway area.

Oakland Army Base Redevelopment Project
Tentative Timeline for Air Quality Plan Implementation (subject to change)
September 8, 2016

Air Quality Plan Components
The list below identifies which air quality-related requirements from the Oakland Army Base Standard Conditions of Approval / Mitigation Monitoring and Reporting Program ("SCAMMRP") are anticipated to be addressed in the Construction-Phase Air Quality Plan and the Operational-Phase Air Quality Plan.

Construction-Phase Air Quality Plan:

- Construction Management Plan (SCA AIR-1)
- Construction-Related Air Pollution Controls (SCA AIR-2)
- Construction Traffic and Parking (SCA TRANS-2)
- Traffic Control Plan – Hazardous Materials (Mitigation 4.3-13)

Operational-Phase Air Quality Plan:

- Truck Management Plan (Mitigation 4.3-7)
- Maritime and Rail-Related Emissions Reduction Plan (Mitigation 4.4-3b)
- Truck Diesel Emission Reduction Plan (Mitigation 4.4-4)
- Transportation Control Measures (Mitigation 4.4-5)
- Energy-Conserving Fixtures and Designs (Mitigation 4.4-6)
- Demonstration Projects (Mitigation 5.4-1)
- Parking and Transportation Demand Management (SCA TRANS-1)

CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2016 DEC 28 PM 3: 26

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Brooke A. Levin
Director, Public Works

SUBJECT: EPA Coalition Brownfields Grant

DATE: December 9, 2016

City Administrator Approval

Date 12/26/16

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Accept And Appropriate One Hundred Ten Thousand Dollars ($110,000.00) From A United States Environmental Protection Agency (USEPA) Coalition Grant Under The Brownfields Grant Program For Assessment Of Petroleum Products And Hazardous Substances In Soil And Groundwater In The International Boulevard Corridor And Execute A Memorandum Of Agreement With The East Bay Brownfields Assessment Grant Coalition.

EXECUTIVE SUMMARY

City Council approval will authorize the City Administrator to accept and appropriate $110,000 in funds from a United States Environmental Protection Agency (EPA) Coalition Brownfields Program petroleum products and hazardous substances assessment grant for the International Boulevard Corridor and adjacent Bay Area Rapid Transit (BART) stations. The Coalition includes Alameda County, the Association of Bay Area Governments (ABAG), and the cities of Oakland, San Leandro, and Hayward. The Coalition members will share $550,000 in grant funds from USEPA. As required by USEPA coalition grant guidelines, in order to utilize the grant funds the Coalition members must enter into a Memorandum of Agreement (MOA) to document the roles and responsibilities of the Coalition members. Staff requests City Council to authorize the City Administrator to execute the MOA. Grant monies will be used for professional investigations of known or suspected contamination. The results of the investigations will be used to assess properties for acquisition or redevelopment.

BACKGROUND/LEGISLATIVE HISTORY

EPA has made Brownfields Assessment Grants available since 1995 to assist recipients with the identification and characterization of contaminants at sites that are abandoned or underutilized. The City has received 10 prior awards totaling 2 million dollars. The three most recent awards include: a $200,000 Hazardous Substances Assessment Grant for the Foothill Boulevard-Seminary Avenue Area (Resolution No. 82172 C.M.S.); a $200,000 Hazardous Substances Assessment Grant for the West Oakland Area (Resolution No. 82173 C.M.S.); and

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Public Works Committee
January 10, 2017

a $200,000 Community-Wide Petroleum Substances Assessment Grant for the West Oakland Area (Resolution No. 82174 C.M.S.). The grant funds for the International Boulevard Corridor Site will come from USEPA's annual budget for Brownfields grants.

ANALYSIS AND POLICY ALTERNATIVES

The Department of Economic and Workforce Development has been working closely with ABAG on the East Bay Corridor Initiative (EBCI) as an implementation strategy for realizing sustainable, resilient, equitable growth and development in communities between Pinole and Fremont, with a focus on Priority Development Areas (PDAs). One method for advancing the activities of the EBCI was to apply for EPA Coalition grants. To meet the USEPA's Coalition Grant requirements, ABAG and the cities of Oakland, San Leandro, and Hayward agreed to submit for the grant as a Coalition. The grant awarded to the East Bay Brownfields Grant Coalition is for a three-year period. Grant work will primarily consist of environmental assessments and evaluation of remedial solutions.

Environmental site assessments identify and characterize contaminants, and typically involve an analysis of a site's historical uses, collection of soil and groundwater data, and recommendations for any cleanup necessary. The environmental site assessment is a key initial step toward cleanup and redevelopment of abandoned or underutilized lands. In addition, in order to invoke full liability protection against regulatory action associated with existing contamination, professional environmental site assessments compliant with EPA's "All Appropriate Inquiry" standard must be conducted prior to acquisition of a property.

EPA's annual Brownfields Program allocation is funding a grant for the International Boulevard Corridor Site for a total amount of $550,000. The Coalition members will share this grant amount. The City's share is estimated to be$110,000. The City acting through its Public Works, Environmental Services Division (ESD) will receive grant funds as reimbursements for activities completed. The complete area of the Coalition's site includes a 15-mile corridor known as International Boulevard in Oakland, East 14th Street in San Leandro, and Mission Boulevard in unincorporated Alameda County and Hayward, as well as five adjacent BART stations. To evaluate potential sites for acquisition or redevelopment, staff must ascertain the level of contamination and the associated liability.

The Coalition will develop a site selection process based on agreed upon factors and will ensure that a minimum of five sites (at least one per Coalition member) are assessed over the life of the cooperative agreement. Coalition members will each submit a list of priority sites for the areas they represent. Selected sites will also be submitted to the EPA to ensure eligibility. In addition to addressing health and safety concerns, EPA criteria for prioritizing sites typically includes the relative potential for redevelopment. In order to identify potential sites for assessment work in Oakland, the City will seek recommendations from community groups, local non-profit organizations and the City's Office of Economic and Workforce Development.

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January 10, 2017

The grant is a "community-wide" assessment grant, as such, funds from these grants may be used at any site within the International Boulevard grant corridor that is approved by the USEPA Grants Officer and where the City has legal right-of-entry.

FISCAL IMPACT

The City is not required to provide matching funds for the grant; however, of the available money, only the lead Coalition member (ABAG) will be charging staff time to the grants. The staff time will be used for the management of the grant including submittals to the EPA. ABAG will operate as the fiscal agent for receiving reimbursement money from USEPA and distributing it to the Coalition members. The majority of the grant funds will be utilized for the performance of Phase I and II Environmental Assessments within the grant area. Each Coalition member is guaranteed at least one assessment from the grant. Depending on the number of sites assessed per coalition member, the City's portion of the grant may be greater than $110,000.

ESD will act as the grant manager for the City. Grant monies will be received on a reimbursement basis and deposited into the Environmental Protection Agency Fund (2125), Environmental Compliance and Remediation Organization (30683), in project numbers to be determined.

PUBLIC OUTREACH/INTEREST

ESD will notify the Department of Economic and Workforce Development and the Coalition of the results of the assessment work. The Department of Workforce Development in coordination with ABAG will notify community groups and local non-profit organizations about the assessment work.

COORDINATION

In preparing the grant proposal, the Environmental Services Division coordinated with the Office of Economic and Workforce Development, the City Attorney's Office, the Controller's Bureau and the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: The assessment of potential soil and groundwater contamination will assist in the conversion of contaminated and blighted properties to productive use.

Environmental: Identification of contamination will facilitate cleanup that protects human health and environmental resources.

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Public Works Committee
January 10, 2017

Social Equity: Projects supporting the redevelopment of contaminated locations will result in cleaner healthier neighborhoods for residents in these neighborhoods. The grant area includes identified communities of concern and will serve neighborhoods in the immediate vicinity by activating retail and commercial uses in neighborhoods that currently have few retail outlets.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution authorizing the City Administrator to accept and appropriate one hundred ten thousand dollars ($110,000.00) from a United States Environmental Protection Agency coalition grant under the Brownfields grant program for assessment of petroleum products and hazardous substances in soil and groundwater in the International Boulevard Corridor and execute a memorandum of agreement with the East Bay Brownfields Assessment Grant Coalition.

For questions regarding this report, please contact Becky Dowdakin, Environmental Services Manager, at 238-6981.

