File No. 210353 **Committee Item No.** 2
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Erica Major **Date** April 29, 2021
Completed by: Erica Major **Date** _____

FILE NO. 210353 RESOLUTION NO.

[Supporting California State Senate Bill No. 37 (Cortese) - Contaminated Sites]

Resolution supporting California State Senate Bill No. 37, Contaminated Sites: The Hazardous Waste Site Cleanup and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of the common sense exemption to be applied to construction projects located on contaminated sites identified on the state's Cortese List.

WHEREAS, The City and County of San Francisco has approximately 2000 underground storage tanks that have leaked hazardous substances such as the known human carcinogen benzene due to previous industrial and/or commercial uses, and these are identified on a comprehensive site known as the Cortese List; and

WHEREAS, The Cortese List is maintained and updated by the state of California's Department of Toxic Substances Control (DTSC) to mitigate the risks to public health, safety, and the environment from hazardous waste sites as well as underground storage tanks where unauthorized releases have been documented, under California Government Code, Section 65926.5; and

WHEREAS, Housing development can occur on sites that have suspected or detected contamination, with existing industrial sites in San Francisco that have been managed under the Local Oversight Program, and housing redevelopment on these sites requiring a more stringent process to mitigate hazards through the City's Maher ordinance, a unique program managed by the San Francisco Department of Public Health as a state-certified agency that is designed to ensure cleanup of toxic substances based on standards for human habitation and regulated through Article 22A of the San Francisco Health Code and Article 106.A.3.4.2 of the San Francisco Building Code; and

WHEREAS, Since 2015 at least 20 of these sites were considered for, or received a categorical exemption from, the state's environmental regulatory process known as the California Environmental Quality Act or CEQA, in direct conflict with the legal mandate that a categorical exemption cannot be issued for a project proposed for construction on any Cortese List site, whether open or closed, as established by CEQA statutes in Section 21084(d); and

WHEREAS, Categorical exemptions to environmental review under CEQA are defined according to over 30 classes of projects including work on existing facilities, minor alterations to land, small residential projects and other structures, as well as certain legal and regulatory actions that don't involve physical alterations of property; and

WHEREAS, The common sense exemption is allowed in Title 14 CCR § 15061(b)(3), for projects "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;" and

WHEREAS, The implementation of the City's Maher program provides a process for mitigating impacts from contaminated sites, but nothing in local or state law, including CEQA, allows a CEQA exemption for a project proposed to be constructed on a contaminated site, even if the project will undergo environmental review pursuant to the Maher Ordinance or other local ordinance; and

WHEREAS, The Maher program is not subject to a public process that allows for scrutiny, oversight, or publicly documented procedures that are site-specific to ensure that environmental protections or mitigation efforts have been properly undertaken on industrial sites where toxic substances may have been discharged into the soil or subsurface groundwater, and where the potential for exposure of residents, workers, the public and the environment are serious considerations; and

WHEREAS, CEQA requires that a clean-up plan for a contaminated site must be presented to the public for at least a 20-day public review and comment period so that the public may review the plan and ensure that it is adequate to safeguard the health and safety of neighbors, future residents, construction workers and others; and

WHEREAS, AB 869 was adopted by the California legislature in 1991, adding Section 21084(d) to CEQA following several construction projects in which building trades workers were inadvertently exposed to toxic chemicals during projects built on contaminated sites, with the passage of AB 869 assuring that workers and members of the public would be made aware of soil contamination prior to construction so that proper safeguards would be implemented and adequate clean-up would be undertaken; and

WHEREAS, Other major cities throughout California routinely require CEQA review for projects proposed to be constructed on contaminated sites on the Cortese List, typically requiring preparation of a mitigated negative declaration, allowing the pubic to review and comment on the proposed clean-up plan for at least 20 days; and

WHEREAS, The San Francisco Chronicle reported on a case involving a 100-year-old automobile repair shop that was proposed to be converted to residential condominiums located at 1776 Green Street in San Francisco, which was on the Cortese List due to the presence of benzene and other toxic chemicals from leaking underground storage tanks, where— despite the presence of benzene at levels 900 times above residential standards, and 200 times above commercial standards— the San Francisco Planning Department issued a CEQA categorical exemption for the proposed project; and

WHEREAS, At least 20 sites in San Francisco on the Cortese List received categorical exemptions from the Planning Department since 2015, with 12 of these sites documented with addresses in the San Francisco Chronicle report, which describes these as current and future projects providing more than 250 housing units throughout the City; and

WHEREAS, The San Francisco Planning Department had claimed that it received faulty communication from the state regarding the application of categorical exemptions to sites on the Cortese List, subsequently deeming its prior practice “regrettable;” and

WHEREAS, The Planning Department then contended that it could issue “common sense” exemptions for such projects, citing regulatory interpretations as opposed to stronger statutory requirements in Section 21084(d) which indicate that exemptions to CEQA are not allowed for Cortese List sites, and in fact issued a CEQA common sense exemption for the proposed project at 1776 Green Street; and

WHEREAS, The common sense exemption is very narrow and is only available for projects “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,” and this is highly difficult to demonstrate with projects proposed on a contaminated site on the Cortese List; and

WHEREAS, CEQA review for projects proposed to be constructed on Cortese List sites often takes the form of a mitigated negative declaration, which includes a reasonable 20-day public review period, which will not result in undue delay or burden; and

WHEREAS, Since the City and County of San Francisco already requires preparation of a clean-up plan for contaminated sites pursuant to the Maher Ordinance, with associated costs for mitigation in a process familiar to developers of these sites, CEQA review will essentially add an additional requirement for this remediation plan to be presented to the public for a brief 20-day review period prior to approval; and

WHEREAS, Senator David Cortese is advancing Senate Bill 37, the Hazardous Waste Site and Cleanup Act, to address this practice of granting common sense exemptions, as have been uniquely discovered and publicly reported in San Francisco Planning Department’s handling of 1776 Green St. and other Cortese List sites that have been redeveloped or may be considered for redevelopment; and

WHEREAS, SB 37 makes explicit that local jurisdictions are prohibited from issuing a common sense exemption to these sites on the Cortese List, amended in the bill as the "consolidated List created and distributed by the Secretary for Environmental Protection;" now, therefore, be it

RESOLVED, That the San Francisco Board of Supervisors affirms its support for Senate Bill 37 as it moves through the 2020-21 legislative session in the state of California; and, be it

FURTHER RESOLVED, That the Clerk of the Board transmits copies of this Resolution to the California State Assembly and California State Senate majority and minority leaders, the San Francisco delegation to the state legislature, and members of key committees where SB 37 is being deliberated, including the Senate's Environmental Quality Committee and the Assembly’s Environmental Safety and Toxic Materials Committee.

AMENDED IN SENATE MARCH 1, 2021

SENATE BILL No. 37

Introduced by Senator Cortese

December 7, 2020

An act to amend Sections 65913.4, 65913.15, 65940, 65941.1, and 65941.5 of, and to repeal Section 65962.5 of, the Government Code, to amend Sections 17021.8, 25220, and 25395.117 of, and to add Chapter 6 (commencing with Section 25000) ~~of~~ *to* Division 20 ~~to,~~ *of,* the Health and Safety Code, and to amend Sections 21084, 21092.6, 21155.1, 21159.21, and 21159.25 of the Public Resources Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Cortese. Contaminated sites: the ~~Dominic Cortese "Cortese List" Act of 2021.~~ *Hazardous Waste Site Cleanup and Safety Act.*

(1) Existing law requires the Department of Toxic Substances Control to compile a list of specified information, including, but not limited to, hazardous waste facilities where the department took, or contracted for the taking of, corrective action to remedy or prevent, for example, an imminent substantial danger to public health. Existing law requires the State Department of Health Care Services to compile a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. Existing law also requires the State Water Resources Control Board to compile a list of specified information, including, but not limited to, all cease and desist orders and cleanup and abatement orders issued under the Water Code that concern the discharge of wastes that are hazardous materials. Existing law requires these agencies to update

the information as appropriate, but at least annually, and to submit the information to the Secretary of Environmental Protection. Under existing law, the Secretary for Environmental Protection is required to consolidate the information provided by these state agencies and distribute the information in a timely fashion to each city and county in which sites on the lists are located and to any other person upon request. ~~The information consolidated and made available by the Secretary for Environmental Protection is commonly known as the "Cortese List."~~

This bill would enact the ~~Dominic Cortese "Cortese List" Act of 2021~~ *Hazardous Waste Site Cleanup and Safety Act* and would recodify the above-described provisions with certain revisions. The bill would require the Department of Toxic Substances Control to also list hazardous waste facilities where the department issued an order for corrective action after determining that there is or has been a release of hazardous waste or constituents into the environment from a facility. The bill would require the State Water Resources Control Board, instead of the ~~Sate~~ *State* Department of Health Care Services, to compile and update a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. The bill would require the Secretary for Environmental Protection to *additionally* post the *consolidated* information on the California Environmental Protection Agency's internet website.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the Office of Planning and Research to prepare and adopt guidelines to implement CEQA, which guidelines shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA. Existing law provides that a project located on a site that is included on the ~~Cortese List~~ *consolidated list created and distributed*

by the Secretary for Environmental Protection shall not be exempted from CEQA under this provision.

This bill would expressly provide that a project that is included on the ~~Cortese List~~ *consolidated list created, distributed, and posted online by the Secretary for Environmental Protection* shall also not be exempt from CEQA as a project 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, commonly known as the "common-sense exemption."

This bill would make other nonsubstantive, conforming, and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (c) and is not subject to a conditional use permit if the development complies with subdivision (b) and satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development and the site on which it is located satisfy all of the following:

(A) It is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) It is zoned for residential use or residential mixed-use development, or has a general plan designation that allows

residential use or a mix of residential and nonresidential uses, and at least two-thirds of the square footage of the development is designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation. The square footage of the development shall not include underground space, such as basements or underground parking garages.

(3) (A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for no less than the following periods of time:

(i) Fifty-five years for units that are rented.

(ii) Forty-five years for units that are owned.

(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies subparagraphs (A) and (B) below:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does either of the following:

(I) The project dedicates a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(II) (ia) If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (I), dedicates 20 percent of the total number of units to housing affordable to households making below 120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 120 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the area median income shall not exceed 30 percent of the gross income of the household.

