File No. 110618

Committee Item No.
Board Item No. 55

COMMITTEE/BOARD OF SUPERVISORS

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☐	☐	Appeal of Final Environmental Impact Report – Treasure Island/Yerba Buena Island Project
* ☐	☐	Planning Department's Comments and Responses, Draft EIR, and Appeal Response (Attachments A-K)
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Completed by: Joy Lamug Date June 2, 2011

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

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BY

May 11, 2011

Board President David Chiu
and Members of the Board of Supervisors
c/o Ms. Angela Calvillo
Clerk of the Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Appeal of Certification of Final EIR and Adoption of CEQA Findings
Treasure Island/Yerba Buena Island Redevelopment Project
Case No. 2007.0903E

Dear President Chiu and Supervisors:

Golden Gate Audubon, Sierra Club, Arc Ecology, Wild Equity, Kenneth Masters and Aaron Peskin ("Appellants") appeal the certification of the Final Environmental Impact Report (EIR) and the adoption of California Environmental Quality Act (CEQA) findings for the proposed Treasure Island/Yerba Buena Island Redevelopment Project by the Planning Commission and Treasure Island Development Authority (TIDA). Copies of Planning Commission Motion Nos. 18325 and 18326, adopted on April 21, 2011, are attached as Exhibit A and Exhibit B, and copies of TIDA's Motion Nos. 11-14-04/21 and 11-15-04/21, adopted on April 21, 2011, are attached as Exhibit C and Exhibit D. This letter summarizes the grounds for appeal; further documentation will follow.

Appellants request that the Board grant this appeal, reverse the certification of the EIR and related approvals made by the Planning Commission and TIDA and direct staff to prepare and recirculate a Revised Draft EIR for the Project in light of the following procedural and substantive violations of CEQA's informed decision making and environmental protection mandates:

1. The EIR requires revision and recirculation because significant and fundamental changes to the project description and objectives precluded meaningful public review and comment.

CEQA's public participation and informed decision making procedures require that an EIR must contain an "accurate, finite and stable" description of the Project, so that the public can understand and meaningfully comment on a project's potentially significant, adverse environmental effects. (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1, 9 [*County of Inyo II*] ["[an] accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."].) The CEQA Guidelines require that when "significant new information" comes to light after a Draft EIR has been circulated for public review and comment, a revised Draft EIR must be prepared and recirculated for public review and comment. (CEQA Guidelines, § 15088.5.)

"Significant new information" requiring recirculation exists, if the Draft EIR that was circulated for public review was "so fundamentally and basically inadequate...that meaningful public review and comment were precluded. (CEQA Guidelines, § 15088.5, subd. (a)(4).) Where recirculation of a Draft EIR is required, it is a violation of CEQA's procedures to instead add the new or missing information to the Agency's Final EIR and then proceed with certification of the EIR and project approval. (*Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, 1052 (Mountain Lion Coalition) ["If we were to allow the deficient analysis in the draft EI[R] to be bolstered by a document that was never circulated for public comment...we would be subverting the important public purposes of CEQA. Only at the stage when the draft EI[R] is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment."].)

Numerous revisions[1] made to the proposed Treasure Island/Yerba Buena Island Redevelopment Project *since* the publication and distribution of the Comments and Responses document (C&R) on March 10, 2011, constitutes conclusive proof that the project description and objectives analyzed in the Draft EIR were neither "accurate" nor "stable", but rather were fundamentally changed *after* publication of the C&R. As a result the Draft EIR that was circulated for public review precluded a meaningful opportunity for public review and comment with regard to the substantially different project that was actually presented to the Planning Commission and TIDA on April 21, 2011.

The significant, post-publication revisions made to the Project requiring a revised and recirculated Draft EIR include, but are not limited to:

A decision by the project sponsors (TIDA, Treasure Island Community Development, LLC (TICD) and the City's Office of Economic and Workforce Development (OEWD)) to abandon redevelopment financing in favor of infrastructure financing districts (IFDs) resulted in substantial changes to the project description and objectives by reducing the amount of affordable housing from 30% to 25%. In addition to this 17% decrease in the amount of affordable housing, IFD financing limits the construction of affordable housing to replacement housing only, and vastly changes the phasing of the proposed project in a manner that will likely delay the implementation of the promised public benefits until later phases of the project -- or may eliminate some public benefits all together.

The governing structure and documents under which the proposed project would be implemented fundamentally changed. The legal nature and function of TIDA changed from a "redevelopment agency" to a "nonprofit public benefit corporation" and a new *Area Plan* and *Special Use District* legislation were drafted and proposed, which

[1] These changes were made in multiple memoranda to the Planning Commission, including, but not limited to those dated April 12, 2011, April 15, 2011 and April 21, 2011.

substantially changed the project review and entitlement structure from that considered in the EIR.

Several new project alternatives were publicly discussed by the project sponsors at meetings of the Planning Commission and Land Use Committee of the Board of Supervisors that could reduce the loss of affordable housing by eliminating parks and other public benefits. Such alternatives must be analyzed in a revised and recirculated EIR.

The *Treasure Island+Yerba Buena Island Design for Development* (*"Design for Development"*), described in the EIR as being a part of the project description, was changed significantly since the publication of the C&R and was incomplete at the April 21, 2011 hearing. The Appendix for "Review and Entitlement Authority" was missing from the Planning Commission and TIDA agenda packages and was not available for public review.

Building heights were changed significantly without a reduction in the number of units and a new provision was added to the *Design for Development* requiring consultation with the US Coast Guard within areas shown on a new "Heights Requiring Consultation Plan" to determine whether the proposed building height may interrupt direct contact between the US Coast Guard vessels in the Bay's shipping channels. The impacts of these changes and controls on building profiles and massing have not been analyzed in the EIR.

Reducing the number of affordable units while increasing the number of market rate units could result in more residents with cars, which would change the transportation and air impacts considered in the EIR.

These changes constitute "significant new information" identified after publication of the DEIR and before certification, which has deprived the public of a meaningful opportunity to review and comment on the impacts of these changes. Accordingly, substantial revision and recirculation of the EIR is required under Section 15088.5 of the State CEQA Guidelines.

2. The project description in the Draft EIR that was circulated for public review is not sufficiently "stable" or "finite," on its own terms.

The EIR also fails to meet CEQA's procedural requirement for an accurate, stable and finite project description for the reasons stated in the comment letter submitted by San Francisco Tomorrow (Comment #39):

> [s]o many options are given, with the heights expressed as "flex" zones," that it is impossible to tell what the preferred project is. Apparently, completely open-ended, "mix and match" component parts is what is desired by the project sponsor. However, the variants are so great and the impacts so different that the project description cannot be relied on to describe the so-called preferred project.

3. The EIR lacks sufficient detail to constitute project level environmental review. A program-level EIR is required followed by subsequent project-specific analysis.

The City's EIR and responses to comments at C&R 2.22.3 assert that the environmental review the City has prepared constitutes a "project EIR" for a redevelopment plan pursuant to Pub. Resources Code section 21090. This EIR type is inappropriate for this massive development plan for two reasons.

First, on the law, the City's assertion that Pub. Resources Code section 21090 applies to this project is wrong. This provision of CEQA specifically and narrowly addresses CEQA review "for a redevelopment plan." However, because the proposed project is no longer a redevelopment plan, but has been changed to an Area Plan and Special Use District, section 21090 no longer applies to the proposed project.

Second, on its substance, the information actually provided in the Draft EIR that was for public review and comment lacks sufficient detail to provide any meaningful analysis of site-specific impacts of the plan's implementation. Rather, at *most*, the EIR presents only a broad, program-level discussion that has precluded any meaningful opportunity for the public to consider or comment on site specific issues and impacts that may result from the actual implementation of the many individual projects and phases that constitute the City's overall development vision for Treasure Island and Yerba Buena Island.

For example, the EIR concedes that the height and architectural designs for new buildings *are presently unknown*. Accordingly, there is insufficient information about building heights, massing, form and location within the Project's "flex" zones to determine what impacts such buildings may have or what mitigation measures or alternatives could feasibly reduce or avoid such impacts. Moreover, no detailed plans have been presented for public review or comment regarding the rehabilitation of the historic buildings, and the details of required transportation features and other infrastructure required to support the overall development of Treasure Island and Yerba Buena Island are likewise not established or disclosed for public review or comment.

As a result of the EIR's lack of any meaningful, project-level detail, the public has been denied a meaningful opportunity to consider or comment on such project-level impacts. This shortcoming is highly prejudicial in light of the fact that where a local agency asserts that it has prepared and certified a "project" level EIR for a proposed redevelopment plan, no further project-level environmental review shall be required for the subsequent projects that implement the plan unless CEQA's higher standards for subsequent or supplemental environmental review are triggered, yet the statute of limitations to raise any legal challenge to the EIR's adequacy to cover such subsequent projects is when the redevelopment plan as a whole is approved, not at the time of each subsequent project approval (Pub Resources Code, § 21090, subd. (b); *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal. App. 4th 598, 606 ["section 21090 *prohibits* an agency from

requiring further environmental review of redevelopment plans for which a project EIR has been prepared, unless the circumstances specified in section 21166 exist." (emphasis in original)].)

In contrast, CEQA Guidelines section 15168 (Program EIR) explains that a "program EIR" is a first tier environmental document prepared for an agency program or series of actions that can be characterized as one large project. According to CEQA, program EIRs are typically prepared for agency plans, policies or regulatory programs, and generally *analyze broad environmental effects of the program with the acknowledgement that site specific environmental review may be required for particular aspects of the program when those aspects are proposed for implementation.* CEQA Guidelines section 15168, subsection (a) states that a state or local agency should prepare a program EIR, rather than a project EIR, when the agency proposes a program or a series of related actions that are linked geographically, are logical parts of a chain of contemplated events, rules, regulations, or plans that govern the conduct of a continuing program, or are individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated in similar ways.

In sum, given the lack of any meaningful detail regarding the individual projects and activities that constitute the "whole" of this massive development plan and the vagueness of the proposed *Design for Development*, a project-level EIR is the wrong approach under CEQA for this proposed development program. Instead, the City must either 1) prepare and recirculate a program-level EIR, which analyzes the plan at a more general level and expressly acknowledges that later, project-specific environmental review will be tiered from the current EIR when the details of the projects are known, or 2) prepare and recirculate a revised project-level EIR that actually discloses and analyzes the site-specific details of the many activities and individual projects that constitute the "whole" of the plan in a manner that is sufficient to foster meaningful public review and comment on those project's impacts.

On this score, we note that the City apparently understands these principles, as it has recently prepared and certified program-level EIRs for the following redevelopment projects and area plans where project level detail was not sufficiently know at the times of those various plans' approvals: Visitation Valley Redevelopment Program, Balboa Park Station Area Plan, Eastern Neighborhoods Rezoning and Area Plan, Market and Octavia Neighborhood Plan and the Rincon Hill Plan. Not only is a project level EIR for the Treasure Island/Yerba Buena Island Redevelopment Project inconsistent with CEQA, it is inconsistent with EIRs prepared by the Planning Department for other redevelopment and area plans in the City.

4. The EIR is inadequate because it fails to adequately analyze or respond to comments submitted by interested local, state and federal agencies on the project's potentially significant adverse impacts on transportation and public safety.

The City's EIR is also inadequate to meet CEQA's public participation and informed decision making mandates, because the EIR fails to provide good faith, reasoned analysis in response to comments raised by interested local, state and federal agencies regarding a broad range of potentially significant adverse impacts. CEQA Guidelines section 15088(c) requires that: "[T]he major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." And, as previously noted, CEQA's procedures require revision and recirculation of an EIR, where "significant new information" comes to light after the Draft EIR has been circulated for public review. (CEQA Guidelines, § 15088.5.) Such "significant new information" includes circumstances where comments on a Project reveal "a new significant environmental impact would result from the Project or from a new mitigation measure" that was not disclosed in the publicly circulated Draft EIR. (CEQA Guidelines, § 15088.5, subd. (a)(1).)

The EIR's failure to adequately respond to comments or address new impacts identified in those comments includes, but is not limited to, the following objections and issues raised by the U.S. Coast Guard (Department of Homeland Security), California Dept of Transportation (Caltrans), AC Transit, the U.S Department of Labor and the San Francisco Fire Department concerning the project's significant impacts to transportation and public safety. Appellants adopt and incorporate by reference each of the following comment letters and objections to the Project as substantive grounds in support of their appeal, as follows.

(a) Revelations from the **SF Fire Department** (see email to the Planning Commission on 4/11/11 attached as Exhibit E) in and of themselves point out gross inadequacies in the EIR's analysis of project design. This detailed and substantiated information regarding new impacts to public safety was not disclosed or analyzed in the Draft EIR that was circulated for public review and cannot be simply swept under the rug.

(b) Significant new information regarding public safety impacts was also raised by the **U.S. Coast Guard** (Comment 10) as to how the USCG facilities *"will be negatively impacted by the Redevelopment Project."* As revealed in their comments, the proposed building heights on TI (anything over 300 feet) will compromise the Coast Guard's radar system, creating significant and unavoidable impacts to vessel traffic navigation in the Bay and an unacceptable risk to the public. Also, the Coast Guard believes that the increased traffic volume and congestion caused by the project will impinge on their access to their facilities.

This significant new information and its potentially significant impacts on design and implementation of the proposed project was not disclosed or analyzed in the Draft EIR that was circulated for public review and comment.

(c) **AC Transit** (Comment #23) asked that the EIR consider and incorporate the recommendations of the *Bay Bridge Congestion Study* being conducted by the Transbay Joint Powers Authority. The C&R refused to consider the study's findings or include the recommendations addressing future congestion on the Bay Bridge, concluding that they *"would be speculative at this time and not appropriate for the CEQA analysis of the Proposed Project."*[2] Given the project's significant traffic impacts, the EIR is inadequate in failing to consider or adopt all potentially feasible ways to mitigate traffic impacts. **AC Transit's** comment also indicate that AC Transit may not be able to provide the bus service from TI to Oakland that was assumed as a given in the EIR, thus indicating a "substantial increase in the severity of an environmental impact" that was not disclosed or analyzed in the publicly circulated Draft EIR, again requiring revision and recirculation of the Draft EIR. (CEQA Guidelines, § 15088.5, subd. (a)(2).)

(d) **Caltrans** (Comment #16) submitted extensive comments outlining this agency's concerns with the DEIR's assumptions and analysis of the extent to which the project will increase congestion on the Bay Bridge. The EIR's response fails to adequately respond, further highlighting the seriousness of the significant impacts the project will have on Bay Bridge congestion and why this project is infeasible as proposed.

(e) **U.S Department of Labor** (Comment #15) expressed concerns as to the Project's impacts on Job Corps campus and its residents and staff including (1) exposure to incremental cancer risk from diesel particulate matter concentrations during the 15 years of construction activity, which according to the EIR are at the threshold for "significant and unavoidable," (2) an increase in wind speeds exceeding prescribed comfort levels (up to 45 mph winds) at a busy pedestrian area on the campus, and (3) concern that the campus site will be adversely impacted by surface water runoff from the neighboring properties after the addition of 3 feet of fill to lands around the Job Corps site. Instead of providing good-faith, reasoned responses to these serious environmental issues as required by CEQA's procedures, the City's responses offers only unsupported and conclusory rationalizations asserting that such impacts will be "less than significant." (See responses at C&R 2.9.1, C&R 2.2.2, C&R 2.11.1 and 2.13.9.)

[2] This response also further supports appellants' claim in this appeal that the EIR cannot be certified as constituting "project-level" review, in conceding that the scope and extent of future congestion on the Bay Bridge associated with the Project is "speculative at this time...."

(f) **The State Lands Commission** (Comment #24), as the trustee agency for projects that could directly or indirectly affect Public Trust lands, commented that a significant number of elements of the proposed project, including residential uses, solar panels on the ground in open space areas, permanent athletic or sports fields, dog parks, grocery store to serve local residents, indoor sports & recreation facilities, movie theater and museums or cultural institutions without any connection to the water, are not consistent with the Public Trust. This raises a significant question as to whether the project may have significant adverse environmental impacts, to the extent that numerous components of the project may never be implemented as proposed, given these constraints on use.

5. The EIR is inadequate and incomplete because agencies with permitting authority or jurisdiction over resources that may be impacted by the project were not properly consulted in the EIR's preparation.

The lead agencies appear to have also violated CEQA's procedural requirements by failing to consult with a number of federal and state agencies with permitting authority or jurisdiction over resources impacted by the project including, but not limited to, the US Fish and Wildlife Service, the National Oceanic and Atmospheric Administration (NOAA Fisheries), the US Environmental Protection Agency (EPA), the California Department of Fish & Game, and the Advisory Council on Historic Preservation. (See, e.g., *Fall River Wild Trout Found, v. County of Shasta* (1999) 79 Cal.App.4th 482, 490-491 [failure to provide Draft EIR to Department of Fish and Game for review and comment as required by CEQA's procedures constitutes violation of CEQA's public participation and informed decision making mandates]; *Rural Land Owners Assn v. City Council* (1983) 143 Cal.App.3d 1013, 1022 [failure to provide copies of EIR to State Clearinghouse as required by CEQA prejudicial error regardless of whether such action would have resulted in different outcome].)The EIR fails to list these agencies among those consulted. Without such consultation during the preparation of the Draft EIR, potentially significant project impacts on state and federally protected environmental resources could not have been properly disclosed or considered, nor could adequate mitigation measures developed and proposed.

6. The EIR is inadequate because it fails to adequately analyze or respond to numerous public comments regarding the project's potentially significant adverse impacts.

Also not adequately addressed in the Draft EIR or C&R are numerous additional issues raised by non-governmental organizations and individuals concerning the project's environmental impacts. Below, appellants list several of these comments from organizations and individuals, and hereby adopt them as their own, substantive objections to certification of the EIR or approval of the project. The following are organized under the headings set forth in the C&R.

(a) The EIR is inadequate because it fails to adequately analyze or respond to comments concerning the project's potentially significant adverse impacts related to sea level rise and flooding, seismic instability and the possibility of liquefaction.

The conclusion of the EIR that impacts to geology and soils are "less than significant" is not supported by substantial evidence and should be revised to find that the proposed project would have significant impacts related to sea level rise and flooding, seismic instability and the possibility of liquefaction.

Comments submitted by Nick S. Rossi, Esq., representing Kenneth Masters (Comment #19) concerning the project's potentially significant impacts related seal level rise and flooding, seismic instability and liquefaction demonstrate that the Draft EIR failed to adequately disclose, analyze or mitigate such impacts, thus requiring the preparation and recirculation of a revised Draft EIR to address such matters. In turn, the C&R responses, fail to provide any good faith or reasoned analysis explaining how the Draft EIR's inadequate consideration of these issues can be squared with CEQA's public disclosure and informed decision making mandates. We incorporate here by reference Comment Letter 19 in its entirely. Other comments related to these issues the Draft EIR failed to adequately consider, and the C&R failed to meaningfully respond to include, without limitation, comments submitted on behalf of BCDC (Comment # 17), San Francisco Green Party (Comment # 30), and San Francisco Tomorrow (Comment #38). Again, all of the foregoing comment letters are hereby incorporated by reference and adopted as appellant's own objections to certification of the EIR or approval of the project.

(b) The EIR is inadequate because it fails to adequately analyze or respond to comments concerning the project's potentially significant adverse impacts to biological resources, including a failure to consider alternatives or adequate mitigation measures to lessen or avoid such impacts.

Comments submitted by Golden Gate Audubon (Comment #32) objected to the Draft EIR's failure to adequately disclose, analyze or mitigate the project's impacts to plant communities, migratory and breeding birds, rafting waterfowl, mammals and eelgrass beds, again, requiring the preparation and recirculation of a revised Draft EIR addressing such issues before certification of the EIR or approval of the project. And, again, the C&R responses to Golden Gate Audubon's objections failed to provide the required detailed and reasoned analysis explaining how these matters were sufficiently examined and mitigated in the publicly circulated Draft EIR. Appellants incorporate here by reference and adopt the objections raised by Comment Letter 32 as their own objections to certification of the EIR or approval of the project, unless and until a revised Draft EIR is prepared and recirculated to address these deficiencies.

For example, the EIR concludes that impacts to birds due to collisions with new, tall buildings constructed on the island will be less than significant because Mitigation Measure B-BI-4a "incorporates new technology as it becomes available at the time of construction." (C&R 2.15.17) Therefore, at least part of the basis for a finding of no

significant impact is an assumption that new, unspecified measures *may* become available and *may* be incorporated into the project in the future. Reliance on undescribed, speculative, future measures that may *or may not* be developed in the future cannot form the basis for a finding of no significant impact, especially where no performance standards have been established against which the success of the nonexistent measures can be assessed. (See *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395, comparing and contrasting *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011 ("SOCA") with *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 [holding that CEQA's requirement that mitigation must be formulated and adopted prior to project approval *may* be met by assurances that the specific measures to be implemented will be decided at a later date, but only if the EIR that was actually circulated for public review and comment 1) analyzed the "whole" of the project, 2) identified and disclosed with particularity the project's potentially significant impacts, 3) established measurable performance standards that will clearly reduce all of the identified impacts to less-than-significant levels, and 4) describes a range of particularized mitigation measures that, when taken in combination, are able to meet the specified performance standards.])

Despite comments asking for more information on the impacts to rafting birds from the ferry service, the EIR does not adequately describe these impacts and fails to offer any meaningful mitigation. (See C&R 12.15.20). While Mitigation Measure M-BI-4b: *Changes in Ferry Service to Protect Rafting Waterbirds* may reduce some impacts (e.g., by slowing ferries or altering service times), it does not address that the ferry lanes and associated wake areas are effectively being taken out of the available habitat for birds. In other words, the ferry lanes represent an even further reduction in available Bay habitat for rafting waterbirds.

The EIR also provides no real basis for ensuring that many mitigation measures are properly implemented or enforced. For example, impacts to eelgrass beds adjacent to Treasure Island are expected to be mitigated in part by Mitigation Measure M-BI-2c, which requires "all vessels" be "made aware" of the eelgrass beds and "avoid them". This appears to be a purely educational effort, with no real enforcement teeth. As such, it is not a realistic mitigation measure to protect some of the most sensitive and important subtidal habitat in the Bay.

The EIR violates CEQA's procedures because it has failed to fully disclose the project's potentially significant impacts to biological resources, and relies on mitigation measures that are undescribed, or unenforceable as a practical matter, to assert that impacts to biological resources will be "less than significant." Again, a revised Draft EIR must be prepared and recirculated that either 1) includes the missing analysis of impacts and specifies the actual mitigation measures or alternatives that will reliably be implemented to avoid such impacts; or 2) acknowledges that the proposed project, even with all feasible mitigation measures or alternatives implemented, would still have significant and unavoidable impacts to these resources.

(c) Responsibility for enforcing mitigation measures is unclear. (C&R Response 2.1.1.1).

CEQA requires that adopted mitigation measures must be fully enforceable pursuant to an adopted reporting or monitoring program. (Pub. Resources Code, § 21081.6). San Francisco Tomorrow (SFT) (Comment #38) asked what public agency would be charged under the law with the responsibility for ensuring that mitigation measures included in the project or imposed as conditions of approval are carried out. The response in the C&R asserts that *"TIDA, which has been established as the redevelopment agency for the project site,"* would have such responsibility. (C&R 2.1.3)

This response is no longer accurate or correct because, in light of the substantial change in project review and entitlement authority structure since the publication of the C&R, TIDA will no longer acting as a redevelopment agency (or a public agency at all). Given that TIDA will be acting in its capacity as a private nonprofit public benefit corporation, a revised EIR must consider which public agency will bear overall responsibility to ensure that mitigation measures and monitoring, whomever is designated with responsibility for their implementation, are actually carried out. Given the recently proposed new dual authority over review and entitlement of projects between TIDA (as a private nonprofit corporation) and the Planning Department (as the public agency), a revised and recirculated EIR must address TIDA's change from a redevelopment agency to a private nonprofit corporation in addressing SFT's comment.

(d) **Future jurisdiction over and allowable uses within the Tidelands Trust areas are uncertain resulting in an unstable project description. (C&R Response 2.1.1.2)**

Comments submitted by the State Lands Commission (Comment #24) points out that a significant number of elements of the proposed project, including, residential uses, solar panels on the ground in open space areas, permanent athletic or sports fields, dog parks, grocery store to serve local residents, indoor sports & recreation facilities, movie theater and museums or cultural institutions without any connection to the water are not consistent with the Public Trust.

The response to this comment in the C&R is that Trust conformity will be determined by TIDA in the future pursuant to its authority under the Conversion Act and that *"[a]ll proposed uses on Public Trust property would be evaluated by TIDA at the time that more details are known about any particular proposal."* This response violates CEQA's procedural requirements of providing "good-faith, and reasoned" responses to public comments on a Draft EIR, because it entirely avoids addressing the hard questions: How much, and which parts, of the proposed redevelopment plan will be impacted/infeasible of implementation, if most of the proposed uses are inconsistent with Public Trust restrictions? And, if these aspects of the project are never built, how might that result in adverse impacts to the environment associated with the unmet need for services these non-Public Trust (and therefore nonexistent) portions of the project would have otherwise fulfilled? Indeed, this response in the C&R's further supports appellants previous points

on appeal, above, that 1) the project description is fundamentally unstable and indefinite, and 2) the EIR cannot be certified as a "project" level environmental review document, because it is not known at this time what proposed uses can and will be actually be implemented in light of the significant Public Trust limitations on the lands at issue.

This question also raises an additional question as to TIDA's jurisdictional authority over Trust Lands, having forfeited its status as a public redevelopment agency. The Treasure Island Conversion Act (SB 699) and Board of Supervisor's Resolution No. 43-98 established TIDA as a Redevelopment Agency with the authority for administering the public trust lands (Tidelands Trust). Both the Conversion Act and the Board's resolution state their intent to vest authority over TI redevelopment and Tidelands Trust responsibilities in a ***single entity***. [Section 3(b) of the Conversion Act.]

Following publication of the C&R, however, the project sponsor proposed a new dual authority for project review and entitlement within the project area (no longer a redevelopment area) between TIDA and the Planning Department – so the intent and purpose of vesting all authority in a single entity is frustrated. Question that must be addressed include whether it is appropriate for TIDA to maintain authority for administering the Tidelands Trust in its new capacity as a non-public entity, and whether the State Legislature has exceeded its authority, to the extent it has (due to the course of events) apparently attempted to legislate away its the State's Public Trust duties to a private entity.

(e) **The EIR is inadequate in failing to consider alternatives or mitigation measures to lessen or avoid the project's significant and unavoidable impacts to scenic vistas and aesthetics. (Response 2.1.2)**

The EIR simply concludes that the scenic and aesthetic impacts of the project would be ***"Significant and Unavoidable,"*** finding that *"[d]evelopment under the TI/YBI Redevelopment Plan would adversely alter scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east Span."*

These significant scenic and aesthetic impacts are without question related to the height and locations of the proposed new buildings on TI. Yet no alternatives or mitigation measures were even considered in the EIR to lessen or avoid this significant impact, and no meaningful explanation was presented in the publicly circulated Draft EIR to explain why such alternatives were summarily excluded from any consideration or analysis. (CEQA Guidelines, § 15126.6, subd. (c) [CEQA's procedures require lead agency to identify any alternatives that were considered by lead agency but rejected as infeasible during scoping process, and explain the reasons underlying the lead agency's determination].)

Absent specified height limits that would normally become a part of a Zoning Map, the ultimate skyline is completely unknown and it is impossible for the public and decision makers to understand or assess how significant the ***"significant and unavoidable***

impacts" would be in the future, let alone whether the potentially feasible alternative of establishing specific building height limitations might be effective in reducing or avoiding such significant and unavoidable impacts. These serious defects in the EIR have precluded meaningful public comment on the project's declared significant, adverse aesthetic impacts, and also make it impossible for the decision makers to make any rational decision as to whether any potentially feasible alternatives or mitigation measures could lessen or avoid these significant impacts.

Further, the C&R failed to respond at all to the issues raised by a number of comments on the need for a Zoning Map and specified height limits.[3] Instead of responding to the issues raised by the comments, C&R attempts to justify the flexible zoning scheme with the following statements:

> *"The heights on Treasure Island are variable within zones. In many of the height zones a limited number of towers would be allowed that exceed the basic height limit in many of the height zones." [pg. 2.1.6]*
>
> *"Within the tower flex zones, a limited number of would be allowed up to the height limit of each of the flex zones. Therefore, the height controls cannot be represented as specific height limits on individual parcels . . . although ever parcel would be subject to a maximum height." [pg. 2.1.6]*
>
> *"Each flex zone would allow a limited number of taller buildings to be constructed and would provide flexibility in the locations of the taller buildings." [pg. 2.1.8]*

According to the EIR, the proposed "Flex" zones" would allow for a vast range of heights (e.g. a range such as 70 ft to 450 ft). Again, these defects go not only to the EIR's completely inadequate disclosure of the nature of such impacts, or whether there are feasible mitigation measures or alternatives (such as establishing actual height limitations) to reduce the projects aesthetic impacts, but also constitute further support for appellants points on appeal that the EIR fails to provide an "accurate, finite, and stable" project description – especially to the extent the City has asserted that the EIR constitutes project level review addressing all impacts associated with all future development under the proposed plan. Without specific design requirements, the project description is vague, inconclusive and confusing – clearly inadequate for CEQA purposes. As a practical matter, the project's so called "flex" zones for building heights equate to no understandable or meaningful enforceable height limits at all.

Finally on this point, the C&R failed to respond at all to questions posed by Telegraph Hill Dwellers [Comment #39] requesting a comparison of heights between existing and proposed buildings in the areas to be developed. This was requested in order to better

[3] Appellants note that SFT, Telegraph Hill Dwellers, and Commissioner Moore each raised these issues in their comments, which appellants hereby adopt as their own objections to certification of the EIR or approval of the project.

understand the significant impacts on aesthetics from Telegraph Hill and whether impacts could be mitigated.

(f) Proposed alterations and mitigation measures in the EIR are completely inadequate to reduce or avoid the project's significant impacts to transportation and traffic.

Perhaps the most significant impact of the project is on transportation and traffic, which the EIR concedes to be: *"Significant and Unavoidable with Mitigation."* As stated on page 2.1.1.7 of the C&R, during the weekday AM and PM peak hours, the total number of external person trips would range from about 5,375 to 7,570 and in the Saturday peak hour would be a total of about 7,580. One does not have to be a traffic engineer to understand how significantly these additional automobile trips will impact congestion on the Bay Bridge, with resulting, adverse spill-over effects on transportation throughout the entire region.

The C&R not only highlights the significance of the project's transportation and traffic impacts, but (unbelievably) conclude that the mitigations measures that the EIR proposes to lessen these impacts are not possible because *"funding for these features has not been identified,"* and because increased services be would have be determined in the future by Water Emergency Transit Authority (WETA) or the San Francisco Municipal Transit Authority (SFMTA) based on future services.

It is standard and customary practice to assess traffic impact mitigation fees as a mitigation measure when projects are proposed that will adversely impact existing transportation and traffic infrastructure, as is the case here. The EIR's assertion that "funding...has not been identified," simply points up the lead agency's failure to investigate and disclose such potential sources in its EIR. (CEQA Guidelines, §§ 15144, 15145.) And, the C&R's poor excuse that plans to address increased demand for services would have to be determined later by WETA and SFMTA when such demand is known again provides further support for appellant's previous points on appeal that the EIR 1) fails to provide an "accurate, finite and stable" description of the whole of the project, and 2) fails to provide an actual "project" level disclosure and analysis of the impacts of implementing the proposed development plan as a whole, in violation of CEQA's procedures.

The C&R confirm that certain significant features included in the *2006 Transportation Plan* are ***not*** included in the proposed project description, except as proposed Mitigation Measures, which the EIR acknowledges cannot be implemented. See the following comparison between the proposed project and the *2006 Transportation Plan* as revealed by the C&R:

	Ferry Service	Bus Service to SF	Bus Service to East Bay
Proposed project	1 ferry vessel; service every 50	Maintaining the existing single	New bus service to Oakland

	minutes, between 5 AM and 9 PM	MUNI route 108 at existing service level to and from Transbay Terminal every 15 min in peak periods, 20 min during day & evening and, 30-40 min at other times	(operated by AC Transit) at approx 10 minute intervals during peak hours, less frequent during off-peak hours [Note that **AC Transit's** comment (#23) calls into question the ability of AC Transit to provide this bus service.
2006 Transportation Plan	3 ferry vessels; service every 10 minutes in peak periods, between 5 AM and midnight*	Adding a second bus line from TI to SF Civic Center and increasing buses 5-minute headways peak periods**	New bus service to Oakland (operated by AC Transit) at approx 8 minute headways between 5 AM and 10 PM

* Mitigation Measure M-TR-2, Expanded Transit Service, would provide ferry service at approx 15-minute headways during the morning and afternoon peaks, similar to the service identified in the *2006 Transportation Plan.* However, according to the Responses, *"the provision of more frequent ferry service under the enhanced transit scenario is uncertain because it would rely on future environmental review and discretionary action by the Port, BOS, and WETA."*

** Mitigation Measure M-TR-2, Expanded Transportation Service, would provide peak period MUNI bus service to the Transbay Terminal at 7-minute headways in the AM peak and as low as 5-minute headways in the PM peak. According to the Response, this is comparable to the 5-minute headway included in the *2006 Transportation Plan.* However, according to the Responses, *"funding for these features has not been identified."*

The C&R state that even if the City adopts these mitigation measures they cannot be implemented because funding has not been identified (meaning funds will not come from the developers' profits). Given the significance of the project's regional impacts upon transportation and traffic, the project should be revised to require the developers to pay for substantially increased ferry and bus service before occupancy of the various (as yet undisclosed and unanalyzed) individual development projects that constitute the overall development plan is allowed.

These points are critically important, because the ferry and bus service contemplated in the table presents a dramatic increase in impact over the 2006 approved EIR:

1. The 2011 project contemplates 1 ferry and 4 buses per hour heading to SF, 6 buses per hour to the East Bay – an approximate total of 2,400 seats over the four hour AM/PM commute. This is a far less than half of the 5,375 and a third of 7,570 external person trips presumed in the EIR.

2. On the other hand the 2006 EIR provided a more robust transportation plan for a smaller project. The three ferrys an hour, buses at 5 minute headways to San Francisco and 8 minute headways to the East Bay could accommodate the majority of external person trips for that projected project.

A simple comparison reveals that the 2011 plan represents a reduction of mass transit service over the 2006 plan for a project that is 25% larger. The mitigation measures provided in the EIR cannot be reasonably considered to meet the criteria for a CEQA review as they cannot be assessed at this time.

The EIR also violates CEQA's public participation and informed decision making procedures, because it does an inadequate job of assessing the viability of ferry service. The question of how the ferry service operates is of particular importance because:

1. There is a reasonable question as to whether increased ferry service headways could be viable, given that the route to the ferry building intersects the Central San Francisco Bay's primary shipping lane. This lane is utilized by all cargo and other large vessels proceeding to the Ports of Oakland, San Francisco and Redwood City. Managing traffic could become a substantive issue, particularly with more frequent ferry trips. The non ferry alternative is not the proposed project and features a much smaller housing and facility footprint which would seem to indicate that the larger project is dependent upon the availability of ferry service. Therefore the lack of a bay oriented traffic analysis would appear to be a substantive flaw.

2. A further question regarding Ferry service appears to be whether this service could be accommodated at the Ferry Building. Smaller ferries necessitating more frequent trips would create more impact relative to the questions raised above. Larger ferries would require more time to load and unload passengers possibly complicating the arrival schedules of ferries serving other parts of the Bay Area. Would this possibly require the construction of new dedicated shoreside facilities in San Francisco at the Ferry Building or nearby. The lack of a discussion of this topic in the EIR would appear to be a substantive flaw.

3. The cost of operating the ferry service is another factor that may affect the viability of this mass transit option. There is no analysis presented to indicate whether the provision of this service will be financially viable. If this service is

not financially feasible it will either require a subsidy or it will not be implemented.

Given the importance of ferry service to the proposed plan, any of these issues could dramatically impact the viability of the plan. Should ferry service be found to not be viable for Treasure Island for any of the above or other reasons, the substantive impact would be still *further* bus and private vehicular traffic on the San Francisco Oakland Bay Bridge, the impacts of which (again) have not been fully described in the EIR, in violation of CEQA's public participation and informed decision making procedures. Given these importance of ferry service to the proposed plan and the questions above, a revised Draft EIR that addresses these issues must be prepared and recirculated for public review and comment before the EIR can be certified or the Project can be approved.

Transportation Funding. (2.1.3.4) The EIR does not say how many residents it will take to justify the spending money on any of the proposed transit improvements or at what point during the implementation of the project they will be implemented. Moreover, because the Treasure Island Transportation Management Agency ("TITMA"), authorized under State legislation (Stats. 2008, Chapter 317), was set up to act in conjunction with the Treasure Island Development Authority in its capacity as a redevelopment authority, there is a question as to whether TITMA has legal authority to function in absence of TIDA as a redevelopment authority. These facts make it uncertain as to when or how mitigation measures for traffic impacts will actually be implemented, in violation of CEQA's requirement that such measures be incorporated into the project approval, and made enforceable through permitting conditions or other mechanisms. (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097.)

Parking. (2.1.3.3) According to the C&R, the proposed project would provide 10,118 off-street parking spaces and 1,035 on-street parking spaces to accommodate a total of 11,153 cars on Treasure Island and states that the project plan relies on parking revenues to fund transportation improvements. Based on a comparison between the project proposed in 2006 and the current project, the number of parking places has increased significantly from the number included in the 2006 Redevelopment Plan. Comparing the 2006 Redevelopment Plan to the current plan, there has been a 26% increase in the number of proposed off-street parking places and a 40% increase in the number of proposed on-street parking places for a net increase of 2,888 proposed parking spaces.

Numerous comments were made regarding how a "world-class model of sustainable, carbon-neutral development" can have 11,153 parking spaces, which will clearly result in more car driving to and from the Island. The EIR does not adequately support its conclusory arguments that providing fewer parking spaces will make the project economically infeasible, or that the only way to fund the project's public transit improvements is through dependency on parking revenues. In contrast, it is only logical to assume that available parking spaces would create an incentive for those parking spaces to be occupied and utilized by new residents of and visitors to the Island. Further, the plan's provision for residential parking, weakens its strategy for minimizing

automobile use and is inconsistent with the approach the City has taken in, and conclusions it has reached regarding the feasibility of, other recently adopted neighborhood plans. (e.g., the Market & Octavia Better Neighborhoods Plan, the Eastern Neighborhoods plans, and downtown residential parking limits.)

(g) The EIR is inadequate and incomplete in failing to analyze the impacts of the Clipper Cove project either as an integral part of, or cumulatively with, the project as revised since the 2006 EIR.

In response to comments raised by Telegraph Hill Dwellers (Comment #39) and others, the C&R states that the Clipper Cove project was analyzed in the 2006 EIR and therefore is not analyzed in this EIR. However, at its website, the Treasure Island Yacht Club declares that "Clipper Cove will be redesigned *as part of the Treasure Island/Yerba Buena Island Redevelopment Project.*" (http://tiyc.org/?page_id=129) The City's failure to analyze the impacts of the Clipper Cove Marina in the context of the overall impacts of developing TI/YBI constitutes either a segmenting or piecemealing of the whole of the project or a failure to properly assess the cumulative impacts of the project in conjunction with the Clipper Cove project under CEQA. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 733 ("even assuming sewer expansion was severable from the development project, the FEIR did not comply with CEQA," because such expansion would have to be considered in EIR as a *cumulative* impact of proposed project.) All environmental impacts of the Clipper Cove Marina, as it is currently proposed, must be analyzed as a part of this EIR, especially to the extent that the EIR purports to constitute "project" level review of the Treasure Island/Yerba Buena Island Redevelopment Project, regardless of whether Clipper Cove itself is deemed to be a part of that plan, or an additional "past, present or future" project that may combine with the plan to result in cumulatively significant adverse effects to a range of impacted environmental resources. The EIR's failure to do so constitutes a serious violation of CEQA's public disclosure and informed decision making procedures.

(h) The EIR fails to adequately respond to comments raised by Planning Commissioners and others concerning the project's regional serving retail and entertainment uses in relation to the additional, significant traffic impacts that adding such uses will have on local and regional transportation systems. (2.1.4)

Comments submitted by Ron Miguel, President of the Planning Commission (Comment #7), Kathrin Moore, Planning Commissioner (Comment #20), Arc Ecology (Comment #28) and Telegraph Hill Dwellers (Comment #39) express concern with the dramatic increase in the number of proposed residential units from all previous versions of the project plans – *a 2000 unit increase from the number of units proposed in the Notice of Preparation of this EIR* – and on the inclusion of a significant amount of newly proposed "regional serving" retail and entertainment uses in relation to the impacts such increases in residential density and regional serving retail on the island will have on the local and regional transportation system. Again, appellants adopt and incorporate each of the points raised in the above comments as their own objections to the project in this appeal.

Notably, **President Miguel** identifies a very basic flaw in these changes to the project: providing for regionally-serving retail and entertainment uses that are accessible by automobile is in conflict with the City's vision for a stand alone community. **Commissioner Moore**, who has served on the Treasure Island Citizen's Advisory Board (CAB) for 11 years, commented that the 8,000 units proposed in the current development program substantially deviate from the 5,800 dwelling units on TI and 200 units on YBI that were assumed in the existing TI Development Plan, Transportation Plan, Sustainability Plan and Habitat Management Plan. She also asked why the regional-serving retail, office and entertainment uses have been increased from that described in the TI Development Plan.

The C&R does not adequately respond to these comments and violates CEQA in failing to provide good faith, reasoned analysis in response to the significant environmental issues raised by the comments of President Miguel and Commissioner Moore, instead stating only that the changes are warranted because the project sponsors' objectives as presented in the EIR include the goal of making the project a regional attraction. The EIR further attempts to justify such regional-serving uses by relying on Tideland Trust requirements to confer significant benefits to the people of Californian statewide. It is far from clear that non-water dependent "regional-serving" retail, office and entertainment opportunities would justify violating the Public Trust values of the island, while in contrast, it is very clear that the additional significant impacts to regional traffic that would be caused by such regional serving uses would not confer a benefit, but rather impose significant adverse public safety and traffic delay burdens on any Californian attempting to drive on the Bay Bridge.

(i) Potential reductions to recreation and open space benefits due to changes in the project's financing mechanism must be addressed in a revised and recirculated EIR. (2.1.4.1)

Given the recent substantial changes in the structure, nature and financing of the project, a revised and recirculated EIR must analyze the potential impacts of these changes on the promised recreation and open space elements and other public benefits. In recent informational presentations to the Planning Commission and BOS Land Use Committee by the project sponsors, alternatives to reducing the number of affordable housing units by reducing open space or other public benefits instead were discussed. Such proposals would modify the project description analyzed in the DEIR, rendering it no longer accurate. Put another way, the evidence that has already been presented to the City demonstrates that these fundamental changes to the proposed project are not just evidence of some sort of "economic" or "social" impacts, but rather themselves put into play a chain of events that will result either in 1) new significant adverse impacts that were not previously disclosed in the publicly circulated Draft EIR; or 2) an increase in the severity of impacts that were disclosed in the publicly circulated Draft EIR. These newly proposed alternatives, after the close of the public comment period on the Draft EIR, also indicate that the publicly circulated Draft EIR failed to present the public with a meaningful opportunity to review and comment on these newly proposed alternatives,

which falsely pit the natural environment against the need for providing homes for the City's less advantaged citizens.

Now more than ever, it is clear that the development of Treasure Island has become all but solely "market driven," with little priority placed upon the implementation of the promised open space or other public benefits (including transportation facilities) so frequently promised to the public during planning discussions over the last 10 years. What recreation and open space aspects of the project may be sacrificed as a result of the proposed use of IFDs? Absent an adequate and complete disclosure and analysis of these recently discussed alternatives in a revised and recirculated Draft EIR that publicly discloses these false dichotomies, and the significant, adverse environmental effects that would flow from a forced choice of one over the other, the City cannot lawfully certify the EIR or approve the project (CEQA Guidelines, § 15088.5, subds. (a)(1), (a)(2), and (a)(4).)

(j) The EIR failed to respond to comments asking that the project be designed and implemented in phases to ensure simultaneous provision of adequate transportation and infrastructure. (2.1.8)

Commissioner Moore (Comment #20) and San Francisco Tomorrow (Comment #38) asked that the project be studied in discrete phases, with separate timelines, so that impacts and appropriate mitigation measures could be accomplished within each phase. As noted in these and other comments, designing and implementing the project in such phases would avoid a situation where construction of several high-rise buildings occurs without simultaneously providing adequate transportation and transit facilities, which would result in even greater impacts on regional transportation than disclosed in the EIR. These comments were not only inadequately addressed in the C&R, but, again further support appellant's position that the EIR is not adequate to constitute "project" level disclosure or analysis of the entire redevelopment plan, and that a programmatic approach is instead required, so that the opportunity for meaningful, project level disclosure, analysis and mitigation will not be lost as the various phases of developing Treasure Island and Yerba Buena Island take sufficient form to allow meaningful environmental evaluation and public disclosure under CEQA's procedures.

(k) The conclusion of the EIR that impacts to cultural resources are "less than significant" is not supported by substantial evidence and should be revised in a recirculated Draft EIR to disclose the truth to the public and decisionmakers: the proposed project, if approved as currently proposed, may result in significant, unmitigated impacts on cultural resources.

(1) TIDA's procedures for reviewing future impacts to historic resources under the *Design for Development* is inconsistent with CEQA.

The EIR finds that impacts on historic resources from their reuse and rehabilitation under the proposed Redevelopment Plan would be "*Less than Significant*" even though the nature and scope of the alterations and additions to historic buildings, new adjacent

construction, and alterations to contributing landscapes is unknown at this time and is not a part of the plan.

Comments from Telegraph Hill Dwellers (Comment #39) question how the DEIR can possibly make a determination of "*Less than Significant*" impacts to historic resources when project plans are unknown.

The C&R response is that a future review process under the "exclusive jurisdiction of TIDA" will ensure that rehabilitation of resources listed on the National Register will comply with the Secretary of the Interior's Standards for Rehabilitation. This review process is described in the C&R as follows:

> If TIDA's review and preservation consultation under the regulatory program established by the proposed Design for Development indicate by substantial evidence that a future specific design for alteration or addition does not conform to the Secretary Standards, such a proposal would require additional project-specific environmental review under CEQA at the appropriate level of CEQA documentation (e.g., Addendum, Supplemental or Subsequent EIR, Initial Study/Negative Declaration/Addendum). If review indicates conformity with the Secretary's Standards, no significant impact would result and no further environmental impact would be necessary.

(C&R Page 2.6.11 (emphasis added))

This proposed review process by TIDA under the proposed *Design for Development* is inconsistent with the requirements of CEQA in a number of ways, including, but not limited to the following:

- CEQA review cannot be limited to resources listed on the National Register. CEQA requires environmental review of projects that may result in a significant impact to a "historic resources" as defined by CEQA, which are not limited only to those listed on the National Register. (CEQA Guidelines, § 15064.5, subds. (a)(2) through (a)(4).)

- The *Design for Development's* statement that "[i]f review indicates conformity with the Secretary's Standards, no significant impact would result and no further environmental impact would be necessary" is also inconsistent with CEQA. CEQA provides that if the record before a lead agency includes evidence supporting a "*fair argument*" that the project "*may*" have significant effect on a historic resource, environmental review is required. Accordingly the mere fact that there is competing evidence suggesting the opposite would only confirm that additional project level review is required, to disclose the competing sources of evidence to the public, and allow the decisionmakers to decide which evidence is most credible. And, again, this provision in the EIR calling for "additional, project-specific environmental review under CEQA," constitutes an admission

that the EIR is not adequate to constitute, and therefore cannot be certified as, "project" level environmental review for the entire development plan.

- CEQA gives public agencies the responsibility to review projects for their impact on the environment and to determine if the project is exempt from or requires environmental review. A private nonprofit corporation such as TIDA is not allowed to make such determinations under CEQA for individual projects that may be proposed in the future.

- Under Chapter 41 of the City's Administrative Code, the City's Environmental Review Officer may:

  > delegate the determination whether a project is exempt from CEQA to other departments, provided that other departments shall consult with the Environmental Review Officer regarding the application of the categorical exemptions, and provided further that the Environmental Review Officer shall be responsible for all determinations so delegated to other departments.

  So even if TIDA remains a redevelopment agency, the *Design for Development* cannot legally give TIDA "exclusive authority" to make these determinations.

- The San Francisco Charter which requires:

  > for all proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act.

  Neither the *Design for Development* nor any other plan or ordinance can deprive the HPC of its Charter authorities.

- CEQA requires that when a non-elected official or decision-making body of a local lead agency decides that a project is exempt from CEQA, and the public agency approves or determines to carry out the project, the decision that the project is exempt may be appealed to the elected body, in this case the Board of Supervisors. Whether TIDA remains a redevelopment agency or returns to its private nonprofit status, the *Design for Development* cannot legally give TIDA "exclusive authority" to make these determinations, since the determinations are appealable to the elected body.

(2) The EIR's Proposed Mitigation Measures for Impacts to Historic Resources is Inadequate.

Per comments submitted by Commissioner Sugaya (Comment #21):

> Mitigation measures referencing TIDA review seem inadequate. Shouldn't the process of review and what it should consider be stated in the mitigation? At a minimum, review for compliance with the Secretary's Standards should be referred to the city's Historic Preservation Commission for its recommendations.

> The consultation process should be formalized by an agreement between TIDA and the City of San Francisco.

The C&R rejected this suggestion, stating that "[r]eview by the Historic Preservation Commission is unnecessary" since the Design for Development provides "that TIDA consult with a qualified professional preservation architect, planner, architectural historian or other professional experienced in the application of the Secretary's Standards." We agree with Commissioner Sugaya's comment that this is not an adequate procedure or reviewing impacts, and adopt this comment as further grounds in support of this appeal. The C&R document also violates CEQA's procedures in that its response is neither reasoned nor provided in good faith, given that the City's Charter mandates review by the Historic Preservation Commission. (See (k)(1) above.)

(3) The EIR is incorrect in its conclusion that the Navy Chapel is not a historic resource without conducting an updated survey and evaluation.

The C&R finds that the chapel *does not qualify as a historic resource for CEQA purposes*, but that as a result of public concern, TIDA and TICD have revised the Proposed Project to retain the Chapel in its current location and incorporate it within the proposed Cultural Park open space. In making this determination, the C&R relies on a survey and evaluation completed by the Navy in 1997 – 15 years ago. An updated evaluation must be conducted to support such a conclusion. By finding that the chapel is not a historic resource, the rehabilitation, modification, or demolition of the Chapel will not be even be subject to review by TIDA pursuant to the Secretary of the Interior's Standards according to the proposed Design for Development. The EIR is inadequate in not conducting an updated survey and evaluation on the Navy Chapel.

(4) The EIR is biased and incorrect in its conclusion that Building 3 is not a historic resource under CEQA.

Comments submitted by Telegraph Hill Dwellers (Comment # 29) point out that Building 3 (including Building 111) is listed on the National Register of Historic Places and, as such, is a "historic resource" for all purposes of CEQA. As a listed, historic resource, the impact of the demolition of Building 111 is a *per se* significant impact. (CEQA Guidelines, § 15064.5, subds. (a)(1) and (b).) This fact was confirmed by the *Historic Resource Evaluation Report* prepared for this EIR by Knapp Architects (the "HRE").

TIDA cannot change the City's procedural obligation to treat the proposed demolition of Building 111 as a significant impact, simply by paying a consultant to come up with a "different opinion" regarding Building 111's historic resource status. The site is listed on the Register, which is the beginning and end of the legal inquiry – the demolition of Building 111 is a significant impact under the EIR *as a matter of law*. (CEQA Guidelines, § 15064.5, subds. (a)(1) and (b).) If TIDA wishes to submit its consultant's report to seek removal of Building from the National Register, it can do so. But until Building 111 is removed from the Register, CEQA's procedures require the EIR to treat demolition of the Building as a potentially significant, adverse impact that requires all

feasible mitigation measures or alternatives to avoid such demolition to be implemented. Of course, any attempt by TIDA to remove Building 111 from the National Register would not bode well for future review of other historic resources on Treasure Island or Yerba Buena Island by TIDA or its consultants.

(5) The EIR did not analyze the currently proposed uses of Buildings 1 & 3, which may not comply with the Secretary's Standards.

The EIR's description of the proposed uses for Buildings 1 & 3 are inconsistent with the presentation made to the Planning Commission by MOED staff on April 7, 2011.

According to the DEIR and the statements contained on page 2.1.29 of the C&R: *"Regional-serving uses such as specialty foods and gifts or arts/crafts boutiques are expected to be in the adaptively reused spaces in historic Buildings 1 and 2, and entertainment/recreation uses such as movie theaters and/or sports facilities that would potentially serve both residents of the Islands and visitors are planned for Building 3."*

In contrast, in the April 7th presentation to the Planning Commission, MOED staff made a power-point presentation showing that Buildings 1 & 3 are now proposed to be reused for *"a community center, neighborhood reading room and library, senior/adult services, teen/youth center/THIDI general social services, THIDI administrative space and a center-based child care facility."*

The Draft EIR that was circulated for public review did not analyze these new and different proposed uses, which would appear inconsistent with the Secretary of the Interior's Standards, which require that *"A property will be used as it was historically or be given a new use that requires minimal changes to its distinctive materials, features, spaces and spatial relationships."*

In any event, again, a revised, recirculated Draft EIR is required to update and analyze this change in proposed uses of Buildings 1 & 3, especially to the extent that the lead agency continues to insist that this EIR addressed the development plan at a "project" rather than "programmatic" level of detail.

(l.) Lack of Adequate Disclosure or Analysis Regarding Regional Carrying Capacity.

The EIR is incomplete because it fails to adequately consider the regions carrying capacity for project of this scale relative to the impacts on regional traffic, air pollution, water, waste and other issues. (CEQA Guidelines, §§ 15144, 15145 [duty of agency to investigate and disclose all that it reasonably can, and only allowing an agency to declare impacts speculative after a thorough investigation has been completed].)

(m.) Changes to the Project Since 1996 Require Revised/Updated Data and Analysis Regarding the Project's Sustainability.

The EIR is inadequate because recent changes to the project in 2011 change its sustainability without providing additional data on the changes of those impacts between plans, the gradual incremental decrease in sustainability as the project increased in size and density since 1996, and reduction in programmed sustainability enhancing strategies resulting from the need to constrain costs as the proposed financing mechanism of the project changed.

(n). Hazardous Materials: The EIR is inadequate because it fails to provide sufficient data to substantiate the assertion that there is sufficient knowledge of existing pollution conditions, that there is a mechanism in place to address pollution not addressed or missed by the Navy's Installation Restoration Program, and that construction and remedial activities can coexist safely.

While appellants agree, in the abstract, that it may be possible for the development of any given proposed project site to occur safely and responsibly while there is concurrent, ongoing pollution remediation activities at the site, the Draft EIR that was circulated for public review and subsequent C&Rs are insufficient to determine if that is possible in this particular case. Furthermore while it is possible to, on the basis of existing remedial analysis determine whether a site will be remediated to meet a particular reuse objective, this document fails to present evidence that there is sufficient information to support that contention. Additionally, while it is accepted practice to address found pollution and manage institutional and land use controls through Soil and Groundwater Management Plans there is insufficient date presented in this EIR to determine whether that is the case here and whether such a plan is sufficient.

As such this section of the EIR is incomplete, because the lead agency has failed to carry out its mandatory, procedural duty to investigate and disclose all that it can before certifying its EIR or approving the Project. (CEQA Guidelines, §§ 14144, 15145.) Indeed, the importance of these duties is reinforced and highlighted by the the EIR's assertion that it constitutes "project" level review of all of the proposed development plans potentially significant, adverse impacts, which, by definition, include the potentially significant adverse cumulative impacts that may be associated with past, present and future pollution remediation activities that have been completed, are ongoing, and will be required in the future on Treasure Island. (CEQA Guidelines, §§ 15126.2, 15130.)

This is of particular concern as the City has already had direct experience with leasing property on Treasure Island prior to fully understanding and addressing existing environmental conditions. The City had entered into a leasing arrangement with the Navy and had begun moving families onto the island in the housing immediately surrounding what is now IR12. This experience is relevant and yet absent from this section of the document. Figure IV.P.1 shows IR 12 located amidst housing currently occupied. This is the very problem many commenters on the document have expressed

concern about and it is certainly experientially valid. The Project Sponsors should have taken particular care to demonstrate that they were in possession of sufficient details about the project however have failed to do so.

The following quoted sections from the EIR and commentary point up the significant information disclosure and analytical gaps that have fundamentally precluded an opportunity for meaningful public review or comment, or informed decision making, regarding these issues, in violation of CEQA's procedural requirements:

"BACKGROUND ON BASE CLOSURE REMEDIATION REQUIREMENTS

REDEVELOPMENT PLAN PROJECT AREA – HISTORICAL AND CURRENT USE
Military activities at Yerba Buena Island date back to 1896 with uses by the U.S. Army and Navy. In 1941, following the 1939 International Exposition, the Navy, already present on Yerba Buena Island, acquired Treasure Island and portions of Yerba Buena Island, and converted these areas into the NSTI, which served largely as an electronics and radio communications training school and as a major naval departure point. IV.P.8"

Pan Pacific Exposition

This is the only mention of the 1938-39 Pan Pacific International Exposition within this section of the EIR. This is a significant historical omission and a critical environmental concern as well.

The Exposition was a small city constructed on the island and demolished prior to the Navy's acquisition of the Island. The facilities constructed were not simple false fronts but fully realized buildings. Important historical artifacts of this exposition include the world famous Palace of Fine Arts in the Marina. As such they were constructed, painted and preserved using the materials of the day which included creosote for timber protection, asbestos, lead for paint and other hazardous materials.

In addition to the removal and relocation of some of the artifacts and structures of the exposition, demolished buildings and construction debris were reported to have been incinerated in open pits on the island. These burn pits were raised as an issue during the discovery of the Site 12 Bunker cleanup area. This section of the EIR provides no maps of the Exposition, or its disposal sites and burn pits.

This omission raises two critical points. While the Navy may be a Responsible Party for this site, the EIR does not report whether the Navy has accepted responsibility for the remediation of contamination not of Navy origin. The CERCLA 120 (h) requirement for remediation of unknown contaminants after a site has closed may not apply to this issue. If this is so the required remedial response would be funded and carried out either by the City/ TIDA or a Developer under a Soil & Groundwater Management Program only summarized within the EIR and thus of insufficient characterization to enable comment.

1997 Consent Decree

The DEIR also fails to refer to a consent decree the Navy entered into with a coalition called Campaign Against Military Pollution (CAMP), consisting of San Francisco Baykeeper, Arc Ecology, and Golden Gate University Environmental Law and Justice Clinic. The consent decree focused on halting the flow of petroleum based contaminants into San Francisco Bay via the groundwater and the open sewer outfalls ringing the site. The remedy focused on protecting the receiving waters of the Bay by closing outfalls, and developing a Storm Water Pollution Plan. It is not currently known whether the Navy remains in compliance with this consent decree which would seem relevant with regard to the characterization of the surrounding bay sediments known as Site 13 and the remedial work associated with the stabilization of the island.

"Property Transfer Background
Under the anticipated transfer terms between the Navy and TIDA, the Navy would satisfy allapplicable statutory and regulatory requirements for any remaining remediation responsibilitiesand issue a FOST (exceptions noted below) prior to conveyance of the property. Sites will thenbe transferred in phases as FOSTs are issued. The Navy has acknowledged that it will remediateeach site to the standards necessary to support the land uses that were identified in a previouslyprepared 1996 Reuse Plan (see also discussion in Chapter I, Introduction, p. I.4). While there aredifferences in the proposed land uses between the 1996 Reuse Plan and the Proposed Project, theProposed Project includes far more proposed open space. However, the southeast portion ofTreasure Island was proposed for publicly oriented uses in the 1996 Reuse Plan; this area is now being proposed for residential and mixed use. Regardless, the transfer documents issued willcontain a complete disclosure of the type and quantity of hazardous substances that were presentat the site, notice of the time at which such hazardous substance storage, release, or disposal tookplace, and a description of any remedial action taken. IV.P.37"

This section of the EIR essentially *concedes* that the document is incomplete, and the project not stable or sufficiently characterized. The EIR in section IV states that remediation at a number of sites on the Island is ongoing and the outcome of that process at this point unknown and unknowable. While there may be agreement that the remedial effort will meet the requirements of the Reuse Plan it only meet that of the 1996 Reuse Plan which is substantially different than the current plan. The document then concludes that regardless there will be full characterization of the condition of the site at some future point and a description of any remedial action taken. This essentially confirms that the outcomes of these activities are unknown, the conditions prevailing at such sites are not fully characterized and the impacts on the project are not known. Therefore the impacts on the project may well be such as to fundamentally alter the project itself making the project unstable.

"The protocols to address contaminants discovered during construction would be covered under a Soil and Groundwater Management Plan that would be developed by the project sponsors prior to the commencement of redevelopment activities.65 If newly discovered, pre-existing contaminants are CERCLA hazardous substances, the Navy is

obligated to perform the remedial work required to assure that the property is protective of human health and the environment. IV.P.38"

Here again the EIR states that the City/ TIDA/ Developer response to contamination would be covered under a *Soil and Groundwater Management Plan that would be developed prior to the commencement of redevelopment activities* as such it is not known how applicable the summary of the contents of this plan will be to the future SGMP as conditions on the Island may change. Given that this is a project level EIR the document should present a fully realized plan for public comment and to provide a stable view of how this question will be addressed in the future. The City currently has such a plan in place for the Hunters Point Shipyard and Mission Bay. It seems odd that the City would wait to present this plan after the EIR has been approved.

"Comment: Impact HZ-1: Construction of the Proposed Project could expose construction workers to unacceptable levels of known or newly discovered hazardous materials as a result of disturbance of subsurface soils and/or groundwater with contaminants from historic uses. (Less than Significant with Mitigation)

Reponse: Mitigation Measure M-HZ-1: Soil and Groundwater Management Plan. Prior to issuance of a building or grading permit for any one or more parcels, there shall be regulatory approval by DTSC or RWQCB for the proposed land use. Construction specifications for each parcel shall include implementation of a Soil and Groundwater Management Plan ("SGMP") prepared by a qualified environmental consulting firm and reviewed and agreed to by DTSC and RWQCB"

Here again the Project Sponsor's Responses rest entirely on a yet to be developed plan. If this were a programmatic EIR with subsequent environmental reviews being published for public comment this might be sufficient, but as it stands this is a project EIR and no further environmental review is contemplated making it a requirement that this plan be fully realized and reproduced within the EIR for public comment.

"HZ-1 through HZ-7 and related mitigation measures, beginning on EIR p. IV.P.39. Any further analysis of potential impacts regarding later discovery of contaminants would be speculative and therefore is not presented in this document."

This is an accurate statement however it speaks more directly to the incomplete nature of the EIR (and verifies that the EIR does not constitute "project" level analysis, as it asserts) as opposed to the commenter's question. Given that these issues are considered "speculative" it is difficult to see how the project description (i.e., the physical activities that will actually be undertaken to implement the plan) is accurate, finite or stable, as required by CEQA's procedures. In turn, since it cannot be know of portions of the project may not be able to implemented, it is impossible for the City to determine whether the lack of such missing portions of the project may result in significant adverse impacts associated with other portions of the project which do move forward through construction and occupancy.

"2.18.4 IONIZING RADIATION
Response As stated on EIR p. IV.P.15, "by law, the Navy retains responsibility for all radiological contamination, and must be responsible for its remediation." As stated on EIR pp. IV.P.15-IV.P.16, the radiological cleanup of the remaining radiological contamination (ionizing radiation) "will occur prior to regulatory closure, which will be obtained prior to transfer. TIDA cannot accept any property with known radiological contamination. If any radiological materials are subsequently discovered during construction activities, the Navy would be responsible and required to perform any necessary remedialactivities to obtain 'free release' of the subject property."