Respectfully submitted,

BROOKE A. LEVIN
Director, Oakland Public Works

Reviewed by:
Susan Kattchee, Assistant Director
Oakland Public Works

Reviewed by:
Becky Dowdakin, Manager
Environmental Services Division

Prepared by:
Mark Arniola, Environmental Program Supervisor
Environmental Services Division

Item: _____
Public Works Committee
January 10, 2017

Approved as to Form and Legality

City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 DEC 28 PM 3:26

OAKLAND CITY COUNCIL

RESOLUTION NO._____C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE ONE HUNDRED TEN THOUSAND DOLLARS ($110,000.00) FROM A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY COALITION GRANT UNDER THE BROWNFIELDS GRANT PROGRAM FOR ASSESSMENT OF PETROLEUM PRODUCTS AND HAZARDOUS SUBSTANCES IN SOIL AND GROUNDWATER IN THE INTERNATIONAL BOULEVARD CORRIDOR AND EXECUTE A MEMORANDUM OF AGREEMENT WITH THE EAST BAY BROWNFIELDS ASSESSMENT GRANT COALITION

WHEREAS, the City of Oakland (City) in cooperation with the other members of the East Bay Brownfields Assessment Grant Coalition, comprising the City of Hayward, the City of San Leandro, the County of Alameda, and the Association of Bay Area Governments (ABAG), has solicited financial support from the United States Environmental Protection Agency (USEPA) for environmental assessment work in the International Boulevard Corridor; and

WHEREAS, the EPA has awarded the East Bay Brownfields Assessment Grant Coalition (Coalition) $550,000 in Brownfields Program funds to assist in the assessment of petroleum substances and hazardous substances (as defined by the federal Comprehensive Environmental Response, Compensation and Liability Act) in soil and groundwater in the International Boulevard Corridor; and

WHEREAS, the proposed environmental assessment work supports the Mayoral and City Council goal of a Sustainable City, and will help strengthen protection of public health while facilitating the cleanup and redevelopment of blighted properties; now, therefore be it

RESOLVED, That the City Council authorizes the City Administrator or her designee to execute an agreement with the USEPA and a Memorandum of Agreement (MOA) with the Coalition for the acceptance of grant funds for assessment of hazardous substances in soil and groundwater in the International Boulevard Corridor, provided that said agreement shall be reviewed and approved by the City Attorney's Office and shall be filed with the City Clerk's Office; and be it

FURTHER RESOLVED, That the City Council authorizes ABAG to act as the fiscal manager for the Coalition in order to receive reimbursement funds from USEPA and pass the funds onto the Coalition members; and be it

FURTHER RESOLVED, That the City Council acknowledges that the grant funds do not cover City staff costs; and be it

FURTHER RESOLVED, That the City Council authorizes the appropriation of grant funds in an amount up to $110,000, to be received on a reimbursement basis and deposited into the Environmental Protection Agency Fund (2125), Environmental Compliance and Remediation Organization (30683), in a project to be established upon execution of the agreement with the EPA; and be it

FURTHER RESOLVED, That the City Administrator or designee is hereby authorized to approve any subsequent amendments or extensions of said agreement, provided that such amendments or extensions shall be approved by the City Attorney's Office and shall be filed with the City Clerk's Office. Should additional grant funds be received, the City Administrator is hereby authorized to appropriate same for the purposes described above within the three year grant term.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST:_____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

ASSOCIATION OF BAY AREA GOVERNMENTS
Representing City and County Governments of the San Francisco Bay Area
ABAG

Mr. David R. Lloyd
Office of Land and Emergency Response
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., MC:5105T
Washington, DC 20460

December 18, 2015

R09-16-A-003

RE: Transmittal Letter

Dear Mr. Lloyd:

This constitutes the Transmittal Letter for the Association of Bay Area Government's Brownfields Coalition Assessment Grant application.

Applicant:	Association of Bay Area Governments
DUNS number:	07-907-392000000
Funding Requested	
Grant type:	Brownfields Coalition Assessment Grant
Amount:	$600,000
Contamination:	Hazardous Substances ($300,000) and Petroleum Products ($300,000)
Location:	Cities of Oakland, San Leandro, and Hayward and County of Alameda California
Contacts:	Project Manager JoAnna Bullock, Senior Planner and Grants Administrator MetroCenter, 101 8th Street, Oakland, CA 510 464-7968 office 510 464-7985 fax joannab@abag.ca.gov
	Chief Executive Ezra Rapport, Executive Director MetroCenter, 101 8th Street, Oakland, CA 510 464-7900 office 510 464-7985 fax ezrar@abag.ca.gov
Date submitted:	December 18, 2015
Project Period:	July 2016 – July 2019
Population:	180,000

Joseph P. Bort MetroCenter, 101 8th Street, Oakland, California 94607-4756 P.O. Box 2050, Oakland, California 94604-2050
(510) 464 7900 Fax (510) 464 7985 www.abag.ca.gov info@abag.ca.gov

Thank you for your consideration of our grant application. We hope that we have developed a compelling justification for funding site assessments in the along the San Francisco Bay Area and look forward to advancing this important work to transform the East 14th Street/Mission Boulevard corridor.

Respectfully,

Ezra Rapport
Executive Director

East Bay Coalition Brownfields Assessment Grant Application

1. Community Need

1.a Economic and Community Benefits

1.a.i. Targeted Community Description: The target area is located in the cities of Oakland, San Leandro and Hayward as well as the Ashland and Cherryland Census Designated Places in unincorporated Alameda County, within the East Bay of the San Francisco Bay Area. Together with the Association of Bay Area Governments (the coalition lead), these jurisdictions make up the coalition.

The coalition's proposal focuses on a 15 mile corridor of downtowns and mixed-use neighborhoods that have been identified by coalition members as Priority Development Areas (PDAs)—places with adopted local plans for sustainable, location-efficient redevelopment that also support the Bay Area's regional vision for an equitable, low carbon future.

The corridor is defined by the East Bay's historic main street—known as International Boulevard in Oakland, East 14th Street in San Leandro, and Mission Boulevard in unincorporated Alameda County and Hayward—and five adjacent Bay Area Rapid Transit (BART) stations. It served as a primary road and streetcar route through the East Bay from its urbanization in the 19th century until the completion of Interstates 880 and 580 in the late 1950s and continues to be a critical link between Oakland and Hayward. The five BART stations within the target area connect its residents to nearly a million jobs, as well as educational and cultural opportunities throughout the region.[1] To complement BART, the region's first Bus Rapid Transit (BRT) route will begin service in the corridor in 2017.

Historically, the corridor was an employment center with abundant industrial and commercial jobs, particularly for people of color.[2] Major corporations including Magnavox, General Electric and Montgomery Ward operated large scale divisions beginning in the 1920s through the mid-1970s. A significant portion of the Bay Area's African American and Latino residents formed communities in the corridor. As the target area's neighborhoods experienced suburban flight and industry moved away, jobs dwindled and the area began to fall into significant decline.[3] Accompanying this decline was a spike in crime, blight and the abandonment of commercial and industrial buildings and parcels—many of which are known or suspected brownfields.

Today the corridor is characterized by vacant lots, abandoned industrial facilities, gas stations, and dilapidated structures occupied by auto-repair shops, liquor stores, nail salons, and storefront churches. The current economic recovery has provided very limited benefits to the area while creating displacement pressure on corridor residents and businesses.[4] Environmental contamination—both documented and perceived—continues to pose an obstacle to community health and economic development.

1.a.ii. Demographic Information: As Table 1 illustrates, sensitive populations with greater susceptibility to many of the contaminants and cumulative environmental issues in the target area make up a disproportionate share of its residents—including minorities, the unemployed, the poor, children, and very young children. The target area also has high concentrations of populations with multiple risk factors that can exacerbate exposure to contaminants and cumulative issues, including children living in poverty (triple the rate in Alameda County and nearly double the state and national

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[1] Association of Bay Area Governments. (2013). *Plan Bay Area: Final Forecast of Jobs, Population and Housing.*

[2] Johnson, Marilyn S. (1993). *The Second Gold Rush: Oakland and the East Bay in World War II.*

[3] Self, Robert O. (2003). *American Babylon: race and the struggle for postwar Oakland.*

[4] Zuk, Miriam. (2015). *Regional Early Warning System for Displacement.* (Data on Target Area: http://www.urbandisplacement.org/research, accessed November 30, 2015)

rate), and the percentage of new single mothers in poverty (more than double the county rate and a well above the state rate).[5]

Table 1. Demographic Information

	Target Area	Remainder of Target Area Jurisdictions (portion outside target area)	Alameda County	California	United States
Population	191,000	512,000	1,560,000	38,100,000	314,000,000
% Minority	90%	64%	67%	61%	37%
% Unemployed	15%	10%	10%	11%	9%
Poverty Rate	22%	8%	9%	16%	16%
% Children (under 18)	27%	20%	22%	24%	23%
% Children in Poverty (under 18)	9%	3%	3%	5%	5%
% Very Young Children (under 5)	8%	6%	5%	7%	6%
Single mothers in poverty as % of women that gave birth in past year	24%	12%	10%	16%	18%
% Senior Citizens (over 65)	9%	14%	12%	12%	14%
Median HH Income	$42,826	$76,550	$ 73,775	$ 61,489	$ 53,482

Source for all data: 2009-2014 American Community Survey (ACS) (numbers rounded)

1.a.iii. Description of Brownfields: Suspected and known brownfields are present throughout the corridor, located directly adjacent to the homes, schools and parks of the sensitive populations disproportionately represented in its communities. Built before the advent of modern environmental standards, the corridor is a checkerboard of industrial, residential, civic and commercial land uses. Industrial operations that once attracted working families in search of better lives are now sources of contamination, blight and disinvestment that damage the health and welfare of an at-risk population. Oakland's General Electric (GE) transformer assembly plant provided 300 middle wage jobs during its operation between 1927 and 1975. Today, it remains abandoned with no solid plans for reuse, its soils contaminated with polychlorinated biphenyls (PCBs) from coolants and lubricants in electrical equipment.[6] Groundwater contamination from trichloroethylene (TCE) (commonly used to clean metal parts)[7] extends beyond the site, which is surrounded on two sides by neighborhoods. Residents of these neighborhoods, which are in the top 4 percentile statewide for impaired water risk and face elevated levels of toxic releases, have the highest cancer mortality rate in Alameda County—more than 60% above the county as a whole and well above neighborhoods with similar demographic characteristics.[8] These neighborhoods also have elevated incidence of low birth weight–which, like cancer, has been identified as a potential impact of PCB and TCE exposure, and

[5] 2009-2014 American Community Survey (ACS)
[6] CA DTSC Public Notice, "Approval of Final Remediation Plan, Former General Electric Facility," July 2011
[7] Ibid
[8] California Office of Environmental Health Hazard Assessment *Enviroscreen*, 2015; Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*

which is especially harmful to a community with a high proportion of young children and single mothers in poverty.[9] Between mid-June and mid-December 2015, 485 violent crimes were recorded in a one-mile radius of the site, including 96 robberies and 3 murders.[10]

The GE plant is a microcosm of the impact of brownfields on the corridor; a symbol of disinvestment, poor health, and lost opportunity. It is one of 670 brownfields in the target area identified by the California Department of Toxic Substances Control (DTSC),[11] all of which are located within 1,000 feet of a residential area and many of which share a property line with a residence. 170 of the sites identified by DTSC remain open, including 90 Leaking Underground Storage Tanks (LUST)—primarily former gas and service stations. Frequently identified contaminants at the LUST sites include TPH (particularly benzene) as well as PCBs, TCEs and PCEs—creating soil, groundwater, and indoor air contamination. A wide variety of contaminants have been identified at the other open cleanup sites, reflecting a diversity of historic land uses that available records indicate ranged from heavy manufacturing plants (producing glass containers, plastic, and many other products) to an excavation pit and a bulk petroleum distribution facility. Frequently identified contaminants from these sites include PCE, PCBs and TCEs, with contamination from volatile organic compounds (VOCs), TCA, and lead also found at several locations.[12]

In addition to known brownfields left behind by historic land uses, many businesses operating today in the target area are associated with contaminants. This includes 65 gas stations, 81 laundromats, and 529 manufacturing businesses.[13] Like identified brownfields in the target area, all of these businesses are within 1,000 feet of a residential area, which as noted in *Demographic Information* are made up of a disproportionate share of sensitive populations such as children in poverty.