(ib) For purposes of this subclause, "San Francisco Bay area" means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(ii) The locality's latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the area median income, that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or

if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(C) (i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in Section 65915, provided that the development proponent complies with the applicable requirements in the state or local law.

(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).

(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government under this section, or at the time a notice of intent is submitted pursuant to subdivision (b), whichever occurs earlier. For purposes of this paragraph, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards under this subdivision if the development is consistent with the standards set forth in the general plan.

(C) It is the intent of the Legislature that the objective zoning standards, objective subdivision standards, and objective design review standards described in this paragraph be adopted or amended in compliance with the requirements of Chapter 905 of the Statutes of 2004.

(D) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Section 30103 of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Director of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision

(b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 25001 of the Health and Safety Code or a hazardous substances release site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing

with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action pursuant to Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, all of the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development

or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality under this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval under this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise

be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) (A) (i) Before submitting an application for a development subject to the streamlined, ministerial approval process described in subdivision (c), the development proponent shall submit to the local government a notice of its intent to submit an application. The notice of intent shall be in the form of a preliminary application that includes all of the information described in Section 65941.1, as that section read on January 1, 2020.

(ii) Upon receipt of a notice of intent to submit an application described in clause (i), the local government shall engage in a scoping consultation regarding the proposed development with any California Native American tribe that is traditionally and culturally affiliated with the geographic area, as described in Section 21080.3.1 of the Public Resources Code, of the proposed development. In order to expedite compliance with this subdivision, the local government shall contact the Native American Heritage Commission for assistance in identifying any California Native

American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development.

(iii) The timeline for noticing and commencing a scoping consultation in accordance with this subdivision shall be as follows:

(I) The local government shall provide a formal notice of a development proponent's notice of intent to submit an application described in clause (i) to each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development within 30 days of receiving that notice of intent. The formal notice provided under this subclause shall include all of the following:

(ia) A description of the proposed development.

(ib) The location of the proposed development.

(ic) An invitation to engage in a scoping consultation in accordance with this subdivision.

(II) Each California Native American tribe that receives a formal notice under this clause shall have 30 days from the receipt of that notice to accept the invitation to engage in a scoping consultation.

(III) If the local government receives a response accepting an invitation to engage in a scoping consultation under this subdivision, the local government shall commence the scoping consultation within 30 days of receiving that response.

(B) The scoping consultation shall recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the resource to the culturally affiliated California Native American tribe.

(C) The parties to a scoping consultation conducted under this subdivision shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development may participate in the scoping consultation. However, the local government, upon the request of any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development, shall engage in a separate scoping consultation with that California Native American tribe. The development proponent and its consultants may participate in a

scoping consultation process conducted under this subdivision if all of the following conditions are met:

(i) The development proponent and its consultants agree to respect the principles set forth in this subdivision.

(ii) The development proponent and its consultants engage in the scoping consultation in good faith.

(iii) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping consultation, either for the duration of the scoping consultation or with respect to any particular meeting or discussion held as part of the scoping consultation.

(D) The participants to a scoping consultation under this subdivision shall comply with all of the following confidentiality requirements:

(i) Subdivision (r) of Section 6254.

(ii) Section 6254.10.

(iii) Subdivision (c) of Section 21082.3 of the Public Resources Code.

(iv) Subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(v) Any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.

(E) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to a scoping consultation conducted under this subdivision.

(2) (A) If, after concluding the scoping consultation, the parties find that no potential tribal cultural resource would be affected by the proposed development, the development proponent may submit an application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c).

(B) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal

cultural resource treatment, the development proponent may submit the application for a development subject to the streamlined, ministerial approval process described in subdivision (c). The local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

(C) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local government regarding methods, measures, and conditions for tribal cultural resource treatment, the development shall not be eligible for the streamlined, ministerial approval process described in subdivision (c).

(D) For purposes of this paragraph, a scoping consultation shall be deemed to be concluded if either of the following occur:

(i) The parties to the scoping consultation document an enforceable agreement concerning methods, measures, and conditions to avoid or address potential impacts to tribal cultural resources that are or may be present.

(ii) One or more parties to the scoping consultation, acting in good faith and after reasonable effort, conclude that a mutual agreement on methods, measures, and conditions to avoid or address impacts to tribal cultural resources that are or may be present cannot be reached.

(E) If the development or environmental setting substantially changes after the completion of the scoping consultation, the local government shall notify the California Native American tribe of the changes and engage in a subsequent scoping consultation if requested by the California Native American tribe.

(3) A local government may only accept an application for streamlined, ministerial approval under this section if one of the following applies:

(A) A California Native American tribe that received a formal notice of the development proponent's notice of intent to submit an application pursuant to subclause (I) of clause (iii) of subparagraph (A) of paragraph (1) did not accept the invitation to engage in a scoping consultation.

(B) The California Native American tribe accepted an invitation to engage in a scoping consultation pursuant to subclause (II) of clause (iii) of subparagraph (A) of paragraph (1) but substantially

failed to engage in the scoping consultation after repeated documented attempts by the local government to engage the California Native American tribe.

(C) The parties to a scoping consultation under this subdivision find that no potential tribal cultural resource will be affected by the proposed development pursuant to subparagraph (A) of paragraph (2).

(D) A scoping consultation between a California Native American tribe and the local government has occurred in accordance with this subdivision and resulted in agreement pursuant to subparagraph (B) of paragraph (2).

(4) A project shall not be eligible for the streamlined, ministerial process described in subdivision (c) if any of the following apply:

(A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

(B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation conducted under this subdivision do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2).

(C) The parties to a scoping consultation conducted under this subdivision do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(5) (A) If, after a scoping consultation conducted under this subdivision, a project is not eligible for the streamlined, ministerial process described in subdivision (c) for any or all of the following reasons, the local government shall provide written documentation of that fact, and an explanation of the reason for which the project is not eligible, to the development proponent and to any California Native American tribe that is a party to that scoping consultation:

(i) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project, as described in subparagraph (A) of paragraph (4).

(ii) The parties to the scoping consultation have not documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B) of paragraph (4).

(iii) The parties to the scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the

proposed development, as described in subparagraph (C) of paragraph (4).

(B) The written documentation provided to a development proponent under this paragraph shall include information on how the development proponent may seek a conditional use permit or other discretionary approval of the development from the local government.

(6) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under state and federal law, or the ability of a California Native American tribe to submit information to the local government or participate in any process of the local government.

(7) For purposes of this subdivision:

(A) "Consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between local governments and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural importance. A lead agency shall consult the tribal consultation best practices described in the "State of California Tribal Consultation Guidelines: Supplement to the General Plan Guidelines" prepared by the Office of Planning and Research.

(B) "Scoping" means the act of participating in early discussions or investigations between the local government and California Native American tribe, and the development proponent if authorized by the California Native American tribe, regarding the potential effects a proposed development could have on a potential tribal cultural resource, as defined in Section 21074 of the Public Resources Code, or California Native American tribe, as defined in Section 21073 of the Public Resources Code.

(8) This subdivision shall not apply to any project that has been approved under the streamlined, ministerial approval process provided under this section before the effective date of the act adding this subdivision.

(c) (1) If a local government determines that a development submitted under this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government under this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government under this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(3) For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(d) (1) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government under this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government under this section if the development contains more than 150 housing units.

(2) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (9) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be subject to the public oversight timelines set forth in paragraph (1).

(e) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved under this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose automobile parking requirements for streamlined developments approved under this section that exceed one parking space per unit.

(f) (1) If a local government approves a development under this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the area median income.

(2) (A) If a local government approves a development under this section and the project does not include 50 percent of the units affordable to households making at or below 80 percent of the area median income, that approval shall remain valid for three years

from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided that vertical construction of the development has begun and is in progress. For purposes of this subdivision, "in progress" means one of the following:

(i) The construction has begun and has not ceased for more than 180 days.

(ii) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.

(B) Notwithstanding subparagraph (A), a local government may grant a project a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development under this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.

(g) (1) (A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (b) if that request is submitted to the local government before the issuance of the final building permit required for construction of the development.

(B) Except as provided in paragraph (3), the local government shall approve a modification if it determines that the modification is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.

(C) The local government shall evaluate any modifications requested under this subdivision for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved for streamlined, ministerial approval pursuant to subdivision (b).

(D) A guideline that was adopted or amended by the department pursuant to subdivision (j) after a development was approved through the streamlined ministerial approval process described in subdivision (b) shall not be used as a basis to deny proposed modifications.

(2) Upon receipt of the developmental proponent's application requesting a modification, the local government shall determine if the requested modification is consistent with the objective planning standard and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

(3) Notwithstanding paragraph (1), the local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

(A) The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more.

(B) The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modifications.

(4) The local government's review of a modification request under this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(h) (1) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval under this section.

(2) A local government shall issue a subsequent permit required for a development approved under this section if the application substantially complies with the development as it was approved pursuant to subdivision (c). Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved under this section. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this paragraph, a "subsequent permit" means a permit required subsequent to receiving approval pursuant to subdivision (c), and includes, but is not limited to, demolition, grading, encroachment, and building permits and final maps, if necessary.

(3) (A) If a public improvement is necessary to implement a development that is subject to the streamlined, ministerial approval under this section, including, but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway, street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and any related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.

(B) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall do all of the following:

(i) Consider the application based upon any objective standards specified in any state or local laws that were in effect when the original development application was submitted.

(ii) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project that is not eligible to receive ministerial or streamlined approval under this section.

(C) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall not do either of the following:

(i) Adopt or impose any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval under this section.

(ii) Unreasonably delay in its consideration, review, or approval of the application.

(i) (1) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(2) This section shall not prevent a development from also qualifying as a housing development project entitled to the protections of Section 65589.5. This paragraph does not constitute a change in, but is declaratory of, existing law.

(j) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to:

(1) Lease, convey, or encumber land owned by the local government or the San Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible TOD project, as defined in Section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease, or to provide financial assistance to a development that receives streamlined approval under this section that is to be used

for housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(2) Approve improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval under this section that is to be used for housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(k) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing cost" has the same meaning as set forth in Section 50052.5 of the Health and Safety Code.

(2) "Affordable rent" has the same meaning as set forth in Section 50053 of the Health and Safety Code.

(3) "Department" means the Department of Housing and Community Development.

(4) "Development proponent" means the developer who submits an application for streamlined approval under this section.

