CEQA DETERMINATION FOR
THE GREEN BUILDING FOR PRIVATE DEVELOPMENT PROJECTS ORDINANCE
CASE FILE NUMBER ZT09157

I. INTRODUCTION

This document provides a description of the proposed Sustainable Green Building Requirements for Private Development Ordinance (proposed project), and evaluates the applicability of Categorical Exemptions for this proposed project, in accordance with the California Environmental Quality Act (CEQA).

II. PROJECT DESCRIPTION

The following provides a brief description of the project location, objectives and scope.

Project Location

The proposed Ordinance applies citywide and would, therefore, involve various land uses and settings (downtown, residential neighborhoods, commercial areas, and private open spaces, etc.)

Project Objectives

The demolition, construction, and operation of buildings have an impact on the environment, the economy, and our health. Nationwide, buildings are the largest contributor to green house gases.[1] According to the U. S. Environmental Protection Agency, buildings in the United States, account for:

- 39% of total energy use
- 72% of electricity consumption
- 39% of carbon dioxide emissions
- 30% of greenhouse gas emissions (known contributor to Global Warming)
- 26% of waste stream/ Construction and Demolition debris
- 13% of potable water consumption

In California, which has a cleaner mix of energy than national averages, buildings are the second largest contributor (about one-quarter) to California's green house gas (GHG) emissions.[2] Given these statistics, improving energy efficiency and indoor air quality in buildings and reducing water consumption, waste, and material resources is fundamental to reducing the impacts of conventional building. Green building is a holistic approach to the life-cycle of a building including location, siting, design, construction, operation and demolition. This approach has been proven to greatly reduce the impacts of conventional building. Green Building techniques include choosing an appropriate location away from habitats, greenfields, and near infill development or an already developed site; siting a building to take advantage of passive heating cooling methods; improving energy efficiency; reducing water consumption, and reusing buildings or alternatively using recycled or sustainable products that preserve non-renewable natural resources. Green buildings benefit occupants through the use of healthy building materials, including zero to low Volatile Organic Compound (VOC) and formaldehyde-free products. Furthermore, the Attorney General has identified green building measures to address CEQA and global warming impacts at a local level.

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[1] American Institute of Architects, Sustainability 2030

[2] This estimate accounts only for electricity, natural gas, and water use in homes and commercial buildings; if the estimate include emissions savings from recycling waste or fuel savings from transit oriented developments, the number would be far higher.

While the City already has a Green Building Ordinance for City projects, the adoption of a Green Building Ordinance for private development projects would further the City's General Plan, Sustainable Development Initiative, Waste, and Urban Accord's goals and policies, as well as directives from the state such as AB 32.

In addition to building impacts, the design, construction and maintenance of landscapes within the City can also have a significant impact on the City's environmental sustainability, use of resources, and the health of the watershed and San Francisco Bay. Based on the Alameda County Waste Characterization Study of 2000, 7% of the materials disposed of in Alameda County landfills are from landscape construction, renovation and maintenance and beginning in 2009 plant debris will be banned from Alameda County landfills. In addition to waste issues, the largest use of urban water is for landscape watering[3]. The water supply is limited, there is an increasing demand, and California could be entering its fourth consecutive year of serious drought conditions. While the majority of water to Oakland flows by gravity from the Sierras, energy is also used to deliver, pump and treat water to residents.

Therefore, a holistic approach to green building would include landscapes that are part of construction projects. Implementation of a green building proposal that includes landscapes nurtures healthy soils while reducing fertilizer and pesticide use, prevents erosion and runoff; reduces waste through use of recycled content materials; conserves water and energy; and enhances wildlife habitat. In addition, green landscaping features would reduce greenhouse gas emissions, improve air quality, and enhance urban sustainability.

Proposed Ordinance

The proposed Ordinance references three green building rating programs, recognized nationally, statewide, and countywide. These rating programs are Build It Green's GreenPoint Rated for residential projects, the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) for non-residential projects, and StopWaste.Org's Small Commercial Project Checklist and the Bay-Friendly Landscape Checklist. LEED and GreenPoint Rated are point based systems with third party certification. Projects must pre-qualify by meeting pre-requisites. The project team then designs features into the project to qualify for additional points. The rating system is flexible in that the applicant can choose points or design for points based on the project. However, a certain amount of points must be achieved in each environmental category. The points are tallied to achieve a rating. At the end of the project, the applicant team must submit documents to verify compliance with the rating system. The rating program reviews the documentation and certifies the project as a green building project. Stopwaste.Org's Small Commercial Project Checklist and the Bay Friendly Basic Landscape Checklist were not designed to be point based systems. Instead, this system is implemented like "best management practices" and the applicant is required to do all that apply to the scope of the project. The proposed requirements are split into six main parts:

1. Residential
2. Non-Residential
3. Historic
4. Projects with receiving City/Redevelopment Agency Funds
5. Mixed Use
6. Landscapes

Generally, the Ordinance is implemented over a six month period. Thirty-days after adoption of the Ordinance and until January 1, 2011 the Ordinance will be voluntary except for submittal of the appropriate checklist. Starting January 1, 2011 the Ordinance would be fully operative and the project applicant must meet any pre-requisites, a minimum point level, and be certified by the appropriate rating program. The size thresholds for compliance are directly related to existing Planning and Building Code permit thresholds.

[3] Department of Water Resources

III. CEQA ANALYSIS

The Zoning Administrator independently finds and determines that the project is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2), 15061(b)(3) (General Rule), 15307 (Actions by Regulatory Agencies for Protection of Natural Resources), 15308 (Actions by Regulatory Agencies for Protection of the Environment), and CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), each of which constitutes a separate and independent basis for the exemption. The following is an analysis discussing the reasons why this project is exempt from CEQA, and reasons why any CEQA Guidelines Section 15300.2 exceptions do not apply to the categorical exemptions. The discussion of environmental topics, below, utilizes the City of Oakland's CEQA Thresholds/Criteria of Significance Guidelines and Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval, which are applied to projects on a Citywide basis

Section 15060(c)(2), 15061(b)(3) - General Rule, Section 15307 (Class 7) - Actions by Regulatory Agencies for Protection of Natural Resources and Section 15308 (Class 8) Actions by Regulatory Agencies for Protection of the Environment

The proposed Ordinance is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(2). This section states:

> (c) Once an application is deemed complete, a lead agency must first determine whether an activity is subject to CEQA before conducting an initial study. An activity is not subject to CEQA if:
>
> (2) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment;

The Ordinance also is exempt pursuant to CEQA Guidelines Section 15061(b)(3). This Section states:

> (b)A project is exempt from CEQA if:
>
> (3) The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

In addition, the proposed project qualifies for a Categorical Exemption under CEQA Guidelines Section 15307, Actions by Regulatory Agencies for Protection of Natural Resources. Section 15307 states:

> Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

Furthermore, the proposed project qualifies for a Categorical Exemption under CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. Section 15308 states:

> Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

As shown in the Determination section below, the Ordinance will not result in a direct or reasonably foreseeable indirect adverse physical change in the environment or a significant adverse effect on the environment. The Ordinance will also not have a significant adverse impact on natural resources or the environment. The Ordinance would minimize the negative impacts of conventional building and landscaping techniques to the environment, occupant health, and the economy. Specifically, the Ordinance would improve aesthetics by promoting longer lasting, higher quality building materials; improve air quality both indoor and out; protect and restore biological and cultural resources; reduce the use of hazardous materials; reduce water consumption and improve water quality; reduce traffic due to the use of transit and alternative transportation; and minimize the strain on utilities and local services. Any impacts associated with potential construction would be less likely due to implementation of the Ordinance. Therefore, staff finds that the proposed Ordinance is exempt from CEQA review.

