



# Alameda County Transportation Commission

## MITIGATED NEGATIVE DECLARATION

### Alameda CTC Rail Safety Enhancement Project

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**Project Location:** Intersections at 29th Avenue, Fruitvale Avenue, 37th Avenue, and 50th Avenue (APN: 29th Avenue - 25-680-1-6, Fruitvale Avenue - 25-680-6-1/ 33-2186-6/ 33-2186-5-1, 37th Avenue - 33-2180-2-1/ 33-2169-17/ 33-2179-18/ 33-2179-17/ 33-2169-16-1, 50th Avenue - 34-2341-10/ 34-2287-22/ 34-2293-8-3/ 34-2293-2-5/ 34-2293-2-9), Oakland, California.

**General Plan Designation:** Mixed Housing Type Residential, Community Commercial, Regional Commercial, Housing and Business Mix, General Industrial, General Industry and Transportation

**Project Description:** The project consists of rail safety improvements to existing at-grade rail crossings in the City of Oakland in Alameda County. The improvements are designed to increase safety for motorists and pedestrians. Currently the four crossings consist of signal arms and railroad crossing signs, and no other safety features. Safety improvements would include restricting access to UPRR tracks, improving signage, accessibility improvements, installation new security gates/fencing, medians, pavement markings, roadside signs, ADA detectable pavers, warning devices, and "No Trespassing" signs.

**August 2023**



# Alameda County Transportation Commission

**PREPARED FOR:**

Alameda County Transportation Commission

**PREPARED BY:**

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# Oakland

## MITIGATED NEGATIVE DECLARATION (MND)

Pursuant to the California Environmental Quality Act (CEQA)  
Division 13, Public Resources Code

Alameda County Transportation Commission  
1111 Broadway #800  
Oakland, CA 94607  
(510)208-7400

### 1 Project Description

The project site consists of four existing at-grade UPRR tracks where UPRR tracks intersect with local streets in the City of Oakland in California. Alameda County Transportation Commission (Alameda CTC) is the lead agency under the California Environmental Quality Act (CEQA). All four crossings are in the same general area of east Oakland in predominantly business, commercial, and light industrial areas. The 29th Avenue and 37th Avenue crossings are located near residential areas.

The City of Oakland General Plan (Oakland General Plan) land use designations surrounding the crossings vary for each crossing. General Plan land use designations surrounding the 29<sup>th</sup> Avenue crossing include Regional Commercial, Community Commercial, Institutional, Mixed Housing Type Residential, and Business Mix. Land use designations surrounding the Fruitvale crossing include Mixed Housing Type Residential, Neighborhood Center Mixed Use, Community Commercial, Institutional, and Urban Park and Open Space. Land use designations surrounding the 37th Avenue crossing are primarily Housing and Business and Mixed Housing Type Residential. Land use designations surrounding the 50th Avenue crossing are primarily General Industrial and Business Mix.

Similar to the Oakland General Plan-designated land uses, zoning designations surrounding the crossings also vary. Zoning surrounding the 29<sup>th</sup> Avenue crossing includes General Industrial (M-30), Community (CC-1, CC-2), Neighborhood Center (CN-4), and Commercial Industrial Mix 2 (CIX-2). Areas surrounding the Fruitvale Avenue crossing are zoned Neighborhood Center (CN-3), Research (S-15), Housing and Business Mix (HBX-1, HBX-2), Community (CC-1), and General Industrial (M-30). Zoning surrounding the 37<sup>th</sup> Avenue crossing is primarily Housing and Business Mix (HBX-1 and HBX-2 zoning). Zoning surrounding the 50<sup>th</sup> Avenue crossing is primarily Industrial General (IG), and Commercial Industrial Mix 2 (CIX-2).