As indicated on EIR p.IV.P.15, the Navy has determined under regulatory oversight that "the remaining low-level radiological material contamination at the Naval base is isolated to small portions of Site 12 andBuilding 233." Following cleanup, which will occur before the sites are transferred to TIDA, no remaining ionizing radiation will be present at sites proposed for new construction under the Proposed Project."

Again, this is an accurate statement. But once again this statement only confirms that the EIR is incomplete, and verifies that the EIR does not constitute "project" level analysis, as it asserts, because the EIR contains no discussion of what the impacts may be if the sites cannot be adequately cleaned up or transferred to TIDA for development purposes.

(o.) Inadequate Consideration/Disclosure of Impacts Associated with the Belated Change of the Nature of the Project from a Redevelopment Plan to Instead Rely on "Infrastructure Financing Districts."

The change in the project's financing method has possibly broader impacts than the simple exchange of bonding strategies. The IFD financing mechanism as described for the project has envisions a series of districts implemented over time each one building a phased component of the overall infrastructure plan. The segmentation of the implementation of infrastructure plan raises questions as to whether the current CEQA analysis can actually accommodate the entire plan or whether such significant changes to the plan will occur as a result of phased implementation that it fundamentally undermines the reliability of the mitigation measures that will now rely on this new financing scheme.

The IFD method of financing was adopted to address the possibility that Governor Brown would eliminate Redevelopment and thereby eliminate Tax Increment Financing for this project. While the funds available through Tax Increment Financing are greater and the designation of redevelopment areas and the necessity of the finding of blight make this tool more limited in its possible application. IFD's on the other hand, while raising less capital, is more broadly implementable within San Francisco's already built environment. Assuming that there is a limit to San Francisco's capacity to incur debt, the use of IFD's for Treasure Island raises the following questions:

a. Does it make more sense for San Francisco to use this financing mechanism within the City's built environment than on Treasure Island?

b. Would utilizing those funds for projects in San Francisco's built environment have inherently fewer environmental impacts as described by CEQA than the project contemplated for Treasure Island?

The recent switch to IFD's to support implementation of the proposed TI development plan has not allowed for a policy debate over the highest and best use of the this financing mechanism relative to the order of needs within San Francisco, return on investment for San Francisco or other factors relative to the City's financial health.

Moreover, the recent switch to IFD's to support the proposed TI development project has not allowed for a study evaluating relative environmental impacts and the timing and feasibility of actually implementing proposed mitigation measures that will now depend on this new funding mechanism (which may or may not be able to be effectively and timely implemented to allow mitigation to stay ahead of development impacts as they are incurred). This belated change in financing source, structure and timing has fundamentally precluded the public's ability to meaningfully consider and comment on these issues, or the Board of Supervisors ability to make an informed decision from an environmental impact/benefit perspective. This would also modify the no-project alternative because such a weighting could provide a contrasting comparison between using IFD's for Treasure Island and another project that provides similar housing and economic benefits with superior environmental benefits and lower overall cost and therefore indebtedness for the City; the application of IFDs to TI does not at this point appear to reflect a weighted process of evaluation as much as it does the lack of available criteria within the City's decision-making process for utilizing IFDs.

7. The EIR is inadequate because it fails to consider adequate consideration of alternatives.

An EIR must contain adequate discussion of reasonable alternatives in order to ensure that the public and decision makers have an adequate basis for providing comments and selecting one alternative over another. (*See San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 25 713, 735 ["A major function of an EIR 'is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.'" (citation omitted)]; *see also* Pub. Resources Code, § 21002.1, subd. (a) [purpose of EIR includes identifying alternatives to the project].) The "reasonableness" of alternatives, which is assessed in part on their financial and physical feasibility. (Pub. Resources Code, § 21061.1) Alternatives proposed in an EIR must be designed to reduce or avoid one or more of a proposed project's potentially significant impacts; an EIR that proposes/analyzes alternatives that would either not reduce or avoid the project's impacts in any meaningful way, or would actually *increase* such impacts are procedurally invalid because such alternatives leave the public and decisionmakers with no meaningful way to consider other, undiscussed but potentially available alternatives that do meet CEQA's impact avoidance/mitigation goals and requirements. (CEQA Guidelines, § 15126.6.) The explanation provided by the lead agency for the selection of an alternative must be adequate to ensure a robust public discussion. (*Stand Tall on Principles v. Shasta Union High Sch. Dist.* (1991) 235 Cal.App.3d 772, 786.) The "EIR

must explain why each suggested alternative either does not satisfy the goals of the proposed project, does not offer substantial environmental advantages[,] or cannot be accomplished." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus,* 27 Cal.App.4th at 737; *see also* CEQA Guidelines, § 15091(c) [stating that when an agency finds that alternatives are infeasible, it must "describe the specific reasons for rejecting" the alternatives].)

As discussed at length above and in the comment letters incorporated by reference, the EIR fails to consider adequate alternatives that would result in fewer aesthetic, cultural and biological impacts. The EIR presents the "No Project" and "No Ferry" alternatives in the most negative light possible. It is clear that the text is intended to bring the reader to the conclusion that the "No Project" is not viable and is counterproductive. The EIR's clearly biased presentation of a series of alternatives that merely trade off one impact for another, or actually increase them, fails to meet CEQA's procedural requirements that propose alternatives must be capable of reducing or avoiding one or more of a proposed project's impacts (rather than exacerbating them), which, in turn, has precluded any reasonable or meaningful opportunity for the public and decision makers to consider or decide whether there are potentially feasible alternatives to the project that would meet CEQA's definitional requirements. Moreover, the Reduced Development alternative only provides analysis for 6000 units, which will still result in substantially similar impacts to the Proposed Project. A more realistic reduced development alternative should have been considered to provide a basis for balancing the financial needs (and gains) from the projects with the prospect of decreasing impacts to traffic, air quality, and the environment.

On the point of alternatives that should have been, but were not, considered in the EIR, we again note that in Comment Letter #10, the Coast Guard identified the publicly circulated Draft EIR's fundamental procedural violation of CEQA in failing to disclose to the public and decision makers the Coast Guard's longstanding operations and facilities on TI (dating back to 1872), which are "essential to supporting the Maritime Homeland Security of the United States, and will be negatively impacted by the Redevelopment Project." (C&R Letter #10.) These undisclosed and unanalyzed impacts include interruptions in the USCG Vessel Traffic Service (VTS) facilities on Yerba Buena Island by any buildings that exceed 300' in height on TI, the impacts that the existing USCG VTS facilities will have associated with electronic and radio interference on the higher floors of buildings on Treasure Island, and impacts that the project will have to 24/7/365 unfettered access to and egress from USGS facilities on Yerba Buena Island by USCG personnel. (*Id.*)

As already explained above, the City is obligated by CEQA's procedures to prepare and recirculate a revised Draft EIR that addresses these serious omissions regarding the project's potentially significant, adverse impacts on US Coast Guard facilities, public safety and Homeland Security. A related violation of CEQA's procedures, is the City's failure in its EIR to consider or analyze a "Coast Guard Compliant" alternative, that would place clear and mandatory height restrictions on all buildings on Treasure Island that would accommodate (rather than impair) the USCG's important maritime safety and

homeland security mission.[4] Again, a revised, recirculated Draft EIR is required to ensure that the project's (undisclosed) potentially significant adverse impacts to maritime safety and Homeland Security are considered against the backdrop of a potentially feasible project alternative that would allow redevelopment of TI, while imposing clear and enforceable measures that ensure that such development activities will pose no risk of impairing the USCG's existing, critically important vessel safety and Homeland Security operations on YBI.

8. **A revised, recirculated Draft EIR is required to provide the public with a meaningful opportunity to consider and comment on the numerous substantive changes to the project and the EIR's conclusions that have been developed only after the Final EIR was released, and that now form the substantive basis for the lead agency's environmental analysis and conclusions in its EIR and findings.**

The City's post-hoc reliance on a flurry of belated staff memoranda and "errata" sheets that have only been developed *after* the release of the Final EIR in an effort to change fundamental aspects of the project description, and to insert new and different information and conclusions into the EIR constitutes a fundamental violation of CEQA's mandatory information disclosure and public participation procedures. The net result of these changes to the project and the publicly circulated Draft EIR's disclosures and analysis has resulted in a situation where the City has impermissibly 1) circulated a Draft EIR for public review that no longer addresses the project that is now proposed for approval, and was otherwise so fundamentally inadequate that a meaningful opportunity for public comment was precluded; 2) has attempted to cure the publicly circulated EIR's informational gaps and inadequacies by back filling with hundreds of pages of new information regarding revisions to the project and the EIR that were not presented for public for review, and in several cases were only released to the public within hours of public hearings on those same documents record, and now, for use in this proceeding; and 3) now seeks to rely all but exclusively on these same, late-submitted documents (instead

[4] On this point, appellants would also note that the C&R's response to these issues that the Coast Guard's VTS systems could be relocated to the top of one of the private buildings to be built on Treasure Island under the development plan is highly problematical. First, there is no evidence that the USCG is willing to relocate its facilities onto privately owned buildings or has the resources to do so. Second, the City has no authority to compel the USCG to involve itself in or agree to any such plans. Third, the insanity of any such proposal is palpable when considered in the context of the events of September 11, 2001: locating U.S. governmental communications facilities that are required to protect maritime safety and Homeland Security across the San Francisco Bay on top of a private high rise tower in the middle of the Bay constitutes nothing less than an open invitation for those facilities and the building they are perched on to be reduced to a pile of smoking rubble by those who might disagree with the United States' political views and policies. The EIR fails to disclose or discuss the devastating loss of life and destruction of private and federal government property that could very forseeably ensue from any actual implementation of such a foolish proposal.

of the publicly circulated EIR and other documents that were provided for public consumption during the comment period on the EIR) to substantively justify its certification of the EIR and approval of the project. (CEQA, § 21092.1 [recirculation required where "significant new information" added after Draft EIR circulated for public review]; Guidelines, § 15088.5, subd. (a)(4) ["significant new information" exists where Draft EIR "was so...conclusory in nature that meaningful public review and comment were precluded"]; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1130 ("Laurel Heights II") [same]; *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, 1052 ("Mountain Lion") ["If we were to allow the deficient analysis in the draft EI[R] to be bolstered by a document that was never circulated for public comment...we would be subverting the important public purposes of CEQA. Only at the stage when the draft EI[R] is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment"].)

The City's failure to recirculate for public comment a Draft EIR including this new information is presumptively prejudicial because it has fundamentally precluded informed public participation. (*Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236 ["The failure of the board to proceed as required by law was prejudicial..... It also made any meaningful assessment of the potentially significant environment impacts of [the project and potentially feasible mitigation measures] impossible. In these circumstances prejudice is presumed."]; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 428 ("*Citizens to Preserve the Ojai*") ["Certification of an EIR which is legally deficient because it fails to adequately address an issue constitutes a prejudicial abuse of discretion regardless of whether compliance would have resulted in a different outcome"]; Pub. Resources Code, § 21005, subd. (a) [noncompliance with CEQA's information disclosure provisions which precludes relevant information from being presented to the public agency may constitute prejudicial abuse of discretion "regardless of whether a different outcome would have resulted if the public agency had complied with those provisions."].)

Because the City has violated CEQA's procedural requirements for public participation, the issue whether substantial evidence may or may not support the agency's decision is irrelevant because "the existence of substantial evidence supporting the agency's ultimate decision on a disputed issue is not relevant when one is assessing a violation of the information disclosure provisions of CEQA." (*Assn. of Irritated Residents v. County of Madera* ("AIR") (2003) 107 Cal.App.4th 1383, 1392; *Schoen v. Department of Forestry and Fire Protection* (1997) 58 Cal.App.4th 556 565 ["Since we find the agency did not act in accordance with...CEQA, and CDF's actions were prejudicial, we do not address the issue of substantial evidence"]; accord *Joy Road Area Forest and Watershed Assn. v. Cal. Dept. of Forestry & Fire Protection* ("*Joy Road*") (2006) 142 Cal. App.4th 656, 676-677.)

Under CEQA's informed self-governance mandate, public participation "is an essential part of the CEQA process." (Guidelines, §§ 15002, subd. (j), § 15201.) The public holds a privileged position in the CEQA process. (*Concerned Citizens of Costa Mesa v. 32nd District Agricultural Assn.* (1986) 42 Cal.3d 929, 935-936.) "Public review provides the

dual purpose of bolstering the public's confidence in the agency's decision and providing the agency with information from a variety of experts and sources." (*Schoen, supra*, 58 Cal.App.4th at p. 574 [emphasis added].) In other words, until the public is provided with a meaningful opportunity to review and respond to the documents and information that an agency intends to rely upon as the "substantial evidence" supporting its approval of a CEQA project, the agency's record is fundamentally incomplete and cannot be reviewed to determine whether "substantial evidence" supports the agency's decisions. This is precisely because the agency's decisionmakers (and ultimately, the courts) have been denied the benefit of any responsive "information from a variety of experts and sources" that might go to the credibility or weight of the evidence that the agency withheld from public review. (*Id.* at p. 565.)

> The consequences of certifying an EIR and approving a project in a manner that does not evidence the agency's compliance with CEQA's mandatory procedures is severe, requiring nothing less than reversal of the EIR's certification and project approval. (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 81 [interlocutory remand procedure not applicable in CEQA cases, where agency failed to make written determination of environmental impact before approving project as required by CEQA's procedures]; *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1216, 1218-1222 [trial court erred in remanding to agency to expand alternatives stated in EIR rather than granting writ vacating agency's certification of EIR].)

(*Protect Our Water v. County of Merced* (2003) 110 Cal.App.4th 362, 373.)

To meet CEQA's informational requirements, "[a]n EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376, 405 ("*Laurel Heights I*")).

> The EIR is...intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." [Citation.] Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. [Citation.] The EIR process protects not only the environment but also informed self-government.

(Id. at p. 392.)

Where the lead agency precludes informed decision-making and/or informed public participation by omitting relevant information from an EIR, the omission constitutes a prejudicial abuse of discretion. (*Kings County Farm Bur. v. City of Hanford* (1990) 221

Cal.App.3d 692, 712.) "Certification of an EIR which is legally deficient because it fails to adequately address an issue constitutes a prejudicial abuse of discretion regardless of whether compliance [with CEQA] would have resulted in a different outcome." (*Citizens to Preserve the Ojai, supra*, (1985) 176 Cal.App.3d at 428; CEQA, § 21005, subd. (a).)

> "When the informational requirements of CEQA are not complied with, an agency has failed to proceed 'in a manner required by law' and has therefore abused its discretion." Furthermore, "when an agency fails to proceed as required by CEQA, harmless error analysis is inapplicable. The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decision making and informed public participation. Case law is clear that, in such cases, the error is prejudicial."

(*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App.4th 1099, pp. 1105-1106 [citations omitted].)

Under Pub. Resources Code, § 21092.1, where "significant new information" becomes available after public review of a Draft EIR, the lead agency must "recirculate" a revised or revision to the Draft EIR for public review and comment on the new information. "Significant new information" requiring recirculation exists where a Draft EIR "was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (*Laurel Heights II, supra*, 6 Cal.4th at p.1130; CEQA Guidelines, § 15088.5, subd. (a)(4).)

The courts have rejected post hoc efforts by CEQA lead agencies to cure a publicly circulated Draft EIR's information disclosure inadequacies through the artifice of inserting new information and materials into its administrative record only after the close of the comment period on its Draft EIR. (*Laurel Heights II, supra*, 6 Cal.4th at pp. 1130-1131, citing with approval *Mountain Lion , supra*, 214 Cal.App.3d 1043.) In *Mountain Lion Coalition*, the Court of Appeal held that the introduction of such "significant new information" by a lead agency requires recirculation of a revised Draft EIR for public comment and review. (*Mountain Lion Coalition, supra*, 214 Cal.App.3d at p.1052 ["If we were to allow the deficient analysis in the draft EI[R] to be bolstered by a document that was never circulated for public comment...we would be subverting the important public purposes of CEQA. Only at the stage when the draft EI[R] is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment."]; Guidelines, § 15088.5(a)(4).) As more recently explained by the Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4th 412:

> The audience to whom an EIR must communicate is not the reviewing court but the public and the government officials deciding on the project. That a party's briefs to the court may explain or supplement matters that are obscure or incomplete in the EIR, for example, is irrelevant, because the public and decision makers did not have the briefs available at the time

> the project was reviewed and approved. The question is therefore not whether the project's significant environmental effects can be clearly explained, but whether they were.

(*Id.* at p. 443 [emphasis in original].)

Here, the City has violated CEQA's information disclosure and public participation procedures by impermissibly relying on a series of post-Final EIR staff memoranda and errata documents that have substantially changed the fundamental nature of the project, and made revisions to the EIR that it did not provide for public review or comment as required by CEQA's procedures. (*Vineyard, supra*, 40 Cal.4th at p. 443.) The City's procedural failure to allow the public any meaningful opportunity to consider or respond to these hundreds of pages of late-submitted documents that the City now cites as the description of the project it is approving and the nature of this new project's potential impacts: 1) constitutes a presumptively prejudicial violation of public's privileged role in the CEQA process; and 2) has denied the City's decisionmakers of the opportunity to consider any countervailing information that the public might offer in response to the City's belated submittal. (*Schoen, supra*, 58 Cal.App.4th at pp. 565, 574.) In sum, and as requested above, the City is required by CEQA's procedures to prepare a revised Draft EIR, and recirculate that document to the public and interested public agencies according to CEQA's public review procedures, before it may make any determination as to whether the EIR should be certified or whether the project should be approved.

9. A Statement of Overriding Considerations cannot be made for this project. Under CEQA, a statement of overriding considerations can only be made if the City finds that the benefits of the project outweigh the unavoidable adverse impacts of the project. (CEQA Guidelines Section 15093.)

Because the benefits of the proposed project as currently proposed do not outweigh the well documented unavoidable adverse significant environmental impacts on regional transportation, scenic vistas, aesthetics, historic resources, biology, wildlife, public safety, noise, air quality and wind hazards, a Statement of Overriding Considerations cannot be made for this project. Over 42 unavoidable adverse impacts are listed in the proposed EIR certification resolution.

As to claimed public benefits:

(a) **Reduction in affordable housing**. Public benefits such as affordable housing have been significantly curtailed since the publication of the C&R. As discussed above, a decision by the project sponsors after publication of the C&R to abandon redevelopment financing in favor of IFDs resulted in a reduction in the amount of affordable housing from 30% to 25%. Given this change to IFD financing, questions have been raised as to whether other public benefits will be curtailed.

(b) **No guarantees that the project will be implemented**. As to the benefits listed in the project description and objectives, there is no guarantee they will be delivered. Media reports indicate that the financially stressed Lennar Corporation, a primary

member of the project sponsors' LLC, filed for bankruptcy on another similar Base Reuse project at Mare Island in Vallejo citing economic pressures. The proposed project does not require any financial guarantees that will ensure that the developer will actually be in a position to deliver the promised public benefits or will not just walk away after constructing a few high rise structures on the Island. There are other recent examples of public projects in San Francisco such as the Pier 30-32 Cruise Ship Terminal where despite the city granting entitlement approvals and pushing for the enactment of special state legislation to accommodate the project, public benefits were never realized.

(c) **Claims that the project is a sustainable new community are highly dubious.** In the face of the significant, adverse transportation impacts that cannot be mitigated claiming that this project is "sustainable" is hypocritical, misleading and farcical. The fact that the Planning Commission and TIDA could and did override 40 significant transportation impacts on the basis that the project provides transportation and sustainability benefits is irresponsible and belies complete lack of reason or logic.

In response to a comment questioning the sustainability claims of the project as currently proposed, the response in the C&R points to Green Building Standards, high density development and solar panels "where feasible," avoiding the point of numerous comments that the plan for the proposed project is no longer a "sustainability" plan because the project sponsor is unable or unwilling to eliminate or reduce the project's most unsustainable impacts -- the numerous *Significant and Unavoidable with Mitigation* impacts on traffic. This project is clearly not the "Climate Positive Development" promised to the citizens of San Francisco.

As to the unavoidable adverse significant environmental impacts:

(a) The mitigation measures are completely inadequate to reduce the most significant impacts to transportation and traffic. Given the project's overwhelmingly significant impacts to transportation and traffic, the EIR fails to identify feasible alternatives that would lessen or avoid these impacts. As pointed out in comments submitted by Nick Rossi on behalf of Kenneth Masters (Comment #19), the project's transportation plan relies on "an overdependence on an expensive, limited, bidirectional (only between TI/YBI and SF) ferry service, and an illogical reliance on a fundamentally inadequate congestion management 'fee.' Indeed, it is incredible that there can be sixty three identified Traffic Impacts, but only some basic, oversimplified Mitigation Measures."

Not only are mitigation measures inadequate to mitigate the significant impacts to traffic, but it is unclear which public agency would be responsible for monitoring and reporting on implementation of proposed mitigation measures, particularly now that the review and entitlement structure has changed.

As to the likelihood that mitigation measures for impacts on traffic would ever be implemented, the EIR says increased bus and ferry service will depend on identifying funding, approvals by other agencies, and additional environmental review. (C&R 2.1.3.) This is not an unacceptable mitigation measure under CEQA.

(b) No mitigation measures or alternatives were even proposed to lessen or avoid the significant impacts to views and aesthetics.

(c) The proposed governance scheme for the implementation of development on Treasure Island flies in the face of long established City Planning codes and practice. The plan abdicates virtually all normal City Planning principles, building and development oversight and approvals to an inexperienced body that will be unaccountable to the public and the body politic in San Francisco.

CONCLUSION

In sum, the very significant changes made to the project description and objectives *after* the publication of the Comments and Responses Document made it impossible for the public, the Planning Commission, or TIDA to make any sense of the project description or its impacts. In addition, the EIR should not be certified because it does not include or consider a reasonable range of project alternatives and is non-responsive to extensive and specific comments on the draft EIR submitted by Planning Commissioners, public agencies and members of the public.

We hereby incorporate by reference as if set forth in their entirety, all of the Comment Letters referenced in this letter. These arguments will be supplemented prior to the appeal hearing with details and citation to regulations, statutes, and case law.

For the reasons set forth above the Appellants respectfully urge you to grant this appeal and require revision and recirculation of the Environmental Impact Report (EIR) for the Treasure Island/Yerba Buena Island Project.

SIGNATURES ON FOLLOWING PAGES

cc: Angela Calvillo, Clerk, San Francisco Board of Supervisors
Bill Wycko, Environmental Review Officer
John Rahaim, Director, Planning Department
Miriam Saez, Exec. Dir. Treasure Island Development Authority

Sincerely,

Arc Ecology

Golden Gate Audubon

Sierra Club

Wild Equity

Ken Masters

Aaron Peskin

Sincerely,

Arc Ecology

Golden Gate Audubon

Sierra Club

Wild Equity

Ken Masters

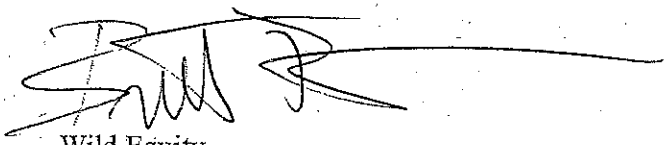
Aaron Peskin

Sincerely,



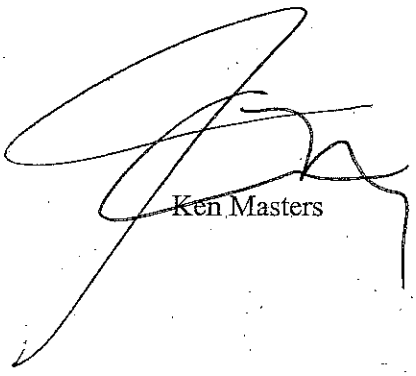
Arc Ecology

Golden Gate Audubon



Wild Equity

Sierra Club



Ken Masters

Aaron Peskin

Sincerely,

Arc Ecology

Sierra Club

Wild Equity

Aaron Peskin

Ken Masters

EXHIBIT A

SAN FRANCISCO
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Planning Commission Motion No 18325
ENVIRONMENTAL IMPACT REPORT CERTIFICATION

Hearing Date:	April 21, 2011
Case No.:	2007.0903E
Project Address:	Treasure Island and Yerba Buena Island
Zoning:	P (Public) 40-X Height and Bulk District
Block/Lot:	1939/001 and 002
Project Sponsors:	Treasure Island Development Authority Rich Hillis, Director of Development City Hall, Room 448 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94111 and Treasure Island Community Development, LLC Alexandra Galovich Wilson Meany Sullivan Four Embarcadero Center, Suite 3300 San Francisco, CA 94102
Staff Contact:	Rick Cooper – (415) 575-9027 Rick.cooper@sfgov.org

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED TREASURE ISLAND/YERBA BUENA ISLAND PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2007.0903E (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

   A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 26, 2008.

   B. On July 12, 2010, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of

the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 12, 2010.

D. On July 12, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 12, 2010.

2. The Commission held a duly advertised public hearing on said DEIR on August 12, 2010, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 10, 2010.

3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 59-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 10, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.

5. Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required.

6. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Commission.

7. On April 21, 2011, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2007.0903E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.

9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report:

   A. Will result in the following significant and unavoidable project-specific environmental impacts:

      1) Alteration of scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.

      2) Impairment of the significance of an historical resource by demolition of the Damage Control Trainer.

      3) Construction impacts on the transportation and circulation network, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures.

      4) Significant contribution to existing LOS E operating conditions during the weekday PM peak hour and during the Saturday peak hour at the eastbound off-ramp on the west side of Yerba Buena Island.

      5) Under conditions without the TI/YBI Ramps Project, traffic impacts at the two westbound on-ramps.

      6) Under conditions with the Ramps Project, traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

7) Queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the TI/YBI Ramps Project.

8) Queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour with and without the TI/YBI Ramps Project.

9) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

10) Exceedance of the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands during the AM, PM and Saturday peak hours.

11) AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge without the Ramps Project.

12) AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge with the Ramps Project.

13) Traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following three bus lines:

- Muni 27-Bryant;
- Muni 30X-Marina Express; and
- Muni 47-Van Ness bus line.

14) Exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands from a shift from auto to transit modes, resulting from parking

shortfall on the Islands and leading to an increase in transit travel demand during the peak hours.

15) Construction noise levels above existing ambient conditions.

16) Exposure of persons and structures to excessive ground-borne vibration or ground-borne noise levels during construction from on-shore pile "impact activities," such as pile driving and deep dynamic compaction, and vibro-compaction.

17) Increase in ambient noise levels in the project vicinity above existing ambient noise levels from project-related traffic and ferry noise.

18) Violation of air quality standards.

19) Exposure of sensitive receptors to substantial levels of toxic air contaminants.

20) Exposure of sensitive receptors to substantial levels of PM2.5.

21) Violation of air quality standards during project operations.

22) Exposure of sensitive receptors to substantial pollutant concentrations.

23) Potential conflict with adopted plans related to air quality.

24) Temporary wind hazard impacts during phased construction.

25) Potential exposure of publicly accessible locations within the Project Site to wind hazards

26) Potential adverse impacts on movement of rafting waterfowl from ferry operations.

B. Will contribute considerably to the following cumulative environmental impacts:

1) Potential cumulative construction-related traffic impacts in the project vicinity.

2) Cumulative traffic impacts at the eastbound off-ramp on the west side of Yerba Buena Island.

3) Under conditions without the Ramps Project, cumulative traffic impacts at the two westbound on-ramps.

4) Under conditions with the Ramps Project, cumulative traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

5) Cumulative queuing impacts at the Bay Bridge toll plaza during the AM and PM peak hours.

6) Cumulative queuing impacts on San Francisco streets approaching the Bay Bridge during the weekday AM and PM and Saturday peak hours.

7) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp;
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

8) Cumulative traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following four bus lines:

- Muni 27-Bryant bus line;
- Muni 30X-Marina Express bus line;
- Muni 47-Van Ness bus line; and
- Muni 10-Townsend bus line.

9) Cumulative construction noise impacts from other cumulative development in the area, including the Clipper Cove Marina and the Yerba Buena Island Ramps Improvement Project, which could have construction activities that occur simultaneously with those of the Project.

10) Increases in traffic from the project in combination with other development would result in cumulative traffic noise impacts.

11) Cumulative air quality impacts.

11) The Project, when combined with other cumulative projects, could result in exposure of publicly accessible locations within the Project Site to wind hazards.

12) Potential cumulative impacts on rafting waterfowl.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of April 21, 2011.

FOR

Linda Avery
Commission Secretary

AYES:	Commissioners Antonini, Borden, Fong, Miguel
NOES:	Commissioners Olague, Moore, Sugaya
ABSENT:	None
ADOPTED:	April 21, 2011

EXHIBIT B

SAN FRANCISCO
PLANNING DEPARTMENT

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Planning Commission Motion No. 18326

HEARING DATE: APRIL 21, 2011

Case No.:	2007.0903BEMRTUWZ
Project:	**Treasure Island/Yerba Buena Island Project** **E Case: CEQA Findings**
Location:	Treasure Island and Yerba Buena Island
Staff Contacts:	Rick Cooper – (415) 575-9027 rick.cooper@sfgov.org Joshua Switzky – (415) 575-6815 joshua.switzky@sfgov.org
Recommendation:	**Adopt the Findings**

MOTION ADOPTING ENVIRONMENTAL FINDINGS (AND A STATEMENT OF OVERRIDING CONSIDERATIONS) UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE GUIDELINES IN CONNECTION WITH THE ADOPTION OF THE TREASURE ISLAND/YERBA BUENA ISLAND PROJECT AND RELATED ACTIONS NECESSARY TO IMPLEMENT SUCH PROJECT.

RECITALS

WHEREAS, The San Francisco Planning Department ("Department"), together with the Treasure Island Development Authority ("TIDA") are the Lead Agencies responsible for the implementation of the California Environmental Quality Act ("CEQA") for this area and have undertaken a planning and environmental review process for the proposed Treasure Island/Yerba Buena Island Project ("Project") and provided for appropriate public hearings before the respective Commissions; and,

WHEREAS, A primary objective of the Project and the Term Sheet, endorsed by the Treasure Island Development Authority Board of Directors and the Board of Supervisors in 2006 and updated in 2010, is to create sustainable economic development, affordable housing, public parks and open space and other community benefits by development of the under-used lands within the project area; and,

WHEREAS, Originally constructed in 1937 as a possible site for the San Francisco Airport, Treasure Island was first used to host the Golden Gate International Exposition from 1939-1940. Shortly thereafter in World War II, the United States Department of Defense converted the island into a naval station, which operated for more than five decades. Naval Station Treasure Island was subsequently closed in 1993 and ceased operations in 1997. Since the closure of the base, the City and the community have been planning for the reuse of former Naval Station Treasure Island and adjacent Yerba Buena Island; and,

WHEREAS, Former Naval Station Treasure Island consists of approximately 550 acres including Yerba Buena Island. Today the site is characterized by aging infrastructure, environmental contamination from former naval operations, deteriorated and vacant buildings, and asphalt and other impervious surfaces which cover approximately 65% of the site. The site

has few public amenities for the approximately 1,820 residents who currently reside on the site. This legislation creating the Treasure Island/Yerba Buena Island Special Use District, the Treasure Island/Yerba Buena Island Height and Bulk District, and the related zoning and General Plan amendments will implement the proposed Project; and,

WHEREAS, The Project will include (a) approximately 8,000 new residential units, with at least 25 percent (2,000 units) affordable to a broad range of very-low to moderate income households, (b) adaptive reuse of 311,000 square feet of historic structures, (c) 140,000 square feet of new retail uses and 100,000 square feet of commercial office space, (d) 300 acres of parks and open space, (e) new and or upgraded public facilities, including a joint police/fire station, a school, facilities for the Treasure Island Sailing Center and other community facilities, (f) 400-500 room hotel, and (g) transportation infrastructure, including a ferry/quay intermodal transit center; and,

WHEREAS, In 2003, TIDA selected through a competitive three year long process, Treasure Island Community Development, LLC ("TICD") to serve as the master developer for the Project; and,

WHEREAS, In 2006, the Board of Supervisors of the City and County of San Francisco ("Board") endorsed a Term Sheet and Development Plan for the Project, which set forth the terms of the Project including a provision for a Transition Plan for Existing Units on the site. In May of 2010 the Board endorsed a package of legislation that included an update to the Development Plan and Term Sheet, terms of an Economic Development Conveyance Memorandum of Agreement for the conveyance of the site from the Navy to the City, and a Term Sheet between TIDA and the Treasure Island Homeless Development Imitative ("TIHDI"); and,

WHEREAS, In planning for the development of former Naval Station Treasure Island, the City and the Treasure Island Development Authority worked closely with the Treasure Island Citizens Advisory Board ("CAB"). The CAB is a group of Treasure Island/Yerba Buena Island community residents, business owners and individuals with expertise in specific areas, who are selected by the Mayor to oversee the development process for the islands. TIDA has worked with the CAB and the community throughout the process of implementing revitalization activities regarding Treasure Island and Yerba Buena Island; and,

WHEREAS, To implement the Project, the Planning Commission ("Commission") must take several actions including adoption of General Plan amendments, Planning Code Text amendments, Planning Code Map amendments, approving the Design for Development document, approving and recommending to the Board of Supervisors approval of the Development Agreement, and adoption of findings under Planning Code Sections 320 – 325 regarding office development, among other actions; and,

WHEREAS, On July 12, 2010, the Department and TIDA released for public review and comment the Draft Environmental Impact Report for the Project, (Department Case No. 2007.0903E); and,

WHEREAS, The Commission and TIDA Board of Directors held a joint public hearing on August 12, 2010 on the Draft Environmental Impact Report and received written public comments until 5:00 pm on September 10, 2010, for a total of 59 days of public review; and,

WHEREAS, The Department and TIDA prepared a Final Environmental Impact Report ("FEIR") for the Project consisting of the Draft Environmental Impact Report, the comments received during the review period, any additional information that became available after the publication of the Draft Environmental Impact Report, and the Draft Summary of Comments and Responses, all as required by law, a copy of which is on file with the Department under Case No. 2007.0903E, which is incorporated into this motion by this reference; and,

WHEREAS, Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required; and,

WHEREAS, The FEIR files and other Project-related Department files have been available for review by the Commission and the public, and those files are a part of the record before this Commission; and,

WHEREAS, On April 21, 2011, the Commission and the TIDA Board of Directors reviewed and considered the FEIR and, by Motion No. 18325 and Resolution No. 11-14-04/21, respectively, found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; and,

WHEREAS, By Motion No. 18325 and Resolution No. 11-14-04/21, the Commission and the TIDA Board of Directors, respectively, found that the FEIR was adequate, accurate and objective, reflected the independent judgment and analysis of each Commission and that the summary of Comments and Responses contained no significant revisions to the Draft Environmental Impact Report; and,

WHEREAS, The Department and TIDA prepared proposed Findings, as required by CEQA, regarding the alternatives and variants, mitigation measures and significant environmental impacts analyzed in the FEIR, overriding considerations for approving the Project, denoted as Attachment A, and a proposed mitigation monitoring and reporting program, denoted as Attachment B, on file with the Department under Case No. 2007.0903E which material was made available to the public and this Commission for this Commissions' review, consideration and actions. Also attached is Attachment C, Mitigation Measures Within the Responsibility of the Planning Department, Treasure Island/Yerba Buena Island Project; and,

NOW, THEREFORE, BE IT RESOLVED, That the Commission has reviewed and considered the FEIR and the actions associated with the Treasure Island/Yerba Buena Island Development Project and hereby adopts the Project Findings attached hereto as Attachment A including a statement of overriding considerations, and including as Attachment B the Mitigation Monitoring and Reporting Program.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on April 21, 2011.

For
Linda D. Avery

Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel

NOES: Commissioners Moore, Olague, Sugaya

ABSENT: None

Draft of April 27, 2011

ATTACHMENT A

TREASURE ISLAND / YERBA BUENA ISLAND PROJECT

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS:

FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS

SAN FRANCISCO PLANNING COMMISSION

In determining to approve the Treasure Island / Yerba Buena Island Project ("Project") the San Francisco Planning Commission ("Agency" or "Planning Commission") makes and adopts the following findings of fact and decisions regarding mitigation measures and alternatives, and adopts the statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 et seq., particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA ("CEQA Guidelines"), 14 California Code of Regulations Sections 15000 et seq., particularly Sections 15091 through 15093, and the Agency adopted CEQA guidelines.

This document is organized as follows:

Section I provides a description of the Project proposed for adoption, the environmental review process for the Project, the approval actions to be taken and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Sections III and IIIA identify potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describe the disposition of the mitigation measures;

Sections IV and IVA identify significant impacts that cannot be avoided or reduced to less-than significant levels and describe any applicable mitigation measures as well as the disposition of the mitigation measures;

Section V evaluates mitigation measures and project modifications proposed by commenters and the rejection of these mitigation measures and project modifications;

Section VI evaluates the different Project alternatives and the economic, legal, social, technological, and other considerations that support approval of the Project and the rejection of the alternatives, or elements thereof, analyzed; and

Section VII presents a statement of overriding considerations setting forth specific reasons in support of the Agency's actions and its rejection of the alternatives not incorporated into the Project.

The Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption is attached with these findings as **Attachment B.** The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. **Attachment B** provides a table setting forth each mitigation measure listed in the Final Environmental Impact Report for the Project ("Final EIR" or "FEIR") that is required to reduce or avoid a significant adverse impact. **Attachment B** also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in **Attachment B**. The mitigation measures described in the MMRP for which the Agency is responsible are attached with these findings as **Attachment C**.

These findings are based upon substantial evidence in the entire record before the Agency. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("Draft EIR" or "DEIR") or the Comments and Responses document ("C&R") in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

Use of Acronyms

Like the FEIR itself, these findings use a number of defined terms and acronyms. Each acronym is defined the first time it is used and is also defined in Exhibit A attached hereto.

I. APPROVAL OF THE PROJECT

A. Project Description

By this action, the Agency adopts and takes action to implement the Project identified in Chapter II of the FEIR, with the Project revisions described in the Memorandum from the San Francisco Planning Department, dated April 12, 2011, which Project consists of: (i) the Treasure Island / Yerba Buena Island Area Plan, a new area plan of the City's General Plan; (ii) the Treasure Island / Yerba Buena Island Special Use District ("SUD"); (iii) the Design for Development for Treasure and Yerba Buena Islands (the "Design for Development"); (iv) the Development Agreement (the "Development Agreement") to be executed by the City and County of San

Francisco and Treasure Island Community Development, LLC ("TICD") to implement the Project; (v) the Disposition and Development Agreement (the "DDA") to be executed by Treasure Island Development Authority ("TIDA") and TICD and to implement the Project; (vi) related transactional documents and policies that would be adopted to implement the Project, and (vii) the development program described in the Development Agreement, DDA and Design for Development. Although the Project includes the components described in items (i) through (vii) above, the Agency's actions are limited to approval or recommendation of items (i) through (iv), as well as items (vi) and (vii) to the extent required to approve or recommend items (i) through (iv).

The Project is jointly sponsored by the TIDA, a single-purpose public agency responsible for the Project site, and TICD, a private entity competitively selected as the prospective master developer.

1. Principal Project

The Project includes development of up to 8,000 residential units, 25% of which would be available at below market rates (and up to 30% if the City obtains legislative changes to increase the amount of available public financing, as more particularly described in the DDA); up to 140,000 square feet ("sq. ft.") of new commercial and retail space; up to 100,000 sq. ft. of new office space; adaptive reuse of about 311,000 sq. ft. for commercial, retail, and/or flex space uses in the historic buildings on Treasure Island; up to approximately 500 hotel rooms; rehabilitation of the historic buildings on Yerba Buena Island; retention and continued use of the existing chapel in its existing location for general assembly and non-denominational religious activities; new and/or upgraded public facilities, including a joint police/fire station, a school, and other community facilities; new and upgraded public utilities, including the water distribution system, wastewater collection and treatment, recycled water system and stormwater collection and treatment; about 300 acres of parks and public open space including shoreline access and cultural uses such as a museum; new and upgraded streets and public ways; bicycle, transit, and pedestrian facilities; landside and waterside facilities for the existing Treasure Island Sailing Center; landside services for an expanded marina; and a new Ferry Terminal and intermodal Transit Hub. Construction build-out of the Project would be phased and is anticipated to occur over an approximately 15- to 20-year period.

A range of building heights is proposed on Treasure Island. Based on the height standards set forth in the Design for Development, approximately 50 percent of housing units could be built in low-rise buildings of up to 70 feet, with a range of taller mid-rise and high-rise buildings from 85

to 240 feet. The tallest buildings would be located in and adjacent to the Island Center District, with one 450-foot-tall building located adjacent to the intermodal Transit Hub.

Yerba Buena Island would be developed primarily with low-rise residential buildings in generally the same locations as existing housing, with a small amount of neighborhood-serving commercial space. A new regionally serving hilltop park would be provided. The Nimitz House and other buildings within the Senior Officers' Quarters Historic District would be adaptively reused for various commercial activities such as a hotel/wellness center and possibly a restaurant. A proposed *Habitat Management Plan* would manage and improve plant and wildlife habitat in the undeveloped areas on this island. The gardens adjacent to the Nimitz House would be improved.

Transportation facilities would include construction of a Transit Hub in the Island Center District. Bus service is planned to the East Bay, expected to serve downtown Oakland, and the existing Muni 108-Treasure Island bus line would continue to provide bus service between the Islands and downtown San Francisco. A free on-island shuttle service would be provided on both islands, replacing and expanding the portion of the existing Muni 108 bus route that circulates on Treasure Island. Ferry service between the west side of Treasure Island and the San Francisco Ferry building is planned as part of the Proposed Project. A new Ferry Terminal would be constructed, including a Ferry Terminal building, a ferry quay and docks, breakwaters, and the ferry basin enclosed by the breakwaters. Project Variant B3 (described below) is included as part of the Project.

New or upgraded utilities would include water distribution piping throughout the Islands; new water storage tanks on Yerba Buena Island; a new recycled water treatment plant, with use of recycled water for irrigation and appropriate plumbing facilities in commercial and residential buildings on Treasure Island; new or upgraded wastewater collection facilities and a new or upgraded wastewater treatment plant, a new stormwater collection and treatment system, to include a 10- to 15-acre wetland in the northeast area of Treasure Island and localized features such as bioretention areas, vegetated swales, and permeable paving; new electricity, natural gas, and telecommunications facilities; and solar power generation facilities.

The Proposed Project includes a system for geotechnical stabilization to improve seismic safety. Components would include stabilization of the causeway connecting Treasure Island and Yerba Buena Island; densification of existing fill in the areas of Treasure Island where buildings and roads are proposed; elevation of the ground surface in areas proposed for development as protection against flooding and future potential sea level rise; strengthening the perimeter berm around Treasure Island; and repairing or rebuilding retaining walls on Yerba Buena Island.

2. Project Variants

The DEIR analyzes several variants to transportation and infrastructure features. Of these variants, Variant B3 is currently included as part of the Project. However, because the Project may subsequently incorporate one or more additional variants, these findings also examine all additional impacts resulting from each variant. All findings made with respect to the Project also include the potential implementation of the Project variants. It is the Agency's intention that all findings made with respect to the Project also include the potential implementation of any and all Project variants that are subsequently implemented as part of the Project.

a. Energy Variant A1: Renewable Electricity Generation – Increased Solar Photovoltaic

Variant A1 would increase the area devoted to solar photovoltaic technology by providing up to 20 acres of ground- or structure-mounted photovoltaic panels in open space areas on the eastern and northern shorelines of Treasure Island and/or in the center of the island near the Urban Agricultural Park. The 20 acres devoted to photovoltaic panels would be in addition to the 1.4 to 3 acres incorporated into the Project. The purpose of this Variant A1 is to allow the production of more renewable energy than would be achieved by the Proposed Project's 5 percent renewable energy requirement. Implementation of this Variant would require investment in substantial energy generation facilities and implementation of power purchase agreements, or other financing structures, to facilitate feeding excess energy back into the power grid. In addition, implementation of Variant A1 would either reduce or change the nature of a portion of the overall amount of usable open space within the Development Plan Area.

b. Energy Variants A2 and A3: District Energy Heating and Cooling

This group of Energy Variants would provide heating and cooling for some groups of buildings from a central location rather than on a building-by-building basis, and could also produce some on-site power.

i. Energy Variant A2: District Heating and Cooling

Under Variant A2, natural gas-fired steam boilers would be constructed to provide district heating and cooling, with piping carrying hot and cool water from one or more central plants to nearby buildings for space heating, hot water, and space cooling. After use, the water would be returned to the central plant for re-heating or re-cooling. The piping would consist of insulated supply and return piping located in utility trenches below grade, primarily under new streets.

ii. Energy Variant A3: District Energy Heating, Cooling and Power

Like the Variant A2, Variant A3 would provide heating and cooling to buildings around one or more central plants, however the plants in Variant A3 would also generate electricity. The likely technologies include natural gas-fired steam boilers for heating and making steam, and steam turbines or natural-gas fired combustion turbines for power production. The electric generation portion of plant is likely to have a capacity of 1 to 3 MW. With a steam turbine, a natural gas-fired boiler would create steam that would turn a turbine to create electricity. Waste heat in the form of steam and condensate would be converted to hot water via a heat exchanger. An absorption chiller would also use the waste heat to make chilled water. Cooling towers would still be needed for getting rid of waste heat (i.e., "heat rejection"). With a natural-gas fired combustion turbine, the turbine would turn the generator directly. Waste heat would be recovered from the engine jacket and flue stack. As under Energy Variant A2, piping would carry hot and cool water from the central plants to nearby buildings. After use, the water would be returned to the central plants for re-heating or re-cooling.

iii. Energy Subvariants to either Variant A2 or A3

The following subvariants could be applied to either Energy Variant A2 or A3, and are not mutually exclusive.

District Energy Subvariant A is alternative heat rejection: either dry cooling towers or combination wet-dry cooling towers would be used. Dry cooling towers would be larger and taller than wet cooling towers, by about 30 to 50 percent. The advantage of dry cooling towers is less visible mist, which is sometimes created by wet cooling towers under certain meteorological conditions.

District Energy Subvariant B consists of satellite District Energy plants. Satellite plants would be used in the Cityside District and the Eastside District to provide redundancy and/or distribution efficiency and for phasing. Satellite facilities would have smaller footprints than the central plant, would be a similar height, and could either be separate structures or be integrated into one or more buildings in their neighborhood. Inclusion of satellite district plants would allow the central plant to be smaller, but the overall footprint of all facilities in this Subvariant would be larger than with the use of one central plant. The satellite plants would be built sequentially along with the construction phases, beginning with the southwestern plant in the midst of the central core.

District Energy Subvariant C would include solar thermal energy. Under this subvariant solar thermal energy systems may be used to collect heat for district heating and to heat water that could provide heat and also drive chillers for district cooling. The panels would most likely be either evacuated tube or concentrating solar devices that can produce hotter water than flat-plate collectors over the majority of the year. The collectors would be on building roofs or the upper level of a parking structure, adjacent to the central heating and cooling plant. Other equipment to operate the solar collectors would include pumps, heat exchangers, storage tanks and control systems in an approximately 800-square-foot structure for about 10,000 sq. ft. of solar collectors.

c. Ferry Terminal Breakwater variants

Three additional breakwater configurations are analyzed as possible Project variants in the FEIR. These variants, as well as the Proposed Project, were developed through a study conducted by the Water Emergency Transit Authority ("WETA").

i. Breakwater Variant B1

Breakwater Variant B1 would provide for symmetrical angled breakwaters, each extending about 600 feet from the shore, providing a 200-foot-wide harbor opening. The harbor opening would be directly west of the shoreline and the ferry berths, as shown on DEIR Figure VI.3: Ferry Terminal Breakwater Variant B1. Variants B1 and B2 were selected because they provide alternative harbor configurations that could create slightly different wave conditions within the harbor.

ii. Breakwater Variant B2

Breakwater Variant B2 would include two symmetrical angled breakwaters extending about 500 feet from the shore, with a harbor opening of about 300 feet, plus a third, detached breakwater. The third structure would be about 100 feet from the northern angled breakwater and would extend about 520 feet to the southwest, resulting a distance of about 400 feet from the end of the southern angled breakwater. The harbor opening would face south rather than west as a result of the third structure, as shown on DEIR Figure VI.4: Ferry Terminal Breakwater Variant B2.

iii. Breakwater Variant B3

Breakwater Variant B3 would have the same configuration as in the Proposed Project (see Figure II.8 in FEIR Chapter II), but the northern breakwater would be constructed first as part of building the Ferry Terminal, and the southern breakwater would be constructed in a later phase, as shown on Figure VI.5: Ferry Terminal Breakwater Variant B3. The access pier and gangway would be narrower than the 28-foot-wide transfer spans providing access to the bow-loading

ferries described for the Proposed Project. A boarding float would provide two slips for berthing side-loading ferry vessels, rather than bow-loading vessels.

d. Supplemental Firefighting Water Supply Variants

The Supplemental Firefighting Water Supply Variants would provide a supplemental firefighting water supply comparable to the Project.

i. Supplemental Firefighting Water Supply Variant C1

Supplemental Firefighting Water Supply Variant C1 would use potable water by installing a 1.84 million gallon circular steel or concrete storage tank and pumping facilities (including back-up diesel generator) on Treasure Island in the vicinity of the wastewater treatment plant. Variant C1 also contemplates the upsizing of water mains.

ii. Supplemental Firefighting Water Supply Variant C2

Supplemental Firefighting Water Supply Variant C2 would use Bay water by installing a pump station with a saltwater intake pipe and suction hydrants located around the perimeter, and a firefighting water distribution system with hydrants on Treasure Island. Variant C2 would link the two fire boat manifolds and two suction hydrants along the southern shore of Treasure Island to a network of distribution pipes and hydrants. Both Variants C1 and C2 would reduce the size of the recycled water tank proposed as part of the Proposed Project, from 1.26 million gallons to approximately 420,000 gallons.

e. Wastewater Wetlands Variants

i. Wastewater Wetlands Variant D1

Wastewater Wetlands Variant D1 would use constructed wetlands for tertiary treatment of the portion of the secondary-treated effluent from the treatment plant to be recycled; this would occur prior to the microfiltration step, reducing the need for reverse osmosis for the recycled water. The wetlands in this Wastewater Wetlands Variant D1 would be constructed on about 5 acres of land adjacent to the proposed wastewater treatment facility site in the northeast corner of Treasure Island.

ii. Wastewater Wetlands Variant D2

Wastewater Wetlands Variant D2 would use wetlands to polish the majority of the treated wastewater effluent to be discharged through the outfall, after microfiltration and UV disinfection. In this process, recycled water would not pass through the wetlands; about 0.42

million gallons per day ("mgd") would be diverted from the treatment plant and further treated with reverse osmosis for use in landscape irrigation and appropriate plumbing fixtures in commercial and residential buildings. Wastewater Wetlands Variant D2 would receive the remainder of the UV-disinfected effluent from the treatment plant (about 0.9 mgd). It would be smaller than Variant D1. Variant D2 would be constructed on about 2 to 4 acres of land and would be suitable to serve as wildlife habitat. Public access to the constructed wetlands in Wastewater Wetlands Variant D2 would not be restricted because the water in it would be disinfected.

f. Automated Waste Collection System Variant

Under this Variant, a system would be constructed as part of the subsurface infrastructure on Treasure Island and buildings would connect to this system as they were built. The system would terminate in a central waste handling facility where the solid waste would be loaded into trucks and hauled to a processing facility on the mainland after materials that could be composted on Treasure Island were separated. This automated solid waste collection facility is not proposed to be extended to Yerba Buena Island because building density would be too low for efficiency.

g. Off-Site Electrical Transmission Facility Improvements Variant

This Variant contemplates one or more of several improvements (*see* DEIR VI.50-51 for a complete list) be constructed on Port of Oakland and City of Oakland property in and around the Davis Street Substation in order to improve capacity and reliability.

C. Project Objectives. The Project's overall purpose is to convert approximately 367 acres on Treasure Island and approximately 94 acres on Yerba Buena Island from a former military base to a dense, mixed-use development with residential, commercial, cultural, hotel, recreational, and retail uses centered around an intermodal Transit Hub. Supporting infrastructure, public services and utilities, and a substantial amount of open space would also be provided, consistent with the following list of objectives.

1. Project Objectives Shared by TIDA and TICD

Land Use

- Create a unique San Francisco neighborhood that includes facilities and amenities necessary to support a diverse, thriving community, with a special emphasis on providing amenities for families and tools and services to ensure that the neighborhood has a cohesive feel and meets the needs of its residents.

- Provide a model of 21st century sustainable urban development that displays architectural and landscape design excellence befitting the Islands' history, location, and prominence and capitalizes on the spectacular views of San Francisco.
- Implement a land use program with high-density, compact residential and commercial development located within walking distance of an intermodal Transit Hub to maximize walking, bicycling, and use of public transportation and to minimize the use and impacts of private automobiles.
- Provide a comprehensive new regional waterfront system of parks and public open spaces that is programmed with a variety of uses, including recreational, passive open space, arts, cultural, and educational uses, and that establishes the Development Plan Area as a regional destination.
- Provide a high-quality public realm, including a pedestrian and bicycle-friendly environment with high design standards for public open spaces, parks, and streetscape elements.
- Activate and link the area surrounding the historic structures by providing a dense, urban retail/mixed-use environment that attracts residents and visitors to the area.

Housing

- Provide high-density, mixed-income housing with a variety of housing types, consistent with transit-oriented development, that include both ownership and rental opportunities, to attract a diversity of household types, especially families.
- Include enough residential density to create a sustainable community that supports neighborhood-serving retail, community facilities, and transit infrastructure and service.

Sustainability

- Demonstrate leadership in sustainable design and provide new benchmarks for sustainable development practices in accordance with the *Treasure Island Sustainability Plan*.
- Organize streets and open spaces to respond to Treasure Island's microclimate of wind, sun, and fog and optimize solar exposure, in part by shifting the conventional street grid.

Transportation

- Create a circulation and transportation system that emphasizes transit-oriented development, discourages automobile use, and supports and promotes the use of public transportation and car-sharing, through a comprehensive transportation demand management program.

- Provide a range of public transit choices as part of the transportation system.

Infrastructure

- Provide geotechnical and infrastructure improvements and perform environmental remediation to standards necessary to achieve the land use objectives and all applicable building, regulatory, and seismic safety standards.

2. Additional TIDA Objectives

In addition to the shared objectives, TIDA has the following project objectives:

- Provide an affordable housing program that delivers 25 percent of all residential units at below market rates across a wide range of income levels, including units for formerly homeless persons, as provided in the City's agreement with Treasure Island Homeless Development Initiative ("TIHDI").
- Adaptively reuse historic buildings listed on the National Register either individually or as contributors to a National Register District in compliance with the Secretary of Interior Standards for Historic Rehabilitation.
- Create an organizational structure that provides for high-quality development, operations and maintenance of parks and open space.
- Maximize opportunities for on-site renewable energy production.
- Create a development that is financially feasible; that allows for the delivery of infrastructure, public benefits, and affordable housing subsidies; and that is able to fund the Proposed Project's capital costs and ongoing operation and maintenance costs relating to the development and long-term operation of the project site.
- Provide a comprehensive jobs and community development program that includes the creation of significant numbers of construction and permanent jobs.
- Implement jobs programs that target employment opportunities to economically disadvantaged San Franciscans.
- Support TIHDI jobs and economic development programs.

3. Additional TICD Objective

In addition to the shared objectives, TICD has the following project objective:

- Construct a high-quality development project that is able to attract investment capital and construction financing and produces a reasonable return on investment.

D. Environmental Review

The San Francisco Planning Department ("Planning Department") and TIDA, as joint lead agencies, initiated environmental review of the Project upon the filing by TICD and TIDA, as co-project sponsors, of an environmental evaluation application with the Planning Department in 1997. In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the Planning Department and TIDA, as joint lead agencies, prepared a Notice of Preparation ("NOP") of an EIR and conducted scoping meetings (*see* DEIR, Appendix B). The NOP was circulated to local, state, and federal agencies and to other interested parties on January 26, 2008, initiating a public comment period that extended through February 26, 2008.

The NOP provided a general description of the proposed action, the need for the Project and Project benefits, the proposed development and the Project location.

Pursuant to CEQA Guidelines Section 15083, the Planning Department held public scoping meetings on February 11, 2008, and February 13, 2008. The purpose of the meetings was to present the proposed Project to the public and receive public input regarding the proposed scope of the EIR analysis. Attendees were provided an opportunity to voice comments or concerns regarding potential effects of the Project. In addition to the meetings described above that were conducted by the Planning Department, the Treasure Island / Yerba Buena Island Citizens Advisory Board ("CAB") included a public comment agenda item in its regular meeting held on February 12, 2008.

In response to the NOP, the Planning Department received thirteen comment letters from public agencies, organizations and individuals, which are included in Appendix B of the Draft EIR. In addition, at the two public scoping meetings and the CAB meeting, the Planning Department and CAB received oral comments from approximately thirteen speakers total. The oral comments are recorded in official scoping meeting transcripts, which are part of the administrative record. Issues raised by public comments on the NOP were considered in determining the scope and approaches to analysis in the EIR. Many of the issues raised during public scoping were addressed by elements included in or added to the Project. Responding to public comments on the NOP, subsequent review by TIDA and TICD, and substantial input from the public and City agencies, the Project was also modified to increase the number of housing units from 6,000 residential units to 8,000 residential units based on a conclusion that an increase in the total number of housing units would provide a larger population base to maximize transit use and support project feasibility and viable retail, transit, open space, and community services.

The Planning Department and TIDA then prepared the Draft EIR, which describes the Project and the environmental setting for the proposed Project, identifies potential impacts, presents

mitigation measures for impacts found to be significant or potentially significant, and evaluates project alternatives. The Draft EIR also includes an analysis of three energy variants (including three energy subvariants), three ferry terminal breakwater variants, two supplemental firefighting water supply variants, two wastewater wetlands variants, one automated waste collection system variant, and one off-site electrical transmission facility improvements variant.

The EIR evaluates the direct, indirect and cumulative impacts resulting from planning, construction and operation of the Project. In preparing the EIR, pertinent City policies and guidelines, existing EIRs and background documents prepared by the City or the Applicant were evaluated for applicability to the Project and used where appropriate. In assessing impacts, significance criteria were based on guidance from the Planning Department and TIDA, which in turn was based on Appendix G to the CEQA Guidelines and Planning's Initial Study checklist, with some modifications. (An Initial Study was not conducted, as all resource areas were analyzed by the Draft EIR.) In cases where potential environmental issues associated with the Project are identified but not clearly addressed by the guidance listed above, additional impact significance criteria are presented. The significance criteria used for each environmental resource area are presented at the beginning of the impact discussion in each section of Chapter IV of the Draft EIR.

The Draft EIR was circulated to local, state and federal agencies and to interested organizations and individuals for review and comment on July 12, 2010, for a 45 day comment period, which was extended once to September 10, 2010, for a total of 60 days. During the public review period, the Planning Department and TIDA received 44 letters containing written comments through the mail or by hand-delivery, fax or email. There were a total of 28 people, including 20 members of the public and 8 members of the Planning Commission or TIDA that spoke at the August 12, 2010, joint public hearing of the Planning Commission and TIDA on the Draft EIR. A court reporter was present at the joint public hearing, transcribed the oral comments verbatim, and prepared written transcripts. A hearing on the Draft EIR was also held before the Historic Preservation Commission on August 4, 2010.

The Comments and Responses ("C&R") document was published on March 10, 2011, and it provides copies of the comments received on the Draft EIR as well as individual responses to those comments. In some cases, the responses to individual comments are presented as master responses, which consist of comprehensive discussions of issues that received numerous comments.

In addition, the C&R includes a refinements to the Project analyzed in the Draft EIR, including: (1) the retention and continued use of the existing chapel in its existing location for general

assembly and non-denominational religious activities; (2) the addition of a Class I mixed-use two way bicycle pedestrian path along Macalla Road connecting to the new mixed-use bicycle pedestrian path on the East Span of the Bay Bridge and parallel to Treasure Island Road south of the causeway, leading to scenic overlook to be provided about 500 feet south of the intersection with Macalla Road; and (3) reducing the building height of the tallest icon tower from 650 to 450 feet and reducing the building heights surrounding towers in the Island Center district from 350-450 feet to 315 feet. These refinements that were made to the Project respond to public comments, reduce impacts, provide additional flexibility for Project implementation and changing construction technologies, community priorities, site-specific urban design goals and real estate market demands. The Project and Variant refinements do not affect the overall maximum development envelope, including the total amount of development or building heights or footprints as compared to what was described and analyzed in the Draft EIR. The C&R also provides additional, updated information and clarification on issues raised by commenters as well as by City staff. Staff revisions to the text of the Draft EIR are included in C&R Section 3 (Draft EIR Revisions). As substantiated by the analysis provided in C&R Section 2 (Comments and Responses), the Project and Variant refinements and the text revisions do not result in new significant environmental impacts or a substantial increase in the severity of impacts compared to the information provided in the Draft EIR, but rather provide further details and clarifications in response to comments or staff review. The Agency reviewed and considered the Final EIR and all of the supporting information. The Final EIR provided augmented and updated information on many issues presented in the Draft EIR, including (but not limited to) the following topics:

- Analysis of the Reduced Parking Alternative that was rejected as infeasible;
- Analysis of visual impacts on views from the East Bay and at night;
- Analysis of species known or presumed to exist in the project area; and
- Revision of certain mitigation measures.

In certifying the Final EIR, TIDA and the Planning Commission found that the Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA because the Final EIR contains no information revealing (1) any new significant environmental impact that would result from the Project (including the variants to the project proposed for adoption) or from a new or revised mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible project alternative or mitigation measures considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project but

that was rejected by the Project Applicant, or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

E. Approval Actions

Local and state agencies will rely on the EIR for the approval actions listed below and in doing so will adopt CEQA findings, including a statement of overriding considerations and a mitigation monitoring and reporting program. In addition, the list below includes anticipated approval actions that federal agencies will take for the Project.