Section 15300.2 - Exceptions:

CEQA Guidelines Section 15300.2 lists the following project types for which Categorical Exemptions may not apply. The following section discusses whether the project would be subject to any of these exceptions. The exceptions are presented in **bold**, followed by a discussion about how the project is not subject to each exception.

(a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

Exception (a), as described above, only applies to Classes 3, 4, 5, 6, and 11. Since the proposed project qualifies for a Categorical Exemption under Class 7 and 8 in the *CEQA Guidelines* (Actions by Regulatory Agencies for Protection of Natural Resources, Section 15307 and Actions by Regulatory Agencies for Protection of the Environment, Section 15308), this exception does not apply.

Nonetheless, there is no evidence to suggest that the Ordinance would have a significant impact due to its application in a particularly sensitive environment. The rating systems contains points that include the avoidance of prime farmland, parkland, five feet lower than the 100-year floodplain as mapped by FEMA, land specifically identified as habitat for species on a Federal or State threatened or endangered lists, and undeveloped land near a water body consistent with the Clean Water Act. These points encourage appropriate site selection and design of structures with minimal footprints to minimize site disturbance in sensitive areas. Therefore, the Ordinance will not adversely affect an environmental resource of hazardous or critical concern.

(b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The proposed green building ordinance will not have a significant, adverse cumulative impact on the environment. To the contrary, the Green Building Ordinance will reduce many cumulative impacts that have occurred or would occur using conventional building techniques. Green building techniques will reduce energy and water consumption and the strain on infrastructure and utilities. Examples of specific measures include optimizing energy performance, providing on-site renewable energy, purchasing of green power, use of passive heating and cooling, installation of energy efficient appliances, limitations or elimination of potable water for landscaping, and water use reduction through efficient fixtures. The Ordinance will improve air quality and traffic circulation as well as protecting biological and cultural resources. Specific examples include indoor air quality management, use of low emitting materials, HVAC filters, access to public transportation, inclusion of bike and pedestrian facilities, a reduction of parking, and measures to protect biological and cultural resources as discussed throughout this document.

(d) **Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

As shown in the Determination section below, the proposed Ordinance will not have significant adverse effect on scenic highways. While the rating systems do not specifically mention scenic highways, the proposed rating systems contain points related minimizing site disturbance. Examples include protection of greenfields, maximizing open space, preservation of tree canopy and native vegetation, reuse of existing buildings, Historic Resource preservation and adaptive reuse, and redevelopment of existing buildings. Implementation of these green building measures into a project would protect scenic highways by encouraging appropriate site selection and development on infill parcels to specifically avoid damage to scenic character and natural resources. Existing policies in the OSCAR Element provide general mitigation of visual impacts. Policy OS-10.1, Policy OS-9.1, Policy OS-9.2, Policy OS-9.3, and Policy OS-10.2 in the adopted OSCAR Element and Policy T6.5 in the Land Use and Transportation Element

provide mitigation for future visual impacts. Adoption of the Ordinance alone would not increase the potential for impacts.

(e) **Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list complied pursuant to Section 65962.5 of the Government Code.**

As shown in the Determination section below, the proposed Ordinance would not create a hazard or hazardous material impact. The proposed rating systems contain points that discourage the use of hazardous materials during construction and operation of buildings. Examples include use of low VOC paints, sealants, and adhesives; green flooring; low formaldehyde cabinets and wood products; low emitting materials; construction and indoor air quality management plans. The landscape rating program encourages the use of natural (not chemical) fertilizers and pesticides. However, the rating programs do encourage redevelopment of brownfield sites. A brownfield is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. These sites are often stigmatized due to high cost to clean the contamination and redevelop the site. In this regard, the Ordinance augments existing, complementary actions and policies that encourage clean up and redevelopment of contaminated properties, including Action 3.7.1 in the Housing Element, Action HM-1.6 in the Safety Element, Policy CO-1.2 in the OSCAR Element, and Policy I/C2.1 in the Land Use and Transportation Element (LUTE). These sites could be located on the Cortese List. However, this impact is associated with any potential construction on such sites and neither would be more likely, nor less likely, due to the Ordinance. Given that there are a relatively small number of these sites in Oakland, the extent to which those impacts could occur is too speculative currently to be evaluated; however, implementation of the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval (which have been approved by the City Council and are uniformly incorporated into development projects on a Citywide basis per O.M.C. Section 17.130.070), related to hazardous materials would reduce any impact related to hazards or hazardous materials.

(f) **Historical Resource. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

As shown in the Determination section below, the proposed Ordinance would not result in an adverse impact to a historic resource. To the contrary, the rating program contains points that encourage the retention and adaptive reuse of historic structures by reusing and maintaining 75% to 95% of the building structure. The Ordinance also provides disincentives for the demolition of these buildings by increasing the level of green features in the building and requiring deconstruction and recycling of all applicable building materials. In this way the proposed Ordinance cannot be used to encourage demolition of historic buildings. The other thresholds for alterations and remodeling projects are not anticipated to change the historic character and significance of the building as these are interior projects. A meeting with a Historic Preservation Planner is required to help navigate any conflicts between features that contribute to a historic rating and green building features. The California State Historic Office of Preservation has stated that historic buildings should not be exempt from Green Building Ordinances. Any construction project will be required to comply with the use of the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to demolition, grading and site disturbance in order minimize adverse effects on these resources. The Ordinance augments and complements existing policies that encourage preservation and discourage demolition of existing housing and historic buildings including Housing Element (HE) Policy 4.4; Goal 2, Objective 2, Policy 2.1, Objective 3, Policy 3.1, Policy 3.5, Policy 3.7, and Policy 3.12 in the Historic Preservation Element; Policy I/C2.2, Policy D6.2, Policy N3.6, and N9.9 in the Land Use and Transportation Element (LUTE), and Action JL-4.1 and Policy JL6 in the Estuary Policy Plan.