1.a.vi. Cumulative Environmental Issues: Contributing to the risks created by brownfields, one operating and nine non-operating hazardous waste facilities are within one mile or less of the target area, among them an active electronics and universal waste recycling plant and several plating and beverage container companies.[14] The target area is also adjacent Interstate 880, which is used heavily by trucks in route to the Port of Oakland, one of the busiest ports in the country, leading to elevated particulate matter emissions—particularly during commute hours when trucks idle.[15] Exposure is increased by the frequent use of operable windows to ventilate homes and other buildings, as well as the proximity of public spaces such as playgrounds and parks to I-880 and to the target area's other high-pollution roadway, International Blvd/East 14th St/Mission Blvd.

Based upon a cumulative analysis of all mobile and stationary sources of pollution, the target area was identified by the Bay Area Air Quality Management District (BAAQMD) as a cumulative impact area, reflecting elevated levels of Toxic Air Contaminants (TAC) and fine particulate matter (PM).[16] BAAQMD also designated the target area a CARE community—a designation used to identify communities with sensitive populations overburdened by air quality and other environmental risks.[17] In addition to these challenges, much of the target area is underserved by grocery stores, has a deficit of parks relative to population compared to other parts of the county, and is more susceptible to the

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[9] Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*; 2009-2014 ACS
[10] Oakland Police Department and crimemapping.com, accessed 12/13/15
[11] DTSC *Geotracker Database*, accessed 12/14/15
[12] Ibid.
[13] Dunn and Bradstreet NETS data 2014
[14] DTSC *EnviroStor Database*, accessed 12/16/15
[15] Ibid
[16] MTC and ABAG. (2013). *Plan Bay Area Environmental Impact Report*
[17] BAAQMD Community Air Risk Evaluation Program (CARE), http://www.baaqmd.gov/plans-and-climate/community-air-risk-evaluation-care-program, accessed 12/16/15

urban heat island effect than other areas.[18]

1.b. Impacts on Targeted Communities: Target area residents have dramatically lower health outcomes than residents of adjacent neighborhoods, Alameda County, and California. Many of these negative outcomes are potentially linked to exposure to the contaminants present in target area brownfields—which can take place through direct contact, overland flow dispersion of toxic compounds, wind, groundwater drainage and vapor intrusion—and the cumulative environmental issues in the area. The presence of sensitive populations highlighted above in *Demographic Information* likely exacerbates the impact of these exposures.

The cancer mortality rate, which is a potential effect of exposure to the PCBs and TCE contamination in the target area, ranges from 168 per 10,000 to 230 per 10,000 in the zip codes within the target area, compared to 146 per 10,000 in Alameda County and 131 per 10,000 in California. Asthma hospitalization, potentially liked to exposure to the high levels of PM and TAC in the target area, is 40% above the county and 240% percent above the state for children under 5 and 44% above the county and 350% percent above the state overall. The prevalence of diabetes and obesity are 17% and 28% above county averages, respectively.[19]

Hospitalization from violent assault (which includes murder) is 200% higher in target area zip codes than the county, resulting from a higher crime rate potentially related to blight and lack of access to opportunity. Reflecting the confluence of multiple risk factors, life expectancy at birth in parts of the target area is 70, 10 years below the county average and as many as 29 years below wealthier communities in the county. This ranks 117th worldwide, equal to Bangladesh.[20]

In addition to explicit health and safety impacts, vacant brownfields contribute to a land use pattern that does not provide the basic necessities needed by community members such as community centers, grocery stores and parks. The underutilization of the area's land also represents a missed opportunity to provide space for job training, small business incubation, and much-needed housing within walking distance of inexpensive public transit that in less than half an hour reaches the region's major job centers and educational opportunities (and in the process provides an environmentally sustainable commute mode).

1.c. Financial Need

1.c.i. Economic Conditions: Regional and local funding is not available to conduct the assessments that will be supported by this grant. In 2011, the State of California eliminated Redevelopment Agencies, which had utilized tax increment financing for the acquisition, assessment, remediation, and reuse of blighted properties—including many brownfields. The elimination of Redevelopment resulted in an estimated $28 million budget shortfall for the City of Oakland in Fiscal Years 2011-12 and 2012-13 alone.[21] In Alameda County, this figure is $60 million annually, and in Hayward $5 million annually.[22] The loss of Redevelopment compounded longstanding fiscal crises in coalition jurisdictions, which face rising costs for government services coupled with stagnant sales taxes and local property taxes capped by state law at 1%.

The area's protracted industrial decline, beginning with the closure of major factories in the 1960s and 1970s and compounded by decades of vacancy on the large parcels of land left behind (many of them known or suspected brownfields), has contributed to the persistently high unemployment and

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[18] Greenbelt Alliance; UC-Berkeley (2014). *Mapping Climate Change Exposures*

[19] All data in this paragraph: Alameda County Public Health Department, *Alameda County Vital Statistics Files, 2011-2013*

[20] Ibid., US Central Intelligence Agency (2013). *2013 CIA Factbook.*

[21] City of Oakland Press Release, 11/29/11 "Community and Economic Development Agency Dissolved", http://www2.oaklandnet.com/Government/o/CEDA/index.htm, accessed 12/18/ 14

[22] City of Hayward, 2012 *Comprehensive Annual Financial Report* http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2012/FY2012_Hayward_CAFR.pdf, accessed 12/18/14

poverty rates highlighted in *Demographic Information.* The GE plant closure described above, which cost the area 350 jobs, was part of a broader trend of lost economic opportunity: between 1950 and 1970, Oakland alone lost 10,000 jobs alone, many of them like GE along the International Blvd/East 14th Street corridor. The resulting lack of buying power has for decades depressed sales taxes—a critical revenue source for California cities and a potential source of funding for remediation and cleanup. This was exacerbated by the closure of major department stores along the corridor, including a 9 story Montgomery Ward in 1989 in Oakland and Mervyn's 340,000 flagship store and headquarters in Hayward. The area's industrial decline also led to dramatically lower home values and rental rates, as highlighted in *Economic Effects of Brownfields* below.

Together, these factors severely limit the ability of any of the Coalition members to address the shared brownfields challenge alone. The formation of the Coalition and its collaborative proposal reflect the need to work together to overcome an economic and fiscal obstacle that no member can tackle individually.

1.c.ii. Economic Effects of Brownfields: The prevalence of vacant and underutilized parcels in the target area contributes to a lack of economic activity, reducing potential demand for local businesses, dampening sales and property taxes while also reducing opportunities for community-building and visual surveillance—potentially facilitating the hubs of criminal activity on the corridor.[23] Data collected by the US Postal service indicates that vacancies at business addresses are 24% higher in target area Census Block groups with clusters of four or more brownfields than elsewhere in Alameda County.[24]

These conditions have created a negative perception among businesses and potential investors that are reflected in rents and property values. A comparison on Loopnet.com in December 2015 found that the average price of retail space along the corridor averages $19/square foot; in contrast, rents along three retail corridors in surrounding areas averaged $26/sf (Castro Valley Blvd), $34/sf (Alameda Park St), and $54/s (Oakland Lakeshore/Grand).[25] According to the 2014 American Community Survey, the median residential rent in the corridor is $1,150—17% below the rent in other parts of coalition jurisdictions and 20% below Alameda County. Negative perceptions are also reflected in home values, which are a proxy for property taxes: At $250,000, the median home value in the target area is $200,000 below neighborhoods elsewhere in coalition jurisdictions and more than $230,000 below Alameda County.[26] These figures underscore the opportunity costs created by underutilized known or suspected brownfields. While no comprehensive analysis has been completed of the economic impact of blight and brownfields on the corridor, if the median value of the corridor's 28,000 homes were equal to the County, these homes would generate approximately $90 million each year in additional property taxes.[27]

Combined with other risk factors, the preponderance of vacant lots and blight created by known and suspected brownfields has reduced access to opportunity for local residents by limiting the number of potential jobs and local services within target area communities, contributing to the disproportionately high unemployment and poverty rates illustrated in *Table 1.*

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[23] For example, the northern part of the corridor is known as a hub for child trafficking in the western United States: http://www.sfgate.com/crime/article/How-girls-fall-into-clutches-of-pimps-4705407.php, accessed 12/1/15.