(5) "Completed entitlements" means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(7) "Moderate income housing units" means housing units with an affordable housing cost or affordable rent for persons and families of moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(8) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(9) "State agency" includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(10) "Subsidized" means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low income households and lower income, households as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(11) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(12) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(*l*) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted under this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(m) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (c) is not a "project" as defined in Section 21065 of the Public Resources Code.

(n) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.

(o) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. Section 65913.15 of the Government Code is amended to read:

65913.15. (a) Notwithstanding Section 65913.4, a development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and is not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is located within the territorial boundaries or a specialized residential planning area identified in the general plan of, and adjacent to existing urban development within, any of the following:

(A) The City of Biggs.

(B) The City of Corning.

(C) The City of Gridley.

(D) The City of Live Oak.

(E) The City of Orland.
(F) The City of Oroville.
(G) The City of Willows.
(H) The City of Yuba City.

(2) The development is either a residential development or a mixed-use development that includes residential units with at least two-thirds of the square footage of the development designated for residential use, not including any land that may be devoted to open-space or mitigation requirements.

(3) The development proponent has held at least one public meeting on the proposed development before submitting an application under this subdivision.

(4) The development has a minimum density of at least four units per acre.

(5) The development is located on a site that meets both of the following requirements:

(A) The site is no more than 50 acres.

(B) The site is zoned for residential use or residential mixed-use development.

(6) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government under this section.

(7) The development will achieve sustainability standards sufficient to receive a gold certification under the United States Green Building Council's Leadership in Energy and Environmental Design for Homes rating system or, in the case of a mixed-use development, the Neighborhood Development or the New Construction rating system, or the comparable rating under the GreenPoint rating system or voluntary tier under the California Green Building Code (Part 11 (commencing with Section 101) of Title 24 of the California Code of Regulations).

(8) The development is not located on a site that is any of the following:

(A) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California,

and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation that is protected pursuant to the ~~California Land Conservation~~ *Williamson* Act ~~of 1965~~ (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Director of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 25001 of the Health and Safety Code or a hazardous substances release site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development

may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local government.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(H) Lands identified for conservation in an adopted natural community conservation plan adopted on or before January 1, 2019, pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(I) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by any of the following:

(i) The federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(ii) The California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(iii) The Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(J) Lands under conservation easement.

(9) The development does not require the demolition of a historic structure that was placed on a national, state, or local historic register.

(10) The development shall not be upon an existing parcel of land or site that is governed under any of the following:

(A) The Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code).

(B) The Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code).

(C) The Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code).

(D) The Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(11) (A) If the development would require the demolition of any affordable housing units, the development shall replace those units by providing at least the same number of units of equivalent size to be made available at affordable housing cost to, and occupied by, persons and families in the same income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income households occupied the units in the same proportion of lower income households to all households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded to the next whole number.

(B) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(b) (1) If a local government determines that a development submitted under this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government under this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government under this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent commission responsible for review and approval of development projects or the city council, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local government before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submittal of the development to the local government under this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development to the local government under this section if the development contains more than 150 housing units.

(d) Notwithstanding any other law, a city, whether or not it has adopted an ordinance governing automobile parking requirements for multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved under this section if the development is located within one-half mile from a high-quality bus corridor or major transit stop.

(e) (1) If a local government approves a development under this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability and 50 percent of the units are affordable to households making below 80 percent of the area median income. For purposes of this paragraph, "public investment in housing affordability" does not include tax credits.

(2) If a local government approves a development under this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area

median income, that approval shall automatically expire after three years, except that a project may receive a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development under this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

(4) If a local government approves a development under this section, the local government shall file a notice of that approval with the Office of Planning and Research.

(f) (1) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval under this section.

(2) Notwithstanding paragraph (1), if the local government has adopted a local ordinance that requires that a specified percentage of the units of a housing development project be dedicated to households making below 80 percent of the area median income, that local ordinance applies.

(g) This section does not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing" means housing available at affordable housing cost, and occupied by, persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, lower income households as defined in Section 50079.5 of the Health and Safety Code, very low income

households as defined in Section 50105 of the Health and Safety Code, and extremely low income households as defined in Section 50106 of the Health and Safety Code, for a period of 55 years for rental housing and 45 years for owner-occupied housing.

(2) "Affordable housing cost" has the same meaning as "affordable housing cost" described in Section 50052.5 of the Health and Safety Code.

(3) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.

(4) "Development proponent" means the developer who submits an application for streamlined approval under this section.

(5) "High-quality bus corridor" means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

(6) "Local government" means a city or a county, including a charter city or a charter county, that has jurisdiction over a development for which a development proponent submits an application under this section.

(7) "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. "Major transit stop" shall also include major transit stops included in a regional transportation plan adopted pursuant to Chapter 2.5 (commencing with Section 65080).

(8) (A) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a local government, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to subparagraph (B).

(B) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is consistent with the allowable residential density within that land use designation, notwithstanding any specified unit allocation.

(i) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 3. Section 65940 of the Government Code, as amended by Section 6 of Chapter 654 of the Statutes of 2019, is amended to read:

65940. (a) (1) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 25001 of the Health and Safety Code and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(2) An affected city or affected county, as defined in Section 66300, shall include the information necessary to determine compliance with the requirements of subdivision (d) of Section 66300 in the list compiled pursuant to paragraph (1).

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 4. Section 65940 of the Government Code, as added by Section 7 of Chapter 654 of the Statutes of 2019, is amended to read:

65940. (a) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 25001 of the Health and Safety Code and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) This section shall become operative on January 1, 2025.

SEC. 5. Section 65941.1 of the Government Code is amended to read:

65941.1. (a) An applicant for a housing development project, as defined in paragraph (2) of subdivision (h) of Section 65589.5, shall be deemed to have submitted a preliminary application upon providing all of the following information about the proposed project to the city, county, or city and county from which approval for the project is being sought and upon payment of the permit processing fee:

(1) The specific location, including parcel numbers, a legal description, and site address, if applicable.

(2) The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

(3) A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.

(4) The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

(5) The proposed number of parking spaces.

(6) Any proposed point sources of air or water pollutants.

(7) Any species of special concern known to occur on the property.

(8) Whether a portion of the property is located within any of the following:

(A) A very high fire hazard severity zone, as determined by the Director of Forestry and Fire Protection pursuant to Section 51178.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) A hazardous waste site that is listed pursuant to Section 25001 of the Health and Safety Code or a hazardous substances release site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.

(D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.

(9) Any historic or cultural resources known to exist on the property.

(10) The number of proposed below market rate units and their affordability levels.

(11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.

(12) Whether any approvals under the Subdivision Map ~~Act,~~ *Act (Division 2 (commencing with Section 66410))*, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.

(13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

(14) For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:

(A) Wetlands, as described in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

(B) Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

(C) A tsunami run-up zone.

(D) Use of the site for public access to or along the coast.

(15) The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.

(16) A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

(17) The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

(b) (1) Each local agency shall compile a checklist and application form that applicants for housing development projects

may use for the purpose of satisfying the requirements for submittal of a preliminary application.

(2) The Department of Housing and Community Development shall adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application if a local agency has not developed its own application form pursuant to paragraph (1). Adoption of the standardized form shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) A checklist or form shall not require or request any information beyond that expressly identified in subdivision (a).

(c) After submittal of all of the information required by subdivision (a), if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application that satisfies this section until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions. For purposes of this subdivision, "square footage of construction" means the building area, as defined in the California Building Standards Code (Title 24 of the California Code of Regulations).

(d) (1) Within 180 calendar days after submitting a preliminary application with all of the information required by subdivision (a) to a city, county, or city and county, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.

(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.

(3) This section shall not require an affirmative determination by a city, county, or city and county regarding the completeness of a preliminary application or a development application for purposes of compliance with this section.

(e) Notwithstanding any other law, submission of a preliminary application in accordance with this section shall not preclude the listing of a tribal cultural resource on a national, state, tribal, or local historic register list on or after the date that the preliminary application is submitted. For purposes of Section 65589.5 or any other law, the listing of a tribal cultural site on a national, state, tribal, or local historic register on or after the date the preliminary application was submitted shall not be deemed to be a change to the ordinances, policies, and standards adopted and in effect at the time that the preliminary application was submitted.

(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 6. Section 65941.5 of the Government Code is amended to read:

65941.5. Each public agency shall notify applicants for development permits of the time limits established for the review and approval of development permits pursuant to Article 3 (commencing with Section 65940) and Article 5 (commencing with Section 65950), of the requirements of subdivision (e) of Section 25001 of the Health and Safety Code, and of the public notice distribution requirements under applicable provisions of law. The public agency shall also notify applicants regarding the provisions of Section 65961. The public agency may charge applicants a reasonable fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged under this section, the fee shall be collected as part of the application fee charged for the development permit.

SEC. 7. Section 65962.5 of the Government Code is repealed.

SEC. 8. Section 17021.8 of the Health and Safety Code is amended to read:

17021.8. (a) A development proponent may submit an application for a development that is subject to a streamlined, ministerial approval process, provided in subdivision (b), and is not subject to a conditional use permit if all of the following requirements are met:

(1) The development is located on land designated as agricultural in the applicable city or county general plan.

(2) The development is not located on a site that is any of the following:

(A) Within the coastal zone, as defined in Section 30103 of the Public Resources Code.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 25001 or a hazardous substances release site designated by the Department of Toxic Substances Control pursuant to Section 25356, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901)), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

(F) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency.

(H) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat

conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(I) Lands under conservation easement. For purposes of this section, "conservation easement" shall not include a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code).

(J) Lands with groundwater levels within five feet of the soil surface and for which the development would be served by an onsite wastewater disposal system serving more than six family housing units.

(3) The development is an eligible agricultural employee housing development that satisfies the requirements specified in subdivision (i).

(b) (1) If a local government determines that a development submitted under this section does not meet the requirements specified in subdivision (a), the local government shall provide the development proponent written documentation of the requirement or requirements the development does not satisfy and an explanation for the reason or reasons the development does not satisfy the requirement or requirements, as follows:

(A) Within 30 days of submission of the development to the local government under this section if the development contains 50 or fewer housing units.

(B) Within 60 days of submission of the development to the local government under this section if the development contains more than 50 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the requirements specified in paragraph (2) of subdivision (a).