<u>Section 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning:</u>

As a separate and independent basis from the other CEQA findings, pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183, the City finds and determines that: (a) the project is consistent

with the Land Use and Transportation Element (LUTE), for which an EIR was certified in March 1998; (b) feasible mitigation measures identified in the LUTE EIR were adopted and have been, or will be, undertaken; (c) the EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval)) have been adopted and found, when applied to future projects, to substantially mitigate impacts. To the extent that no such findings were previously made, the City hereby finds and determines that the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval imposed on the Project substantially mitigate environmental impacts; and (e) substantial new information does not exist to show that the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval will not substantially mitigate the project and cumulative impacts. The Ordinance implements existing policies in the Housing Element (HE) that encourage sustainable development including HE Policy 7.1 and Action 7.1.1 that specifically calls for all new private development projects and major retrofits be encouraged to use to green building features in the design and construction; Action 7.1.3 and Policy 7.2 regarding energy efficiency; Actions 7.2.1-7.2.2 which enforce energy conservation standards and encourage passive heating and cooling; and Action 7.4.1 which encourages compact building design. The Ordinance also implements OSCAR Element Policy CO-12.4 requires the design of development projects to reduce air quality impacts through vegetation, energy conservation or increased transit. Objective CO-13, which includes Policies CO-13.1 through Co-13.4.2 specifically encourage energy conservation and efficiency. Additional policies include:

Open Space Conservation and Recreation Element (OSCAR) for which an EIR was certified in June of 1996
Objectives: CO-4, CO-5, CO-6, OS-8, OS-9, CO-1, CO-2, CO-7, CO-8, CO-10, CO-12, CO-13
Policies: CO-1.1, CO-1.1.1, CO-1.1.3, CO-1.2, CO-2.1, CO-2.4, CO-4.1, CO-4.3, CO-4.4, CO-5.1, CO-5.2, CO-5.3, CO-5.3.1, CO-5.4.2, CO-6.1, CO-6.2, CO-7.1, CO-7.2, CO-7.4, CO-9.1, CO-11, CO-11.1, CO-11.2, CO-12.1, CO-12.2, CO-12.6, OS-1.3, OS-4.3, OS-8.2, OS-9.1, OS-9.2, OS-9.3, OS-10.1, OS-10.2, OS-12.3, CO-13.1 through Co-13.4.2
Actions: CO-4.1.1, CO-4.2, CO-4.2.1, CO-4.3.2, CO-5.1.1, CO-5.1.2, CO-5.3.2, CO-5.3.11, CO-7.1.4, CO-7.2.1, CO-7.2.2, CO-11.2.2, CO-12.2.3, CO-12.3.1

Safety Element for which a Negative Declaration was certified in November of 2004
Policies: GE-2, HM-2, FL-1
Actions: GE2.1-2.5, GE2.2, GE2.3, HM-2.1 through 2.5, FL-1.1, FL-1.2, FL-1.3, FL-1.4, FL-1.5, FI-3.1

Noise Element for which a Negative Declaration was certified in June of 2005
Action 3.1

Land Use and Transportation Element (LUTE) for which an EIR was certified in March of 1998 and amended in June of 2005
Objectives:
Policies: W3.4, I/C2.2, I/C3.3, T2.1, T2.2, T2.3, T2.5, T3.6, T.4.1, D6.2, N3.6, N8.1, N9.9

Historic Element for which an EIR was certified in March of 1994 and amended in July of 1998
Goals: 2
Objectives: 2-3, 4
Policies 2.1, 3.1, 3.5, 3.7, 3.12, 4.4

Housing Element for which a Mitigated Negative Declaration was certified in June of 2004
Policies: 7.1, 7.2
Actions: 1.3.4, 3.2.3, 7.1.1, 7.1.3, 7.4.1

Estuary Policy Plan for which an EIR was certified in June of 1999 and amended in June of 2006
Policies: JL6, JL-14, JL-15,
Action JL-4.1

Scenic Highway Element for which an EIR was certified in September of 1974
Policies: 3, 4, 5

Pedestrian Master Plan for which a Mitigated Negative Declaration was certified in November 2002
Policies: 2.1, 2.3,
Actions: 2.1.1, 3.2.2

DETERMINATION THAT THE GREEN BUILDING ORDINANCE IS NOT APPLICABLE TO AND EXEMPT FROM CEQA

Aesthetics

Scenic Vistas, Scenic Highways, Visual Character
The Green Building Ordinance would not affect scenic vistas, scenic resources, or visual character. None of the proposed points in the rating systems address scenic vistas specifically. However, there are points related to the water body conservation, protection and restoration of habitats or wetlands, and minimizing site disturbance through site design and construction. Furthermore, the proposed rating systems and the Ordinance encourage appropriate site selection and development on infill parcels to specifically avoid damage to scenic character and natural resources. Existing policies in the OSCAR Element provide general mitigation of visual impacts including Policy OS-10.1, Policy OS-9.1, Policy OS-9.2, Policy OS-9.3, and Policy OS-10.2. Other policies include OS-1.3 and Objective OS-9 in the OSCAR Element and Policy W3.4 of the LUTE encourage preservation of views and visual character, Adoption of the Ordinance alone would not increase the potential for impacts. This impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. Therefore, impacts associated with the Ordinance would be less than significant.

Potential Glare
The Green Building Ordinance alone will not cause a new source of substantial light or glare which would substantially and adversely affect day or nighttime views in the area. However, the proposed rating programs in the Ordinance do contain points for natural daylighting, and, therefore, it is possible that the amount of window glazing of some buildings and glare could increase. In addition, the Ordinance alone would not cause an increase in bird strikes due to the increase in daylighting. Since building glare is dependant on many factors such as building orientation, location near other buildings or vegetation, time of year, time of day, or glazing materials, the potential for a substantial impact is too speculative to be evaluated. Furthermore, this impact is associated with any new construction and will neither be more likely, nor less likely, due to the Ordinance. There are points for cool roofs and paving materials which include light colored materials. These materials will not create a substantial glare. Thus, this impact is less than significant. The issue of bird strikes is discussed further in the biological section below.

Shadows
The Green Building Ordinance alone would not introduce landscape that would cast shadows on existing solar collectors or cast shadows that substantially impairs the function of a building using passive solar heat collection, solar collectors for hot water heating, or photovoltaic solar collectors. However, the rating systems contain possible points that would introduce landscaping for passive design, wildlife habitat, to reduce urban heat island effect, and/or open space. In some instances, the actual building construction could cast a shadow on another building using passive solar heat collection, solar collectors, and solar panels. In addition, the adoption of the Ordinance alone will not cast a shadow on any public park, lawn, garden, or a historic resource. However, in some instances, it is possible that construction might generate a shadow that would impact these resources. This impact is associated with any potential construction near such facilities and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. Therefore, impacts associated with the Ordinance would be less than significant.

Conflicts with General Plan, Planning Code, UBC
The Green Building Ordinance will not conflict with applicable provisions related to adequate light. Each project will need to comply with the Zoning Ordinance and City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval including regulations and requirements related to the Building Code which address adequate light. Thus, there is no impact.

Wind
Adoption of the Green Building Ordinance alone will not create winds exceeding 36 mph and none of the rating systems contain points that would address wind hazards. While it is possible that future construction might generate a wind impact this impact is associated with any potential construction and would be neither more likely,

nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. The impacts associated with the Ordinance would be less than significant.

Agriculture

The Green Building Ordinance will not affect agricultural land or use. The City of Oakland is an urban community, without any substantial agricultural land or uses. The City of Oakland General Plan does not contain areas zoned for exclusively for agriculture use. Furthermore, the proposed rating systems contain pre-requisites for farmland conservation and encourage development on infill sites within urban growth boundaries, in areas with existing utilities and transit, and access within ½ to ¼ mile of neighborhood services. Thus, there is no impact.

