

COASTAL CONSERVANCY

Staff Recommendation

July 21, 2011

**SAN FRANCISCO BAY TRAIL: FRUITVALE AVENUE TO HIGH STREET BAY
TRAIL GAP CLOSURE**

Project No. 07-063-26

Project Manager: Ann Buell

RECOMMENDED ACTION: Authorization for the Association of Bay Area Governments (ABAG) to disburse up to \$200,000 (two hundred thousand dollars) of previously granted Conservancy funds to the City of Oakland for the construction of a 0.1- mile San Francisco Bay Trail segment between Fruitvale Avenue and High Street along the Oakland Estuary in Alameda County.

LOCATION: Between Fruitvale Avenue and the High Street Bridge adjacent to the Oakland Estuary near San Leandro Bay, Oakland, Alameda County (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: [Project Location and Site Maps](#)

Exhibit 2: [Photographs](#)

Exhibit 3: [Environmental Impact Report for City of Oakland Measure DD Implementation Project](#) (Provided to public on CD upon request)

Exhibit 4: [Project Letters](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the Association of Bay Area Governments (ABAG) to disburse up to \$200,000 (two hundred thousand dollars) of previously granted Conservancy funds to the City of Oakland for the construction of a 0.1-mile San Francisco Bay Trail segment between Fruitvale Avenue and High Street along the Oakland Estuary in Alameda County, subject to the following conditions:

1. Prior to the disbursement of funds, ABAG shall submit for the review and approval of the Executive Officer of the Conservancy a final work program, schedule and budget, and a grant agreement between ABAG and the City of Oakland.

2. ABAG shall ensure installation of signs identifying the trail segments and acknowledging the Conservancy and displaying its logo in a manner approved by the Executive Officer.
3. In carrying out the project, ABAG shall ensure compliance by the City of Oakland with all project actions, components and mitigation measures that are identified as needed to reduce or avoid significant environment effects in the Environmental Impact Report for the “City of Oakland Measure DD Implementation Project” certified by the City of Oakland on February 13, 2008 pursuant to the California Environmental Quality Act (CEQA), and accompanying the project staff recommendation as Exhibit 3.
4. ABAG shall provide documentation during the course of the project that the required project actions and mitigation measures have been implemented by or on behalf of the City of Oakland.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of the San Francisco Bay Area Conservancy Program, Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165.
3. The Conservancy has independently reviewed the Environmental Impact Report for the “City of Oakland Measure DD Implementation Project” certified by the City of Oakland on February 13, 2008 pursuant to CEQA and finds no substantial evidence that the project as proposed, and with the identified measures to avoid, reduce or mitigate the possible significant environmental effects, will have a significant effect on the environment.”

PROJECT SUMMARY:

Staff recommends that the Conservancy authorize the Association of Bay Area Governments (ABAG) to disburse up to \$200,000 (two hundred thousand dollars) of previously granted Conservancy funds (known as “San Francisco Bay Trail Block Grant #4”) to the City of Oakland for the construction of a .1- mile San Francisco Bay Trail segment between Fruitvale Avenue and High Street along the Oakland Estuary in Alameda County. The proposed trail will be a Class I, concrete trail that runs along the shoreline of the Oakland Estuary. It will have a maximum width of 12 feet, with portions that narrow down to a width of 10 feet due to constraints on both the landward and estuary sides of the proposed path (Exhibits 1 and 2). As a result of these constraints, the trail will be constructed on a steel, pile-supported structure, above the Mean High Water line, and the total project cost is \$1,600,000. The proposed project will include some minimal landscaping and a 4-foot-high guardrail on the shoreline side of the trail.

This project will close the gap between the existing Bay Trail segment extending south from Fruitvale Avenue and the existing Bay Trail segment extending north from High Street (Exhibits

1 and 2). When completed, this Fruitvale to High segment will be part of the longer 6.6-mile “Oakland Waterfront Trail” portion of the Bay Trail. Among its many objectives, the City of Oakland’s Measure DD, approved by Oakland voters in November 2002, includes Oakland Waterfront Trail and Access Improvements to help close gaps such as this between Jack London Square and 66th Avenue in Oakland. As explained in more detail under “Project History,” below, several other segments of this section of the Bay Trail have already been completed using both Bay Trail and Measure DD funding. The Oakland Waterfront Trail will have a high potential for being a non-motorized commute corridor.