(c) The local government's planning commission or an equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate, may conduct a development review or public oversight of the development. The development review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective development standards

described in this section. For purposes of this subdivision, "objective development standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submission. The development review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submission of the development to the local government under this section if the development contains 50 or fewer housing units.

(2) Within 180 days of submission of the development to the local government under this section if the development contains more than 50 housing units.

(d) An agricultural employee housing development that is approved under this section shall not be subject to the density limits specified in Section 17021.6 in order to constitute an agricultural land use for purposes of that section.

(e) Notwithstanding Section 17021.6, a local government may subject an agricultural employee housing development that is approved under this section to the following written, objective development standards:

(1) (A) A requirement that the development have adequate water and wastewater facilities and dry utilities to serve the project.

(B) A requirement that the development be connected to an existing public water system that has not been identified as failing or being at risk of failing to provide an adequate supply of safe drinking water.

(C) If the development proposes to include 10 or more units, a requirement that the development connect to an existing municipal sewer system that has adequate capacity to serve the project. If the local agency has adopted an approved local agency management program for onsite wastewater treatment systems, those requirements shall apply to the development.

(2) A requirement that the property on which the development is located be either:

(A) Within one-half mile of a duly designated collector road with an Average Daily Trips (ADT) of 6,000 or greater.

(B) Adjacent to a duly designated collector road with an ADT of 2,000 or greater.

(3) A requirement that the development include off-street parking based upon demonstrated need, provided that the standards do not require more parking for eligible agricultural employee housing developments than for other residential uses of similar size within the jurisdiction.

(4) Notwithstanding Section 17020 or any other law, health, safety, and welfare standards for agricultural employee housing, including, but not limited to, density, minimum living space per occupant, minimum sanitation facilities, minimum sanitation requirements, and similar standards.

(5) Standards requiring that if a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(f) Neither the approval of a development under this section, including the permit processing, nor the application of development standards under this section shall be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(g) Notwithstanding Section 17021.6, a local agency may impose fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the eligible agricultural employee housing development.

(h) This section shall not be construed to:

(1) Prohibit a local agency from requiring an eligible agricultural employee housing development to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with subdivision (e) and appropriate to, and consistent with, meeting the jurisdiction’s need for farmworker housing, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583 of the Government Code.

(2) Prohibit a local agency from disapproving an eligible agricultural employee housing development if the eligible agricultural employee housing development as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid

the specific, adverse impact without rendering the development unaffordable to lower income households, as defined in Section 50079.5, or rendering the development financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) Prohibit a local agency from disapproving an eligible agricultural employee housing development if that project would be in violation of any applicable state or federal law.

(4) Change any obligations to comply with any other existing laws, including, but not limited to, Section 116527, Section 106.4 of the Water Code, Division 7 (commencing with Section 13000) of the Water Code, and Part 12 (commencing with Section 116270) of Division 104.

(i) For purposes of this section, "eligible agricultural employee housing development" means an agricultural employee housing development that satisfies all of the following:

(1) The agricultural employee housing does not contain dormitory-style housing.

(2) The development consists of no more than 36 units or spaces designed for use by a single family or household.

(3) (A) Except as otherwise provided in subparagraph (B), the agricultural employee housing will be maintained and operated by a qualified affordable housing organization that has been certified pursuant to Section 17030.10. The development proponent shall submit proof of issuance of the qualified affordable housing organization's certification by the enforcement agency. The qualified affordable housing organization shall provide for onsite management of the development.

(B) In the case of agricultural employee housing that is maintained and operated by a local public housing agency or a multicounty, state, or multistate agency that has been certified as a qualified affordable housing organization as required by this paragraph, that agency either directly maintains and operates the agricultural employee housing or contracts with another qualified affordable housing organization that has been certified pursuant to Section 17030.10.

(C) The local government ensures an affordability covenant is recorded on the property to ensure the affordability of the proposed agricultural employee housing for agricultural employees for not less than 55 years. For purposes of this paragraph, "affordability" means the agricultural housing is made available at an affordable rent, as defined in Section 50053, to lower income households, as defined in Section 50079.5.

(4) The agricultural employee housing is not ineligible for state funding pursuant to paragraph (1) of subdivision (b) of Section 50205.

(j) For purposes of this section, "agricultural employee housing" means employee housing for agricultural employees as both terms are defined in Sections 17008 and 17021, respectively.

(k) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of agricultural employee housing as are commensurate with local need. The Legislature further finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 9. Chapter 6 (commencing with Section 25000) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6. THE ~~DOMINIC CORTESE "CORTESE LIST" ACT OF 2021~~ *HAZARDOUS WASTE SITE CLEANUP AND SAFETY ACT*

25000. This chapter shall be known and may be cited as the ~~Dominic Cortese "Cortese List" Act of 2021.~~ *Hazardous Waste Site Cleanup and Safety Act.*

25001. (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All hazardous waste facilities subject to corrective action pursuant to Section 25187 or Section 25187.5.

(2) All land designated as hazardous waste property or border zone property pursuant to former Article 11 (commencing with Section 25220) of Chapter 6.5.

(3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 regarding hazardous waste disposals on public land.

(4) All sites listed pursuant to Section 25356.

(b) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis pursuant to Section 116395.

(2) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295.

(3) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

(4) All cease and desist orders issued pursuant to Section 13301 of the Water Code and all cleanup or abatement orders issued pursuant to Section 13304 of the Water Code that concern the discharge of wastes that are hazardous materials.

(c) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Code of Regulations, shall compile as appropriate, but at least annually, and shall submit to the Department of Resources Recycling and Recovery, a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The Department of Resources Recycling and Recovery shall compile the local lists into a statewide list, which shall be submitted to the Secretary for Environmental Protection and shall be available to any person who requests the information.

(d) The Secretary for Environmental Protection shall consolidate the information submitted under this section and post the information on the California Environmental Protection Agency's internet website. The secretary shall also distribute the information in a timely fashion to each city and county in which sites on the lists are located, as well as to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or cities and counties, to

cover the cost of developing, maintaining, and reproducing and distributing the information.

(e) Before a lead agency, as defined in Section 65929 of the Government Code, accepts as complete an application for any development project that will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the lead agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled under this section and shall specify the list or lists. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943 of the Government Code. The statement shall read as follows:

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

The development project and any alternatives proposed in this application are included on the lists compiled pursuant to Section 25001 of the Health and Safety Code. Accordingly, the project applicant is required to submit a signed statement that contains the following information:

Name of project applicant:
Address:
Phone number:
Address of site (street name and number, if available, and ZIP Code):
Local agency (city/county):
Assessor's book, page, and parcel number:
Specify the list(s) under Section 25001 of the Health and Safety Code:
Regulatory identification number(s):
Date of list(s):

_____
Applicant, Date

SEC. 10. Section 25220 of the Health and Safety Code is amended to read:

25220. (a) The department shall notify the planning and building department of each city, county, or regional council of governments of any recorded land use restriction imposed within

the jurisdiction of the local agency pursuant to ~~the~~ former Section 25229, 25230, or 25398.7, as those sections read prior to the effective date of this article, or Section 25202.5, 25221, or 25355.5. Upon receiving this notification, the planning and building department shall do both of the following:

(1) File all recorded land use restrictions in the property files of the city, county, or regional council of government.

(2) Require that a person requesting a land use that differs from those filed land use restrictions on the property apply to the department for a variance or a removal of the land use restrictions pursuant to Section 25223 or 25224.

(b) A planning and building department of a city, county, or regional council of governments may assess a property owner a reasonable fee to cover the costs of taking the actions required by subdivision (a). For purposes of this subdivision, "property owner" does not include a person who holds evidence of ownership solely to protect a security interest in the property, unless the person participates, or has a legal right to participate, in the management of the property.

(c) The department shall maintain a list of all recorded land use restrictions, including deed restrictions, recorded pursuant to ~~the~~ former Sections 25229, 25230, and 25398.7, as those sections read prior to the effective date of this article, and Sections 25202.5, 25221, and 25355.5. The list shall, at a minimum, provide the street address, or, if a street address is not available, an equivalent description of location for a rural location or the latitude and longitude of each property. The department shall update the list as new deed restrictions are recorded. The department shall make the list available to the public, upon request, and shall make the list available on the department's internet website. The list shall also be incorporated into the list of sites compiled pursuant to Section 25001.

SEC. 11. Section 25395.117 of the Health and Safety Code is amended to read:

25395.117. (a) On or before January 1, 2006, the agency and the California Environmental Protection Agency shall implement the requirements imposed by this section.

(b) The department shall revise and upgrade the department's database systems, including the list of hazardous substances release sites designated pursuant to Section 25356 and the information

sent to the agency pursuant to Section 25001, to enable compatibility with existing databases of the board, including the GIS mapping system established pursuant to Section 25299.97. The department shall also install improvements to the database systems to maintain and display information that includes the number of brownfield sites, each brownfield site's location, acreage, response action, site assessments, and the number of orphan sites where the department is overseeing the response action.

(c) The California Environmental Protection Agency, the department, the regional boards, and the board shall expand their respective internet websites to allow access to information about brownfield sites and other response action sites through a single internet website portal.

SEC. 12. Section 21084 of the Public Resources Code is amended to read:

21084. (a) The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from this division. In adopting the guidelines, the Secretary of the Natural Resources Agency shall make a finding that the listed classes of projects referred to in this section do not have a significant effect on the environment.

(b) A project's greenhouse gas emissions shall not, in and of themselves, be deemed to cause an exemption adopted pursuant to subdivision (a) to be inapplicable if the project complies with all applicable regulations or requirements adopted to implement statewide, regional, or local plans consistent with Section 15183.5 of Title 14 of the California Code of Regulations.

(c) A project that may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway designated as an official state scenic highway, pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, shall not be exempted from this division pursuant to subdivision (a). This subdivision does not apply to improvements as mitigation for a project for which a negative declaration has been approved or an environmental impact report has been certified.

(d) A project located on a site that is included on any list compiled pursuant to Section 25001 of the Health and Safety Code shall not be exempted from this division pursuant to subdivision (a) or paragraph (3) of subdivision (b) of Section 15061 of Title 14 of the California Code of Regulations.

(e) A project that may cause a substantial adverse change in the significance of a historical resource, as specified in Section 21084.1, shall not be exempted from this division pursuant to subdivision (a).