Local Agency Approvals

1. Planning Commission

- Certify the Final EIR
- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Recommend amendments to the General Plan, including the adoption of an Area Plan, to ensure consistency between the General Plan and the Project
- Find the Project in conformity with the General Plan, including Section 101.1 Priority Policies
- Recommend amendments to the Planning Code, including the SUD, and Zoning Maps for the Project
- Adopt Design for Development
- Approve Interagency Cooperation Agreement
- Approve programmatic future office allocations for the Project under the Planning Code
- Recommend approval of Development Agreement

2. TIDA

- Certify the Final EIR
- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program

- Approve Disposition and Development Agreement and related transactional documents
- Approve Interagency Cooperation Agreement
- Approve Economic Development Conveyance Memorandum of Agreement with Navy
- Recommend approval of Design for Development
- Adopt Transition Housing Rules and Regulations
- Approve Amended and Restated TIHDI Agreement
- Approve Public Trust Exchange Agreement
- Approve agreement with the San Francisco Public Utilities Commission ("SFPUC") for financing, construction, operations and maintenance of proposed wastewater facilities and parcel transfer

3. Board of Supervisors

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Adopt General Plan consistency findings, and Planning Code Section 101.1 Priority Policies
- Approve amendments to the General Plan
- Approve amendments to the Planning Code, including the SUD, and Zoning Maps for the Project
- Approve Disposition and Development Agreement
- Adopt Treasure Island / Yerba Buena Island Subdivision Code
- Approve Public Trust Exchange Agreement
- Approve Navy Economic Development Conveyance Memorandum of Agreement
- Create or designate a Treasure Island Transportation Management Agency
- Approve Development Agreement

4. San Francisco Public Utilities Commission

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program

- Approve Interagency Cooperation Agreement
- Approve agreement with TIDA for financing, construction, operations and maintenance of proposed wastewater facilities and parcel transfer
- Approve Development Agreement

5. San Francisco Municipal Transportation Agency Commission

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Approve Interagency Cooperation Agreement
- Approve Development Agreement

6. San Francisco Department of Public Works

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Approve Interagency Cooperation Agreement
- Approve subdivision maps

7. Department of Building Inspection

- Approve demolition and building permits

8. San Francisco Fire Department

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Approve Interagency Cooperation Agreement

Regional and State Agencies

1. Bay Conservation and Development Commission

- Adopt CEQA Findings and Statement of Overriding Considerations
- Approve permits for activities within the Bay Conservation and Development Commission's jurisdiction

2. State Lands Commission

- Approve Public Trust Exchange Agreement

3. California Department of Transportation

- Approve encroachment permits if construction occurs in right-of-way owned by Department
- Approve metering system for Bay Bridge ramps if located on Department property

5. Regional Water Quality Control Board

- Water quality certification, National Pollutant Discharge Elimination System ("NPDES") permit and waste discharge requirements
- Approve Soil and Groundwater Management Plan

6. East Bay Municipal Utility District

- Approve operating agreement for emergency water supply line from Oakland

7. Water Emergency Transit Authority

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Approve Memorandum of Understanding with TIDA for ferry service

8. Alameda County Transit Authority

- Adopt CEQA Findings and Statement of Overriding Considerations
- Adopt Mitigation Monitoring and Reporting Program
- Approve Memorandum of Understanding with TIDA for East Bay bus service

Federal Agencies

1. US Army Corps of Engineers

- Approve permit under Section 10 and/or 303 (including, if and as required, consultation with the U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and other agencies as directed by the Corps)

2. US Department of the Navy

- Approve transfer or conveyance of property at Naval Station Treasure Island pursuant to Section 2905 (b)(4) of the Defense Base Closure and Realignment Act of 1990, as discussed in the Draft EIR 1.4-1.5.

G. Contents and Location of Record

The record upon which all findings and determinations related to the Project are based includes the following:

- The Notice of Preparation and all other public notices relating to the Project.
- The Draft EIR and all documents referenced in or relied upon by the EIR. (The references in these findings to the EIR or FEIR include both the Draft EIR and the C&R documents.)
- All information including written evidence and testimony provided by City staff to TIDA and the Planning Commission relating to the EIR, the Project, and the alternatives set forth in the EIR.
- All information provided by the public, including the proceedings of the public hearings on the adequacy of the Draft EIR and the transcripts of the August 12, 2010 joint public hearing and written correspondence received by TIDA and Planning Department staff during the public comment period of the Draft EIR.
- All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

The Agency has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the Agency. Without exception, any documents set forth above not so presented fall into one of two categories. Many of them reflect prior planning or legislative decisions with which the Agency was aware in approving the Project. Other documents influenced the expert advice provided to TIDA or Planning Department staff or consultants, who then provided advice to the Planning Commission and TIDA Board. For that reason, such documents form part of the underlying factual basis for the Agency's decisions relating to the adoption of the Project.

The public hearing transcript, a copy of all letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the Final EIR, as well as additional materials concerning approval of the Project and adoption of these

findings are contained in Planning Commission files, located at 1650 Mission Street, Suite 400, San Francisco, CA 94103 and in TIDA files, located at One Avenue of the Palms, 2nd Floor, Treasure Island, San Francisco, CA 94130. Linda Avery, Planning Commission Secretary, is the custodian of records for the Planning Commission. Peter Summerville, TIDA Board Secretary is the custodian of records for TIDA. All files have been available to the Agency and the public for review in considering these findings and whether to approve the Project.

H. Requirement for Findings of Fact

CEQA requires public agencies to consider the potential effects of their discretionary activities on the environment and, when feasible, to adopt and implement mitigation measures that avoid or substantially lessen the effects of those activities on the environment. Specifically, Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(Public Resources Code Section 21081, subd (a); see also CEQA Guidelines Sections 15091, subd. (a).)

Public Resources Code section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." CEQA Guidelines section 15364 adds another factor: "legal" considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* (*Goleta II*) (1990) 52 Cal.3d 553, 565.)

The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*).) "[F]easibility" under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (Ibid.; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 (*Sequoyah Hills*); see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 [after weighing "'economic, environmental, social, and technological factors' ... 'an agency may conclude that a mitigation measure or alternative is impracticable or undesirable from a policy standpoint and reject it as infeasible on that ground'"].)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Goleta II*, *supra*, 52 Cal.3d at p. 576.)

Because the EIR identified significant effects that may occur as a result of the project, and in accordance with the provisions of the Guidelines presented above, Agency hereby adopts these findings as part of the approval of the Project. These findings reflect the independent judgment of the Agency and constitute its best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. These findings, in other words, are not merely informational, but rather constitute a binding set of

obligations that come into effect with the Agency's approval of the Project and implementation of any of the Project variants in the future.

I. Findings About Significant Environmental Impacts and Mitigation Measures

The following Sections II, III and IV set forth the Agency's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Agency regarding the environmental impacts of the Project (including the Project variants) and the mitigation measures included as part of the Final EIR and adopted by the Agency as part of the Project. To avoid duplication and redundancy, and because the Agency agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR, but instead incorporates them by reference in these findings and relies upon them as substantial evidence supporting these findings.

In making these findings, the Agency has considered the opinions of staff and experts, other agencies and members of the public. The Agency finds that the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; the significance thresholds used in the FEIR are supported by substantial evidence in the record, including the expert opinion of the FEIR preparers and City staff; and the significance thresholds used in the FEIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.

These findings do not attempt to describe the full analysis of each environmental impact contained in the FEIR. Instead, a full explanation of these environmental findings and conclusions can be found in the FEIR and these findings hereby incorporate by reference the discussion and analysis in the FEIR supporting the FEIR's determination regarding the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the Agency ratifies, adopts and incorporates in these findings the determinations and conclusions of the FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

The Agency adopts and incorporates the mitigation measures set forth in the FEIR and the attached MMRP as described below to substantially lessen or avoid the potentially significant and significant impacts of the Project. In adopting these mitigation measures, the Agency intends to adopt each of the mitigation measures proposed in the FEIR for the Project unless otherwise identified as infeasible or outside of the jurisdiction of the Agency, in which case the Agency urges the other agency having jurisdiction to adopt the mitigation measure.

Accordingly, in the event a mitigation measure recommended in the FEIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference, unless these findings expressly reject that measure. In addition, these findings generally do not set forth the full text of the mitigation measures. Rather, the findings provide a succinct description of the mitigation measures. The full text of the adopted mitigation measures is set forth in the MMRP. The Agency intends to abide by, and carry out, the full text of the adopted mitigation measures as set forth in the MMRP, notwithstanding the summary description of those measures as set forth in these findings. Finally, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the FEIR due to a clerical error, the language of the policies and implementation measures as set forth in the FEIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the impact and mitigation measure numbers used in the FEIR.

In sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding, the initial finding obviates the need for such repetition because in no instance is the Agency rejecting the conclusions of the FEIR or the mitigation measures recommended in the FEIR for the Project.

II. IMPACTS FOUND TO BE LESS THAN SIGNIFICANT AND THUS REQUIRING NO MITIGATION

Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), 15091.) Based on substantial evidence in the whole record of this proceeding, the Agency finds that implementation of the Project will not result in any significant impacts in the following areas and that these impact areas, therefore, do not require mitigation. In some instances, the Project would have no impact in a particular area; these instances are denoted below by "NI" for no impact.

The DEIR evaluates the impacts of not only the Principal Project described in Section I.A.1 above, but also the Project Variants described in Section I.A.2. Unless otherwise noted below, any additional impacts under each Project Variant would be less than significant and would not change the analysis or conclusions associated with the Principal Project.

A. Land Use and Plans

- **Impact LU-1**, Effects of construction on an established community from physical division, or on the character of the vicinity. (DEIR IV.A.21-23)
- **Impact LU-2**, Effects on an established community from physical division. (DEIR IV.A.23-24; C&R 3.118)
- **Impact LU-3**, Effects on character of the vicinity. (DEIR IV.A.24-25; C&R 2.6.8, 3.15)
- **Impact LU-4**, Effects on land uses subject to Tidelands Trust Doctrine. (DEIR IV.A.26-27)
- **Impact LU-5**, Cumulative effects on an established community from physical division, or on the character of the vicinity. (DEIR IV.A.27-28)

B. Aesthetics

- **Impact AE-2**, Effects on existing scenic resources. (DEIR IV.B.23-24; C&R 2.6.3)
- **Impact AE-3**, Effects on visual quality within the Project Area. (DEIR IV.B.25-27; C&R 2.4.37-38)
- **Impact AE-4**, Effects of nighttime lighting on nighttime views and sources of glare. (DEIR IV.B.27-29; C&R 2.4.29-31, 3.6, 3.20-21)
- **Impact AE-5**, Cumulative effects related to aesthetics. (DEIR IV.B.29-30)

C. Population and Housing

- **Impact PH-1**, Effect on temporary population growth during construction. (DEIR IV.C.13)
- **Impact PH-2**, Effect of displacing persons and/or housing units. (DEIR IV.C.13-14; C&R 3.118)
- **Impact PH-3**, Direct or indirect effect on growth in the area. (DEIR IV.C.14-19)
- **Impact PH-4**, Direct or indirect effect on cumulative growth in the area. (DEIR IV.C.19-22)

D. Cultural and Paleontological Resources

- **Impact CP-5**, Effect of reusing and rehabilitating historical resources. (DEIR IV.D.52-53)

- **Impact CP-8**, Effect of demolition of Building 111. (DEIR IV.D.55; C&R 2.6.25-26)
- **Impact CP-10**, Effect of demolition of NSTI resources. (DEIR IV.D.58)
- **Impact CP-11**, Effect of construction in the vicinity of historical resources. (DEIR IV.D.58-60; C&R 2.6.17-18)
- **Impact CP-12**, Effects of construction on historical significance of the Senior Officers' Quarters Historic District. (DEIR IV.D.60-61; C&R 2.6.34)
- **Impact CP-13**, Cumulative effect on historic architectural resources. (DEIR IV.D.61)

E. Transportation and Circulation

- **Impact TR-5**, Effects at three ramp locations, under conditions without and with the Ramps Project. (DEIR IV.E.82-83; C&R 2.7.74)
- **Impact TR-15**, Effects at three signalized intersections (First/Howard, Essex/Harrison/I-80 Eastbound on-ramp, The Embarcadero/Harrison) that operate at LOS E or LOS F under Existing Conditions. (DEIR IV.E.91-92)
- **Impact TR-16**, Effects at five intersections (Fremont/Howard, Fremont/Folsom, Fremont/I-80 Westbound off-ramp/Harrison, Second/Bryant, Avenue of the Palms/First Street) that operate at LOS D or better under Existing Conditions. (DEIR IV.E.92)
- **Impact TR-20**, Effects on capacity of AC Transit bus lines serving Treasure Island. (DEIR IV.E.95)
- **Impact TR-21**, Effects on capacity of proposed ferry. (DEIR IV.E.95-96)
- **Impact TR-22**, Effects on San Francisco downtown screenlines (transit trips). (DEIR IV.E.96)
- **Impact TR-23**, Effects on capacity of various regional public transit systems. (DEIR IV.E.97-98)
- **Impact TR-28**, Effects on existing or proposed ferry services on San Francisco Bay. (DEIR IV.E.102-106)
- **Impact TR-32**, Effects of additional downtown congestion on Golden Gate Transit or SamTrans bus lines. (DEIR IV.E.107-108; C&R 2.7.62-63)

- **Impacts TR-33**, Safety effects on bicyclists on Treasure Island. (DEIR IV.E.108-110; C&R 2.7.74, 2.7.83, 2.7.86, 3.28)
- **Impacts TR-34**, Safety effects on bicyclists on mainland San Francisco. (DEIR IV.E.110-111)
- **Impacts TR-35**, Safety effects on pedestrians on Treasure Island. (DEIR IV.E.111-112; C&R 2.7.92-93)
- **Impacts TR-36**, Safety effects on pedestrians near the San Francisco Ferry Building. (DEIR IV.E.112-113; C&R 2.7.63; 3.71-72)
- **Impacts TR-37**, Effects on loading demand. (DEIR IV.E.113-116)
- **Impacts TR-38**, Effects on emergency access. (DEIR IV.E.116-117; C&R 2.7.63)
- **Impact TR-43**, Effects at three ramp locations, under 2030 Cumulative plus Project conditions without and with the Ramps Project. (DEIR IV.E.120)
- **Impact TR-53**, Effects at seven intersections (Fremont/Howard, Fremont/Folsom, Fremont/I-80 Westbound off-ramp/Harrison, First/Harrison, Essex/Harrison/I-80 Eastbound on-ramp, Second/Bryant, The Embarcadero/Harrison) that operate at LOS E or LOS F under 2030 Cumulative plus Project conditions. (DEIR IV.E.127-128)
- **Impact TR-56**, Cumulative effects on San Francisco downtown screenlines (transit trips). (DEIR IV.E.129)
- **Impact TR-57**, Cumulative effects on capacity of various regional public transit systems. (DEIR IV.E.130-133)
- **Impact TR-62**, Cumulative effects of additional downtown congestion on Golden Gate Transit or SamTrans bus lines. (DEIR IV.E.36; C&R 2.7.62-63)

F. Air Quality

- **Impact AQ-2** ***(Less than Significant under Applicable 1999 Guidelines, Significant and Unavoidable with Mitigation under 2010 Guidelines)***, Effects of construction-related emissions of criteria pollutants. (DEIR IV.G.27-30; C&R 2.9.2, 2.9.4-5, 3.2-3, 3.31-32) *See, also,* Section IV.E of these Findings.
- **Impact AQ-4, NI** ***(Not Applicable to 1999 BAAQMD Thresholds, Significant and Unavoidable with Mitigation for 2010 BAAQMD Thresholds)***, Effects of

construction-related PM2.5 emissions. (DEIR IVG.36-38; C&R 2.9.2, 2.9.4, 2.9.9) *See, also*, Section IV.E of these Findings.

- **Impact AQ-7**, Effects of odor generation. (DEIR IV.G.49-50)
- **Impact AQ-8** *(Significant for Proposed Project; Less Than Significant for Proposed Project with Expanded Transit Service)*, Conflict with adopted plans related to air quality. (DEIR IV.G.50-52) *See, also*, Section IV.E of these Findings.

G. Greenhouse Gas Emissions

- **Impact GHG-1**, Generation of GHG emissions. (DEIR IV.H.44-45)
- **Impact GHG-2**, Conflict with applicable GHG-related plans, policies or regulations applicable to the Project. (DEIR IV.H.45-46)

H. Wind and Shadows

- **Impact WS-1**, Shadow effects on existing and proposed open space. (DEIR IV.I.5-24; C&R 2.11.3-5; 3.121)
- **Impact WS-2**, Cumulative effects on open space under Recreation and Parks Commission jurisdiction or on other public areas. (DEIR IV.I.25-26)

I. Recreation

- **Impact RE-1**, Temporary physical effects of construction on parks and open space. (DEIR IV.J.16-18; C&R 2.68, 3.33-34)
- **Impact RE-2**, Deterioration of existing recreational facilities due to increased on-site population. (DEIR IV.J.18-19; C&R 2.12.9-10)
- **Impact RE-3**, Effects of synthetic turf use. (DEIR IV.J.19-25)
- **Impact RE-4**, Cumulative effects of construction on parks and open space. (DEIR IV.J.26-27)

J. Utilities and Service Systems

- **Impact UT-2**, Effects of collection system blockages or lift/pump station failures on sanitary sewer overflows. (DEIR IV.K.13-14)
- **Impact UT-3 (NI)**, Cumulative effects on wastewater collection and treatment facilities. (DEIR IV.K.14)

- **Impact UT-5 (NI)**, Recycled wastewater treatment and collection facilities would reduce water demand in conformance with City policies. (DEIR IV.K.20)
- **Impact UT-6 (NI)**, Cumulative effects on recycled water infrastructure. (DEIR IV.K.20)
- **Impact UT-8 (NI)**, Cumulative effects on stormwater collection and treatment facilities. (DEIR IV.K.39)
- **Impact UT-10 (NI)**, Sufficient water supply. (DEIR IV.K.56-60; C&R 3.10, 3.36, 3.115)
- **Impact UT-11 (NI)**, Cumulative effects on water supply. (DEIR IV.K.61)
- **Impact UT-12**, Sufficient landfill capacity. (DEIR IV.K.65-67)
- **Impact UT-13**, Compliance with sold waste statutes and regulations. (DEIR IV.K.68-39)
- **Impact UT-14**, Cumulative effects on regional landfill capacity. (DEIR IV.K.69)
- **Impact UT-16 (NI)**, Cumulative effects on energy and telecommunications infrastructure. (DEIR IV.K.81)

K. Public Services

- **Impact PS-2**, Effects on police services and performance. (DEIR IV.L.9-10)
- **Impact PS-3**, Cumulative effects on police services and performance. (DEIR IV.L.11)
- **Impact PS-5 (NI)**, Effects of demand for fire services and performance. (DEIR IV.L.16-19)
- **Impact PS-6**, Cumulative effects of fire services and performance. (DEIR IV.L.19-20)
- **Impact PS-7**, Construction effects on school services. (DEIR IV.L.25)
- **Impact PS-8**, Effects on school services. (DEIR IV.L.25-29)
- **Impact PS-9**, Cumulative effect on demand for educational facilities. (DEIR IV.L.29)
- **Impact PS-10**, Construction effects on hospital services. (DEIR IV.L.32)

- **Impact PS-11 (NI)**, Effects on hospital services and performance. (DEIR IV.L.32)
- **Impact PS-12 (NI)**, Cumulative effects on hospital services and performance. (DEIR IV.L.33)
- **Impact PS-13 (NI)**, Construction effects on library services. (DEIR IV.L.37)
- **Impact PS-14**, Effects on library services. (DEIR IV.L.38)
- **Impact PS-15 (NI)**, Cumulative effects on library services. (DEIR IV.L.38-39)

L. Biological Resources

- **Impact BI-5**, Consistency with local policies or ordinances protecting biological resources. (DEIR IV.M.55)
- **Impact BI-7**, Cumulative effects on biological resources (as to sensitive plants, animals and habitats other than rafting waterfowl). (DEIR IV.M.63-64; C&R 2.15.48-49)

M. Geology and Soils

- **Impact GE-1**, Construction effects on surface soils. (DEIR IV.N.23)
- **Impact GE-2**, Effects of ground shaking in the event of a major earthquake on people, structures and the perimeter berm. (DEIR IV.N.24-28; C&R 2.14.1)
- **Impact GE-3**, Effects of ground shaking in the event of a major earthquake due to liquefaction and settlement. (DEIR IV.N.28-29; C&R 2.14.1)
- **Impact GE-4**, Effects of settlement over time from static forces. (DEIR IV.N.29-30)
- **Impact GE-6**, Effects of structural damage on emergency rescue efforts in the event of a major earthquake. (DEIR IV.N.31-32; C&R 2.18.3, 3.47)
- **Impact GE-7**, Cumulative effects with regard to geology, soils or seismicity. (DEIR IV.N.32-33)

N. Hydrology and Water Quality

- **Impact HY-1**, Consistency with water quality standards and waste discharge requirements and effect on water quality. (DEIR IV.O.35-37)
- **Impact HY-3**, Construction effects on groundwater supplies. (DEIR IV.O.39)

- **Impact HY-4**, Effects of existing drainage patterns. (DEIR IV.O.39)
- **Impact HY-5**, No construction of housing within a 100-year flood hazard area if one is designated by the Federal Emergency Management Agency. (DEIR IV.O.39-40)
- **Impact HY-6**, No placement of structures within a 100-year flood hazard area that would impede or redirect flood flows. (DEIR IV.O.40-41)
- **Impact HY-7 (NI)**, No exposure to flooding associated with levee or dam failure. (DEIR IV.O.41)
- **Impact HY-8**, Effects on water quality. (DEIR IV.O.42-46)
- **Impact HY-9**, Effects on groundwater levels. (DEIR IV.O.46-47)
- **Impact HY-10**, Effects on water quality in rainwater runoff due to impervious surfaces. (DEIR IV.O.47; C&R 3.138)
- **Impact HY-11**, Susceptibility to inundation by seiche, tsunami, mudflow or wind waves. (DEIR IV.O.48)
- **Impact HY-12**, Effects of climate-induced sea level rise on people and structures. (DEIR IV.O.48-50; C&R 2.2.1, 2.17.8-10)
- **Impact HY-13**, Cumulative effects related to hydrology and water quality. (DEIR IV.O.50)

O. Hazards and Hazardous Materials

- **Impact HZ-6**, Effects caused by exposures to hazardous materials during dredging. (DEIR IV.P.46-47; C&R 3.145)
- **Impact HZ-7**, Effects caused by exposures to hazardous materials in during demolition of buildings and structures and transportation of debris. (DEIR IV.P.47-50)
- **Impact HZ-9**, Effects of temporary dewatering activities during construction. (DEIR IV.P.51; C&R 3.146)
- **Impact HZ-11**, Effects of general commercial/retail and household hazardous waste. (DEIR IV.P.52-53)
- **Impact HZ-12**, Effects of potential release of water treatment chemicals associated with new or upgraded water treatment plant. (DEIR IV.P.53-54)

- **Impact HZ-14**, Cumulative effects relating to hazardous materials. (DEIR IV.P.55-56)

P. Mineral and Energy Resources

- **Impact ME-1**, Effects of energy use during construction activities. (DEIR IV.Q.15)
- **Impact ME-2**, Effects (direct and cumulative) of energy use during operation. (DEIR IV.Q.15-17)

Q. Agricultural Resources and Farmland

- **Impact AG-1 (NI)**, No conversion of designated farmland, conflict with agricultural zoning of Williamson Act contract. (DEIR IV.R.2-3)
- **Impact AG-2**, Consistency with zoning for forest land and timberlands; no loss or conversion of forest land. (DEIR IV.R.3-4)

III. FINDINGS OF SIGNIFICANT OR POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section III and Section IIIA and in Section IV and Section IVA concern mitigation measures set forth in the FEIR. These findings discuss mitigation measures and improvement measures as proposed in the FEIR and as recommended for adoption by the Agency. The full explanation of the potentially significant environmental impacts is set forth in Section IV of the Draft EIR and in some cases is further explained in the C&R. In many cases, mitigation measures will be implemented by the Project Applicant or another developer or facility operator who enters into a disposition and development agreement or other agreement with the Agency. In these cases, implementation of mitigation measures by the Project Applicant or other developer or facility operator have been or will, in future agreements, be made conditions of Project approval. In the case of other mitigation measures, an agency of the City or another non-City agency will have responsibility for implementation of mitigation measures.

In any instance in which the mitigation measure will be implemented by an entity other than the Project Applicant, the entity that will be responsible for implementation is explained in the paragraphs below. Generally, City agencies will implement mitigation measures as part of their existing permitting or program responsibilities, such as the San Francisco Department of

Building Inspection ("DBI") or San Francisco Department of Public Works ("SFDPW") through their permit responsibilities, the SFPUC through its operation of the City sanitary sewer system and the existing and new or updated on-island treatment facility, or the San Francisco Municipal Transportation Agency ("SFMTA") as part of its operation and maintenance of traffic systems and transit services.

The mitigation measures proposed for adoption in Sections III, IIIA, IV and IVA are the same as the mitigation measures identified in the Final EIR for the Project as proposed. The full text of all of the mitigation measures as proposed for adoption is contained in Attachment B, the Mitigation Monitoring and Reporting Program.

As explained previously, Attachment B contains the Mitigation Monitoring and Reporting Program required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. It provides a table setting forth each mitigation measure listed in the FEIR that is required to reduce or avoid a significant adverse impact. Attachment B also specifies the entity responsible for implementation of each measure, and establishes monitoring actions and a monitoring schedule.

Attachment C lists only those mitigation measures for which the Agency is responsible. The Agency hereby acknowledges and agrees that it is responsible for the mitigation measures listed on Attachment C.

Based on the analysis contained in the FEIR, other considerations in the record, and the standards of significance, the Agency finds that that implementation of all of the proposed mitigation measures discussed in this Section III and Section IIIA will reduce potentially significant impacts to a less-than-significant level.

The DEIR evaluates the impacts of not only the Principal Project described in Section I.A.1 above, but also the Project Variants described in Section I.A.2. Unless otherwise noted below, any additional impacts under each Project Variant would be less than significant and would not change the analysis or conclusions associated with the Principal Project.

A. Cultural Resources and Paleontological Resources

- **Impact CP-1: Project construction activities could disturb significant archaeological resources, if such resources are present within the Project Site.** (DEIR IV.D.17-22; C&R 3.78-79, 3.119) Ground-disturbing construction activities associated with the Project could adversely affect significant archaeological resources under California Register of Historic Resources ("CRHR") Criterion 4 (Informational Potential) by impairing the ability of such resource to convey important scientific and historical information.

M-CP-1: Archaeological Testing, Monitoring, Data Recovery and Reporting. M-CP-1 requires a qualified archaeological consultant selected from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist to prepare and submit a plan for pre-construction testing, construction monitoring and data recovery, for approval by the San Francisco Environmental Review Officer to ensure adherence to M-CP-1 and the standards and requirements set forth in the Archeological Research Design and Treatment Plan, thereby ensuring the significance of CRHR-eligible archaeological resources would be preserved and/or realized in place. Therefore, implementation of M-CP-1 would reduce Impact CP-1 to a less than significant level. (DEIR IV.D.18; C&R 3.78-79, 3.119.)

- **Impact CP-2: Project construction activities could disturb human remains, if such resources are present within the Project Site.** (DEIR IV.D.22) Construction activities could adversely affect the scientific significance of an archaeological resource.

  M-CP-1 (described above) requires compliance with applicable state and federal laws regarding human remains and of associated or unassociated funerary objects discovered during any soils-disturbing activity. This measure includes immediate notification of the Coroner of the City and County of San Francisco upon any such discovery and in the event of the Coroner's determination that the human remains are Native American remains, notification of the Native American Heritage Commission, who shall appoint a Most Likely Descendant (Public Resources Code Section 5097.98). Implementation M-CP-1 would reduce Impact CP-2 to less than significant levels. (DEIR IV.D.22.)

- **Impact CP-3: Project construction activities could disturb paleontological resources.** (DEIR IV.D.22-23) Construction activities associated with the Project could disturb significant paleontological resources that possibly exist in the Franciscan Formation and sedimentary Colma Foundation, impairing the ability of such resources to yield important scientific information.

  M-CP-3: Paleontological Resources Monitoring and Mitigation Program. M-CP-3 requires a qualified paleontologist to implement an approved Paleontological Resources Monitoring and Mitigation Program. The program shall include a description of the following: when and where construction monitoring would be required; emergency discovery procedures, sampling and data recovery procedures; procedure for the preparation, identification, analysis, and curation of fossil

specimens and data recovered; preconstruction coordination procedures; and procedures for reporting the results of the monitoring program. Implementation of the approved plan for monitoring, recovery, identification and curation would ensure that the scientific significance of the resource would be preserved and/or realized. Therefore, implementation of M-CP-3 would reduce Impact CP-3 to a less than significant level. (DEIR IV.D.23.)

- **Impact CP-6: Alterations to the contributing landscape areas of Buildings 1, 2, and 3 could impair the significance of those historical resources.** (DEIR IV.D.53-54) Removal of the character defining retaining walls and alteration of the driveways west of Building 1, and alterations of contributing landscapes of Building 1, could cause a substantial adverse change in the significance of an historic resource.

  M-CP-6: Review of Alterations to the Contributing Landscape of Building 1. Implementation of M-CP-6 would reduce Impact CP-6 to a less than significant level by prohibiting TIDA from approving any design proposal for Building 1 unless it finds that the alterations, taken together with the alterations to the building, comply with the Secretary's Standards. As set forth in the Document Review and Design Approval Procedure ("DRDAP") attached to the Design for Development, TIDA shall not approve Schematic Design Documents for historic resources without first consulting with a qualified professional preservation architect, planner, architectural historian or other professional experienced in the application of Secretary's Standards for Rehabilitation to adaptive reuse projects. Conformity with the Secretary's Standards, as called for by the regulatory program established by the draft Design for Development, and also as required by Mitigation Measure M-CP-6, would ensure that the potential impacts on historic architectural resources would be less than significant. (DEIR IV.D.54; C&R 2.6.17-18.)

- **Impact CP-7: New construction within the contributing landscapes of Buildings 1, 2, and 3 could impair the significance of those historical resources.** (DEIR IV.D.54-55) Removal of character-defining features and introduction of new incompatible features within these areas could materially impair the physical characteristics that convey the historical significance of Buildings 1, 2, and 3 and that justify their inclusion in the CRHR.

  M-CP-7: Review of New Construction within the Contributing Landscape West of Building 1. M-CP-7 would reduce Impact CP-7 to a less than significant level by prohibiting TIDA from approving any design proposal for Building 1 unless it finds

that any new construction, taken together with the alterations to the building, comply with the Secretary's Standards. As set forth in the DRDAP attached to the Design for Development, TIDA shall not approve Schematic Design Documents for historic resources without first consulting with a qualified professional preservation architect, planner, architectural historian or other professional experienced in the application of Secretary's Standards for Rehabilitation to adaptive reuse projects. Conformity with the Secretary's Standards, as called for by the regulatory program established by the draft Design for Development, and also as required by Mitigation Measure M-CP-7, would ensure that the potential impacts on historic architectural resources resulting from alterations and additions associated with rehabilitation and reuse of Buildings 1, 2, and 3, would be less than significant. (DEIR IV.D.55; C&R 2.6.15-23.)

B. Transportation

Impact TR-24: Implementation of the Proposed Project without the Ramps Project would result in queues extending from the westbound Bay Bridge at Yerba Buena Island on-ramps which would impact Muni line 108-Treasure Island operations. (DEIR IV.E.99-100; C&R 2.7-54) Under conditions without the Ramps Project, delays to Muni operations would be significant due to queues from the Bay Bridge on-ramp approaches from Yerba Buena Island.

M-TR-24: Provide Transit Only Lane between First Street on Treasure Island and the transit and emergency vehicle-only westbound Bay Bridge on-ramp. Implementation of M-TR-24 would provide a transit and emergency vehicle-only lane thus allowing Muni vehicles to bypass vehicle queues that may occur on the Bay Bridge on-ramp approaches from Yerba Buena Island. Therefore the impact to Muni operations would be reduced to a less-than-significant level. The implementation of a transit-only lane would be triggered if impacts to the proposed Muni line 108-Treasure Island are observed over the course of six months at least 50 percent of the time during the AM, PM, or Saturday peak periods. (DEIR IV.E.99-100; C&R 2.7.54, 2.7.58. 3.28.)

- **Impact TR-26: Implementation of the Proposed Project with the Ramps Project would result in significant impacts to Muni line 108-Treasure Island operations.** (DEIR IV.E.101-102) Under conditions with the Ramps Project, delays to Muni operations would be significant due to queues from the westbound on-ramp on the east side of Yerba Buena Island.

M-TR-24 (described above) would allow Muni vehicles to bypass vehicle queues that may occur on the Bay Bridge on-ramp approaches from Yerba Buena Island and therefore the impact to Muni operations would be reduced to a less-than-significant level. (DEIR IV.E.101-102; C&R 2.7.54, 2.7.58. 3.28.)

C. Noise

- **Impact NO-5: Proposed residences and other sensitive uses would be located in incompatible noise environments.** (DEIR IV.F.27-28) Residences and other sensitive uses would be located in areas with existing plus projected L_{dn} noise levels in excess of recommended levels.

  M-NO-5: Residential, Schools, and Transient Lodging Land Use Plan Review by Qualified Acoustical Consultant. M-NO-5 would avoid potentially significant noise impacts to proposed residential and other sensitive use development in the Development Plan Area by ensuring appropriate noise analyses and implementation of appropriate necessary noise reduction and insulation measures, so that noise levels would be consistent with the General Plan Land Use Compatibility Guidelines for Community Noise thresholds. Post-construction monitoring to verify the adequacy of noise attenuation measures is also required. Through this mechanism, noise impacts on residents and other sensitive land uses would be mitigated to less-than-significant levels. (DEIR IV.F.27-28.)

- **Impact NO-6: Operation of stationary sources at the proposed public utility facilities (e.g., water distribution systems, wastewater collection and treatment facilities, electric substation facilities, etc.) would increase existing noise levels, potentially exceeding noise level standards.** (DEIR IV.F.28-29) Although specific information regarding utility facilities is currently not available, many of them would require the operation of stationary noise sources, such as pump stations, which could generate noise levels in excess of Land Use Compatibility Guidelines threshold recommendations, depending on the types and location of nearby land uses.

  M-NO-6: Stationary Operational Noise Sources. M-NO-6 would require utility and industrial stationary noise sources (e.g., pump stations, electric substation equipment, etc.) to be designed with adequate noise attenuating features to achieve acceptable regulatory noise standards for industrial uses as well as to achieve acceptable levels at the property lines of nearby residences or other noise sensitive uses, as determined by the San Francisco Land Use Compatibility Guidelines for Community Noise standards. To ensure that adequate performance of the attenuating

features would be achieved, operational noise levels of the utility facilities would be monitored, and if stationary noise sources were found to exceed the applicable noise standards, additional noise attenuation measures would be applied in order to meet the applicable noise standards. With implementation of these measures, impacts of stationary noise sources would be mitigated to less-than-significant levels. (DEIR IV.F.29.)

D. Air Quality

- **Impact AQ-1: Construction of the Proposed Project would result in localized construction dust-related air quality impacts.** (DEIR IV.G.24-27) Construction of the Proposed Project would result in localized construction dust-related air quality impacts primarily from fugitive sources.

  M-AQ-1: Implementation of Bay Area Air Quality Management District ("BAAQMD")-Identified Basic Construction Mitigation Measures. M-AQ-1 requires that all eight BAAQMD-recommended best management practices for dust abatement be included in the Project's Construction Dust Control Plan (required under the San Francisco Health Code), thereby reducing project-generated construction dust to less-than-significant levels. These best management practices generally include the following: water down exposed surfaces; cover all haul trucks transporting loose materials off-site; remove all visible mud or dirt tracked-out onto adjacent public roads; as soon as possible, complete construction of all roadways, driveways, and sidewalks that are to be paved; minimize idling times of equipment; maintain all construction equipment per manufacturers specifications; post visible signs of the point of contact to receive dust complaints and who will take corrective action within 48 hours. Studies have demonstrated (Western Regional Air Partnership, U.S. Environmental Protection Agency) that the application of best management practices at construction sites have significantly controlled fugitive dust emissions. Therefore, incorporating M-AQ-1 into the required Construction Dust Control Plan would reduce project-generated construction dust to a less-than-significant level. (DEIR IV.G.25-27.)

  In addition, **M-AQ-4** (described below in Section IV.E. of these Findings) would further reduce project-generated construction dust. **M-AQ-4** identifies 13 measures suggested by the BAAQMD to reduce particulate matter emissions during construction activities. These measures are in addition to the measures included in M-AQ-1 described above. (DEIR IV.G.37-38; C&R 2.9.2, 2.9.9.)

E. **Public Services**

- **Impact PS-1: Project construction activities could result in adverse physical impacts or in the need for new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for police protection.** (DEIR IV.L.8-9) Construction activities could result in increased demand for police services if construction activities cause traffic conflicts.

  Implementation of **M-TR-1** (Construction Traffic Mitigation Plan) would provide access to the Development Plan Area site during construction. As required by M-TR-1, access to the Development Plan Area site during construction would be maintained with implementation of a Construction Traffic Management Plan ("CTMP"). The CTMP would provide necessary information to various contractors and agencies about how to maximize the opportunities for complementing construction management measures and to minimize the possibility of conflicting impacts on the roadway system, while safely accommodating the traveling public in the area. Incorporating M-TR-1 would reduce this impact to a less-than-significant level. (DEIR IV.L.8-9; C&R 3.27.)

  Potential impacts associated with the construction of the proposed new joint Police-Fire station are addressed in the DEIR in Section IV.E, Transportation, pp. IV.E.67 (Impact TR-1); Section IV.F, Noise, pp. IV.F.14-IV.F.20 (Impacts NO-1 and NO-2); Section IV.G, Air Quality, pp. IV.G.24-IV.G.38 (Impacts AQ-1, AQ-2, AQ-3, and AQ-4); Section IV.M, Biological Resources, pp. IV.M.41-IV.M.63 (Impacts BI-1, BI-2, BI-3, BI-4, and BI-6); Section IV.O, Hydrology and Water Quality, pp. IV.O.35-IV.O.41 (Impacts HY-1, HY-2, HY-3, HY-4, HY-5, HY-6, and HY-7)); and Section IV.P, Hazards and Hazardous Materials, pp. IV.P.39-IV.P.47 (Impacts HZ-1, HZ-2, HZ-3, HZ-4, HZ-5, and HZ-6). As discussed in these sections, construction impacts, including impacts associated with construction of the joint Police-Fire Station, are less than significant, or would be mitigated to less-than-significant levels with implementation of mitigation measures.

- **Impact PS-4: Project construction activities could result in adverse physical impacts or in the need for new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection.** (DEIR IV.L.15-16) Construction activities could impede fire protection services.

Implementation of **M-TR-1** (Construction Traffic Mitigation Plan; described above) would provide emergency access throughout Islands during construction. Compliance with the CTMP would require that emergency access is not obstructed during construction activities. Thus, construction of the Proposed Project would not affect fire response times, nor would construction require expansion of, or replacement of fire stations. Therefore, incorporating M-TR-1 would reduce this impact to a less-than-significant level. (DEIR, IV.L.16; C&R 3.27.)

Construction-related impacts of the new Police-Fire station are addressed in Section IV.E, Transportation, pp. IV.E.67 (Impact TR-1); Section IV.F, Noise, pp. IV.F.14-IV.F.20 (Impacts NO-1 and NO-2); Section IV.G, Air Quality, pp. IV.G.24-IV.G.38 (Impacts AQ-1, AQ-2, AQ-3, and AQ-4); Section IV.M, Biological Resources, pp. IV.M.41-IV.M.63 (Impacts BI-1, BI-2, BI-3, BI-4, and BI-6); Section IV.O, Hydrology and Water Quality, pp. IV.O.35-IV.O.41 (Impacts HY- 1, HY-2, HY-3, HY-4, HY-5, HY-6, and HY-7)); and Section IV.P, Hazards and Hazardous Materials, pp. IV.P.39-IV.P.47 (Impacts HZ-1, HZ-2, HZ-3, HZ-4, HZ-5, and HZ-6). As discussed in those sections, construction impacts, including construction of the joint Police-Fire Station, are less than significant, or would be mitigated to less-than-significant levels with implementation of construction-related mitigation measures.

F. Biological Resources

- **Impact BI-1: The Proposed Project may adversely affect dune gilia and locally significant plants, special status animals, and protected or special-status marine species, such as marine mammals, salmon, steelhead, green sturgeon, longfin smelt, harbor seals and California sea lions.** (DEIR IV.M.41-47; C&R 3.40-41) The Proposed Project may directly or indirectly impact the listed organisms themselves.

  M-BI-1a: Survey for Special-Status Plants. Surveying for and establishing buffer zones around special-status plants on Yerba Buena Island. If not feasible, special-status species would be restored on-site on a 1:1 basis.

  M-BI-1b: Pre-Project Survey for Nesting Birds. No work shall be conducted in any no-work buffer zone established by a qualified biologist if it could disrupt bird breeding.

M-BI-1c: Minimizing Disturbances to Bats. Removal of trees or buildings showing bat activity shall occur during the period least likely to disturb bats, as determined by a qualified biologist.

M-BI-1d: Control of Domestic and Feral Animals. To avoid conflicts with Yerba Buena Island wildlife, the Island's Covenants, Conditions and Restrictions would limit off-leash dogs and feeding of feral cats.

M-BI-1e: Monitoring During Off-Shore Pile Driving. Off-shore pile driving shall be monitored by a qualified marine biologist and bubble curtains will be used if necessary to reduce sound/vibration to acceptable levels.

With implementation of M-BI-1a, M-BI-1b, M-BI-1c, and M-BI-1d, which include requirements for conducting surveys for special-status plants and nesting birds, removing trees and demolishing buildings with bat activity at certain times of the year and establishing restrictions on off-leash dogs and feeding feral cats, the impacts on terrestrial species identified as rare, threatened, endangered, candidate, sensitive, or other special status by the California Department of Fish & Game or U.S. Fish and Wildlife Service from the Proposed Project would be less than significant. Furthermore, these resources would be protected and enhanced by the Habitat Management Plan implementation measures, including the removal of non-native vegetation and restoring native habitats. (DEIR IV.M.42; C&R 2.15.44-45, 2.15-50-53. 3.3-4, 3.45-46.) M-BI-1e would also protect special-status fish species such that any potential pile driving noise impacts on special-status fish would be less than significant after mitigation due to on-site monitoring by a qualified marine biologist during pile driving activities and other steps to reduce the generation of pile driving noise. (DEIR IV.M.45; C&R 2.15.39, 2.15.50-51.)

- **Impact BI-2: The project may adversely affect Central Coast Riparian Scrub (riparian habitat), California Buckeye, or SAV/eelgrass beds (other sensitive natural communities).** (DEIR IV.M.47-49; C&R 2.15.32-34, 2.15.50-51, 3.4) Riparian vegetation (Central Coast Riparian Scrub on Yerba Buena Island) and one sensitive natural community (California Buckeye Woodland on Yerba Buena Island) would be protected by the Habitat Management Plan, considered to be part of the Project, therefore no impact is anticipated. Eelgrass and SAV beds could be impacted by the improvement work along and adjacent to Treasure Island's armored shorelines.

M-BI-2a: Restriction of Construction Activities. Limits activities to terrestrial and upper intertidal zones to greatest extent possible.

M-BI-2b: Seasonal Limitations on Construction Work. Shoreline construction work limited to the period between March 1 and November 30 to avoid disturbances to spawning herring occurring in SAV surrounding Treasure Island. (C&R 3.135)

M-BI-2c: Eelgrass Bed Survey and Avoidance. Pre-construction survey and minimization of transit through and avoidance of anchoring in any eelgrass beds around Treasure Island.

M-BI-2a and M-BI-2b would act to limit the physical disturbance to these habitats and the sensitive marine communities they support, as well as prevent the loss of SAV and potential Pacific herring spawning substrate. In particular, M-BI-2a and M-BI-2b would restrict all construction activities for geotechnical stabilization of the perimeter berm, shoreline heightening and repair work, stormwater outfall improvements to the terrestrial and upper intertidal zones. All shoreline work would be conducted between March and November to limit disturbance. These mitigation measures would reduce impacts by limiting activities to the maximum extent practicable in the lower intertidal and near subtidal zones. M-BI-2c would further ensure that any work along Treasure Island's shoreline, as well as the use of barges for delivery of equipment and removal of debris, would result in less-than-significant impacts on SAV beds located around the island and associated Pacific herring spawning substrate and habitat. M-BI-2c is intended to ensure that any changes in the eelgrass beds are reflected in the actions and environmental protections applied to ongoing operations. (DEIR IV.M.48-49; C&R 2.15.32-34, 2.15.50-51, 3.4. 3.46, 3.79, 3.135.)

- **Impact BI-3: The project may adversely affect biological resources regulated by the Clean Water Act or the Rivers and Harbors Act.** (DEIR IV.M.49) Eelgrass beds are "Special Aquatic Sites" regulated under Section 404 of the Clean Water Act and may be adversely affected by shoreline work, removal and installation of storm drains, and other Project elements.

  Implementation of **M-BI-2a**, **M-BI-2b** and **M-BI-2c** (described above) would reduce potential impacts to less-than-significant levels by limiting the aerial extent and severity of disturbance in the lower intertidal habitat and nearshore subtidal habitat, and timing of work in the shoreline areas so that eelgrass beds are not disturbed. (DEIR IV.M.48-50; C&R 2.15.32-34, 2.15.50-51, 3.4. 3.46, 3.79, 3.135.)

- **Impact BI-4: The project may adversely affect the movement of migratory birds and/or fish passage.** (DEIR IV.M.50-55) (*Impact BI-4 is significant and*

unavoidable for rafting waterfowl as addressed in Section IV.G. of these Findings.) Avian collisions with multi-story residential and commercial buildings are a potentially significant impact. Construction activities at the proposed Ferry Terminal and Sailing Center could cause changes in normal movement behavior of fish and marine mammals, including protected marine species.

M-BI-4a: Minimizing Bird Strikes. TIDA shall ensure the measures are taken with respect to the following to minimize potential for bird strikes: (i) building design and landscaping; (ii) lighting; (iii) antennae, monopole structures and rooftop elements; (iv) educating residents and occupants; and (v) documentation of mitigation measures. M-BI-4a will reduce the impact on birds to less-than-significant. CEQA mitigation must be roughly proportional to a project's impact, and for both bird strike impacts and mitigation, the conclusions are largely dependent on the professional judgment of the analysts and experts in the field. The information cited in the EIR and the expert consultant's opinions regarding this impact support the conclusion that implementation of Mitigation Measure M-BI-4a would reduce the potential adverse effects to less-than-significant levels. (DEIR IV.M.50-51, IV.M.52-54; C&R 2.15.15-19, 2-15.46-47.)

- **Impact BI-6: The Proposed Project may result in adverse effects on intertidal and subtidal marine habitat and biota located along Treasure Island's shoreline and nearshore regions of the Bay as well as Bay waters.** (DEIR IV.M.56-63; C&R 3.41) Construction and operation of the Proposed Project, and any regular maintenance, could cause short- and long-term habitat alterations.

M-BI-2a: Restriction of Construction Activities; M-BI-2b: Seasonal Limitations on Construction Work; M-BI-2c: Eelgrass Bed Survey and Avoidance. Impacts are expected to be less-than-significant, or would be, reduced to less-than-significant levels with application of the listed mitigation measures (described above), or in the LTMS (long term management strategy) guidelines and requirements described in the DEIR with regard to dredging. (DEIR IV.M.48-49, 56-63; C&R 2.15.32-33, 2.15.41.)

M-BI-4a: Minimizing Bird Strikes. Lighting reduction techniques, including the use of low-voltage, sodium, and blue-green spectrum lights, as well as appropriate placement and shielding of lights, to prevent impacts to birds would also reduce lighting impacts to marine biota to a less-than-significant level. In addition, the proposed Design for Development guidelines for lighting in open space areas call for

"pedestrian scaled lighting" including relatively low light standards with limited spill, and the guidelines for the Northern Shoreline Park note that "lighting should be kept to a minimum around the perimeter of the Island." Within its permit jurisdiction, which includes a 100' shoreline band around both islands, the Bay Conservation and Development Commission would also apply its guidelines which call for locating night lighting away from sensitive habitat areas. (DEIR IV.M.60; C&R 2.15.36.)

Variant B3 Only (Breakwater Variant 3)

- **Impact BI-8 (Variant B3): For Variant B3, delayed construction of the southern breakwater could result in adverse impacts on sensitive species, such as protected eelgrass beds, protected marine mammals, or protected fish species that are not currently present in or known to frequent the area, but could establish themselves there by the time the southern breakwater is constructed.** (DEIR VI.29-30) Because of the delayed construction schedule, construction of the southern breakwater could result in a significant impact on sensitive, protected eelgrass beds, protected marine mammals, or protected fish species such as green sturgeon (*Acipenser medirostris*) that are not currently present in or known to frequent the area, but could be there by the time the southern breakwater is constructed.

  M-BI-8 (Variant B3): Minimize Disturbance to Newly Established Sensitive Species During Construction of Southern Breakwater. If a pre-construction survey shows that the planned establishment or construction of the southern breakwater would affect utilization of the area by protected fish species or by marine mammals as a haul-out area, construction and establishment of the southern breakwater will be done, under consultation with National Marine Fisheries Service, in a manner that does not adversely affect the protected fish species or prevent the continued utilization of the area by harbor seals or sea lions. Therefore, the impact would be less than significant. (DEIR VI.30; C&R 2.15.48.)

Variant C2 Only (Supplemental Fire Fighting Water Supply Variant 2)

- **Impact BI-9 (Variant C2): Depending on the intake diameter and amount of water suction occurring with Variant C2, there is the potential for significant fish and invertebrate entrainment and/or impingement as well as disturbance to the Islands' intertidal and near subtidal habitat and associated marine biota.** (DEIR VI.36-37) The potential for fish impingement and/or entrainment of important and protected fish and invertebrates such as green sturgeon (*A. medirostris*), salmon

species, pacific herring (*Clupea pallasii*), longfin smelt (*Spirinchus thaleichthys*), Dungeness crabs (*Metacarcinus magister*), and shrimp could be significant if the Bay intake pipe is not designed and constructed in a manner that prevents fish impingement.

M-BI-9 (Variant C2): Impingement and/or Entrainment of Protected Fish and Invertebrates. For Variant C2, the Bay water intake pipe for the supplemental fire water supply shall be designed and constructed in a manner that prevents impingement of fish and macroinvertebrates, such as installing the intake pipe inside a screened subsea vault, thereby reducing the impact to less than significant levels. (DEIR VI.37; C&R 2.15.48.)

G. Geology and Soils

- **Impact GE-5: Development of the Proposed Project could result in potential damage or injury as a result of slope failures including the perimeter rock berms.** (DEIR IV.N.30-31; C&R 3.100-101) Steep slopes on Yerba Buena Island, most notably along Macalla Road, could result in slope failure.

M-GE-5: Slope Stability. Unless slope stability indicates a static factor of safety of 1.5 and a seismic factor of safety of 1.1 are present or can be established, new improvements on Yerba Buena Island shall be located at least 100 feet from the top of the existing slope along Macalla Road. Implementation of Mitigation Measure M-GE-5 would reduce slope stability hazards to less-than-significant levels. (DEIR IV.N.30; C&R 3.80, 3.135.)

H. Hydrology and Water Quality

- **Impact HY-2: The Proposed Project could require disposal of dewatered groundwater during construction.** (DEIR IV.O.38; C&R 3.43) Near-surface groundwater removed from the Islands during excavation activities could contain harmful pollutants currently contained in the subsurface soils and groundwater.

M-HZ-1: Soil and Groundwater Management Plan (described below). M-HZ-1 would require the preparation of a Soil and Groundwater Management Plan ("SGMP"). Compliance with the Soil and Groundwater Management Plan would ensure that water effluent from dewatering activities would meet applicable Regional Water Quality Control Board ("RWQCB") or SFPUC standards, and would therefore reduce the potential for groundwater dewatering activities to result in water quality

pollution. With implementation of Mitigation Measure M-HZ-1, the impact would be less than significant. (DEIR IV.O.38.)

I. **Hazards and Hazardous Materials**

- **Impact HZ-1: Construction of the Proposed Project could expose construction workers to unacceptable levels of known or newly discovered hazardous materials as a result of disturbance of subsurface soils and/or groundwater with contaminants from historic uses.** (DEIR IV.P.39-43; C&R 2.18.1-2, 3.80, 3.145) As with any ground disturbing construction activities in areas with a history of hazardous materials use, and despite cleanup conducted to date, there is always a potential to encounter previously unidentified contamination. If significant levels of hazardous materials in site soils are discovered, health and safety risks to workers could occur.

  M-HZ-1: Soil and Groundwater Management Plan. Prior to issuance of a building or grading permit for any one or more parcels, there shall be regulatory approval by California Department of Toxic Substances Control ("DTSC") or RWQCB for the proposed land use. Construction specifications for each parcel shall include implementation of an SGMP prepared by a qualified environmental consulting firm and reviewed and agreed to by DTSC and RWQCB. The SGMP shall include: soil management requirements; groundwater management requirements; and an unknown contaminant/hazard contingency plan. With implementation of Mitigation Measure M-HZ-1: Soil and Groundwater Management Plan, in accordance with California Division of Occupational Safety & Health requirements, construction activities would not expose construction workers to unacceptable levels of known hazardous materials and the potential impact would be reduced to less-than-significant levels. (DEIR IV.P.41; C&R 2.18.1-2, 2.18.6, 3.80, 3.145.)

- **Impact HZ-2: Construction activities associated with the Proposed Project could expose the public, including existing and future residents as well as visitors and employees, to unacceptable levels of known or newly discovered hazardous materials as a result of disturbance of soil and/or groundwater with contaminants from historic uses.** (DEIR IV.P.43-44) Due to the phased approach to development across Treasure Island, remediation activities will be ongoing in some areas for several years and occurring concurrently with the early phases of development. Therefore, both existing and future residents as well as other members of the public could become exposed to hazardous materials being disturbed through

construction activities, either by inhalation of dust containing contaminants or by direct exposure to materials on construction sites, with health effects similar to those described for construction workers in Impact HZ-1.

M-HZ-1: Soil and Groundwater Management Plan. The SGMP would include all notification, site access protection (i.e. fencing, isolation of excavated soils, dust control, etc.), and other requirements that would protect the public from exposure to any known or newly discovered hazardous materials, as well as notification protocols for situations where suspected contamination is encountered, and would therefore reduce the potential to expose to less-than-significant levels. (DEIR IV.P.43; C&R 2.18.1-2, 2.18.6, 3.80, 3.145.)

- **Impact HZ-3: Construction of the Proposed Project could expose the environment to unacceptable levels of known or newly discovered hazardous materials as a result of disturbance of soil and/or groundwater with contaminants from historic uses.** (DEIR IV.P.44) Improperly handled or stockpiled contaminated soils could affect other areas of Treasure Island or the San Francisco Bay.

  M-HZ-1: Soil and Groundwater Management Plan. M-HZ-1 would require that all construction activities adhere to the SGMP as approved by DTSC or the RWQCB. The SGMP would include detailed protocols for handling, testing, storage, and disposal protocols for all excavated soils and extracted groundwater. In addition, as also discussed in Section IV.O, Hydrology and Water Quality, the project sponsors and each parcel developer would be required to obtain coverage under the NPDES General Construction Permit for Discharges of Stormwater Associated with Construction Activities (NPDES General Permit), under the RWQCB, with a condition that best management practices be adhered to. Implementation of the SGMP as required by Mitigation Measure M-HZ-1, as well as regulatory requirements of the NPDES General Permit, would result in a less-than-significant impact on the environment from construction activities. (DEIR IV.P.44; C&R 2.18.1-2, 2.18.6, 3.80, 3.145.)

- **Impact HZ-4: Construction of the Proposed Project could expose construction workers, the public or the environment to unacceptable levels of hazardous materials as a result of dewatering activities that extract contaminated groundwater from historic uses.** (DEIR IV.P.44-45) There is a strong likelihood that dewatering would be required during construction activities.

M-HZ-1: Soil and Groundwater Management Plan. The SGMP would require collection of groundwater data prior to dewatering. Any water extracted would be analyzed and any chemicals found in groundwater could be reused for dust control, treated and discharged under a site-specific NPDES permit, discharged to the sanitary sewer system, or disposed of at an approved off-site facility, depending on the results of the sampling and agency approval. Compliance with the SGMP would ensure that water effluent from dewatering activities would meet applicable handling, storage and disposal requirements from RWQCB or SFPUC, and would therefore reduce the potential to expose to less-than-significant levels. (DEIR IV.P.45; C&R 2.18.1-2, 2.18.6, 3.80, 3.145.)

- **Impact HZ-5: Construction activities associated with the Proposed Project could expose construction workers, the public or the environment to unacceptable levels of hazardous materials associated with encountering previously unidentified underground storage tanks.** (DEIR IV.P.45-46) Previously unidentified underground storage tanks could be encountered during construction activities and, if not prepared, workers could be exposed to hazardous materials or waste during excavation activities.

  M-HZ-1: Soil and Groundwater Management Plan. The SGMP would be implemented for all construction activities and would include protocols for encountering previously unidentified underground storage tanks and associated contamination. Implementation of M-HZ-1, and adherence to existing regulatory requirements requiring that construction immediately cease if an underground storage tanks is encountered, would ensure that potential impacts related to discovering unanticipated underground storage tanks would be less than significant. (DEIR IV.P.45-46; C&R 2.18.1-2, 2.18.6, 3.80, 3.145.)

- **Impact HZ-8: Hazardous materials used on site during construction activities (e.g. solvents) could be released to the environment through improper handling or storage.** (DEIR IV.P.50-51) Inadvertent release of large quantities of hazardous materials such as fuels, oils, solvents, and glues used in construction activities into the environment could adversely impact soil, surface waters, or groundwater quality.

  M-HZ-8: Construction Best Management Practices. Use of construction best management practices during project construction would minimize potential negative effects to groundwater and soil. Such practices would apply to (i) use, storage and disposal of chemical products used in construction, (ii) creating a dedicated area for

refueling and maintenance with appropriate spill control equipment, (iii) properly containing and removing grease and oils during routine maintenance of construction equipment, and (iv) properly disposing of discarded containers of fuel and other chemicals. Implementation of the construction best management practices would reduce the potential impact from inadvertent releases during project construction activities to less than significant. (DEIR IV.P.50-51.)

- **Impact HZ-10: Migration of residual contamination could expose existing and future residents, employees, or the general public to hazardous materials causing acute or chronic health effects.** (DEIR IV.P.51-52; C&R 3.111) With continued remediation efforts currently being conducted by the Navy and any that would be assumed by TIDA as overseen by the DTSC or RWQCB, the potential for residual contamination to significantly impact residents, employees or the general public would be minimized. However, there could be residual contamination with volatile components, such as chlorinated solvents.

  M-HZ-10: Soil Vapor Barriers. Proposed building plans on parcels with residual contamination that have volatile components such as chlorinated solvents (PCE and TCE) or petroleum hydrocarbons shall include vapor barriers beneath the foundation for the prevention of soil vapor intrusion. With implementation of M-HZ-10, the potential impacts to future residents, visitors, or employees from these residual volatile contaminants would be reduced to less-than-significant levels. (DEIR IV.P.52; C&R 3.80-81, 3.146.)

- **Impact HZ-13: The Proposed Project includes developing the existing school site into a K-8 school. The existing school is located in the vicinity of Site 12 where hazardous materials have been released to the subsurface. If not remediated appropriately, students, workers, or the public could be exposed to adverse conditions related to hazardous materials emissions.** (DEIR IV.P.54-55)

  M-HZ-13: Human Health Risk Assessment. Prior to reopening the site for an elementary school use, a Voluntary Clean-Up Agreement shall be entered into and a Preliminary Endangerment Assessment prepared. If the Preliminary Endangerment Assessment discloses the presence of a hazardous materials release, or threatened release, or the presence of naturally occurring hazardous materials, at or near the school site at concentrations that could pose a significant risk to children attending the school or adults working at the school, or discloses that ongoing or planned remediation activities to address such a release near the school could pose a

significant risk to children attending the school or adults working at the school, then the school shall not reopen until all actions required by DTSC to reduce the increased cancer risk from exposure to such releases to less than one in a million (1x10-6) and reduce the increased risk of noncancerous toxic effects such that the Hazard Index for chronic and acute hazards is less than one. With implementation of M-HZ-13, the potential impact would be reduced to less-than-significant. (DEIR IV.P.54-55; C&R 3.80-81, 3.146.)

IIIA. FINDINGS FOR POTENTIALLY SIGNIFICANT CUMULATIVE IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

A. Cultural and Paleontological Resources

- **Impact CP-4: Disturbance of archaeological and paleontological resources, if encountered during construction of the Proposed Project, could contribute to a cumulative loss of significant historic and scientific information.** (DEIR IV.D.24) When considered with other past and proposed development projects along and near the San Francisco Bay shoreline, disturbance of archeological and paleontological resources within the Project Site would contribute to a cumulative loss of significant historic and scientific information about California and Bay Area regional history and prehistory.

  M-CP 1: Archaeological Testing, Monitoring, Data Recovery and Reporting. M-CP-1 (described above) requires approval of a plan for pre-construction testing, construction monitoring and data recovery by the San Francisco Environmental Review Officer to ensure adherence to M-CP-1and the standards and requirements set forth in the ARDTP. (DEIR IV.D.18; C&R 3.78-79, 3.119.)

  M-CP 3: Paleontological Resources Monitoring and Mitigation Program. M-CP-3 requires a qualified paleontologist to implement an approved Paleontological Resources Monitoring and Mitigation Program. (DEIR IV.D.23.)

  As discussed above, implementation of an approved plan for testing, monitoring, and data recovery would preserve and realize the information potential of archaeological and paleontological resources. The recovery, documentation, and interpretation of information about archaeological and paleontological resources that may be encountered within the Project Site would enhance knowledge of prehistory and history. This information would be available to future archaeological and

paleontological studies, contributing to the body of scientific and historic knowledge. Therefore, implementation of mitigation measures **M-CP-1** and **M-CP-3**, the Project's contribution to cumulative impacts would be less than cumulatively considerable. (DEIR IV.D.24)

IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS THAN SIGNIFICANT LEVEL

The DEIR identified a number of significant environmental effects (or impacts) to which the project would cause or contribute. Some of these significant effects can be avoided or reduced to a less-than-significant level through the adoption of feasible mitigation measures; these effects are described in Section III above. Other effects are significant and unavoidable. Some of these unavoidable significant effects can be substantially lessened by the adoption of feasible mitigation measures, but still remain significant and unavoidable with or without mitigation. Other significant, unavoidable effects cannot be substantially lessened. For reasons set forth in the Statement of Overriding Considerations in Section VII below, however, the Agency has determined that overriding economic, social, and other considerations outweigh the significant and unavoidable effects of the Project.

Based on substantial evidence in the whole record of these proceedings, the Agency finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts identified in the FEIR. The Agency finds that the mitigation measures in the FEIR and described below are appropriate, and that changes have been required in, or incorporated into, the Project that may substantially lessen, but do not avoid (i.e., reduce to less than significant levels), some of the potentially significant or significant environmental effects associated with implementation of the Project as described in FEIR Chapter IV. The Agency adopts all of these mitigation measures as proposed in the FEIR that are relevant to the Project and are within the Agency's jurisdiction as set forth in the MMRP, which are listed on Attachment C and more particularly described on Attachment B.

Based on the analysis contained within the FEIR, other considerations in the record, and the standards of significance, the Agency finds that because some aspects of the Project would cause potentially significant impacts for which feasible mitigation measures are not available to reduce the impact to a less-than-significant level, these impacts are ***significant and unavoidable.*** The Agency recognizes that although mitigation measures are identified in the Final EIR that would

reduce many potentially significant impacts to less than significant levels, for some potentially significant and unavoidable impacts, the measures are uncertain, infeasible, or within the jurisdiction of another agency, and therefore those impacts remain significant and unavoidable or potentially significant an unavoidable.

The Agency determines that the following significant impacts on the environment, as reflected in the FEIR, are unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines Sections 15091(a)(3), 15092(b)(2)(B), and 15093, the Agency determines that the impacts are acceptable due to the overriding considerations described in Section VI below. This finding is supported by substantial evidence in the record of this proceeding.

The DEIR evaluates the impacts of not only the Principal Project described in Section I.A.1 above, but also the Project Variants described in Section I.A.2. Unless otherwise noted below, any additional impacts under each Project Variant would be less than significant and would not change the analysis or conclusions associated with the Principal Project.