The City of Oakland has cooperated with many community groups and agencies including the Bay Trail Project to complete the Bay Trail in this area. Although their grant request to the Recreational Trails Program in 2008 did not meet with success, the support letters sent to the City of Oakland show strong community involvement and enthusiasm. Those letters are attached as Exhibit 4 and include Alameda County Transportation Improvement Authority, Assemblymember Sandre Swanson, Oakland City Council Member Ignacio De La Fuente, Civicorps Schools, and The Unity Council. The project has a very high matching contribution with \$1,400,000 from the City of Oakland’s Measure DD funds. The grant amount requested from the Bay Trail Project would represent less than 13% of the total project cost.

This project is located in Oakland, a city categorized by the 2000 U.S. census as having 19% of the population living below the poverty level.

Site Description: The proposed project is located on the Inner Harbor between Oakland and the City of Alameda along a narrow strip of shoreline (Exhibits 1 and 2). It is in a degraded, industrial area but the views looking toward the water and Alameda are scenic, and minimal landscaping will be established along the new trail to be constructed. This segment of Bay Trail is located within the Oakland Waterfront Trail corridor that is among the areas analyzed in the City of Oakland Measure DD Implementation Project Environmental Impact Report. It is referred to as the “US Audio/Capture Technologies and Friendly Transportation Trail Connection.” The City of Oakland has already obtained access easements to the two private properties in this segment. Those easements include the City of Oakland’s commitment to trail maintenance.

The location of this segment of Bay Trail is very important, as it is relatively near the Fruitvale BART (Bay Area Rapid Transit) station, and is along a bicycle corridor that will one day be continuous between downtown Oakland and MLK, Jr. Regional Shoreline in San Leandro, in addition to its proximity to two bridges connecting Oakland with Alameda.

Project History: The proposed project will build on several previous Conservancy projects. First, it will be consistent with a 2001 Conservancy grant of \$400,000 to the City of Oakland and the San Francisco Bay Trail Project to plan and design a continuous bicycle and pedestrian pathway along the Oakland Estuary from Jack London Square to the Oakland International Airport, an approximately nine-mile stretch that encompassed the Measure DD Implementation Project area. That project resulted in the *Oakland Waterfront Trail: Bay Trail Feasibility & Design Guidelines* document. In 2006, a Conservancy grant of \$193,000 allowed the City of Oakland to complete .2 miles of Class 1 Bay Trail improvements within the Oakland Waterfront Trail area on a nearby segment of Alameda Avenue. In June 2008, the Conservancy authorized ABAG to use \$400,000 of previously granted Conservancy funds (from Bay Trail Block Grant #4) to help the City of Oakland build the “Cryer Boathouse” and then the “Derby to Lancaster

Street” sections of the Bay Trail, each about 450 feet in length and within the Oakland Waterfront Trail area along the Oakland Estuary.

PROJECT FINANCING

Coastal Conservancy	\$ 200,000.00
City of Oakland Measure DD	<u>\$1,400,000.00</u>
Total Project Costs	\$1,600,000.00

The Conservancy’s contribution is proposed as a portion of a \$3,000,000 Conservancy augmentation authorization of December 4, 2008 for the San Francisco Bay Trail Block Grant #4. Conservancy funds for Block Grant #4 were derived from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (“Proposition 84”). See Public Resources Code § 75001 et seq. These funds are available for San Francisco Bay Area Conservancy Program projects that promote access to and enjoyment of coastal resources, and are thus appropriate for funding the proposed construction of a segment of the Bay Trail, which facilitates access to and enjoyment of San Francisco Bay. See Public Resources Code § 75060(c).

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

The proposed project is consistent with Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165 regarding San Francisco Bay Area projects.

Consistent with Sections 31162(a) and (c), the Conservancy will award a grant to build a project (construction of an Oakland Estuary Bay Trail segment) that will help implement the San Francisco Bay Plan and that will improve public access to and around the bay by helping to complete a regional trail system (the San Francisco Bay Trail), without adversely impacting agricultural operations, environmentally sensitive areas or wildlife. Consistent with Section 31163(c), the proposed authorization will be used to fund an outdoor recreational project that is supported by adopted regional plans (City of Oakland Bicycle Master Plan (2007), San Francisco Bay Trail Plan (1989), San Francisco Bay Plan (1968, as amended), Metropolitan Transportation Commission’s Regional Bicycle Plan for the San Francisco Bay Area 2009 Update, City of Oakland and Port of Oakland’s Estuary Policy Plan (1999), among others), serves a regional constituency, can be implemented in a timely way, and includes matching contributions from other sources of funding or assistance.