SEC. 13. Section 21092.6 of the Public Resources Code is amended to read:

21092.6. (a) The lead agency shall consult the lists compiled pursuant to Section 25001 of the Health and Safety Code to determine whether the project and any alternatives are located on a site which is included on any list. The lead agency shall indicate whether a site is on any list not already identified by the applicant. The lead agency shall specify the list and include the information in the statement required pursuant to subdivision (e) of Section 25001 of the Health and Safety Code in the notice required pursuant to Section 21080.4, a negative declaration, and a draft environmental impact report. The requirement in this section to specify any list shall not be construed to limit compliance with this division.

(b) If a project or any alternatives are located on a site which is included on any of the lists compiled pursuant to Section 25001 of the Health and Safety Code and the lead agency did not accurately specify or did not specify any list pursuant to subdivision (a), the California Environmental Protection Agency shall notify the lead agency specifying any list with the site when it receives notice pursuant to Section 21080.4, a negative declaration, and a draft environmental impact report. The California Environmental Protection Agency shall not be liable for failure to notify the lead agency under this subdivision.

SEC. 14. Section 21155.1 of the Public Resources Code is amended to read:

21155.1. If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a

sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(2) (A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(B) For purposes of this paragraph, "wetlands" has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) For purposes of this paragraph:

(i) "Riparian areas" means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(iii) Habitat of "significant value" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973

(16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(3) The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 25001 of the Health and Safety Code.

(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696,

unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(7) The transit priority project site is not located on developed open space.

(A) For purposes of this paragraph, "developed open space" means land that meets all of the following criteria:

(i) Is publicly owned, or financed in whole or in part by public funds.

(ii) Is generally open to, and available for use by, the public.

(iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(B) For purposes of this paragraph, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.

(8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact

reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

SEC. 15. Section 21159.21 of the Public Resources Code is amended to read:

21159.21. A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:

(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program

existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(b) Community-level environmental review has been adopted or certified.

(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For purposes of this subdivision, "wetlands" has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and "wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 25001 of the Health and Safety Code.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.

(h) The project site is not subject to any of the following:

(1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(i) (1) The project site is not located on developed open space.

(2) For purposes of this subdivision, “developed open space” means land that meets all of the following criteria:

(A) Is publicly owned, or financed in whole or in part by public funds.

(B) Is generally open to, and available for use by, the public.

(C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(3) For purposes of this subdivision, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands

acquired by public funds dedicated to the acquisition of land for housing purposes.

(j) The project site is not located within the boundaries of a state conservancy.

SEC. 16. Section 21159.25 of the Public Resources Code is amended to read:

21159.25. (a) For purposes of this section, the following definitions apply:

(1) "Residential or mixed-use housing project" means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(2) "Substantially surrounded" means at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified.

(b) Without limiting any other statutory exemption or categorical exemption, this division does not apply to a residential or mixed-use housing project if all of the following conditions described in this section are met:

(1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(2) (A) The public agency approving or carrying out the project determines, based upon substantial evidence, that the density of the residential portion of the project is not less than the greater of the following:

(i) The average density of the residential properties that adjoin, or are separated only by an improved public right-of-way from, the perimeter of the project site, if any.

(ii) The average density of the residential properties within 1,500 feet of the project site.

(iii) Six dwelling units per acre.

(B) The residential portion of the project is a multifamily housing development that contains six or more residential units.

(3) The proposed development occurs within an unincorporated area of a county on a project site of no more than five acres substantially surrounded by qualified urban uses.

(4) The project site has no value as habitat for endangered, rare, or threatened species.

(5) Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality.

(6) The site can be adequately served by all required utilities and public services.

(7) The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(c) Subdivision (b) does not apply to a residential or mixed-use housing project if any of the following conditions exist:

(1) The cumulative impact of successive projects of the same type in the same place over time is significant.

(2) There is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.

(3) The project 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.

(4) The project is located on a site which is included on any list compiled pursuant to Section 25001 of the Health and Safety Code.

(5) The project may cause a substantial adverse change in the significance of a historical resource.

(d) If the lead agency determines that a project is not subject to this division under this section and it determines to approve or carry out the project, the lead agency shall file a notice with the Office of Planning and Research and with the county clerk in the county in which the project will be located in the manner specified in subdivisions (b) and (c) of Section 21152.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

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BY E-MAIL AND US MAIL

April 26, 2021

President Shamann Walton and
Honorable Members of the Board of Supervisors
c/o Angela Cavillo, Clerk of the Board of Supervisors
San Francisco City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Bos.legislation@sfgov.org

RE: Support of PODER, Greenaction and THoR for Resolution to Support SB 37 (Cortese) Contaminated Site Cleanup and Safety Act (File No. 210353).

President Walton and Honorable Members of the Board of Supervisors:

I am writing on behalf of People Organizing to Demand Environmental and Economic Rights (PODER), Greenaction for Health and Environmental Justice (Greenaction), and THoR, a group of residents living near a contaminated site located at 1776 Green Street], to support the adoption of the proposed resolution to support California State Senate Bill SB 37 (Cortese) Contaminated Site Cleanup and Safety Act ("SB 37"). The California Environmental Quality Act ("CEQA") provides that when a project is proposed to be built on a contaminated site listed on the State's Cortese List, it may not be exempted from CEQA review.[1] This ensures that the public, neighbors, construction workers and others can review and comment on the cleanup plan to ensure its adequacy. SB 37 is sponsored by the Laborers International Union of North America (LIUNA) in order to ensure the health and safety of their members who are often involved in excavation and earth moving activities. (Exhibit A).

SB 37 will close a loophole that has been improperly exploited by the San Francisco Planning Department to allow projects built on contaminated sites to evade CEQA review. SB 37 will help to safeguard public health and safety by ensuring that contaminated sites are properly cleaned up before development projects are allowed to proceed. The Planning Department has been aggressively lobbying against SB 37, claiming that it would cause delays and additional cost, and making false claims about how the bill would apply to certain projects, namely "ministerial" projects. As described below, any delays, additional cost or impact on the types of projects that would be subject to CEQA review would be immaterial or nonexistent, and certainly not justify the risk to public health and safety by avoiding CEQA review.

SB 37 was prompted by an investigative article in the *San Francisco Chronicle* revealing that the San Francisco Planning Department had a multi-year practice of illegally granting CEQA categorical exemptions for projects constructed on contaminated sites listed on the State's Cortese List. (Exhibit B). As a result, residences have been constructed on contaminated sites without the safeguards and public involvement required by CEQA.

[1] CEQA section 21084(d).

Subsequent to the *Chronicle* article, the Planning Department has admitted that its illegal practice of issuing categorical CEQA exemptions for projects on contaminated sites was "regrettable." However, the Department now contends that it may issue "common-sense" exemptions for these same projects. By advocating for the ability to grant common-sense exemptions for Cortese List sites, the Planning Department is in fact undermining the City's responsibility to promote and protect public health.

CEQA is unambiguous that common-sense exemptions can only be applied to projects "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."[2] Allowing common-sense exemptions for Cortese List sites means that contaminated sites would be allowed to be developed with absolutely no public review under CEQA. Clearly, if a site is contaminated with toxic chemicals, it cannot be seen "with certainty" that there is "no possibility" of a significant environmental effect. Indeed, the courts of appeal have ruled that the common-sense exemption is not allowed for projects on contaminated sites.[3] **SB 37 would help clarify existing law that projects proposed to be constructed on contaminated sites may not be exempted from CEQA review, regardless of whether the exemption is deemed "categorical" or "common-sense."**

The Planning Department has raised several specious arguments against SB 37. As discussed below, none have merit.

1. Local cleanup programs: The Planning Department argues that its local cleanup program, known as the Maher Ordinance, ensures adequate cleanup and that CEQA review would be redundant. This is demonstrably false, and one need only to consider the tragic public health disasters caused by the botched cleanups at Hunters Point, Treasure Island and elsewhere. City staff is clearly **not** ensuring adequate cleanup of contaminated sites through the Maher program, and these are prime examples of how a local oversight program doesn't equate to "certainty that there is no possibility that the activity in question may have a significant effect on the environment." Furthermore, the Maher Ordinance, unlike CEQA review, does not require a meaningful public comment period, response to comments, and administrative and judicial appeals. In a recent project at 1776 Green Street, the Department of Public Health proposed to "close" the site on the Cortese List, despite the presence of cancer-causing benzene at levels more than 200 times in excess of commercial standards and 900 times greater than residential standards. It was only as a result of public involvement and a CEQA appeal that the public was able to reverse the City staff's erroneous decision and ensure an adequate cleanup.

2. Delay: The Planning Department has argued that requiring CEQA review for projects on contaminated sites will lead to unreasonable delays. However, CEQA review most often takes the form of a mitigated negative declaration ("MND").[4] MND's are brief checklist documents and have a short 20-day comment period. A 20-day period to allow affected members of the public to review and comment on the cleanup plan to ensure its adequacy is not unreasonable and in fact, is easily justifiable when public health and safety are potentially at stake.

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[2] 14 CCR 15061(b)((3)
[3] *McQueen v. Bd. of Directors,* 202 Cal.App.3d 1136, 1149 (1988); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista ("CREED")* 197 Cal.App.4th 327, 331-333 (2011).).
[4] *Parker Shattuck Neighbors v. Berkeley City Council,* 222 Cal. App. 4th 768 (2013)).

3. Cost: The Planning Department has argued that CEQA review will impose significant additional costs on developers that may have a "chilling effect." However, CEQA imposes almost no additional cost. As the staff contends, a cleanup plan is already required under the Maher Ordinance. Therefore, the cost to develop the cleanup plan is necessary whether or not CEQA review is required. The only difference is that CEQA requires that the cleanup plan be presented to the public for a 20-day comment period. This affects only timing, not cost.

4. Red tape: Planning staff has argued that SB 37 will require that "every window replacement" and kitchen remodel will require CEQA review. This argument is completely invalid. CEQA only applies to "discretionary" projects, not "ministerial" projects[5] and clearly defines building permits to be "ministerial."[6] Therefore, permits for window replacements, interior remodeling, deck repairs, etc., are entirely excluded from any CEQA review. Furthermore, the courts have held that projects that do not involve soil disturbance may be exempted from CEQA review.[7]

In summary, SB 37 would help clarify existing law regarding contaminated site cleanup and safety and is necessary to close a loophole that has been improperly exploited by the San Francisco Planning Department to allow Cortese List sites to evade necessary CEQA review. SB 37 will help to safeguard the health of nearby neighbors, construction workers and future residents by ensuring that contaminated sites are properly cleaned up before development of public and private projects are placed on those sites. Any delay or additional cost would be immaterial and certainly not justify the risk to public health by avoiding CEQA review. Thank you for your consideration of our comments and concerns.