Air Quality

Air Quality Plan
The Green Building Ordinance will not conflict with or obstruct any applicable air quality plan. The Green Building Ordinance will not conflict with or obstruct any applicable air quality plan. Any future construction would need to comply with the General Plan designations for the sites. Therefore, no significant impact will result from the Ordinance.

Construction Air Quality
The Green Building Ordinance will not violate any air quality standard, contribute to an existing or protected air quality standard violation, have a cumulative considerable net increase in pollutants, subject sensitive receptors to pollutants, result in odors, or contribute to CO concentrations. Building construction would generate short-term emissions of criteria pollutants, including particulate matter and exhaust emissions. Project related activities `include demolition, site preparation, grading, and construction. Emissions generated from these activities include dust primarily from construction equipment, vehicles, and emissions from paving and coatings. Construction-related dust emissions vary from day to day depending on several factors. The Bay Area Air Quality Management District (BAAQMD)'s approach to dust emissions had been to emphasize dust controls rather than detailed quantification of emissions. However, BAAQMD's Draft CEQA Air Quality Thresholds and Guidelines released in November 2009 do establish thresholds. Any construction would be required to comply with existing policies and requirements related to air quality, including Action GE2.2 in the Safety Element (require continued enforcement of the grading, erosion, and sedimentation ordinance), Action 7.4.1 in the Housing Element (encourages compact building design), and Objective CO-1, Policy CO-1.1, Policy CO-1.1.1, CO-2.4, Objective CO-12, and Policy CO-12.6 in the OSCAR Element. The projects will need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to dust control and airborne asbestos, which reduce potential impacts to a less than significant level. The proposed rating systems in the Ordinance augment these existing requirements, by requiring erosion and sediment control and construction activity pollution prevention as prerequisites (for projects required to meet LEED standards). There are other available points for site disturbance, slope protection, and compact development. However, in some instances, it is possible that construction might result in an air quality impact. However, this impact is associated with any potential construction and neither would be less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. To the extent that new construction would have impacts, however, the Ordinance would have a beneficial, rather than adverse, impact on air quality. As a result, impacts associated with the Ordinance would be less than significant.

Operational Air Quality
As noted above, under existing conditions, buildings are the second largest contributor to green house gases (39%) within the City of Oakland. Buildings produce these gases through consumption of energy, heating and air conditioning, and waste. The Green Building Ordinance will not result in an increase of emissions of criteria pollutants. The proposed rating systems contain points for energy efficiency; energy performance and commissioning; renewable energy; indoor air quality; low VOC paints, coatings, and adhesives; environmentally friendly materials, flooring, carpets, and cabinets; and material waste. In addition, there are points related to alternative transportation to reduce pollution and land use impacts on traffic congestion. Although it is possible that new construction might generate emissions, this impact is associated with any potential construction and

would be less likely due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. To the extent that new construction would have impacts, however, the Ordinance would have a beneficial, rather than adverse, impact on air quality. As a result, impacts associated with the Ordinance would be less than significant.

As indicated above the Green Building Ordinance would not result in total emissions of ROG, NOx, or PM10 of 15 tons per year or greater, or 80 pounds (36 kilograms) per day or greater, result in potential to expose persons to substantial levels of Toxic Air Contaminants (TAC), or in ground level concentrations of non-carcinogenic TACs such that the Hazard Index would be greater than 1 for the MEI. Compliance with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to indoor air quality and the installation, operation and on-going maintenance of a MERV 13 filtration sytem as well as a transportation demand management program would reduce the potential exposure to residential units to substantial concentrations to a level of less than significant. Furthermore, project compliance with Policy HM-2 and Actions HM-2.1 through 2.5 of the Safety Element regarding the public's exposure to toxic air contaminants will also reduce this to a level of less than significant.

Cumulative

No air quality impacts associated with the proposed Ordinance have been identified as significant or potentially significant. The Ordinance would not have a cumulatively considerable (nor a significant cumulative) impact on air quality.

Conflict with General Plan

The proposed Ordinance would not result in any fundamental conflict with the City's General Plan, and the City's General Plan does not fundamentally conflict with the regional air quality plan. As discussed above, the Ordinance is consistent with, and implements a number of policies and provisions of the General Plan. An Oakland Energy and Climate Action Plan (ECAP) is being developed to identify, evaluate and recommend prioritized actions to reduce energy consumption and GHG emissions in Oakland. The ECAP will identify energy and climate goals, clarify policy direction, and identify priority actions for reducing energy use and GHG emissions. On July 7, 2009, the Oakland City Council directed staff to develop the draft Oakland ECAP using a preliminary planning GHG reduction target equivalent of 36 percent below 2005 GHG emissions by 2020 (City of Oakland, 2009). The current proposal includes actions related to adoption of a Green Building Ordinance. There is no significant impact.

Conflict with CAP

The Bay Area Air Quality Management District (BAAQMD) uses the Clean Air Plan to evaluate a project's potential cumulative air quality impacts. The BAAQMD CEQA Guidelines state that "for any project that does not individually have significant operational air quality impacts, the determination of significant cumulative impacts should be based on an evaluation of the consistency of the project with the local general plan and the general plan with the regional air quality plan." The Clean Air Plan projections are based on analysis and forecasts of air pollutant emissions throughout the entire region. The forecasts rely on projections of population and employment made by the Association of Bay Area Governments (ABAG), which are based on land use projections made by local jurisdictions (e.g., General Plan process).The proposed rating systems contain points that encourage alternative transportation to reduce pollution and land use impacts on traffic congestion. The points include access to transit and bikeways, adequate and secure bike parking, alternative fuel vehicles, carpool and vanpools, and reduced parking. Existing actions and policies encourage reduced parking standards and construction of transit oriented developments including Housing Element Action 1.3.4 and Action 3.2.3; Safety Element Action HM2.4; Policies CO-12.1, CO-12.2 and Action CO-12.2.3, CO-12.3.1 in the OSCAR Element; Policies I/C3.3, T2.1, T2.2, T2.3, T2.5, T3.6, T.4.1, and N8.1 in the Land Use and Transportation Element (LUTE); and Policies JL-14 and JL-15 in the Estuary Policy Plan. Furthermore, the individual construction projects would need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to transportation demand management. There will be no significant impact

Green House Gases
Buildings contribute ¼ of all California's green house gas emissions (GHG) and the building sector accounts for more than a quarter of all GHG's in the U.S. annually.[4] Homes generate this amount mainly through consumption of energy, heating and cooling, and waste. California Assembly Bill 32 requires the state to reduce GHG emissions to 1990 levels by 2020. A subsequent executive order extended that mandate to an 80 percent reduction by 2050. According to CARB documentation, facilitating the construction, renovation, and operation of green buildings is one initiative by which the state can meet this goal and result in a GHG reduction of 26 annual metric tons. The Green Building Ordinance addresses both energy conservation in existing buildings and the design and construction of new buildings. It also focuses on best management landscape practices. Implementation of the Green Building Ordinance would reduce Oakland's green house gas emissions and in fact several of the 2009 BAAQMD measures to reduce green house gases are similar to points contained within the rating systems such as cool roofs, solar water heaters, and type of duct sealing. Although any additional construction that is not zero net energy or carbon neutral would generate GHG emissions, and it is possible that these projects could increase GHG's, the City of Oakland's ongoing implementation of its Sustainability Community Development Initiative (which includes an array of programs and measures, discussed previously under Regulatory Context for GHG Emissions and Climate Change) will collectively reduce the levels of GHG emissions and contributions to global climate change throughout Oakland. Furthermore, this impact is associated with any potential construction and would actually be less likely due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. Therefore, this impact is less than significant.