CONSISTENCY WITH CONSERVANCY’S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 11, Objective E** of the Conservancy’s 2007 Strategic Plan, the proposed project closes a priority 0.1-mile gap in the Bay Trail between Fruitvale Avenue and High Street.

Consistent with **Goal 11, Objective L** of the Conservancy’s 2007 Strategic Plan, the proposed project will be ADA-compliant.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on June 4, 2009, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** This project enjoys community support (Exhibit 4).
4. **Location:** The proposed project is located along the Oakland shoreline in Alameda County, one of the nine counties in the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** Conservancy funding is needed to cover the full costs of construction.
6. **Greater-than-local interest:** This project completes a priority segment of the nine-county San Francisco Bay Trail Project (Segment 4077, identified in the San Francisco Bay Trail Project Gap Analysis Study, 2005).
7. **Sea level rise vulnerability:** The Oakland Waterfront Trail (Fruitvale Avenue to High Street) is expected to be complete in late summer 2011 and has an estimated design life of between 30 to 50 years. Current mean high groundwater level is elevation 0.0' (City of Oakland datum) and the highest water level at the nearby station is recorded at elevation +2.54'. Current best guidance predictions for maximum sea level rise in the Bay Area are 16 inches (0.32 inches/year) by 2050 and 55 inches by 2100 (0.78 inches/year). The minimum path elevation for the Bay Trail section being constructed is approximately +7.1 feet. Based on this, the elevation for the top of the path is expected to remain well above the anticipated high water levels during the design life of the improvements.

Additional Criteria

8. **Leverage:** See the "Project Financing" section above.
9. **Innovation:** The project is innovative in that it utilizes a steel, pile-supported structure in order to construct a 10 to 12-foot-wide trail segment in an area that has significant land constraints due to the proximity of the existing buildings to the shoreline.
10. **Realization of prior Conservancy goals:** See "Project History" above.
11. **Vulnerability from climate change impacts other than sea level rise:** Although the landscaped area is minimal, drought could have an impact on the project. The City of Oakland plans to use drought-tolerant plantings.
12. **Minimization of greenhouse gas emissions:** The trail improvements will not create or significantly contribute to new vehicle traffic, nor create on-going operational sources of air pollutant emissions. Materials will be sourced locally as much as possible to decrease emissions during transportation to the project site.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The proposed project is consistent with the applicable policies contained in Part IV, Development of the Bay and Shoreline: Findings and Policies, of the San Francisco Bay Plan adopted by the San Francisco Bay Conservation and Development Commission (BCDC) in January 2006.

Public Access Policy No. 8 states:

Access to and along the waterfront should be provided by walkways, trails or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.

Consistent with Public Access Policy No. 8, the proposed project will provide a pathway along the waterfront (the Oakland Estuary) that connects to a public thoroughfare where convenient public transportation is available (the Jack London Square Area, accessible via AC Transit and BART), and will provide a diverse and interesting public access experience (eventually, a 6.6-mile trail along the Oakland Estuary) that will encourage users to remain in designated public access areas.

Public Access Policy No. 10 states that federal, state, regional and local jurisdictions, special districts and the Bay Commission should cooperate to provide appropriately-sited, designed and managed public access, especially to link the entire series of shoreline parks, regional trail systems and existing public access areas to the extent feasible without additional Bay filling and without significant adverse effects on Bay natural resources. Closing gaps between existing public access areas is a high priority for funding. The proposed project is consistent with this policy because it closes one more significant gap in the Bay Trail and does so without any Bay fill. This project is located just outside of the Mean High Water line, but is still within the jurisdiction of BCDC.

COMPLIANCE WITH CEQA:

In November 2002, City of Oakland voters passed Measure DD, which authorizes the City to issue bonds to fund two types of activities or actions: those that would provide improved or new recreational opportunities for Oakland's citizens, and those that would improve water quality at Lake Merritt and creeks located throughout the City.

In order to comply with the California Environmental Quality Act (CEQA), the City prepared an Environmental Impact Report (EIR) for the "City of Oakland Measure DD Implementation Project." The City certified the EIR (Exhibit 3) on February 13, 2008 pursuant to CEQA, and filed the EIR (including payment of the filing fee per California Fish and Game Code Section 711.4) on April 3, 2008. The EIR analyzes the Measure DD Implementation Project activities in four groups. The proposed Fruitvale Avenue to High Street segment that is the subject of this authorization is within Group 2, "Oakland Waterfront Trail and Access Improvements," which includes activities to close the gaps in a 6.6-mile portion of the Bay Trail between Jack London Square and 66th Avenue (as shown in Exhibit 1).