[24] HUD, 2014, *HUD Aggregated USPS Administrative Data On Address Vacancies*; Calculations by ABAG.

[25] Loopnet.com: http://www.loopnet.com/xNet/MainSite/Listing/Search/SearchResults.aspx#/Retail/For-Lease/clARYC$BAQIBDYVTQG2U20JAtunRyAThQkABAACoB4xewAEAANgphV7A, accessed 12/1/15. Note that Loopnet is a site to advertise properties, not a comprehensive data source.

[26] 2009-2014 American Community Survey.

[27] ACS 2009-2014; Assumes a typical 1.2% property tax rate in the target area (including locally imposed and voter adopted taxes)

2. Project Description and Feasibility of Success

2.a. Project Description, Project Timing and Site Selection

2.a.i. Project Description: This grant will fund 20 Phase I and 6 Phase II environmental site assessments (ESAs) of high-impact suspected brownfields, implementing an integrated regional and local strategy for environmental, social and economic sustainability. In 2013, Bay Area elected officials adopted Plan Bay Area—a blueprint for growth and transportation investment that achieves the State of California's GHG emissions reduction target for the region. The foundation of Plan Bay Area's sustainable growth strategy is a network of Priority Development Areas (PDAs)—transit-rich places planned by cities for mixed-income housing, commercial development, and local services. The PDAs that make up the target area are expected to add 44,000 new housing units and 58,000 new jobs by 2040.[28] Land use plans recently adopted by coalition members for these PDAs set the stage for implementation by identifying opportunity sites for a mix of housing, employment, local services, and public spaces to create dense walkable communities. These sites are typically vacant, large enough for significant redevelopment that fulfills a community vision, and in need of assessment to confirm or remove suspicion of the presence of contaminants.

Because a comprehensive environmental review was conducted as part of each local PDA plan, projects on opportunity sites are exempt from most aspects of the entitlement process—reducing much of the uncertainty associated with development in disinvested areas. However, parcel-level analysis of potential contamination has still not been completed on most sites. Combined with longstanding concerns about known and suspected brownfields, the uncertainty surrounding many sites presents a barrier to both private and public investment. The perceived complexity and potential delays involved in conducting assessments deter investors from taking on the additional cost and instead investing in an area with fewer perceived issues. The ESAs funded by this grant will fill this gap, setting the stage for catalyst projects that align with local and regional plans, as well as state and federal sustainability principles.

The Memorandum of Agreement (MOA) established between coalition members at the outset of the grant will create a framework for defining site selection criteria, conducting site selection, creating a community engagement plan, and selecting consultants to perform ESAs. A minimum of four sites will be assessed in each jurisdiction. To prime the assessed sites for reuse, the coalition will conduct preliminary schematic design with engagement from Bay Area LISC, which has funded numerous reuse projects, set the stage for a more detailed cleanup plan.

The activities funded by this grant will position the high-impact sites selected by coalition members to acquire and leverage funding sources such as the state of California's Affordable Housing and Sustainable Communities program, the Golden State Acquisition Fund, the Bay Area Transit-Oriented Affordable Housing fund and the DTSC revolving loan fund, as well as to forge public-private partnerships and to take advantage of the influx of private capital seeking development sites in the Bay Area.

Outputs: 20 Phase I and 6 Phase II ESAs; 6 Preliminary Schematic Site Designs; Priority Sites Inventory; at least 7 Community Meetings

Outcomes: $230-$560 Million in investment; 2,050-4,100 Jobs; $7-$14 Million in ongoing revenues; Reduced community exposure to contaminants; Improved health outcomes

2.a.ii. Project Timing: The project is anticipated to commence in spring 2016 and close in spring 2019. Within a month of the grant award, the coalition members will sign a Memorandum of Agreement and the Association of Bay Area Governments (the project sponsor) will complete a Work Plan and schedule that will be included in the Cooperative Agreement with EPA. Project tasks and milestones established in the Work Plan will be tracked on a weekly basis and reported to EPA

[28] ABAG and MTC (2013). *Plan Bay Area Final Forecast of Jobs, Population and Housing*

as part of the Quarterly Report. The report will identify percentage completion of each task and progress toward milestones. In the case of delays, ABAG will provide EPA's project manager with an explanation for the delay and identify corrective action.
ABAG will coordinate site selection, contractor selection and oversight, public outreach, site access, and development of reuse strategy, working with Coalition Members through the process formalized in the MOA.

Table 2. Project Schedule

	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017	Q3 2017	Q4 2017	Q1 2018	Q2 2018
Notice of Award	x								
MOA Adoption	x								
Issue RFP & Consultant Selection		x							
Contract Award									
Site Selection		x	x	x					
Public Engagement	x	x		x			x		x
Assessments					x	x	x	x	
Schematic Designs							x	x	x

2.a.iii. Site Selection: Through the MOA, coalition members will establish a governance structure for establishing site selection criteria and for selecting sites. Detailed criteria will expand upon several general principles, prioritizing parcels that are: identified as opportunity sites with significant redevelopment potential in locally adopted plans; within 1/2 mile of frequent transit service; and meet EPA Brownfield site eligibility guidelines. Each coalition member jurisdiction will submit a set of preliminary priority sites from which a final set will be identified utilizing the process established by the coalition. A minimum of four ESAs will be performed in each local coalition member's jurisdiction.
Coalition members will pursue securing Site Access Agreements and once agreements are in place, public and privately-owned sites will be assessed. If access cannot be obtained for a blighted vacant priority site, coalition members may consider utilizing state laws such as the Gatto Act to gain access, or another site on the priority list may be assessed instead. Assessment sites are expected to be evenly divided between those with suspected petroleum contamination and those with suspected hazardous substances contamination.

2.b. Task Description and Budget Table

2.b.i. Task Description: With the exception of reporting, project tasks will be performed in collaboration with local jurisdiction and community based partners. ABAG staff will convene a series of meetings with local jurisdiction partners to assist with the process of developing a list of sites. Sites under consideration for inclusion on the list will first be screened using EPA site eligibility criteria and vetted with the California Department of Toxic Substances Control (DTSC). While the list is under development, we will convene community organization partners and begin the community engagement process. Regular meetings with local jurisdiction and community organization partners will be convened for the duration of the project.

Task 1 – Partner Engagement and Site Identification ***$35,472***

Local jurisdiction partners will develop an initial list of potential sites. Sites will be evaluated using the criteria and process established by the Coalition following adoption of the MOA. The list of potential sites will be vetted using EPA guidelines and in consultation with the community

organization partners, resulting in a final list of sites and site access as discussed in *Site Selection.*
Outputs: MOA, Priority sites inventory; Site assessment list
Staff time: Senior Regional Planner: 11.1 hours/month @88.68/hour for 36 months = $35,472
Total: $35,472
Cost Basis (Petroleum Products): $17,736 Cost Basis (Hazardous Substances): $17,736

Task 2 – Community Engagement ***$34,318***
Community engagement efforts are an integral component of the MOA and will include community communication materials, regular community briefings, project web site, and messaging developed by local jurisdictions and community based organization partners. This effort will be coordinated by ABAG's Communication Specialist in collaboration with community organization partners resulting in a community engagement plan, at least five community meetings and two focus group meetings.
Outputs: Community engagement plan, Minimum five community meetings; Minimum two focus group meetings
Cost Basis
Pass-through: Capacity building for Community Based Organizations = $5,000
Supplies: printed material, website = $4,698
Staff time: Communication Specialist: 5.5 hours/month @$98.10/hour for 36 months = $19,620
Total: $34,318
Cost Basis (Petroleum Products): $17,159 Cost Basis (Hazardous Substances): $17,159

Task 3 – Phase I and Phase II Assessments ***$460,000***
The partnership will conduct a thorough consultant selection process to identify the most appropriate firm for this project. This portion of the project includes consultants performing Phase I and II Environmental Assessments as well as Quality Assurance Project Plans, Health and Safety Plans, Sampling and Analysis Plans, and other related reports as warranted.
Outputs: 20 Phase I ESAs; 6 Phase II ESAs
Cost Basis
Contractual: 20 Phase I ESAs @ $8,000 per Phase I ESA = $160,000
Contractual: 6 Phase II ESAs @ 50,000 per Phase II ESA = $300,000
Total: $460,000
Cost Basis (Petroleum Products):$230,000 Cost Basis (Hazardous Substances): $230,000

Task 4 –Preliminary Schematic Designs ***$13,302***
As land reuse is one of the primary goals of the project, ABAG staff and the project partnership will produce schematic designs for up to five sites that are deemed locations with high redevelopment potential and aligned with adopted local plans. Bay Area LISC will be consulted regarding feasibility.
Outputs: 6 Preliminary Schematic Designs
Cost Basis
Staff time: Regional Planner: 12.5 hours/month @88.68/hour for 12 months = $13,302
Total: $13,302
Cost Basis (Petroleum Products): $6,651 Cost Basis (Hazardous Substances): $6,651

Task 5 - Project Management and Reporting **$56,908**
This task includes staff time for general oversight of the project ACRES and general reporting requirements for the grant award. ABAG project staff will hold weekly project meetings to monitor progress, identify and develop strategies to resolve issues that arise, and generate quarterly reports.
Outputs: Quarterly Reports
Cost Basis

East Bay Coalition Brownfields Assessment Grant Application

Staff time: Senior Regional Planner: 2.7 hours/month @$110.12/ hour for 36 months = $15,416
Senior Regional Planner: 5.5 hours/month@ $88.68/hour for 36 months = $17,736
Finance Specialist: 2.2 hours/month @ $76.35/hour for 36 months = $6,108
Indirect costs of financial and performance reporting: = $17,648
Total: $56,908
Cost Basis (Petroleum Products): $28,454 Cost Basis (Hazardous Substances): $28,454

2.b.ii. Budget Table: Separate budget tables are included for the hazardous substance and petroleum work that distinguish hazardous substances related tasks from petroleum related tasks.