Biological Resources:

Habitat Modifications, Riparian Habitat, Other Sensitive Natural Communities, Wetlands
Although new development generally could not affect habitat modifications, riparian habitat, other sensitive natural community, or wetlands, the Ordinance itself would not cause, and likely would reduce, the potential for any such significant impacts to occur. The Ordinance proposes rating systems that include points related to water body conservation, protection and restoration of habitats or wetlands, and minimizing site disturbance through site design and construction. Furthermore, the proposed rating systems and the Ordinance encourage appropriate site selection and development on infill parcels specifically to avoid damage to these natural communities and resources. The proposed points augment and complement existing policies related to protection and preservation of natural resources including OSCAR Policies OS-1.3, OS-4.3, CO-7.1, CO-7.2, CO-9.1; Objectives CO-7, CO-8, CO-9, and Actions CO-7.1.4, CO-7.2.1, CO-7.2.2; Action GE2.2 in the Safety Element (require continued enforcement of the grading, erosion, and sedimentation ordinance), and Action 7.4.1 in the Housing Element (encourages compact building design). Although it is possible that the actual buildings or proposed neighborhoods could degrade or destroy these habitats, wetland or riparian areas, this impact is associated with any potential construction and would actually be less likely due to the Ordinance. The extent to which impacts of specific future development could occur is too speculative currently to be evaluated, but the impacts of the Ordinance will not be significant.

Wildlife and Migratory Corridors and Bird Strikes
The Green Building Ordinance would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. The Ordinance is proposing rating systems that avoid development on inappropriate sites. The rating systems contain specific points related to site design for habitat conversation, and minimizing site disturbance through site design and construction. The proposed rating systems and the Ordinance encourage appropriate site selection and development on infill parcels to specifically avoid damage to these natural communities and resources. Furthermore, there are existing policies that encourage the protection of wildlife including Objective OS-8, CO-11, Policies CO-11.1, CO-11.2, OS-8.2, OS-12.3, and CO-7.4, and Action CO-11.2.2 in the OSCAR Element; Action GE2.3, FL-1.3, and FL-1.5 in the Safety Element. Although it is possible that actual buildings or proposed neighborhoods could interfere with the movement of these species, this impact is associated with any potential construction in sensitive areas, would actually be less likely, due to the Ordinance. As discussed earlier in this document the Ordinance is not expected to increase bird strikes from buildings due to glare and window glazing. Compliance with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to bird strikes would reduce

[4] Building Design Leaders Collaborating on Carbon-Neutral Buildings by 2030, Taryn Holowka, USGBC, 05/7/2007

the potential impacts to less than significant. The extent to which impacts of specific future development could occur is too speculative currently to be evaluated but the impacts of the Ordinance will not be significant.

Habitat Plans
The City of Oakland does not have a habitat or conservation plan. Thus, the proposed Ordinance would not conflict with any plan and there is no potential for an impact.

Trees and Creeks
The Green Building Ordinance would not fundamentally conflict with Oakland's Tree Preservation Ordinance or Creek Protection Ordinance. The proposed rating systems in the Green Building Ordinance encourage the retention and conservation of habitat, limited site disturbance, compact development, and require wetland and water body conservation. Any construction project will be required to comply with the Standard Condition of Approvals related to tree preservation and removal and construction near creeks. The Ordinance augments and complements existing policies that require continued enforcement of the creek ordinance, stormwater management and discharge control including Actions GE2.3, FL-1.3, and FL-1.5 in the Safety Element and Objective OS-8, and Policies OS-8.2, OS-12.3, and CO-7.4 in the OSCAR Element. Although it is possible that development applications could conflict with the Tree or Creek Protection Ordinance, such development would be required to comply with provisions of these ordinances. The extent to which impacts of specific future development could occur is too speculative currently to be evaluated, but the impacts of the Ordinance will not be significant.

Cultural Resources

Historic Resources
The Green Building Ordinance would not cause a substantial adverse change in the significance of a historic resource as defined in CEQA Guidelines δ15064.5. The Ordinance will not encourage the demolition of historic resources and construction of newer more energy and water efficient buildings. To the contrary, the Ordinance provides disincentives for the demolition of these buildings by increasing the level of green features in the building and requiring deconstruction and recycling of all applicable building materials. The other thresholds for alterations and remodeling projects are not anticipated to change the historic character and significance of the building as these are interior projects. A meeting with a Historic Preservation Planner is required to help navigate any conflicts between features that contribute to a historic rating and green building features. Many construction projects have successfully completed LEED certification and have not damaged their inclusion on National, state, and Local Registers. In fact, the California State Historic Office of Preservation has stated that historic buildings should not be exempt from Green Building Ordinances. The proposed rating systems in the Green Building Ordinance also encourage adaptive reuse of buildings and historic building reuse. The Ordinance augments and complements the General Plan contains policies and programs to protect historic resources, including Housing Element (HE), Goal 2, Objective 2-3, Policies 2.1, 3.1, 3.5, 3.7, 3.12, and 4.4 in the Historic Preservation Element; Policies I/C2.2, D6.2, N3.6, and N9.9 in the LUTE; and Action JL-4.1 and Policy JL6 in the Estuary Policy Plan. These policies address demolition, and design elements. Furthermore, these construction projects will be required to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to demolition, grading and site disturbance in order minimize adverse effects on these resources. The impact of the Ordinance will not be significant.

Paleontological and Archeological Resources and Human Remains
The Green Building Ordinance would not directly or indirectly destroy a unique paleontological or archeological resource or disturb any human remains. The proposed rating systems in the Ordinance encourage limited site disturbance and compact development. In addition, these construction projects will be required to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to grading and site disturbance in order minimize adverse effects on these resources. The Ordinance augments and complements existing policies that require protection of these resources including Historic Element Objective 4. Therefore, this is a less significant impact.