Sincerely,

Richard Toshiyuki Drury
LOZEAU DRURY LLP

Cc: President Shamann Walton (Shamann.Walton@sfgov.org)
Sup. Catherine Stefani (Catherine.Stefani@sfgov.org)
Sup. Aaron Peskin (Aaron.Peskin@sfgov.org)
Sup. Matt Haney (Matt.Haney@sfgov.org)
Sup. Rafael Mandelman (MandelmanStaff@sfgov.org)
Sup. Gordon Mar (Gordon.Mar@sfgov.org)
Sup. Dean Preston (Dean.Preston@sfgov.org)
Sup. Hillary Ronen (Hillary.Ronen@sfgov.org)
Sup. Ahsha Safai (Ahsha.Safai@sfgov.org)
Sup. Myrna Melgar (MelgarStaff@sfgov.org)
Sup. Connie Chan (ChanStaff@sfgov.org)

[5] CEQA section 21080(b)(1).
[6] CEQA Guidelines section 15268(b)(1).
[7] *Baird v. Contra Costa Co.*, 32 Cal.App.4th 1464 (1995).

EXHIBIT A

California State Council of Laborers

Laborers' International Union of North America

LiUNA!

Feel the Power

April 7, 20211

President Shamann Walton and
San Francisco Board of Supervisors
Attn: Sup. Gordon Mar
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

RE: Resolution Supporting SB 37—Contaminated Sites: The Hazardous Waste Site Clean Up and Safety Act Cortese.

Dear President Shamann Walton and San Francisco Board of Supervisors:

On behalf of the California State Council of Laborers, I write in strong SUPPORT of the San Francisco Board of Supervisors Resolution supporting Senate Bill 37.

Senate Bill 37 would expressly provide that a project that is included on a consolidated list created, distributed, and posted online by the Secretary for Environmental Protection shall also not be exempt from CEQA.

Construction workers are exposed to a variety of health hazards every day. Without proper knowledge and protective gear these men and women have the potential for becoming sick, ill, and disabled for life.

Soil and groundwater can become contaminated as a result of past or current activities on the project site or on adjacent areas. Many industrial activities use, store, or generate contaminated materials that can be spilled, dumped, or buried nearby. Other activities common in mixed-use neighborhoods—such as gas stations and auto repair shops—can also result in contamination due to improper management of raw product and/or waste materials, or inadvertent spills.

Subsurface soil and groundwater contamination may remain undetected for many years, without posing a threat to nearby workers, residents, passersby, or other receptors. Excavation, earthmoving, dewatering, and other construction activities can, however, expose the contaminants, provide a pathway of exposure and, if such contaminants are not properly managed, introduce potential risk to construction workers and others nearby.

Senate Bill 37 addresses an increasingly common problem where localities exempt highly contaminated sites entirely from CEQA review. The result is that construction workers and future residents may be exposed to highly toxic chemicals without their knowledge and without proper safeguards.

Joseph Cruz, Executive Director ■ 1121 L Street, Suite 502, Sacramento, California 95814 ■ (916) 447-7018 ■ cscl@calaborers.org ® GCC/IBT 1465-M

Unfortunately, most serious hazards on a construction site are the silent killers, the ones we cannot see. Senate Bill 37 will close a loophole in state law and help to ensure that construction workers are not unwittingly exposed to toxic chemicals in soil and groundwater, and that safeguards are put in place to ensure that workers and future residents are made award of historic soil contamination from leaking underground tanks and other sources so that proper measures can be imposed to clean-up the contamination safely.

For these reasons, the Laborers are in strong support of this important legislation and respectfully request the San Francisco Board of Supervisors approve the Resolution in support of Senate Bill 37.

Sincerely,

Joseph Cruz
Executive Director

cc: Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager

EXHIBIT B

LOCAL // BAY AREA & STATE

Exclusive: How SF sidestepped state law on developing toxic sites

Cynthia Dizikes

June 7, 2020 | Updated: June 7, 2020 1:03 p.m.

Ben Ellis and daughter Emmy, 8, throw a football outside their house in San Francisco last year. They live across the street from a former auto repair garage that is on a state list of hazardous waste sites. Despite that status, the city planning department considered exempting a development on the site from the state's environmental review ...

Photo: Gabrielle Lurie / The Chronicle

Contaminated gas stations, vehicle repair shops and parking garages have become prized development commodities in San Francisco in recent years as the city struggles with a crushing housing shortage.

bypass environmental reviews required under state law, a Chronicle investigation has found.

The California Environmental Quality Act prohibits certain exemptions for the tens of thousands of properties on a statewide roster of hazardous-waste sites called the Cortese list. “Categorical” exemptions are only supposed to go to projects with no significant impact on the environment or human health. The prohibition was designed to protect the public, construction workers and future occupants from exposure to dangerous substances, environmental lawyers said.

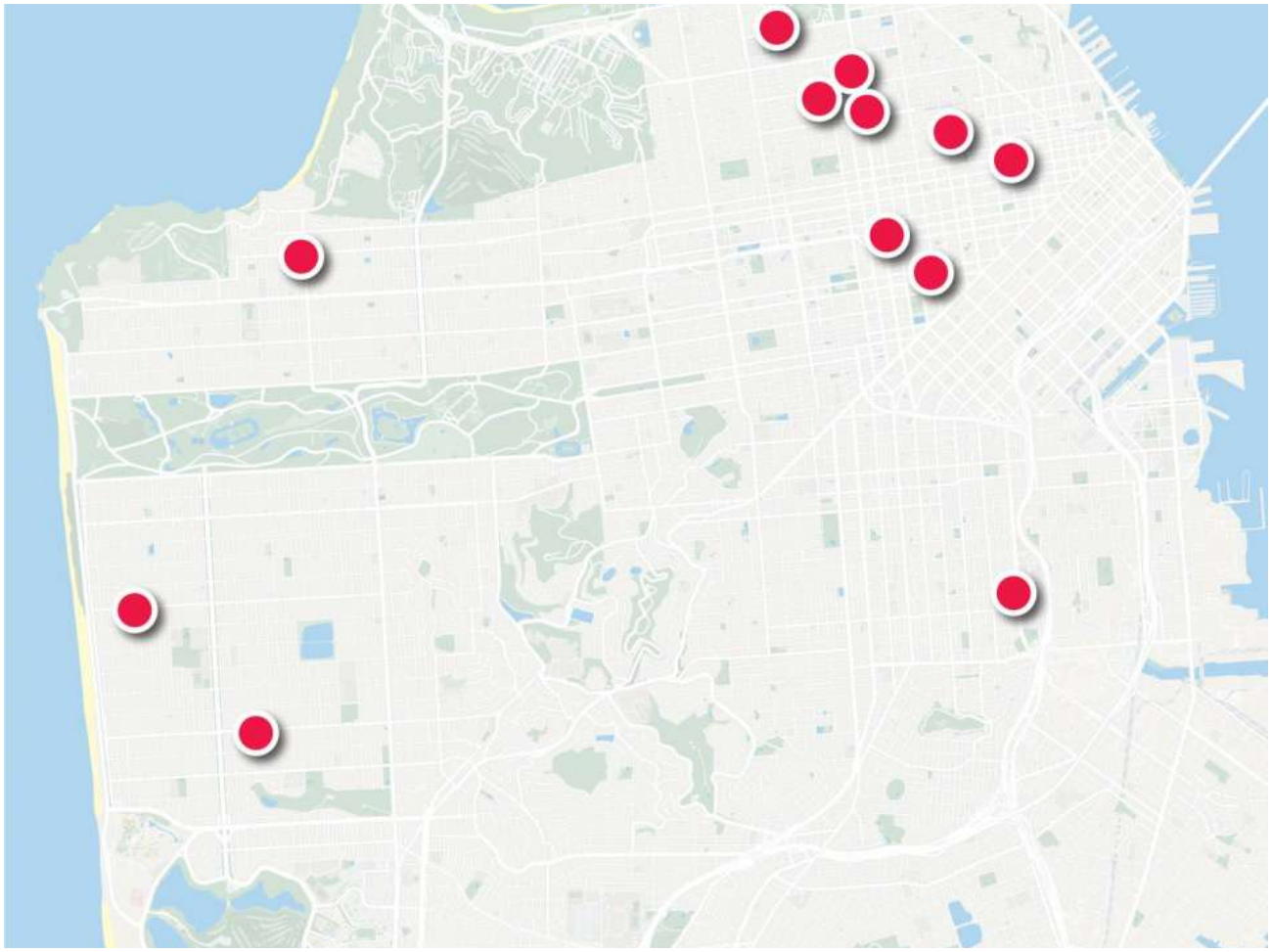
The state law mandates transparency and requires local governments to notify the public about potential hazards at a site before development begins. It allows the public to demand health protections and additional levels of cleanup, and requires formal consideration of those comments. To enforce compliance, people can sue agencies they think are failing to adhere to the law.

But in the past five years, the San Francisco Planning Department granted or considered categorical exemptions for at least a dozen projects on Cortese list sites, a Chronicle

The mixed-use residential development at 2255 Taraval St. in San Francisco. The city granted the development an exemption from the state's environmental review process, despite the site's presence on a state list of hazardous waste sites.

The city exempted nine of those projects from the state's public environmental review process. At four of the sites, work hasn't begun. Two are under construction. The final three have newly built condominiums, and at least one of those is occupied.

The city considered exempting the three other projects — including a condo development on the site of a vacant auto repair garage at 1776 Green St. in Cow Hollow, despite the presence of high levels of cancer-causing benzene in the soil and groundwater. The city abandoned that plan in February after neighbors hired a lawyer to fight it.



Then, following inquiries about the exemptions from The Chronicle in early March, before the coronavirus shut down the economy, the Planning Department said it will stop giving categorical exemptions to projects on the Cortese list.

"The Planning Department is revising its approach to projects on these sites," spokeswoman Gina Simi said.

Simi said the city relied on state guidance in granting some of the exemptions. Despite repeated requests from The Chronicle to see the guidance, however, Simi has not provided it.