A. Aesthetics

- **Impact AE-1: Development under the proposed Project would adversely alter scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.** (DEIR IV.B.21-23; C&R 2.4.37-38; C&R 3.13) Implementation of the proposed Project would create a prominent new cluster of high-rise buildings on Treasure Island at the center of San Francisco Bay, altering views throughout the Bay. The effect of the Proposed Project on scenic vistas of the Bay when viewed from the eastern waterfront of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span would be considered significant. This effect on a scenic resource is also considered unavoidable because no feasible mitigation is available that would avoid or substantially reduce a significant impact on scenic Bay vistas resulting from construction of a new, high-density urban community on Treasure Island. These impacts are considered ***significant and unavoidable.***

B. Cultural and Paleontological Resources

- **Impact CP-9: Demolition of the Damage Control Trainer would impair the significance of an historical resource.** (DEIR IV.D.56-58; C&R 2.6.27, 2.21.59) The Damage Control Trainer (housed in Building 341) would be demolished as part

of the Project. The HRE concludes that the object (but not the building housing it) meets the criteria for inclusion in the CRHR and is therefore an historical resource for the purposes of CEQA. Demolition of this historical resource would result in a significant adverse impact on an historical resource. Implementation of mitigation measure M-CP-9, requiring documentation and interpretation of the Damage Control Trainer, would lessen the impact of demolition of this historical resource, but would not reduce this impact to a less-than-significant level. Furthermore, retention of the Damage Control Trainer would preclude construction on two development blocks resulting in a substantially different project than the Proposed Project. Therefore, these impacts are considered ***significant and unavoidable.***

M-CP-9: Documentation and Interpretation. The project sponsors shall retain a professional who meets the Secretary of the Interior's Professional Qualifications Standards for Architectural History to prepare written and photographic documentation of the historical resource, which shall be transmitted to the San Francisco History Center of the San Francisco Public Library and to the Northwest Information Center of the California Historical Information Resource System. Implementation of this mitigation measure would lessen the impact of demolition, but would not reduce the impact to a less-than-significant level. Alternative mitigation measures, such as moving the object, are not feasible because the Damage Control Trainer includes a large concrete sump, which is partially built into the grade. Avoiding removal of the object is also not possible because its location overlaps two development blocks and eliminating those development blocks would result in a substantially different project than the Proposed Project. (DEIR IV.D.56; C&R 2-6.27-28, 2.21.59-60.)

C. Transportation

- **Impact TR-1: Construction of the Proposed Project would occur over a long period of time and would result in significant impacts on the transportation and circulation network.** (DEIR IV.E.67-71; C&R 2.21.26) Project construction activities could result in temporary impacts to the transportation system, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures. Although implementation of mitigation measure M-TR-1 would minimize the transportation impacts of construction activities, given the magnitude and duration of potential construction activities, and their potential impact on ramp operations on the Bay Bridge, these construction-related transportation

impacts would be considered ***significant and unavoidable***. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

M-TR-1: Construction Traffic Management Plan. The project sponsors shall develop and implement a Construction Traffic Management Plan, approved by TIDA, designed to anticipate and minimize transportation impacts of various construction activities associated with the Proposed Project. Implementation of M-TR-1 would help reduce the proposed project's construction-related traffic impacts. However, given the magnitude of the proposed development and the duration of the construction period, some disruptions and delays could still occur and it is possible that significant construction-related transportation impacts on regional roadways could still occur. (DEIR IV.E.70; C&R 2.7.95, 2.7.97, 2.12.5, 2.21.26, 3.2, 3.27.)

- **Impact TR-2: Implementation of the Proposed Project would contribute to existing LOS E operating conditions during the weekday PM peak hour, and result in significant impacts during the Saturday peak hour at the eastbound offramp (west side of Yerba Buena Island).** (DEIR IV.E.71-75; C&R 2.1.45, 2.7.114.) The Proposed Project would contribute traffic to the eastbound off-ramp diverge section on the west side of Yerba Buena Island, which was observed to operate at LOS E in the PM peak hour under existing conditions; the Proposed Project's contribution would be considered substantial and a significant impact. The Proposed Project would also cause this same off-ramp diverge section to deteriorate from LOS D to LOS E in the Saturday peak hour. Reconstruction of this ramp would require major construction and has been found by Caltrans and the San Francisco County Transportation Authority ("SFCTA") to be infeasible. Mitigation measure M-TR-2 described below could reduce vehicle trip generation, but this reduction would have only a slight benefit to congestion and levels of service would remain the same. Further, this mitigation is within the jurisdiction of the Water Emergency Transit Authority ("WETA") (as to ferry service) and SFMTA (as to bus service) and outside the Agency's jurisdiction and its feasibility is uncertain (as discussed in M-TR-2 below). This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge. Therefore, the Project's impacts to this ramp diverge section would remain ***significant and unavoidable***.

M-TR-2: Expanded Transit Service. As a means to reduce vehicular travel to and from the Islands, additional transit capacity shall be provided. The project sponsors shall work with WETA and SFMTA to develop and implement the Proposed Project's transit operating plan. Elements of the plan include, but are not limited to:

- Additional ferry service to reduce peak period headways from 50-minutes to as much as 15-minute headways during the AM and PM peak periods.
- Increased frequency on the Muni line 108-Treasure Island service to reduce peak period headways from 15 minutes to as low as 7-minute headways in the AM peak period and as low as 5 minutes in the PM peak period.
- New bus service to another location in San Francisco (e.g., to the San Francisco Civic Center area) with frequencies as low as 12-minutes during the AM and PM peak periods. Service shall be provided between approximately 5 AM and 10 PM.

- For Impacts TR-2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 25 and 27, implementation of M-TR-2 would reduce the impact, but not to a less than significant level. Implementation of M-TR-2 is outside the jurisdiction of the Agency, and lies partially within the jurisdiction of the WETA (with respect to expanded ferry service) and partially within the jurisdiction of SFMTA (with respect to expanded bus transit service). Operation of the ferry service would be implemented by the WETA and would not be within the control of TIDA or the City. For the reasons set forth in the SFMTA Expanded Transit Memorandum, implementation of M-TR-2 by SFMTA remains uncertain. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge. Therefore, the impact would be considered ***significant and unavoidable***. (DEIR IV.E.75-80, 82-85, 88-93, 101-102; C&R 2.7.16-18, 2.7.45-47, 2.7.51-52, 2.7.112, 2.7.114, 2.7.116-117, 3.2.)

  As noted above, CEQA requires public agencies to adopt feasible mitigation measures which would avoid or substantially lessen the significant environmental effects of projects. Therefore, while these impacts will likely remain significant and unavoidable with or without the implementation of M-TR-2, the Agency finds that WETA can and should adopt implementation of M-TR-2 with respect to the expanded ferry service. With respect to the portion of M-TR-2 within the jurisdiction of

SFMTA, the Agency urges SFMTA to implement M-TR-2 to the extent that adequate funding is made available to feasibly implement the measure.

Impact TR-3: Under conditions without the Ramps Project, implementation of the Proposed Project would result in significant impacts at the two westbound on-ramps. (DEIR IV.E.75-80; C&R 2.7.27, 2.7.114.) Based on the STOP-sign controlled analysis of conditions in which the westbound ramps on the east side of Yerba Buena Island are not reconstructed and in which case the two westbound on-ramps would remain STOP-sign controlled, the Proposed Project would contribute substantial traffic to both westbound ramps. Implementation of mitigation measure M-TR-2 (described above) would reduce vehicle trip generation such that the Proposed Project's impacts to ramp delays at the two STOP-sign controlled westbound on-ramps from Yerba Buena Island to the Bay Bridge would be reduced. However, even with implementation of mitigation measure M-TR-2, vehicles would still experience delays consistent with LOS F operations. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge. Therefore, the Proposed Project's impacts to delays approaching the on-ramps would remain ***significant and unavoidable.***

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.80.)

- **Impact TR-4: Under conditions with the Ramps Project, implementation of the Proposed Project would result in a significant impact during the AM and PM peak hours at the ramp meter at the westbound on-ramp (east side of Yerba Buena Island).** (DEIR IV.E.80-82; C&R 3.23; C&R 2.7.114.) Under conditions with the Ramp Project, the Proposed Project may result in extensive queues on Treasure Island Road that may interfere with traffic circulation. Implementation of mitigation measure M-TR-2 would reduce trip generation, however the Project's impact on the reconstructed westbound on-ramp would still be considered ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.82.)

- **Impact TR-6: Implementation of the Proposed Project would result in a significant impact on queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the Ramps Project.** (DEIR IV.E.83-84; C&R 2.7.114.) By displacing west-bound traffic on the Bay Bridge, the Proposed Project's would increase queues approaching the Bay Bridge from the East Bay in the AM peak hour; this impact would be considered significant. Implementation of M-TR-2 and the proposed transportation demand management (TDM) strategies would reduce vehicle trip generation, however, the Proposed Project would continue to increase queues on the East Bay bridge approaches during the AM peak hour, which would be a ***significant and unavoidable*** impact. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.83.)

- **Impact TR-7: Implementation of the Proposed Project would result in a significant impact on queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour, under conditions with and without the Ramps Project.** (DEIR IV.E.84-87; C&R 2.7.114.) The Proposed Project's increase to queues approaching the Bay Bridge from downtown San Francisco in the PM peak hour would be considered a significant impact, irrespective of whether the Ramps Project is implemented. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce vehicle trip generation such that the Proposed Project's impacts to queues approaching the Bay Bridge from downtown San Francisco would be reduced. However, the Proposed Project would continue to increase queues on the bridge approaches from downtown San Francisco during the PM peak hour, which would be considered a ***significant and unavoidable*** impact. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the San Francisco streets approaching Bay Bridge and the Bay Bridge.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.84-85.)

- **Impact TR-8: Implementation of the Proposed Project would result in a significant project impact at the signalized intersection of First/Market.** (DEIR IV.E.88) During the PM peak hour, vehicular traffic generated by the Proposed Project would cause this intersection to deteriorate from LOS E to LOS F. Modifications to signal timing or addition of traffic lanes would interfere with other City policies and priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS F during the PM peak hour. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Market.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.87.)

- **Impact TR-9: Implementation of the Proposed Project would result in a significant project impact at the signalized intersection of First/Mission.** (DEIR IV.E.88-89) During the PM peak hour, vehicular traffic generated by the Proposed Project would cause this intersection to deteriorate from LOS E to LOS F. Modifications to signal timing or addition of traffic lanes would interfere with other City policies and priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS F during the PM peak hour. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Mission.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.89.)

- **Impact TR-10: Implementation of the Proposed Project would result in a significant project impact at the signalized intersection of First/Folsom.** (DEIR IV.E.89) During the PM peak hour, vehicular traffic generated by the Proposed Project would cause this intersection to deteriorate from LOS E to LOS F. The

addition of traffic lanes would interfere with other City priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS F during the PM peak hour. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Folsom.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.89.)

- **Impact TR-11: Implementation of the Proposed Project would result in a significant project impact at the signalized intersection of First/Harrison/I-80 Eastbound On-Ramp.** (DEIR IV.E.89-90) During the PM peak hour, vehicular traffic generated by the Proposed Project would cause this intersection to deteriorate from LOS E to LOS F. The addition of traffic lanes would interfere with other City priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS F during the PM peak hour. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Harrison/I-80 Eastbound On-Ramp.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.89-90.)

- **Impact TR-12: Implementation of the Proposed Project would result in a significant project impact at the signalized intersection of Bryant/Fifth/I-80 Eastbound On-Ramp.** (DEIR IV.E. 90) During the Saturday peak hour, vehicular traffic generated by the Proposed Project would cause this intersection to deteriorate from LOS D to LOS E. The addition of traffic lanes would interfere with other City priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS E during the Saturday peak hour and LOS F during the PM peak hour. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures

that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Bryant/Fifth/I-80 Eastbound On-Ramp.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.90.)

- **Impact TR-13: Implementation of the Proposed Project would result in a significant project impact at the signalized intersection of Fifth/Harrison/I-80 Westbound Off-Ramp.** (DEIR IV.E.90-91) During the PM peak hour, vehicular traffic generated by the Proposed Project would cause this intersection to deteriorate from LOS D to LOS E. The addition of traffic lanes would interfere with other City priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS E during the PM peak hour. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Fifth/Harrison/I-80 Westbound Off-Ramp.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.91.)

- **Impact TR-14: Implementation of the Proposed Project would contribute substantially to existing LOS E conditions at the signalized intersection of Second/Folsom, resulting in a significant project impact.** (DEIR IV.E.90-91) With implementation of the Proposed Project, this intersection would continue to operate at LOS E conditions during the PM peak hour. The addition of traffic lanes would interfere with other City priorities. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve intersection operations, but it would continue to operate at LOS E during the PM peak hour, resulting in a ***significant and unavoidable*** impact. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Second/Folsom.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.91.)

- **Impact TR-17: Implementation of the Proposed Project would result in a significant project impact at the uncontrolled study intersection of Folsom/Essex.** (DEIR IV.E.92) Implementation of the Proposed Project would add to queues existing under current conditions during the PM peak period. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce the number of vehicles that travel through the intersection, however it would continue to operate under queued conditions. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Folsom/Essex.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.92.)

- **Impact TR-18: Implementation of the Proposed Project would result in a significant project impact at the uncontrolled study intersection of Bryant/Sterling.** (DEIR IV.E.92-93) Implementation of the Proposed Project would add to queues existing under current conditions during the PM peak period. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce the number of vehicles that travel through the intersection, however it would continue to operate under queued conditions. Therefore, the traffic impact at this intersection would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Bryant/Sterling.

  M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.93.)

- **Impact TR-19: Implementation of the Proposed Project would exceed the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands.** (DEIR IV.E.95; C&R 2.7.42, 2.7.56) The total transit travel demand on Muni buses would not be accommodated during the three peak hours of analysis (*see* DEIR IV.E.94). The 108-Treasure Island bus line would exceed Muni's capacity utilization standard of 85 percent during the AM, PM and Saturday peak hours, therefore the Proposed Project's impact to transit capacity would be considered a significant impact. (If the unserved demand for the 108-Treasure Island service

shifted to the ferry, demand during the PM peak hours would be 91 percent of total capacity, also in excess of the 85 percent standard.) With implementation of Mitigation Measure M-TR-2 (Expanded Transit Service), the Proposed Project's transit demand would be accommodated within Muni because there would be more frequent Muni service and corresponding increases in capacity. Therefore, implementation of Mitigation Measure M-TR-2 would create sufficient capacity on Muni to accommodate all the riders generated by the Proposed Project. However, because full funding for this Expanded Transit Service has not yet been identified and implementation is outside the jurisdiction of the Agency, its implementation remains uncertain. Accordingly, Proposed Project impacts to transit capacity are considered ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.95.)

- **Impact TR-25: Implementation of the Proposed Project without the Ramps Project would impact AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge.** (DEIR IV.E.101; C&R 2.7.53, 61.) Although the new AC Transit bus service would not utilize the westbound on-ramps, queues from both westbound ramps would interfere with AC Transit bus travel between Treasure Island and the eastbound on-ramp to the Bay Bridge. With implementation of Mitigation Measure M-TR-2 (Expanded Transit Service), the Proposed Project's vehicle traffic generation would be reduced, but queues would remain approximately 1/3 mile during Saturday peak hours. For the reasons discussed under Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and implementation remains uncertain. Implementation of Mitigation Measure M-TR-24 to provide a transit and emergency vehicle-only lane between First Street on Treasure Island and the westbound Bay Bridge on-ramp would allow AC Transit vehicles to bypass vehicle queues; however, since this improvement would extend the transit lane only to the westbound on-ramp (because there is not sufficient right-of-way to extend a lane on Hillcrest Road), AC Transit vehicles would continue to experience congestion between the transit only westbound on-ramp and the eastbound on-ramp, and impacts to AC Transit operations would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to

existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.101.)

M-TR-24: Provide Transit Only Lane between First Street on Treasure Island and the transit and emergency vehicle-only westbound Bay Bridge on-ramp. (Discussed above under Impact TR-24) (DEIR IV.E.101.)

- **Impact TR-27: Implementation of the Proposed Project with the Ramps Project would impact AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge.** (DEIR IV.E.102; C&R 2.7.53, 2.7.61.) AC Transit vehicles would travel in the queue for the westbound on-ramp on the east side of Yerba Buena Island nearly for its entire length, resulting in delays of approximately five minutes per vehicle. This would be considered a significant impact to AC Transit operations. With implementation of Mitigation Measure M-TR-2 (Expanded Transit Service), the Proposed Project's vehicle traffic generation would be reduced such that queues would be reduced to smaller levels during weekday peak hours. The Proposed Project's impacts on AC Transit operations would remain significant because AC Transit vehicles would still have to travel through queues on the west side of Yerba Buena Island to reach the eastbound on-ramp. Further, as discussed under Impact TR-2 above, its implementation is outside the jurisdiction of the Agency and remains uncertain. Implementation of Mitigation Measure M-TR-24 would improve operations for AC Transit buses destined to the eastbound on-ramp. However, since this improvement would extend only to the transit and emergency vehicle-only westbound on-ramp on the west side of Yerba Buena Island and since sufficient right-of-way is not available to extend a transit-only lane beyond the transit and emergency vehicle-only westbound on-ramp, AC Transit vehicles would continue to experience congestion between the transit and emergency vehicle-only westbound on-ramp and the eastbound on-ramp. The impact to AC Transit operations would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.102.)

M-TR-24: Provide Transit Only Lane between First Street on Treasure Island and the transit and emergency vehicle-only westbound Bay Bridge on-ramp. (Discussed above under Impact TR-24) (DEIR IV.E.102.)

- **Impact TR-29: The Proposed Project would increase congestion in downtown San Francisco, which would increase travel times and would impact operations of the Muni 27-Bryant bus line.** (DEIR IV.E.106) No feasible mitigation measures have been identified for the intersections of Fifth/Bryant/I-80 Eastbound On-Ramp and Fifth/Harrison/I-80 Westbound Off-Ramp. Implementation of M-TR-2 would improve operations at these intersections, but the intersections would continue to operate poorly. Since no feasible mitigation measures have been identified, the Proposed Project's impacts on transit delay on the 27-Bryant would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

- **Impact TR-30: The Proposed Project would increase congestion in downtown San Francisco, which would increase travel times and would impact operations of the Muni 30X-Marina Express bus line.** (DEIR IV.E.106) Potential mitigation measures for the intersection of First/Market are limited, as traffic signals at this intersection are timed to prioritize transit movements on Market Street. Providing additional travel lanes at this intersection would require substantial reduction in sidewalk widths, which would be inconsistent with the pedestrian environment on Market Street. Implementation of M-TR-2 would improve operations at these intersections, but the intersections would continue to operate poorly. No feasible mitigation measures have been identified, therefore the Proposed Project's impacts on transit delay on the 30X-Marina Express would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

- **Impact TR-31: The Proposed Project would increase congestion in downtown San Francisco, which would increase travel times and would impact operations**

of the Muni 47-Van Ness bus line. (DEIR IV.E.106-107) No feasible mitigation measures have been identified at the intersections of Fifth/Bryant/I-80 Eastbound On-Ramp and Fifth/Harrison/I-80 Westbound Off-Ramp. Implementation of M-TR-2 would improve operations at these intersections, but the intersections would continue to operate poorly. Therefore the Proposed Project's impacts on transit delay on the 47-Van Ness would be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

- **Impact TR-63: Implementation of the Proposed Project parking supply maximums would exacerbate the exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands.** It is anticipated that the parking shortfall on the Islands could result in a shift from auto to transit modes, resulting in an increase in transit travel demand during the peak hours. Increased utilization of the Muni line 108-Treasure Island bus line would exacerbate already significant impact to transit capacity, resulting in a secondary significant impact. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce the secondary impact on transit to a less than significant level. However, as discussed under Impact TR-2 above, its implementation is outside the jurisdiction of the Agency and remains uncertain. Therefore, the secondary parking impacts on transit would be considered ***significant and unavoidable.*** (DEIR IV.E.141; C&R 2.7.42.) This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

M-TR-2: Expanded Transit Service. (Discussed above under Impact TR-2) (DEIR IV.E.141.)

D. Noise

- **Impact NO-1: Project-related construction activities would increase noise levels above existing ambient conditions.** (DEIR IV.F.14-17; C&R 3.79, 3.120) Construction noise would be substantially greater than existing noise levels at the nearby receptor locations and would have the potential to result in significant impacts to existing sensitive receptors. (Construction noise impacts from non-impact equipment would be considered less than significant.) Mitigation Measures M-NO-

1a and M-NO-1b would decrease construction noise levels by requiring construction contractors to implement noise reduction measures for construction activities, including pile-driving activities. With implementation of mitigation measures, impact noise would still exceed existing monitored values by over 30 dBA at the closest locations and represent a potential ***significant and unavoidable*** noise impact to existing sensitive receptors.

M-NO-1a: Reduce Noise Levels During Construction. Specified practices shall be incorporated into construction contract agreement documents to be implemented by the construction contractor. (DEIR IV.F.16-17; C&R 3.79, 3.120.)

M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices. The project sponsors and developers of each structure shall require the construction contractor to use noise-reducing pile driving techniques if nearby structures are subject to pile driving noise and vibration. Construction contractors shall be required to use construction equipment with state-of-the-art noise shielding and muffling devices. (DEIR IV.F.16-17.)

- **Impact NO-2: Construction activities could expose persons and structures to excessive ground-borne vibration or ground-borne noise levels.** (DEIR IV.F.17-20) On-shore pile "impact activities" (e.g., pile driving and deep dynamic compaction) and vibro-compaction could produce ground-borne vibration at nearby sensitive buildings and sensitive receptors. Mitigation Measures M-NO-1b and M-NO-2 would decrease the vibration impacts associated with impact and vibro-compaction construction activities through implementation of such techniques as pre-drilling for piles and the development of a comprehensive monitoring program to detect ground settlement or lateral movement of structures. With these measures, and judicious use of mitigation techniques, damage impacts to existing and proposed buildings could be avoided. However, potential annoyance from vibration impacts could still result. Construction activities would be limited to daytime hours, but vibration annoyance may affect day sleepers, students studying at the Job Corps campus or Life Learning Academy, or other receptors engaged in quiet daytime activities. Given the number of years over which these activities would occur, and the fact that noise impacts would occur at different times throughout the multiple phases of construction, human annoyance-related vibration impacts are considered to be ***significant and unavoidable***. (DEIR IV.F.19-20.)

M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices. (Discussed above under Impact NO-1) (DEIR IV.F.19-20.)

M-NO-2: Pre-Construction Assessment to Minimize Impact Activity and Vibro-Compaction Vibration Levels. If recommended by a pre-construction assessment performed by a qualified geotechnical engineer, for structures or facilities within 50 feet of impact or vibro-compaction activities, the Project Applicant shall require ground-borne vibration monitoring of nearby structures. (DEIR IV.F.19-20.)

- **Impact NO-3: Project-related traffic would result in a substantial permanent increase in ambient noise levels in the project vicinity above existing ambient noise levels.** (DEIR IV.F.20-23) The Proposed Project and the Proposed Project under Expanded Transit Service (*see* Mitigation Measure M-TR-2) would both increase noise levels along existing and proposed roadways due to increased vehicle traffic. Noise-reducing building techniques to attain Title 24 interior noise standard would be required for multi-family structures and hotels proposed as part of the Project. Consequently, the impact of project-related traffic noise would primarily result in a significant noise increase to exterior noise areas only, such as balconies and public gathering areas. No feasible mitigation measures are available that would reduce this exterior noise impact to a level that would be less than significant. Therefore, traffic noise impacts associated with the Proposed Project would be ***significant and unavoidable.***

- **Impact NO-4: Project-related ferry noise levels would result in a substantial permanent increase in ambient noise levels in the project vicinity above existing ambient conditions.** (DEIR IV.F.23-26) Ferry noise (including noise due to engine exhaust, main propulsion engines and water noise) would have the potential to result in a significant noise impact from an increase in ambient noise conditions at the nearest existing and proposed sensitive receptor locations. Implementation of Mitigation Measure M-NO-4, to prepare and implement a noise reduction plan, would ensure that the ferry terminal and its operations would be designed in a manner that would reduce the potentially significant noise impact to a level that would be less than significant. However, because operation of the ferry service would be implemented by WETA and would not be within the control of TIDA or the City, if WETA elects not to implement this measure, the impact would be considered ***significant and unavoidable.*** The Agency finds WETA can and should adopt and implement this measure if it is found feasible.

E. Air Quality

- **Impact AQ-2: Construction of the Proposed Project could violate an air quality standard or contribute significantly to an existing or projected air quality violation.** ***(Less than Significant under Applicable 1999 Guidelines, Significant and Unavoidable with Mitigation under 2010 Guidelines)*** (DEIR IV.G.27-30; C&R 2.9.4-2.9.5, 3.2-3, 3.31-32) Construction related emissions of ROG and NOx would exceed the 2010 Bay Area Air Quality Management District ("BAAQMD") thresholds for construction emissions. Mitigation Measure M-AQ-2, which requires the Project Sponsor to implement combustion emission reduction measures during construction activities, is identified to reduce construction exhaust emissions for ROG and NOx. However, given current technologies, Mitigation Measure M-AQ-2 would achieve a maximum NOx and ROG reduction of approximately 50 percent each. It is unlikely that the mitigation measure could achieve a 95 percent reduction in NOx emissions or a 51 percent reduction in ROG emissions (the level necessary to reduce each such emission to a level below BAAQMD's average daily emissions significant thresholds).

  BAAQMD suggested the City consider establishing an offsite mitigation program that project sponsor(s) could pay into if on-site construction and/or operation emission reductions cannot lower emissions to the less-than-significant level. (C&R 2.9.9) BAAQMD has developed a document entitled *Guidance for Lead Agencies to Develop an Off-site Mitigation Program*, which states the lead agency determines the feasibility of an off-site mitigation measure. Assuming a fee program were established that is comparable to off-site mitigation programs in other jurisdictions (e.g. Sacramento Metropolitan Air Quality Management District), it is estimated an annual financial commitment of approximately $1.64 million would be required to offset the projects NOx emissions. It is likely that the mitigating mechanism would not reduce all pollutants equally and that additional mitigation off-sets would be required to reduce potential residual PM10 and/or NOx impacts, at unknown additional cost. (C&R 2.9.10.) The City has not established an off-site air quality mitigation program for any development project, nor has a project funding source been identified that could afford the estimated annual funding commitment without significantly reducing the public benefits (e.g. affordable housing, transportation, community facilities and open space) that are key project objectives. The BAAQMD also has not established such a program. There is no guarantee that a program would be successful in reducing emissions of criteria pollutants to less-than-significant levels. Based on the absence of such an adopted program, and the analysis provided in the EIR, the Agency finds an off-site mitigation program is not feasible. (C&R 2.9.10-11.)

Therefore, the potential impacts of the Proposed Project with respect to the BAAQMD CEQA construction thresholds would be ***significant and unavoidable*** for NOx and ROG relative to the 2010 BAAQMD Thresholds.

M-AQ-2: Construction Exhaust Emissions. TIDA shall require project sponsors to implement combustion emission reduction measures, during construction activities, including those measures specified in the EIR. (DEIR IV.G.28-30; C&R 2.94-2.95, 3.2-3, 3.31-32.)

- **Impact AQ-3: Construction of the Proposed Project could expose sensitive receptors to substantial levels of toxic air contaminants which may lead to adverse health effects. (*Potentially Significant and Unavoidable for both 1999 and 2010 BAAQMD thresholds in Phase 2*)** (DEIR IV.G.30-36; C&R 2.9.5, 3.3, 3.32) Construction of the Proposed Project would generate substantial levels of diesel particulate matter ("DPM"). Based upon the representative project phasing analyzed in the DEIR (*see* DEIR IV.G.33-35), the DPM exposure cancer risk levels associated with the analyzed receptors would be significant for most phases. Additionally, because of the flexibility in the proposed DDA between TICD and TIDA that allows for different phasing scenarios, it is possible that the actual phasing and location of sensitive receptors could differ from that of the representative project analyzed here, potentially resulting in other significant impacts to sensitive receptors from toxic air contaminants. Implementation of Mitigation Measure M-AQ-3 would reduce the impact; however, because elements of this Mitigation Measure would only be implemented to the extent feasible, it cannot be concluded with certainty that the mitigation measure would reduce the impacts to a less than significant level. Therefore, even with mitigation, the impact is found to be potentially ***significant and unavoidable.***

M-AQ-3: Analysis by Air Quality Consultant and Implementation of Best Management Practices. At the submission of any Major Phase application, TIDA shall require that an Air Quality consultant review the proposed development in that Major Phase. If the Air Quality consultant determines the possible impact of the actual phasing could result in a significant impact on any group of receptors, then TIDA shall require that the applicant implement in connection with that Major Phase best management practices to the extent that TIDA determines feasible to reduce construction emissions in accordance with Mitigation Measures M-AQ-1, M-AQ-2, and M-AQ-4. (DEIR IV.G.36; C&R 2.9.5, 3.3, 3.32.)

- **Impact AQ-4: Construction of the Proposed Project would expose sensitive receptors to substantial levels of PM2.5 which may lead to adverse health effects. (*Not Applicable to 1999 BAAQMD Thresholds, Significant and Unavoidable with Mitigation for 2010 BAAQMD Thresholds*)** (DEIR IV.G.36-38; C&R 2.9.2-2.9.3.) Modeling results estimated that maximum annual PM2.5 concentrations from construction activities would be as high as 0.84μg/m3 at the closest receptor. This is above the BAAQMD threshold of 0.3μg/m3 that will become effective for projects that submit a Notice of Preparation after January 1, 2011. Consequently, although project construction exhaust emissions of PM2.5 are less than significant on a regional basis (*see* Impact AQ-2) localized PM2.5 concentrations that consider both fugitive dust and emissions would be ***significant and unavoidable***. These estimates assume that fugitive dust control measures specified in Mitigation Measure M-AQ-1 would already be implemented. Mitigation Measure M-AQ-4 below would implement additional mitigation measures recommended by BAAQMD for projects with construction emissions above thresholds. All 13 components of Mitigation Measure M-AQ-4 may or may not be feasible, and thus cannot be assumed to be implemented. Even if all 13 components were implemented, the mitigation would be unlikely to achieve a reduction in PM 2.5 emissions that would be below BAAQMD's significance threshold.

  M-AQ-4: Implement Additional Construction Mitigation Measures Recommended for Projects with Construction Emissions Above Thresholds. TIDA shall require the project sponsors to implement all of the following mitigation measures identified by BAAQMD, to the extent feasible, for projects that exceed construction thresholds that would be applicable to reducing PM2.5 emissions. (DEIR IV.G.38; C&R 2.9.2-2.9.3.)

- **Impact AQ-5: The Proposed Project's operations would violate an air quality standard or contribute substantially to an existing or projected air quality violation. (*Significant and Unavoidable with Mitigation for both 1999 and 2010 BAAQMD thresholds*)** (DEIR IV.G.38-42; C&R 2.9.6, 3.3, 3.32-33, 3.121) Operational emissions from Proposed Project operations would exceed 1999 BAAQMD thresholds for ROG, NOx, and PM10 and would exceed 2010 BAAQMD thresholds for ROG, NOx, PM10, and PM2.5. ROG emissions would primarily result from the use of consumer products and architectural coating applications by future residents (non-construction), which could not be feasibly mitigated. Although NOx emissions can be reduced by up to 85 percent by the use of selective catalytic reduction technology, this technology is not feasible because the relatively short ferry trips that would be generated would not allow for adequate engine temperatures to be maintained for catalysis to occur. Thus, no feasible mitigation has been identified for NOx emissions. An additional mitigation measure, M-

AQ-5, is identified to reduce PM10 and PM2.5 impacts from the ferries, however emissions of PM2.5 would remain significant and unavoidable under the 2010 BAAQMD thresholds. Because WETA would operate ferry service, implementation of this measure is outside of the jurisdiction of the City and is not assured. Two comments suggested alternate types of ferries that do not rely solely on diesel fuel be considered. (C&R 2.9.5) Alternative power systems for ferries are still in development and may not be feasible for the project. The choice of the type of ferries used for the project would be selected by WETA and would not be within the control of TIDA or the City. The Agency finds WETA can and should adopt and implement this measure if it is found feasible. However, it was appropriate for the EIR to conservatively calculate air emissions based on diesel powered ferries rather than relying on an unproven technology or technology not readily available. (C&R Section 2.9.6-7.) Therefore, this impact is considered ***significant and unavoidable.***

M-AQ-5: Ferry Particulate Emissions. All ferries providing service between Treasure Island and San Francisco shall meet applicable California Air Resources Board regulations. Additionally, all ferries shall be equipped with diesel particulate filters or an alternative equivalent technology to reduce diesel particulate emissions. (DEIR IV.G.42; C&R 2.9.6, 3.3, 3.32-33, 3.121.)

- **Impact AQ-6: Operation of the Proposed Project could expose sensitive receptors to substantial pollutant concentrations. (*Significant and Unavoidable with Mitigation for both 1999 and 2010 BAAQMD thresholds*)** (DEIR IV.G.42-49) Operation of the Proposed Project with the Expanded Transit Service (*see* Mitigation Measure M-TR-2) would result in significant levels of DPM emissions even with mitigation measure M-AQ-5; exposure to significant levels of cancer risks for any residences on Yerba Buena Island within 400 feet of the Bay Bridge; and significant levels of exposure to PM2.5 emissions for residences with 600 feet of the Bay Bridge. This impact is considered ***significant and unavoidable.***

- **Impact AQ-8: The Proposed Project could conflict with adopted plans related to air quality. (*Significant for the Proposed Project and Less than Significant for Expanded Transit Service*)** (DEIR IV.G.50-52) The Proposed Project would have a significant impact with regard to conflicts with the BAAQMD's Air Quality Plan. Implementation of M-TR-2 would reduce Impact AQ-8 to a less than significant level with regard to conflicts with the Air Quality Plan. Because the feasibility of this measure is currently uncertain and implementation is outside the jurisdiction of the Agency (as discussed under M-TR-2 above), the impact is considered significant and unavoidable. Without

implementation of M-TR-2, the impact would be considered ***significant and unavoidable.***

M-TR-2: Expanded Transit Service. (Discussed above Impact TR-2)

F. Wind and Shadow

- **Impact WS-3: The phased development of the Proposed Project could temporarily result in the creation of a Section 148 wind hazard, an increase in the number of hours that the wind hazard criterion is exceeded or an increase in the area that is subjected to wind hazards.** (DEIR IV.I.50-52; C&R 2.11.2-3.) Following the completion of the first building or the first cluster of buildings of the Proposed Project in this windy site, there could be one or more wind hazards similar to those identified at the perimeter of the completed development. With implementation of Mitigation Measure M-WS-3, the potential impact would be reduced as much as practicable. However, because not every wind hazard may be identified by a wind consultant's review, wind hazards can still occur. It should not be expected that all of the wind hazards identified in prior wind testing would be eliminated. Therefore, these temporary wind hazards must be considered to be potentially ***significant and unavoidable*** impacts.

  M-WS-3: Identification of Interim Hazardous Wind Impacts. At least once a year, throughout construction, a wind consultant shall review and consider the designs of all buildings that are approved or under construction and the status of site development and building construction to date, and shall identify locations where potentially hazardous winds are likely to occur in pedestrian areas as a result of the new construction. TIDA shall ensure, by conditions of approval for both building permits and site permits, that the project sponsor and the subsequent building developer(s) cooperate to implement and maintain all structural measures and precautions identified by the wind consultant. Mitigation measure M-WS-3 would result in mitigation actions that could include changing building designs or orientations, installing permanent or semi-permanent windscreens to provide shelter from the wind, installing or modifying landscaping to provide shelter from the wind, and/or identifying alternate pedestrian or bicycle routes. (DEIR IV.I.51-52; C&R 2.11.2-3)

- **Impact WS-4: Section 148 wind hazards would occur at publicly accessible locations in the Development Plan Area. These wind hazards would represent a general reduction in the number of existing wind hazards and the overall duration of the wind hazards. Changes in building design, height, location, and orientation, as well as changes in the overall configuration of the Project, could result in wind hazards**

that differ from those found for the representative design Project. The wind hazards could occur in different locations, could increase the number of hours that any wind hazard would occur, and/or could increase the area that would be subjected to wind hazards. (DEIR IV.I.53-60; C&R 2.11.2-3.) Because TIDA has discretion to approve the construction of buildings that differ in design, location and height from the representative design analyzed in the EIR, and because design differences could result in different wind effects, wind hazards may differ from those presented in the EIR. Implementation of Mitigation Measures M-WS-3 (which would require structural and precautionary measures such as placing warning signs around or restricting access to areas with potential wind hazards) and M-WS-4 (which would require wind impact review for buildings prior to design approval and would require that design changes be made to certain buildings on an as-needed basis) would reduce the magnitude of wind impacts, however they cannot be assured reduce the impacts to less-than-significant levels. With regard to M-WS-4 in particular, implementation of this measure would likely reduce or possibly eliminate some of the identified wind hazards to pedestrians. However, because wind impacts depend in part on the design of each building and its surroundings and because actual building designs and site plans have not yet been prepared, it is not possible to determine whether or not the proposed building designs and site plans have not yet been prepared, it is not possible to determine whether the proposed building designs or changes proposed through implementation of M-WS-4 would reduce the level of significance of this impact. Therefore, the wind hazard impact is considered to be potentially ***significant and unavoidable.***

M-WS-3: Identification of Interim Hazardous Wind Impacts. (Discussed above under Impact WS-3) (DEIR IV.I.51-52.)

M-WS-4: Ongoing Review and Mitigation of Hazardous Wind Impacts. Prior to schematic design approval of the building(s) on any parcel within the Project, TIDA shall require that a qualified wind consultant shall review and compare the exposure, massing, and orientation of the proposed building(s) on the subject parcel to the project described in the EIR and determine whether additional analysis is required. Mitigation measure M-WS-4 would result in mitigation actions that could include changing building designs or orientations, installing permanent or semi-permanent windscreens to provide shelter from the wind, installing or modifying landscaping to provide shelter from the wind, and/or identifying alternate pedestrian or bicycle routes. (DEIR IV.I.56-60; C&R 2.11.2-3.)

G. Biological Resources

- **Impact BI-4: The project may adversely affect the movement of rafting waterfowl.** *(Impact BI-4 is less than significant with mitigation for migratory birds and fish passage.)* (DEIR IV.M.50-55; C&R 2.15.20, 3.80.) Increased ferry traffic to and from Treasure Island could have a negative effect on "rafting" (i.e., aggregating on water) bird species. Implementation of Mitigation Measure M-BI-4b, to limit ferry speeds (i.e., lessen the effects of noise and wake) and ferry trips during months of increased waterfowl populations, would reduce the impacts on rafting birds from the Proposed Project to a less than significant level if the measure is adopted by the responsible agency (see discussion below under Mitigation Measure M-BI-4b). Because adoption of the measure by the responsible agency and full funding are not assured and is outside the jurisdiction of the City, the impact on rafting waterfowl is determined to be ***significant and unavoidable***.

  M-BI-4b: Changes in Ferry Service to Protect Rafting Waterfowl. Ferries between San Francisco and Treasure Island shall operate in reduced numbers and slower speeds during December and January (peak waterfowl months); alternatively, during this period ferries, to the extent practicable, shall maintain a buffer zone of 250 meters from areas of high-use by rafting waterbirds. (DEIR IV.M.54-55; C&R 2.5.20, 3.80.) However, while either of these measures would be an effective mitigation, because adoption of these measures by WETA is not assured and is outside the jurisdiction of the Agency, the impact on rafting waterfowl is considered significant and unavoidable. (DEIR IV.M.54; C&R Section 2.15.20.) The Agency further finds WETA can and should adopt and implement this measure if it is found feasible.

IVA. SIGNIFICANT CUMULATIVE IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

A. Transportation

Note: For Impacts TR-40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 55, 58, 59, 60, and 61, implementation of M-TR-2 would reduce the impact, but not to a level below significance. Implementation of M-TR-2 is within the jurisdiction of WETA and SFMTA, as discussed under Impact TR-2 above. Because the feasibility of this measure is currently uncertain and implementation is outside the jurisdiction of the Agency, the impact remains significant and unavoidable. As noted above, CEQA requires public agencies to adopt feasible mitigation measures which would avoid or substantially lessen the significant environmental effects of projects. Therefore, while these impacts will likely remain significant and unavoidable with or without the implementation of M-TR-2, the Agency finds that WETA can and should adopt

implementation of M-TR-2 with respect to the expanded ferry service. With respect to the portion of M-TR-2 within the jurisdiction of SFMTA, Agency urges SFMTA to implement M-TR-2 to the extent that adequate funding is made available to feasibly implement the measure.

- **Impact TR-39: Construction of the Proposed Project would occur over a long period of time and would contribute to cumulative construction impacts in the Project vicinity.** (DEIR IV.E.118) Implementation of Mitigation Measure M-TR-1, a Construction Traffic Management Plan, would help minimize the Proposed Project's contribution to cumulative construction-related traffic impacts. However, some disruption and increased delays could still occur even with implementation of M-TR-1, and it is possible that significant construction-related traffic impacts could still occur in the project vicinity. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge. Cumulative construction-related transportation impacts would therefore, remain ***significant and unavoidable.***

- **Impact TR-40: Implementation of the Proposed Project would contribute to significant cumulative traffic impacts at the eastbound off-ramp (west side of Yerba Buena Island).** (DEIR IV.E.119; C&R 2.7.114.) Based on the merge/diverge analysis conducted for the EIR, under 2030 Cumulative plus Project conditions, the Proposed Project would contribute traffic to the eastbound off-ramp diverge section on the west side of Yerba Buena Island. Project traffic would comprise a majority of the traffic using the off-ramp during the PM and Saturday peak hours and the project's contribution would therefore, be considered substantial. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce vehicle trip generation such that the project's cumulative impacts to the eastbound off-ramp diverge section would be reduced. However, this would have only a slight benefit to congestion around the off-ramp diverge section and the Proposed Project's cumulative impacts on this ramp diverge section would remain ***significant and unavoidable.*** This impact would occur irrespective of whether the Ramps Project was implemented. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

- **Impact TR-41: Under conditions without the Ramps Project, implementation of the Proposed Project would contribute to significant cumulative impacts at the**

two westbound on-ramps. (DEIR IV.E.119-120; C&R 2.7.114.) Delays on westbound on-ramps to the Bay Bridge would be considered a significant impact to both westbound on-ramps in the AM, PM, and Saturday peak hours under 2030 Cumulative plus Project conditions. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce vehicle trip generation such that cumulative impacts to ramp delays at the two stop controlled westbound on-ramps would be reduced. However, weekday AM and PM and Saturday peak hours, autos would still experience delay consistent with LOS F and the project's impacts on delay approaching the on-ramps would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

- **Impact TR-42: Under conditions with the Ramps Project, implementation of the Proposed Project would result in significant cumulative impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp (east side of Yerba Buena Island).** (DEIR IV.E.120; C&R 2.7.114.) Under 2030 Cumulative plus Project conditions, vehicular traffic delay under conditions with the reconstructed westbound ramps would be the same as Existing plus Project conditions. This would be a significant impact. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce vehicle trip generation such that the project's impacts to ramp delays at the ramp meter at the reconstructed westbound on-ramp would be reduced by nearly one-half. However, autos would still experience delay consistent with LOS F and the Project's cumulative impacts to delay approaching the on-ramps would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

- **Impact TR-44: Implementation of the Proposed Project would contribute to significant cumulative queuing impacts at the Bay Bridge toll plaza during the AM and PM peak hours, whether or not the Ramps Project is implemented.** (DEIR IV.E.121; C&R 2.7.114.) The Proposed Project's contribution to cumulative increases to queuing on Bay Bridge approaches in the East Bay in the AM and PM peak hours would be considered a significant impact. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce vehicle trip generation

such that the project's impacts to queues approaching the Bay Bridge from the East Bay would be reduced. However, the Proposed Project would continue to contribute to significant cumulative impacts during the AM and PM peak hours, which would be a ***significant and unavoidable*** impact. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways on Yerba Buena Island and the Bay Bridge.

- **Impact TR-45: Implementation of the Proposed Project would contribute to significant cumulative queuing impacts on San Francisco streets approaching the Bay Bridge during the weekday AM and PM and Saturday peak hours, whether or not the Ramps Project is implemented.** (DEIR IV.E.121-122; C&R 2.7.114.) Under 2030 Cumulative plus Project conditions, the Proposed Project's contribution to cumulative increases in peak hour queuing on Bay Bridge approaches in downtown San Francisco would be significant. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce vehicle trip generation such that the Proposed Project's contributions of vehicles approaching the Bay Bridge from downtown San Francisco during the peak hours would be reduced. However, the Proposed Project would continue to contribute to significant cumulative impacts during the peak hours, which would be a ***significant and unavoidable*** impact. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of San Francisco streets approaching the Bay Bridge and the Bay Bridge.

- **Impact TR-46: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of First/Market.** (DEIR IV.E.123) Under 2030 Cumulative plus Project conditions, the intersection of First/Market would operate at LOS E or LOS F conditions during all three peak hours. During the Saturday peak hour, vehicular traffic generated by the Proposed Project would cause the intersection to deteriorate from LOS C to LOS E, resulting in a significant cumulative impact. In addition, the Proposed Project would contribute considerably to critical movements operating at LOS E or LOS F during the PM peak hour, resulting in significant cumulative impacts. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection, but not to LOS D or better and the Proposed Project's contribution would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains

uncertain. The Proposed Project's traffic impacts at the study intersection of First/Market would therefore be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Market.

- **Impact TR-47: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of First/Mission.** (DEIR IV.E.123-124) Under 2030 Cumulative plus Project conditions, the intersection of First/Mission would operate at LOS F conditions during the PM peak hour, and the Proposed Project would contribute considerably to critical movements operating at LOS E or LOS F, resulting in significant project and cumulative impacts. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection during the PM peak hour, but not to LOS D or better and the Proposed Project's contribution would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the study intersection of First/Mission would therefore be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Mission.

- **Impact TR-48: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of First/Folsom.** (DEIR IV.E.124) At intersections where project-specific impacts were identified for Existing plus Project conditions, the Proposed Project would also be considered to result in a project and cumulative impact under 2030 Cumulative plus Project conditions, and therefore the Proposed Project would result in a significant cumulative impact at the intersection of First/Folsom. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection, but not to LOS D or better and the Proposed Project's impact would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the study intersection of First/Folsom would therefore be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways

to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Folsom.

- **Impact TR-49: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of First/Harrison/I-80 Eastbound On-Ramp.** (DEIR IV.125) Under 2030 Cumulative plus Project conditions, the intersection of First/Harrison/I-80 Eastbound On-Ramp would operate at LOS F conditions during the PM peak hour, and the Proposed Project would contribute considerably to critical movements operating at LOS E or LOS F, resulting in significant project and cumulative impacts. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection during the PM peak hour, but not to LOS D or better and the Proposed Project's contribution would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the study intersection of First/Harrison/I-80 Eastbound On-Ramp would therefore, be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of First/Harrison/I-80 Eastbound On-Ramp.

- **Impact TR-50: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of Bryant/Fifth/I-80 Eastbound On-Ramp.** (DEIR IV.E.125-126) Under 2030 Cumulative plus Project conditions, the intersection of Bryant/Fifth/I-80 Eastbound On-Ramp would operate at LOS E or LOS F conditions during all three peak hours. During the Saturday peak hour, vehicular traffic generated by the Proposed Project would cause the intersection to deteriorate from LOS D to LOS E, resulting in a significant project and cumulative impact. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection, but not to LOS D or better and the Proposed Project's contribution would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the study intersection of Bryant/Fifth/I-80 Eastbound On-Ramp would therefore, be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Bryant/Fifth/I-80 Eastbound On-Ramp.

- **Impact TR-51: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of Harrison/Fifth/I-80 Westbound Off-Ramp.** (DEIR IV.E.126) Under 2030 Cumulative plus Project conditions, the intersection of Fifth/Harrison/I-80 Westbound Off-Ramp would operate at LOS F conditions during the PM peak hour, and the Proposed Project would contribute considerably to critical movements operating at LOS E or LOS F, resulting in significant project and cumulative impacts. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection during the PM peak hour, but not to LOS D or better and the Proposed Project's contribution would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the study intersection of Fifth/Harrison/I-80 Westbound Off-Ramp would therefore, be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Fifth/Harrison/I-80 Westbound Off-Ramp.

- **Impact TR-52: Implementation of the Proposed Project would result in significant project and cumulative impacts at the intersection of Second/Folsom.** (DEIR IV.E.126-127) Under both 2030 Cumulative No Project and 2030 Cumulative plus Project conditions, the intersection of Second/Folsom would operate at LOS F conditions during the AM and PM peak hours. Based on the assessment of the project-generated vehicle trips, the Proposed Project would contribute considerably to critical movements operating at LOS E or LOS F during both peak hours, resulting in significant project and cumulative impacts. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection during the PM peak hour, but not to LOS D or better and the Proposed Project's contribution would remain considerable. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the study intersection of Second/Folsom would therefore be ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints intersection of Second/Folsom.

- **Impact TR-54: Implementation of the Proposed Project would contribute to significant cumulative impacts at the uncontrolled study intersection of**

Folsom/Essex. (DEIR IV.E.128) Under 2030 Cumulative conditions, the existing queues that form on the approaches to the I-80 eastbound on-ramp and that spill back into the intersection would increase due to background traffic growth. Implementation of the Proposed Project would add vehicles to these existing queues, and contributions to the queued operations would be considered a significant cumulative impact. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce the number of Proposed Project vehicles that would travel through this intersection; however, it would continue to operate at queued conditions and the Proposed Project would continue to substantially contribute to these queues. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the uncontrolled study intersection of Folsom/Essex would therefore, be ***significant and unavoidable***. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Folsom/Essex.

- **Impact TR-55: Implementation of the Proposed Project would contribute to significant cumulative impacts at the uncontrolled study intersection of Bryant/Sterling.** (DEIR IV.E.128-129) Under 2030 Cumulative conditions, the existing queues that form on the approaches to the I-80 eastbound on-ramp and that spill back into the intersection would increase due to background traffic growth. Implementation of the Proposed Project would add vehicles to these existing queues, and contributions to the queued operations would be considered a significant cumulative impact. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would reduce the number of Proposed Project vehicles that would travel through this intersection; however, it would continue to operate at queued conditions and the Proposed Project would continue to substantially contribute to these queues. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. The Proposed Project's traffic impacts at the uncontrolled study intersection of Bryant/Sterling would therefore, be ***significant and unavoidable***. This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the intersection of Bryant/Sterling.

- **Impact TR-58: The Proposed Project would contribute to cumulative congestion in downtown San Francisco, which would increase travel time and would impact**

operations of the Muni 27-Bryant bus line. (DEIR IV.E.134) The Proposed Project contributions to adverse traffic conditions at the intersections of Bryan/Fifth/I-80 Eastbound On-Ramp and Harrison/Fifth/I-80 Westbound Off-Ramp would affect the travel times of the 27-Bryant. No feasible mitigation measures have been identified that would reduce these impacts below significance. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at these intersections, but the intersections would continue to operate poorly during the PM peak hour. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. Therefore, the Proposed Project's cumulative impacts on transit travel times on the 27-Bryant would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

- **Impact TR-59: The Proposed Project would contribute to cumulative congestion in downtown San Francisco, which would increase travel time and would impact operations of the Muni 30X-Marina Express bus line.** (DEIR IV.E.134) The 30-X-Marina Express bus operations would be affected by Proposed Project-related traffic delays at the intersection of First/Market. No feasible mitigation measures have been identified that would reduce these impacts below significance. Modifications to signal timing to provide more capacity to the southbound movement which would operate poorly would likely result in impacts to transit operations on Market Street and would be inconsistent with the City's Transit First policy. Providing additional travel lane at this intersection would require substantial reduction in sidewalk widths, which would be inconsistent with the pedestrian environment on Market Street. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at this intersection, but the intersection would continue to operate poorly during the PM peak hour. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. Therefore, the Proposed Project's cumulative impacts on transit travel times on the 30X-Marina Express would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

- **Impact TR-60: The Proposed Project would contribute to cumulative congestion in downtown San Francisco, which would increase travel time and would impact operations of the Muni 47-Van Ness bus line.** (DEIR IV.E.135) The 47-Van Ness bus operations would be affected by Proposed Project-related traffic delays at the intersection of Bryant/Fifth/I-80 Eastbound On-Ramp and Harrison/Fifth/I-80 Westbound Off-Ramp. No feasible mitigation measures have been identified that would reduce these impacts below significance. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations at these intersections, but the intersections would continue to operate poorly during the PM peak hour. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. Therefore, the Proposed Project's cumulative impacts on transit travel times on the 47 Van Ness would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

- **Impact TR-61: The Proposed Project would contribute to cumulative congestion in downtown San Francisco, which would increase travel time and would impact operations of the Muni 10-Townsend bus line.** (DEIR IV.E.135) The Proposed Project's contribution to cumulative impacts on the 10-Townsend as it maneuvers through Second Street northbound and southbound mixed-flow traffic destined for the Bay Bridge, would be significant. No feasible mitigation measures have been identified that would reduce these impacts below significance. Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would improve operations, but the intersection would continue to operate poorly during the PM peak hour. Further, as described for Impact TR-2 above, implementation of M-TR-2 is outside the jurisdiction of the Agency and remains uncertain. Therefore, the Proposed Project's cumulative impacts on transit travel times on the 10-Townsend would remain ***significant and unavoidable.*** This impact is considered unavoidable because additional measures that involve physical modifications to existing roadways to improve capacity for specific modes are generally not feasible given the physical constraints of the roadways in downtown San Francisco.

B. Noise

- **Impact NO-7: Project-related construction activities in combination with construction activities of other cumulative development would increase noise**

levels above existing ambient conditions. (DEIR IV.F.29-30) Other cumulative development in the area, including the Clipper Cove Marina and the Yerba Buena Island Ramps Improvement Project, could have construction activities that occur simultaneously with those of the Proposed Project. Consequently, the Proposed Project would be considered to result in a considerable contribution to a significant cumulative construction-related noise impact. Mitigation Measures M-NO-1a and M-NO-1b would not mitigate the impact to less-than-significant levels, therefore it would remain ***significant and unavoidable***.

- **Impact NO-8: Increases in traffic from the project in combination with other development would result in cumulative noise increases.** (DEIR IV.F.30-31) Estimates associated with the cumulative scenario indicate that the contribution to cumulative traffic noise increases associated with both the Proposed Project and Expanded Transit Service along each of the roadway segments would be considerable, and significant traffic noise level increases would occur on Saturday associated with both the Proposed Project and Expanded Transit Service along each of the modeled roadway segments with the exception of Avenue of the Palms, north of 1st Street. All multi-family structures and hotels proposed by the project would be required to design interior dwelling spaces to achieve interior noise standard as required by Title 24. Thus, this impact would primarily result in a significant noise increase to exterior areas only, such as balconies and public gathering areas. Traffic noise increases associated with the Proposed Project would be cumulatively considerable and no feasible mitigation measures would reduce the Project's contribution to this cumulative impact to less than significant levels, therefore the impact is considered ***significant and unavoidable***.

C. Air Quality

- **Impact AQ-9: The Proposed Project could result in significant cumulative air quality impacts.** (DEIR IV.G.52-58) The proposed Development Plan would exceed BAAQMD construction-related significance thresholds for ROG and NOx (*see* Impact AQ-2) and, consequently, would result in significant cumulative impacts with regard to regional emissions of these criteria pollutants. In addition, predicted PM2.5 concentrations from construction of the Proposed Project alone would exceed the cumulative PM2.5 threshold (*see* Impact AQ-4). Even with implementation of all (BAAQMD identified) mitigation measures (including Mitigation Measures M-AQ-3 and M-AQ-4), PM2.5 concentrations would remain significant at residences close to peak Phase 2 construction activities and would be a potential significant and

unavoidable cumulative impact. Finally, operation of the Proposed Project would exceed BAAQMD significance thresholds for ROG, NOx, PM10 and PM2.5 (*see* Impact AQ-5) and, consequently, would result in a significant cumulative impact with regard to emissions of these criteria pollutants. Because mitigation measures are unlikely to reduce cumulative air quality impacts to a less-than-significant level, the impacts are considered ***significant and unavoidable.***

The following cumulative air quality impacts were found to be less than significant: (i) construction emissions relative to 1999 BAAQMD guidelines, with implementation of Mitigation Measure M-AQ-1 (dust control); (ii) construction-related and operations-related cancer risk; (iii) construction-related and operations-related chronic hazards indices; (iv) operations-related PM2.5 concentrations; and (v) emissions resulting from power boat use at the marina.

D. Wind and Shadow

- **Impact WS-5: The Proposed Project, when combined with other cumulative projects, could result in wind hazards that differ from those found for the representative design Project, either in the location of the hazard, in an increase in the number of hours that Section 148 wind hazards would occur, or in an increase in the area that is subjected to wind hazards.** (DEIR IV.I.60-61) The cumulative wind effects of the Proposed Project and the Marina Project, including the very small wind reductions due to the Marina Project's waterside improvements, would be almost entirely due to the Proposed Project. Because the Proposed Project's direct impact would be significant and unavoidable, as discussed in Impact WS-4 (above), this cumulative impact would also be considered ***significant and unavoidable.***

E. Biological Resources

- **Impact BI-7: The development planned as part of the Proposed Project, when combined with past, present, and other reasonably foreseeable development in the vicinity, could result in significant cumulative impacts to biological resources.** *(Significant and unavoidable for rafting waterfowl; Less than Significant for other sensitive plants, animals and habitats, see Section II.L of these Findings.)* (DEIR IV.M.63-64) Off-island, there could be cumulative impacts on sensitive biological resources located throughout the Central Bay when the impacts of the Proposed Project are considered in combination with the impacts of other projects in the vicinity. Many of these are habitat improvement projects that are intended to

provide a net benefit to biological resources and would not contribute to long-term, adverse cumulative impacts on sensitive species and habitats. However, expanded ferry or water taxi services, such as the service described in the *Berkeley Albany Ferry Terminal Study Draft EIS/EIR*, are expected to contribute, along with the Proposed Project, to a cumulatively ***significant and unavoidable*** impact on rafting waterfowl. Impacts on rafting waterfowls would remain significant and unavoidable because enforcement of proposed mitigation measures is beyond the authority of the City. For more information on this impact to rafting waterfowls, see the discussion under Section IV.G of this document.

V. MITIGATION MEASURES AND PROJECT MODIFICATIONS PROPOSED BY COMMENTERS

Several commenters on the DEIR suggested additional mitigation measures and/or modifications to the measures recommended in the DEIR. In considering specific recommendations from commenters, the Agency has been cognizant of its legal obligation under CEQA to substantially lessen or avoid significant environmental effects to the extent feasible. The Agency recognizes, moreover, that comments frequently offer thoughtful suggestions regarding how a commenter believes that a particular mitigation measure can be modified, or perhaps changed significantly, in order to more effectively, in the commenter's eyes, reduce the severity of environmental effects. The Agency is also cognizant, however, that the mitigation measures recommended in the DEIR reflect the professional judgment and experience of the Agency's expert staff and environmental consultants. The Agency therefore believes that these recommendations should not be lightly altered. Thus, in considering commenters' suggested changes or additions to the mitigation measures as set forth in the DEIR, the Agency, in determining whether to accept such suggestions, either in whole or in part, considered the following factors, among others:

(i) Whether the suggestion relates to a significant and unavoidable environmental effect of the Project, or instead relates to an effect that can already be mitigated to less than significant levels by proposed mitigation measures in the DEIR;

(ii) Whether the proposed language represents a clear improvement, from an environmental standpoint, over the draft language that a commenter seeks to replace;

(iii) Whether the proposal may have significant environmental effects, other than the impact the proposal is designed to address, such that the proposal is environmentally undesirable as a whole;

(iv) Whether the proposed language is sufficiently clear as to be easily understood by those who will implement the mitigation as finally adopted;

(v) Whether the language might be too inflexible to allow for pragmatic implementation;

(vi) Whether the suggestions are feasible from an economic, technical, legal, or other standpoint; and

(vii) Whether the proposal is consistent with the Project objectives.

For this project, several potentially significant and unavoidable impacts were identified and comments were received suggesting ways to further reduce those impacts. Where feasible, the mitigation measures were revised or clarified in response to comments. (See C&R 3.1-77.) Staff also initiated changes to the text of the Draft EIR, including mitigation measures. (See C&R 3.78-77-154.) In some cases, suggested measures are rejected for not being feasible or for lacking a nexus and rough proportionality to the anticipated significant adverse impacts of the project on the physical environment. These reasons for rejecting mitigation proposed by commenters that were received during the comment period are explained in the C&R. (*See, e.g.*, C&R 2.1.1-2.23.6; 3.1-77.)

VI. EVALUATION OF PROGRAM ALTERNATIVES

This Section VI describes the Project as well as the Project Alternatives and the reasons for approving the Project and for rejecting the Alternatives. This Section VI also outlines the Project's purposes and provides a context for understanding the reasons for selecting or rejecting alternatives.

CEQA mandates that EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a "No Project" alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet Project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

A. Reasons for Selection of the Project

The overall goal of the Project is to convert approximately 367 acres on Treasure Island and approximately 94 acres on Yerba Buena Island from a former military base to a dense, mixed-use development. The project will provide numerous public benefits, including the following:

Land Use. The Project will result in the creation of a new, mixed-use and transit-oriented neighborhood on the former military base, incorporating the best principles of smart growth and quality urban design. Key land use-related benefits include:

- Locating dense development around a multi-modal transportation hub, including a newly created Ferry Quay on the west side of Treasure Island
- Creating an island gateway and heart with the most intense residential density and the majority of commercial uses focused on the western shore to capitalize on the spectacular views to San Francisco as a public resource
- Organizing buildings, streets and open spaces to respond to Treasure Island's unique microclimate of wind, sun and fog, accomplished, in part, by shifting the conventional street grid to orient certain streets due south
- Creating a compact neighborhood with public spaces and land uses that are organized to encourage walking, bicycling and public transit and discourage the use of private automobiles
- Establishing Treasure Island as a vibrant commercial and visitor destination, including encouraging arts, cultural, entertainment and educational uses, that serve as both an amenity for San Francisco residents and a destination for nonresidents
- Delivering a comprehensive network of new parks, open spaces and recreational opportunities that is unprecedented in San Francisco since the creation of Golden Gate Park
- Including enough residential density to create a sustainable and self-sufficient community that supports neighborhood serving retail, community facilities, and transit infrastructure and service
- Establishing new businesses on the Islands to support a jobs-housing link
- Redeveloping Treasure and Yerba Buena Islands to be a leading example of environmentally sensitive and sustainable master planned development
- Creating a mixed-income community that is family-friendly and makes a significant contribution to the City's need for affordable housing

- Integrating public and private art and art programming opportunities throughout the Project

- Rehabilitation and reuse of Buildings 1, 2 and 3 on Treasure Island, and of the historic Nimitz House, the eight other Senior Officers' Quarters and the Torpedo Assembly Building on Yerba Buena Island, in compliance with the Secretary of the Interior's Standards for Historic Rehabilitation.

Housing. Adding up to 8,000 housing units to the City's housing stock, including significant numbers of new below-market rate housing units, including the following:

- Providing housing affordable to a range of household incomes and household types (e.g., families, seniors, singles, and formerly homeless), with approximately 2,000 affordable units (approximately 25 percent of all new units)

- Providing at least six percent of all new units at a level affordable to very-low income households.

- Providing approximately 435 of the new affordable units for supportive homeless housing units to be developed by TIHDI member organizations

- Implementing a replacement and transition housing plan that would offer existing residents the opportunity to stay on Island and transition into replacement units, or assist in their relocation off-Island

Infrastructure.

- A comprehensive program for geotechnical stabilization and improvement, including soil densification, raising site grades in developed areas above the expected flood level, taking an allowance for long-term sea level rise into account and densifying the perimeter and causeway between Treasure and Yerba Buena Islands to provide protection against overtopping under extreme combinations of tide and storm activity.

- Implementing a comprehensive strategy for potential sea level rise, including (i) setting back the large portions of the development 200 to 350 feet from the shoreline to mitigate against storm events, (ii) elevating all development and vital infrastructure by 42 inches, which would accommodate potential SLR and (iii) enhancing the island's perimeter to protect from wave overtopping in large storm events. In addition, the Project will adopt an adaptive management strategy that enables a variety of responses to actual future SLR conditions.