A Mitigation Monitoring and Reporting Program (MMRP) was also prepared based on the findings of the EIR and in compliance with Section 15097 of the *CEQA Guidelines*. The MMRP lists the mitigation measures recommended in the EIR, identifies mitigation monitoring requirements, and identifies the “responsible implementing parties” and the “monitoring parties.”

Land Use. Although the EIR states that the Group 2 waterfront trail activities may result in a fundamental conflict between adjacent or nearby land uses, this potential impact is specifically associated with installation of the Hanson Aggregate Trail Connection, not the “US Audio/Capture Technologies and Friendly Transportation Trail Connection” that is the subject of this proposed authorization. The proposed project will have no significant impacts associated with land use. It will be constructed along the waterfront, improving waterfront access and use, and not dividing an established community.

Planning Policy. The EIR states that policy conflicts in and of themselves, and in the absence of adverse physical impacts, are not considered to have significant effects on the environment. The proposed project will have no significant impacts associated with planning policy.

Transportation, Circulation and Parking. The EIR analyzes two categories with respect to transportation, circulation and parking for the Group 2 waterfront trail activities: Traffic and Maritime Hazards, caused by the completed Bay Trail passing under the Park Street, Fruitvale Avenue and High Street bridges; and Alternative Transportation. The EIR concludes that the Group 2 waterfront trail activities will not cause or result in significant impacts to transportation, circulation and parking for several reasons. First, with respect to traffic hazards, trail activities will not conflict with vehicular circulation. Second, the U.S. Coast Guard and some in the marine shipping community (e.g., the International Longshore & Warehouse Union) have raised concerns about the potential safety and feasibility of the waterfront trail being constructed under the bridges, particularly those at Park and High Streets. Therefore, to the extent feasible, the proposed trail segments passing beneath the bridges will not extend further into the channel than the existing bridge fenders, and trail segments will be kept as close to the shoreline as necessary to ensure public safety and not impede navigation. In recognition that the Coast Guard has permitting authority in these areas, the City has included street-level crossings as an alternative to under-bridge crossings. Third, the waterfront trail will not conflict with adopted policies, plans and programs supporting alternative transportation. Finally, the waterfront trail will enhance connectivity of bikeways and improve pedestrian facilities, thereby supporting alternative transportation. The proposed project will not pass under any of the bridges and will have no significant impacts associated with transportation, circulation and parking.

Air Quality. The EIR analyzes eight categories with respect to air quality for the entire Measure DD Implementation Project, and concludes that there will be no significant impacts to air quality as discussed below. Therefore, the proposed project will have no significant impacts associated with air quality.

Consistency with the Air Quality Plan. The *2005 Ozone Attainment Strategy* is the Bay Area Air Quality Management District’s (BAAQMD’s) most recent plan for attaining California Ambient Air Quality Standards. Consistent with the projections used

in this strategy, the Measure DD Implementation Project activities will not result in substantial increases in population and employment. Therefore, the Project will be consistent with regional air quality planning, and will not result in a significant cumulative impact to air quality.

Contribute to Air Quality Violation. The *2005 Ozone Attainment Strategy* addresses ozone and particulate matter (the City of Oakland is considered a non-attainment area for both), and is the air quality plan that applies to projects within the City of Oakland. The EIR states that construction activities would vary with each Measure DD Implementation Project component, but may include use of earthmoving equipment, water and pick-up trucks. Ground disturbance and the operation of motorized construction vehicles would incrementally increase ozone and particulate matter emissions in the region during the project construction period. Temporary, construction-period air quality impacts for all pollutants are considered less-than-significant if standard BAAQMD particulate matter control measures are implemented. The City will impose Standard Conditions of Approval for “Dust Control” and “Construction Emissions” (Nos. 17 and 18), which include the BAAQMD particulate matter control measures, thereby reducing potential air quality impacts from the Measure DD Implementation Project to a less-than-significant level.

Cumulative Increase of any Criteria Pollutant. Cumulative air quality impacts associated with criteria pollutants are evaluated based on quantified project-related air quality impacts and project consistency with local and regional air quality plans (the *Oakland General Plan* and the *2005 Ozone Attainment Strategy*). For the Measure DD Implementation Project, the EIR states that: (a) with respect to local air quality, future cumulative traffic conditions will not result in any violation of the carbon monoxide standard, and thus that there would not be a cumulative impact to local air quality; (b) with respect to regional air quality, emissions of pollutants affecting regional air quality (ozone precursors and particulate matter) are predicted to be below the significant thresholds established by the BAAQMD, and thus would not result in a cumulatively considerable net increase. Therefore, potential cumulative impacts to air quality will be less-than-significant.