Table 3. Hazardous Substance Budget

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	$17,736	$9,810		$6,651	$19,630	**$53,827**
Indirect Cost					$8,824	**$8,824**
Travel		$100				**$100**
Website		$475				**$475**
Printing		$630				**$630**
Contractual			$230,000			**$230,000**
CBO Support		$5,000				**$5,000**
Meetings		$1,144				**$1,144**
Total	**$17,736**	**$17,159**	**$230,000**	**$6,651**	**$28,454**	**$300,000**

Table 4. Petroleum Products Budget

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	$17,736	$9,810		$6,651	$19,630	**$53,827**
Indirect Cost					$8,824	**$8,824**
Travel		$100				**$100**
Website		$475				**$475**
Printing		$630				**$630**
Contractual			$230,000			**$230,000**
CBO Support		$5,000				**$5,000**
Meetings		$1,144				**$1,144**
Total	**$17,736**	**$17,159**	**$230,000**	**$6,651**	**$28,454**	**$300,000**

2.c. Ability to Leverage: ABAG is a regional planning agency that enables its members to develop sustainable projects. The coalition members have resources and leveraging opportunities to bring projects along this corridor to redevelopment. The coalition proposal is designed to position projects in corridor opportunity sites to attract investment that leverages existing and future funding sources, providing a substantial return on investment for the ESAs funded by the EPA.
Existing sources for cleanup and redevelopment include: the California DTSC Revolving Loan Fund, which provides up to $2.5M in low-cost financing for cleanup to facilitate projects similar to those anticipated on corridor opportunity sites; the California Water Resources Board's $200M Storm Water Grant Program, which can be used to fund new public spaces such as parks and community gardens identified on brownfield sites in community plans; the $400M state Affordable Housing and Sustainable Communities fund, which provides grants for mixed-income housing, active

transportation and green infrastructure in PDAs (including more than $7M won by Coalition Members in 2015); more than $100M in annual Low-Income Housing Tax Credits available to Bay Area Community Development Finance Institutions (such as community partner Bay Area LISC) to support affordable housing and community facilities; the $60M Transit Oriented Affordable Housing (TOAH) fund administered by MTC in partnership with ABAG. In addition to these existing sources, a range of potential new sources are under discussion, such as a Bay Area regional housing bond (potentially $500M annually) and a state housing bond similar to Proposition 1C ($3B), which was used successfully to support multiple brownfields reuse projects.

Local government partners may also choose to utilize California's Gatto Act to recover cleanup costs in cases where assessments reveal contamination for which there is a viable responsible party. The City of Oakland, for example, previously negotiated a $700,000 settlement from Chevron Corporation for cleanup of contamination characterized under a prior US EPA Assessment Grant for Oakland's Uptown Area.

In future years, coalition members may also establish Enhanced Infrastructure Finance Districts (EIFD), which would also become a source of leveraging. Enabled by a recent state law, EIFDs permit limited tax increment financing to fund infrastructure as well as remediation in areas (such as target area PDAs) consistent with regional Sustainable Communities Strategies (i.e. Plan Bay Area).

3 Community Engagement and Partnerships

3.a. Plan for Involving Targeted Community & Other Stakeholders; and Communicating Project Outcomes

3.a.i. Community Involvement Plan: The coalition's proposal leverages deep relationships with community stakeholders built during recent local and regional initiatives including Plan Bay Area, the HUD-funded Regional Prosperity Strategy, and recently adopted plans for the corridor's Priority Development Areas. After completing the MOA, coalition members will work with established partner community organizations to develop a community engagement plan tailored to the needs of the corridor's communities. We anticipate the community engagement plan will include the following:

- Convene five public meetings to: share information including project overview, composition and goals of the coalition, desired project outcomes, and timeline; receive input and feedback from community groups, property owners, local businesses and residents about site selection and land reuse planning; and share outcomes and discuss next steps
- Hold focus group meetings with interested members of the community to receive detailed input into project goals, site selection, and reuse planning
- Develop printed and online material on the overall project, opportunities for engagement, ESAs, and reuse planning; disseminate brochures in heavily traveled places along the corridor where they will be highly visible and accessible

3.a.ii. Communicating progress: The coalition will utilize methods that have proven successful in past regional and local planning initiatives. We are confident these methods will prove useful for this project but are continuously seeking best practices and open to modifying our approach if more effective methods are discovered. We anticipate that these will include:

- Establish community assistance telephone line to respond to inquiries from interested parties and residents; this will be particularly helpful for those without access to internet
- Create a web site that describes short and long term plans for the corridor, provides status of projects, and updates on overall progress (with translation as appropriate)

3.b. Partnerships with Government Agencies

3.b.i. Local/State Environmental Authority: The **California Department of Toxic Substances Control** (DTSC) oversees the investigation and remediation of Brownfield sites in the state. The target area is located in DTSC's Region IX Brownfield program. DTSC will be available to consult on the grant and provide input on site selection and other key decisions, as well as provide guidance on opportunities obtain future cleanup funding through sources such as its voluntary cleanup program and revolving loan fund.

3.b.ii. Other relevant Governmental Partnerships: ABAG is the sister organization to the Metropolitan Transportation Commission, which oversees regional transportation project funding. Together, ABAG and MTC are responsible for developing and implementing Plan Bay Area. In addition, ABAG maintains strong longstanding relationships with other regional planning and regulatory organizations including the San Francisco Regional Water Quality Control Board, Bay Area Air Quality Management District, and the County of Alameda's Department of Health Services and Public Health Department.

3.c. Partnerships with Community Organizations

3.c.i. Community Organization Description and Role: Community organization partners for this project include organizations that participated in the development of Plan Bay Area and community plans in coalition jurisdictions. ABAG and local coalition members have long standing relationships with many of these organizations and has successfully worked with them on many issues including housing, land use and social justice.

These organizations serve large communities along the corridor and focus on a number of issues including housing, open space and social equity. In addition to the organizations named, we will build on relationships and capacity developed through the HUD Sustainable Communities Grant. The coalition's goal is to design the work so that community organizations can maximize their effectiveness. To ensure community participation in this project, the budget includes funds to increase capacity and support these vital organizations.

Within 3 months of establishment of the MOA, ABAG will convene the community partners to provide a project overview, develop the community engagement plan, and solicit input about issues relevant to their areas of expertise. With assistance from the Coalition, community organization partners will organize and conduct public meetings in the portions of the corridor in which they have an established presence.

OCCUR is a community organization that brings together East Bay residents, merchants and governments to stimulate the economic development potential of emerging communities; it will focus on outreach and meeting facilitation. The **Unity Council** is a non-profit community development corporation with expertise in mixed-use development and building health communities; the Unity Council will provide insight into the development process as well as conduct outreach. **TRANSFORM** is a sustainable transportation organization active across the Bay Area and California, with a particular focus on the East Bay; TRANSFORM will focus on meeting facilitation and technical assistance around Transit-Oriented Development. **Greenbelt Alliance** is a Bay Area non-profit with expertise in meeting facilitation and smart growth policy; it will focus on meeting facilitation and providing technical assistance around conservation. **Bay Area LISC** is a community development finance institution (CDFI) responsible for distributing federal low-income tax credits and providing comprehensive place-based support to low income communities; LISC, which has built nearly 12,000 homes and apartments and over 1.4M square feet of community-serving development in the East Bay and larger Bay Area, will provide insight into funding strategies for projects on opportunity sites.

4. Project Benefits

4.a.i. Health and/or Welfare Benefits: The ESAs and reuse strategies funded by this grant are an important step in addressing the severe health impacts discussed in *Community Need.* Assessment followed by cleanup and redevelopment will help eliminate the risks of exposure to site contaminants, thereby protecting nearby and sensitive populations such as children and young single mothers in poverty. Reducing the population's exposure to contaminants will have the long term effect of potentially reducing cancer rates, increasing life expectancy and improving quality of life while also reducing risks to workers involved in future construction projects on these sites. Assessments that remove suspicions of contamination would provide the additional level of certainty required for public and private investment, allowing projects that implement community priorities to move ahead.

As local PDA plans recommend land uses that serve the existing community, including parks and affordable housing, the redevelopment of opportunity sites facilitated by this grant will combine health, welfare and economic benefits. In addition to creating job opportunities and reducing blight, many projects will provide services that address the immediate challenges facing corridor residents. Health and wellness centers, for example, are integrated into recent mixed-use housing developments in the area such as the Lion Creek Crossings in Oakland, a Phoenix Award winner. Other recent projects, such as the REACH Ashland Youth Center, a park with youth services, provide comprehensive wrap-around services including literacy, job training, and health.

Bringing new homes and businesses into target area will also help address disproportionately high levels of obesity and diabetes by increasing the number of local services, such as grocery stores, that can be reached on foot while also supporting higher levels of transit service. Consistent with local plans, projects on opportunity sites will provide easements for new pedestrian and bicycle connections, improving opportunities for active transportation and increasing greenspace. By increasing the use of sustainable modes of transportation, reuse will also help reduce emissions associated with asthma such as TAC and PM.

4.a.ii. Environmental Benefits: The ESAs funded by this grant will facilitate the removal of an array of contaminants that have for years damaged the soil, groundwater, stormwater, and indoor air quality of the target area such as PCBs, TCE, PCE, and TPH. In addition to addressing community environmental quality, contaminant removal will reduce risks to the health of the San Francisco Estuary from contaminated stormwater and the East Bay's water supply from groundwater contamination. The ESAs will also provide clarity on the relative risk of different sites, allowing future cleanup efforts to focus on locations that pose the greatest risks.