An attorney with the State Water Resources Control Board, which oversees the largest part of the Cortese list with regional water boards, said he was unaware of any such guidance issued by the agency.

properties to state and regional standards under a local ordinance carried out by the Public Health Department, regardless of whether a project receives an exemption from the state's environmental review process, she said.

"We strongly disagree with the false assertion that the city's local process is not as rigorous or as transparent as what is required under (state law), that it doesn't consider public comment or concerns, and that we intend to circumvent the state's environmental law," Simi said. "The city's environmental review procedures are meticulous."

But several environmental lawyers told The Chronicle that the California Environmental Quality Act allows far more scrutiny of development on toxic sites than the city's process alone. Under state law, the public can require safer measures be taken to reduce significant impacts on the environment and health, and can more easily sue if they are not. They said the city flouted state law and, in doing so, deprived the public of the ability to vet developments.

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LOCAL

BY HEATHER KNIGHT

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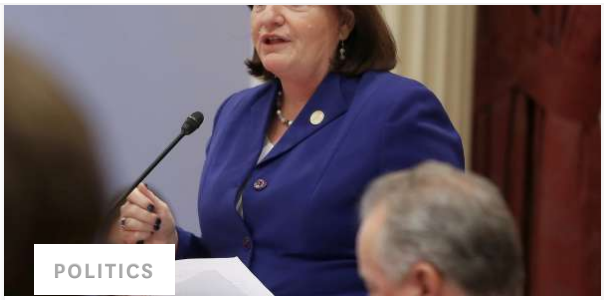

POLITICS

BY ALEXEI KOSEFF

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LOCAL

BY PHIL MAT

Ambitio growth c

"The city made a huge mistake and has been blatantly violating state law for years, thereby potentially placing an untold number of city residents at risk of exposure to highly toxic chemicals," said Richard Drury, an environmental lawyer representing neighbors of the vacant auto repair garage on Green Street.

by the city's lengthy approval process and bans on apartments in large swaths of San Francisco, have turned to polluted land, including former garages and gas stations where toxic substances in underground tanks have leaked into the soil and groundwater.

The city and developers are motivated, as with any project, to get these properties developed as soon as possible — and exemptions from the state law can speed the process by reducing procedural hurdles, legal hangups and costs.

San Francisco has more than 2,000 leaky underground storage tank sites on the Cortese list, named for former state Assemblyman Dominic Cortese of San Jose. Nearly all of them, about 97%, have been cleaned to some extent, records show. Yet many may still contain contamination that could be hazardous.

The Chronicle looked at projects on Cortese list sites for which the city granted or considered categorical exemptions. There were at least 20 such projects since 2015, according to city data. The Chronicle focused on 12 where developers planned to excavate thousands of cubic yards of soil to build hundreds of new residential units.

Public documents for five of the 12 sites show the city also tried a second method to avoid state review and fast-track development: "common sense" exemptions.

State law restricts such exemptions to projects that present "no possibility" of significant hazards.

A sign at 986 South Van Ness Ave. in San Francisco where the city considered exempting a proposed development from the state's environmental review process. The site is on a state list of hazardous waste sites that prohibits such exemptions.

That wouldn't apply to the five sites, however. Developing them would mean disturbing a great deal of potentially contaminated soil: from 1,400 to nearly 17,000 cubic yards, depending on the site, said Douglas Carstens, an environmental lawyer near Los Angeles.

"Transparency is sorely needed," Carstens said. "So the cleanup is not just a bilateral negotiation between the project proponent and the city."

One of those sites is 2255 Taraval St. in the Outer Sunset neighborhood, where a former auto garage and laundromat left toxic residue behind.

The site is so clean "we could bring it down to the beach," said the project's general contractor one recent afternoon as a crew built a wooden frame on the property. The development will be a four-story, mixed-use building with 10 residential units.

fumes at bay on the property. He asked that his name not be used because he wasn't authorized to speak publicly about the project.

He said the property now has a "serious vapor barrier and a probe buried under 2 feet of concrete." The equipment, though, will have to be tested every few years to ensure it continues to contain the hazards, he said.

"If there's gas, then they might have to put in a fan," he said.

That kind of uncertainty is precisely why contaminated sites should go through the state-mandated environmental review process, Drury said.

The state process allows the public to demand greater levels of cleanup so that measures such as vapor barriers — which are effective, but can fail — are not necessary.

Drury said the Green Street garage site is a case in point for why public involvement matters.

For years, the auto repair business stored gasoline in four large underground storage tanks. The tanks were removed in 2016, but crews later found they had leaked benzene and other hazardous substances into the soil and groundwater.

Nevertheless, last October the Planning Department considered a categorical exemption for a five-unit condo that developers planned to build on the site.

Drury protested. But rather than drop its effort to exempt the project, the city added a common-sense exemption to its options. Drury argued that the site remained significantly contaminated, pointing to the city's own records showing that benzene in the groundwater exceeded safety thresholds by about 900 times.

The city then tried a third tactic: announcing that the developer could investigate and clean the site without going through the public environmental review process.

Alarmed neighbors appealed to the Board of Supervisors.

process.

This prompted Drury to fire off another written objection in April. He and the Green Street neighbors are still waiting for a response.

One of the neighbors who hired Drury last fall is Dr. Youjeong Kim, who lives across the street from the garage with her two children and husband, Ben Ellis.

The group of neighbors has spent many months and thousands of dollars trying to get the city to run the development through the state's environmental review.

"As a doctor and a parent it is really concerning and upsetting to me that of all places on Earth, we in San Francisco are going to skirt the law that is there to protect us," Kim said. "If we hadn't had the time and the resources to press this issue, they would have just exempted it."

San Francisco Chronicle staff writer Nanette Asimov and newsroom developer Evan Wagstaff contributed to this report.

Cynthia Dizikes is a San Francisco Chronicle staff writer. Email: cdizikes@sfchronicle.com Twitter: @CDizikes

April 7, 20211

President Shamann Walton and
San Francisco Board of Supervisors
Attn: Sup. Gordon Mar
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

RE: Resolution Supporting SB 37—Contaminated Sites: The Hazardous Waste Site Clean Up and Safety Act Cortese.

Dear President Shamann Walton and San Francisco Board of Supervisors:

On behalf of the California State Council of Laborers, I write in strong SUPPORT of the San Francisco Board of Supervisors Resolution supporting Senate Bill 37.

Senate Bill 37 would expressly provide that a project that is included on a consolidated list created, distributed, and posted online by the Secretary for Environmental Protection shall also not be exempt from CEQA.

Construction workers are exposed to a variety of health hazards every day. Without proper knowledge and protective gear these men and women have the potential for becoming sick, ill, and disabled for life.

Soil and groundwater can become contaminated as a result of past or current activities on the project site or on adjacent areas. Many industrial activities use, store, or generate contaminated materials that can be spilled, dumped, or buried nearby. Other activities common in mixed-use neighborhoods—such as gas stations and auto repair shops—can also result in contamination due to improper management of raw product and/or waste materials, or inadvertent spills.

Subsurface soil and groundwater contamination may remain undetected for many years, without posing a threat to nearby workers, residents, passersby, or other receptors. Excavation, earthmoving, dewatering, and other construction activities can, however, expose the contaminants, provide a pathway of exposure and, if such contaminants are not properly managed, introduce potential risk to construction workers and others nearby.

Senate Bill 37 addresses an increasingly common problem where localities exempt highly contaminated sites entirely from CEQA review. The result is that construction workers and future residents may be exposed to highly toxic chemicals without their knowledge and without proper safeguards.

Unfortunately, most serious hazards on a construction site are the silent killers, the ones we cannot see. Senate Bill 37 will close a loophole in state law and help to ensure that construction workers are not unwittingly exposed to toxic chemicals in soil and groundwater, and that safeguards are put in place to ensure that workers and future residents are made award of historic soil contamination from leaking underground tanks and other sources so that proper measures can be imposed to clean-up the contamination safely.

For these reasons, the Laborers are in strong support of this important legislation and respectfully request the San Francisco Board of Supervisors approve the Resolution in support of Senate Bill 37.

Sincerely,

Joseph Cruz
Executive Director

cc: Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager

From:	Board of Supervisors, (BOS)
To:	BOS-Supervisors; BOS-Legislative Aides; BOS-Administrative Aides
Cc:	Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS); Ng, Wilson (BOS); Mchugh, Eileen (BOS)
Subject:	FW: Support for SB 37
Date:	Tuesday, April 13, 2021 8:09:53 AM
Attachments:	2021.04.12.SF SB 37 Support Ltr.pdf

From: Richard Drury <richard@lozeaudrury.com>
Sent: Monday, April 12, 2021 10:15 PM
To: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Lovett, Li (BOS) <li.lovett@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; MelgarStaff (BOS) <melgarstaff@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; ChanStaff (BOS) <chanstaff@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>
Cc: Letitia Yang <letitia.yang@gmail.com>; Youjeong Kim <ykimellis@gmail.com>; Camack2@comcast.net
Subject: Support for SB 37

RE: Supporting California State Senate Bill 37
(Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act)

Honorable Members of the Board of Supervisors:

I am writing on behalf of THoR, an association of neighbors living near 1776 Green Street, San Francisco, to strongly urge you to adopt the resolution to support SB-37. Furthermore, we'd like to express our sincere gratitude to Supervisor Mar, President Walton, and Supervisors Melgar, Peskin, Preston, and Chan for sponsoring this resolution. Your support of SB-37 is critical to ensuring the health and well-being of all San Franciscans, but it is even more important from an environmental justice perspective. Too often, it is our most vulnerable communities that are severely impacted by toxic contamination.

As you know, SB-37 was recently introduced by Senator Dave Cortese in order to clarify that CEQA exemptions are prohibited for proposed construction projects on contaminated sites, known as Cortese List sites. The Cortese List was created by Senator Cortese's father over 35 years ago in order to safeguard public health and the environment. CEQA review ensures that the public is properly informed of the situation, and that these sites are appropriately remediated to minimize the health

risks for construction workers, current and future residents, and community members. These health risks can be quite significant, and for example, can include the impairment of mental and physical development in young children and can cause life-threatening diseases, such as cancer.