Exposure of Sensitive Receptors to Substantial Pollutant Concentrations. Operation of project components constructed as part of the Measure DD Implementation Project will not generate pollutants and thus will not expose sensitive receptors (facilities that house or attract children, the elderly, people with illnesses or others who are especially sensitive to the effects of air pollutants) to substantial pollutant concentrations. Construction-related impacts will be less-than-significant with the application of BAAQMD particulate matter control measures as required by the City’s Standard Conditions of Approval, which will be imposed as described above.

Objectionable Odors. Operation of project components constructed as part of the Measure DD Implementation Project will not generate objectionable odors. Although the waterfront trail may briefly bring people into proximity with industrial or transportation facilities that produce odors, exposures would be brief and affect a relatively small number of people on an occasional basis.

CO (carbon monoxide) Concentrations. Vehicular traffic associated with the Measure DD Implementation Project would emit CO into the air along roadway segments and near intersections, creating pockets of high CO concentrations (“hot spots”). The EIR analyzes 1-hour and 8-hour CO concentrations at 18 intersections in the Project area under “existing” and “existing plus Project” conditions, using U.S. Environmental Protection Agency, Caltrans and California Air Resources Board (CARB) methodology and data. Concentrations, individual and cumulative, were determined to be below federal and state CO standards, and thus at less-than-significant levels.

Regional Air Emissions. Regional air emissions are generated by land use development projects (aka “indirect sources”), primarily by the motor vehicle trips generated by the development projects. The Measure DD Implementation Project will not generate significant vehicle trips, and thus potential impacts to regional air emissions will be at a less-than-significant level.

Toxic Air Contaminants. CARB has identified diesel engine particulate matter as a toxic air contaminant. Health risk assessments related to toxic air contaminants are based on a 70-year exposure period. The Measure DD Implementation Project will not locate sensitive receptors near facilities with substantial diesel exhaust or expose existing sensitive receptors to substantial diesel exhaust emissions, and will generate construction-related diesel exhaust on a temporary basis. Therefore, health risks due to toxic air contaminants will be less-than-significant.

Noise. The EIR analyzes eight categories with respect to noise for the entire Measure DD Implementation Project, and concludes that there will be no significant impacts related to noise as discussed below. Therefore, the subject project as proposed will have no significant impacts associated with noise.

Operational Noise; Significant Interior Noise; Permanent Increase in Ambient Noise Levels; Land Use Compatibility Guidelines; Located Near an Airport; and Located Near a Private Airstrip. The EIR concludes that the Measure DD Implementation Project will not cause or result in significant impacts related to these categories because the Project: (a) will not violate the City of Oakland Noise Ordinance regarding operational noise because none of the project components will create or develop any new noise-sensitive land uses or permanent noise sources that would exceed the maximum allowable receiving noise level standards for residential and civic land uses, commercial lands use or manufacturing land uses; (b) will not generate noise levels that would exceed the interior noise level standard for nearby multi-family dwelling units, hotels, motels, dormitories or long-term care facilities in the project component areas; (c) will not be a substantial source of noise during its normal operation, and the Group 2 waterfront trail activities will not generate any significant increase in traffic volumes and thus will not generate any significant increase in traffic noise levels; (d) will not conflict with the State’s land use compatibility guidelines related to noise because it will not create or develop any new noise-sensitive land uses or permanent noise sources that would be incompatible with existing noise-sensitive land uses; and (e) will not expose people to excessive aircraft-related noise levels from the Oakland International Airport, the San Francisco International Airport or private airstrips because its components will not lie within specified noise-level contours.

Construction-Related Noise Impacts/Persistent Construction-Related Noise Impacts. The EIR states that most construction elements of the Group 2 waterfront trail activities include general trail improvements, landscaping, lighting and additional signage, and that these improvements are not expected to generate noise levels that would cause a significant impact on adjacent noise-sensitive land uses.