Geology and Soils

Seismic Activity
The City is located in a seismically active region and the principal faults in the vicinity include the Hayward Fault, San Andreas Fault, and the Calaveras Fault. Construction within a liquefaction and landslide hazard zone areas are required to conduct a seismic investigation which would recommend construction methods to address and mitigate potential seismic hazards. The Ordinance proposes rating systems that include points related to material conservation during construction including value engineering framing, engineered lumber, use of structural insulated panels, and raised heel roof trusses. None of these construction methods reduce or limit the applicability of the California Building Code to address seismic issues. The project would still need to be designed and constructed to meet the Building Code standards which require seismic evaluation and particular seismic design criteria to reduce ground shaking effects in structures. The new California Building Code addresses these seismic and green building issues in the Efficient Framing Section of Title 24. Furthermore, there are existing policies in the OSCAR Element regarding land stability including Objective CO-2 and Policy CO-2.1. Although the potential for injury or damage cannot be eliminated, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. Adherence to the recommendations in the geotechnical investigation, the Building Code and other applicable codes along with compliance with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to submittal of geotechnical report and possible inclusion in the Geological Hazard Abatement District would reduce the potential impacts to less than significant. Verification by the City of Oakland that the conditions have been met would result in a less than significant impact related to ground shaking, unstable soils and liquefaction potential.

Erosion and Loss of Topsoil
The Green Building Ordinance would not result in substantial soil erosion or the loss of topsoil, creating substantial risks to life, property, or creek/waterways. The proposed rating systems contain pre-requisites and available points related to erosion and sedimentation control and construction activity pollution prevention. These points are similar to the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to erosion. Individual project compliance with the Standard Conditions of Approval would reduce this impact to less than significant. Furthermore, there are existing policies in the Safety Element that require continued enforcement of the grading, erosion, and sedimentation ordinance including Action GE2.2. No significant impact will occur.

Expansive Soils
The Green Building Ordinance does not specify building site location or selection on expansive soils. Potential impacts are associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. Compliance with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval that require adherence to the Building Code would require an analysis of soil expansion potential and identification of appropriate remediation prior to any expansive soils for foundation support. Furthermore, there are existing policies in the OSCAR Element that require consideration of soil constraints including Action CO-1.1.3. The Ordinance will not result in a significant impact.

Wells, Pits, Swamp, etc
The Green Building Ordinance and proposed rating systems do not specify a building site location or avoidance of a well, pit, swamp, mound, tank vault, or unmarked sewer line. Potential impacts are associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. As required by the City Council adopted Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval, individual projects would need to submit a Phase I Site Assessment Report. The report would identify if any of these features were located on the site and what the recommendations would be address them. The Ordinance will not result in a significant impact.

Landfills or Fill Soils
The Green Building Ordinance and the proposed rating systems do not specify a building site location or avoidance of a landfill or unknown fill soils. Potential impacts are associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. As required by the City Council adopted Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval, the individual project would need to submit a Phase I Site Assessment Report. The report would identify if any of these features were located on the site and what the recommendations would be address them. The Ordinance will not result in a significant impact.

Soils Incapable of Supporting Septic Tanks or Alternative Wastewater Systems
The Green Building Ordinance and the proposed rating systems do not specify a building site location or avoidance of soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. Although the proposed rating systems do address alternative wastewater disposal, the City of Oakland Municipal Code prohibits construction of septic tanks or systems that are not connected to the wastewater disposal systems. The Ordinance will not result in a significant impact.

Hazards and Hazardous Materials

Transport and Disposal
The Green Building Ordinance would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. The proposed rating systems address contaminant reduction and brownfield redevelopment which might require the transport of hazardous materials but not the routine transport, use, or disposal of hazardous materials. The Ordinance augments and complements existing policies in the OSCAR Element to minimize hazards with contamination including Policy CO-1.2. Potential impacts are associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. Individual future projects would need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to Phase I Site Assessment Report, Remediation, and Best Practices for soil and groundwater hazards. The Ordinance will not result in a significant impact.

Emission of Hazardous Materials
The Green Building Ordinance would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment or emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. The proposed rating systems contain points that discourage the use of hazardous materials during construction and operation of buildings including, use of low VOC paints, sealants, and adhesives, green flooring, low formaldehyde cabinets and wood products, low emitting materials, construction and indoor air quality management plans. The landscape rating program encourages the use of natural (not chemical) fertilizers and pesticides. Although it is possible that the construction of buildings or proposed neighborhoods could result in the emission of hazardous materials these potential impacts are associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. The individual projects would need to comply with Conditions of Approval related to hazardous materials. The Ordinance will not result in a significant impact.

Location near an Airstrip or Airport Landuse Plan
The Green Building Ordinance does not specify building location within or avoidance of an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and would result in a safety hazard for people residing or working in the project area. Although, it is possible that the construction of buildings or proposed neighborhoods could result in this impact, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. The Ordinance will not result in a significant impact

Evacuation Plan
The Green Building Ordinance would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Although, it is possible that the construction of buildings or proposed neighborhoods could result in this impact, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. The Ordinance will not result in a significant impact.

Wildland Fires
The Green Building Ordinance would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. The Bay Friendly Landscape Checklist has points available for appropriate fire suppression landscaping. These points augment and complement existing policies related to fire prevention including Action FI-3.1 in the Safety Element and Objective CO-10, Policy CO-10.1, and Policy CO-10.2 in the OSCAR Element. In addition, the individual projects would need to comply with Conditions of Approval related to wildland fires. Potential impacts are associated with any potential construction and are equally or less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. The Ordinance will not result in a significant impact.

Hydrology and Water Quality

Water Quality
The Green Building Ordinance would not violate any water quality standards or waste discharge requirements. The proposed rating systems contain pre-requisites and points related to sedimentation control and stormwater management. Furthermore, the individual projects would need to comply with Conditions of Approval related to stormwater management and water quality. Furthermore, there are existing policies related to water quality including Action GE2.2, GE2.3, FL-1.4 in the Safety Element, and Objectives CO-5, CO-6, Policies CO-5.2, CO-5.3, CO-5.3.1, CO-5.4.2 and Action CO-5.1.2 in the OSCAR. Potential impacts are associated with any potential construction and are equally or less likely, due to the Ordinance. The extent to which impacts of specific development could occur is too speculative currently to be evaluated. The Ordinance will not result in a significant impact.

Groundwater Depletion
The Green Building Ordinance would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level violate any water quality standards or waste discharge requirements. The proposed rating systems contain points related to reduction in water use, increased water efficiency, elimination of impervious surfaces so that more water percolates through the soil, rainwater collection, recycled water, and irrigation audits. The Ordinance augments and complements existing policies related to water conservation including OSCAR Objective CO-4, Policy CO-4.1, Action CO-4.1.1 (to implement a city water use reduction plan by 20%), CO-4.2 (Drought tolerant landscaping), Action CO-4.2.1 (development of a water efficient landscape ordinance), Policy CO-4.3 and Action CO-4.3.2 (use of reclaimed water and wastewater) as well as Policies CO-4.4, CO-5.1 and Action CO-5.1.1 Furthermore, the rating systems encourage development on infill sites that can be served by the East Bay Municipal Utility District. The extent to which impacts of specific development could occur is too speculative currently to be evaluated to the extent that future development would result in impacts, the Ordinance will reduce these impacts. The Ordinance will not result in significant impacts.

Flooding
The Green Building Ordinance would not result in substantial flooding on- or off-site or location of housing in a floodplain. The proposed rating systems contain pre-requisites and points related to site location and the avoidance of floodplains. In addition, individual projects would need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to floodplains. The Ordinance augments and complements existing policies related to flooding including Policy FL-1 and Actions FL-1.1 through FL1.5 in the Safety Element as well as Action CO-5.1.2, CO-5.3.2 and Policy CO-5.3 in the OSCAR. . The Ordinance will not result in significant impacts.