Existing development on parcels adjacent to the rail crossings ranges from commercial and industrial at Fruitvale Avenue and 50<sup>th</sup> Avenue to commercial and residential at 37<sup>th</sup> Avenue, and commercial and school at 29<sup>th</sup> Avenue. Schools located near the 29<sup>th</sup> Avenue crossing include Latitude High School / Epic Middle School (approximately 100 feet east). Think College Now Elementary School is located approximately 700 feet northwest of the 29<sup>th</sup> Avenue crossing, and Ascend Elementary School is located approximately 900 feet northeast of the 37<sup>th</sup> Avenue crossing. Single-family homes are located near the 37<sup>th</sup> Avenue crossing, approximately 100 feet to the north and west. Additionally, residential homes are

located approximately 300 feet east of the 50<sup>th</sup> avenue crossing. Commercial and industrial uses immediately surround the Fruitvale Avenue and 50<sup>th</sup> Avenue crossings.

The four crossings consist of entirely developed land. The ground surrounding the existing crossings is predominantly impervious except for the semi-pervious gravel shoulder next to UPRR tracks. Site conditions vary between crossings. The 29<sup>th</sup> Avenue and Fruitvale Avenue crossings take place on major arterials while the 37<sup>th</sup> Avenue and 50<sup>th</sup> Avenue crossings are along smaller two-lane streets. Each crossing generally includes a vehicular gate for each direction of travel, warning device, concrete crossing panels, and street lighting.

## 2 Determination

A Mitigated Negative Declaration (MND) is proposed by the Alameda CTC for the project. An Initial Study (IS) and supporting documents have been prepared to determine if the project would result in potentially significant or significant impacts to the environment. A Mitigation Monitoring and Reporting Program, for the seven mitigation measures identified in this IS/MND, is included as Exhibit A. The public review period occurred from Tuesday May 2, 2023 to Wednesday May 31, 2023 and no comment letters were received. One comment was received at the May 17 public hearing from Bay Area Rapid Transit (BART) Director Robert Raburn. As discussed in Exhibit B, Response to Comments, and Exhibit C, Errata Memorandum, this comment did not require changes to the Initial Study or the proposed mitigation measures that would require recirculation of the draft document. On the basis of the Initial Study and the whole record, it has been determined that the proposed action, with the incorporation of the mitigation measures (see Table 1), will not have a significant impact on the environment. The supporting technical reports that constitute the record of proceedings upon which a determination is made are available for public review online at <https://www.alamedactc.org/programs-projects/transit-and-rail/rail-safety-enhancement-program>.

Table 1 Summary of Mitigation Measures.

Environmental Factor	Mitigation Measures	Level of Environmental Impact
Air Quality	<p><b>Mitigation Measure AQ-1: <u>BAAQMD’s Basic Construction Measures Recommended for All Projects</u></b></p> <p>These conditions include the following: water exposed surfaces two times daily; cover haul trucks; clean track outs with wet powered vacuum street sweepers; limit speeds on unpaved roads to 15 miles per hour; complete paving as soon as possible after grading; limit idle times to 5 minutes; properly maintain mobile and other construction equipment; and post a publicly visible sign with contact information to register dust complaints and take corrective action within 48 hours.</p>	Less than Significant with Mitigation Incorporated
Biological Resources	<p><b>Mitigation Measure BIO-1: <u>Pre-Construction Survey and Impact Avoidance for Raptors and Other Nesting Birds</u></b></p> <p>Ground-disturbing activities should be restricted to the non-breeding season (September 1 to January 31) when feasible. If construction activities occur during the nesting bird season (February 1 to August 31), the following mitigation measures are recommended to reduce impacts to nesting special-status avian species, and other nesting birds protected by CFGC and the MBTA:</p>	Less than Significant with Mitigation Incorporated