As development in the target area advances—spurred by the brownfield revitalization that this project and major transit investments will support—transportation options will expand and travel along the corridor will shift toward more sustainable modes. This will help reduce the pollution associated with auto travel, reducing concentrations of PM and TAC due to growing congestion on I-880. The addition of urban greening as amenities and required mitigation measures in new projects will also play an important role in comprehensively addressing air quality and other potential environmental and health risks. Parks, for example, will mitigate air quality impacts by adding trees that filter airborne contaminants while also mitigating soil and groundwater contamination through stormwater features such as bioswales that remove silt and pollution from surface runoff water.

4.b. Environmental Benefits from Infrastructure/Sustainable Reuse

4.b.i. Policies, Planning and Other Tools: The project will leverage a host of local and regional policies, tools and infrastructure investments. Community plans adopted across the target area provide zoning, anti-displacement and environmental mitigation measures that together support the development of affordable and mixed-income housing, retention of local residents, and increased

transportation choices, and healthier. Green building programs in each of the coalition partner cities will help insure that redevelop in the corridor is energy-efficient and promotes human health.

Supporting these policy tools is: regional technical assistance on placemaking, active transportation, and parking management provided by ABAG and the Metropolitan Transportation Commission through the regional PDA planning program; forthcoming Healthy Communities guidelines from the Bay Area Air Quality Management District; and stormwater best management practices disseminated by the SF Estuary Partnership.

Redevelopment in the target area spurred by the grant will leverage major federal, state and regional transit investments, including: the $200 million East Bay BRT, the first full Bus Rapid Transit route in the Bay Area; more than $1B in improvements to BART to increase frequency, capacity and safety; and multiple complete streets projects that support active transportation funded by Plan Bay 2013 regional transportation funding.

4.b.ii. Integrating Equitable Development or Livability Principles: The project will implement HUD-DOT-EPA Livability Principles as well as the equitable development policies integrated in the adopted local and regional plans of coalition members. To achieve HUD-DOT-EPA Livability Principles, it will **provide more transportation choices** by focusing mixed-use development at transit-supportive densities within walking distance of frequent, affordable public transit (BART and East Bay BRT), improving the public realm and travel conditions for healthy, active transportation such as walking and bicycling; **promote equitable, affordable housing** by setting the stage for projects that implement community plans calling for mixed-income housing that serves all age groups and backgrounds, addresses displacement pressures that are increasingly pushing low-income Bay Area families to move to outer areas of the region with higher transportation costs, and building homes in places with strong green building codes; **enhance economic competitiveness** by reducing the blight in the target area to make it more attractive to investors and small businesses, enlarging the customer base for local shops and services, setting the stage for major job-producing projects envisioned in local plans, and increasing access to transit that reaches the region's major employment and educational opportunities within ½ hour ; **support existing communities** by facilitating land recycling that will revitalize the corridor's communities, make efficient use of existing infrastructure, and focusing development on opportunity sites identified in plans driven by existing communities; **coordinate and leverage federal policies and investment** by taking an integrated implementation approach that aligns with recent federal investments including East Bay BART ($81M FTA Small Starts Grant), eight pilot projects in the target area to support equitable transit-oriented development and job creation (through the Bay Area's $5M HUD Sustainable Communities Grant), and hundreds of energy retrofits and renewable energy installations funded through Renewable Energy and Consumer Energy Efficiency Tax Credits; and **value communities and neighborhoods** by facilitating future development that includes much-needed public space, public realm improvements, and health care and other supportive services currently not adequately provided—improving community health, safety and walkability.

The project will also implement Play Bay Area policy to increase community stability and support affordable housing in transit-rich.[29] By helping build the mixed-income projects identified in local plans for opportunity sites, it implements anti-displacement policies in community plans for target area neighborhoods, such as the International Blvd TOD Plan's policy to provide equitable housing choices that leverage East Bay BRT stops[30] and the Ashland/Cherryland Business District Specific

[29] ABAG and MTC (2013), *Plan Bay Area*

[30] City of Oakland (2011). *International Blvd TOD Plan*

Plan's policy to reinforce the area's cultural diversity by promoting the area as a cultural and economy center.[31]

4.c Economic and Community Benefits

4.c.i. Economic and Other Benefits: Completion of these assessments will build a pipeline of mixed-use transit-oriented projects in locally identified opportunity sites along the corridor, positioning these struggling neighborhoods to take advantage of private investment and new local, state and regional funding. In addition to a growing pool of private real estate investment, new competitive public funding sources such as California's Affordable Housing and Sustainable Communities (AHSC) program (which uses the proceeds of Cap and Trade auctions) have emerged to support affordable housing and active transportation. The target area is among the most competitive in the state for this funding as a result of its demographic and environmental challenges; in the fund's first year alone, the corridor received $13 million in funding which will support construction of 220 units, leveraging $60 million in additional funds. The fund more than triples in 2016 and is expected to grow further in future years, increasing the timeliness of completing ESAs. The anticipated economic benefit of redevelopment facilitated by this grant is estimated at between $230 million to $560 million in immediate benefits and between $7 million to $14 million in ongoing annual local government revenue—enough to fund 35 to 70 mid-level police officers. Job creation is estimated at between 1,600 to 3,200 immediate jobs and between 450 and 900 ongoing positions supported by the redevelopment. One to two thousand new mixed-income homes are expected, as well as commercial development, community services and retail.[32] A 1% increase in the value of existing homes in the corridor spurred by reinvestment would create approximately $10 million in additional property taxes per year.

4.c.ii: Job Creation Potential: Partnerships with Workforce Development Programs: The Coalition will identify a process for integrating workforce development programs into the assessment, cleanup and redevelopment of sites for which ESAs are conducted. This will involve consulting with and identifying partners such as the Alameda County Workforce Investment Board (WIB) and recent EPA Environmental Workforce Development and Job Training Grantees in Oakland and Richmond. In the redevelopment process, local first source hiring policies would leverage workforce development programs as well.

5 Programmatic Capability and Past Performance

5.a. Programmatic Capability: ABAG is the Council of Governments for the San Francisco Bay Area and is well qualified to undertake the role of administering the Brownfields Coalition Assessment grant. As the designated regional planning agency for the Bay Area, ABAG has a long standing history of successfully tackling complex regional issues such as housing, hazard mitigation, resilience, economic development, regional land use, and the conservation. The staff that will administer the grant are directed by the Executive Director, the Finance Director and Planning Director. **JoAnna Bullock** is a Senior Planner and Grant Administrator; she will oversee the overall project ensuring that coalition partnerships, community engagement and site assessments are managed and projected outcomes are achieved. She has 30 years of project management experience and expertise in grant management, environmental issues including hazardous waste sites and community engagement. **Mark Shorett** is a Senior Regional Planner; he will lead day to day

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[31] County of Alameda (2014).

[32] Calculations in this paragraph based upon National Association of Homebuilders *Economic Impact of Home Building in a Typical Local Area* (2015), assuming between 10 and 20 100-unit multifamily housing projects as a result of redevelopment, consistent with a parcel size of 2 acres at 50 du/acre per local zoning. Similarly sized projects in the area include the Marea Alta apartments and Fruitvale Transit Village.

engagement with coalition members and community partners. Currently managing PDA Implementation and the East Bay Corridor Initiative, he has twelve years of experience in project management, redevelopment, urban design (including schematic architectural and site design), and economic development.

Through a consensus process established in the MOA, ABAG and other coalition members will hire contractors with the expertise required to conduct the ESAs involved in completing the grant. All procurements will follow EPA requirements.

5.b. Audit Findings: ABAG's most recent audit did not disclose any significant deficiencies, or material weaknesses or instances of noncompliance material to the basic financial statements. ABAG has implemented procedures to ensure compliance with all reporting requirements of federal grants and maintain evidence of submission accordingly.

5.c. Past Performance and Accomplishments

5.c.i. Currently or Has Ever Received an EPA Brownfields Grant (N/A)

5.c.ii. Has Not Received an EPA Brownfields Grant but has Received Other Federal or Non-Federal Assistance Agreements:

Purpose: ABAG's Resilience Program has received five grant awards from the US Geological Survey (USGS) since 2010 (a total of $412, 087) to advance hazard mitigation and recovery efforts in the region including: "Using Risk Communication Research for Improved Integration of Hazard, Risk, and Mitigation Information into ABAG's Bay Area Earthquake Website" (2010, $80,000); "A Sub-Regional Review of Earthquake-related Hazards in the San Francisco Bay Area" (2012, $80,000); "Bay Area Population and Earthquake Risk" (2013, $93,000); "Local Government Resilience Toolkit" (2014, $90,816); "Bay Area Housing Risk Communication" (2015, $68,271). ABAG also received a Smart Growth Implementation Assistance grant from the Environmental Protection Agency (EPA)'s Smart Growth Program (2014, $93,000), entitled Creating Safe, Smart Growth Strategies for the San Francisco Bay Area.

Accomplishments: ABAG utilized 2010 and 2012 USGS grants to redesign its natural hazards resilience website and to improve overall communication of risk and distribute mitigation strategies to local governments and the general public. The 2013 USGS grant enabled ABAG to assess the overlapping risks of disaster-vulnerable housing types, vulnerable populations, and areas subject to earthquakes and current and future flooding; this effort culminated in a suite of strategies for local governments for housing and community resilience. ABAG utilized a 2014 grant to refine a selection of these strategies to assist local governments in adopting mitigation and adaptation actions such as soft-story ordinances. A 2015 grant is enabling ABAG to more accurately model housing loss during major disasters and to improve tools to assist residents in retrofitting their homes and preparing for disasters.