Capacity of Stormdrain Systems
The Green Building Ordinance would not create or contribute substantial runoff which would exceed the capacity of existing or planned stormwater drainage systems. The proposed rating systems include points for stormwater management plans, limited site disturbance, and onsite retention of water for later dates. The intent of these points is to minimize water use, storm water runoff and increase on-site filtration. In addition, individual projects would need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to stormwater management and capacity of stormdrains. Compliance with these conditions would result in a less than significant impact. The Ordinance augments and complements existing policies related to storm drain capacity including Action GE2.5 and FL-1.2 in the Safety Element. The Ordinance will not result in significant impacts.

Seiche, Tsunami, or Mudflow
The Green Building Ordinance would not result in inundation by seiche, tsunami, or mudflow. The likelihood of flooding from tsunamis, seiches, or mudflows in Oakland is negligible due to the island of Alameda, so the likelihood of large scale devastation from seiche, tsunami, or mudflow is not significant. The Ordinance would not have a significant impact.

Creek Ordinance
As noted above, the Green Building Ordinance would not fundamentally conflict with Oakland's Creek Protection Ordinance. The proposed rating systems in the Ordinance encourage the retention and conservation of habitat, limited site disturbance, compact development, and require wetland and water body conservation. These construction projects will be required to comply with the Standard Condition of Approvals related to construction near creeks and therefore, this is a less significant impact. The Ordinance augments and complements existing policies in the Safety Element that require continued enforcement of the creek ordinance, stormwater management and discharge control including Action GE2.3, FL-1.3, and FL-1.5. Creek policies are also outlined in the OSCAR Element including Objective CO-6, Policy CO-6.1, and Policy CO-6.2. The Ordinance will not have a significant impact.

Land Use and Planning

Divide an Existing Community
The proposed Green Building Ordinance will not divide an existing community, result in a conflict between adjacent or nearby land uses, or conflict with applicable land use plan. The proposed rating systems contain points that encourage development near neighborhood services. Furthermore, each construction project would need to comply with the General Plan Elements. Although the buildings could result in these impacts, this impact is associated with any potential construction and neither would actually be less likely, due to the Ordinance. The extent to which specific development projects could cause such impacts is too speculative currently to be evaluated; however, the Ordinance will not result in a significant impact.

Conflict with Applicable Land Use Plan
The proposed Green Building Ordinance will not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance. The General Plan is comprehensive in nature and contains a number of competing policies. The City decision makers must determine whether the project is consistent with the General Plan. Each construction project must be consistent with the General Plan, Specific Plan or Zoning Ordinance, even if the City determines that it may not be fully consistent with all specific policies. However, the Ordinance is consistent with applicable land use plans and will not have a significant impact. See a list of applicable General Plan objective and policies on pages 7-8.

Noise

Construction Noise
The Green Building Ordinance would not result in an operational, construction noise impact or a noise impact in excess of the General Plan and the proposed rating systems do not address noise. The individual construction projects would need to comply with all City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to noise impacts. Impacts associated with

individual projects are neither more nor less likely to occur as a result of the Ordinance. Compliance with the Standard Conditions of Approval generally reduces individual project impacts to less than significant. Thus, the Ordinance would not result in a significant impact.

Vibration
The Green Building Ordinance would not create a vibration not associated with motor vehicles, trains, and temporary construction or demolition work, which is perceptible without instruments by the average person at or beyond any lot line containing vibration-causing activities, except vibration causing activities located within the (a) M-40 zone or (b) M-30 zone more than 400 feet from any legally occupied residential property or expose person to or generate rail-related groundbourne vibration in excess of standards established by the Federal Transit Administration. The proposed rating systems do not address vibration, and impacts of specific projects are neither more nor less likely to occur as a result of the Ordinance. Compliance with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval typically would reduce individual project impacts to less than significant. Thus, the Ordinance would not result in a significant impact.

Interior Noise
The Green Building Ordinance would not generate interior Ldn or CNEL greater than 45 dBA for multi-family dwellings, hotels, motels, dormitories and long-term care facilities (and may be extended by local legislative action to include single family dwellings) per California Noise Insulation Standards (CCR Part 2, Title 24. The proposed rating systems don't contain points specifically related to noise insulation; these points address thermal comfort and energy efficiency more than noise. However, inclusion of insulation would result in an overall decrease in interior noise. The proposed construction projects would also need to comply with all City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to indoor noise impacts. Compliance with the Standard Conditions of Approval typically would reduce individual project impacts to less than significant. The Ordinance would not result in a significant impact.

Ambient Noise
The Green Building Ordinance would not result in a 5dBA permanent increase in ambient noise levels as the proposed rating systems do not address noise. Although the construction of buildings and neighborhoods could result in a noise related impact, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance would not result in a significant impact.

Land Use Compatibility
The Green Building Ordinance would not conflict with state land use compatibility guidelines for all specified land uses for determination of acceptability of noise as the proposed rating systems do not address noise. However, the rating systems do address building location on infill sites and near transit options, such as BART or Amtrak. Although this could result in the siting of buildings that do not meet the land use guidelines for noise compatibility, such impacts are neither more nor less likely to occur with the adoption of the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. Future construction projects would need to meet Title 24 requirements and comply with all City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to indoor noise impacts. Compliance with the Standard Conditions of Approval for individual projects typically would result in a less than significant impact. In any event, the Ordinance would not result in a significant impact.

Airstrip or Airport Landuse Plan
The Green Building Ordinance does not address whether projects would be located within or avoid an airport land use plan or in the vicinity of a private airstrip, and would expose people residing or working in the project area to excessive noise levels. The proposed rating systems do not address noise but do address building location on infill sites. Although this could result in the siting of buildings that are within an airport land use plan, such impacts are neither more nor less likely to occur as a result of the Ordinance. The extent to which those noise impacts could result from future development projects is too speculative currently to be evaluated. Future construction projects would need to meet Title 24 requirements and comply with all City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to indoor noise impacts, which typically would reduce impacts to a less than significant level. In any event, the Ordinance would not result in a significant impact.

Population and Housing

The Green Building Ordinance would not induce substantial population growth in a manner not contemplated in the General Plan. The Ordinance would not encourage or discourage more building. The Ordinance just addresses the way buildings are constructed. The proposed rating systems contain points that would reduce the loads on the existing infrastructure. These points include reduced water use, innovative wastewater technologies, energy efficiency in buildings, on-site renewable energy, solar orientation, and waste management. Points also are available for infill development where existing roads and infrastructure are already available. Therefore, the Ordinance would not require additional infrastructure that was not previously planned for or analyzed. The future construction projects will comply with all City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to stormwater and sanitary sewer capacity impacts, which typically reduces impacts to a less than significant level. In any event, the Ordinance would not result in a significant impact.