1776 Green Street is a perfect example of why CEQA exemptions should be strictly prohibited for Cortese List sites. In 2019, the San Francisco Planning Department issued a categorical exemption for a residential development project at 1776 Green Street and neglected to inform the public that the site was contaminated with cancer-causing substances at levels over 900 times above residential standards. It was only through THoR's considerable efforts and a public records request to the Department of Public Health, that we became aware of the potential dangers of developing the site without proper remediation.

THoR was left with no other option but to appeal to the Board of Supervisors in early 2020, which prompted the Planning Department to rescind the categorical exemption only to replace it with a Common Sense exemption. THoR advocated for over a year to ensure that the residential development project would only proceed with an appropriate remediation plan that would address the highly contaminated nature of the site. However, this process took a great emotional, psychological and financial toll on our members, and also required the intervention of Supervisor Stefani, which enabled us to reach a resolution that would help ensure the health and well-being of our community.

While THoR was able to advocate for its members and the broader community, one can safely assume that San Francisco's most vulnerable residents may not be in a position to do so. It is in this context that we urge you to adopt the resolution in support of SB-37 as a matter of public health and environmental justice.

Sincerely,

Richard Toshiyuki Drury
LOZEAU DRURY LLP

--
Richard Drury
Lozeau Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612
(510) 836-4200
richard@lozeaudrury.com

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T 510.836.4200
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www.lozeaudrury.com
richard@lozeaudrury.com

BY E-MAIL

April 12, 2021

President Shamann Walton and Members of the Board of Supervisors
c/o Angela Cavillo, Clerk of the Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Board.of.Supervisors@sfgov.org
angela.calvillo@sfgov.org
bos@sfgov.org
li.lovett@sfgov.org

RE: Supporting California State Senate Bill 37
(Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act)

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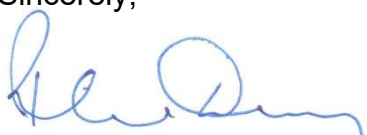
Sincerely,



Richard Toshiyuki Drury
LOZEAU DRURY LLP

California State Council of Laborers

Laborers' International Union of North America

LiUNA!

Feel the Power

April 7, 20211

President Shamann Walton and
San Francisco Board of Supervisors
Attn: Sup. Gordon Mar
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

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Senate Bill 37 addresses an increasingly common problem where localities exempt highly contaminated sites entirely from CEQA review. The result is that construction workers and future residents may be exposed to highly toxic chemicals without their knowledge and without proper safeguards.

Joseph Cruz, Executive Director ■ 1121 L Street, Suite 502, Sacramento, California 95814 ■ (916) 447-7018 ■ cscl@calaborers.org

Unfortunately, most serious hazards on a construction site are the silent killers, the ones we cannot see. Senate Bill 37 will close a loophole in state law and help to ensure that construction workers are not unwittingly exposed to toxic chemicals in soil and groundwater, and that safeguards are put in place to ensure that workers and future residents are made award of historic soil contamination from leaking underground tanks and other sources so that proper measures can be imposed to clean-up the contamination safely.

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Sincerely,

Joseph Cruz
Executive Director

cc: Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager

San Francisco Group, SF Bay Chapter
Serving San Francisco County

March 23, 2021

President Shamann Walton
Members of the Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Please support SB-37 - Contaminated sites: the Hazardous Waste Site Cleanup and Safety Act

Honorable Members of the Board of Supervisors:

The Sierra Club strongly urges you to pass a resolution supporting SB-37[1], a bill recently introduced by Senator Dave Cortese that would prevent cities from granting CEQA exemptions to projects proposed to be constructed on contaminated sites, known as Cortese List sites.

The Cortese List was created in 1985 pursuant to a law introduced by Senator Dominic Cortese, Senator Dave Cortese's father. The Cortese List requires the state to compile a list of properties known to be contaminated with hazardous materials. "The list, or a site's presence on the list, has bearing on the local permitting process as well as on compliance with the California Environmental Quality Act (CEQA)."[2] Projects proposed to be constructed on these sites may not be exempted from CEQA review. This ensures that the public is informed of contamination and can ensure through CEQA review that contamination is properly remediated prior to project construction.

The law which created the Cortese List was prompted by several incidents in which construction workers were exposed to toxic soil contamination. CEQA review helps to ensure that such exposure can be prevented. It also ensures that future residents of projects on Cortese list sites will not be exposed to vapors from contaminated soil.

[1] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB37
[2] https://calepa.ca.gov/sitecleanup/corteselist/background/

1474 Sacramento Street, Apt. 305, San Francisco, CA. 94109. rebecae @ earthlink.net. 415-775-3309

In 2020 Senator Cortese learned from a *San Francisco Chronicle* article that the City of San Francisco has granted numerous CEQA exemptions over many years for projects to be constructed on Cortese List sites; this practice is in direct violation of existing law.[3]

SB-37 ensures that San Francisco, and any other cities, must cease this illegal practice going forward. SB-37 would further clarify that if a project is proposed to be constructed on a contaminated Cortese List site, neither a categorical exemption nor a "common sense" exemption may be used to avoid CEQA review.

Those opposed to SB-37 may claim that it would create undue delays for projects. On the contrary, it may actually speed up project review and approval. Most contamination can be addressed through standard mitigation measures, which would allow a CEQA mitigated negative declaration. In the case of San Francisco, a mitigated negative declaration only requires a 20-day public comment period. In this context, SB-37 would provide clear rules that would ultimately expedite project approval.

We strongly urge the Board of Supervisors to pass a resolution in support of SB-37 in the interest of safeguarding public health and protecting the environment.

Sincerely,

Becky Evans

Becky Evans

Member, SF Group Executive Committee
Member, SF Bay Chapter Executive Committee

[3] https://www.sfchronicle.com/bayarea/article/Exclusive-How-SF-sidestepped-state-law-on-15322356.php

1474 Sacramento Street, Apt. 305, San Francisco, CA. 94109. rebecae @ earthlink.net. 415-775-3309

California State Council of Laborers

Laborers' International Union of North America

LiUNA!

Feel the Power

1121 L Street, Suite 502
Sacramento, CA 95814

Phone: (916) 447-7018
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Email: cscl@calaborers.org

Jose Mejia
Director

Oscar De La Torre
LiUNA Vice President at Large
Business Manager
Northern California District
Council of Laborers

Jon P. Preciado
Business Manager
Southern California District
Council of Laborers

Rocco Davis
LiUNA Vice President at Large
Regional Manager
Pacific Southwest Region
Special Assistant to the
General President

January 4, 2021

The Honorable Dave Cortese
Senator
State Capitol, Room 2082
Sacramento, CA 95814

RE: SB 37—Contaminated Sites:
The Dominic Cortese "Cortese List" Act of 2021–
SPONSOR/SUPPORT

Dear Senator Cortese,

On behalf of the California State Council of Laborers, I write to express our support as proud **SPONSOR** of your bill, **SB 37**.

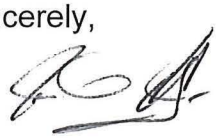
This bill seeks to update the Hazardous Waste and Substances Site List, or "Cortese List" that was created by then Assembly Member Dominic Cortese in 1985.

The Cortese List is a planning document that is updated annually and informs the public about the location of hazardous materials release sites. In 1991, a subsequent law was passed that prohibits a project from being exempt under CEQA if it is located on a Cortese List site. Additionally, Section 21084 of the Public Resources Code also states that exemptions cannot be granted for Cortese List site projects. Despite this, entities have granted " common sense" exemptions and bypassed environmental review requirements for Cortese List sites and claim that these types of exemptions are not subject to the aforementioned section of the Public Resources Code.

Conducting work on projects that are on Cortese List sites without hazardous substance mitigation is dangerous. It poses health risks not only to those who work on these projects in the construction industry—including our members—but also to the nearby community. This bill will clarify the Public Resources Code to state that all types of exemptions, including "common sense" exemptions, cannot be granted to projects that are on Cortese List sites.

This legislation will increase safety for all those who work in the construction industry directly or indirectly as well as the safety of the future occupants of these developments. We applaud your leadership on this important issue seeking to protect California workers and are pleased to serve as Sponsor of this bill. Should you have any questions or concerns, please contact Katie Donahue-Duran or myself at (916) 447-7018.

Sincerely,



Jose Mejia

CC: Sunshine Borelli, Chief of Staff, Office of Senator Dave Cortese
Richard Drury, Lozeau Drury LLP
Oscar De La Torre—LiUNA Vice President and NCDCL Business Manager
Jon P. Preciado—SCDCL Business Manager
Rocco Davis—LiUNA Vice President and PSW Regional Manager

Member, Board of Supervisors
District 7

City and County of San Francisco

MYRNA MELGAR

DATE: April 28, 2021

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committe MM

RE: Land Use and Transportation Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, May 4, 2021, as a Committee Report:

File No. 210353 **Supporting California State Senate Bill No. 37 (Cortese) - Contaminated Sites**
Sponsors: Mar; Walton, Melgar, Peskin, Preston, Chan and Haney

Resolution supporting California State Senate Bill No. 37, Contaminated Sites: The Hazardous Waste Site Cleanup and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of the common sense exemption to be applied to construction projects located on contaminated sites identified on the state's Cortese List.

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, May 3, 2021, at 1:30 p.m.

City Hall · 1 Dr. Carlton B. Goodlett Place, Room 244 · San Francisco, California 94102-4689 · (415) 554-6516
TDD/TTY (415) 554-5227 · E-mail: Myrna.Melgar@sfgov.org

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- ☐ 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- ☑ 2. Request for next printed agenda Without Reference to Committee.
- ☐ 3. Request for hearing on a subject matter at Committee.
- ☐ 4. Request for letter beginning :"Supervisor [ ] inquiries"
- ☐ 5. City Attorney Request.
- ☐ 6. Call File No. [ ] from Committee.
- ☐ 7. Budget Analyst request (attached written motion).
- ☐ 8. Substitute Legislation File No. [ ]
- ☐ 9. Reactivate File No. [ ]
- ☐ 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Mar; Walton, Melgar, Peskin, Preston, Chan

Subject:

Supporting California State Senate Bill 37 (Cortese) -- Contaminated Sites

The text is listed:

Resolution supporting California State Senate Bill 37 Contaminated Sites: the Hazardous Waste Site Cleanup and Safety Act, authored by Senator David Cortese, expressly prohibiting the use of the common sense exemption to be applied to construction projects located on contaminated sites identified on the state's Cortese List.

Signature of Sponsoring Supervisor: /s/ Gordon Mar

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