The EPA Smart Growth Implementation Assistance grant leveraged the USGS 2013 grant to develop responsive, regionally-appropriate strategies to address the housing and vulnerable population risks identified in the project for both existing and future development.

2. Compliance with Grant Requirements: Our staff worked cooperatively with USGS; tasks were performed according to work plans, work products were delivered on schedule, terms and conditions of past grants were strictly adhered to, all reporting requirements were met, and the grants were properly closed. Staff worked closely with USGS, meeting monthly to develop the deliverable and ensure that the schedule was met.

ATTACHMENT A

Letter from California Department of Toxic Substances Control

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Barbara A. Lee, Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

November 20, 2015

Ms. Noemi Emeric-Ford
Site Assessment Manager
Brownfields and Site Assessment Section
USEPA Region 9
600 Wilshire Boulevard
Los Angeles, California 90017-3212

Dear Ms. Emeric-Ford:

The California Department of Toxic Substances Control (DTSC) has lead regulatory responsibility for investigating and remediating hazardous substances release sites in California. DTSC fully supports the Association of Bay Area Governments (ABAG) grant application for a $600,000 ($300,000 for hazardous substances and $300,000 for petroleum) Community-wide U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County. ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, Hayward and Alameda County.

The coalition proposes to use the Community-Wide Assessment Grant, to assess sites identified by the local jurisdictions based on previous land use and location. Assessments would focus on areas within low-income neighborhoods that have been disproportionately impacted by pollutants and contamination. These Brownfields funds would help advance the growth of housing, local businesses and services within these communities.

We appreciate the opportunity to voice our support for this crucial funding.

Please contact me at (510) 540-3833 or janet.naito@dtsc.ca.gov if you have any questions.

Sincerely,

Janet Naito, Branch Chief
Berkeley Cleanup Operations Branch
Brownfields and Environmental Restoration Program

cc: JoAnna Bullock (via electronic mail to: JoAnnaB@abag.ca.gov)
Association of Bay Area Governments

ATTACHMENT B

Memorandum of Agreement

East Bay Corridor Brownfields Coalition

MEMORANDUM OF AGREEMENT
EAST BAY CORRIDOR BROWNFIELDS COALITION

This Memorandum of Agreement (MOA) is entered into by and between the following participating entities:
Association of Bay Area Governments
County of Alameda
City of Hayward
City of Oakland
City of San Leandro

I. Purpose of the Agreement

The purpose of this agreement sets out the terms by which the participating entities will work together to implement a Brownfields site identification and assessment program along the East Bay Corridor. This agreement will remain in effect from July 2016 to June 2019 and Senior Regional Planner Mark Shorett will be the key contact for ABAG.
This agreement sets out the terms by which the County of Alameda and the Cities of Oakland and Hayward will meet, make decisions, select sites, hire consultants and work with stakeholders and the communities surrounding the project area.

II. Background

In September 2013, the East Bay Corridors Initiative was formed as an implementation strategy for realizing Plan Bay Area, the region's long range sustainable growth plan. The East Bay Corridor is divided into two segments: the Oakland-Union City Corridor and the San Pablo Corridor. This agreement concerns a significant portion of the Oakland-Union City segment.

The activities to be undertaken by coalition Participants of the East Bay Corridor Initiative include:

- develop strategies to create thriving neighborhoods and downtowns
- identify and develop funding sources for plan implementation
- endorse joint applications by coalition Participants for grants and other funding that support agreed upon strategies

The East Bay Corridor Brownfields Coalition Assessments align well with the activities of the East Bay Corridors Initiative. Identifying and conducting site assessments along the Oakland, San Leandro, Hayward, Alameda County segment of the corridor will improve public health, advance implementation of local plans, increase marketability of land and greatly enhance land re-use along the corridor.

III. Proposed Activities

The Participants of the coalition will undertake the following activities.

- Meet on a regular basis as determined by coalition Participants
- In partnership with community organizations, develop a robust community engagement plan
- Allocate funding to increase capacity of community organization partners
- Develop a site selection process that prioritizes sites with high redevelopment impact potential

- Hire most appropriate and qualified consultants to conduct site assessments
- Assist with the development of land re-use plans

IV. Roles and Responsibilities
Each Participant of the coalition will have the following responsibilities:

- Each coalition Participant will assign a representative to the EBC Brownfields Program
- Each coalition Participant will participate in regular meetings, development of public engagement plan, site selection and consultant hiring process

V. Structure and Governance
For ease of formation and administration and to maintain flexibility, the East Bay Corridor Brownfields Coalition is structured as an unincorporated association of local and regional public entities. The coalition Participants agree that this MOA is independent of any other contract(s) or agreement(s) between or among the coalition Participants, or the contracts(s) or agreement(s) between or among any Corridor Jurisdiction that are promulgated to implement a grant or local plan.

Each coalition Participant will assign a representative and these representatives will collectively coordinate activities undertaken pursuant to this MOA. Through a unanimous vote representatives may establish rules related to decision making for the coalition.

Every representative has the right to appoint an alternative to the coalition.

VI. Participant Resources and Compensation
The coalition Participants acknowledge that the East Bay Corridor Brownfields Coalition is likely to require some investment of resource to be effective. Each coalition Participant will assign staff, at no cost, to act as its representative.

Financial support will be provided to community and non-profit organizations to facilitate their active participation in the project.

VII. Withdrawal and Termination
This MOA will continue until terminated by majority vote of the representatives, but coalition Participants may withdraw from this MOA on sixty (60) days notice to other coalition Participants. If a coalition Participant withdraws from the coalition, management of active Phase I and II assessments in their jurisdiction will be transferred to ABAG.

VIII. Amendments
This MOA may be amended by written agreement executed by the Participants in the same manner as this MOA.

IX. Effective Date
This MOA is effective upon the date the Participants execute the MOA

X. Signatures of Parties' Principals

ATTACHMENT C

Letters of Support

East Bay Corridor Brownfields Coalition Participants

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

Chris Bazar
Agency Director

Albert Lopez
Planning Director

224
West Winton Ave.
Room 111

Hayward
California
94544

phone
510.670.5400
fax
510.785.8793

www.acgov.org/cda

December 14, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport:

The County of Alameda is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the County's Ashland-Cherryland Business District (ABCD) Specific Plan, Plan Bay Area, and our ongoing partnership to collaborate with ABAG and our neighboring jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by community members and in the ABCD Specific Plan. Strong support exists for creating much-needed community services, mixed-income housing, and economic development in this area, but ongoing concerns regarding environmental issues have limited the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city projects, including our update to the Ashland-Cherryland Specific Plan funded by MTC and ABAG, the REACH youth center, and multiple streetscape improvements. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact us with any questions regarding these commitments.

Sincerely,

Albert Lopez
Planning Director

CITY OF
HAYWARD
HEART OF THE BAY

November 20, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport:

The City of Hayward is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's Mission Blvd Corridor Specific Plan/Form-Based Code and South Hayward/Mission Boulevard Form-Based Code, Plan Bay Area, and the East Bay Corridors Initiative—our ongoing effort to collaborate with ABAG and our neighboring East Bay jurisdictions.

The grant award would set the stage for the redevelopment of key opportunity properties identified in our recently adopted plans for Mission Boulevard. Strong support exists for creating new mixed-income housing, community services, and job-creating land uses in this area. However, ongoing concerns regarding environmental issues have limited somewhat the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city efforts, including the current Downtown Hayward Specific Plan project, transportation improvements to Mission Boulevard and Foothill Boulevard, and redevelopment sites along Mission Boulevard and in Downtown. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect our cities. Please feel free to contact me with any questions regarding these commitments.

Sincerely,

David Rizk
Development Services Director
City of Hayward

Development Services Department
777 B Street, Hayward, CA 94541-5007
Tel: 510/583-4234 Fax: 510/583-3650 TDD: 510/247-3340 Website: www.hayward-ca.gov

CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Office of the City Administrator
Department of Economic and Workforce Development

(510) 238-3627
FAX (510) 238-2226
TDD (510) 238-3254

December 17, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

The City of Oakland is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the International Boulevard/East 14th Street/Mission Boulevard corridor, including five Bay Area Rapid Transit (BART) station areas, in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's recently adopted Coliseum Area Specific Plan, International Boulevard Transit-Oriented Development (TOD) plan, Plan Bay Area, and our ongoing partnership with ABAG and our neighboring jurisdictions in the East Bay Corridors Initiative.

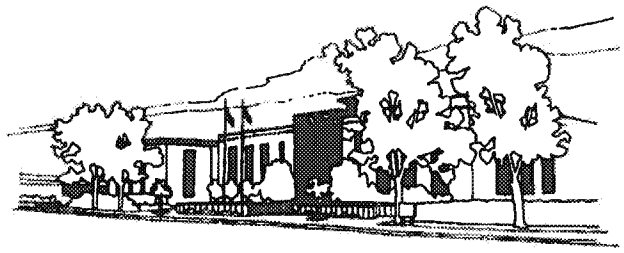
The grant award would set the stage for the redevelopment of key opportunity properties identified by community members. Our recent planning efforts have created momentum for implementing community priorities (i.e. affordable housing, local parks, and job creation) on these sites, but ongoing concerns regarding safety and environmental issues have limited public and private capacity for redevelopment. In addition, the loss of redevelopment agencies and city budgetary limitations has significantly diminished our resources to fund the type of effort that would be supported by this grant. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and continue to participate in the creation of a successful transit corridor between Oakland and Hayward.