- Rebuilding a new backbone utility and street network for Treasure and Yerba Buena Island, including:
    - A new street network which includes the causeway between Treasure Island and Yerba Buena Island, rebuilt to current standards and on a stable platform achieved by seismically reinforcing the development areas as described above.
    - A new wet utility system, including new water tanks on Yerba Buena Island, new trunk lines throughout both islands, connections to a new secondary/emergency back-up water supply line on the new Eastern Span of the Bay Bridge linked to the East Bay Municipal Utility District water system, construction by the PUC of an entirely new wastewater treatment and recycled water plant that would tie into a new waste water collection system being constructed by the Project., and construction of a new storm water drainage and treatment system, including a storm water treatment wetland.
    - A new dry utility network, including new electrical, gas and telecommunications lines.
- Completing certain environmental remediation to support the proposed land uses, above and beyond the levels the Navy is legally required to clean to under Federal law

Parks and Open Space. Creating approximately 300 acres of parkland, ecological, recreational, neighborhood and cultural areas, including: a shoreline park for pedestrians and bicycles; an approximately 100-acre Great Park with stormwater wetlands, passive open space, the existing sailboat launch and space for an environmental educational center; seven neighborhood parks and playgrounds; a linear park; off-leash dog areas; space for art installations; an urban agriculture park; 40 acres of athletic fields; improvements to the existing sailing center; a new 5 to 6-acre Hilltop Park on Yerba Buena Island, in addition to existing parks and open space; plazas and active public spaces; and a 3-acre Cultural Park adjacent to Building 1.

Sustainable Development. The Project would implement a comprehensive sustainability strategy that includes principles, goals, targets and strategies for key elements including site design and land use, landscape and biodiversity, transportation, energy, water and wastewater, materials, solid waste, health, safety and security, community and society and economic development. Key elements of the Sustainability Plan include the following:

- Creating a dense, compact land use plan located in close walking proximity to a multi-modal transit node, residents, employees and visitors are encouraged to choose

walking, bicycling and transit over the automobile, also enabling the majority of the Islands to be preserved or established as natural habitat.

- Locating neighborhood-serving uses and transit within walking and bicycling distance of all residences, making substantial improvements to the pedestrian and bicycle network, and making each of these modes of transit a viable alternative to automobiles for non-commute trips. Development would be concentrated around public transportation facilities, with 50 percent of residences within a 10-minute walk and all residences within a 15-minute walk of the Ferry Terminal and intermodal Transit Hub.

- Delivering a comprehensive transportation program that includes multiple alternatives to use of the private automobile, including extensive bicycle and pedestrian path networks (including connections to the East Bay via the new Eastern Span of the Bay Bridge), bus service to downtown San Francisco and the East Bay, ferry service to downtown San Francisco, and intra-island shuttle services.

- Creating a Treasure Island Transportation Management Agency that would implement a comprehensive transportation management program designed to discourage driving and promote use of alternative travel modes.

- Implementing best practices to conserve energy by achieving green building specifications beyond the City's adopted Green Building Ordinance, extensive renewable energy generation provided primarily via solar resources.

- Incorporating features in individual buildings to minimize consumption of potable water, generating recycled water, which can be used for irrigating landscaped areas and help establish plantings within restored habitat areas, and capturing and filtering stormwater runoff through LID treatment systems such as bio-swales and rain gardens and a constructed stormwater treatment wetland.

Economic Development. Providing opportunities to generate thousands of annual construction jobs via build out of the project and thousands of permanent jobs at project completion, encouraging participation by small and local business enterprises through a comprehensive employment and contracting policy.

Community Facilities. Providing a comprehensive package of educational, social, cultural, environmental and public safety facilities and programs, including a joint police/fire

station on Treasure Island, child-care facilities, a school, community meeting rooms or facilities, a Treasure Island Sailing Center, and the Delancey Street Life Learning Center.

B. Alternatives Rejected and Reasons for Rejection

The Agency rejects the Alternatives set forth in the Final EIR and listed below because the Agency finds, in addition to the reasons described in Section VII below, that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section under CEQA Guidelines 15091(a)(3), that make infeasible such Alternatives. In making these determinations, the Agency is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors."

1. No Project Alternative

Consistent with Section 15126.6(e)(1) of the CEQA Guidelines, this alternative assumes that the Project Site would remain in its existing condition, would not transfer from the Navy to TIDA, and would not be subject to a tidelands trust exchange. The No Project Alternative is rejected because it would not achieve any of the Project objectives identified in Section I. In particular, it would fail to provide a dense, mixed-use neighborhood capable of supporting a diverse, thriving neighborhood, reduce the ability to provide substantial new market rate and affordable housing to a variety of income levels and household types, or include infrastructure improvements and geotechnical stabilization. Under the No Project Alternative, existing historic resources would not be rehabilitated and reused. No additional jobs would be created under the No Project Alternative.

Thus, while the No Project Alternative would avoid impacts associated with the Project, this alternative would not further any of the Project Sponsor's objectives or provide any of the benefits contemplated by the Project, and is therefore rejected. The Agency rejects the No Project Alternative on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

2. Reduced Development Alternative

Under the Reduced Development Alternative, development would be generally consistent with the *Development Plan and Term Sheet for the Redevelopment of Naval Station Treasure Island* (the "2006 Term Sheet") endorsed by TIDA in October 2006 and by the Board of Supervisors in December 2006, but without the 2010 Development Plan Update endorsed by TIDA in April

2010 and the Board of Supervisors in May 2010. The Reduced Development Alternative would be substantially similar to the Proposed Project, except residential development would be reduced to 6,000 units, there would be no office space, and the total number of parking spaces would be reduced to 8,995 spaces. Because there would be fewer residents to support neighborhood-serving retail, the percentage of regional serving retail would be greater under the Reduced Development Alternative unless neighborhood-serving retail were subsidized. The Reduced Development Alternative was evaluated in the EIR to determine whether it would avoid or substantially lessen traffic and aesthetic impacts.

Environmental Impacts Compared to Proposed Project. The Reduced Development Alternative would generally result in the same impacts as the Project. Although the Project's potentially significant impacts associated with aesthetics, transportation, noise, air quality, and greenhouse gases would be somewhat lessened under this alternative, the impacts would require the same mitigation measures, which would still not avoid the impacts.

More specifically, the Reduced Development Alternative would generate fewer person and vehicle trips. However, construction-related traffic impacts would remain the same. Operational traffic impacts would be reduced as a result of fewer vehicle trips, yet the Reduced Development Alternative would still result in significant impacts at eight study intersections (compared with nine for the Proposed Project). Similarly, impacts to AC Transit and Muni bus service would remain significant and unavoidable. Thus, although the Reduced Development Alternative would generate fewer vehicle trips as a result of having fewer residents, the majority of significant traffic impacts would not be reduced to a less-than-significant level. As with the Proposed Project, the Reduced Development Alternative would result in a parking deficit on both Treasure Island and Yerba Buena Island during its peak hour of parking demand.

Although the Reduced Development Alternative would generally meet most project objectives, the Agency rejects this alternative as infeasible within the meaning of CEQA for the following reasons:

High-Density Housing/Transit-Oriented Development. Because this alternative would provide significantly fewer residential units, it would not fulfill Project objectives that rely on high density residential development. By providing 25% fewer residential units, this alternative is less likely to support neighborhood-serving retail, community facilities and transit infrastructure and service, as described in more detail in the *Feasibility Impacts of Reduced Development Scenario for the Treasure Island / Yerba Buena Island Project* memorandum prepared by Treasure Island Development Authority staff dated April 6, 2011 (the "*TIDA staff memo*"). Development of 25% fewer residential units would also impede successful

implementation of a transit-oriented development that relies on sufficient density to support the transportation demand management program administered by the Transportation Management Agency.

Employment Opportunities. This alternative would provide fewer employment opportunities both during construction and in new commercial space, and significantly reduce numbers of construction and permanent jobs, as well as reducing opportunities available to economically disadvantaged San Franciscans, as described in more detail in the *TIDA staff memo*.

Open Space. This alternative would not achieve the Project objective of a comprehensive new regional waterfront system of parks and public open spaces that is programmed with a variety of uses. As described in the *TIDA staff memo*, the reduced development program would not support the up-front capital needs and on-going maintenance costs that would support the type of high-quality open space and park system that would establish the Project as a regional destination.

Delivery of Public Benefits/Financial Feasibility. Reducing the development program by 25% would also significantly reduce some of the economic advantages and efficiencies that a higher density residential development would provide in order to achieve key project objectives (e.g., providing sufficient market-rate development necessary to support the key public benefits of the Project, including infrastructure and transportation improvements; affordable housing; new and enhanced parks and open space; and creating a community of sufficient size to support neighborhood-serving retail, community facilities, and transit). As described in the *TIDA staff memo*, the Reduced Development Alternative would not generate sufficient funding to meet TIDA's objective of a financially feasible development that would allow for the delivery of infrastructure, affordable housing and other public benefits, or support the Project's capital costs and ongoing operation and maintenance costs. The Reduced Project Alternative would also not meet TICD's objective to attract investment capital and construction financing and produces a reasonable return on investment.

The Agency rejects the Reduced Development Alternative on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

3. No Ferry Service Alternative

Under the No Ferry Service Alternative, the Ferry Terminal would not be built and ferry service to downtown San Francisco would not be provided. It is assumed that Mitigation Measure M-TR-2 (Expanded Transit Service) would be implemented, as additional funding would be available if the Ferry Terminal were not constructed. In order to accommodate the more limited

transit capacity, and assuming that Muni service goals are met (buses operating at an average of 85 percent of seated and standing capacity), development under this alternative was limited to only 5,100 residential units. Additionally, as fewer residents would reside on the Islands but the amount of retail would remain the same as the Proposed Project, it was presumed that a larger percentage of retail uses would be regional- or visitor-serving and a lower percentage would be neighborhood-serving retail than under the Proposed Project. The reduction in residential units would result in a reduced development footprint compared to the Proposed Project, allowing the preservation of the historic *U.S.S. Buttercup* training facilities and creation of additional open space areas.

Environmental Impacts Compared to Proposed Project. The No Ferry Service alternative would avoid or lessen certain environmental impacts as a result of the elimination of Ferry Terminal construction and ferry service, and the reduced number of residents (including with respect to underwater biological resources, air quality, noise, traffic and cultural resources).

The Agency rejects the No Ferry Service Alternative as infeasible within the meaning of CEQA because it would decrease the availability of public transit options, limit emergency access, and eliminate higher density residential development that would prevent the Project from achieving many of its key objectives, all as more particularly described below.

Transportation-Related Project Objectives: This alternative would not achieve a number of the Project objectives to encourage alternative means of transportation and provide a range of public transportation choices. Under the No Ferry Service Alternative, public transit options to mainland San Francisco will be limited to the Muni 108-Treasure Island. By limiting the choice and availability of public transit modes, the Project would not achieve the objective of maximizing use of public transportation and minimizing use of private automobiles or providing a range of public transit choices.

Alternative Emergency Access: The loss of ferry service to Treasure Island would represent a loss in alternative emergency access to and egress from Treasure Island in the event of major earthquake, presenting safety concerns particularly if the Bay Bridge is not accessible following such major earthquake. Impacts identified as less-than-significant under the Proposed Project related to limited emergency access to and egress from the Islands identified (*see* Impact GE-6) would increase in magnitude.

Delivery of Public Benefits/Financial Feasibility: Reducing the development program by approximately 3,000 units would also significantly reduce some of the economic advantages and efficiencies that a higher density residential development would provide, making it more difficult to achieve key project objectives (e.g., providing sufficient market-rate development necessary to

support the key public benefits of the Project, including infrastructure and transportation improvements; affordable housing; new and enhanced parks and open space; and creating a community of sufficient size to support neighborhood-serving retail, community facilities, and transit). As described in the *TIDA staff memo,* the No Ferry Alternative would not generate sufficient funding to meet TIDA's objective of a financially feasible development that would allow for the delivery of infrastructure, affordable housing and other public benefits, or support the Project's capital costs and ongoing operation and maintenance costs. The No Ferry Alternative would also not meet TICD's objective to attract investment capital and construction financing and produces a reasonable return on investment. Although funding would not be expended on the Ferry Terminal, the alternative assumes these funds would be made available to implement the Expanded Transit Service (M-TR-2).

The Agency rejects the No Ferry Service Alternative on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

4. Reduced Parking Alternative

The DEIR found the Reduced Parking Alternative to be infeasible and therefore did not including a lengthy discussion or detailed analysis of the alternative. However, in response to comments, the discussion of the Reduced Parking Alternative was expanded and revised in C&R Section 2.1.

Under the Reduced Parking Alternative, a maximum of 0.5 parking spaces per residential unit, 1 parking space per 1,000 square feet of commercial/flex space in Buildings 1, 2 and 3 and for office space, and a maximum 0.4 parking spaces per hotel room would be permitted. Parking for retail uses, the marina, and open space would remain as in the Proposed Project. The Reduced Parking Alternative would otherwise mirror the Proposed Project, with the same land uses, base transit services, utilities and infrastructure and geotechnical stabilization measures.

Environmental Impacts Compared to Proposed Project. The analysis of the Reduced Parking Alternative examined whether reductions in parking might affect trip generation and associated impacts (particularly traffic, air quality, and noise). The City identified data that supported a weak relationship between residential parking supply and peak hour trip generation, and conducted analysis that concluded some auto trip reductions could occur. Under these results, the traffic impacts of the Reduced Parking Alternative were found to be similar to the traffic impacts to the Reduced Development Alternative, i.e. only one traffic impact – level of service at the intersection of Second/Folsom – would be reduced from significant and unavoidable with mitigation to less than significant. The remainder of the significant and unavoidable impacts under the Proposed Project would remain significant and unavoidable under the Reduced Parking

Alternative. However, for the reasons outlined in the *Supplemental Transportation Analysis for Reduced Parking Alternative: Treasure Island / Yerba Buena Island Redevelopment Plan EIR* memorandum prepared by Fehr & Peers dated February 14, 2011 (the "*Supplemental Transit Analysis*"), the Agency does not believe it would be appropriate to rely on the data and has very low confidence in its predictions. As a result, the Agency cannot reliably conclude that predicted differences in the severity of traffic impacts as a result of the Reduced Parking Alternative would occur.

Even assuming the estimated reductions in vehicle trip generated under the Reduced Parking Alternative are accurate, the projected 10 percent reduction is not sufficient to significantly alter most environmental impacts of the Proposed Project. Specifically, a 10 percent reduction in vehicle trips would not reduce the significant noise impacts identified in Impact NO-3 to less-than-significant levels, and would not reduce any of the significant air quality impacts identified in Impact AQ-5 or annual CO2 emissions.

In summary, the Reduced Parking Alternative would have the same significant impacts as those identified for the Proposed Project except for a possible reduction in one significant traffic impact from significant and unavoidable with mitigation to less-than-significant. The reduction in parking would undermine the market acceptance of the alternative, yielding a reduced rate of return that is commercially infeasible and a reduction in funding available to support the numerous benefits afforded by the Proposed Project, including transit services, new affordable housing units, and new and/or improved infrastructure. (C&R 2.21.46-49.) If the parking supply were reduced, as in a Reduced Parking Alternative, there could also be further demands on transit and additional overcrowding that is likely to result in some riders shifting back to automobile use which would result in greater air quality impacts (DEIR VII.76.) As explained in the EIR, if parking supply and availability is reduced to a certain level, travel behavior may result in increased transit use, which could cause overcrowding on transit. Overcrowding indirectly increases transit travel times, degrades transit reliability and encourages travel behavior that could cause riders to shift to back to automobile use. (DEIR IV.E.140-IV.E.141, VII.76; C&R 2.2142-43.)

The Reduce Parking Alternative would meet most project objectives, however the Agency rejects this alternative as infeasible within the meaning of CEQA for the following reasons:

Market Acceptance; Ability to Finance Project; Project Objectives. TIDA engaged a real estate economic and marketing firm to evaluate the Reduced Parking Alternative. In addition, TICD commissioned three other real estate economic and marketing firms to perform similar evaluations (see *Memorandum from Wilson Meany Sullivan, dated February 10, 2011 entitled*

Market Studies on Reduced Parking) All of the studies concluded that the Reduced Parking Alternative would result in both decreased market acceptance and slow absorption of residential units and lower average sales prices. These studies conclude that absorption rates would decline by 30 to 35 percent as compared to absorption rates from the Proposed Project. Additionally, sales prices compared to the Proposed Project would be, on average, 10 percent lower.

With reduced home sales prices combined with slower absorption, in combination, the total revenue would be reduced by approximately 22 to 27 percent and the rate of return would be reduced from approximately 20 percent to approximately 5 percent or less. Slower absorption would also mean less funding available in the early phases of the Proposed Project for the Project Sponsor to use to construct infrastructure. The reduction in total revenue and rate of return would also result in the inability to attract the amount of private equity required to launch the first phase of the development and, without this upfront capital investment, the tax exempt public financing mechanisms that are necessary to fund the $1.5 billion in project costs would not be accessed.

As a result, implementation of the Reduced Parking Alternative would not be feasible without additional modifications to other cost-generating elements on the Project, including reductions to affordable housing, economic development and job opportunities, parks and open space improvements, and transportation infrastructure. Consequently, under the Reduced Parking Alternative, certain Project objectives would not be met including: (i) to create a development that is financially feasible, that allows for the delivery of infrastructure, public benefits, and affordable housing subsidies; and that is able to fund the Proposed Project's capital costs and ongoing operation and maintenance costs relating to the development and long-term operation of the project site; and (ii) create a high-quality development project that is able to attract investment capital and construction financing and produce a reasonable return on investment. Moreover, failure to meet these objectives could jeopardize other Project objectives, such as the production of housing for a range of income levels.

The Agency rejects the Reduced Parking Alternative because it has been determined to be infeasible in the EIR and as supplemented in the C&R. Further the Agency rejected this Alternative on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

C. Alternatives Considered but not Analyzed in Detail

The Draft EIR explains that a No Public Trust Exchange Agreement Alternative, a 2,800 Housing Unit Alternative with an Amusement Park and a Off-Site Location Alternative were considered but rejected because they either would not achieve most of the project sponsors'

objectives, would not reduce significant environmental project impacts, would result in greater impacts than the Proposed Project, and/or do not represent feasible alternatives for other economic, social or environmental reasons. (DEIR VII.73-77) In addition, a number of comments received during the public scoping process for EIR and in comments on the DEIR suggested that the EIR should analyze additional alternatives with features designed to reduce reliance on private automobiles. Measures proposed included reduced parking, off-peak access fees, and additional incentives and services that could reduce automobile ownership. The EIR explains that the Alternatives proposed by commenters would not achieve most of the project sponsors' objectives, would not reduce significant environmental project impacts, would result in greater impacts than the Proposed Project, and/or do not represent feasible alternatives for other economic, social or environmental reasons. (DEIR VII.77-78; C&R 2.21.1-3; 2.21.65-67.) The Agency finds each of these reasons provide sufficient independent grounds for rejecting these Alternatives.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA section 21081 and CEQA Guideline 15093, the Agency hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs these significant and unavoidable impacts and is an overriding consideration warranting approval of the Project, which may include one or more of the variants described in Section I.A.2. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Agency will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Agency specially finds that there are significant benefits of the proposed Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. Specifically, notwithstanding the significant and unavoidable impacts to Aesthetics (Impact AE-1), Cultural and Paleontological (Impact CP-9), Transportation (Impacts TR-1, TR-2, TR-3, TR-4, TR-6, TR-7, TR-8, TR-9, TR-10, TR-11, TR-12, TR-14, TR-17, TR-18, TR-19, TR-25, TR-27, TR-29, TR-30, TR-31, TR-39, TR-40, TR-41, TR-42, TR-44, TR-45, TR-46, TR-47, TR-48, TR-49, TR-50, TR-51, TR-52, TR-54, TR-55, TR-58, TR-59, TR-60, TR-61, TR-63), Noise (Impact NO-1, NO-2, NO-3, NO-4, NO-7), Air Quality (Impacts AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, AQ-8, AQ-9), Wind and Shadow (Impact

WS-3, WS-4, WS-5), and Biological Resources (Impacts BI-4, BI-7), the Project benefits as described below, including benefits such as Transportation, Land Use and Sustainable Development that relate directly to areas of impact, as well as all other benefits described below and elsewhere in this document, outweigh these impacts.

The Agency further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures proposed in the FEIR that are applicable to the Project are adopted as part of this approval action. Furthermore, the Agency has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social and other considerations. Any alternatives proposed by the public are rejected for the reasons set forth in the DEIR and C&R and the reasons set forth herein.

The Project has the following benefits:

- **Housing.** Adds up to 8,000 housing units to the City's housing stock, including significant numbers of new below-market rate housing units, including the following:
    - Providing housing affordable to a range of household incomes and household types (e.g., families, seniors, singles, and formerly homeless), with approximately 2,000 below-market rate units (approximately 25 percent of all new units).
    - Providing at least six percent of all new units at a level affordable to very-low income households
    - Providing approximately 435 of the new affordable units for supportive homeless housing units to be developed by TIHDI member organizations
    - Providing approximately 5 percent of all new private units as inclusionary housing units to serve moderate-income and low-income households.
    - Implementing a transition housing plan that would offer qualified households the opportunity to stay on Island and transition into newly constructed units, or assist in their relocation off-Island. These provisions exceed what is currently required by State law.
- **Parks and Open Space.** Creates approximately 300 acres of parkland, ecological, recreational, neighborhood and cultural areas, including: a shoreline park for pedestrians and bicycles; an approximately 100-acre Northern Shoreline and Wilds naturalistic open

space with stormwater wetlands, passive open space, the existing sailboat launch and space for an environmental educational center; seven neighborhood parks and playgrounds; a linear park; off-leash dog areas; space for art installations; an urban agriculture park; 40 acres of athletic fields; improvements to the existing sailing center; a new 5 to 6-acre Hilltop Park on Yerba Buena Island, in addition to existing parks and open space; plazas and active public spaces; and a 3-acre Cultural Park adjacent to Building 1. These new park facilities will include bicycle and pedestrian trails connecting both islands and connect to the new pedestrian and bicycle path on the new east span of the Bay Bridge.

- **Infrastructure.**

  - Provides a comprehensive program for geotechnical stabilization and improvement, including soil densification, raising site grades in developed areas above the expected flood level, including an allowance for potential future sea level rise into account and densifying the perimeter and causeway between Treasure Island and Yerba Buena Island to provide protection against wave overtopping under extreme combinations of tide and storm activity.

  - Implements a comprehensive strategy to address potential future sea level rise ("SLR"), including (i) setting back the large portions of the development 200 to 350 feet from the shoreline to mitigate against storm events, (ii) elevating all development and vital infrastructure by 42 inches, which would accommodate potential SLR and (iii) enhancing the Treasure Island's perimeter to protect from wave overtopping in large storm events. In addition, the Project will adopt an adaptive management strategy that enables a variety of responses to actual future SLR conditions and a project-generated funding mechanism to pay for those improvements.

  - Rebuilds a new backbone utility and street network for Treasure and Yerba Buena Island, including:

    - A new street network which includes the causeway between Treasure Island and Yerba Buena Island, rebuilt to current standards and on a stable platform achieved by seismically reinforcing the development areas as described above.

    - A new wet utility system, including new water tanks on Yerba Buena Island, new trunk lines throughout both islands, connections to a new

secondary/emergency back-up water supply line on the new Eastern Span of the Bay Bridge linked to the East Bay Municipal Utility District water system, construction by the SFPUC of an upgraded or entirely new wastewater treatment facility and recycled water plant that would tie into a new waste water distribution system and recycled water distribution system being constructed by the Project., and construction of a new storm water drainage and treatment system, including a storm water treatment wetland.

- A new dry utility network, including new electrical, gas and telecommunications lines.

- Completes certain environmental remediation to support the proposed land uses, above and beyond the levels the Navy is legally required to clean to under Federal law.

- **Transportation.** The project's design and development will incorporate innovate and sustainable transit-first and congestion pricing policies which will provide significant benefits to residents of and visitors to the project site. These benefits include:

  - Delivering a comprehensive transportation program that includes multiple alternatives to use of the private automobile, including extensive bicycle and pedestrian path networks (including connections to the East Bay via the new Eastern Span of the Bay Bridge), bus service to downtown San Francisco and the East Bay, ferry service to downtown San Francisco, and intra-island shuttle services.

  - Administering a congestion pricing program which will charge a fee for residents to access the Bay Bridge and the islands during peak congestion hours in order to discourage residents from taking auto trips during these peak travel hours and encouraging them to use alternative modes of transportation.

  - Creating a Treasure Island Transportation Management Agency ("TITMA") that would implement the congestion pricing program, oversee the collection of revenues and the disbursement of funds. The TITMA will have authority to manage and implement the Project's transportation program (other than SFMTA-provided services), which is unique to the nature of the project and the island.

- Encouraging a reduction in vehicle miles traveled through an innovative system managed by TITMA. TITMA will administer a range of programs designed to discourage automobile usage and support transit, including administering a variable congestion pricing fee and parking charges, revenues of which will subsidize transit programs, facilitating a diversity of alternative modes of transportation, and implementing.

- Providing additional transportation demand management features (TDM) such as a car-share program, prepaid transit vouchers, carpool and vanpools and a bicycle rental system.

- **Land Use and Sustainable Development.** Implements a comprehensive sustainability strategy that includes principles, goals, targets and strategies for key elements including site design and land use, landscape and biodiversity, transportation, energy, water and wastewater, materials, solid waste, health, safety and security, community and society and economic development, all of which integrate the best principals of smart growth and quality urban design. Key elements of the Sustainability Plan include the following:

  - Committing to achieving Gold certification under the United States Green Building Council's LEED (Leadership in Energy & Environmental Design) for Neighborhood Development (ND) rating system (July 2010 version), while making a good faith effort to achieve the higher Platinum certification.

  - Creating a dense, compact land use plan located in close walking proximity to a multi-modal transit node, residents, employees and visitors are encouraged to choose walking, bicycling and transit over the automobile, also enabling the majority of the Islands to be preserved or established as natural habitat.

  - Creating an island gateway and heart with the most intense residential density and the majority of commercial uses focused on the western shore to capitalize on the spectacular views to San Francisco as a public resource

  - Organizing buildings, streets and open spaces to respond to Treasure Island's unique microclimate of wind, sun and fog, accomplished, in part, by shifting the conventional street grid to orient certain streets due south.

  - Establishing Treasure Island and Yerba Buena Island as a vibrant commercial and visitor destination, including encouraging arts, cultural, entertainment and

educational uses, that serve as both an amenity for San Francisco residents and a destination for nonresidents

- Including enough residential density to create a viable community that supports neighborhood serving retail, community facilities, and transit infrastructure and service

- Rehabilitation and reuse of Buildings 1, 2 and 3 on Treasure Island, and of the historic Nimitz House, the eight other Senior Officers' Quarters, Quarters 10 and Building 267, and the Torpedo Assembly Building on Yerba Buena Island, in compliance with the Secretary of the Interior's Standards for Historic Rehabilitation.

- Locating neighborhood-serving uses and transit within walking and bicycling distance of all residences, making substantial improvements to the pedestrian and bicycle network, and making each of these modes of transit a viable alternative to automobiles for non-commute trips. Development would be concentrated around public transportation facilities, with approximately 60 percent of residences within a 10-minute walk and all residences within a 15 to 20-minute walk of the Ferry Terminal and intermodal Transit Hub.

- Achieving an at least 15% compliance margin over Title 24 Part 6 2008 California Energy Standards by implementing best practices to conserve energy and reducing demand by requiring developers to utilize Green Building Specifications incorporated into the Design for Development that go above and beyond the City's adopted Green Building Ordinance, and by constructing renewable energy infrastructure that will provide a minimum 5% of peak demand delivered from on-site renewable energy.

- Reducing potable water consumption by 30% over the average San Francisco household by incorporating features in individual buildings to minimize consumption of potable water, generating recycled water, which can be used for irrigating landscaped areas and help establish plantings within restored habitat areas, and capturing and filtering stormwater runoff through LID treatment systems such as bio-swales and rain gardens and a constructed stormwater treatment wetland.

- Diverting at least 75% of construction debris from landfills and incinerates back to the manufacturing process or reuse at appropriate sites, and providing an on-

site area for separation, storage and loading of trash, recyclables and compostable waste.

- **Economic Development, Jobs and Community Facilities**. Provides a comprehensive package of educational, social, cultural, environmental and public safety facilities and programs, including a joint police/fire station on Treasure Island, child-care facilities, a school, community meeting rooms and other facilities, a Treasure Island Sailing Center, and the Delancey Street Life Learning Center. The construction of the project will provide opportunities to generate thousands of annual construction jobs and thousands of permanent jobs at project completion, encouraging participation by small and local business enterprises through a comprehensive employment and contracting policy.

- Invests more than $1.3 billion in infrastructure to serve the site including $68.3 million in transportation improvements and $137 million in geotechnical stabilization.

- Creates approximately 9,900 construction job opportunities onsite over the build-out of the Project. Total annual payroll during peak periods is estimated to be $54 million. Construction spending will indirectly generate an additional 2,838 jobs total in San Francisco over a 20-year build out.

- Creates approximately 2,600 net new permanent jobs in the Development Plan Area. Permanent jobs are estimated to generate an annual payroll of $195 million. In addition, economic activity from the Project is projected to generate multiplier effects on other businesses and employment, creating a projected additional 2,100 jobs from indirect and induced expenditures in the San Francisco economy.

- Will generate over $220 million annually in business revenue from economic activity by businesses on Treasure Island. This business activity, in turn, will produce additional indirect spending by vendors to the Treasure Island businesses, estimated to be over $100 million annually. Induced spending by employee households as a result of direct and indirect activity will result in over $77 million in spending.

- At full build-out provides more than $4.9 billion in net new property value (in constant dollars or $9.2 billion in nominal dollars).

- Integrating public and private art and art programming opportunities throughout the Project

The successful conversion of the former Naval Station Treasure Island to a vibrant, thriving community is one of the City's highest priorities. Having considered these benefits, the Agency finds that the benefits of the Project outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable. The Agency further finds that each of the above considerations is sufficient to approve the project. For each of the reasons stated above, and all of them, the project should be implemented notwithstanding the significant unavoidable adverse impacts identified in the EIR.

Exhibit A

List of Acronyms

Acronym	Meaning
BAAQMD	Bay Area Air Quality Management District
C&R	Comments and Responses
CAB	Citizens Advisory Board
CDFG	California Department of Fish & Game
CEQA	California Environmental Quality Act
CRHR	California Register of Historic Resources
CTMP	Construction Traffic Management Plan
DBI	San Francisco Department of Building Inspection
DDA	Disposition and Development Agreement
DPM	diesel particulate matter
Draft EIR or DEIR	Draft Environmental Impact Report
DRDAP	Document Review and Design Approval Procedure
DTSC	California Department of Toxic Substance Control
Final EIR or FEIR	Final Environmental Impact Report for the Project
LTMS	long term management strategy
mgd	million gallons per day
MMRP	Mitigation Monitoring and Reporting Program
NI	no impact
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
RWQCB	Regional Water Quality Control Board
SAV	submerged aquatic vegetation
SFDPW	San Francisco Department of Public Works
SFMTA	San Francisco Municipal Transportation Agency
SFPUC	San Francisco Public Utilities Commission
SGMP	Soil and Groundwater Management Plan

Acronym	Meaning
SLR	Sea Level Rise
TICD	Treasure Island Community Development, LLC
TIDA	Treasure Island Development Authority
TIHDI	Treasure Island Homeless Development Initiative
WETA	Water Emergency Transit Authority

EXHIBIT C

[Environmental Impact Report Certification]

Resolution certifying a final Environmental Impact Report for the Treasure Island/Yerba Buena Island Project.

WHEREAS, The City and County of San Francisco, acting through the Planning Department and Treasure Island Development Authority staff (hereinafter "Department and Authority Staff") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Sections 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Sections 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31") in regard to the Final Environmental Impact Report identified as Planning Department Case No. 2007.0903E (hereinafter "FEIR") for the proposed Treasure Island/Yerba Buena Island Project ("Project"); and,

WHEREAS, The Department and Authority Staff determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 26, 2008; and,

WHEREAS, On July 12, 2010, the Department and Authority Staff published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice; and,

WHEREAS, Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department and Authority Staff on July 12, 2010; and,

WHEREAS, On July 12, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent

property owners, and to government agencies, the latter both directly and through the State Clearinghouse; and,

WHEREAS, The Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 12, 2010; and,

WHEREAS, The Treasure Island Development Authority Board of Directors (hereinafter "Authority Board") and Planning Commission held a duly advertised joint public hearing on said DEIR on August 12, 2010, at which time opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 10, 2010; and,

WHEREAS, The Department and Authority Staff prepared responses to comments on environmental issues received at the public hearing and in writing during the 59-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 10, 2011, distributed to the Authority Board and all parties who commented on the DEIR, and made available to others upon request at the Department; and,

WHEREAS, A Final Environmental Impact Report has been prepared by the Department and Authority Staff, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law ("FEIR"); and,

WHEREAS, Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing

through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. The Department and Authority Staff prepared a memorandum describing these changes and other minor Project changes since publication of the FEIR. The memorandum evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus, recirculation of the EIR for public review and comment is not required; and,

WHEREAS, The FIER and its related files have been made available for review by the Authority Board, the Commission, and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Authority Board; and,

WHEREAS, On April 21, 2011, the Authority Board at a joint hearing with the Planning Commission reviewed and considered the FEIR; and,

WHEREAS, The Authority Board hereby does find that the Project described in the Environmental Impact Report:

- Will result in the following significant and unavoidable project-specific environmental impacts:
  - Alteration of scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.

- Impairment of the significance of an historical resource by demolition of the Damage Control Trainer.
- Construction impacts on the transportation and circulation network, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures.
- Significant contribution to existing LOS E operating conditions during the weekday PM peak hour and during the Saturday peak hour at the eastbound off-ramp on the west side of Yerba Buena Island.
- Under conditions without the TI/YBI Ramps Project, traffic impacts at the two westbound on-ramps.
- Under conditions with the Ramps Project, traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.
- Queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the TI/YBI Ramps Project.
- Queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour with and without the TI/YBI Ramps Project.
- Traffic impact at the following nine intersections:
  - Intersection of First/Market;
  - Intersection of First/Mission;
  - Intersection of First/Folsom;
  - Intersection of First/Harrison/I-80 Eastbound On-Ramp;
  - Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
  - Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp

- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

- Exceedance of the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands during the AM, PM and Saturday peak hours.
- AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge without the Ramps Project.
- AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge with the Ramps Project.
- Traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following three bus lines:
  - Muni 27-Bryant;
  - Muni 30X-Marina Express; and
  - Muni 47-Van Ness bus line.
- Exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands from a shift from auto to transit modes, resulting from parking shortfall on the Islands and leading to an increase in transit travel demand during the peak hours.
- Construction noise levels above existing ambient conditions.
- Exposure of persons and structures to excessive ground-borne vibration or ground-borne noise levels during construction from on-shore pile "impact activities," such as pile driving and deep dynamic compaction, and vibro-compaction.

- Increase in ambient noise levels in the project vicinity above existing ambient noise levels from project-related traffic and ferry noise.
- Violation of air quality standards.
- Exposure of sensitive receptors to substantial levels of toxic air contaminants.
- Exposure of sensitive receptors to substantial levels of PM2.5.
- Violation of air quality standards during project operations.
- Exposure of sensitive receptors to substantial pollutant concentrations.
- Potential conflict with adopted plans related to air quality.
- Temporary wind hazard impacts during phased construction.
- Potential exposure of publicly accessible locations within the Project Site to wind hazards
- Potential adverse impacts on movement of rafting waterfowl from ferry operations; now, therefore be it

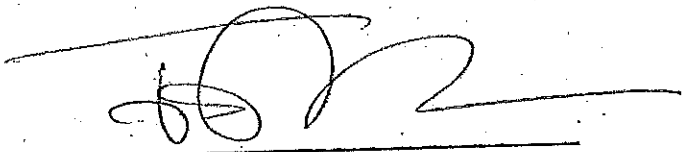
RESOLVED, The Authority Board hereby does find that the contents of the FEIR and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and, be it

FURTHER RESOLVED, The Authority Board hereby does find that the FEIR (Planning Department File No. 2007.0903E) reflects the independent judgment and analysis of the Authority Board, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR; and, be it

FURTHER RESOLVED, The Authority Board hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on April 21, 2011.



Jean-Paul Samaha, Secretary

EXHIBIT D

[CEQA Findings]

Resolution adopting environmental findings (and a statement of considerations) under the California Environmental Quality Act and State guidelines in connection with the adoption of the Treasure Island / Yerba Buena Island Project and related actions necessary to implement such plans.

WHEREAS, the Treasure Island Development Authority, together with the San Francisco Planning Department are the Lead Agencies responsible for the implementation of the California Environmental Quality Act ("CEQA") for this area and have undertaken a planning and environmental review process for the proposed Treasure Island/Yerba Buena Island Project ("Project") and provided for appropriate public hearings before the respective Commissions.

WHEREAS, A primary objective of the Project and the Term Sheet, endorsed by the Treasure Island Development Authority Board of Directors and the Board of Supervisors in 2006 and updated in 2010, is to create sustainable economic development, affordable housing, public parks and open space and other community benefits by development of the under-used lands within the project area.

WHEREAS, Originally constructed in 1937 as a possible site for the San Francisco Airport, Treasure Island was first used to host the Golden Gate International Exposition from 1939-1940. Shortly thereafter in World War II, the United States Department of Defense converted the island into a naval station, which operated for more than five decades. Naval Station Treasure Island was subsequently closed in 1993 and ceased operations in 1997. Since the closure of the base, the City and the community have been planning for the reuse of former Naval Station Treasure Island and adjacent Yerba Buena Island.

WHEREAS, Former Naval Station Treasure Island consists of approximately 550 acres including Yerba Buena Island. Today the site is characterized by aging infrastructure,

environmental contamination from former naval operations, deteriorated and vacant buildings, and asphalt and other impervious surfaces which cover approximately 65% of the site. The site has few public amenities for the approximately 1,820 residents who currently reside on the site.

WHEREAS, The Project will include (a) approximately 8,000 new residential units, with at least 25 percent of which (2,000 units) will be made affordable to a broad range of very-low to moderate income households, (b) adaptive reuse of 311,000 square feet of historic structures, (c) 140,000 square feet of new retail uses and 100,000 square feet of commercial office space, (d) 300 acres of parks and open space, (e) new and or upgraded public facilities, including a joint police/fire station, a school, facilities for the Treasure Island Sailing Center and other community facilities, (f) 400-500 room hotel, (g) transportation infrastructure, including a ferry/quay intermodal transit center.

WHEREAS, In 2003, the Treasure Island Development Authority ("TIDA") selected through a competitive three year long process, Treasure Island Community Development, LLC ("TICD") to serve as the master developer for the Project.

WHEREAS, In 2006, the Board endorsed a Term Sheet and Development Plan for the Project, which set forth the terms of the Project including a provision for a Transition Plan for Existing Units on the site. In May of 2010 the Board endorsed a package of legislation that included an update to the Development Plan and Term Sheet, terms of an Economic Development Conveyance Memorandum of Agreement for the conveyance of the site from the Navy to the City, and a Term Sheet between TIDA and the Treasure Island Homeless Development Initative ("TIHDI").

WHEREAS, In planning for the redevelopment of former Naval Station Treasure Island, the City and the Treasure Island Development Authority worked closely with the Treasure Island Citizens Advisory Board ("CAB"). The CAB is a group of Treasure Island/Yerba Buena

Island community residents, business owners and individuals with expertise in specific areas, who are selected by the Mayor to oversee the redevelopment process for the islands. TIDA has worked with the CAB and the community throughout the process of implementing revitalization activities regarding Treasure Island and Yerba Buena Island.

WHEREAS, The proposed Treasure Island/Yerba Buena Island Area Plan and the Treasure Island/Yerba Buena Island Special Use District, as well as the Treasure Island/Yerba Buena Island Project implementing documents, including, without limitation, the Disposition and Development Agreement, its attached plans and documents, the Development Agreement, its attached plans and documents, and the Design for Development documents contain a wide range of the land use designations that could accommodate up to 8,000 residential units, of which at least 25% will be below market rate; approximately 300 acres of improved open space and recreational areas; approximately 140,000 square feet of new, neighborhood-serving retail space; approximately 100,000 square feet of office space; a 400 – 500 room hotel; and new transportation infrastructure and upgraded public facilities.

WHEREAS, To implement the Project, the Treasure Island Development Authority Board of Directors ("TIDA Board") must take several actions including approval of a Disposition and Development Agreement, Trust Exchange Agreement, Design for Development, Navy Conveyance Agreement, TIHDI Agreement, among other actions.

WHEREAS, On July 12, 2010, the Planning Department and TIDA released for public review and comment the Draft Environmental Impact Report for the Project, (Planning Department Case No. 2007.0903E).

WHEREAS, The Planning Commission and TIDA Board held a joint public hearing on August 12, 2010 on the Draft Environmental Impact Report and received written public comments until 5:00 pm on September 10, 2010, for a total of 59 days of public review.

WHEREAS, The Planning Department and TIDA prepared a Final Environmental Impact Report ("FEIR") for the Project consisting of the Draft Environmental Impact Report, the comments received during the review period, any additional information that became available after the publication of the Draft Environmental Impact Report, and the Draft Summary of Comments and Responses, all as required by law, a copy of which is on file with the Planning Department under Case No. 2007.0903E, which is incorporated into this motion by this reference.

WHEREAS, Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required.

WHEREAS, The FEIR files and other Project-related Department files have been available for review by the Planning Commission, TIDA Board and the public, and those files are a part of the record before this Commission.

WHEREAS, On April 21, 2011, the Planning Commission and the Authority Board reviewed and considered the FEIR and, by Motion No. 18325 and Resolution No. 11-14-

04/21, respectively, found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the CEQA and the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

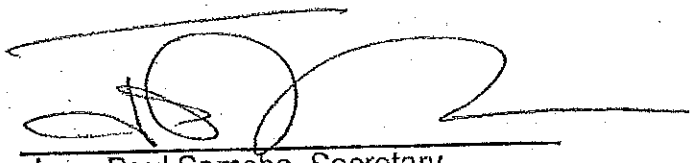
WHEREAS, By Motion No. 18325 and Resolution No. 11-14-04/21, the Planning Commission and the Authority Board, respectively, found that the FEIR was adequate, accurate and objective, reflected the independent judgment and analysis of each Commission and that the summary of Comments and Responses contained no significant revisions to the Draft Environmental Impact Report.

WHEREAS, The Planning Department and TIDA prepared proposed Findings, as required by CEQA, regarding the alternatives and variants, mitigation measures and significant environmental impacts analyzed in the FEIR, overriding considerations for approving the Project, denoted as Attachment A, a proposed mitigation monitoring and reporting program, denoted as Attachment B, and proposed Mitigation Measures within the Responsibility of TIDA for the Treasure Island/Yerba Buena Island Project, denoted as Attachment C, on file with the Treasure Island Development Authority Commission Secretary, at One Avenue of the Palms, which material was made available to the public, the Planning Commission and this Board of Directors for this Board's review, consideration and actions; now, therefore be it

RESOLVED, that the TIDA Board has reviewed and considered the FEIR and the actions associated with the Treasure Island/Yerba Buena Island Project and hereby adopts the Project Findings attached hereto as Attachment A including a statement of overriding considerations, and including as Attachment B the Mitigation Monitoring and Reporting Program and as Attachment C the Mitigation Measures within the Responsibility of TIDA for the Treasure Island/Yerba Buena Island Project.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on April 21, 2011.



Jean-Paul Samaha, Secretary

EXHIBIT E

--- On **Mon, 4/11/11, Barbara.Schultheis@sfgov.org** <*Barbara.Schultheis@sfgov.org*> wrote:

From: Barbara.Schultheis@sfgov.org <Barbara.Schultheis@sfgov.org>
Subject: Re: FW: Fw: Treasure Island angled streets concern
To: "Albert, Peter" <Peter.Albert@sfmta.com>
Cc: c_olague@yahoo.com, rm@well.com, wordweaver21@aol.com, plangsf@gmail.com, mooreurban@speakeasy.net, hscommish@yahoo.com, rodney@waxmuseum.com, "Switzky, Joshua" <Joshua.Switzky@sfgov.org>, "Tymoff, Michael" <Michael.Tymoff@sfgov.org>, "Olea, Ricardo" <Ricardo.Olea@sfmta.com>, "Yee, Bond" <Bond.Yee@sfmta.com>, "Papandreou, Timothy" <Timothy.Papandreou@sfmta.com>, kloke@wmspartners.com, Monica.Fields@sfgov.org, Patrick.Gardner@sfgov.org,tadair@bkf.com, John.Kwong@sfdpw.org
Date: Monday, April 11, 2011, 12:57 PM

Peter-

Thank you for reply.

I will start by saying that I am very concerned about the street layout proposed for Treasure Island, despite having received your responses. I will try to explain why.

1. When I read the Better Streets Plan (as well as many other documents available on the internet on the subject, some of which I have attached), it is clear to me that the most desirable angle for streets to intersect is 90 degrees, and that skewed intersections have been proven to be more hazardous for drivers and pedestrians. While it may be true that the language in the final version of the Better Streets Plan was somewhat watered down from the proposed revision (also found on the BSP website), the final version states as follows: " Visibility at crossings. One of the main safety factors at skewed intersections is lateral visibility. Drivers making acute turns have difficulty looking back at oncoming traffic to select an adequate gap. Because head and neck mobility commonly declines as people age, acute corners pose particular challenges and potential hazards for older drivers. Further-the Better Streets Plan seems to address the issues of angled streets, largely due to the fact that San Francisco has many existing streets that are angled, and while not desirable, we have to deal with them. **But the Treasure Island layout is only on paper and not existing.** Why would San Francisco choose to develop new streets with angled intersections (let alone 27 of them on one island)?

This is a concern to me because it is an issue of public safety, not only for pedestrians, but also for drivers. Firefighters driving trucks and engines are challenged with 90 degree intersections-and we have too many accidents as it is. We don't need more challenges.

2. You stated in your email that stop signs are provided at nearly every corner. Is this a good design? I believe that this design will definitely slow down emergency response vehicles. Already, fire dept. resources will be very limited on the island. A standard response to any fire on the island will require most of the companies that respond to come from the City, across the bridge (rush hour or not). Emergency response vehicles already need to slow down significantly at intersections, but will likely require an even more cautious approach. We don't need more challenges.

3. Additionally, you state that there will be very little traffic on the island. From what I have been able to gather, with the initial development, there are assumed to be at least 11,000 cars on the island. This does not sound insignificant to me. In addition, assuming that there won't be any traffic in the future does not seem like good planning to me. Again, why would SF want to build 27 intersections that are less than as safe as

they can be in new development?

4. I want to state that SFFD did review some of the major street intersections, and did not raise a concern about the angled intersections. This is entirely true. However, that is because the person who reviewed the plans was unaware of the issues around angled intersections. I too was unaware that is was an issue until it was brought to my attention, because it is not addressed in the California Fire Code. However, now that I have been made aware that it is addressed in street engineering manuals, the Better Streets Plan, and various other documents (some of which I have attached), I do think it's an issue of significant concern.

While my staff is very experienced at many issues, new street development is probably one of the areas we are least familiar with, as San Francisco is largely built. I have, in the past few days, contacted several of my colleagues in fire departments from outlying areas where new development is common, explaining the proposed streets layout and they have unequivocally stated that they think the proposed design is not one that they could support.

5. Also, the person who did the review of the streets on Treasure Island was Captain Bill Mitchell of my staff. Captain Mitchell has subsequently retired. I was finally able to reach him today to check in with him about these issues. According to Bill, he reviewed some of the intersection layouts, but had asked for comprehensive drawings of both TI and YBI. He said that he was never provided those documents, and never actually signed off on anything. He said he was provided only preliminary drawings that did not tell the whole story. So it seems there is quite a bit of work that remains to be done before this is complete. This concerns me, because, according to you and most of the people I have heard from who are working on this project, the Fire Department had supposedly signed off on this project. In addition, I heard that you told the Planning Commission that was the case as well. It is for that reason that I am cc'ing the commissioners. It may have been your understanding that SFFD had done a thorough review, but that is not what I have heard from my staff.

6. There is one other issue that I must address, and that is that of the "shared public way". I was recently provided some detailed drawings that showed these, which I had not seen before. Captain Mitchell told me that he had not seen these either. Based on the minute amount of information provided, these appear to be required fire department access roads, but I do not believe they can accommodate fire department apparatus. Based on the sketches provided, I do not see how we could make the turns onto and off of these roadways. Additionally, the sketch shows that the roadway is 12' wide and that the pedestrian area is 48" wide. Fire department access roads are required to be a minimum of 20' in width. I do not believe that these drawings have been provided to the fire department before they were sent to me as part of the recent package of information justifying the angled streets.

I know that we will be meeting at some point in the near future on these issues. I hope that we can resolve them.

Barbara Schultheis
Fire Marshal
San Francisco Fire Department
698 2nd St.
San Francisco, CA 94107
(415) 558-3320 ph.
(415) 558-3322 fax

"Albert, Peter" <Peter.Albert@sfmta.com> 04/07/2011 06:13 PM

To

"Schultheis, Barbara" <Barbara.Schultheis@sfgov.org>

cc

"Switzky, Joshua" <Joshua.Switzky@sfgov.org>, "Tymoff, Michael" <Michael.Tymoff@sfgov.org>, "Olea, Ricardo" <Ricardo.Olea@sfmta.com>, "Yee, Bond" <Bond.Yee@sfmta.com>, "Papandreou, Timothy" <Timothy.Papandreou@sfmta.com>

Subject

FW: Fw: Treasure Island angled streets concern

Hi, Barbara:

I am the SFMTA manager responsible for coordinating a multi-disciplinary SFMTA team to review, revise and approve the street network design proposed for Treasure Island. We worked extensively from 2008-2010 on this process, and included review and incorporated advice from many other agencies, inlcuding SFFD, SFPD, OEWD, TIDA, DPW, MOD and City Planning.

Josh Switzky of City Planning asked me to respond to certain questions about the street network. I hope these answers are of interest to you:

(1) SFMTA is on board with the street grid design and feels it is safe: we vetted it through our internal review meetings from 2008-2010, through the SFMTA "Pre-Staff" engineering review, and through the multi-agency TASC process , which includes SFFD, SFPD and MOD, as well as SFMTA Traffic Engineering and Muni Operations.

(2) The amount and speed of traffic on the Island will be low and not likely to create incidents: the street design, using Better Streets Guidelines, is intended to reinforce this.

(3) Most intersections will be controlled by STOP signs.

(4) The proposal, with its angled street grid. is not in conflict with the BSP, -- in fact the BSP guidelines we used throughout the design review process. Angled street intersections are accepted, addressed and accommodated in the BSP in ways that support BSP and TI goals, as acute-angled intersections are not uncommon in San Francisco (Market, Columbus, the Marina, etc.) The specific treatments at these intersections that respond to the angled intersections -- the crosswalk design, sidewalk bulbs, curb radii -- are what are derived from the Better Streets Program.

(4) The proposed street grid and street designs do not violate any applicable local, state or federal requirements.

I hope this helps - please let me know if you have questions,

Peter Albert,
Manager, SFMTA Urban Planning Initiatives
1 South Van Ness Avenue
San Francisco, CA 94103
415.701.4328
fax: 415.701.4735

From: Joshua Switzky/CTYPLN/SFGOV
To: Peter Albert/MAYOR/SFGOV@SFGOV, Michael Tymoff/MAYOR/SFGOV@SFGOV
Cc: Adam Varat/CTYPLN/SFGOV@SFGOV
Date: 04/07/2011 03:43 PM
Subject: Fw: Treasure Island angled streets concern

Peter and Michael -

Barbara Schulteis from SFFD forwarded to me the attached anonymous letter she received expressing concern about the street grid intersection angles proposed for TI. I don't see any real public safety issue, but it would be good if we could provide Barbara with some assurance that these concerns are unwarranted. Presumably MTA was involved in the development and review of the street grid. Note that the "excerpts" from the Draft Better Streets Plan that the concerned citizen attached are from a draft -- not all the language included in that draft was included in the adopted Plan. (Notably, I confirmed with Adam Varat that the prominent sentence appearing the attached draft discouraging the creation of new skewed intersection conditions was NOT included in the adopted BSP).

Any advice on the reassurances we can give to Barbara ASAP would be appreciated. Specifically, please confirm the following assertions I would make: (1) MTA is fully on board with the street grid design and feels it is safe, (2) the amount and speed of traffic on the Island will be low and not likely to create incidents, and all or most intersections will be controlled by STOP signs (I'm presuming?), (3) the proposal is NOT in conflict with the BSP, and (4) that the proposed street grid and street designs do not violate any applicable local, state or federal requirements you know of.

I would also note that Barbara confirmed that this is not an SFFD issue specifically or conflict with any Fire code. She is just trying to respond to this concern expressed to her, as she is interested in public safety.

thanks!

-josh

---- Forwarded by Joshua Switzky/CTYPLN/SFGOV on 04/07/2011 03:05 PM ----

Barbara Schultheis/SFFD/SFGOV
04/07/2011 02:50 PM

To: Joshua Switzky/CTYPLN/SFGOV@SFGOV
cc:
Subject: Treasure Island angled streets concern

Hi Josh-

Thanks for looking at the attached diagrams in reference to our telephone conversation. I would appreciate knowing your thoughts after you get a chance to review. My main concern is public safety.

[attachment "1- Road Access safety Concerns_Treasure Island_ Angle of Intersection.pdf" deleted by Peter Albert/MAYOR/SFGOV] [attachment "4 - Excerpts_BSP_Plan Revisions 2009.pdf" deleted by Peter Albert/MAYOR/SFGOV] [attachment "5 - Pages_from_CA_Hwy_Design_Manual_6th_Edition_Ch_4_-_Intersections_at_Grade [1].pdf" deleted by Peter Albert/MAYOR/SFGOV]

Barbara Schultheis
Fire Marshal
San Francisco Fire Department
698 2nd St.
San Francisco, CA 94107
(415) 558-3320 ph.
(415) 558-3322 fax

------ End of Forwarded Message

------ End of Forwarded Message

------ End of Forwarded Message

SAN FRANCISCO
PLANNING DEPARTMENT

NEIGHBORHOOD ORGANIZATION FEE WAIVER REQUEST FORM

Appeals to the Board of Supervisors

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

This form is to be used by neighborhood organizations to request a fee waiver for CEQA and conditional use appeals to the Board of Supervisors.

Should a fee waiver be sought, an appellant must present this form to the Clerk of the Board of Supervisors or to Planning Information Counter (PIC) at the ground level of 1660 Mission Street along with relevant supporting materials identified below. Planning staff will review the form and may sign it 'over-the-counter' or may accept the form for further review.

Should a fee waiver be granted, the Planning Department would not deposit the check, which was required to file the appeal with the Clerk of the Board of Supervisors. The Planning Department will return the check to the appellant.

TYPE OF APPEAL FOR WHICH FEE WAIVER IS SOUGHT

[Check only one and attach decision document to this form]

- ☐ Conditional Use Authorization Appeals to the Board of Supervisors
- ☑ Environmental Determination Appeals to the Board of Supervisors (including EIR's, NegDec's, and CatEx's, GREs)

REQUIRED CRITERIA FOR GRANTING OF WAIVER

[All criteria must be satisfied. Please check all that apply and attach supporting materials to this form]

- ☑ The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of that organization. Authorization may take the form of a letter signed by the president or other officer of an organization.
- ☑ The appellant is appealing on behalf of a neighborhood organization which is registered with the Planning Department and which appears on the Department's current list of neighborhood organizations.
- ☐ The appellant is appealing on behalf of a neighborhood organization, which was in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications, and rosters.
- ☐ The appellant is appealing on behalf of a neighborhood organization, which is affected by the project, which is the subject of the appeal.

APPELLANT & PROJECT INFORMATION [to be completed by applicant]	
Name of Applicant: Michael Lynes	Address of Project: Treasure Island
Neighborhood Organization: Golden Gate Audubon Soc.	Planning Case No: 2007.0903 E
Applicant's Address: 2530 San Pablo Ave, Berk. CA	Building Permit No:
Applicant's Daytime Phone No: 510 843-2222	Date of Decision: 4/26/11
Applicant's Email Address: mlynes@goldengateaudubon.org	

DCP STAFF USE ONLY

- ☐ Appellant authorization
- ☐ Current organization registration
- ☐ Minimum organization age
- ☐ Project impact on organization

Planner's Name: _____

Date: _____

Planner's Signature:

■ **WAIVER APPROVED** ■ **WAIVER DENIED**

SAN FRANCISCO
PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 MAY 31 AM 11:11
BY Ak

MEMO

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

APPEAL OF EIR CERTIFICATION

Treasure Island / Yerba Buena Island Redevelopment Project EIR

DATE: May 31, 2011

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Bill Wycko, Environmental Review Officer – (415) 575-9048
Rick Cooper, Senior Planner – (415) 575-3027

RE: BOS File No. 110618, Planning Department Case No. 2007.0903E
Treasure Island / Yerba Buena Island Redevelopment Project EIR

HEARING DATE: June 7, 2011

ATTACHMENTS:
A – Appeal Letter, dated May 11, 2011
B – Memorandum to Planning Commission from Department Staff, dated April 12, 2011
C – Letter from Rich Hillis to Rick Cooper, dated April 20, 2011
D – Transcript of joint Planning Commission/TIDA Board hearing of April 21, 2011, pp. 173-174
E – Memorandum from Joanne White, Chief, San Francisco Fire Department, dated April 21, 2011
F – Memorandum from Peter Albert, San Francisco Municipal Transportation Agency, dated April 19, 2011
G – Letter from M.L. Woodard, Commander, United States Coast Guard, to Michael Tymoff, dated May 25, 2011
H – Letter from Mary King, Interim General Manager, AC Transit, to Rich Hillis, dated April 20, 2011
I – Letter from Lisa Carbone, District Branch Chief, Local Development – Intergovernmental Review, California Department of Transportation, to Rick Cooper, dated April 20, 2011
J – Letter from Water Emergency Transportation Authority to Rich Hillis, dated April 12, 2011
K – Letter from Randy Short, President, Almar Marinas, to Rich Hillis, dated May 18, 2011

PROJECT SPONSORS: Treasure Island Development Authority (TIDA) and Treasure Island Community Development, LLC (TICD)

APPELLANTS: Saul Bloom, Arc Ecology
Kate Looby, Sierra Club, San Francisco Bay Chapter

Michael Lynes, Golden Gate Audubon Society
Ken Masters, c/o Nick Rossi Esq., Law Office of Nick S. Rossi
Aaron Peskin
Brent Plater, Wild Equity Institute

INTRODUCTION

The decision before the Board is whether to uphold the Planning Commission's decision to certify the Final EIR or to overturn the Commission's decision and return the EIR to the Planning Department for additional analysis.

A project-level EIR for the Proposed Project was prepared to evaluate potential environmental impacts of the Treasure Island/Yerba Buena Island Redevelopment Project. A number of minor revisions have occurred to the proposed Treasure Island/Yerba Buena Island Redevelopment Project since publication of the Draft EIR on July 10, 2010, and distribution of the Comments and Responses document on March 11, 2011. These revisions were provided to the Planning Commission on April 12, 2011, and are described below, following the project description presented below, under "Project Revisions."

PROJECT DESCRIPTION

The Treasure Island Development Authority (TIDA) and the Planning Department are proposing to amend the *San Francisco General Plan* to add a Treasure Island/Yerba Buena Island Redevelopment Area Plan (Area Plan) that would provide the basis for development of the portions of Naval Station Treasure Island (NSTI) still owned by the Navy, once transferred to TIDA. The Area Plan would present objectives and policies that provide the foundation for land use and development of the Island. TIDA and the Planning Department have also proposed that the City adopt corresponding amendments to the Planning Code and Zoning Map to establish a Treasure Island/Yerba Buena Island Special Use District (SUD) and Treasure Island/Yerba Buena Island Height and Bulk District (Height and Bulk District). The SUD would reference the draft *Design for Development for Treasure and Yerba Buena Islands* (draft *Design for Development*), and would use its Standards and Guidelines as a basis for development controls set forth in the SUD.

The proposed Area Plan addresses development within the Project Site, which includes all of Treasure Island and Yerba Buena Island and the immediately surrounding waters except for land and water owned and occupied by the U.S. Coast Guard. The Proposed Project analyzed in the EIR includes only the NSTI property that is expected to be transferred by the Navy to TIDA and excludes land within NSTI currently occupied by the Jobs Corps on Treasure Island, and land owned by the Federal Highway Administration (FHWA) and Caltrans on Yerba Buena Island. Development of the Project site by the Project's developer, Treasure Island Community Development, LLC (TICD), would be governed by the proposed Area Plan, the SUD, the Height and Bulk District, the draft *Design for Development*, the Treasure Island/Yerba Buena Island Subdivision Code, and the Mitigation Monitoring and Reporting Program.

In addition to the regulatory requirements, the Proposed Project would be implemented through a Development Agreement between the City and TICD, and a Disposition and Development Agreement (DDA) between TIDA and TICD, and its related plan documents, which include TICD's obligations under the Housing Plan, Transportation Plan, Sustainability Plan, Open Space and Yerba Buena Island Habitat Management Plans, Community Facilities Plan, and Infrastructure Plan.

PROPOSED DEVELOPMENT

The Proposed Project would include development of up to 8,000 residential units; up to 140,000 square feet ("sq. ft.") of new commercial and retail space; up to 100,000 sq. ft. of new office space; adaptive reuse of about 311,000 sq. ft. for commercial, retail, and/or flex space uses in the historic buildings on Treasure Island; up to approximately 500 hotel rooms; rehabilitation of the historic buildings on Yerba Buena Island; new and/or upgraded public facilities and public utilities; about 300 acres of parks, playfields, and public open space including shoreline access and cultural uses such as a museum; new and upgraded streets and public ways; bicycle, transit, and pedestrian facilities; landside and waterside facilities for the existing Treasure Island Sailing Center; landside services for an expanded marina at Clipper Cove;[1] and a new Ferry Terminal and intermodal Transit Hub. Construction and buildout of the Proposed Project would be phased and anticipated to occur over an approximately 15- to 20-year period.

A range of building heights is proposed on Treasure Island. Approximately 50 percent of housing units would be in low-rise buildings of up to 70 feet, with a range of taller mid-rise and high-rise buildings from 85 to 240 feet. The maximum height limits for tower buildings would be located on the southern portion of Treasure Island; towers in this area would be 315 feet in three locations, with a maximum height limit of 450 feet on the site of the "Main Tower."

Treasure Island would be developed into three districts: the Island Center District would occupy the southern portion of Treasure Island, and would include a dense mix of retail, restaurant, office, hotel, residential, transit, community service uses, and a Ferry Terminal and intermodal Transit Hub; the Cityside District located on the western portion of Treasure Island; and the Eastside District, extending east from the Island Center, and forming the border of a six-block-long linear park, the Eastside Commons. Both the Cityside and Eastside Districts would provide high-density residential land uses, with ground-floor community and commercial spaces in some buildings. Historic Buildings 1, 2 and 3 would be adaptively reused for commercial and community-serving uses.

A variety of retail uses are expected on Treasure Island, including neighborhood-serving uses, a grocery store or market, regional-serving uses such as specialty gifts or crafts, and entertainment. The existing

[1] The Clipper Cove Marina expansion is not part of the Proposed Project. It was analyzed in a prior environmental review document, the *2005 Transfer and Reuse of Naval Station Treasure Island Final Environmental Impact Report*, Case No. 94.448E. However, landside facilities and improvements that would serve the expanded marina are included in the Proposed Project.

school building would be rehabilitated or rebuilt as a kindergarten through eighth grade public school in coordination with the San Francisco Unified School District.