For those trail segments that require the use of pile drivers, including the “US Audio/Capture Technologies and Friendly Transportation Trail Connection” segment that is the subject of this authorization, construction-related noise could impact nearby noise-sensitive receptors, the closest being residential properties located on the northern shore of Alameda along the Oakland Inner Harbor Tidal Canal. To minimize this construction noise, the City will require application of its Standard Condition of Approval for “Pile Driving and Other Extreme Noise Generators” (No. 27), which requires implementation of a site-specific noise reduction program that is approved by the Planning and Zoning Division and the Building Services Division, and that requires (a) equipment and trucks to use best available noise control techniques, (b) quieter procedures than impact tools, such as drills, to be used whenever feasible; impact tools to be hydraulically- or electrically-powered whenever possible; and pneumatically-powered tools to use an exhaust muffler, and to use external jackets on the tools where feasible; (c) stationary noise sources to be located as far from adjacent receptors as possible, and to be muffled to the extent feasible; and (d) the noisiest phases of construction to be limited to fewer than 10 days at a time if feasible. The EIR concludes that noise-related impacts from those elements of the Group 2 waterfront trail activities that require use of pile drivers will be less-than-significant with application of Standard Condition of Approval No. 27.

Vibration. The EIR states that although construction-related activities including pile driving could temporarily expose persons in the vicinity of the proposed project construction areas to ground-borne vibration or ground-borne noise levels, compliance with the construction hours specified in the City’s Noise Ordinance, and implementation of the City’s Standard Conditions of Approval would avoid or reduce to a less-than-significant level potential ground-borne vibration. In addition, although the waterfront trail may bring people into proximity with transportation facilities that produce ground-borne vibration, such as railroad tracks, the trail will not cause frequent exposure to a substantial number of people.

Biological Resources. The EIR analyzes seven categories with respect to biological resources. The mitigation measures in the EIR are not triggered by construction of the proposed project, and it will have no significant impacts associated with biological resources.

Riparian Habitat; Native Resident or Migratory Wildlife Movement, Wildlife Corridors or Nursery Sites; Regional Conservation Plans; Protected Trees; and Creek Protection Ordinance. These categories are not applicable to the Group 2 waterfront trail activities and/or the subject authorization sites.

Cultural Resources. The proposed project will have no significant impacts on cultural resources. It was historically under water or on mud flats, as was most of the Waterfront Trail project area. Mud flats were covered with fill.

Hydrology and Water Quality. The EIR analyzes six categories with respect to hydrology and water quality for the entire Measure DD Implementation Project. As discussed below, the EIR concludes that with the application of mitigation measures, there will be no significant impacts associated with the Measure DD Implementation Project. Therefore, with the implementation of **Mitigation Measure HYD-1**, the proposed project will have no significant impacts on hydrology and water quality.

Water Quality. The EIR concludes that there will be no significant impacts to water quality (relating to standards or discharge requirements) from the Group 2 waterfront trail activities because: (a) during the construction phase, the City will require compliance with existing City and RWQCB programs and ordinances to protect beneficial uses of receiving waters; for project components that will disturb more than one acre of land, the City will require implementation of a Stormwater Pollution Prevention Plan; and for project components that will disturb less than one acre of land, the City's Municipal Code prohibits activities that will result in the discharge of pollutants to Oakland's waterways or the damaging of creeks, creek functions or habitat; and (b) during the operation period, these project components will lie within areas served by hardened stormwater conduits or that have low potential for erosion; and they would incorporate site design and landscaping that maximizes infiltration, provides retention or detention, slows runoff and minimizes impervious land coverage.

Groundwater Supplies and Recharge; Flooding; Degrade Water Quality; Seiche, Tsunami or Mudflow; and Creek Protection Ordinance. The EIR concludes that the Measure DD Implementation Project will not cause or result in significant impacts related to these categories because: (a) the Project does not propose any groundwater pumping, will not increase the amount of impervious surface, and will possibly increase infiltration and groundwater recharge via installation of new landscaping features; (b) Project components will be located outside the floodplain or designed to improve flood water conveyance and channel stability; (c) the Group 2 waterfront trail activities are a type of land use that is not particularly susceptible to impacts associated with sea level rise (do not include houses, schools or critical facilities); (d) the City will require creek protection permits consistent with its Creek Protection Ordinance where applicable.