The grant would leverage multiple planning and infrastructure investments, including the Oakland Sustainable Neighborhoods Initiative (OSNI) and International Blvd TOD Plan supported by the California Strategic Growth Council (SGC), the East Bay Bus Rapid Transit (BRT) project funded by AC Transit, ongoing investments in BART and improvements to International Blvd and other streets in the corridor funded by the Alameda County Transportation Commission. This application provides an opportunity to build upon these resources while implementing a collaborative local, regional, and corridor vision for smart, healthy, equitable development.

Sincerely,

Mark Sawicki
Director
Economic & Workforce Development Department

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577
www.sanleandro.org



December 3, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments (ABAG)
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

The City of San Leandro is pleased to support and participate in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of two key City specific plans, the Downtown TOD Strategy and East 14th South Area Strategy, as well as Plan Bay Area and our ongoing partnership with ABAG and neighboring East Bay jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by the City Council and community in our adopted Downtown and East 14th Street plans. Strong public support exists for creating much-needed community services, mixed-income housing, and economic development in these areas, but ongoing concerns regarding environmental issues are a factor in developing some of the opportunity sites. The recent loss of our redevelopment agency and our ongoing budgetary limitations have also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple and recent grant-funded City projects including streetscape improvements in the Downtown TOD plan area and the Bay Fair TOD Specific Plan currently underway. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact Tom Liao, Deputy Community Development Director, 510-577-6003, with any questions regarding these commitments.

Sincerely,

Cynthia Battenberg, Community Development Director

Pauline Russo Cutter, Mayor

City Council: Deborah Cox, Jim Prola, Benny Lee, Ursula Reed, Corina N. López, Lee Thomas

ATTACHMENT D

Letters of Support

East Bay Corridor Brownfields Coalition

Community Organization Partners

SAN FRANCISCO SAN JOSE SANTA ROSA WALNUT CREEK

GREENBELT ALLIANCE

San Francisco Office
312 Sutter Street, Suite 510
San Francisco, CA 94108
(415) 543-6771

December 17, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

RE: U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor

Dear Mr. Rapport:

Greenbelt Alliance is the champion of the places that make the Bay Area special. We ensure the right development happens in the right places. Through land-us policy and planning expertise, engagement with decision makers, and efforts to educate and engage Bay Area residents, we work to protect the region's open spaces and make sure cities grow in a way that creates great neighborhoods for everyone.

Greenbelt Alliance has worked with community leaders and residents across the Bay Area to develop plans and approaches to bring development that will help meet community needs to areas around transit stations and along major transportation corridors. Done right, growth of this type will help reduce pressure to sprawl into the Bay Area's greenbelt, mitigate our region's impact on the climate, revitalize long neglected areas, and provide homes and access to jobs for Bay Area residents most in need.

Because of its consistency with our objectives, **Greenbelt Alliance supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG).** ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Greenbelt Alliance looks forward to participating in the community engagement process and the overall project. We anticipate that this will be a successful project that has the potential to improve services and increase mixed-income housing and economic development in East 14th Street/Mission Boulevard communities.

Sincerely

Jeremy Madsen
Executive Director

LISC Bay Area

December 14, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

Bay Area Local Initiatives Support Corporation (LISC) supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Bay Area LISC will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

Marsha G. Murrington
Director of Economic Development

LOCAL INITIATIVES SUPPORT CORPORATION
369 Pine Street, Suite 350 • San Francisco, CA 94104 • Phone 415-397-7322 • Fax 415-397-8605
WWW.BAYAREALISC.ORG

OCCUR
Creating Communities of Opportunity

December 16, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

OCCUR supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application of behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The Grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members.The funds will be utilized to assess high priority potential Brownfields sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

OCCUR will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

Sondra Alexander
Executive Director

1330 Broadway, Suite 905 | Oakland, CA 94612 ph(510) 839-2440 fax (510) 268-9065 occur@sbcglobal.net
www.occurnow.org

TransForm

Our communities. Our transportation. Our future.

December 11, 2015

Ezra Rapport, Executive Director
Association of Bay Area Governments
101 8th Street
Oakland, CA 94607

Dear Mr. Rapport,

TransForm supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself; Alameda County; and the Cities of Oakland, San Leandro and Hayward.

The East 14th Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

TransForm will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely

Stuart Cohen

Stuart Cohen
Executive Director

MAIN OFFICE: 436 14TH STREET, SUITE 600, OAKLAND, CA 94612 | T: 510.740.3150 |
SACRAMENTO: 717 K STREET, SUITE 300, SACRAMENTO, CA 95814 | T: 916.441.0204 |
SILICON VALLEY: 48 SOUTH 7TH STREET, SUITE 103, SAN JOSE, CA 95112 | T: 408.406.8074 |

WWW.TRANSFORMCA.ORG

THE UNITY COUNCIL

Date: December 9, 2015

The Unity Council supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14th Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward, and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, and Hayward and Alameda County.

The East 14th Street/Mission Boulevard corridor has a rich cultural history. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. In light of the current Bus Rapid Transit line in development along International Boulevard/E. 14th Street, this vital artery is poised to play a center role in the area's ability to undergo sustainable growth.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential Brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

The Unity Council will participate in the community engagement plan and the overall project. We look forward to successful project outcomes including improved services and increased mixed-income housing and economic development in our communities.

Sincerely,

X

Erin Patch
Executive Vice President

The Unity Council
1900 Fruitvale Ave Ste 2A, Oakland, CA 94601
510-535-6900 Office • 510-534-7771 Fax • www.unitycouncil.org

OMB Number: 4040-0004
Expiration Date: 8/31/2016

Application for Federal Assistance SF-424

* 1. Type of Submission:
- [ ] Preapplication
- [x] Application
- [ ] Changed/Corrected Application

* 2. Type of Application:
- [x] New
- [ ] Continuation
- [ ] Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received: 12/18/2015

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: Association of Bay Area Governments

* b. Employer/Taxpayer Identification Number (EIN/TIN): 94-2832478

* c. Organizational DUNS: 0790739200000

d. Address:

* Street1: MetroCenter, 101 8th Street
Street2:
* City: Oakland
County/Parish:
* State: CA: California
Province:
* Country: USA: UNITED STATES
* Zip / Postal Code: 94607-4756

e. Organizational Unit:

Department Name: Planning Department

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: Ms.
* First Name: JoAnna
Middle Name:
* Last Name: Bullock
Suffix:

Title: Senior Grants Administrator

Organizational Affiliation: Association of Bay Area Governments

* Telephone Number: 510 464-7968
Fax Number: 510 464-7985

* Email: joannab@abag.ca.gov

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

E: Regional Organization

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

Environmental Protection Agency

11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

*** 12. Funding Opportunity Number:**

EPA-OSWER-OBLR-15-04

* Title:

FY16 Guidelines for Brownfields Assessment Grants

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment Delete Attachment View Attachment

*** 15. Descriptive Title of Applicant's Project:**

East Bay Corridor Brownfields Coalition Assessments

Attach supporting documents as specified in agency instructions.

Add Attachments Delete Attachments View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: CA-013
* b. Program/Project: CA-013

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 07/01/2016
* b. End Date: 06/30/2017

18. Estimated Funding ($):

* a. Federal	600,000.00
* b. Applicant	0.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	600,000.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☒ a. This application was made available to the State under the Executive Order 12372 Process for review on 12/18/2015.

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☐ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Ms. * First Name: JoAnna

Middle Name:

* Last Name: Bullock

Suffix:

* Title: Senior Grants Administrator

* Telephone Number: 510 464-7968 Fax Number: 510 464-7985

* Email: joannab@abag.ca.gov

* Signature of Authorized Representative: JoAnna Bullock * Date Signed: 12/18/2015

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 1/30/2018 3:29:44 PM
To: ryan.fitzpatrick@dot.gov
Subject: FW: Port of Oakland and City of Oakland

Fyi. I called her and let her know status.

From: de Kervor, Dylan (CRT) [mailto:Dylan.Dekervor@usdoj.gov]
Sent: Tuesday, January 30, 2018 10:02 AM
To: Temple, Kurt <Temple.Kurt@epa.gov>
Subject: Port of Oakland and City of Oakland

Hi Kurt,

I hope you're doing well!

I'm just following up on your December 21 voicemail Enforcement/Investigatory / Ex. 7(a)
Enforcement/Investigatory / Ex. 7(a)

Thanks,
Dylan

Dylan Nicole de Kervor, J.D., M.S.W.
Attorney

U.S. Department of Justice | Civil Rights Division
Federal Coordination & Compliance Section
950 Pennsylvania Avenue NW (NWB) - Washington, DC 20530-0001
dylan.dekervor@usdoj.gov | phone: 202.616.2271 | www.justice.gov/crt/cor

Message

From: Temple, Kurt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D2E00DC2545473BA5B73B4893E55B7B-TEMPLE, KUR]
Sent: 1/30/2018 12:12:56 AM
To: Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]
Subject: Re: Oakland Deliberative Process / Ex. 5

Yep. Take a chance.

Sent from my iPhone

On Jan 29, 2018, at 5:22 PM, Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov> wrote:

Ok, good catch. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Ryan N. Fitzpatrick, Esq.
Lead Civil Rights Analyst
Departmental Office of Civil Rights
Office of the Secretary
U.S. Department of Transportation
W78-312
(202) 366-1979

From: Temple, Kurt [mailto:Temple.Kurt@epa.gov]
Sent: Monday, January 29, 2018 5:00 PM
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>
Subject: Oakland Deliberative Process / Ex. 5
2018.1.29.docx

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Kurt T. Temple
Senior Advisor
External Civil Rights Compliance Office
EPA Office of General Counsel
1200 Pennsylvania Avenue, NW
Room 2524R
Washington, D.C. 20460
202-564-7299