Yerba Buena Island would be developed primarily with low-rise residential buildings in generally the same locations as existing housing, with a small amount of neighborhood-serving commercial space. The Nimitz House and the Senior Officers' Quarters historic buildings would be adaptively reused for various commercial activities such as a hotel/wellness center and possibly a restaurant. A proposed Habitat Management Plan would manage and improve plant and wildlife habitat in the undeveloped areas (approximately 74 acres) on Yerba Buena Island.

A maximum of about 10,680 parking spaces could be provided on the Islands; there would be no minimum number of parking spaces required. All of these spaces would incur a charge for use or, for residential spaces, sold or leased separately from the residential unit.

The Proposed Project would include approximately 2,000 affordable housing units. Some would be located in market-rate buildings and others would be in stand-alone affordable housing buildings. A total of 435 affordable units for the Treasure Island Homeless Development Initiative would be provided (replacing the existing 250 units and adding to them). A transitional housing program would be established to assist qualifying households in residence at the time the DDA is executed who continuously remain residents of the Islands to have the opportunity to continue living on the Islands if they choose.

Transportation facilities would include construction of a Transit Hub in the Island Center District on the southern portion of Treasure Island, which would provide bus service to downtown San Francisco and the East Bay, ferry service from the west side of Treasure Island to downtown San Francisco, and free shuttle service on both Islands. A new Ferry Terminal would be constructed, including a Ferry Terminal building, a ferry quay and docks, breakwaters, and the ferry basin enclosed by the breakwaters. A network of bicycle, pedestrian, and shared-use paths would connect the Islands' major destinations.

The Proposed Project also would provide infrastructure improvements, including new or upgraded water distribution piping throughout the Islands; new water storage tanks on Yerba Buena Island; a new recycled water treatment plant, with use of recycled water for irrigation and appropriate plumbing facilities in commercial and residential buildings on Treasure Island; new or upgraded wastewater collection facilities and a new or upgraded wastewater treatment plant, a new stormwater collection and treatment system; new electricity, natural gas, and telecommunications facilities; and solar power generation facilities.

The Proposed Project includes a system for geotechnical stabilization to improve seismic safety. Components would include stabilization of the causeway connecting Treasure Island and Yerba Buena Island; densification of existing fill in the areas of Treasure Island where buildings and roads are proposed; elevation of the ground surface in areas proposed for development on Treasure Island to provide long-term protection against flooding, including an allowance for estimated future potential sea

level rise; strengthening the perimeter berm around Treasure Island; and repairing or rebuilding retaining walls on Yerba Buena Island.

The Proposed Project would be developed according to a proposed *Sustainability Plan* that contains guiding principles for identifying goals, strategies, and implementation measures to facilitate sustainable development on the Islands.

The Proposed Project includes amendments to the text and maps of the *San Francisco General Plan* and amendments to the Planning Code. The *General Plan* would be amended to reference the Area Plan and new neighborhoods on Treasure Island and Yerba Buena Island, and define City objectives and policies related to redevelopment of the Islands. The Planning Code would be amended by adding a new Treasure Island/Yerba Buena Island SUD that establishes land use controls for the Islands, and incorporates the land use controls and design standards and guidelines in the draft *Design for Development*.

PROJECT REVISIONS

A number of revisions have occurred to the Proposed Project since publication of the Draft EIR and distribution of the Comments and Responses document. The revisions relate to a change in the governing structure and documents under which the Proposed Project would be implemented, and to changes made in response to public comment concerning some standards in the public review draft *Design for Development* dated March 5, 2010. For the reader's convenience, these revisions are summarized below; they have also been incorporated into the Project Description and Proposed Development discussions on pp. 2-5 of this Appeal Response.

Due to the uncertainty of the ability to implement redevelopment plans in the future under current California Community Redevelopment Law (CRL), two additional revisions have occurred to how the Proposed Project would be implemented with respect to land use authority and financing:

1. First, a Redevelopment Plan under the CRL is no longer being proposed; rather a new Area Plan would be added to the *San Francisco General Plan* and an SUD and Height and Bulk District would be added to the Planning Code. Under the SUD, review and approval of individual buildings located on land outside the Tidelands Trust properties would be conducted by the Planning Department staff and/or Planning Commission, while review and approval of development proposed on Tidelands Trust properties would continue to be conducted by TIDA, but with review opportunities for the Planning Commission and/or Department staff, as applicable.
2. Second, one of the two public financing mechanisms being used to fund the Proposed Project has been revised from use of tax increment financing under the CRL to use of tax increment under the infrastructure financing district (IFD) laws. As a result of this change in the structure of public financing, the number of affordable housing units would change from the approximately 2,400 units discussed in the EIR to approximately 2,000 units, although the total number of units being proposed in the project remains at up to 8,000 units.

In addition, in response to public comment, and not due to the change in financing, the following revisions have been made in the draft *Design for Development*:

- The maximum height limits allowed for tower buildings on Treasure Island in the proposed draft *Design for Development* circulated for public review on March 5, 2010, have been reduced in the updated draft *Design for Development*. The maximum height for the "Main Tower" was lowered to 450 feet from 650 feet, and other towers were reduced to maximum heights of 240 feet and 310 feet from 350 and 450 feet, respectively; and
- Maximum parking ratios for some commercial uses on Treasure Island have been reduced. Specifically, parking ratios for hotels were reduced from 0.8 spaces per room to 0.4 spaces per room; office space ratios were reduced from 2 spaces to 1 space per 1,000 sq. ft.; and flex space ratios were reduced from 2 spaces to 1 space per 1,000 sq. ft. for uses on Treasure Island. The reduction in parking ratios reduces the maximum number of parking spaces on the two islands by approximately 470, from a total of approximately 11,150 spaces to approximately10,680 spaces. No change is proposed for parking on Yerba Buena Island.

The project revisions have been reviewed by Planning Department staff in the context of the analyses presented in the Environmental Impact Report for the Treasure Island/Yerba Buena Island Redevelopment Project. The results of the review support a determination that there would be no new or substantial increase in significant impacts and no new mitigation measures would be necessary.

PROCEDURAL BACKGROUND

2007 Environmental Evaluation Application

On August 9, 2007, Treasure Island Community Development, LLC, acting on its own behalf and on behalf of the Treasure Island Development Authority, filed Environmental Evaluation Application No. 2007.0903E with the Planning Department requesting review of the Proposed Project pursuant to the California Environmental Quality Act (CEQA).

2008 Notice of Preparation of an Environmental Impact Report and Public Scoping

The Planning Department determined that an Environmental Impact Report (EIR) was required on the Proposed Project, and on January 26, 2008, published a Notice of Preparation of an EIR and Notice of a Public Scoping Meeting. The Planning Department provided public notice thereof by publication in a newspaper of general circulation and by mail to interested agencies, groups, and individuals, to solicit comments regarding the content of the EIR to be prepared. The Planning Department held two public scoping meetings on February 11, 2008 on the San Francisco mainland at the Port of San Francisco, and one on February 13, 2008 on Treasure Island, to receive oral comments and accepted written comments through February 26, 2008, regarding the proposed scope of the EIR analysis. The TIDA Citizens' Advisory Board (CAB) also held a public meeting on February 12, 2008, to articulate its comments. The two public scoping meetings and the TIDA CAB meeting were transcribed and the transcripts included in the Public Scoping Report.

2010 Draft Environmental Impact Report

The Planning Department published a Draft EIR on July 12, 2010, and copies of the Draft EIR were mailed or otherwise delivered to persons requesting it, to adjacent property owners, and to affected governmental agencies. The Planning Department provided public notice of the availability of the Draft EIR by publication in a newspaper of general circulation; by mail to interested agencies, groups, and individuals; and by posting notices on and around the Project Site. The Planning Department accepted comments on the Draft EIR for a 60-day public comment period from July 12, 2010 through September 10, 2010. During this public review period, the Planning Commission and the TIDA Board of Directors held a duly noticed public hearing on August 12, 2010, to receive oral comments on the Draft EIR.

2011 Comments and Responses Document

The Planning Department prepared responses to comments on environmental issues received at the public hearing and in writing during the public comment period for the Draft EIR, prepared revisions to the text of the Draft EIR in response to comments or based on additional information that became available after publication of the Draft EIR, and corrected minor errors in the Draft EIR text. This material was presented in a Comments and Responses document, published on March 10, 2011, and mailed or otherwise delivered to all parties who commented on the Draft EIR and to other interested parties.

2011 Memo to the Planning Commission

A memo concerning revisions to the Proposed Project described in the Draft EIR was distributed to the Planning Commission on April 12, 2011 (hereinafter "April 12 Memorandum"), prior to the April 21, 2011, EIR Certification hearing. The revisions identified changes that occurred subsequent to the March 10, 2011, publication of the Comments and Responses document due to the governing structure and documents under which the Proposed Project would be implemented, and to changes made in response to public comment in some standards in the draft *Design for Development*, dated March 5, 2010. These revisions did not change the analysis or conclusions of the EIR.

Neither the Comments and Responses document nor the Memo to the Planning Commission proposed substantial revisions to the Project or the Draft EIR that require recirculation pursuant to CEQA Guidelines Section 15073.3.

2011 Environmental Impact Report Certification

On April 21, 2011, the Planning Commission and TIDA Board , as co-lead agencies, reviewed and considered the Final EIR, comprised of the Draft EIR, comments received on the Draft EIR and responses to those comments, and revisions to the text of the Draft EIR. The Commission and Board found that the contents of said report and the procedures through which the Final EIR was prepared, noticed, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, and certified the Final EIR as adequate, accurate, and objective, and in

compliance with CEQA and the CEQA Guidelines. The Planning Commission certification action is in Motion No. 18325. The TIDA Board certification is in Resolution 11-15-04/21.

SUMMARY OF ISSUES ON APPEAL AND PLANNING DEPARTMENT RESPONSES

Several key issues were raised by Appellants in the Appeal Letter, along with multiple details presenting their reasons for appealing certification of the EIR. The four key issues – TIDA's legal authority and roles, a request that the EIR be revised and recirculated for public comment, concerns about the description of the Proposed Project, and a request that the EIR be considered to be a program EIR – are summarized first, accompanied by a summary of the Planning Department's responses. These key issues are followed by brief summaries of the remaining issues in the Appeal Letter, with summaries of the Planning Department's responses. Detailed Responses are presented to these and all issues in the Section that follows, entitled "Issues Raised by Appellants."

1. The Appeal Letter repeatedly states that the legal nature and function of TIDA has changed from a redevelopment agency to a private nonprofit corporation.

This contention is erroneous. As described in more detail below, the City created TIDA as a nonprofit public benefit corporation and a public agency. TIDA existed as a nonprofit public benefit corporation and public agency prior to its designation as a redevelopment agency. While TIDA is no longer pursuing the project as a redevelopment project under the California Community Redevelopment Law (CRL), TIDA's status as a public agency created and controlled by the City, with oversight by the Mayor and Board of Supervisors, to perform municipal functions remains intact.

In 1997, the Board of Supervisors passed Resolution 380-97, authorizing the creation of a nonprofit public benefit corporation known as the Treasure Island Development Authority to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island located on Treasure Island and Yerba Buena Island "for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco." The resolution approved the Bylaws and Articles of Incorporation of TIDA, and authorized the Mayor to file the Articles of Incorporation with the California Secretary of State. The resolution also provided that TIDA is subject to the budget and fiscal provisions of the City's Charter.

In 1997, at the request of the City, the State Legislature adopted Assembly Bill 699, known as the Treasure Island Conversion Act of 1997 (Conversion Act). The Conversion Act gave the City's Board of Supervisors the authority by resolution to designate TIDA as the redevelopment agency with all the rights, powers, privileges, immunities, authorities and duties granted to a redevelopment agency under the CRL for the purpose of acquiring, using, operating, maintaining, converting and redeveloping NSTI. The Conversion Act also granted to TIDA all of the State's rights, powers and interests in the portions of Treasure Island and Yerba Buena Island subject to the Tidelands Trust. With respect to the portions of NSTI subject to the Tidelands Trust, the Conversion Act granted to TIDA "the complete power to use,

conduct, operate, maintain, manage, administer, regulate, improve, lease, and control the Trust Property and to do all things necessary in connection therewith which are in conformance with the terms of this act and the public trust for commerce, navigation and fisheries upon which the lands are held, including, without limitation, all of the following: ..." The Conversion Act enabled the City to combine in a single public agency the authority to administer the Tidelands Trust and use redevelopment powers under the CRL, but it did not require that both those powers be vested in TIDA. The Tidelands Trust grant under the Conversion Act was effective on the effective date of the Conversion Act, but the Conversion Act itself did not vest TIDA with redevelopment authority under the CRL. Instead, the Conversion Act granted to the Board of Supervisors the authority to designate TIDA as a redevelopment agency. The Conversion Act contemplated that TIDA could exist as a public agency independent of its status as a redevelopment agency because TIDA would not have authority to act as a redevelopment agency unless and until the Board of Supervisors designated it as such.

On January 9, 1998, the City, acting through the Mayor, filed TIDA's Articles of Incorporation with the California Secretary of State. Article Two, Section B of TIDA's Articles of Incorporation provides that the specific purpose of TIDA "is to promote the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of that certain property commonly known as Naval Station Treasure Island, including Treasure Island and Yerba Buena Island, and all tide and submerged lands and rights of access and other appurtenances thereto for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco ...". Article Two, Section E of TIDA's Articles of Incorporation states that TIDA "is a public agency and shall be an instrumentality and an authority of the City and/or the State of California."

On February 6, 1998, in furtherance of the Conversion Act, the Board of Supervisors adopted Resolution No. 43-98, which among other things, (i) designated TIDA as the redevelopment agency with all of the privileges, immunities and duties granted to redevelopment agencies for the purpose of redeveloping NSTI, (ii) authorized TIDA to act as the Local Reuse Authority designated by the Federal Government's Office of Economic Adjustment for purposes of the conversion of NSTI and to take any actions related to such designation, and (iii) directed the City Attorney to act as legal counsel for TIDA.

TIDA subsequently began performing municipal services on NSTI that the City was previously performing under a Caretaker Cooperative Agreement between the City and the Navy that was executed at the time NSTI closed in 1997. On November 19, 1998, the Board of Supervisors adopted Resolution No. 938-98 approving certain modifications to the Cooperative Agreement that allowed TIDA to assume the City's responsibilities under the Cooperative Agreement for (i) operation and maintenance of the water, wastewater, stormwater, electric and gas utility systems on NSTI, (ii) security and public health and safety services, (iii) grounds and street maintenance and repair, and (iv) property management and caretaker services.

In sum, although TIDA is a separate legal entity from the City, it was created by the City as a public agency to perform municipal functions. TIDA is subject to the fiscal and budgetary provisions of the

City's Charter, which, among other things, requires Board of Supervisors approval of TIDA's budget and TIDA's contracts to the same extent that City contracts are subject to Board of Supervisors approval. TIDA also is subject to the Brown Act and the City's Sunshine Ordinance. Members of TIDA's Board of Directors are appointed by the Mayor, and subject to the Board of Supervisors' approval or rejection.[2]

2. Appellants allege that fundamental changes to the project description and project sponsor objectives that occurred after the Draft EIR was circulated for public review require recirculation for additional public comment. The main fundamental changes listed by Appellants include:

   - Change from tax increment funding under redevelopment to tax increment funding using IFDs that Appellants state could result in changes to project phasing or features which could in turn result in physical environmental impacts;
   - Reduction from 30 percent to 25 percent affordable housing;
   - Change from a Redevelopment Plan to Area Plan and SUD;
   - Reduction in height limits on Treasure Island; and
   - Addition of a consultation process with the United States Coast Guard for buildings over certain heights on Treasure Island related to its Vessel Traffic Service facilities.

Some changes to the Proposed Project have occurred since Draft EIR publication. The Planning Department has reviewed these changes and determined that none would result in new or substantial increase in significant environmental effects or new mitigation and therefore, recirculation is not required.

None of these revisions to the Proposed Project is a "fundamental" change that would result in new, significant physical environmental effects or require recirculation of an updated EIR. Indeed, some of the changes (in heights and a change made to parking ratios that was not noted by the Appellants) were made in response to public comments. CEQA encourages modifications to be made in response to public comments. All of these revisions were analyzed by the Planning Department in the April 12 Memorandum, and no new significant effects were found, no significant effects were found to be substantially more severe, and no mitigation measures or alternatives that were previously identified as infeasible became feasible as a result of the revisions. No physical features of the Proposed Project have been altered as a result of the shift to IFD financing. Phasing of development does not need to and is not proposed to change. TICD would be obligated, in the DDA, to deliver public benefits proportionally with development, by phase and subphase. Therefore, recirculation is not necessary.

The change from 30 percent to 25 percent affordable housing similarly would not result in a substantial change to the Proposed Project's impacts. As up to 8,000 residential units are still proposed, the analyses and conclusions regarding physical environmental impacts in the EIR related to residential units do not

[2] Board of Supervisors approval is required if the appointee is not a City or San Francisco Redevelopment Agency (SFRA) officer or employee. The Board of Supervisors has the right to reject an appointment within 30 days if the appointee is a City or SFRA officer or employee.

change except in relation to the parking demand, which is the only component of the analysis where affordability was taken into account. The small change in parking demand does not result in new or substantially more severe significant impacts, and the Planning Department therefore concluded that recirculation is not necessary.

TIDA would remain a redevelopment agency, although it would not act as a redevelopment agency, and it retains all its other powers, including Trustee of property subject to the Tidelands Trust; these changes do not result in any physical effects that compel additional analysis and recirculation of the EIR.

Height limits were reduced compared to those analyzed in the EIR, without changing the number of allowable residential units, increasing building bulk or changing separation of towers; therefore no new significant impacts would result, as explained in the April 12 Memorandum, and recirculation is not required.

Finally, an update to the draft *Design for Development*, prepared in consultation with the Coast Guard, provides an approach to address this issue that is satisfactory to the Coast Guard. Impacts on Coast Guard facilities would not be significant, so no mitigation measures or alternatives are required.

3. Appellants state that the project description is not sufficiently "stable" and therefore does not meet CEQA requirements.
4. Appellants request that the EIR be considered a program EIR, not a project-level EIR because there is insufficient detail about the proposed project.

The main support that Appellants offer regarding the stated need for a more specific project description is an alleged inability to understand the height limits that include tower flex zones and the number of variants to the Proposed Project. Both of these features of the Proposed Project provide some flexibility for development and infrastructure, but both are well-defined, and fully analyzed in the EIR. The draft *Design for Development* has very specific rules about the heights and overall massing of taller buildings, including not only the height flex zones cited by the Appellants but also tower separation rules, bulk requirements, and other design guidelines, that together informed the representative massing studied and illustrated in the EIR. Flexibility is not the same thing as instability. The use and analysis of these features do not result in an unstable project description. There is sufficient detail about the Proposed Project to allow for a project-level analysis. This EIR is not substantially different from many other project-level EIRs certified by the City.

In addition to these four key issues, Appellants raise numerous other issues that are summarized here, with summaries of the Planning Department's responses:

- Appellants state that new alternatives were proposed by project sponsors that were not analyzed in the EIR.

No new alternatives were proposed; project sponsors are not proposing to reduce the amount of open space or reduce transportation facilities in order to fund additional affordable housing.

- Appellants state that responses to agency and public comments on the Draft EIR do not provide good-faith responses and are inadequate; recirculation is required because the comments identified significant new information. Multiple specific topics were identified and are summarized below.

The Planning Department believes that all responses to comments received on the Draft EIR are thorough and provide good-faith, well-reasoned explanations. Note that some of the examples provided in the Appeal Letter raise new issues that were not raised in comments on the Draft EIR; they are responded to in this Memorandum. Recirculation is not required, because none of the comments raised new issues that could result in new or substantially more severe significant impacts. The Appeal Letter cites responses to comments from public agencies, but none of these agencies has indicated that the response to its letter was unsatisfactory, and several of these agencies have submitted letters following circulation of the Comments and Responses document that indicate that they are fully satisfied with the responses to their comments on the Draft EIR.

- Appellants allege inadequate consultation occurred with permitting agencies.

All appropriate agencies were contacted, and many responded during the public scoping period for the EIR; all permitting agencies and many more received the Notice of Availability of the Draft EIR, and again, many provided comments during the public comment period on the Draft EIR.

- Appellants state that comments on sea level rise, flooding, seismic stability and liquefaction in four comment letters were not adequately responded to.

Not only were the responses adequate, but the Executive Director of BCDC, an agency that has played the leading role on this issue in the Bay Area, specifically expressed support for the proposed approach to future potential sea level rise. The approaches to all of these issues are based on substantial analysis by recognized experts, use proven techniques, and have been extensively peer reviewed by independent third party consultants on behalf of the City.

- Appellants express general concerns about enforceability of mitigation measures, specifically because of the change from a redevelopment plan to Infrastructure Financing Districts and the resulting change in TIDA's role.

As explained above, TIDA remains a City agency with authority over horizontal development and over vertical development on properties subject to the Tidelands Trust. Use of an Area Plan and SUD establishes jurisdiction in the Planning Department and Planning Commission to review vertical development outside of Tidelands Trust property. Mitigation measures would be enforced through the Development Agreement and the Mitigation Monitoring and Reporting Program.

- Appellants state that comments on biological resources were not adequately responded to and there is no basis for ensuring that mitigation measures will be adequate or will be enforced, specifically referencing the measures for avoiding eelgrass and limiting bird strikes.

Responses fully explain the biological issues identified in comments. Mitigation measures related to bird collisions with structures are fully enforceable as written in the EIR and provide mitigation to less-than-significant levels, with opportunities to use improved techniques if any are developed in the future. Similarly, rafting birds are fully discussed and mitigation measures to reduce the impact to less-than-significant levels are identified. The eelgrass mitigation measure was clarified in the Comments and Responses document to address both when eelgrass beds should be surveyed and how enforcement would take place. No further clarification is needed.

- Appellants raise questions about uses proposed on Trust property.

Most uses listed by Appellants as inconsistent with the Tidelands Trust are not proposed on property subject to the Trust. In addition, all of the uses listed by Appellants can be consistent with the Trust, depending on the exact nature of the proposed use. Any uses on Trust property are statutorily required to be further evaluated for Trust consistency. The final determination will depend in part on factors such as whether the use is water-related or ancillary to the Public Trust, the overall mix of uses within a particular building, the project design, the amount of public access provided, whether the use is proposed within historic resources listed in the national Register, and whether the use is allowed as an interim non-Trust use or otherwise permitted under the Conversion Act.

- Appellants state that alternatives that lessen or avoid significant aesthetic impacts are required but not provided.

Alternatives must substantially lessen one or more of the significant effects of a project. There is no requirement to present alternatives that mitigate each and every significant impact identified in an EIR. The EIR presents alternatives that reduce or eliminate significant impacts on air quality, noise, and historical resources, meeting CEQA requirements. The EIR analyzes the "No Project" Alternative, which would avoid impacts on scenic vistas. The EIR states that any other alternative that is consistent with the basic project objectives would have a significant impact on scenic vistas. In light of the basic objectives of the project, the Planning Department stands by that conclusion.

- Appellants state that transportation mitigation measures are inadequate because they have been identified in the EIR as infeasible.

Although a funding plan is in place for the additional capital costs of all transit services, operating funds are expected to be available from various sources, including project-generated General Fund tax revenues, and fees such as parking fees and congestion pricing. The allocation of General Fund tax revenues for bus service by SFMTA requires that future Boards of Supervisors allocate funds to Muni, which neither

the City nor the project sponsor can ensure. As a result, the feasibility of the increased bus service to San Francisco, as a component of M-TR-2 (Expanded Transit Service) cannot be considered certain for the purposes of disclosing potential impacts in the EIR. This does not mean that additional Muni service to San Francisco is not viable, only that it is uncertain solely because it requires future appropriations by the Board of Supervisors. The traffic study analyzes traffic impacts both with and without the mitigation measure, so it performs its disclosure function.

- Appellants question both the viability of the proposed ferry service and the enhanced ferry service in Mitigation Measure M-TR-2.

The Proposed Project includes one ferry round trip approximately every 50 minutes that can be accommodated at the existing downtown San Francisco Ferry Terminal with no new facilities. New facilities to accommodate additional ferry vessels from Treasure Island and other planned Bay locations at the downtown Ferry Terminal are under study by the Federal Transit Administration and the Water Emergency Transportation Authority, and cannot yet be guaranteed; this does not mean that this part of the mitigation measure is not viable, only that it cannot be fully committed to at this time. Therefore, the mitigation measure is identified as potentially infeasible.

- Appellants state that the EIR should identify the amount of development necessary to implement transportation improvements.

The DDA requires TICD to deliver public benefits, including infrastructure, proportionally with development, and to post adequate security for the infrastructure in each subphase. It is not necessary for the EIR to identify an amount of development that may be needed to implement transportation improvements, as the Proposed Project requires that they be implemented in phases to serve the development in each phase. This ensures that the Proposed Project would be implemented as described in the EIR.

- The amount of parking is challenged by Appellants, including a statement that there has been a net increase in proposed parking compared to the 2006 Term Sheet.

The fact that the Proposed Project analyzed in the ERI is different from the 2006 Term sheet project does not make the EIR or responses to public comments inadequate. Increases in parking compared to the 2006 Term Sheet resulted mainly from the parking added related to the increase in number of residential units and from a correction in the count of on-street spaces compared to 2006. The EIR analyzed the total number of spaces proposed in the 2010 Term Sheet Update; the number of parking spaces allowed for hotel, office, and some retail uses has been reduced in response to public comments by about 470 spaces since publication of the Comments and Responses document, as analyzed in the April 12 Memorandum, but not acknowledged by Appellants.

- Appellants state that the EIR fails to analyze the Clipper Cove Marina project.

This allegation is incorrect. Clipper Cove Marina was reviewed and approved in the 2005 EIR. The Treasure Island/Yerba Buena Island Redevelopment Project EIR includes expansion of the Clipper Cove Marina project in all appropriate analyses of cumulative impacts.

- Appellants present comments about the regional-serving retail uses that express concerns that they are "newly proposed" and were not in the 2006 Term Sheet, that they do not support a stand-alone community, and state that these comments were not adequately responded to in the Comments and Responses document.

Consistent with the objectives in the 1996 Reuse Plan, proposals for the redevelopment of NSTI have always included regional-serving retail, recreational, and entertainment uses in order to create a regional destination. This is not new information, nor is it in conflict with the objective to create a new, "stand-alone" San Francisco neighborhood. The fact that the project analyzed in the EIR is different from the 2006 Term Sheet project does not make the EIR or responses to public comments inadequate. Sufficient amounts of neighborhood-serving retail are included in the Proposed Project and analyzed in the EIR, and responses to these comments were factual and thorough.

- Cultural resources comments raise several issues, including the lack of detail available for reuse of the designated historic buildings, TIDA's authority to carry out review of those designs (alleging that TIDA will be a private, non-profit corporation), and inadequate mitigation measures for impacts to historic resources.

As explained above, TIDA is not and will not be a private entity; it is a public agency. As the Trustee of properties subject to the Tidelands Trust, once the property is transferred from the Navy to the City, TIDA will have the authority to review proposed changes to the historic buildings, all of which are located on Trust properties. Review indicating conformity with the Secretary of the Interior's Standards for Rehabilitation, as required in the draft *Design for Development*, meets the CEQA Guidelines standard for a determination of a less-than-significant impact. Under these circumstances, no mitigation is required.

- Appellants state that the Navy Chapel should be considered an historic resource.

Multiple experts reviewed the Chapel and found that it is not an historic resource. Regardless, based on input from the public, the building is proposed to be retained in its current location. No new evaluation is required.

- Appellants state that Building 111 is incorrectly characterized as not being an historic resource.

Disagreement among experts regarding Building 111 is disclosed in the EIR as required in the CEQA Guidelines. The Planning Department's staff expert believes that the structure, an addition to the historic Building 3, is not a significant historical resource, and that the removal of Building 111 does not have a significant impact on Building 3.

- Appellants state that uses proposed in Buildings 1 and 3 may not comply with the Secretary's Standards.

The EIR analyzes a regulatory program established in the draft *Design for Development* and SUD for review of alterations to these historic structures as they are proposed that would accommodate a variety of uses. The Proposed Project includes requirements that Buildings 1 and 3 be rehabilitated in accordance with the Secretary of the Interior's Standards for Rehabilitation; if the ultimate design did not do so, that would constitute a change in the project that would require additional environmental review.

- Appellants request analysis of regional carrying capacity related to impacts on traffic, air pollution, water, waste, and other issues.

CEQA does not require analysis of a project's impact on "regional carrying capacity," for which there is no agreed upon standard or definition of threshold of significance. However, in accordance with CEQA, the EIR appropriately analyzes cumulative impacts that address potential regional issues such as traffic, air quality, water supply, and solid waste.

- Appellants state that changes to the project since 1996 require a revised analysis of its sustainability.

The EIR analyzes the Proposed Project as a whole. CEQA does not require the effectiveness of the Proposed Project's sustainability features to be assessed, nor does it require a prior proposal to be analyzed.

- Appellants express concern about the analysis of hazardous materials on the project site, including pollutants that may be missed by the Navy's IR Program, including materials from the Pan Pacific Exposition.

Extensive and well-documented site characterization, in accordance with all applicable state and federal regulatory requirements, has occurred at the sites specified in Appellants' comment, and the Navy continues to assume responsibility for cleanup. Note that the Pan Pacific Exposition did not occur on Treasure Island and pre-dates its existence.

- Appellants refer to a "consent decree" between the Navy and a coalition of citizens' groups in 1997, and allege that it is not known whether the Navy is in compliance.

The Navy is in full compliance with the settlement agreement. The offshore areas referenced in the settlement agreement have been closed in consultation with the California Department of Toxic Substances Control and Regional Water Quality Control Board. The Navy is in the final stages of the petroleum cleanup program, described in the EIR.

- Appellants express concern about additional remediation that may need to occur after transfer of the property from the Navy, and the Soil and Groundwater Management Plan (SGMP) has not yet been prepared and that these are unknown issues that support identifying this as a program EIR.

The EIR identifies the need for additional remediation after transfer, the potential impacts, and the mitigation measure that would reduce the impact. It is typical that the SGMP details be developed closer to the time that construction is to occur; the parameters and requirements for the SGMP are presented in the EIR. There is sufficient information about the SGMP for the EIR to be a project-level document.

- Appellants again express concerns about the changes to the financing mechanism and ask whether IFDs could perhaps be better used elsewhere in the City.

The use of IFDs would have no physical effects. They do not affect the City's bonded indebtedness because they are secured by project-generated property tax revenues and would not impact the City's ability to use IFDs elsewhere.

- Appellants state that the EIR needs to consider alternatives that would reduce significant effects on aesthetics, cultural resources, and biological resources.

As noted earlier, the EIR did consider a range of alternatives aimed at avoiding or substantially lessening the project's significant environmental effects. CEQA does not require that alternatives be developed that would reduce all significant unavoidable effects identified in the EIR.

- Appellants contend that a "statement of overriding considerations" cannot be adopted for the Proposed Project.

Issues raised by the Appellants regarding the CEQA Findings, including the statement of overriding considerations contained in the Findings, are not subject to appeal to the legislative body, and thus do not require response here.

ISSUES RAISED BY APPELLANTS

Each of the issues raised in the May 11, 2011 Appeal Letter by Saul Bloom of Arc Ecology, Michael Lynes of Golden Gate Audubon Society, Kate Looby of the Sierra Club San Francisco Bay Chapter, Brent Plater of Wild Equity Institute, Ken Masters, and Aaron Peskin (collectively, Appellants) are summarized below. Each issue is followed by a Planning Department response.

The May 11, 2011 Appeal Letter (Attachment A to this Appeal Response) appeals the certification actions by the Planning Commission and TIDA Board on April 21, 2011, and their actions to adopt findings pursuant to CEQA. Appellants request that a revised Draft EIR be prepared and recirculated, stating that there were procedural and substantive violations of CEQA's mandate of informed decision making and environmental protection.

Chapter 31 of the San Francisco Administrative Code provides the opportunity to appeal certification actions taken by a non-elected body to the Board of Supervisors in section 31.16, as required by CEQA. There is no opportunity in City ordinances to appeal an agency's action to approve CEQA findings to the Board of Supervisors, as noted in the letter to Appellants from the Clerk of the Board dated May 13, 2011. Therefore, issues related only to the CEQA findings are not addressed in the responses to issues presented below. The decision before the Board is whether to uphold the Planning Commission's decision to certify the Final EIR or to overturn the Commission's decision and return the EIR to the Planning Department for additional analysis.

The Planning Department conducted all necessary studies and analyses, and provided to the Planning Commission and TIDA Board all necessary information and documents in accordance with the Department's environmental checklist and Consultant Guidelines, and pursuant to CEQA and the State CEQA Guidelines.

Issue #1.1: Appellants state that recirculation is required because there have been fundamental changes to the project description and project sponsor objectives.

Response #1.1: The Planning Department has reviewed Appellants' claims regarding recirculation of the Draft EIR and believes that recirculation is not required by CEQA. The following discussion explains the basis for this conclusion.

The rules governing recirculation of a Draft EIR are well established. Under these rules, new information regarding a project or its environmental impacts requires recirculation of a Draft EIR in some instances, and not in others. The Courts have held that recirculation of a Draft EIR is intended to be the exception, rather than the rule. (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal 4th 1112, 1132; CEQA Guidelines, § 15088.5(b).) In keeping with this general rule, the State CEQA Guidelines identify the specific circumstances in which an agency should recirculate a Draft EIR for a second round of public review and comment (CEQA Guidelines § 15088(a)). Absent those circumstances, an agency is not required to recirculate a Draft EIR. An agency's decision not to recirculate a Draft EIR will be upheld if that decision is supported by substantial evidence (CEQA Guidelines § 15088.5(e)).

The inclusion of new information in a Final EIR does not automatically require recirculation of the Draft EIR. The CEQA process is premised on the idea that the Final EIR will, by definition, include new information (CEQA Guidelines § 15132 [Final EIR includes draft EIR or revision of the draft, comments on Draft EIR, responses to comments, and any other information added by the lead agency]; accord *Laurel Heights Improvement Association v. Regents of the University of California, supra*, 6 Cal 4th at p. 1128).

Under CEQA Guidelines section 15088.5, a "lead agency is required to recirculate an EIR when *significant new information* is added to the EIR after public notice is given of the availability of the draft

EIR for public review under Section 15087 but before certification." (emphasis added; see also CEQA § 21092.1.) "New information" within the meaning of this section may consist of information regarding changes in the project, changes in the setting, or new data (CEQA Guidelines § 15088.5(a)).

Not all new information triggers the obligation to recirculate the Draft EIR. Rather, the information must be "significant," such that the "EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a *substantial* adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." (*Laurel Heights Improvement Association v. Regents of the University of California, supra*, 6 Cal 4th at p. 1129.)

The CEQA Guidelines section 15088.5(a) provides the following guidance regarding what constitutes "significant new information":

> "Significant new information" requiring recirculation includes, for example, a disclosure showing that:
>
> (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
>
> (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
>
> (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
>
> (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043.)[3]

It is correct that changes to the project description and objectives have occurred after the City circulated the Draft EIR. None of these changes, however, gives rise to "significant new information." Nor do they represent fundamental changes to the Project Description or project sponsor objectives, contrary to the Appellants' statements. The Planning Department listed these changes in its memorandum to the Planning Commission dated April 12, 2011, and explained why none of these changes constituted "significant new information" within the meaning of CEQA Guidelines section 15088.5(a). (See

[3] In *Mountain Lion Coalition v. Fish and Game Comm.* (1989(214 Cal.App.3d 1043, the agency was under a court order to the effect that, if the agency intended to authorize a mountain lion hunt, it would have to prepare and circulate an environmental impact report containing an analysis of the cumulative impacts associated with conducting such as hunt. The court order specified some of the considerations that would have to be accounted for in the cumulative impact analysis. The draft EIR omitted the information required by the court order. Instead, that information appeared only in the Final EIR. The Court concluded that the draft EIR was so "fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." The agency therefore had to recirculate the draft EIR with the court-ordered information.

Memorandum from the Planning Department to the Planning Commission, April 12, 2011 [identifying such new information and addressing whether that information is "significant"])[4]

These principles also apply to changes in an EIR's description of a project. While an EIR is required to contain an "accurate, stable, and finite project description," CEQA is not designed to "freeze the ultimate proposal in a precise mold of the initial project" (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199-200 ["*County of Inyo I"J*). CEQA contemplates that the public review process may reveal new and unforeseen insights about the project, and that revisions to the original proposal are regularly made.

In *Western Placer Citizens for an Agricultural and Rural Environment v. County of Placer* (2006) 144 Cal.App.4th 890, for example, the Court upheld the county's decision not to recirculate a draft EIR due to changes in the project description, finding that the county's decision not to recirculate was supported by substantial evidence. The Court explained that changes in the project description are not per se significant new information triggering recirculation (p. 903). The Court concluded that changes in the project description are subject to the same vetting process under section 15088.5, noted above, as any other new information, and the decision by the county at the conclusion of that process will be upheld if it is supported by substantial evidence (pp. 903-906).

As explained below, the Planning Department has concluded that recirculation of the Draft EIR is not required in this case. The changes in the project description are relatively minor. Moreover, the changes to the project description do not alter the project in a way that creates new significant environmental impacts, do not change the severity of previously disclosed impacts, and do not speak to the feasibility of mitigation measures or alternatives that the applicant has declined to adopt. Nor do these minor changes in the project suggest that Draft EIR was "fundamentally inadequate." (See CEQA Guidelines, § 15088.5 (a)(4).) The Draft EIR was prepared in accordance with the Planning Department's *Consultant Guidelines for Preparation of Environmental Review Documents*, and spanned some 1,235 pages not including appendices. It was prepared with input from well-qualified environmental consultants. The Comments and Responses document spanned some 565 pages, not including the staff-initiated text changes in Chapter 3. The Planning Department conducted all necessary studies and analyses and provided to the Planning Commission and TIDA Board all necessary information and documents in accordance with the Department's environmental review checklist and Consultant Guidelines, and pursuant to Chapter 31 of the San Francisco Administrative Code, CEQA, and the State CEQA Guidelines. The claim that this effort resulted in a "fundamentally inadequate" EIR is not supported by the materials presented by Appellants.

[4] Appellants' contention that there were "multiple memoranda to the Planning Commission, including but not limited to those dated April 12, 2011, April 15, 2011, and April 21, 2011" implies that there were additional materials provided to the Commission beyond the April 12 Memorandum, the 2-page Errata to the EIR provided on April 21, and the regular packet of materials for Case No. 2007.0903EBMRTUWZ dated April 15, which included the EIR certification motion. No other documents were provided related to the EIR, other than the Administrative Record material that is always available to decision makers and the public.

Appellants cite the change in the project objectives as one basis for their contention that the City must recirculate the Draft EIR.

The Project Description chapter of the Draft EIR identified 22 project objectives—13 project objectives shared by TIDA and TICD relating to Land Use, Housing, Sustainability, Transportation, and Infrastructure; 8 additional TIDA-only project objectives; and one TICD-only project objective (pp. II.4 - II.6).

As described below, the project sponsors proposed changes to the percentage of affordable housing provided by the project after the Draft EIR and Comments and Responses document were published. The reason for this is the change from financing under the Community Redevelopment Law to Infrastructure Financing District financing. The facts surrounding this change are explained in the Project Revisions section, on pp. 5-6 of this Appeal Response in detail.

To reflect this change, the TIDA-only objective regarding affordable housing was changed in the manner noted below because the change in the financing structure necessitated a reduction in the affordable housing offered by the Proposed Project:

- Provide an affordable housing program that delivers ~~30~~ 25 percent of all residential units at below market rates across a wide range of income levels, including units for formerly homeless persons, as provided in the City's agreement with Treasure Island Homeless Development Initiative ("TIHDI").

(See Draft EIR p. II.5 [original objective]; Memorandum to Planning Commission (April 12, 2011), Appendix 1, p. 3 [revised project objective].)

Appellants state this change constitutes significant new information regarding the project description that warrants recirculation of the Draft EIR. However, the Planning Department has concluded that the modified TIDA affordable housing objective does not warrant recirculation based on the CEQA standards governing recirculation.

First, as explained above, new information is "significant" only when that information implicates a new or substantially more severe environmental impact (CEQA Guidelines, § 15088.5(a)). In this case, the Planning Department has analyzed in detail whether the change in the percentage of affordable housing would result in any impacts on the environment. As explained in the April 12 Memorandum, this change would not result in increased traffic beyond that identified in the EIR, and would not result in any changes to infrastructure.[5] Therefore, the modification to the project objective does not require recirculation under the first two CEQA Guidelines criteria. (See CEQA Guidelines, § 15088.5(a) (1) & (2) [recirculation may be required with the addition of a new impact or increase in the severity of previously identified impact, when the impacts cannot be mitigated].)

[5] Efforts are underway to secure additional funding, such that the percentage of affordable housing can be restored to 30 percent. For purposes of this analysis, it is assumed that affordable housing remains at 25 percent.

Second, the modified TIDA-only affordable housing objective does not affect the feasibility of project alternatives or mitigation measures. One of the primary purposes of the project objectives is to assist the lead agency in the process of selecting the alternatives to be included in the EIR: "A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings...." *(In re Bay-Delta Programmatic Environmental Impact Report* (2008) 43 Cal.4th 1143, 1163 (*In re Bay-Delta, etc.)*, citing CEQA Guidelines, § 15124(b).) The objectives can be stated broadly, however, if they serve the requisite purpose of assisting in the development and evaluation of a reasonable range of alternatives. (*California Oak Foundation v. Regents of University of California* (2010) 188 Cal. App. 4th 227, 269-274 [rejecting claim that project's objectives were too vague and amorphous to assist in evaluating alternatives].)

It is possible that changes to the project objectives could in some instances affect the feasibility of alternatives or mitigation measures appropriate for analysis in an EIR. Here, however, changing the percentage of affordable housing sought by TIDA does not affect the range of alternatives that were studied in the EIR, or the EIR's conclusions regarding the feasibility of alternatives that were considered but rejected. None of the alternatives considered were rejected on the grounds that they did not provide sufficient affordable housing (EIR pp. VII.73- VII.78). No mitigation measures were rejected as infeasible on this basis. For this reason, the modification to the project objective does not require recirculation under the third CEQA Guidelines criterion. (See CEQA Guidelines, § 15088.5(a) (3) [recirculation may be required when new information or a change in the project implicates the feasibility of mitigation or alternatives that would reduce impacts of the project].)

Finally, the change to the TIDA affordable housing objective does not render the EIR so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Appellants do not claim, nor can they, that the project objectives included in the Draft EIR do not meet the requirements of CEQA. As noted above, the statement of objectives should be clearly written to guide the selection of alternatives. The project's 22 objectives meet these CEQA requirements and the minor change to the TIDA affordable housing objective does not alter this conclusion.

The CEQA Guidelines also clarify that "the statement of objectives should include the underlying purpose of the project." (CEQA Guidelines, § 15124(b).) The project's underlying purpose is not affected by the change to the TIDA affordable housing objective, as stated on EIR p. II.4:

> The Proposed Project's overall purpose is to convert approximately 367 acres on Treasure Island and approximately 94 acres on Yerba Buena Island from a former military base to a dense, mixed-use development with residential, commercial, cultural, hotel, recreational, and retail uses centered around an intermodal Transit Hub.

In sum, the modification to the TIDA affordable housing objective does not change the Draft EIR's analysis of environmental impacts or alternatives, or render the analysis fundamentally inadequate. Therefore, the modification to the project objective does not require recirculation under the fourth CEQA Guidelines' criterion. (See CEQA Guidelines, § 15088.5(a) (4) [recirculation may be required where

draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded].)

Finally, while one of TIDA's objectives changed from providing 30 percent to 25 percent affordable housing, the DDA as approved by the TIDA Board on April 21 includes the opportunity to restore the project to 30 percent affordable housing, if certain legislative modifications to the state IFD law occur within two years. The project sponsors later agreed, in response to a request from Supervisor Jane Kim, to extend that time period to five years. In particular, the Housing Plan attached to the DDA states that if state legislation passes that would provide additional tax increment funding for the Proposed Project, the affordable housing percentage in the Proposed Project will automatically revert to 30 percent. This feature of the Proposed Project was not discussed in the analysis of the change to IFD financing because it was considered speculative and because it was not material to the potential environmental impacts of the Proposed Project. The inclusion of this feature in the Proposed Project does, however, demonstrate the intention of the decision makers to seek to obtain 30 percent affordable housing, if financially feasible.

Issue #1.2: Appellants provide as an example of significant revisions to the Proposed Project the change from redevelopment financing to use of infrastructure financing districts and the revision in project sponsor objectives from 30 percent affordable housing to 25 percent affordable housing. Appellants state that the change in financing mechanism would require changes in Proposed Project phasing that would delay implementation of some public benefits and potentially eliminate others.

Response #1.2: The change in the financing structure from a redevelopment plan with tax increment financing to tax increment financing using infrastructure financing districts (IFDs) is an economic issue that is not required to be analyzed in an EIR except insofar as it may result in secondary or indirect physical effects. (CEQA Guidelines § 15131, subd. (a) "[e]conomic or social effects of a project shall not be treated as significant effects on the environment"]; accord CEQA § 21082.2, subd. (c); CEQA Guidelines § 15382; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182 (*Anderson First); Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 446.) As a result of this change, the project sponsors revised the Proposed Project to include at least 25 percent affordable housing rather than up to 30 percent. As up to 8,000 residential units are still proposed, the analyses and conclusions regarding physical environmental impacts in the EIR related to residential uses do not change except in relation to the parking demand, which is the only component of the analysis where affordability was taken into account. Trip generation from the proposed 8,000 residential units and the modes of travel projected to be used by residents were the same for the residents of the affordable units as for residents of market rate units.

The small change in the analysis of physical impacts related to demand for parking spaces was addressed in the memorandum presented to the Planning Commission, the TIDA Board, and the public, including those who commented on the Draft EIR, on April 12, 2011 (the April 12 Memorandum), well before the public meeting to certify the EIR on April 21. That memorandum provided an analysis of the additional parking demand on pp. 14-16 and concluded that the estimated increase in the parking shortfall would not

result in new significant transportation impacts or an increase in the severity of significant impacts identified in the EIR, and no new mitigation measures would be required. This conclusion was supported by a memorandum in the Administrative Record prepared by the transportation consultants.[6] Specifically, with the change of 400 units from affordable to market rate, parking demand during the peak parking period would increase from approximately 10,162 spaces to 10,282 spaces, resulting in a peak residential parking shortfall of 2,282 spaces – an increase of 120 spaces compared to the shortfall described in the Draft EIR on pp. IV.E.138-IV.E.139 and summarized in Table IV.E.23.

The Draft EIR explains that a parking shortfall is not generally considered to have a direct physical effect on the environment, but can result in secondary physical impacts. The secondary impact of a parking shortfall on the Islands was analyzed in the EIR in Impact TR-63 on pp. IV.E.140-IV.E.141. This secondary impact is a potential increase in the number of people who would use transit, which would incrementally exacerbate the significant and unavoidable impact on capacity utilization of the Muni 108-Treasure Island bus line serving the Islands. This secondary impact has already been identified as significant and unavoidable in Impact TR-63 on EIR pp. IV.E.140-IV.E.141. The additional parking shortfall could add to the demand for transit capacity, but would not substantially increase the severity of this significant impact. See also Response #1.6, below, for more information on the traffic analysis methodology.

The Appellants are correct in noting that the ability to use IFD tax increment funds to construct new affordable housing is more limited than the ability to use redevelopment tax increment funds for affordable housing. This would not, however, limit the production of affordable housing in the Proposed Project to only replacement housing. The Proposed Project would continue to provide substantial amounts of affordable housing in addition to replacing the affordable housing that would be removed as part of the Project.

Appellants state that the change to use of IFD financing would result in changes to project phasing. There is nothing inherent in IFD financing that would cause a change to the order or timing of construction of IFD-financed facilities, and the project phasing remains as proposed. IFD financing is similar to redevelopment financing in that it uses incremental property tax revenues generated above a base year value to fund eligible public improvements. Incremental property revenues are only available within a district once infrastructure is in place and land is improved with homes, offices, or other tax-paying uses. Thus, there is a lag between the time when infrastructure is developed and financing is available. This is true whether tax increment funds are used with a redevelopment plan or IFD tax increment funds are used. In the case of the Proposed Project, the Schedule of Performance, an exhibit attached to the DDA between TIDA and TICD, requires that the developer make infrastructure improvements and provide other public benefits on an established schedule based on the principle of proportionality and/or adjacency to market rate development. The developer would bear all of the risk that subsequent IFD tax increment

[6] Fehr & Peers, *Revised Parking Analysis*, April 12, 2011.

revenues would be sufficient to repay the investment. No changes to development phasing are proposed, and no delays to or elimination of public benefits would result from the change in the financing structure. See also Response #6.18, below.

Issue #1.3: Appellants suggest that the financing structure now proposed, resulting in a change in the status of the Treasure Island Development Authority (TIDA) and a change from a redevelopment plan to a new Area Plan and Special Use District, is a substantial change in the project considered in the EIR.

Response #1.3: Although TIDA no longer plans to implement the Proposed Project through the use of its redevelopment powers and authority as a redevelopment agency, TIDA retains all of its other powers and status, including but not limited to its design review and approval authority over the proposed development program on Tidelands Trust lands on Treasure Island and Yerba Buena Island. In particular, TIDA would continue to be a trustee under the Tidelands Trust, with responsibility for development on properties subject to the Trust, pursuant to the Conversion Act, Although the Conversion Act also gave the Board of Supervisors the authority to designate TIDA as a redevelopment agency, it did not require the Board to do so. In addition, TIDA will continue to be the Local Reuse Authority for conversion of Naval Station Treasure Island, as authorized in Board of Supervisors Resolution 43-98 in February 1998.[7]

As explained in the April 12 Memorandum to the Planning Commission, the proposed redevelopment plan was changed to a proposed new Area Plan in the *San Francisco General Plan*, with accompanying amendments to the San Francisco Planning Code to establish a SUD, Height and Bulk District, and related amendments to the Zoning Map for zoning districts and height limits. The proposed Area Plan, SUD, and Height and Bulk District reflect a development program and development controls nearly identical to those described and analyzed in the EIR. Also as explained in the April 12 Memorandum, this proposed legislative approach is slightly different from a redevelopment plan in that the Planning Commission would have more review and approval authority, but this change would not affect the EIR's analysis and conclusions regarding physical environmental impacts or result in new impacts that were not analyzed in the EIR (see April 12 Memorandum, pp. 3, 5-6, and 9-10). The proposed Area Plan, SUD, and Height and Bulk District would have the same provisions for building form and land uses that were in the proposed Redevelopment Plan except for the reduction in height limits and some minor reductions in maximum parking ratios for some commercial uses on Treasure Island, which are discussed below. In summary, the physical effects of these two revisions to the draft *Design for Development* are discussed in the April 12 Memorandum, which concludes that no new significant impacts would occur, no significant impacts would be substantially more severe than identified in the EIR, and no new mitigation measures would be needed. Therefore, recirculation is not required as a result of the proposed change in governing structure.

Under the proposed Area Plan/SUD, the Planning Commission and Planning Department would be responsible for review and approval of most proposals for vertical development (buildings and structures)

[7] Rich Hillis, Project Director, Treasure Island Development Project, letter to Rick Cooper dated April 20, 2011. A copy of this letter is Attachment C in this Appeal Response.

on non-Trust properties, whereas TIDA would be responsible for review and approval of individual vertical development (buildings and structures) on Trust properties. TIDA, together with other applicable City agencies such as the Department of Public Works, would retain authority over horizontal development (site preparation, development of open spaces, etc.) and over development on property subject to the Tidelands Trust. These changes resulted in revisions to the text of three mitigation measures, two wind measures (measures M-WS-3 and M-WS-4) and the bird strike measure in biological resources (measure M-BI-4a) to clarify that the Planning Department and/or Planning Commission would be responsible for implementation related to vertical development (see Appendix 1 to April 12 Memorandum, pp. 9 and 10). These revisions did not make substantive changes in the mitigation measures or their effectiveness.

The changes in responsibilities for review of development proposals for individual sites on the Islands would not result in any change in the analysis and conclusions of the EIR regarding physical environmental impacts. Therefore recirculation is not required.

Issue #1.4: Appellants state that several new alternatives were discussed by project sponsors to reduce the loss of affordable housing, including eliminating parks and other public benefits and that these alternatives need to be analyzed in a recirculated EIR.

Response #1.4: Staff in the Office of Economic and Workforce Development explored numerous approaches to retaining all of the proposed 2,400 affordable housing units while financing mechanisms that would not make use of a Redevelopment Plan and redevelopment tax increment financing were being explored. It is appropriate for City staff to carry out and report to decision makers, to ensure that all options were considered before making a final recommendation. Among the options considered and mentioned at the April 25 Land Use Committee meeting of the Board of Supervisors were reducing park space on the Islands or reducing transportation subsidies.[8] These options were not recommended for further consideration by staff in the Office of Economic and Workforce Development, but were presented for decision makers' information. Even if they were under consideration, they would not constitute alternatives to the Proposed Project analyzed in the EIR, because none of the options would substantially lessen any of the significant effects identified in the EIR. (See CEQA Guidelines, § 15126.6, subd. (a) ["EIR shall describe a range of reasonable alternatives to the project . . . which would . . . avoid or substantially lessen any of the significant effects on the project"].) Rather, they would represent potential changes to the Proposed Project considered to reflect the shift from redevelopment to IFD financing. If those changes were proposed, it would be appropriate to consider whether those changes would have environmental effects that were not addressed in the EIR. Indeed, that is exactly what has occurred by virtue of the change to the number of affordable units to be provided by the Proposed Project; Planning Department staff analyzed this change in number of affordable units, concluded that environmental impacts would be the same, and concluded that no further CEQA analysis was required. Because these

[8] Similar proposals were discussed at the TIDA CAB, the TIDA Board, and the Planning Commission at various public meetings.

other approaches are not being carried forward for consideration, there is no need for any new analyses, and no requirement to recirculate the EIR.

Issue #1.5: Appellants state that the draft *Design for Development* was significantly changed after publication of the Comments and Responses document, with new height limits and a new requirement for consultation with the U.S. Coast Guard, and that it was incomplete on the date of the joint hearing by the Planning Commission and TIDA Board.

Response #1.5: Discussing the last item first, the updated draft *Design for Development* dated April 5, 2011, and provided to the Planning Commissioners prior to their actions on April 21 included a placeholder for an appendix called the "Document Review and Design Approval Process" (DRDAP). However, the Planning Commission's role and procedures for review and approval of vertical building design applications are contained in the SUD, not the DRDAP. The DRDAP for the Proposed Project covers only the approvals of infrastructure and other "horizontal" improvements by TIDA under the DDA. As the Planning Commission has no role or approval authority over the DRDAP, the DRDAP was intended to be removed from the draft *Design for Development*. Appendix B on p. 323 of the updated draft *Design for Development* should have been removed. Planning Department staff provided an Executive Summary, dated April 7, 2011, to the Planning Commission that contained a detailed description of the Planning Department, Commission, and TIDA's roles in implementation of the Proposed Project (see pp. 3-5 of the Executive Summary). The TIDA Board did have a copy of the DRDAP and acted on it in their separate hearing following the joint Planning Commission/TIDA Board hearing on April 21. The DRDAP was made available to the public, as it was a component of the package provided to the TIDA Board in advance of the April 21 hearing. Commissioner Sugaya noted during the joint hearing that the DRDAP was available on the TIDA website if Planning Commissioners were interested in reviewing it (see Transcript of the joint Commission/Board meeting on April 21 on pp. 173-174, in Attachment D in this Appeal Response).

The two revisions to the draft *Design for Development* raised by Appellants are changes resulting in part from public comment. They include changes to height limits without a reduction in the number of residential units, and a new provision requiring consultation with the U.S. Coast Guard. Height limits of towers are proposed to be substantially reduced compared to those in the draft *Design for Development* analyzed in the EIR, as discussed in the April 12 Memorandum (see pp. 3, 7, and the figure on p. 8). The April 12 Memorandum evaluates the height reductions and concludes that there would be no new significant impacts in relevant topic areas: land use and aesthetics (pp. 12-13), wind and shadow (pp. 17-18), as well as bird strikes discussed in biological resources (p. 19). No new mitigation measures would be required. Supporting documentation in the Administrative Record for the April 12 Memorandum explains that the number of residential units would not change and building bulk would not increase with the proposed reduction in heights, because the heights analyzed in the EIR would have allowed for more than the 8,000 residential units that were the maximum that would be allowed under the Redevelopment Plan (see p. 12 and footnote 3 in the April 12 Memorandum). The EIR analyzed a maximum range of heights to provide flexibility for individual building design and allow for greater density (i.e., heights) in

some areas, balanced by lower densities in other areas, so long as the Proposed Project maintained a maximum island-wide cap on the total allowable number of residential units.

Consultation with the U.S. Coast Guard regarding buildings proposed to be above certain heights was added to the updated draft *Design for Development* in response to comments on the Draft EIR from the Coast Guard regarding possible interference with their Vessel Traffic Service facilities, as explained in the Response in Section 2.3.1 on Comments and Responses pp. 2.3.1-2.3.2. This additional review and consultation requirement does not change the overall physical environmental impacts presented in the EIR. Consultation prior to final building design would assure that the Coast Guard operations would not be affected by proposed development on Treasure Island, and therefore no impacts would occur to vessel safety on the Bay. No buildings on Treasure Island would be taller than allowable under the maximum height limits provided for in the draft *Design for Development* as a result of the consultation process, and therefore would not cause new, unreported significant impacts. Although it is not expected that buildings would be shorter as a result of the consultation, as explained on p. 13 of the April 12 Memorandum, shorter buildings would not result in new significant impacts or substantially more severe significant impacts and also would not be expected to reduce identified significant impacts to less-than-significant levels.

Issue #1.6: Appellants state that reducing the number of affordable units and increasing the number of market rate units could result in changes to transportation and air quality impacts.

Response #1.6: Appellants provide no basis for their conclusion. As stated in Response # 1.2, above, because the same number of residential units is still proposed, the analyses of physical environmental impacts in the EIR related to residential uses do not change except in relation to the parking demand, which is the only analysis where affordability was taken into account. Trip generation from the proposed 8,000 residential units and the modes of travel projected to be used by residents were not different for the residents of the affordable units. Therefore, traffic impacts and related traffic-generated air quality and noise impacts would not change from those identified in the EIR. No impacts would be substantially more severe, and no new mitigation measures would be required. The increase in parking demand that would result if more market-rate units were provided would not result in new significant impacts or require new mitigation, as discussed in the April 12 Memorandum and supported by an analysis in the Administrative Record, explained in Response #1.2.

Issue #1.7: The changes to the Proposed Project identified by Appellants in their item 1 are called "significant new information" that requires recirculation.

Response #1.7: This conclusion is addressed in Response #1.1, above. As stated there, and in Responses 1.2 through 1.6, recirculation is not required.

Issue #2: Appellants state that the EIR's project description is not sufficiently "stable" or "finite" to meet CEQA requirements, and quote a portion of comment 39.1 made on the Draft EIR by San Francisco

Tomorrow stating that height limits are too vague and the number of variants to the project make it difficult to identify the proposed project.

Response #2: This comment was responded to, along with other similar ones by San Francisco Tomorrow, in the second Response in section 2.1.15 on pp. 2.1.47-2.1.48 of the Comments and Responses document. As explained there, the limited flexibility in tower height zones is explained in the EIR in both the Project Description (Chapter II, p. II.24) and in the Land Use and Land Use Planning and Aesthetics subsections of the Setting and Impacts (Chapter IV, p. IV.A.19 and pp. IV.B.19-IV.B.20). The height map shown in Figure 6a on EIR p. II.25, and the wireframe diagram in Figure IV.B.10 on p. IV.B.20 illustrate the flexibility afforded to developers to build towers within flex zones, based not only on building heights but also required separations between towers. Thus, within a given height district, a limited number of towers taller than the basic height would be allowed; specified distances between towers would limit the number, but the specific locations of towers within each flex zone would be established during building design. No development is required to build to the maximum allowable height, and it is possible that no towers would be built in designated flex zones. The aesthetic impacts analysis assumed 19 high-rise towers and several mid-rise towers, as shown in the representative massing in Figure IV.B.10. This is a reasonable set of assumptions for development, and, as explained in the April 12 Memorandum, represents more developed space than would be required to provide 8,000 residential units (see especially footnote 3 on p. 12 of the Memorandum). Thus, the EIR provided a clear explanation of the flex zones and a conservative analysis of the potential impacts of taller towers than would be constructed if the Proposed Project is approved and implemented.

The variants analyzed in the EIR cover possible variations of infrastructure features of the Proposed Project. The variations were or are under consideration by the project sponsors, and therefore must be addressed in the EIR. The variants are listed in Table II.2 on pp. II.19-II.20 in the Project Description, and analyzed in a separate chapter in the EIR – Chapter VI, Project Variants. The impacts of the Proposed Project are identified and analyzed without the variants in Chapter IV, Environmental Setting and Impacts. Therefore, there is a stable and clear project description that is fully evaluated in the EIR. The variants are analyzed in a separate chapter in the EIR to avoid confusion, as explained in the Response on p. 2.1.48 in the Comments and Responses document. Each variant modifies one limited feature or aspect of the Proposed Project, and thus does not rise to the level of an alternative to the proposed project. They do not result in an "unstable" project description.

As Appellants note, "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 193 (*County of Inyo I*).)

The EIR for the Proposed Project provides an accurate, stable, and finite project description. While minor changes were made to the project description during the environmental review process, the changes do not affect the conclusions reached in the EIR. As discussed above, the CEQA process will often result in project changes reducing the severity of environmental effects. "'CEQA compels an interactive process of

assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.' [Citation.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal. 3d 929, 936.) Furthermore, if an agency, after completing an EIR, ultimately chooses to approve only a portion of the larger "project" analyzed in the EIR, such action does not retroactively invalidate the project description. (*Dusek v. Anaheim Redevelopment Agency* (1986) 173 Cal. App. 3d 1029, 1041 (CEQA is not designed to "handcuff" decisionmakers).)

Appellants cite *County of Inyo v. City of Los Angeles* (1981) 124 Cal. App. 3d 1, 9 (*County of Inyo II*) in support of the statement that a project description must be stable. In that case, the EIR for a water project did not evaluate whether the project could actually provide water for agriculture, which was included as one of the purposes of the project. The Court stated that "[a]n EIR may not define a purpose for a project and then remove from consideration those matters necessary to the assessment of whether the purpose can be achieved. Since the FEIR removes the availability of surface water from examination it fails the legal duty and the mandate of this court to provide an informed and accurate analysis of the project and its impacts." (124 Cal.App.3d at pp. 7–9.)

Here, the fundamental objectives of the Proposed Project have not changed. Nor have the basic characteristics of the project. Moreover, unlike *County of Inyo II*, the EIR has not removed from consideration matters necessary for the assessment of whether the purposes of the Proposed Project can be achieved. The record shows the Proposed Project has evolved in response to the analysis in the EIR, and as a consequence of comments provided by other agencies and the public. This evolution is consistent with, and indeed an appropriate byproduct of, the CEQA process.

Issue #3: Appellants state that the EIR should be a program EIR, rather than a project-level EIR, and provide examples purporting to illustrate why there is insufficient information to prepare a project-level EIR.

Response #3: CEQA does not require the Lead Agency to use a particular type of EIR to analyze the impacts of a project. Rather, CEQA identifies various types of EIRs, and provides the lead agency with discretion to select the appropriate type of EIR for the project under review. The consideration instead is whether, having decided to prepare a particular type of EIR, the Lead Agency has followed the requirements applicable to that approach. The Planning Department concludes that the EIR in this instance meets the requirements of a project-level EIR.