	<ul style="list-style-type: none"> <li>• A pre-construction nesting bird survey should be conducted by a qualified biologist no more than 7 days prior to initiation of ground disturbance and vegetation removal. The survey area should include all work areas and, at a minimum, a 150-foot buffer for passerines and a 500-foot buffer for raptors.</li> <li>• If nests are found, an appropriate avoidance buffer will be determined and demarcated by the qualified biologist with high-visibility material. Avoidance buffers should be established based on the nesting species, the nest location in relation to project activity, the line-of-sight from the nest to the project activity and observed behavior at the nest.</li> <li>• All construction personnel should be notified as to the existence of the buffer zones and to avoid entering buffer zones during the nesting season. No ground-disturbing activities should occur within the buffer until the qualified biologist has confirmed that breeding/nesting is complete, and the young have fledged the nest. Encroachment into the buffer should occur only at the discretion of the qualified biologist.</li> </ul>	
Biological Resources	<p><b>Mitigation Measure BIO-2: <u>Mitigation Measures for Waters and Wetlands</u></b></p> <p>At a minimum, the following Best Management Practices (BMPs) will be implemented on-site during and following construction to prevent any indirect impacts to downstream waters and wetlands.</p> <ol style="list-style-type: none"> <li>1. Vehicles and equipment should be checked at least daily for leaks and maintained in good working order. Spill kits should be available on-site at all times and a spill response plan should be developed and implemented.</li> <li>2. Sediment and erosion control measures (e.g., sand or gravel bags, hay bales, check dams) should be implemented and maintained throughout the project site to prevent the entry of sediment and/or pollutants into any waterways or jurisdictional areas. No monofilament plastic will be used for erosion control.</li> </ol>	Less than Significant with Mitigation Incorporated
Cultural Resources	<p><b>Mitigation Measure CUL-1: <u>Unanticipated Discovery of Archaeological Resources</u></b></p> <p>If archaeological resources are encountered during ground-disturbing activities, work in the immediate area should be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) should be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for CRHR eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work, such as data recovery excavation, may be warranted to mitigate any significant impacts to historical resources.</p>	Less than Significant with Mitigation Incorporated
Cultural Resources	<p><b>Mitigation Measure CUL-2: <u>Unanticipated Discovery of Human Remains</u></b></p>	Less than Significant with

	<p>The discovery of human remains is always a possibility during ground-disturbing activities. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to PRC Section 5097.98. In the event of an unanticipated discovery of human remains, the Alameda County Coroner must be notified immediately. If the human remains are determined to be prehistoric, the coroner will notify the NAHC, which will determine and notify a Most Likely Descendant. The Most Likely Descendant shall complete the inspection of the site and provide recommendations for treatment to the landowner within 48 hours of being granted access.</p>	<p>Mitigation Incorporated</p>
<p>Geology and Soils</p>	<p><b>Mitigation Measure GEO-1: <u>Discovery of Paleontological Resources</u></b>  Discovery of a paleontological specimen during any phase of the project shall result in a work stoppage in the vicinity of the find until it can be evaluated by a professional paleontologist. Should loss or damage be detected, additional protective measures or further action (e.g., resource removal), as determined by a professional paleontologist, shall be implemented to mitigate the impact.</p>	<p>Less than Significant with Mitigation Incorporated</p>
<p>Hazards and Hazardous Materials</p>	<p><b>Mitigation Measure HAZ-1: <u>Prepare a Site-specific HASP for Construction Activities</u></b>  The construction contract specifications shall provide that a licensed hazardous materials professional shall prepare a site-specific HASP for construction activities. The HASP will establish protocols for preventing uncontrolled worker exposure to contaminated media during construction. The HASP will implement the following State and federal regulations govern the protection of worker safety at potential hazardous material sites:</p> <ul style="list-style-type: none"> <li>• Worker education and training (Hazard Communication Standard) 29 CFR 1910.1200, 1915.1200, 1917.28, 1918.90, and 1926.59, 1910.1018 (inorganic arsenic)</li> <li>• Construction Safety Orders 8 CCR Division 1, Chapter 4</li> <li>• Lead in Construction 8 CCR 1532.1</li> <li>• General Industry Safety Orders 8 CCR 5214. Inorganic Arsenic.</li> <li>• Environmental Health Standards for Management of Hazardous Waste 22 CCR Division 4.5</li> <li>• Upon operation of the project, no hazardous materials would be used at the crossings, and no hazardous materials would be released into the public.</li> </ul>	<p>Less than Significant with Mitigation Incorporated</p>