However, hundreds of groundwater wells were located in the East Bay Plain for general water supply. Many were not properly abandoned, not fitted with an effective sanitary seal when constructed, or have seals that have been damaged since installation. If any of these wells are encountered and/or damaged during implementation of the activities funded under Measure DD, surface water potentially containing pollutants could seep into the wells and the underlying aquifer, thereby degrading water quality. To avoid significant adverse effects on water quality, **Mitigation Measure HYD-1** will be required. This measure requires that any existing wells discovered during the implementation of Measure DD-funded activities shall be either (a) properly abandoned in compliance with the California Department of Water Resources California Well Standards and Alameda County Environmental Health Department requirements prior to final approval of the grading plan; or (b) inspected by a qualified professional to determine whether each well is properly sealed at the surface to prevent infiltration of water-borne contaminants into the well casing or surrounding gravel pack. If the wells are found not to comply with California Well Standards (which require an annular

surface seal of at least 20 feet), then the City shall retain a qualified well driller to install the required seal. As specified in the MMRP, the City of Oakland Project Delivery Division and construction contractor will be the “responsible implementing parties” and the City of Oakland Project Delivery Division will be the “monitoring party.” Implementation of this mitigation measure will reduce this potential impact to a less-than-significant level.

Geology, Soils and Seismicity. The EIR analyzes nine categories with respect to geology, soils and seismicity for Group 2 waterfront trail activities, and concludes that there will be no significant impacts as discussed below. Therefore, the subject project as proposed will have no significant impacts associated with geology, soils and seismicity.

Fault rupture; Strong seismic ground shaking; Seismic-related ground failure, including liquefaction, lateral spreading, subsidence, collapse; Landslides; Erosion; Expansive soils and differential settlement. The EIR concludes that there will be no significant impacts associated with these categories because the Group 2 waterfront trail activities: (a) are not located adjacent to any known active or potentially-active faults; (b) will not involve residential structures; (c) will be subject to Standard Condition of Approval for “Geotechnical Report” (No. 48), which requires a site-specific design-level Landslide or Liquefaction geotechnical investigation for each construction site; (d) will be subject to Standard Condition of Approval for “Erosion and Sedimentation Control (When no grading permit is required)” (No. 24), which requires implementation of best management practices to reduce erosion, sedimentation and water quality impacts during construction to the maximum extent practicable; and (e) will be subject to Standard Condition of Approval for “Erosion and Sedimentation Control Plan” (No. 43), which requires a grading permit where applicable, the application for which shall include an erosion and sedimentation control plan.

Well, pit swamp, mound; tank vault, or unmarked sewer line; Be located above landfills for which there is no approved closure and post-closure plan, or unknown fill soils, creating substantial risks to life or property; and Soils incapable of adequately supporting the use of septic tanks. These categories are not relevant to Group 2 waterfront trail activities.

Hazards and Hazardous Materials. Environmental site investigations have been completed for several sites that are part of the Group 2 waterfront trail activities, including for Alameda Avenue near the proposed location of the Oakland Waterfront Trail. The investigation concluded that locations where petroleum hydrocarbons and metals were detected at concentrations at or in excess of the Water Board ESLs appeared to be small, isolated areas; that arsenic, total chromium and lead were detected in surface soil at levels in excess of regulatory agency action levels or background levels, and are therefore of potential concern; and no metal was detected at a concentration that would characterize it as California hazardous waste. These discoveries are considered less-than-significant with standard Conditions of Approval in Exhibit B of Creek Protection Permit CP09-103 “Fruitvale to High Street Segment of the Oakland Waterfront Trail” (3675 Alameda Avenue.

The EIR analyzes seven categories with respect to hazards and hazardous materials for Group 2 waterfront trail activities, and concludes that there will be no significant impacts

as discussed below. Therefore, the subject project as proposed will have no significant impacts associated with hazards and hazardous materials.

Routine transport, storage, use or disposal of hazardous materials; Upset and accident conditions involving hazardous materials releases during construction. The EIR concludes that there will be no significant impacts associated with these categories because the Group 2 waterfront trail activities will not create a significant increase in the routine transport, storage, use or disposal of hazardous materials following their construction, nor create the need to store hazardous materials on site; and will be constructed in accordance with the following Standard Conditions of Approval: (a) No. 62 regarding a “Stormwater Pollution Prevention Plan,” which requires implementation of said plan; (b) No. 25 regarding “Hazards Best Management Practices,” which requires construction best management practices to prevent misuse of hazardous materials; (c) No. 56 regarding a “Health and Safety Plan Per Assessment,” No. 62 regarding a “Stormwater Pollution Prevention Plan” and No. 68 regarding “Site Review by the Fire Services Division,” all of which would include preparation of an emergency response plan; and (d) No. 50 regarding “Phase I and/or Phase II Reports” and No. 52 regarding “Environmental Site Assessment Reports Remediation,” which require submission of reports to the Fire Prevention Bureau’s Hazardous Materials Unit, and address implementing the remedial actions.