The Green Building Ordinance would not result in substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere in excess of that contained in the City's Housing Element induce substantial population growth in a manner not contemplated in the General Plan. The Ordinance would not encourage or discourage more building or the displacement of existing people or housing. The Ordinance just addresses the way buildings are constructed. The Ordinance will not result in a significant impact.

Public Services

The Green Building Ordinance would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services. The proposed rating systems in the Ordinance do encourage construction on infill sites that are adequately served by fire services, police stations, schools, parks, and post offices. As a result, to the extent such impacts would occur from future development, the Ordinance likely would reduce such impacts. Furthermore, individual projects would need to comply with the City's City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to Fire Services Review. In addition, construction projects are required to pay school impact fees. According to SB 50, this fee would be deemed full and complete mitigation for project related school impact fees. The Community Services Analysis prepared for the Land Use and Transportation Element of the General Plan stated that future infill development through 2015 would not likely pose a burden on existing public services. The Ordinance will not result in a significant impact.

Recreation

The proposed rating systems in the Ordinance encourage access to active public spaces and increased open space on site, so proposed construction of buildings or neighborhoods could result in an impact to these parks. However, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance will not result in a significant impact.

The Green Building Ordinance does encourage active public spaces and increased open space on site and could result in new recreational facilities that could have an effect on the environment. However, the Zoning Ordinance requires a certain amount of open space per residential unit. Therefore, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance will not result in a significant impact

Traffic

Level of Service (LOS)
The Green Building Ordinance would not cause a project to be constructed that would result in a degradation of LOS. The proposed rating systems in the Ordinance encourage alternative transportation to reduce pollution and land impacts from auto use. The points include access to transit and bikeways, adequate and secure bike parking,

alternative fuel vehicles, carpool and vanpools, and reduced parking. Existing actions and policies encourage reduced parking standards and construction of transit oriented developments including Housing Element (HE) Action 1.3.4 and Action 3.2.3 and Pedestrian Master Plan Policy 2.1, Action 2.1.1, Policy 2.3, Action 3.2.2 as well as others. Although future construction of buildings or neighborhoods could still result in an impact to LOS, this impact is associated with any potential construction would not be more likely, and would, in fact, be less likely, due to the Ordinance. The extent to which impacts of future projects could occur is too speculative currently to be evaluated. In addition, construction projects will need to meet the Bike Ordinance and the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to Transportation Demand Management. In any event, the Ordinance will not result in a significant impact.

Air Traffic
The Green Building Ordinance would not cause a project to be constructed that would result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks. Although future construction of buildings or neighborhoods could result in an impact, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance will not result in a significant impact.

Hazards to Bicycles, or Pedestrians
The Green Building Ordinance would not substantially increase traffic hazards due to motor vehicles, bicycles, or pedestrians due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). The rating systems include points related to bicycle networks, pedestrian access to services, walkable and safe streets, and design of streets. Although future construction of buildings or neighborhoods could result in an impact, this impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance would not result in a significant impact.

Emergency Vehicle Access
The Green Building Ordinance would not cause a project to be constructed that would result in less than two emergency access routes as the proposed rating systems do not address emergency access. This impact is associated with any potential construction and neither would be more likely, nor less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance would not result in a significant impact

Cumulative
The Green Building Ordinance would not cause a project to be constructed that would result in a cumulative impact. The proposed rating systems in the Ordinance encourage alternative transportation to reduce pollution and land impacts from auto use. The points include access to transit and bikeways, adequate and secure bike parking, alternative fuel vehicles, carpool and vanpools, and reduced parking. Although, the proposed construction of buildings or neighborhoods could result in a cumulative impact, this impact is associated with any potential construction and neither would actually be less likely, due to the Ordinance since all construction projects would be encouraged to promote alternative transportation means. The extent to which those cumulative traffic impacts could occur is too speculative currently to be evaluated. Individual construction projects will need to meet the Bike Ordinance and the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to Transportation Demand Management. Furthermore, the Ordinance would not encourage or discourage more building. The Ordinance just addresses the way buildings are constructed. Therefore, the Ordinance is not expected to result in a significant cumulative traffic impact because the Green Building Ordinance would not induce substantial population growth in a manner not contemplated in the General Plan. No cumulative impact will result.

Utilities

Wastewater
The Green Building Ordinance would not exceed wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board. The proposed rating systems in the Ordinance encourage water efficiency to reduce the amount of water needed and the municipal burden to the water supply. In addition, the rating systems

promote alternative innovative wastewater technologies to further reduce this impact. Specific development projects would need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to stormwater and sewer capacity, which typically reduce impacts to a less than significant level. Furthermore, there are existing policies related to stormdrain capacity including Action GE2.5 in the Safety Element and Action CO-5.3.11 in the OSCAR Element. The Ordinance will not result in a significant impact.

Landfills and Solid Waste

The Green Building Ordinance would not exceed landfills with insufficient permitted capacity to accommodate the project's solid waste disposal needs and require or result in construction of landfill facilities or expansion of existing facilities, construction of which could cause significant environmental effects. The proposed rating systems in the Ordinance do encourage recycling and composting to reduce waste. In addition, other points encourage building and material reuse and recycled content in construction materials to further divert material from landfills and direct materials back to the supply stream. In addition, the landscape guidelines further reduce the amount of green waste going to the landfills. Specific development projects would need to comply with the City's Conditions of Approval & Uniformly Applied Development Standards imposed as Standard Conditions of Approval related to stormwater and sewer capacity, which typically reduce impacts to a less than significant level. In any event, the Ordinance will not result in a significant effect.

Energy

The Green Building Ordinance would not violate applicable federal, state and local statutes and regulations relating to energy standards. The projects are required to meet Title 24 regarding energy efficiency. Furthermore, one of the programs requires as a pre-requisite that the project exceeds Title 24 by 15% and the other requires building commissioning and minimum energy efficiency. In addition, points are available for energy performance, renewable energy sources, purchasing of green power, and energy efficient appliances. The Ordinance augments and complements existing policies in the Housing Element that encourage sustainable development including Policy 7.1, Action 7.1.1 (calls for all new private development projects and major retrofits be encouraged to use to green building features in the design and construction), Action 7.1.3, and Policy 7.2 regarding energy efficiency. Objective CO-13 in the OSCAR Element, which includes Policies CO-13.1 through CO-13.4.2 specifically encourage energy conservation and efficiency. Although it is possible that any additional construction that is not zero net energy or carbon neutral would result in an increase in energy consumption, this impact is associated with any potential construction and would actually be less likely, due to the Ordinance. The extent to which those impacts could occur is too speculative currently to be evaluated. In any event, the Ordinance will not result in a significant impact.

In sum, for the reasons stated above, the City finds and determines that the project is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2), 15061(b)(3) (General Rule), 15307 (Actions by Regulatory Agencies for Protection of Natural Resources), and 15308 (Actions by Regulatory Agencies for Protection of the Environment), each of which constitutes a separate and independent basis for the exemption, and there are no exceptions that would defeat the use of any categorical exemptions. As a further separate and independent basis, the project is exempt from CEQA pursuant to CEQA Guidelines Section 15183(Projects Consistent with a Community Plan, General Plan, or Zoning).