CEQA provides lead agencies with a "toolbox" of documents to perform environmental review. The types of documents authorized under CEQA range from exemptions to different types of EIRs. (CEQA Guidelines, §§ 15260-15333 [statutory and categorical exemptions], 15070-15071 [negative declarations], 15160-15179.5 [EIRs].)

CEQA also identifies a number of different types of EIRs. (CEQA Guidelines, §§ 15161 [project EIR], 15162 [subsequent EIR], 15163 [supplemental EIR], 15167 [staged EIR], 15168 [program EIR], 15170 [joint EIR/EIS], 15175 [master EIR], 15178, 15179.5 [focused EIR].) The CEQA Guidelines make clear that these different sorts of documents are suggested types or ideas for framing environmental analyses; ultimately, however, the key issue is the content requirements, which apply to all EIRs (CEQA Guidelines, § 15160, citing content requirements of CEQA Guidelines, § 15120).

The Guidelines provide guidance to assist an agency in determining whether a project-level EIR, a program EIR, or some other EIR type may be suitable. Under this guidance, a program EIR "may be prepared on a series of actions that can be characterized as one large project" and are related in specified ways (CEQA Guidelines, § 15168, subd. (a)). Thus, a program EIR is sometimes prepared for a General Plan, when no specific development is proposed.

A program EIR is distinct from a project-level EIR, which is prepared for a specific project and must examine site-specific considerations (CEQA Guidelines, § 15161). A project-level EIR is appropriate for a specific development project where there is sufficient information to allow evaluation of all phases of the development proposal, including planning, construction, and operation.

The question of whether a program or project-level EIR is appropriate in particular circumstances is a matter for the Lead Agency's discretion. (See, e.g., *In Re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal. 4th 1143, 1175.) Rather than focusing on the particular label used, however, the proper inquiry is whether the EIR provides decision makers with sufficient analysis to intelligently consider the environmental consequences of a project. (CEQA Guidelines, § 15151; see also *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26 [An EIR must be "prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences."].)

In this case, the City exercised its discretion appropriately in determining that a project-level EIR was the appropriate document for the Proposed Project (CEQA Guidelines, § 15160). The Planning Department maintains that the EIR provides decision makers with sufficient information to analyze and intelligently consider the environmental consequences of the Proposed Project.

Section 15124 of the CEQA Guidelines lists the four mandatory items that must be included in the project description: (1) a detailed map with the precise location and boundaries of the proposed project, (2) a statement of project objectives, (3) a general description of the project's technical, economic, and environmental characteristics, and (4) a statement briefly describing the intended uses of the EIR and listing the agencies involved with and the approvals required for implementation. Aside from these four items, the project description need not "supply extensive detail beyond that needed for evaluation and review of the [project's] environmental impact." (*California Oak Foundation v. Regents of University of California* (2010) 188 Cal. App. 4th 227, 269-27, citing CEQA Guidelines, § 15124.)

The Draft EIR for the Proposed Project contains the information required by CEQA Guidelines section 15124. The Draft EIR's 84-page project description in Chapter II includes maps and figures showing the location of the project, a statement of project objectives, a description of the project's characteristics, and a statement of intended uses of the EIR and necessary approvals. Additional information regarding the project and its characteristics appears in each of the chapters analyzing potential physical environmental impacts.

Appellants state that a project-level EIR is inappropriate for the Treasure Island /Yerba Buena Island project because the EIR references Public Resources Code (CEQA) Section 21090. Section 21090 authorizes the preparation of a master EIR, program EIR, or project EIR for a redevelopment plan. The EIR referenced section 21090 because, as initially proposed, the project would be implemented as a redevelopment plan under the Community Redevelopment Law. Due to uncertainties regarding the availability of redevelopment financing, the project will now rely on Infrastructure Financing Districts. For this reason, the rules governing environmental review of redevelopment plans no longer apply. (Pub. Resources Code, § 21090; CEQA Guidelines, § 15180.) This change does not affect the description of the project, or the analysis in the EIR. The EIR remains a project-level EIR.

Appellants state that the EIR does not provide sufficient detail to provide a meaningful analysis of site-specific impacts of the plan's implementation, and provide several examples. The Planning Department respectfully disagrees.

Appellants state that the EIR does not provide sufficient information about the building heights, massing, form, and location within the project's tower "flex" zones to determine and evaluate the project's impacts and establish mitigation. As discussed above in Response #2, the tower flex zones are thoroughly described in the EIR, including a wireframe diagram on p. IV.B.20 that shows the limited areas where towers would be allowed. For analysis purposes in the section on urban design and visual impacts (Section IV.B, Aesthetics), representative towers were placed in each tower flex zone at the maximum height proposed, which provides for more development space than would be required to construct 8,000 typical residential units. This methodology is conservative, in that the building towers used for purposes of visual simulations would accommodate a larger number of units than would actually be allowed. The visual simulation and analysis, though conservative, is an accurate representation of the impacts of the project on scenic vistas. The City has not received any information indicating why these simulations or analysis are not representative of the Proposed Project.

Appellants state that the City has prepared program EIRs for other community plans. Whether the City may have used other types of EIRs in other contexts is not relevant to determining the adequacy of this EIR. The Planning Department notes that the City has typically relied on project-level EIRs for large development projects where a master developer is involved. Examples include the EIRs for Mission Bay, the Candlestick-Hunters Point Shipyard Phase II Project and the Parkmerced Project. Many of the examples of program EIRs for community plans cited by Appellants also included project-specific analysis. The Visitacion Valley Redevelopment Program EIR covers the proposed Redevelopment Plan

at a program level, but also explains that it analyzes the draft Design for Development for Zone 1 of the redevelopment area at a project level (see pp. 1-9 to 1-10). The Balboa Park Station Area Plan EIR is a program EIR for the Area Plan, and also a project-level EIR for the development project proposed by a specific developer. Similarly, the Market and Octavia Neighborhood Plan EIR is a program EIR for the Plan, and also includes a project-specific analysis for the 22 sites available for development due to demolition of a portion of the Central Freeway after the 1989 earthquake (pp. 1-1 to 1-2). Specific zoning regulations and development guidelines for these former Central Freeway sites had been established by the Planning Department (p. 1-7) and development on these sites was analyzed at a project level. Development on some of these sites has since occurred, with limited or no environmental review.

The Rincon Hill Plan EIR cited by Appellants is specifically identified as a program EIR in its Summary chapter (p. S-1), with no development projects for individual sites analyzed. The area plan EIRs that are identified as purely program EIRs specifically state that the analyses in the EIR are based on assumptions about potential development that could occur pursuant to that Plan. As stated in the Rincon Hill Plan EIR, "The proposed plan that is the subject of this EIR is not a development proposal, and, while it would facilitate construction of certain projects, the only specific improvements proposed are in the area of streetscape enhancement and open space. Therefore, the EIR's analysis of physical changes in the environment is based on the assumptions about future development that could occur under the plan." Thus, it is not similar to the Treasure Island/Yerba Buena Island Redevelopment Project EIR, which addresses a specific development proposal.

In addition, the City has relied upon project-level EIRs for other projects involving flexible development standards comparable to those proposed for Treasure Island/Yerba Buena Island. For example, the EIR for the Mission Bay North and South Redevelopment Plans describes height zones covering two- to five-block areas and within those blocks each height zone has a base height applicable to a given percentage of the developable area in that zone, a mid-rise height applicable to another percentage, and a tower height applicable to another proportion of the developable area (pp. III.22-III27 of the Mission Bay Subsequent EIR). The tower heights are generally applicable to between 7 and 20 percent of the developable area of a zone, with no towers permitted in some zones. As in the Treasure Island/Yerba Buena Island EIR, the Mission Bay Subsequent EIR used representative massing diagrams to illustrate the potential aesthetic and visual impacts of the development program (Section V.D of the Mission Bay Subsequent EIR). The Mission Bay Subsequent EIR is a project-level EIR that covered all of the buildings constructed in these two redevelopment areas so far; no new or site-specific EIRs have since been necessary. The Mission Bay Subsequent EIR also included a separate chapter with seven variants to that proposed project, similar to the Treasure Island/Yerba Buena Island EIR. The Candlestick Point-Hunters Point Shipyard Phase II EIR is a project-level EIR for a mixed-use development on about 700 acres in the southeast area of San Francisco. It analyzes three different residential tower variants (Section IV.D, pp. IV-140 – IV-178) as well as four other groups of variants (Chapter IV, Project Variants). The Parkmerced Project includes height zones that establish a base height for certain height districts and then permit a designated percentage of land within each district to be improved with buildings that exceed that base limit up to a

maximum designated height. Building configurations used in the analyses in that EIR are described as representative of what could be built in the Proposed Project. The Parkmerced Project EIR is a project-level EIR for a development program on about 150 acres in southwestern San Francisco.

Appellants state that detailed plans should have been prepared for the rehabilitation and reuse of historic buildings and for required transportation improvements. The EIR contains sufficient information on these topics to evaluate the project's potential impacts on historic resources and transportation. As explained in responses below in Section 6, the Proposed Project includes very specific requirements in the draft *Design for Development* that ensures that any modifications to designated historic buildings meet the Secretary of the Interior's Standards for Rehabilitation, as described in the EIR on pp. IV.D.49-IV.D.50. CEQA Guidelines § 15065.5 specifically states that meeting these standards means that any impacts would be less-than-significant. Therefore, it is not necessary for the EIR to include specific designs for any of these buildings. Transportation features of the proposed project are presented in detail in the EIR. Chapter II, Project Description, includes a description of the proposed transportation facilities on pp. II.35-II.55 with graphics showing the proposed new street system and representative street cross sections, the proposed on-Island shuttle routes, the site plan for the proposed Ferry Terminal, and proposed bicycle routes. Further, the proposed transit service is specific as to the routes and headways that would be implemented with the project. Additional details, such as lane widths, bicycle lane striping, and specifics of the Transportation Demand Management Plan, are provided in Section IV.E, Transportation, to provide more information for the analysis of impacts on pp. IV.E.30-IV.E.47. The Appellants have not identified what information they believe is missing from these descriptions that would result in any change in the analyses and conclusions regarding impacts on pp. IV.E.47-IV.E.141. Travel demand was calculated based not on building designs but on numbers of residential units and amounts of open space, office, retail, and other uses in the Proposed Project. Transit facilities assumed to be available are described in the EIR; the absence of a specific design for the Transit Hub described generally on pp. II.35, does not affect the ability to analyze transit demand and proposed capacity to determine whether capacity would or would not be sufficient to serve the demand. See also Responses #6.20-6.23 regarding historic architectural resources issues and Responses #6.11 and #6.13 regarding transportation improvements.

This approach is consistent with CEQA requirements. In *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 25, petitioners challenged the adequacy of the EIR for a proposed mining operation (p. 23). Petitioners alleged that the EIR's project description was incomplete because its conceptual description of a water diversion channel and associated features was inadequate. Specifically, petitioners argued that "only precise engineering designs provide the necessary detail to analyze the environmental consequences of the entire project under CEQA" (p. 27). The Court rejected this claim, reasoning that CEQA requires only "a 'general description' of a project's technical characteristics" (p. 28). In reaching the conclusion that engineering plans were not required for the diversion channel, the Court stated that such plans would likely include "extensive detail beyond that needed for evaluation and review of the environmental impact," and that such detail was not required by CEQA Guidelines section 15124 (p. 36).

More recently, the First District Court of Appeal rejected a similar argument in *California Oak Foundation v. Regents of University of California* (2010) 188 Cal. App. 4th 227. In its decision in this case, the Court upheld an EIR that described one component of a multifaceted project in greater detail, with a more general description of other components of the project that were to be constructed later. The Court stated that "the EIR contains sufficient detail to permit reasonable and meaningful environmental review of each of the Integrated Projects, but, in particular, of the Athlete Center project – the only project ready for the Regents' final approval in connection with the EIR's certification" (p. 272). The Court further noted that "the EIR acknowledges further analysis may be required if new or different facts surface with respect to any of the individual projects."

In summary, the Planning Department believes the EIR for the Treasure Island/Yerba Buena Island Redevelopment Project provides sufficient detail to evaluate the Proposed Project's environmental impacts. To the extent new or different facts surface as the project moves forward, the EIR acknowledges that supplemental review may be required (CEQA § 21166). As the California Supreme Court stated in *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376, 404-405, "[a]n EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project" (pp. 404–405). The Planning Department has determined that the EIR prepared for the Proposed Project meets that standard.

Issue #4.1: Appellants state that the EIR fails to provide good-faith responses to comments submitted by public agencies and fails to address significant new impacts identified in those comments. Appellants further state that the EIR fails to address new impacts, requiring recirculation of the Draft EIR.

Response #4.1: The requirements for responding to public comments on a Draft EIR are found in CEQA Guidelines § 15088. Written responses to comments on environmental issues must describe the disposition of significant environmental issues raised, and address in detail any recommendations and objections raised in the comments that are at variance with the Lead Agency's position, explaining why suggestions were not accepted. As quoted by Appellants, "a good faith, reasoned analysis" is required (§ 15088(c)). The responses may take the form of revisions to the Draft EIR or may be in a separate section of the final EIR (§ 15088(d)).

As demonstrated in the remaining responses to the Appeal, contrary to several statements by the Appellants, the responses to public comments on the Draft EIR are not just summary conclusions. In particular, several of the agencies whose comments allegedly were not responded to provided letters to the Planning Commission or Planning Department following receipt of the Comments and Responses document. These letters did not indicate dissatisfaction with the responses to their comments in the Draft EIR. The Planning Department believes that responses to all of the comments received that are incorporated by reference by Appellants are complete and appropriately detailed in the Comments and Responses document, the revisions in the April 12 Memorandum, and the 2-page Errata presented to the Planning Commission and TIDA Board on April 21 at the certification hearing.

See Response #1.1 regarding recirculation requirements.

Issue #4.2: Appellants state that the San Francisco Fire Department has identified inadequacies in the project design, identifying new impacts to public safety that were not disclosed in the EIR.

Response #4.2: This is a new issue that was not raised by the San Francisco Fire Department (SFFD), which received a copy of the Draft EIR when it was distributed in July 2010, or anyone else, in comments on the Draft EIR. After publication of the Comments and Responses document, a member of the SFFD staff expressed concern about the angles of the proposed new street system on Treasure Island, as they are not typical 90 degree or right angles. TIDA and TICD and their engineers met with SFFD representatives on several occasions both before and after publication of the Draft EIR and Comments and Responses to review the proposed street layouts; in addition, the SFFD tested their equipment on a simulated course based on the geometrics of the streets on Yerba Buena Island to be sure the streets would be adequate when bicycle and pedestrian facilities are added. As explained at the April 21 Planning Commission and TIDA Board joint hearing, the proposed street grid does not violate any applicable local, state, or federal requirements, and all final street layouts will be subject to review and approval by several City agencies, including the Fire Department, Department of Public Works, and the San Francisco Municipal Transportation Agency.[9] The Fire Chief provided a memorandum to the Planning Commission on April 21, 2011, indicating that the Fire Department has no objections to the Treasure Island Development Project, and noting that the Fire Department will review all aspects of the Project that fall under its authority as plans are prepared (a copy of this memorandum is Attachment E in this Appeal Response).

Issue #4.3: Appellants state that the U.S. Coast Guard raised significant new public safety issues in comments regarding impacts on the Vessel Traffic Service (VTS) facilities from proposed tall buildings on Treasure Island, as well as impacts on access to Coast Guard facilities from traffic congestion caused by the Proposed Project. Appellants posit that the new information could have significant impacts on design and implementation of the proposed project.

Response #4.3: The issues of effects on the VTS facilities and access to Coast Guard facilities are not new information since publication of the Comments and Responses document, as they were both raised by the U.S. Coast Guard in their comments on the Draft EIR.

The response to impacts on existing Coast Guard facilities is found in Section 2.3.1 United States Coast Guard Facility, on pp. 2.3.1-2.3.2 of the Comments and Responses document. In particular, the response acknowledges that absent taking appropriate design measures, the Proposed Project could potentially interfere with the Coast Guard's ability to coordinate safe passage of vessels in San Francisco Bay, and explains that the updated draft *Design for Development* includes a formal consultation process between the project sponsors and the Coast Guard, that would require alterations to or additional equipment on

[9] Peter Albert, SFMTA, Memorandum dated April 19, 2011. A copy of this memorandum is Attachment F in this Appeal Response.

buildings over certain heights that could potentially interrupt the Coast Guard facility to address this issue. This consultation and alteration requirement is found in Section T4.9, Vessel Traffic Service, on pp. 177-178 of the February 2011 revised draft of the *Design for Development* that was available to the Planning Commission and the TIDA Board prior to their consideration of certification of the Final EIR on April 21. This approach was established in several meetings held with Coast Guard staff, as offered on page 2 of their comment letter, and thus satisfies their comment on the Draft EIR on this issue. This is confirmed in a letter from the Coast Guard to the Office of Economic and Workforce Development dated May 25, 2011 (a copy of this letter is Attachment G in this Appeal Response). As noted in that letter, the Coast Guard successfully operates VTS in dense urban areas with high-rise buildings such as New York City, Long Beach, New Orleans, Seattle, and Houston-Galveston. See also Response #1.5, above, explaining that the consultation requirement added to the draft *Design for Development* would not result in any substantial design changes. No structures taller than the height limits analyzed in the EIR would be allowed; although not expected, if the consultation resulted in some buildings shorter than evaluated in the EIR, this would not cause new significant impacts or exacerbate any identified significant impacts.

The issue of access to the Coast Guard Station and Sector Facility is discussed in the EIR on p. IV.E.81, where the text specifically states that queues may affect Coast Guard access to the Bay Bridge. In addition, the issue is addressed in the Comments and Responses document in Responses 2.7.11.1 and 2.7.11.2 on pp. 2.7.100 through 2.7.104. The Response in Section 2.7.11.2 explains that if the queues predicted in the EIR's transportation analysis occur on Hillcrest Road, Coast Guard vehicles could be in queues of 50 to 550 feet, with delays of less than two minutes, depending on the time of day and day of week. Any changes to the intersection of Hillcrest Road and South Gate Road at the I-80 ramp would need to be developed as part of the Bay Bridge East Span project. As noted on p. 2.7.102 in the Comments and Responses document, project sponsors would assist the Coast Guard in coordinating with Caltrans for an intersection design at this location. The Appellants have not provided any additional information suggesting how this response is inadequate.

The issues raised by the Coast Guard in their comments on the Draft EIR were fully responded to in the Comments and Responses document with factual support where necessary, and do not raise new significant impacts that are not addressed in the EIR.

Issue #4.4: Appellants state that the EIR refuses to consider the suggestion by AC Transit that the EIR use recommendations in the *Bay Bridge Corridor Congestion Study*, and that this constitutes a failure to consider reasonable measures to mitigate traffic impacts. Appellants also state that AC Transit's comments suggest that it may not be able to provide the bus service assumed in the EIR. Footnote 2 in the Appeal Letter indicates that because the response to the AC Transit comment states that using the results of the Congestion Study would be speculative, the EIR is not a project-level EIR.

Response #4.4: As noted in the Response in Section 2.7.6.3.1: Transportation Circulation – Bay Bridge in the Comments and Responses document, the *Bay Bridge Corridor Congestion Study* includes a preliminary set of recommendations intended to provide a point of discussion, as a first step toward

further study of potential improvements to traffic and transit flow on the Bridge. Specifically, the document states: "The results of the study are intended to provide a point of discussion for policymakers as improvement options are considered in the corridor."[10]

The *Bay Bridge Corridor Congestion Study* was commissioned by the Transbay Joint Powers Authority and AC Transit to develop a preliminary study of the impacts of future demand on the Bay Bridge corridor. The objective of the study was to: develop a high-quality analysis that produces an estimate of future operating conditions for cars, trucks and buses along the Bay Bridge corridor under congested conditions; and identify potential improvement options and serve as a useful case study of corridor planning in the San Francisco Bay Area. The intent of the document was to produce a report that the Federal Transit Administration and other project sponsors can share with planning and transportation agencies to help motivate the discussion of improving mobility along the Bay Bridge corridor.

The *Bay Bridge Corridor Congestion Study* considers two different approaches to improving operations along the westbound Bay Bridge corridor during the morning commute: 1) alternative metering; and 2) physical improvements that include a westbound contraflow lane on the Bay Bridge. The analysis in the study illustrates the need to maintain bus transit travel times and reliability on the Bay Bridge corridor. A number of the suggested physical improvements, including the contraflow lane, are deemed to be promising based on the preliminary analysis presented in the study. The *Bay Bridge Corridor Congestion Study* recommends that additional investigation of improvements to the Bay Bridge corridor be undertaken and include the following elements: policy and priority understanding; survey of best practices; study of alternatives – transit and overall corridor demand; and suite of alternatives – westbound study.

As such, there are no definitive improvement recommendations as a result of that study, and no agency has formally adopted it as part of any long range improvement plan. As noted in the Response, it would be speculative to identify specific improvements to the Bay Bridge resulting from the *Bay Bridge Corridor Congestion Study* as mitigation measures for the Proposed Project. Thus, the Planning Department did not, in its responses to AC Transit comments, refuse to consider recommendations for mitigation; the *Bay Bridge Corridor Congestion Study* does not include such recommendations at the level of specificity and/or inter-agency consensus required to include them as specific mitigation measures.

The issue raised regarding AC Transit's ability and/or willingness to fund transit service between the East Bay and the Proposed Project was also adequately addressed in the Comments and Responses document. Specifically, Responses in Sections 2.7.2.3, Funding Mechanisms, and 2.7.6.3.2, Transit Funding, note that the Treasure Island Transportation Management Agency (TITMA) would provide the capital costs for new vehicles and the ongoing operating funds to AC Transit for providing such service through

[10] AC Transit and Transbay Joint Powers Authority, *Bay Bridge Corridor Congestion Study*, February 2011, p. 4.

revenues generated by the Proposed Project via developer subsidy, congestion pricing, parking fees, monthly transit pass sales, and other sources.

AC Transit submitted a letter to the Office of Economic and Workforce Development dated April 20, 2011, in which it expresses no concerns about the responses to its comments on the Draft EIR, and indicates that it intends to operate the East Bay bus route (a copy of this letter is Attachment H to this Appeal Response). The letter from AC Transit also states that its staff will recommend entering into a Memorandum of Agreement to provide service and procure buses as funded by the Proposed Project.

The fact that the *Bay Bridge Corridor Congestion Study* is a preliminary study that would not be appropriately used to augment the transportation analysis in the Treasure Island/Yerba Buena Island Redevelopment Project EIR does not cause the EIR to become a program-level EIR. The Transportation Impact Study for the Proposed Project, presented in Appendix C to the EIR and summarized in Section IV.E, Transportation, provides a detailed analysis of impacts of the full development program on regional freeways and local roads and an analysis of the Proposed Project's contribution to significant cumulative transportation impacts in future years. The analysis is prepared at a project level of detail. See also Response #3 for additional discussion of the EIR as a project-level document.

Issue #4.5: Appellants state that there were extensive comments from Caltrans that highlight the congestion on the Bay Bridge, and that the responses fail to fully respond to these comments, which in the view of the Appellants explains why the project is infeasible as proposed.

Response #4.5: The EIR and the Comments and Responses document both disclose congestion on the Bay Bridge and the fact that the Proposed Project would have significant traffic impacts. The fact that there would be significant traffic impacts does not render the Proposed Project infeasible. The EIR does conclude that these impacts would occur, identifies mitigation, and concludes that even with mitigation these impacts would remain significant. In relation to this appeal of EIR certification, the CEQA Findings are not before the Board. Separately, if certification of the EIR is affirmed, to approve the Development Agreement and related actions on the Proposed Project the Board will have to approve a statement of overriding considerations identifying the reasons why the Board has decided to approve the project, notwithstanding these impacts. The fact that these impacts will occur does not mean the project is infeasible.

Extensive responses to the comments on the Draft EIR by the California Department of Transportation (Caltrans) were prepared. In addition, Planning Department staff met with Caltrans staff numerous times throughout the environmental review process, including after receipt of their comments on the Draft EIR to discuss their remarks prior to distribution of the Comments and Responses document. A letter from the California Department of Transportation (Caltrans) to Planning Department staff dated April 20, 2011, does not express concern about any of the responses provided in the Comments and Responses document, nor does it say that the Proposed Project is infeasible (a copy of this letter is Attachment I in this Appeal Response).

Issue #4.6: Appellants suggest that the responses to Job Corps comments related to diesel particulate emissions during construction, changes in wind speeds, and stormwater runoff to its campus due to changes in Treasure Island grades, were not adequately answered because the issues were not found to be significant environmental impacts.

Response #4.6: The air quality impact on Job Corps campus residents during construction is addressed in Response 2.9.1, on p. 2.9.3 of the Comments and Responses document. As explained there, the analysis is conservative in that it assumes 12 years of exposure to the emissions from construction equipment during Phase 2 of project development, whereas students at the Job Corps campus (who are generally considered to be adults as they are 16 years of age or older), typically stay for 2 years or less. The conservative or reasonable worst-case analysis shows that cancer risk for Job Corps dormitory occupants would be below the significance threshold of 10 in 1 million established by the BAAQMD and therefore is appropriately identified as a less-than-significant impact. Thus, the response to this comment by the Job Corps is a well-reasoned approach that is not merely conclusory.

Wind studies prepared for and reported in the EIR identify existing wind speeds at the corner of one building on the Job Corps campus (building 367) at 34 miles per hour (see the Response in section 2.11 on pp. 2.11.1-2.11.2 in the Comments and Responses document). These existing wind speeds at this location would increase and could range from 34 to 45 mph after development of the Proposed Project for about 15 hours per year. At the same time, existing wind speeds would decrease, reducing hazardous wind conditions, at 10 other locations on the Job Corps campus. Therefore, overall, the wind impacts on the campus would be reduced with full development of the Proposed Project. Based on this information and on the significance criterion presented on p. IV.I.35 of the EIR, the EIR is correct in finding that this is not considered to be a significant wind impact (see EIR p. IV.I.50). The response to the comment is thorough and detailed and fully explains the basis for the significance determination.

With regard to the changes that may occur in stormwater runoff due to changes in grades on Treasure Island, the Job Corps comment is addressed in the EIR on pp. IV.K.28 – IV.K.29, where it is explained that the project grading is intended to avoid directing overland runoff from Project areas into the Job Corps campus, continue to allow overland runoff from the northern and eastern portions of the Job Corps campus onto Project areas, and to maintain the conveyance of collected stormwater from the entire Job Corps Campus to the island perimeter and the Bay. (See also the Response in Section 2.13.2, Stormwater, on Comments and Responses pp. 2.13.8 – 2.13.10.). Neither the Job Corps comments on the Draft EIR nor the Appellants' assertion provide any evidence of a new significant impact from stormwater runoff.

Issue #4.7: Appellants state that numerous components of the project may not be implemented based on the State Lands Commission comments that elements of the Proposed Project are not consistent with the Public Trust.

Response #4.7: It is true that some uses in the Proposed Project, such as residences, would not be permitted on Tidelands Trust properties. However, those uses are not proposed to be located on Trust properties. The Public Trust Exchange Agreement, discussed on EIR p. III.14, would remove some properties on Treasure Island from the Trust and exchange that land for property on Yerba Buena Island that would become newly subject to the Trust. With this exchange, Trust-free land would be available on Treasure Island on which to locate the proposed residential, sports park, and other non-trust uses. Some uses listed by Appellants may be permitted on Trust properties, depending on the specific nature of the use proposed. For example, a museum devoted to maritime history may be appropriately placed on Tidelands Trust property. The use categories specified for the Proposed Project are general categories appropriate and typical for zoning districts. As explained in the Response in Section 2.2.1, on pp. 2.2.3-2.2.5 in the Comments and Responses document, TIDA has a statutory duty to review each use proposed on Trust property for consistency with the Public Trust prior to approval. The Response goes on to state, in part:

> Whether a particular use is consistent with the Public Trust is generally determined on a case-by-case basis in court decisions and legal opinions by the State Lands Commission and Attorney General. The use of those portions of the Islands that are subject to the Public Trust is also subject to the statutory trust created by the Conversion Act, which sets forth the terms and conditions pursuant to which the TIDA is responsible for administering Public Trust property on the former Naval Station Treasure Island owned by the Navy.
>
> Under the Treasure Island Conversion Act of 1997, TIDA, as the grantee of the State's trust lands, has a statutory duty to ensure that uses on Public Trust property are consistent with the Public Trust. To ensure consistency with the Public Trust, the proposed *Design for Development* establishes a Trust Overlay zone which governs all property on the Islands that will be subject to the Public Trust.
>
> Because each use on Public Trust property must be evaluated in light of all of the surrounding circumstances, it is premature to conclude whether a particular energy, commercial, open space and recreation, or cultural/institutional use on Treasure Island or Yerba Buena Island would be consistent with the Public Trust. However, it is important to note that the proposed *Design for Development* would allow uses within the Trust Overlay zone only upon a finding of trust consistency by TIDA. All proposed uses on Public Trust property would be evaluated by TIDA at the time that more details are known about any particular proposal. Certain uses specified in the comment, including permanent athletic fields or sports fields, are being located on the land outside of the Trust.
>
> TIDA has a statutory duty under the Conversion Act to ensure that it acts in compliance with the Public Trust. As such, it may not approve any use that it finds to be inconsistent with the trust or otherwise not allowed under the Conversion Act. The State Lands Commission exercises oversight over all granted lands. Generally, this means the Commission carries out this responsibility by working cooperatively with grantees to assure that requirements of the legislative grants and the Public Trust Doctrine are carried out and to achieve trust uses. The Commission monitors and audits the activities of the grantees to insure that they are complying with the terms of their statutory grants and with the public trust. Most grantees, including TIDA, are not required to secure approval from the Commission before undertaking development projects on their trust lands nor before expending revenues generated from activities on these

lands. However, where an abuse of the Public Trust Doctrine or violation of a legislative grant occurs, the Commission can advise the grantee (in this case, TIDA) of the abuse or violation and, if necessary, report to the Legislature, which may revoke or modify the grant. Alternatively, the Commission can file a lawsuit against the grantee to halt the project or expenditure. Therefore, as a matter of practice, TIDA and the State Lands Commission will continue to cooperate throughout planning, design, and buildout of the Proposed Project.

Therefore, the presence of the Tidelands Trust on the Islands would not make the Proposed Project infeasible, as suggested in the comment, and there is no basis for assuming that numerous components of the Proposed Project would not be implemented.

Issue #5: Appellants allege that the Planning Department and project sponsors failed to consult with federal and state agencies with permitting authority or with jurisdiction over resources that could be impacted by the proposed project, listing several state and federal agencies.

Response #5: CEQA Guidelines Section 15087 requires that a Notice of Availability of a Draft EIR be provided by mail to organizations and individuals who previously requested such notice and by one of the following: publication one time in a newspaper of general circulation in the area where the proposed project would be carried out, posting notice on and off the project site, or direct mail to owners and occupants of property contiguous to the property on which the proposed project is located. A notice of completion must be sent to the State Clearinghouse along with 15 copies of the Draft EIR for the Clearinghouse to distribute to state agencies. Consultation concerning the Draft EIR is also required with responsible agencies, such as BCDC for the Proposed Project; trustee agencies, such as the California Department of Fish and Game; any state, federal, and local agencies having jurisdiction by law with respect to the project or exercise authority over resources that may be affected by the project, such as the U.S. Army Corps of Engineers; and any city or county that borders on the jurisdiction where the project is located, such as the cities of Emeryville and Oakland.

The distribution list of agencies, groups and individuals receiving copies of the Notice of Availability of Draft EIR is available in Planning Department files. It includes 70 pages of agencies, organizations and individuals. All agencies listed in the comment, plus the Army Corps of Engineers, National Marine Fisheries Service (part of the National Oceanic and Atmospheric Administration), Department of Energy, Federal Emergency Management Agency, Housing and Urban Development, Department of State-Environmental Affairs, United States Geological Service, National Park Service, Bureau of Indian Affairs, Federal Transit Authority, Federal Highway Authority, Department of the Interior Office of Environmental Policy (2 offices), Federal Aviation Agency, General Services Agency, Golden Gate National Recreation Area, and multiple Navy offices received Notices of Availability of the Draft EIR. Thus, over 25 notices were provided to federal agencies. Over 20 state agencies and numerous regional agencies and city/county governments also received notices of availability of the Draft EIR, including the California Department of Fish and Game listed by Appellants and the California Department of Transportation, District 4 (the local district with jurisdiction over freeways in the Bay Area). Thus, all

appropriate responsible, trustee, and federal agencies received notice, as required in CEQA Guidelines Section 15086, as did all cities and counties that border the City and County of San Francisco.

In addition to mailed notice to these agencies and jurisdictions, notice was posted on and around the project site, a newspaper notice was published in the *San Francisco Chronicle* (a newspaper of general circulation), and notice was mailed to a list of individuals and organizations who either requested notice of publication of this EIR or who have requested notices for all EIRs published by the Planning Department. Therefore, more than the required consultation was carried out.

Issue #6.: Appellants state that the EIR fails to adequately analyze or respond to public comments by non-governmental organizations and individuals regarding significant impacts. The appeal letter then goes on to itemize 14 topics receiving inadequate responses.

Response #6: The Planning Department believes that all responses to public comments provide sufficient analysis, detail, and facts to support the conclusions in the EIR. Responses to each specific statement suggesting inadequacy are presented below in the same order that they are found in the appeal letter.

Issue #6.1: Appellant states that the responses to comments concerning impacts related to sea level rise and flooding, seismic instability, and liquefaction are inadequate, and incorporates by reference all of comment letter 19 from Nick S. Rossi, letter 17 from the Bay Conservation and Development Commission (BCDC), letter 30 from Eric Brooks of the San Francisco Green Party, and letter 38 from San Francisco Tomorrow (see Comments and Responses Appendix A, DEIR Comment Letters). Appellant also states that the determination that impacts related to these issues are less than significant are not supported in the EIR.

Response #6.1: Contrary to the Appellants' statements, the EIR provides considerable information concerning potential future sea level rise and flooding, their potential impacts on the Proposed Project, and the approach included in the Proposed Project to address these potential impacts. The information is not in the geology and soils section of the EIR (Section IV.N), but in Section IV.O, Hydrology and Water Quality. Existing conditions related to flooding are explained in the Setting discussion on Draft EIR pp. IV.O.5-IV.O.8, including Figure IV.O.1 showing the potential flood zone on Treasure Island proposed by the Federal Emergency Management Agency (note that a clearer version of the figure, with the same information as in the Draft EIR figure, is provided in the Comments and Responses document on p. 3.136). A discussion of potential future climate-induced sea level rise is provided as part of the introductory material to the Impacts section, on Draft EIR pp. IV.O.30-IV.O.32. Project features intended to address the potential for flooding from storm surges and/or potential sea level rise are generally described in the EIR on pp. II.73-II.75, with more specific information in the Hydrology section on pp. IV.O.30-IV.O.35. As summarized in the response to the public comments cited in Appellants' letter from BCDC, Mr. Rossi, Mr. Brooks, and San Francisco Tomorrow, on pp. 2.17.8-2.17.14 of the Comments and Responses document, the Proposed Project would involve implementation of a range of elements to

address flooding and accommodate potential future sea level rise, with immediate improvements designed to accommodate up to 16 -36 inches of sea level rise and an adaptive management strategy, including a project-generated funding mechanism to pay for improvements to provide protection against greater levels of sea level rise if it were to occur. The immediate improvements would raise the perimeter berm around Treasure Island, raise the existing base grade in the proposed building areas to between 36 and 42 inches above the current 100-year high tide elevation, providing protection to the development areas and accommodating up to 36 inches of sea level rise, and design the storm drain system to accommodate up to 16 inches of sea level rise (see EIR p. IV.O.32). The adaptive management strategy would include an ongoing monitoring program to review sea level rise data; a decision-making framework for future improvements if needed; and a mechanism for collecting and administering project-generated funds to pay for future improvements to address sea level rise if they are needed (see EIR p. IV.O.33).

The discussion of future potential sea level rise in the EIR explains that the rate and amount of future sea level rise is difficult to predict. The discussion and analyses of flooding and future sea level rise in the Draft EIR and Comments and Responses document are based on numerous scientific studies as well as analyses prepared by Moffatt and Nichol, a well-qualified engineering firm with special expertise in waterfront and coastal engineering. These studies were peer-reviewed on behalf of the City and TIDA by URS, another well-qualified engineering firm with expertise in these areas. All of these studies are cited in the Draft EIR and Comments and Responses document, and are available for public review in the Administrative Record for the EIR and summarized in the EIR. They provide the background for the analysis of the impacts of flooding and sea level rise reported in Impacts HY-11 and HY-12 on EIR pp.IV.O.48-IV.O.50, and support the conclusions that the features included in the Proposed Project would reduce any potential significant impacts of sea level rise to less-than-significant levels. Therefore, no mitigation measures are required.

Copies of the analyses prepared by Moffatt and Nichol, information on the proposed geotechnical approach, and peer review letters, as well as copies of presentations made earlier on tsunamis and the approach to addressing future potential sea level rise, were provided to the Board of Supervisors by Rich Hillis, Treasure Island Project Director, on April 29, 2011, and are available on the Treasure Island web site.[11]

The response to comments on future potential sea level rise is presented in Section 2.17.1 of the Comments and Responses document, pp. 2.17.8-2.17.14). Contrary to Appellants' statement, the response presents considerable information and data and is a reasoned analysis of the issues raised in the comments. As stated in the response, "a comprehensive review of scientifically credible literature was completed as part of the background research for the Proposed Project. Peer-reviewed documents that represented widely recognized credible sources and were relevant to future potential sea level rise at the project site were selected for review. Additional studies were also reviewed to assess ongoing

[11] Available at http://www.sftreasureisland.org/index.aspx?page=26.

developments in the climate science community." BCDC recommends consideration of a 16-inch sea level rise by 2050 and a 55-inch sea level rise by 2100. The Proposed Project accounts for up to 36 inches of sea level rise, with a strategy to accommodate higher levels in the future if they occur. Thus, the Proposed Project conforms to BCDC's recommendations. Comment letter 1, not cited by Appellants, is from Will Travis, Executive Director of BCDC. The letter states the following regarding the Proposed Project's approach to sea level rise:

> In addition, their technical and engineering responses have been well thought-out and innovative, and their commitment to long-term adaption strategies, including funding those strategies, will ensure that this ABAG Priority Development Area will be well positioned to protect the community from future sea level rise. The implementation of the proposed anticipatory design and adaptive management approach offers the promise of becoming an example of techniques for sea level rise protection for other communities in the Bay Area and beyond. (Comments and Responses document p. 2.17.1)

The EIR provides decision makers with sufficient information about the Proposed Project and potential impacts from flooding and sea level rise to make an informed decision.

Seismic and liquefaction issues are fully addressed in the EIR in Section IV.N, Geology and Soils. The Setting section on pp. IV.N.11-IV.N.13 describes existing seismic hazards that could affect the project site, including ground shaking and liquefaction. The text notes that ground shaking and liquefaction during the Loma Prieta earthquake in October 1989 resulted in varying degrees of structural damage throughout the Bay Area including on Treasure Island. All of Treasure Island is identified by the California Geological Survey as having liquefaction potential (EIR p. IV.N.13). The Impacts discussion on pp. IV.N.24-IV.N.29 of the EIR explains in detail why the geotechnical stabilization methods included in the Proposed Project, as well as the stringent structural requirements and building plan approval process in the San Francisco Building Code would protect against significant impacts from these seismic hazards. The proposed approach to ground improvements is to densify the development areas of the project site using deep dynamic compaction and vibro-compaction. The Project also proposes to use surcharging, which consolidates the underlying Bay mud and protects against long-term settlement. These techniques are well understood, and have been used to prepare numerous other large-scale projects, including AT&T Park, Bay Farm Island in Alameda, the Long Beach waterfront development area, and the Ports of Hong Kong and Nice. The proposed geotechnical approach was peer reviewed by an outside panel of experts as well as by City staff and consultants to the City. Standard construction methods, such as those used for new high-rise buildings in downtown San Francisco (many of which are on fill that is subject to liquefaction), would be used to construct the new buildings on Treasure Island. The San Francisco Building Code and the California Building Code on which it is based include the most stringent structural requirements in the United States to account for seismic hazards. The City has extensive experience applying and enforcing these standards to proposed buildings comparable to those that are included in the Proposed Project. With the requirements imposed by the Building Code and the geotechnical stabilization included in the Proposed Project, there is no need to add special mitigation

measures related to seismic hazards such as ground shaking and liquefaction. Thus, the EIR appropriately identified these impacts as less than significant.

The response to comments regarding seismic issues further explains that "[t]he use of deep foundation systems to anchor taller buildings...in deeper, more competent materials has been a geotechnical method widely employed for structures located on bay fill similar to Treasure Island around the San Francisco Bay Area shoreline." (Comments and Responses document, p. 2.16.5 in Section 2.16.2, Seismic.) The response to comments on the Draft EIR related to seismic hazards, on pp. 2.16.5-2.16.6 of the Comments and Responses document, provides useful and meaningful information to explain and clarify the analysis in the Draft EIR.

Issue #6.2: Appellants state that the responses to Comment Letter #32 (Golden Gate Audubon) failed to adequately disclose, analyze or mitigate the project's impacts on plant communities, migratory and breeding birds, rafting waterfowl, mammals and eelgrass beds. Appellants generally incorporate by reference all of the comments in the Golden Gate Audubon Society letter submitted as comments on the Draft EIR, and state that a revised Draft EIR must be recirculated for public comment.

Response #6.2: Plant communities are fully discussed and disclosed in the Draft EIR on pp. IV.M.4-IV.M.8 in considerable detail. In addition, the protection of the plant communities on Yerba Buena Island is the subject of an extensive plan considered part of the Proposed Project and therefore included in the EIR by reference, the draft Habitat Management Plan (HMP). The draft HMP was released for public comment on December 21, 2009, went through multiple rounds of review, is cited in the EIR and summarized in the Project Description on pp. II.31-II.32. The HMP is and has been available on the internet at TIDA's web site since December 2009, and available in the Draft EIR Administrative Record. The draft HMP provides details in addition to those provided in the Draft EIR, and stipulates extensive measures to protect and restore natural communities that are summarized in the EIR where relevant. See, for example, p. IV.M.42 of the EIR, which summarizes HMP measures to reduce impacts of construction on the dune gilia and locally significant plants, and p. IV.M.47 summarizes HMP measures to minimize impacts of implementing the HMP itself.

The discussion of birds in the Draft EIR begins on p. IV.M.3, and continues throughout the Biological Resources in Section IV.M. In response to Letter 32, the Comments and Responses document provided additional information on breeding birds on pp. 2.15.76- 2.15.7, and acknowledged the general value of the Christmas Bird Count information to document species richness or diversity, but declined to consider Christmas Bird Count information, explains that "comprehensive winter bird lists can be confusing for a CEQA analysis of a site that is primarily a stopover for transient animals. Information on all birds that might use the island at any time suggests that the site under examination can be assumed, mistakenly, to support these species, and that the project would cause significant impacts on any of these transient species. Breeding birds, on the other hand, would be expected to be exposed to direct impacts." (Response in Section 2.15.2.1 on p. 2.15.6 of the Comments and Responses document.)

The Draft EIR provides considerable information and analysis of potential impacts on rafting waterfowl, as part of Impact BI-4, pp. IV.M.50 - IV.M.55. Disruptions caused by ferry traffic are discussed on Draft EIR p. IV.M.51 and the text concluded that "Long-term effects consist of site abandonment, reduced migration, and reduced reproductive success." Cumulative impacts of ferry traffic are identified on p. IV.M.64. The impact is considered significant and unavoidable and is discussed further below.

There are few terrestrial mammals considered at risk. But impacts on marine mammals, on Draft EIR p. IV.M.52, are carefully considered: "Potential Ferry Terminal and Sailing Center construction activities that could cause a change in normal movement behavior include dredging (initial and periodic), increased water turbidity from dredging, and impact hammer noise." These impacts are mitigated by Implementation of Mitigation Measure M-BI-1e, (Draft EIR p. IV.M.46) which requires (in brief) "pile driving monitoring by a qualified marine biologist and implementation of noise reducing practices."

The value of eelgrass beds, and their locations, is stated at several places in the Draft EIR (e.g., pp. IV.M.10, IV.M.13-14, and IV.M.48). As stated on p. IV.M.48: "These marine aquatic vegetation beds provide critical habitat for Pacific herring." Potential impacts and appropriate mitigation measures are detailed in Impact BI-2, Draft EIR, p. IV.M.47, and avoidance of these areas required as part of Mitigation Measure M-BI-2c: "Eelgrass Bed Survey and Avoidance," Draft EIR, p. IV.M.49. The enforceability of this mitigation measure is discussed below (Issue #6(b).4.)

With regard to the incorporation by reference of the entire Golden Gate Audubon Society comment letter, the Planning Department believes that the responses in Section 2.15 of the Comments and Responses document fully and completely consider and respond to all comments presented, including providing new text clarifying information in the Draft EIR where appropriate. The additional text for the Draft EIR presented in various responses does not provide significant new information disclosing new significant impacts, more severe significant impacts, or new mitigation measures; recirculation is therefore not required. Specific examples that the Appellant provides to support their request for recirculation are addressed in the next four Responses.

Issue #6.3: Appellants, as an example of the treatment of impacts on birds, question the validity of the assertion on Comments and Responses document p. 2.15.17 that mitigation which "incorporates new technology as it becomes available at the time of construction" provides the basis for a finding of no significant impact.

Response #6.3: This is a misinterpretation of the Response. On the following page, 2.15.18, there is an expanded discussion of the issue. It states that the techniques for reducing bird collisions are based on sound and current practices. The response states that, although evidence for effectiveness of mitigation is limited, it is persuasive, and cites several authorities to that effect. The extensive list of such techniques on Draft EIR p. IV.M.52 (Mitigation Measure M-BI-4a) represents the state of the art at present, but suggests that even more effective techniques may be developed in the future. Any mitigation measure of this type, the Planning Department believes, should allow for improvements as they become available.

The Draft EIR does not "rely" on these future improvements to determine significance after mitigation, but provides an opportunity to use improved techniques to mitigate the impact if they become available.

Issue #6.4: Appellants, in the third paragraph in item 6(b) of the Appeal Letter, and in reference to impacts on rafting birds from the ferry service, assert the EIR does not adequately describe these impacts and fails to offer any meaningful mitigation (citing Comments and Responses document p. 2.15.20).

Response #6.4: As noted above, the Draft EIR provides considerable discussion and analysis regarding impacts on to rafting waterfowl, as part of Impact BI-4. Disruptions caused by ferry traffic are discussed on Draft EIR p. IV.M.51, with multiple citations to the scientific literature. The discussion is sufficient to describe these impacts, consider them adverse, and conclude that the impact would be significant. The Planning Department does not accept the appellants' contention that "ferry lanes" and "associated wake areas" are incompletely disclosed simply because the words are not used in the EIR text, as these effects are implicit in the discussion. The Draft EIR addresses significant cumulative impacts on rafting waterfowl from multiple expanded ferry or water taxi services on p. IV.M.64. Again, the wake areas associated with operating a ferry or water taxi vessel are implicit in the determination of significance and are not an additional impact of the proposed ferry service.

It is important to note that mitigation options identified in Mitigation Measure M-BI-4b: "Changes in Ferry Service to Protect Rafting Waterbirds" include operating at slower speeds in December and January or maintaining a buffer zone of 250 meters from areas of high-use by rafting waterbirds (EIR, p. IV.M.54). The reason the Draft EIR *itself* concluded that these measures would not reduce the impact to a less-than-significant level is clearly stated on the next page (IV.M.55): "In addition, because adoption of this measure by the Water Emergency Transit Authority (WETA) is not assured and is outside the jurisdiction of the City, the impact on rafting waterfowl is determined to be potentially significant and unavoidable." This is not failure to offer any meaningful mitigation measures; it is a recognition that those offered are not enforceable by the Lead Agency.

Issue #6.5: Appellants state that the EIR also provides no real basis for ensuring that many mitigation measures are properly implemented or enforced, citing impacts to eelgrass beds as an example.

Response #6.5: Mitigation Measure M-BI-2c, as clarified in the Comments and Responses document on pp. 2.15.33-2.15.34 "Eelgrass Bed Survey and Avoidance" provides basic information on how it will be enforced. The explanation of the training program for construction personnel is expanded, and responsibility for ensuring that construction personnel are aware of the requirement to avoid eelgrass beds is clearly identified. It is anticipated that the project sponsors, and was implicit in the measure, that any contractor (work barges or vessels engaged in construction activities), would, as a matter of contract terms, be required to avoid transit through and avoid anchoring in eelgrass beds, which would be delineated as part of periodic training required in the contract specification. Thus any violation of these provisions would amount to a contract breach, and would be enforceable though contractual actions. This is a typical approach used by project sponsors to enforce implementation of mitigation measures.

Issue #6.6: Appellants, in the last paragraph of item 6(b), make broad statements as to the inadequacy of the EIR, i.e., that it failed to fully disclose the project's potentially significant impacts to biological resources, and relied on mitigation measures that are "undescribed, or unenforceable as a practical matter, to assert that impacts to biological resources will be 'less than significant.'"

Response #6.6: Pursuant to CEQA Guidelines Section 15151, the EIR was prepared with a sufficient degree of analysis to provide decision makers with information that enables them to make a decision which intelligently takes account of environmental consequences. The evaluation of the environmental effects of the proposed project on biological resources was extensive and meets CEQA standards for adequacy, completeness, and a good faith effort at full disclosure. As called for in CEQA Guidelines Section 15088, the responses address all issues related to impacts on biological resources with facts supporting the conclusions and, where appropriate, provide reasons why suggestions and recommendations made by the Golden Gate Audubon Society are not accepted. The question about how the mitigation measure related to impacts on eelgrass beds would be enforced resulted in clarification of that measure. Recirculation is not required because there is no missing analysis of impacts or missing mitigation measures, and the EIR acknowledges significant and unavoidable impacts on biological resources where mitigation measures are infeasible due to lack of jurisdiction, as explained in Responses #6.2 through 6.5 above.

Issue #6.7: Appellants state that the responsibility for enforcing mitigation measures is unclear, and that the response on p. C&R 2.1.3 is no longer accurate.

Response #6.7: All mitigation measures that are already included in the Proposed Project or expected to be imposed as conditions of approval are fully enforceable.

Appellants are correct that the referenced response in Section 2.1.1.1 of the Comments and Responses document is not correct insofar as it identifies TIDA as the redevelopment agency for the project site. That response was revised in the April 12 Memorandum as part of the explanation and discussion of revisions to the Proposed Project and its governing structure, on p. 12 of Attachment 1 to that memorandum. The revised response now reads as follows:

> The Treasure Island Development Authority ("TIDA") has been established as the agency to redevelop the project site (see EIR Chapter I, Introduction, pp. I.3-I.4, and EIR Chapter II, Project Description, p. II.1). Because of uncertainties regarding the legal status of redevelopment agencies, a redevelopment plan is no longer proposed; however, TIDA would continue to be an agency of the City and County, as well as the Trustee for the Tidelands Trust properties. TIDA and the Planning Department or Planning Commission would have the responsibility for ensuring that mitigation measures included in the Proposed Project or imposed as conditions of approval are carried out following actions to approve the Area Plan, Special Use District, Development Agreement, Disposition and Development Agreement, and related transactional documents.

The April 12 Memorandum was distributed to all persons who commented on the Draft EIR in advance of EIR certification. The clarification of this response in the April 12 Memorandum does not provide a basis for recirculating the EIR.

Responsibility for implementation of mitigation measures, and for monitoring that implementation, is shown in the Mitigation Monitoring and Reporting Program (MMRP), attached to the CEQA Findings Motion and approved by the Planning Commission and TIDA Board on April 21, 2011. Monitoring responsibility is with a variety of City agencies, depending on the topic and was never solely within TIDA's responsibility. For example, noise reduction during construction would be monitored by the Department of Public Works, Department of Building Inspection, or the San Francisco Public Utilities Commission, depending on the facility or building being constructed (see p. 12 of the MMRP, available on the Planning Department website as part of the April 21 Planning Commission packet for item 2007.0903EBMRTUWZ). The change from a redevelopment plan to an Area Plan and SUD shifted some responsibilities from TIDA to the Planning Commission and Planning Department; it did not make any mitigation measures unenforceable.

The fact that TIDA is no longer proposing to use its redevelopment powers and authority for purposes of developing Treasure Island and Yerba Buena Island is not a basis for recirculation. This change has no physical effect, and does not make any of the mitigation measures unenforceable. TIDA will continue to be a public agency controlled by the City and County of San Francisco, with oversight by the Mayor and the Board of Supervisors, as described above on p. 8. As explained above in Response #1.3, TIDA retains all of its other powers and status. Contrary to Appellants' statements, TIDA is not a private entity. It remains a non-profit public benefit corporation, pursuant to Board of Supervisors Resolution 380-97, adopted in April 1997 (see the Conversion Act of 1997, Section 4(c)). It is a public agency, subject to the budget and fiscal provisions of the City Charter. Its Board of Directors is appointed by the Mayor, subject to approval by the Board of Supervisors. TIDA also remains the Local Reuse Authority for base conversion purposes and the Trustee of Tidelands Trust properties on the Islands.

Issue #6.8: Appellants state that because comments on the Draft EIR by the State Lands Commission list uses that are not consistent with the Public Trust, the project description may change substantially, resulting in potential new significant impacts. Appellants suggest that many of the uses analyzed in the EIR may not be constructed because they are not consistent with the Public Trust, and that this is not addressed in the Response to Comments document. They also again question TIDA's jurisdictional authority based on the change from a redevelopment plan to an Area Plan and SUD.

Response #6.8: The comments and response to the State Lands Commission on the Draft EIR regarding uses that are not consistent with the Tidelands Trust is found in Section 2.2.1., on pp. 2.2.2 – 2.2.6 in the Comments and Responses document. The response is 2.5 pages long. It does not summarily state that TIDA would evaluate all uses on Trust properties, but rather explains in detail the procedures that would be used to evaluate uses proposed on Trust properties. The response acknowledges that residential uses are seldom found consistent with the Public Trust, but also points out that no residential uses are proposed

on properties that would be subject to the Trust after the Trust Exchange occurs. The response explains that the proposed permanent athletic and sports fields are also not proposed on properties subject to the Trust. The response also notes that a number of factors will be considered in evaluating whether a use is Trust consistent, including whether the use is water-related or ancillary to the Public Trust, the overall mix of uses within a particular building, the project design, the amount of public access provided, whether the use is proposed within historic resources listed in the National Register, and whether the use is allowed as an interim non-Trust use or otherwise permitted under the Conversion Act. There are several precedents in San Francisco for permitting a mix of uses in adaptive reuse of historic buildings where individual uses may or may not be Trust consistent but the preponderance of the uses, in the context of historic rehabilitation, is. Such examples include the Ferry Building, with its grocery/food-related uses, and Pier 1, with its office uses.

The response explains that most of the other uses discussed in the State Lands Commission comments can be found to be consistent with the trust doctrine, depending on the specifics of each particular use. Based on the explanation provided in the response, there is no reason to assume that there would be substantial changes in land uses on Treasure Island or Yerba Buena Island that would require new analyses or cause new significant impacts requiring recirculation.

TIDA will continue to be the Trustee of Tidelands Trust properties on the Islands. As explained above, the Conversation Act, in granting to TIDA the rights, powers, and interests in Tidelands Trust properties, did not make that grant contingent upon the Board of Supervisors designating TIDA as a redevelopment agency. The two designations are entirely separate. Likewise, the Board of Supervisors resolution designating TIDA as a redevelopment agency in 1998 did not connect that authority with TIDA's authority as Trustee of Tidelands Trust properties. Appellants misinterpret the Conversion Act's statement that provides that "[i]t is the intent of the Legislature with the enactment of this act to provide a means for mitigating the serious economic effects of the closure of Naval Station Treasure Island on the City and County of San Francisco, its surrounding communities, and the state of California by vesting a single entity with redevelopment authority over the property and, with respect to that portion of the property subject to the public trust for navigation, commerce, and fisheries, the power to administer the trust." All that this statement means is that the Legislature sought to enable the vesting of both redevelopment authority and Trust authority in TIDA, as the most efficient means to realize the economic revitalization of the islands. It does not mean that TIDA's role as a Trustee is necessarily linked with, and dependent upon, its role as a redevelopment agency. Thus, contrary to Appellants' assertion, it is clear that TIDA will continue to have the authority granted to it by the State over proposed uses on Trust property, regardless of whether it is vested with or exercises its powers as a redevelopment agency.

Issue #6.9: Appellants state that the EIR is inadequate because it fails to consider alternatives or mitigation measures to reduce significant impacts on aesthetics and there is no explanation as to why no alternatives or mitigation measures are presented. Appellants also reiterate that it is impossible to know whether the impacts of tall buildings are significant and unavoidable because the height limits are not

specific. Finally, Appellants state that the comments indicating the need for specific height limits to be placed on the City's Zoning Maps were not responded to.

Response #6.9: As stated previously, alternatives to the Proposed Project in an EIR must feasibly attain most of the basic project objectives and must substantially lessen or avoid one or more of the significant impacts identified for the proposed project (CEQA Guidelines Section 15126.6(a) and (c)). A reasonable range of alternatives is required, including the "no project" alternative, but an EIR need not consider every conceivable alternative to a project (CEQA Guidelines Section 15126(a)). The EIR should also identify any alternatives that were considered by the Lead Agency but were rejected as infeasible, and briefly explain the basis for this determination. Finally, if the No Project Alternative is the environmentally superior alternative, then an environmentally superior alternative should be identified from among the other alternatives analyzed in the EIR (CEQA Guidelines Section 15126.6(e)(2)).

The Treasure Island/Yerba Buena Island Redevelopment Project EIR complies with CEQA requirements for analyzing alternatives. A No Project Alternative is presented and analyzed (EIR pp. VII.1-VII.14). The project described in the 2006 Term Sheet, the Reduced Development Alternative, is also presented and analyzed in detail in Alternative B (EIR pp. VII.15 – VII.48). This alternative is included because it was the project presented in the Notice of Preparation circulated in 2008, prior to the revisions that created the Proposed Project, and it was not infeasible from a CEQA perspective. It reduces one traffic impact compared to the Proposed Project. Alternative C, the No Ferry Service Alternative, would eliminate one significant, unavoidable impact on an historical resource, eliminate two significant impacts on transit facilities, eliminate the need for mitigating a significant noise impact, eliminate a significant unavoidable air quality impact, and would reduce some significant impacts on biological resources such that mitigation measures for those impacts would no longer be needed. Alternative C is described and analyzed on EIR pp. VII.48-72. The EIR also includes three alternatives that were considered and rejected by the Lead Agencies, the Planning Department and TIDA (EIR pp. VII.73-VII.77), a brief discussion of why an off-site alternative was not considered (EIR p. VII.77), and a discussion of why an alternative with additional features designed to reduce automobile ownership was not considered (EIR p. VII.77-VII.78). Because the No Project Alternative is the environmentally superior alternative, the No Ferry Service Alternative was identified as the environmentally superior alternative among the remaining alternatives considered.

A Reduced Parking Alternative, which had been included in the discussion of alternatives considered but rejected, was added to the EIR as a result of several public comments on the Draft EIR requesting that a reduced parking alternative be considered in detail. It is described and analyzed in the Comments and Responses document in Section 2.21.2 on pp. 2.21.13 – 2.21.39. The response immediately following this alternative explains why the alternative continues to be rejected (Comments and Responses document pp. 2.21.42 – 2.21.44). The Reduced Parking Alternative would not reduce any of the significant impacts identified for the Proposed Project; it was included to provide a more detailed analysis based on the extent of public comment requesting such an analysis.

The EIR addresses a reasonable range of alternatives in light of the project objectives and the significant impacts of the Proposed Project. The range is sufficient to provide a reasoned choice. There is no requirement that an EIR present alternatives that reduce all of the significant impacts identified for the Proposed Project or a series of alternatives reducing or eliminating each of the significant impacts. Therefore, to the EIR need not consider additional alternatives with more narrowly-defined height limits or lower height limits.

The Proposed Project as revised and described in the April 12 Memorandum does, in fact, include substantially lower tower heights as one of two revisions made in response to public comment on the draft *Design for Development* (see p. 5 of the April 12 Memorandum). The Main Tower height limit is reduced by 200 feet, areas that would have allowed towers at 450 feet are reduced by 135 feet to 315 feet, and areas that would have allowed towers at 350 feet are reduced by 90 feet to 240 feet. The analysis of the aesthetic impacts of these revisions on p. 13 points out that the towers in the revised project would continue to be substantially taller than existing buildings; nevertheless, the lower height limits would not avoid the significant visual impacts identified in the EIR.

An EIR must consider a reasonable range of alternatives that will foster informed public participation and decisionmaking. (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 920.) An EIR need not consider every conceivable alternative to a project. (CEQA Guidelines Section 15126.6, subd. (a); *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 354.)

Here, the EIR evaluated a reasonable range of alternatives consistent with the project objectives. As noted in Response 7 below, virtually any development program of a scale that would achieve most of the basic objectives of the project would have significant aesthetic impacts. No alternatives have been identified that would avoid this impact, other than the No Project Alternative identified and analyzed in the EIR.

The responses cited by Appellant in Section 2.1.2 of the Comments and Responses document, on pp. 2.1.6 and 2.1.8, are an explanation of the proposed tower flex zones, not a justification of the zoning scheme. The responses provide further detail about the flex zones and explain that the analysis presents a reasonable worst case scenario for analysis based on the overall height limits presented in the draft *Design for Development* and representative massing diagrams that conform to the standards in that document. The draft *Design for Development* simply provides for more fine-grained controls than are typically provided in zoning districts.

The locations and heights of buildings do not affect most of the impact analyses in the EIR. For example, the transportation, air quality, and noise analyses are based on the maximum number of residential units and the square footages of other proposed uses. Utilities and public services would be the same regardless of building heights. Although specific designs for each high-rise building are not available, they are not needed to establish whether or not there would be significant visual impacts – a

representative massing of the likely buildings forms is sufficient information to determine that views from many locations around the region would be substantially changed and the effect would be significant. The two other topics where building form could affect the analysis are shadows and wind. The analysis of potential shadow impacts uses representative massing assuming maximum heights to show that while there would be new shadows, they would not substantially affect the usability of existing open space that would remain or the usability of the proposed new open spaces around the perimeter of Treasure Island and the major open space area in the northeast quadrant of Treasure Island (see Figures IV.I.1 – IV.I.12 and the discussion on EIR pp. IV.I.19 – IV.I.25). The relatively small changes in tower locations that could occur under the proposed flex zones would not make major changes in the locations and extent of shadows. Shadows on the variety of small parks proposed to be adjacent to buildings in the urban areas on Treasure Island would occur regardless of the heights of new buildings. As noted on EIR p. IV.I.23, "[m]oving a park further away from buildings might increase its sunlight exposure, but this would be expected to reduce its value, because it would be less accessible to users." Wind impacts would change as individual buildings are built and could change depending on the locations of towers within a flex zone. Therefore, detailed mitigation measures M-WS-3 and M-WS-4 are included in the EIR that require an annual evaluation of wind conditions by a qualified wind consultant at least once a year, and site-specific wind analyses of all buildings that are under consideration (EIR pp. IV.I.51-IV.I.5, and IV.I.56-IV.I.59, as modified in the April 12 Memorandum on pp. 9-10 of Appendix 1). It is notable that this approach is similar to the one identified in the EIR for the Mission Bay North and Mission Bay South Redevelopment Areas and used successfully throughout the development of those areas.

Issue #6.10: Appellants state that the responses to public comments by Telegraph Hill Dwellers requesting a comparison of heights between existing and proposed buildings were inadequate.