Emit hazardous emissions or use acutely hazardous materials within one-quarter mile of an existing or proposed school; Hazardous materials sites; Aviation hazards; Emergency Response Plan/Emergency Evacuation Plan; and Wildland Fires. The EIR concludes that there will be no significant impacts associated with these categories because the Group 2 waterfront trail activities: (a) will not cause a significant increase in hazardous materials emissions or use of acutely hazardous substances within one-quarter mile of an existing or proposed school; (b) will be consistent with the height restrictions associated with proximity to the Metropolitan Oakland International Airport; (c) will be located near a designated City of Oakland emergency evacuation route (thoroughfares that parallel the Oakland Harbor and San Leandro Bay, including East 6th Street/East 7th Street/East 8th Street/East 12th Street, Embarcadero and San Leandro Street); and (d) will be located outside of the City of Oakland Wildfire Prevention District area of designated “high fire hazard areas.”

Public Services and Recreation. The EIR analyzes four categories with respect to public services and recreation from all activities proposed to be funded under Measure DD, and concludes that there will be no significant impacts as discussed below. Therefore, the subject project as proposed will have no significant impacts associated with public services and recreation.

Police Services; Fire Protection Services; Adversely impact parks or recreation facilities because of increased demand; and Require construction or expansion of recreational facilities that would have an adverse impact on the environment. The EIR concludes that there will be no significant impacts associated with these categories because the Group 2 waterfront trail activities: (a) will not create or promote activities that would demand police services; (b) will not increase demand for fire protection services; (3) will not increase demand for park services because they will not involve

construction of new residential or commercial spaces; and (d) will construct or otherwise improve recreational facilities in existing parks and developed urban areas.

Utilities and Infrastructure. The EIR analyzes eight categories with respect to utilities and infrastructure from all activities proposed to be funded under Measure DD, and concludes that there will be no significant impacts as discussed below. Therefore, the proposed project will have no significant impacts associated with utilities and infrastructure.

Exceed water supplies available to serve the project; Exceed wastewater treatment requirements; Exceed wastewater treatment capacity; Require or result in construction of new stormwater drainage facilities; Be served by a landfill with insufficient permitted capacity; Violate applicable regulations related to solid waste; Violate applicable regulations relating to energy standards; Result in a determination by the energy provider which serves the project that it does not have adequate capacity. The EIR concludes that there will be no significant impacts associated with these categories because the Group 2 waterfront trail activities: (a) will not create a significant demand for water supply services; (b) will not generate wastewater that would cause wastewater treatment requirements to be exceeded; (c) will have no impact on wastewater; (d) will be located in areas that are already developed, and thus will not substantially increase stormwater flows; (e) will not generate significant amounts of solid waste, nor require construction or expansion of landfill facilities; (f) will not violate applicable federal, State or local statutes and regulations governing solid waste; (g) will have no impact on energy; and (h) will be located in areas already served by PG&E, and will not require or result in construction of new energy facilities or expansion of existing ones.

Aesthetic Resources. The EIR analyzes four categories of potential impacts with respect to aesthetics from all activities proposed to be funded under Measure DD, and concludes that there will be no significant impacts as discussed below. Therefore, the subject project as proposed will have no significant impacts associated with aesthetic resources.

Have a substantial adverse effect on a scenic vista; Substantially damage scenic resources, including but not limited to trees, rock outcroppings and historic buildings within a state- or locally-designated scenic highway; Substantially degrade the existing visual character of quality of the site and its surroundings; and Create a new source of substantial light and glare which would substantially and adversely affect day or nighttime views in the area. The EIR concludes that there will be no significant impacts associated with these categories because the Group 2 waterfront trail activities: (a) will benefit the visual setting of the Oakland Estuary through the planting of new native vegetation, removal of trash, and creation of landscaped trails and public access viewing points that increase the visibility of the scenic portion of the estuary; will improve the visual quality of the shoreline; and install lighting where it will not substantially reduce nighttime views. The EIR concludes that the project as proposed will have no significant impacts on aesthetic resources, but it could also be concluded that the project as proposed will have a significant beneficial impact on aesthetic resources.

Based on the foregoing, Conservancy staff concludes that the subject project as proposed and mitigated, and as additionally tracked as required in the MMRP, poses no potential for significant environmental impacts. Accordingly, staff recommends that the Conservancy find that the Conservancy has independently reviewed and concurs with the EIR prepared and

adopted by the City of Oakland on February 13, 2008, and concludes that there is no substantial evidence that the Conservancy project, as mitigated, may have a significant effect on the environment. Staff will file a Notice of Determination upon the Conservancy's approval of the project.