Response #6.10: The response to Telegraph Hill Dwellers' comments requesting heights of existing buildings is provided in Section 2.4.9 on p. 2.4.43 of the Comments and Responses document. That response quotes from the EIR Project Description providing the information that the residential buildings on Treasure Island outside of the Job Corps campus are two-story structures and from the Aesthetics section stating that Building 1 at the southwest corner of Treasure Island is three stories. The Comments and Responses document also revised Figure IV.D.6 (see p. 2.6.19 of the Comments and Responses document) to include the heights of the historic buildings to remain, which provides a comparison of existing building heights and proposed height limits in the vicinity of historic Buildings 1-3. As explained in this response, on p. 2.4.44, a list of abstract numerical height comparisons would not contribute substantially to the understanding of impacts on scenic views or visual character because the setting is not experienced that way. Section IV.B, Aesthetics, instead provides eight views of the Islands taken from various vantage points in San Francisco and other locations around the Bay (including Telegraph Hill), and compares them with photosimulations of what development would look like using representative massing to show the many high-rise towers that are expected to be constructed (the comparisons are each on the same page as the view of existing conditions). This provides a better

representation of existing and future conditions than would a list of existing building heights compared to proposed height limits. Thus, the response is not inadequate.

Issue #6.11: Appellants state that mitigation measures in the EIR are inadequate to reduce or avoid significant impacts to transportation and traffic and that the EIRs conclusion that transportation mitigation measures are infeasible because funding is uncertain is unacceptable. Appellants cite the use of traffic impact mitigation fees as standard mitigation measures that should have been included and state that the developers should be required to pay for increased ferry service before development projects are occupied.

Response #6.11: The Appeal Letter notes that the EIR concludes that funding for Mitigation Measure M-TR-2 (Expanded Transit Service) is uncertain and that as a result, the feasibility of the measure was deemed uncertain. The Appeal Letter suggests that because implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) is uncertain it is an unacceptable mitigation measure under CEQA. However, CEQA requires that all feasible mitigation measures be identified even in cases where implementation is uncertain due to actions that must be taken by other agencies (i.e., implementation is outside the complete control of the Lead Agency), or in cases where funding has not been fully programmed. In the case of the Proposed Project, there are essentially three categories of transit services providing service between the Proposed Project and "the mainland:" AC Transit to the East Bay, Muni buses to San Francisco, and ferry service to San Francisco.

As summarized in the Response in section 2.7.6.3.2: Transit Funding, in the Comments and Responses document, the Proposed Project's Fiscal Impact Analysis (reviewed and confirmed by the City's Budget Analyst) and the Transportation Implementation Plan (separately adopted by TIDA) demonstrate that the operating subsidy and project-generated revenues would be sufficient to fully implement Mitigation Measure M-TR-2 (Expanded Transit Service). Full funding for acquiring new vehicles for the expanded transit service would be available from subsidies provided by the project sponsor and either grants from the federal government or other agencies, or, if grants are not secured, through revenues generated to the City by the Proposed Project. Operating and maintaining the expanded transit service would be funded through revenues generated by the Proposed Project at full buildout. In interim years before project-generated revenues are adequate to fully fund operation and maintenance of the expanded transit service, the DDA requires the project sponsor to provide an additional subsidy to make up the shortfall. Therefore, both capital costs for new vehicles and continuous funds for operations and maintenance costs for the expanded transit service are expected to be adequate. (Refer to Issue and Response #6.14 for a more detailed discussion of funding).

However, although the funding for implementation of this mitigation measure is expected to available, dedicating those funds toward operating the specified Muni bus service increases would require future Boards of Supervisors to allocate funds to Muni, which neither the City nor the project sponsor can ensure. As a result, the feasibility of implementing the increased bus service to San Francisco is uncertain.

In the case of ferry service, additional improvements at the downtown San Francisco Ferry Terminal at the Port of San Francisco Ferry Building, separately proposed as part of WETA's plan to expand ferry service throughout San Francisco Bay, must be constructed in order to operate the enhanced ferry service. Because those improvements are being developed and funded through a separate project sponsored by WETA, the City cannot guarantee they will be completed. Therefore, implementation of this expanded ferry service must be considered uncertain.

The following is a brief summary of each service, and a more detailed discussion of why certain elements of this service are included in the Proposed Project, why other elements are included as mitigation measures, and why implementation must be considered uncertain in some circumstances.

AC Transit

There is currently no bus service from Treasure Island to the East Bay. The ultimate plan for the Proposed Project, similar to that identified in the 2006 Transportation Plan, is to ensure frequent bus service between the Islands and the East Bay, as described in the EIR. As summarized in the DDA (Exhibit N: Transportation Obligations), the Project Applicant is required to purchase up to nine buses for use in the East Bay bus service, including up to five (5) buses to be provided when the service initially begins. Service is anticipated to start with the occupancy of the first new residential units, currently projected for 2015. The DDA requires that the balance of the bus acquisition be provided as needed based on service schedules, but no earlier than the occupancy of the five thousandth (5000^{th}) new residential unit.

The Project's Transportation Implementation Plan demonstrates that at full buildout, revenues generated by the Proposed Project will be more than adequate to fund operating and maintenance costs for AC Transit service. In the interim period, prior to the point at which project-generated revenues are adequate to fully fund operating and maintenance costs, the DDA requires TICD to provide a subsidy to TITMA to cover the difference, thereby ensuring that full operating and maintenance costs for East Bay bus service would be provided.

As summarized in the Response in section 2.7.6.3.2: Transit Funding in the Comments and Responses document, TIDA and AC Transit are expected to enter into a Memorandum of Understanding (MOU) that would formally commit operating revenues to AC Transit to ensure provision of bus service to the East Bay. AC Transit has already indicated willingness to operate such service (see letter from AC Transit dated April 20, 2011, Attachment H in this Appeal Response). However, in the absence of such an agreement, TITMA may choose to operate bus service to the East Bay independently of AC Transit. In this case, the funding mechanisms and the overall effect to project-related travel demand would be the same.

Therefore, it is reasonable to assume this service will be in place as part of the Proposed Project, and no additional service to the East Bay is required through Mitigation Measure M-TR-2 (Expanded Transit Service).

Ferry Service

There is currently no ferry service between Treasure Island and San Francisco. The project sponsors propose to provide funds to WETA for the lease, operation, and maintenance of one ferry vessel. As discussed in the EIR, this vessel would operate at approximately 50-minute frequencies between San Francisco and Treasure Island (p. IV.E.33). The Proposed Project's Transportation Implementation Plan has demonstrated that funds generated to TITMA through revenues generated by the Proposed Project would be adequate to operate and maintain the proposed ferry service at full buildout. In the interim period, prior to the point at which project-generated revenues are adequate to fully fund operating and maintenance costs, the DDA requires the project sponsor to provide a subsidy to TITMA to cover the difference, thereby ensuring that full operating and maintenance costs for the required ferry service would be provided. Similar to AC Transit, WETA has agreed to operate this service and it is therefore reasonable to assume this basic level of ferry service as part of the Proposed Project (see letter from John Sindzinski, Manager of Planning, Water Emergency Transit Authority, to Rich Hillis, April 12, 2011; a copy is Attachment J in this Appeal Response).

Mitigation Measure M-TR-2 (Expanded Transit Service) requires the operation of two additional vessels and operating frequencies to increase to every 15 minutes. The Transportation Implementation Plan assumes implementation of this increased service and includes in its estimates the cost to lease and operate these additional vessels. The Transportation Implementation Plan demonstrates that at full buildout, revenues generated by the Proposed Project would be more than adequate to fund operating and maintenance costs for the additional ferry service. In the interim period, prior to the point at which project-generated revenues are adequate to fully fund operating and maintenance costs, the DDA requires the project sponsor to provide a subsidy to TITMA to cover the difference, thereby ensuring that full operating and maintenance costs for the expanded ferry service would be provided. Therefore, full funding is expected to be available for operation of the ferry component of M-TR-2 (Expanded Transit Service).

However, while the existing downtown Ferry Terminal is adequate to allow operation of the base level of ferry service (i.e., one vessel operating at 50-minute frequencies), the expended service cannot be operated without improvements to the downtown Ferry Terminal. The Downtown Ferry Terminal Expansion Project has been separately proposed by WETA as part of WETA's plans to expand ferry service and its ferry network throughout San Francisco Bay. The Downtown Ferry Terminal Expansion Project would make improvements to gates and boarding areas to accommodate anticipated increases in ferry ridership as new ferry services from downtown San Francisco to Berkeley, Treasure Island,

Hercules, Richmond, Redwood City, Martinez, and Antioch are introduced between 2014 and 2030.[12] As the federal and local Lead Agencies, respectively, the Federal Transit Administration (FTA) and WETA are preparing a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to satisfy the requirements of the National Environmental Policy Act and CEQA. A Notice of Intent (NOI) and Notice of Preparation (NOP) were published in March 2011 and are being circulated by FTA and WETA for the purpose of defining the scope and content of the EIS/EIR. Since the Downtown Ferry Terminal Expansion Project is currently under study by WETA, no formal decisions have been made and the necessary improvements cannot be guaranteed by the City or project sponsor. Therefore, the feasibility of the expanded ferry service is uncertain. It is important to note that the Downtown San Francisco Ferry Terminal Expansion Project is being proposed not solely to serve the Proposed Project, but also to accommodate overall increases in Bay Area ferry ridership and routes.

Muni

As described in the EIR, Muni Route 108-Treasure Island currently provides bus service between Treasure Island and the Transbay Terminal in downtown San Francisco at 15-minute frequencies in the peak periods (pp. IV.E.16-IV.E.17). Therefore, it is reasonable to assume that, at a minimum, this same level of transit service would continue in the future as part of the Proposed Project.

However, the ultimate plan for the Proposed Project, similar to that identified in the 2006 Transportation Plan, is to ensure frequent bus service between the Islands and San Francisco, similar to what is described in Mitigation Measure M-TR-2 (Expanded Transit Service). As summarized in the DDA (Exhibit N: Transportation Obligations), the project sponsor is required to provide 20 percent of the capital costs for up to six buses for use in increasing Muni service to the levels described in Mitigation Measure M-TR-2 (Expanded Transit Service). This 20 percent would serve as the "local match" contribution typically required to receive federal grant money, which is expected to provide the remaining funding for the six additional buses. If the City is unsuccessful in obtaining the unfunded 80 percent capital costs for the six additional buses through grants, the Proposed Project assumes that the balance of the funding would be provided using revenues generated to the City by the Proposed Project. Therefore, full capital funding for the Muni bus component of Mitigation Measure M-TR-2 (Expanded Transit Service) is expected to be available.

Full operating and maintenance costs for the expanded transit service are expected to be available from revenues generated to the City by the Proposed Project. As is customary for large development projects in San Francisco, a Fiscal Impact Analysis was prepared for the Proposed Project to evaluate whether the costs to the City associated with providing services to Treasure Island (including, but not limited to services such as police, fire, health, and transportation) are paid for by the revenues that would be generated by the Project. The Proposed Project's Fiscal Impact Analysis includes an analysis of the costs

[12] Water Emergency Transportation Authority, http://www.watertransit.org/CurrentProjects/DTFX.aspx, Accessed on May 24, 2011.

of purchasing, operating, and maintaining the buses required for the full service described in Mitigation Measure M-TR-2 (Expanded Transit Service). The Fiscal Impact Analysis has been reviewed by the City's Budget Analyst, who generally concurred with its findings. The analysis concluded that at all times, new net revenues to the City's General Fund due to the development of the Proposed Project will exceed the additional costs to procure, operate, and maintain enhanced transit service as described in M-TR-2 (Expanded Transit Service). After accounting for these costs, the fiscal analysis found that the Proposed Project would result in net positive revenues to the City of approximately $8 million annually, and cumulative net new revenues over the Proposed Project's 20 year buildout exceeding approximately $80 million.

Although a funding plan is in place for the additional capital costs, and the operating and maintenance costs are expected to be available from revenues generated by the Proposed Project, the full funding plan requires future Boards of Supervisors to allocate funds to Muni, which neither the City nor the project sponsor can ensure. As a result, the feasibility of the increased bus service to San Francisco, as a component of M-TR-2 (Expanded Transit Service) is also uncertain.

The appeal letter also suggests that the Proposed Project be required to pay transportation impact mitigation fees. The City has adopted a Transit Impact Development Fee (TIDF), which applies only to non-residential development. Because the Proposed Project is primarily residential in nature, the resulting TIDF payment would be relatively small (even under a liberal interpretation of the TIDF fee requirements, the Proposed Project's contribution would be approximately $11 million). However, the Proposed Project does not include mitigation fees because the Proposed Project instead includes the requirement that the project sponsor directly construct transportation facilities, purchase rolling stock for the East Bay and shuttle bus services, contribute financially to the purchase of additional rolling stock for the San Francisco bus service, and provide a subsidy for the operations of the transportation services and programs administered by TITMA. The operating subsidy was sized to be sufficient to fully implement M-TR-2 (Expanded Transit Service), although some uncertainty remains, as discussed above.

By way of comparison, the total estimated cost of the financial commitments required of the project sponsor is estimated to be approximately $168 million, more than 15 times more than what would be required under the TIDF. In addition, since certification of the EIR, the project sponsors have agreed to add a requirement that the TIDF be paid for new office space developed as part of the Proposed Project.

Issue #6.12: Appellants state that features from 2006 Transportation Plan (i.e., enhanced transit service) are only included as mitigation measures, which the EIR says are potentially infeasible. They conclude from this that the mitigation measures in the EIR do not meet CEQA requirements.

Response #6.12: By not assuming transit services to be in place where there remains some uncertainty regarding approvals and/or funding dedication for implementation, this EIR takes a more conservative approach in order to identify a potential worst-case scenario. While it is likely that transit services described under Mitigation Measure M-TR-2 (Expanded Transit Service) are feasible and funding will be

available, the EIR discloses the potential uncertainty and determines that the impacts may be significant and unavoidable. The EIR does not state that Mitigation Measure M-TR-2 (Expanded Transit Service) cannot be implemented; rather the EIR notes that implementation of the measure cannot be guaranteed, and because of this uncertainty, the measure must be considered potentially infeasible. This approach is not intended to diminish the potential for these services to be implemented; rather, it is intended to provide the public and decision-makers a reasonable worst-case scenario. The Transportation Implementation Plan adopted by TIDA and awaiting approval by the Board of Supervisors focuses on how full transit service, as proposed under Mitigation Measure M-TR-2 (Expanded Transit Service), would be implemented. This demonstrates the intent of the decision-makers to implement this transit program, even if they cannot bind others to do so.

Issue #6.13: Appellants question the viability of the proposed ferry service, raising questions about operation: 1) Ferries would cross primary shipping lanes. The No Ferry alternative is for a smaller project, showing the importance of ferries for the viability of the Proposed Project; 2) Ferry Building improvements are needed to accommodate higher-frequency ferry service; and 3) the financial viability of ferry service is not described. Appellants state that if ferry service is found not to be viable, the resulting impacts on bus service are not described in the EIR.

Response #6.13: The Appeal Letter suggests three reasons why the implementation of ferry service may not be feasible. First, the letter notes that new ferry service from Treasure Island to mainland San Francisco would cross major shipping lanes. This is correct; however, the Proposed Project calls for new ferry service to operate every 50 minutes, which means approximately two ferries per hour would cross the shipping lanes (one in each direction). Given the current level of ferry vessel activity, and the Water Emergency Transportation Authority's plan to substantially increase ferry service between San Francisco and ports throughout the Bay, most of which would cross the same major shipping lines, an additional two ferries per hour are unlikely to cause a major effect to the way in which ferry service and major shipping routes interact.

Implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) would increase ferry frequency to every 15 minutes, meaning a ferry would cross the shipping channel every 7.5 minutes, on average. Although the ports in San Francisco Bay are vibrant and successful, major shipping vessels do not travel through the corridor in large numbers. In the rare but likely event that a ferry route is occasionally in conflict with an approaching cargo vessel, the ferry vessel would divert its route around the cargo vessel, similar to the way in which existing ferries maneuver around cargo vessels and the way in which other successful ferry networks operate throughout the world. The transit service plan includes some "slack time" built into the ferry schedules, such that if such a diversion were required, schedules could be maintained with minimal delays to passengers in the ferry vessel.

Second, the appeal letter notes that improvements to the downtown San Francisco Ferry Terminal in San Francisco must be completed prior to implementing higher-frequency ferry service in Mitigation Measure M-TR-2 (Expanded Transit Service). Ferry service contemplated as part of the Proposed Project could be

accommodated at the existing ferry building; however, improvements and expansion of berth capacity would be required to operate the high-capacity and high-frequency ferry service contemplated under M-TR-2 (Expanded Transit Service). As noted in Response #6.11, these improvements are currently under study by WETA and FTA. However, the fact that improvements must be made to the San Francisco Ferry Terminal and that they cannot be guaranteed by the project sponsor or the City is a key reason that implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) is considered uncertain. However, this uncertainty is limited to the higher-frequency ferry service; the base level of ferry service included in the Proposed Project is feasible, even without improvements to the downtown Ferry Terminal.

Finally, the appeal letter notes that no financial analysis of the proposed ferry service has been provided. Economic analyses are not required in a CEQA document. However, the Transportation Implementation Plan for the Proposed Project describes the project's proposal to implement the expanded ferry service over time and includes estimates of the costs and revenues associated with this service. The Transportation Implementation Plan has been presented publicly on several occasions, was available on TIDA's website for public review, and was approved by the TIDA Board on April 21, 2011.

There is no evidence that provision of one ferry vessel operating at headways of about 50 minutes is not viable; therefore, no revisions to the transportation analysis in the EIR are needed and recirculation is not necessary.

Issue #6.14: Appellants state that the EIR does not describe phasing or what amount of development it would take to implement some of the transportation services. If TIDA is not available as a redevelopment authority, TITMA's legal authority to implement mitigation measures is called into question.

Response #6.14: The obligations of the project sponsor to fund specific levels of infrastructure at specific levels of development are outlined in the DDA. Specifically, the Infrastructure Plan (Exhibit FF to the DDA) outlines the project sponsor's requirement to develop certain infrastructure improvements. The Phasing Plan (Exhibit II to the DDA) outlines the major phases and sub-phases of development. The Schedule of Performance (Exhibit JJ to the DDA) links the infrastructure improvements with the phasing by specifically outlining which infrastructure improvements must be made at specific levels of development.

The DDA also requires the project sponsor to make subsidy payments to TIDA for use by TIDA or others for transportation purposes; these total approximately $42 million and include capital funding for Muni bus purchases, a contribution to the separate ramps/viaducts project, and an operating subsidy to be used by the TITMA. All of these obligations are summarized in Section 13 of the DDA and the Schedule of Performance (Exhibit JJ to the DDA).[13]

[13] The dates in the Schedule of Performance are outside dates, beyond which the project sponsor is in default. This is not the expected construction schedule, which is likely to take place faster.

The DDA contractually obligates the project sponsor to deliver public benefits (including open space, affordable housing, and infrastructure) proportionally with development. To ensure this, the DDA divides the project into phases, called Major Phases and Subphases, and assigns infrastructure, open space, and other obligations to each. The DDA requires that the project sponsor submit Major Phase and Subphase applications describing the infrastructure, including transportation infrastructure (in accordance with Section 8 of the Infrastructure Plan), that will be provided within those areas. Generally, Major Phases are large areas of 5-8 blocks, while a Subphase consists of 1-2 development blocks and might accommodate 100-800 homes, depending on the density. The DDA also requires that TIDA must approve the Subphase application prior to transferring the land in that Subphase to the project sponsor, and, as a condition of receiving the property, the project sponsor must post security equal to 100 percent of the construction cost of the improvements in the Subphase to TIDA. The project sponsor is then obligated to commence, continuously prosecute, and complete the Subphase infrastructure within timeframes specified in the Schedule of Performance. Section 1.7 of the DDA sets forth the proportionality principles that underpin the DDA.

As summarized earlier, capital stock purchases for AC Transit buses and shuttles are an obligation of the project sponsor noted both in DDA Exhibit N: Transportation Obligations, and on the Schedule of Performance. The DDA requires initial purchases be made when service begins, a decision that is to be made by the TITMA, with additional rolling stock purchased as needed. The timing of purchases is deliberately intended to be flexible, in order to mesh with agency procurement cycles and future decisions on timing of service. However, the project sponsor's obligation to purchase the buses is not flexible and is absolute.

In addition to physical improvements, the project sponsor is also obligated to provide subsidy payments to TIDA for a variety of uses. The DDA requires the project sponsor to provide security to back-stop these obligations, and failure to make any of the subsidy payments is a default under the DDA. Three of the subsidy payments relate to transportation, two of which are capital subsidies and one is an operating subsidy. The capital subsidies are for MTA bus procurement and to repay costs advanced by SFCTA on behalf of TIDA for the ramps/viaducts project. The operating subsidy, totaling $30 million, is to subsidize operations of the transit services overseen by TITMA in the initial phases of development, prior to the point at which project-generated revenues are adequate to sustain operations of transit service. Based on the anticipated absorption schedule, the need for transportation subsidy was estimated at approximately $20 million. However, the project sponsor is required to provide up to $30 million in subsidy (plus inflation), in order to provide contingency for the system. The subsidy is designed to be drawn on annually by TIDA on behalf of the TITMA on an as-needed basis, as determined through an annual budget process that looks at service needs and costs. The subsidy system affords flexibility to TITMA to draw more or less, subject to an annual and lifetime cap, as needed in order to provide service to the Islands.

Finally, the appellants inquire about TITMA's authority under State law. The State legislature, in AB 981 (Stats. of 2008, Chapter 317), authorized the Board of Supervisors to designate a board or agency to serve

as the transportation management agency. As set forth in AB 981, the powers of the TITMA are to be determined based on the resolution or ordinance adopted by the Board of Supervisors. Nothing in the legislation limits the power or authority of the TITMA based on whether or not TIDA is acting as a redevelopment agency.

Issue #6.15: Appellants state that the parking supply has increased from the 2006 Transportation Plan and that the EIR does not adequately support the conclusion that a project with fewer parking spaces would be economically infeasible or that parking revenues are the only way to fund transit. Appellants state that the approach to parking for the Proposed Project is inconsistent with the City's approach for other area plans.

Response #6.15: The parking supply in the Proposed Project, as described and analyzed in the Draft EIR, increased compared to the 2006 Transportation Plan in two main ways: 2,000 additional parking spaces for the additional residential units in the Proposed Project (added to increase density, as recommended by many during the public scoping period for the EIR), and on-street parking was underestimated in the 2006 Plan by about 395 spaces. Thus, the majority of the "increase" is related to the increased residential density of the Proposed Project compared to the 2006 Transportation Plan.

The issue of feasibility of implementing a project with fewer parking spaces is discussed in detail in the Responses in Section 2.21.2.1, Reasons for Rejecting Reduced Parking Alternative, and 2.21.2.2, Economic Analysis of Reduced Parking Alternative, on pp. 2.21.39 – 2.21.49 in the Comments and Responses document, and is supported by economic analyses by four different urban economics firms, summarized in the Response in Section 2.21.2.2 and available in the Administrative Record. Appellants have not provided any information as to any inadequacies in these four analyses. The Planning Department believes that the Responses provide a well-reasoned discussion supported by facts explaining why an alternative with fewer residential parking spaces is economically infeasible. The Proposed Project as revised does reduce the amount of parking for the hotel, office, and some retail uses, as described and analyzed in the April 12 Memorandum, which is not acknowledged in the Appeal Letter.

The Appeal Letter also notes that the EIR does not adequately support the conclusion that parking revenues are the only way to fund transit. The City currently funds a substantial portion of transit services through collection of parking revenues, via parking taxes collected at off-street parking garages, revenues collected at on-street parking meters, and fines collected from illegal parkers. Therefore, the approach taken by the Proposed Project is consistent with the City's general approach to use parking revenues to fund non-automobile transportation services. Additionally, it is unclear from the Appeal Letter what improvement would be accomplished by using some other method for collecting revenues than parking fees and/or fines, particularly given the EIR's conclusion that a reduction in parking supply does not reliably correlate directly to a reduction in peak hour vehicle trip generation. Finally, funds from the congestion pricing fee are also intended to support transit services for the Islands.

Issue #6.16: Appellants state that the EIR fails to analyze the impacts of the Clipper Cove Marina project either individually or cumulatively. Appellants cite the Treasure Island Yacht Club's website as support for the fact that Clipper Cove will be redesigned, requiring analysis in the current EIR.

Response #6.16: As explained in the EIR on pp. II.9-II.10, the expansion of the Clipper Cove Marina from 100 to 400 slips with related waterside improvements was fully analyzed in the 2005 EIR. In spite of the suggestion by Appellants that this project will be redesigned, there has been no change in the waterside expansion program for the Marina. This is supported by a letter from Almar Management, Inc., the marina operator and a partner in Treasure Island Enterprises, LLC, the developer for the 400-slip marina.[14] The Treasure Island Yacht Club is not the developer for the Clipper Cove Marina expansion project. The landside features for the Clipper Cove Marina are included in the Proposed Project and are analyzed in the EIR. They are described on p. II.10 of the EIR's Project Description.

The Clipper Cove Marina expansion is addressed in the cumulative analyses in the EIR wherever appropriate. One example is the discussion of cumulative aesthetic effects on p. IV.B.29, where the EIR states: "The Proposed Project would not contribute to a cumulative degradation of scenic vistas or visual quality when considered with the Clipper Cove Marina project. That project would construct improvements at Clipper Cove to increase the capacity of the marina from about 100 slips to 400 slips. The enlarged marina would occupy a larger portion of the foreground in Clipper Cove when viewed from the causeway. Implementation of the draft *Design for Development* as part of the Proposed Project would reduce the Proposed Project's potential contribution to cumulative impacts on visual quality to a less-than-significant level. For these reasons, the proposed project would not have significant cumulative impacts related to Aesthetics." Other examples illustrating that the Marina is included in the cumulative impacts discussions in the EIR are found in Section IV.D, Cultural and Paleontological Resources on p. IV.D.61, Section IV.F, Noise on pp. IV.F.29-IV.F.30 (discussing cumulative construction noise), Section IV.G. Air Quality on pp. IV.G.55-IV.G.58 (discussing cumulative construction emissions and cumulative emissions of toxic air contaminants during operation), and Section IV.M, Biological Resources on p. IV.M.64 (noting that the impacts of construction and operation would have similar impacts to those identified for the Proposed Project, and that they would be required to comply with the same regulations). The Clipper Cove Marina is included in the Project Trip Generation Table in Section IV.E, Transportation, on p. IV.E.58, with the note that "[t]he Marina use has already been analyzed in a prior EIR and is not part of the Proposed Project (although the construction of landside services associated with the Marina are included). The trip generation associated with the Marina is presented for informational purposes because it will be used to assess cumulative conditions."

Thus, contrary to the Appellants' statements, the Clipper Cove Marina is fully addressed in cumulative impacts analyses in the EIR.

[14] Randy Short, President, Almar Marinas, letter to Rich Hillis, Office of Economic and Workforce Development, dated May 18, 2011. A copy of this letter is Attachment K in this Appeal Response.

Issue #6.17: Appellants state that comments regarding regional-serving retail were not adequately responded to, and that regional-serving retail and entertainment uses are in conflict with the City's vision of a stand-alone community. Appellants state that the regional-serving retail uses and the increase in the number of residential units deviates from the project described in the Notice of Preparation circulated in 2008, and would have additional traffic impacts. Appellants also state that the EIR justifies the inclusion of regional-serving uses by relying of the Tidelands Trust requirements.

Response #6.17: It is correct that the Proposed Project analyzed in the EIR is different from the project described in the Notice of Preparation. After the public scoping process, and in part as a result of the comments received during public scoping expressing concern as to whether the original proposal included sufficient density to support the level of transit services contemplated, the project sponsors changed the project by increasing the number of residential units from 6,000 to 8,000. It is not atypical for a project to change after a Notice of Preparation is circulated, and there is no violation of the requirements of CEQA in doing so. The EIR appropriately analyzes the project as revised, with 8,000 residential units, and presents a detailed analysis of the project described in the Notice of Preparation in Alternative B in the EIR. The Treasure Island Development Authority adopted a resolution endorsing the updated Term Sheet, which contained 8,000 units, on April 7, 2010, by Resolution No. 10-15-04/07.

As explained in the Response in Section 2.1.4 in the Comments and Responses document (pp. 2.1.27-2.1.30), regional serving uses are proposed in the historic buildings that are to be adaptively reused on the Islands, including Buildings 1, 2, and 3 on Treasure Island, and the Great Whites on Yerba Buena Island. The response is correct in explaining that uses on properties subject to the Tidelands Trust are required to attract people to the waterfront and cannot be limited to uses that serve only the local neighborhood. This does not mean that there would be no neighborhood-serving retail. Substantial amounts of neighborhood-serving retail use are proposed in the new retail space proposed to be developed on the Islands. Therefore, residents on the Islands would be well served, as intended in the Proposed Project.

The transportation analysis in the EIR accounts for the effects of a mix of regional- and local-serving retail as part of the Proposed Project (pp. IV.E.55-IV.E.62). The methodology used to forecast trip generation – specifically, the portion of trips that would remain on the Islands and those that would leave the Islands – was specifically chosen to ensure that the analysis would be sensitive to the mix of uses included as part of the Proposed Project. The methodology captures both the benefits of having neighborhood-serving retail (in terms of reduced auto trips onto and off of the Islands) and the impacts of regional retail. Additionally, the Response in Section 2.7.3.15: Trip Generation – Retail and Sports Facility, in the Comments and Responses document summarizes the absolute and relative amounts of vehicular traffic forecasted to be generated by the Proposed Project's regional retail uses. Thus, the response provides well-reasoned information about how the transportation analysis accounts for regional-serving retail in the Proposed Project.

Issue #6.18: Appellants request an analysis of reductions in recreation and open space benefits due to changes in the project's financing mechanism, identifying these as alternatives to the Proposed Project.

Appellants state that there is little priority placed on implementation of the promised open space or other public benefits.

Response #6.18: No reductions in recreation facilities or open space are proposed as a result of the change from tax increment financing pursuant to a redevelopment plan to use of infrastructure financing districts. As explained above in Response #1.4, City staff explored approaches to retaining all of the 2,400 affordable housing units, but ultimately did not recommend that any public benefits or transportation facilities be removed from the Proposed Project. Therefore no additional analysis is required.

The proposed project would be implemented by the DDA, which is a contractual agreement between TIDA and the developer. A fundamental principle underlying the DDA is that of proportionality. Section 1.7 of the DDA sets forth this principle in detail:

> Because the Project will be built over a long time period, the Parties have carefully structured the amount and timing of public and community benefits to coincide with the amount and timing of the development of Market Rate Units and other commercial opportunities. The public and community benefits have been described and apportioned as set forth in (i) the Phasing Plan and the Schedule of Performance, with respect to the Associated Public Benefits for each Major Phase and Sub-Phase, (ii) the Housing Plan, with respect to the delivery of the Authority Housing Lots, the production of Inclusionary Units and the delivery of the Developer Housing Subsidy described therein and in Section 13.3.5 hereof, (iii) the Infrastructure Plan with respect to the Completion of Infrastructure and Stormwater Management Controls; (iv) the Parks and Open Space Plan, with respect to the Completion of parks and open space and subsidy payments described in Section 13.3 hereof; (v) the Transportation Plan Obligations, with respect to certain transportation improvements, benefits and subsidy payments described in Section 13.3 hereof; (vi) the Community Facilities Obligations, with respect to certain community facilities and subsidy payments described in Section 13.3 hereof; and (vii) the Transition Housing Rules and Regulations, with respect to the provision of certain transition housing benefits described therein. If Developer or a Vertical Developer requests changes to the amount or timing of public and community benefits as set forth above in any Application, then such changes shall be subject to the Approval of the Authority Director or Authority Board in accordance with the DRDAP and Section 3.6 below.

Thus, the Proposed Project itself requires the proportional delivery of these public benefits with the market-rate development. As described in Response #6.14, as a condition of receiving any property for development, the developer must post security equal to 100 percent of the construction cost of the improvements in the applicable Subphase, which will include proportional public benefits, including open space, transportation and infrastructure improvements. The developer is then obligated to commence, continuously prosecute, and complete the Subphase infrastructure within timeframes specified in the Schedule of Performance. IFD funds are a source of reimbursement to the developer only after the public improvements have been constructed.

Nothing in the DDA or in the use of IFD proceeds would allow the developer to unilaterally reduce the amount of open space, transportation facilities, community facilities or other public benefits required under the DDA. No alternatives to the proposed project are being considered by the parties or described in the DDA that would reduce the proposed public benefits or affect the timing of delivery set forth in the DDA. Should any material reduction or change in timing of the public benefits be proposed in the future, such reduction would require TIDA and the Board of Supervisors to amend the DDA. Approval of any such amendment would be a subsequent discretionary approval, subject to CEQA. At such time, the scope of any such changes would be known with certainty and TIDA and/or the Board of Supervisors would be required to consider the environmental effects of such a reduction in public benefits in accordance with CEQA.

Issue #6.19: Appellants state that the EIR failed to respond to comments asking that the EIR analyze the project phase-by-phase, so that mitigation measures could be accomplished within each phase, avoiding building without providing adequate transportation facilities that could result in greater impacts than identified in the EIR.

Response #6.19: As explained in the Response in Section 2.1.8 of the Comments and Responses document (pp. 2.1.37-2.1.38), providing an analysis of each interim phase would result in substantial redundancy without providing substantial new information. In general, impacts of each phase would be less than those of the Proposed Project at buildout, as analyzed in the EIR. Where impacts would be different in different phases, however, the EIR does analyze them by phase, as exemplified by the analysis of air quality impacts during construction (EIR pp. IV.G.30-IV.G.36).

It is not necessary to provide an analysis of each phase of development to ensure that mitigation measures are implemented as needed rather than at the end of development. As explained in Responses #6.14 and 6.18, the DDA requires proportional delivery of the public benefits, including mitigation measures that are required as conditions of project approval. In addition, the MMRP for the Proposed Project identifies the timing for implementation of each mitigation measure, ensuring that the mitigation measures would be implemented as needed and not postponed.

Issue #6.20: Appellants state that TIDA's procedures for reviewing future impacts to historical resources under the draft *Design for Development* are inconsistent with CEQA because the impacts on historical resources are unknown at this time.

Response #6.20: As discussed in the Comments and Responses document on p. 2.6.21, the draft *Design for Development* establishes a regulatory program for review of future alterations to Buildings 1, 2, and 3. It requires conformity with the Secretary of the Interior's Standards for Rehabilitation in future alterations. The regulatory program established by the draft *Design for Development* (p. 293) relies on *CEQA Guidelines* Section 15064.5(b)(3). "Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for

Rehabilitation and Guidelines for Rehabilitating Historic Buildings…shall be considered as mitigated to a level of less than a significant impact on the historic resource." Conformity with the Secretary's Standards, as called for by the regulatory program established in the draft *Design for Development*, and also by Mitigation Measure M-CP-7 on EIR p. IV.D.55, which requires review of new construction within the Contributing Landscape west of Building 1 under the Secretary's Standards, would ensure that the potential impacts on historic architectural resources resulting from alterations and additions associated with rehabilitation and reuse of Buildings 1, 2, and 3, would be less than significant.

As discussed in the Comments and Responses document on p. 2.6.21:

> TIDA has exclusive jurisdiction over design review of proposed treatment to historic resources identified on Treasure Island and Yerba Buena Island. Chapters T5 and Y5 of this Design for Development sets forth requirements for design related to historic resources, including requirements that rehabilitation of resources listed on the National Register of Historic Places comply with the Secretary of the Interior's Standards for Rehabilitation. TIDA shall conduct review to ensure that any alterations to historic resources on Treasure Island or Yerba Buena Island, or new construction within the contributing sites of such historic resources, as is defined in Chapters T5 and Y5 of this Design for Development, comply with the Standards and Guidelines of that Section. TIDA's review will be carried out in accordance with the DRDAP [Document Review and Design Approval Process], which shall include special protocol for the review of historic resources. Alterations to Historic Resources undertaken directly by TIDA that are not otherwise subject to the DRDAP process shall also follow the historic resource review protocol described in the DRDAP.

As discussed in the Comments and Reponses document on p. 2.6.22, if TIDA's review and preservation consultation under the regulatory program established by the proposed draft *Design for Development* indicate by substantial evidence that a future specific design for alteration or addition does not conform to the Secretary Standards, such a proposal would require additional project-specific environmental review under CEQA at the appropriate level of CEQA documentation (e.g., Addendum, Supplemental or Subsequent EIR, Initial Study/Negative Declaration/Addendum). If review indicates conformity with the Secretary's Standards, no significant impact would result and no further environmental review would be necessary. Revisions to the Proposed Project do not change TIDA's responsibility as the Trustee for Tidelands Trust properties; the identified and designated historic buildings are located on Trust property and thus will continue to be under TIDA's jurisdiction.

Additional environmental review under CEQA would be triggered upon evidence that a future specific project would not conform to the Secretary's Standards. The Secretary's Standards are not to be construed as CEQA significance criteria. Although compliance with the Secretary's Standards may indicate that a project would have a less-than-significant impact on an historical resource, a project that does not comply with the Secretary's Standards does not, *per se*, result in a significant impact under CEQA. Alterations that are not consistent with the Secretary's Standards may, or may not, result in a significant impact under the "material impairment" significance standard of CEQA Guidelines Section 15064.5(b)(1). As such, nonconformity with the Secretary's Standards is a lower (i.e., more inclusive)

threshold triggering additional environmental review than that of evidence indicating that a project may have a significant impact on an historical resource (i.e., the "Material Impairment" significance threshold for impacts on historical resources established by CEQA Guidelines Section 15064.5(b).

Appellants state that CEQA review cannot be limited to resources listed in the National Register. The Planning Department concurs. Indeed, to this end, as part of environmental review for the Proposed Project in a Historic Resource Evaluation (HRE), experts in historic architectural resources conducted a comprehensive survey and evaluation of potential historical resources not listed on the National Register of Historic Places that could be affected by the Proposed Project. As discussed on EIR p. IV.3.33:

> **Supplemental Study of Historic Architectural Resources on Treasure Island**
>
> As part of the environmental review of the Proposed Project, the HRE includes supplemental study of potential historical resources that may be affected by the current Proposed Project. The HRE covers gaps in analysis due to the passage of time since the earlier studies of historic resources on Treasure Island and Yerba Buena Island were undertaken. The HRE evaluates the significance of those buildings and structures on Treasure Island, that have reached 50 years in age since the 1997 Inventory and Evaluation was completed (i.e., built between 1947 and 1959). In addition, the HRE evaluates the potential for a NSTI historic district, consisting of all buildings on the island dating from the Navy's tenure regardless of age.
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> The HRE did not evaluate any new resources on Yerba Buena Island because the nature and scope of alteration and demolition work on Yerba Buena Island under the Proposed Project would not affect any building that is now 50 years in age or older that was not already studied in the 1997 Inventory and Evaluation. No study of buildings on the Job Corps campus on Treasure Island was undertaken because these buildings are not within the proposed Development Plan Area and would not be directly affected by the Proposed Project.
>
> The HRE also reflects an increased emphasis on cultural landscape, setting, and context within the discipline of Historic Preservation generally, since earlier studies that were undertaken did not place as much emphasis on these areas. The HRE studies and evaluates the individual significance of landscape features that survive from the GGIE. It also evaluates the collective significance of these remaining landscape features, together with Buildings 1, 2, and 3 (these buildings have already been studied and determined to be individual historic resources) as a potential historic district.

Issue #6.21: Appellants state that TIDA, as a "private non-profit corporation" does not have the authority to make environmental determinations under CEQA.

Response #6.21: First, as described in more detail above, TIDA is not a "private non-profit corporation" but a non-profit public benefit corporation and a public agency. Second, the text and legislative intent of both CEQA and the Conversion Act support a finding that TIDA is a "public agency" that can act as a lead agency under CEQA.

CEQA provides that the term public agency "*includes* any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political

subdivision." (CEQA § 21063, emphasis added). Note that the definition of "public agency" does not state that it provides an exclusive list of the entities that are public agencies. In contrast, CEQA provides that local agency "*means* any public agency other than a state agency, board, or commission." (CEQA § 21062, emphasis added). It is generally understood that "means" indicates a legislative's body's intent to limit a defined term to the immediately following words. Because the Legislature chose to limit the definition of "local agency" but decided not to similarly limit the definition of "public agency", it can be inferred that the Legislature intended for more entities than those expressly included in the list of "public agencies" to be considered "public agencies" for the purposes of CEQA.

More importantly, the Conversion Act itself clearly shows that the Legislature intended for TIDA to be a public agency under CEQA and other law. Section 3 of the Conversion Act states that "[T]he Legislative finds and declares all of the following … (5) The creation of a single public agency that is vested with both redevelopment authority and the power to administer the trust will facilitate the conversion of Naval State Treasure Island to production civilian reuse and is in the best interest of the people of this State." (emphasis added). The Legislature could not have been clearer in expressing its intent that TIDA be a public agency.

Furthermore, in Section 5 of the Conversion Act, the Legislature authorized the City to designate TIDA "or any successor entity or agency" as the redevelopment agency "with all the rights, powers, privileges, immunities, authorities, and duties granted to a redevelopment agency[.]" Section 5 also provides that upon designation as a redevelopment agency, TIDA "shall be considered a redevelopment agency for all purposes under state law, including, but not limited to, the purposes of Section 21090 of the Public Resources Code." Section 21090 is the Section of CEQA relating to EIRs for redevelopment plans.

In addition to authorizing the City to designate TIDA as a redevelopment agency, the Legislature also granted in trust to TIDA the State's right, title and interest in the Trust Property and vested TIDA with "complete power to use, conduct, operate, maintain, manage, administer, regulate, improve, lease, and control the Trust Property." And the Conversion Act contains numerous other provisions which clearly indicate the Legislature's intent that TIDA is a public agency. See, e.g., Section 5(d): "Notwithstanding any other provision of law, the Authority's employees are subject to the same civil service provisions as the employees of the City and County of San Francisco." Section 5(e): "Notwithstanding any other provision of law, the Authority shall follow the same competitive bidding procedures applicable to redevelopment agencies in California." Thus, even if TIDA is no longer acting as a redevelopment agency, it is still acting as a public agency with respect to management and regulation of Trust Property.

In conclusion, considering the broad definition of "public agency" in CEQA and the clear language of the Conversion Act, it is apparent the Legislature intended TIDA to be a "public agency" within the meaning of CEQA. As such, it can continue to make environmental determinations for projects under its jurisdiction in the Trust Property.

Issue #6.22: Appellants state that review by the Historic Preservation Commission is required by the City Charter and that this should be incorporated as mitigation.

Response #6.22: In the absence of a finding of a significant impact on an historical resource, resulting from TIDA's review of future projects under the regulatory program established by the draft *Design for Development*, review by the Historic Preservation Commission is not required. If a significant impact on an historical resource were identified, additional CEQA review would be required; if new CEQA documents were prepared, the Historic Preservation Commission would be offered the opportunity to comment on them, as occurred with the EIR on the Proposed Project. Thus the Historic Preservation Commission's authority remains, under Section 4.135 of the Charter, to review and comment on environmental documents for projects that may have an impact on historic and cultural resources.

Issue #6.23: Appellants state that an updated evaluation of the Navy Chapel must be conducted.

Response #6.23: As discussed in the Comments and Responses document on pp. 2.6.4-2.6.5:

> [I]n 1997, the Navy completed a comprehensive survey and evaluation of Naval Station Treasure Island ("NSTI") resources on Treasure Island and Yerba Buena Island, as part of Section 106 compliance for the transfer of Navy property out of Federal ownership (the "1997 Inventory and Evaluation"). The 1997 Inventory and Evaluation evaluated the Chapel (Building 194, built in 1943) and found that the building does not qualify for listing in the National Register:
>
> > Although a handsome building, the Treasure Island chapel does not appear to be a significant example of its type, whether considered in the context of Navy chapels, churches from the 1940s, or even in the more limited context of military chapels from World War II. The Navy has a long tradition of building excellent chapels; dozens of Navy-built chapels have been listed in the National Register. Many of these chapels were designed by private architects, including many of the nation's best-known firms. Within this context, the Treasure Island chapel does not appear to represent a significant example. It is not the work of a master designer; very little is known of the firm of Blanchard and Maher, architects for the building. Neither is the building significant as an example of ecclesiastical design from the era, whether civilian or military in origin. Many military chapels from World War II were temporary in design; a chapel was included among the standardized plan sets used in cantonment design. Not uncommonly however, chapels were among the key buildings treated to a custom design, in recognition of the importance of the building. There are many noteworthy World War II-era chapels still in existence, including the Navy-designed chapel at the Naval Air Station in Alameda, which has been determined eligible for listing in the National Register as a contributing element to a historic district. Although a handsome and largely unmodified building, the chapel at Naval Station Treasure Island does not appear to qualify for listing in the National Register.

For similar reasons, the Chapel is likewise not eligible for inclusion in the California Register of Historical Resources ("CRHR") under CRHR Criterion 3 (Design/Construction). It does not "embody the distinctive characteristics of a type, period, or method of construction, or represent the work of an important creative individual, or possess high artistic values."

Although associated with World War II, the most significant historical event of the 20th century, which also had a transformative effect on California history, research has not uncovered any evidence that this resource played a sufficiently significant or central role in any of the decisive, transformative, or cataclysmic events of World War II that could justify inclusion of the Chapel in the National Register of Historic Places ("NRHP") or California Register of Historical Resources based on NRHP Criterion A (Events) and the corresponding CRHR Criterion 1 (Events).

Since its construction, the Chapel has been the site of numerous rites of passage marking important life events (e.g., christenings, weddings, and funerals). The use of the Chapel for these purposes, however does not establish a sufficient association with important events or persons in United States or California history to justify its inclusion in the National Register of Historic Places or California Register of Historical Resources based on NRHP Criterion B (Persons) and the corresponding CRHR Criterion 2 (Persons).

The Chapel dates from a relatively recent historic era that is well documented in the historic record. Study of its physical characteristics, features, and materials is therefore unlikely to yield any important information of broad scientific or historical interest that is not already readily available in the documentary record. For this reason, the Chapel is not eligible for listing in the National Register of Historic Places or California Register of Historical Resources based on NRHP Criterion D (Information Potential) and the corresponding CRHR Criterion 4 (Information Potential).

No new information about the historic or architectural significance of the Chapel has surfaced since preparation of the 1997 Inventory and Evaluation that would call for revisiting its analysis and conclusions regarding the Chapel. As such, the EIR for the Proposed Project continues to rely on the analyses and conclusions of the 1997 Inventory and Evaluation. Demolition of the Chapel would not result in a significant impact on an historical resource under CEQA.

In any case, as discussed in the Comments and Responses document, p. 2.6.5, the Proposed Project has been revised to retain the Chapel in its current location and incorporate it into open space. As such, the issue of whether additional evaluation of the Navy Chapel is required is moot.

For these reasons, no new evaluation of the Navy Chapel is called for.

Issue #6.24: Appellants state that the EIR is biased and incorrect in its conclusion that Building 111 is not an historical resource under CEQA.

Response #6.24: This comment was addressed at length in the Comments and Responses document. For the convenience of the reader, the discussion in the Comments and Responses document on pp. 2.6.25-2.6.26:

Comments express concerns about the conflicting conclusions among historic resource experts related [to] the impact of removing Building 111, which was constructed as an addition to Building 3. *CEQA Guidelines* Section 15151 states that "Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts." EIR Section IV.D, Cultural and Paleontological Resources, on pp. IV.D.55-IV.D.56, discloses and describes the main points of disagreement.

> As part of the rehabilitation and reuse of Building 3, Building 111, an addition to Building 3, would be demolished.
>
> The HRE notes that Building 111 is included in the NRHP nomination for Building 3 as a part of Building 3. It was constructed to serve as a firehouse and was complete by the time the GGIE opened. The HRE reasons that demolition of Building 111 would remove a characteristic of Building 3 that conveys the development of the site and its association with the GGIE and that justifies the eligibility of Building 3 for inclusion in the CRHR. On this basis, the HRE concludes that the demolition of Building 111 would result in a significant adverse impact on the significance of the Building 3 historical resource.
>
> The Planning Department has received additional information about Building 111 and its relationship to Building 3, provided in a memo to the project sponsors by historic architectural resource consultants Page & Turnbull. This additional information was not considered by the preparers of the NRHP nomination for Building 3. The Page & Turnbull memo presents supplemental evidence in support [of] its conclusion that Building 111 does not significantly contribute to the historic character of Building 3, and may therefore be removed without affecting the historic significance of the Building 3 resource. Building 111 was included in the NRHP nomination because of its age, not because it was considered an integral feature of Building 3. Constructed with less-refined materials, this feature was an addition intended to serve a temporary function as a firehouse during the GGIE.
>
> After a review of the information submitted in the HRE as well as the additional information provided by Page & Turnbull, the Planning Department has determined (contrary to the conclusion in the HRE for this impact) that substantial evidence in light of the whole record supports the conclusion that the removal of Building 111 in the manner proposed would be consistent with the Secretary's Standards, and would not result in a substantial adverse change in the historic significance of the Building 3 historical resource. In view of this finding, this impact would be considered less than significant. No mitigation is required.

Appellant questions the independence and competence of the Planning Department in their consideration of the evidence before it in reaching its determination as to the significance of Building 111 under CEQA. As discussed in the Comments and Responses document, on pp. 2.6.26:

> As Lead Agency and author of the EIR, the Planning Department has disclosed and considered the conflicting opinions of experts and relied on its staff of historic preservation experts to independently consider the HRE against the additional

information provided by historical resource experts Page & Turnbull (retained by the project sponsors). Based on additional evidence that was not available to the preparers of the National Register of Historic Places Registration Form, the Planning Department reviewed the relationship of Building 111 to Building 3, and independently concluded that Building 111 does not significantly contribute to the historic character of Building 3 and may therefore be removed without a significant adverse effect on the Building 3 historical resource.

In response to the comment that Building 111 must be evaluated as its own entity, the National Register of Historic Places Registration Form for Building 3 treats Building 111 as a component of Building 3. Since the time that the nomination form was prepared, no new information about the individual significance of Building 111 has arisen that would call for revisiting Building 111 as a separate resource.

No further information has been submitted since the City published the Comments and Responses document. Planning Department staff therefore continues to conclude that Building 111 is not an historic resource.

Issue #6.25: Appellants state that the EIR does not analyze the impacts on historic resources of the currently proposed uses for Buildings 1 and 3.

Response #6.25: It is anticipated that the large, open exposition/hangar spaces within Buildings 1, 2, and 3 would flexibly accommodate a wide variety of potential uses with "minimal changes to ...distinctive materials, features, spaces and spatial relationships," and further, that such changes would be readily reversible. Rather than analyze a specific mix of uses, the EIR's discussion of impacts on historical resources analyzes a regulatory program for review of alterations to Buildings 1, 2, and 3, that would accommodate a wide variety of potential uses that could be housed within Building 1, 2, and 3. It would be speculative to analyze the impacts of uses on historical resources in the absence of specific architectural design proposals for building alterations to accommodate a use program. It is not the role of the EIR to assume a design response, nor can an EIR foresee the countless creative design approaches to adaptive reuse of historical resources.

As discussed above, in the EIR, and in the Comments and Responses document, the draft *Design for Development* and SUD establish a regulatory program for review of future alterations to Buildings 1, 2, and 3. It requires conformity with the Secretary of the Interior's Standards for Rehabilitation in future alterations. As such, a future project that does not conform to the Secretary's Standards is not covered in the EIR and therefore would require additional environmental review under CEQA.

Issue #6.26: Appellants state that the EIR fails to consider the region's carrying capacity for a project of this scale relative to the impacts on regional traffic, air pollution, water, waste and other issues.

Response #6.26: The EIR thoroughly analyzes regional transportation impacts at both a project and a cumulative level. The analysis includes the effects of additional traffic on queuing on the three East Bay freeways approaching the Bay Bridge toll plaza (Impacts TR-6 on pp. IV.E.83-IV.E.84 and TR-44 on p. IV.E.121) as well as queuing on San Francisco city streets. The air quality analysis is based on the

adopted Bay Area Air Quality Management District thresholds of significance, which take into account the air quality of the region as a whole. The Water Supply Assessment prepared for the Proposed Project (presented in Appendix I to the EIR), assesses the Proposed Project's water demand in relation to the San Francisco Public Utilities Commission's regional supply (the SFPUC supplies water to approximately 2.5 million people in the Bay Area and Central Valley). Solid waste estimated to be generated by the Proposed Project is addressed in relation to the regional landfill capacity (pp. IV.K.61-IV.K.69), although as noted on p. IV.K.67, the City's contribution to landfills is anticipated to diminish over time as the City implements aggressive waste diversion programs called for in City ordinances (the City already diverts over 75 percent of its solid waste from landfills).

In each instance, the analysis of the project-specific impacts and cumulative impacts was prepare din light of the resource at issue. The geographic scope of the analysis of impacts on a given resource was based on the nature of that resource; the analyses were not artificially constrained by adhering to jurisdictional boundaries. Thus, the EIR provides appropriate analyses of the Proposed Project's impacts on the region as a whole, and does not limit the analysis to impacts within San Francisco.

CEQA does not require a further analysis of "carrying capacity." That term is not used in the CEQA Guidelines, or in guidance concerning the issues to be addressed in an EIR. (See, e.g., CEQA Guidelines, Appendix G.) For this reason, no further response is required. (See CEQA § 21083.1.)

Issue #6.27: Appellants state that changes to the project since 1996 reduce the project's sustainability, requiring a revised analysis.

Response #6.27: As required by CEQA, the EIR analyzes the potential physical environmental impacts of the Proposed Project as a whole. The EIR is not intended to and is not required to analyze the effectiveness of the Proposed Project's sustainability plan, nor is it required to compare the impacts of the reuse plan that was developed beginning in 1996 and analyzed in an EIR that was certified in 2005.

Issue #6.28: Appellants state that the EIR fails to describe the circumstances occurring when families were moved into housing into the area surrounding what is now IR12 under a prior leasing arrangement with the Navy, and that this is an example of an omission of sufficient detail in the EIR.

Response #6.28: The issue raised by Appellants is a new one that was not raised in any comments received on the Draft EIR. Appellants appear to be referring to events that happened over a decade ago that are not relevant to the Proposed Project. In about 2000, the Navy, detected certain levels of constituents (e.g., lead) in backyard soil in a few leased temporary housing buildings in Site 12. The Navy responded with measures intended to reduce the risk to human health. This event occurred over a decade ago. Since that time, the Navy has gathered extensive site characterization data throughout Site 12, identified areas requiring remediation, and conducted contaminated soil removal activities, as described in the EIR on p. IV.P.19. All of the data from those early discoveries, as well as the considerable amount of data regarding Site 12 gathered in the ensuing decade by the Navy, are in the comprehensive database

maintained on behalf of the Navy. All of this information is being considered as part of the Site 12 Remedial Investigation process, which is described in the EIR on pp. IV.P.19-IV.P.20. As discussed on those pages, the Navy's investigation work is continuing under CERCLA, and any additional information found through that process will be disclosed as part of the Navy's reports. Under the CERCLA process the Navy is required to complete several additional steps, all under regulatory oversight, before a FOST can be completed for Site 12.

Issue #6.29: Appellants assert that the EIR omits significant historical information about the 1938-39 Pan Pacific International Exposition on Treasure Island. According to Appellants, buildings constructed for the Exposition were demolished on site, leading to construction debris containing wood preservatives, lead paint and other contaminants that were incinerated in open pits on the island, none of which are mapped in the EIR. Appellants further claim that the EIR does not indicate whether the Navy has accepted responsibility for remediation of contamination not of Navy origin (such as the burn pits), and that such contamination may not be covered by the United States remedial assurances covenant applicable to closed federal facilities in Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (Appeal, p. 26).

Response #6.29: The issue raised by Appellants is a new one that was not raised in any comments received on the Draft EIR. Appellants' comment likely refers to the 1938-1940 Golden Gate Internaional Exposition on Treasure Island (the Pan-Pacific International Exposition was held in the Marina in 1915). The Palace of Fine Arts was similarly not constructed on Treasure Island. There is no evidence provided to support Appellants' claim that debris and building materials from the Golden Gate International Exposition were incinerated on Treasure Island. There are known burn pits of Navy origin on Treasure Island. The EIR discusses these burn pits. The Navy's assessment of Site 12 – including in the April 2010 Draft Site Management Plan (p. A-13) referenced in the EIR on p. IV.P.17 and in the final Site Management Plan dated October 29, 2010 – found that the Navy used areas between and around the bunkers for the incineration and disposal of solid waste. Waste incineration was a former activity listed for Site 12 in the EIR (p. IV.P.18), and the resultant ash, debris, and their contaminants are evaluated by the Navy in its site characterization and remediation efforts on Site 12. In short, there is no critical omission in the EIR about these activities, nor any failure to assess their environmental impacts.

Moreover, the Appellants' concern about the Navy failing to accept responsibility has no basis. The Navy has accepted responsibility for all of the debris and contaminants found at Treasure Island, including that relating to incineration at Site 12.

Issue #6.30: Appellants assert the EIR fails to a refer to a "consent decree" the Navy entered into with a coalition called Campaign Against Military Pollution (CAMP) focusing on the flow of petroleum based contaminants into San Francisco Bay via the groundwater and open sewer outfalls on the site. Appellants state that the consent decree required closing outfalls and developing a Storm Water Pollution Plan, and they assert that whether the Navy remains in compliance with the 'consent decree" is relevant to

characterization of the sediments known as Site 13 and the remedial work associated with the stabilization of the island (Appeal Letter, p. 27).

Response #6.30: The issue raised by Appellants is a new one that was not raised in any comments received on the Draft EIR. Appellants appear to be referring to a settlement agreement executed in July 1997 by the U.S. Navy and CAMP. The settlement agreement required the Navy to conduct certain environmental investigations and to incorporate the results of those investigations into a revised Storm Water Pollution Prevention Plan (SWPPP.) The Navy has a SWPPP in place, currently managed by the San Francisco Public Utilities Commission (SFPUC) under agreement with the Navy. Reports are submitted annually to the Regional Water Quality Control Board (RWQCB), the most recent of which was submitted in June 2010.

Following an investigation of the offshore bay sediments, the Navy, California Department of Toxic Substances Control (DTSC) and the RWQCB signed a No Action Record of Decision for Site 13 on April 7, 2005, as referenced in the EIR on p. IV.P.12. In coordination with DTSC and RWQCB, the Navy is in the closing stages of completing the petroleum cleanup program (described on EIR p. IV.P.29) for underground storage tanks, above ground storage tanks, and pipelines. The Navy's annual update to the Site Management Plan (October 2010) documents the status of the program.

Issue #6.31: Appellants express concern about the EIR's explanation (on p. IV.P.37) that there may need to be additional remediation conducted after property transfer by the Navy because the Navy is remediating the site to the standards necessary to support the land uses identified in the previous 1996 Reuse Plan and not the land uses identified in the Development Plan for the Proposed Project. Appellants state that their concern with this section is part of their broader concern about the project description being unstable (see for example the Issue and associated Response #6.8). Specifically, Appellants assert that because the outcome of such additional remedial activities is unknown, their impacts on the project are unknown, and could result in fundamental alterations to the project (Appeal Letter, p. 27).

Response #6.31: As the EIR explains, additional remediation could be necessary after transfer to allow the residential uses proposed in the Development Plan in the southeast portion of the Proposed Project, because the Navy did not design its clean-up program to accommodate residential use in this portion of the site. The IR sites in the southeast portion of Treasure Island, where the remedial approach has differed from the intended land use described in the EIR, are Site 21 and Site 25. The relative area is about 2 acres for Site 21 and 3.25 acres for Site 25, and the implementation of an additional remedy will be limited to the footprint of the newly-proposed residential buildings on these sites (approximately 11,500 square feet in Site 21 and 31,000 square feet in Site 25). Implementation of proposed remedial approaches is expected to be consistent with those already described and mitigated for in the EIR. The EIR addresses the potential impacts associated with proceeding with development before such remediation is conducted, and the potential impacts associated with the remedial activities themselves by requiring the activities to be conducted under the supervision of the appropriate regulatory agency. Specifically, Mitigation Measure M-HZ-1 (EIR p. IV.P.41) requires that if there is any additional

remediation necessary after the Navy transfers the property, that remediation shall be completed as directed by the applicable regulatory agencies, DTSC and/or the RWQCB prior to the commencement of construction (unless the agencies otherwise give written approval for activities like constructing infrastructure improvements.) That mitigation measure also states "where necessary, additional remediation shall be accomplished by the project sponsors prior to issuance of any building or grading permit in accordance with any building or grading permits in accordance with any requirements set by the overseeing agency, either DTSC or RWQCB." (EIR p. IV.P.41-42)

The Appellants do not specify what types of "impacts on the project" additional remedial activities could have, nor how such remediation could result in "fundamental alterations to the project." If the Appellants are concerned that such additional remediation may not be successful and the project would therefore have to change to allow different uses in those areas, this concern is not well-founded. Substantial portions of the site are already being remediated to accommodate commercial/industrial use; there is no technical reason to believe these portions of the site could not also be remediated to allow residential use. The only reason the Navy did not do so is that it designed its cleanup plan to accommodate a previous reuse plan. If for some unexpected reason, it turns out not to be feasible to remediate these portions to allow for residential use, then those areas could not be used for residential purposes. If a new use is proposed that is not consistent with applicable zoning for this area, then the impacts of the proposed new use would require subsequent review under CEQA. At this time, however, it is a matter of speculation as to whether the clean-up of this area will be infeasible such that residential uses will not be permitted. It is also a matter of speculation whether, should that occur, new uses will be proposed that will require zoning amendments. Under CEQA, an EIR is not required to analyze speculative future changes to a project that depend on future discretionary actions. (See, e.g., *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1447-1454 [EIR not required to analyze as part of the project the possibility that lot owners would apply to build second units on parcels].)

Issue #6.32: Appellants express concern about the requirement in Mitigation Measure M-HZ-1 for the preparation of a Soil and Groundwater Management Plan (SGMP) and quote from both the Draft EIR and the Comments and Responses document on this issue. Appellants state that their concern with this requirement is part of their broader concern about program level versus project level review, as well as their broader concern about the project description being unstable. (See also Issues and Responses #1.1, 2, and 3). Specifically, Appellants object to the fact that the required contents of the SGMP are summarized but the full plan itself is not included in the EIR. Appellants note that because the City has similar plans in place for Hunters Point and Mission Bay, "it seems odd" that the City wait until after the EIR for this plan to be prepared.

Response #6.32: EIRs for sites with hazardous materials contamination often include mitigation measures requiring the subsequent preparation of an SGMP or similar document such as a Risk Management Plan. At both the Mission Bay project and the Hunters Point Shipyard (Phase I) project referenced by Appellants, these plans were not approved and in place until after the City certified the EIR. Courts have approved mitigation measures requiring later preparation of similar plans. For example, in

one case, the Court explained deferral of formulation of a plan to direct construction vehicles was appropriate where specified performance standards were set:

> The EIR adequately says a construction vehicle plan must be developed and approved prior to issuing grading permits. It provides the plan must assure public safety, restrict the number of daily trips and limit or avoid them during peak hours, set up clearly marked no passing zones, and use "flaggers" at site entrances.
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> (*Endangered Habitats League, Inc. v. County of Orange*, (2005) 131 Cal. App. 4th 777, 794; see also *Oakland Heritage Alliance v. City of Oakland* (2011) – Cal.App.4th – [slip op. dated May 19, 2011], pp. 25-33 [upholding mitigation measure requiring compliance with building codes and other regulatory standards to address proposed project's seismic impacts; citing cases upholding similar mitigation measures in a variety of contexts]). .

Similarly, the mitigation measure M-HZ-1 requires that construction specifications for each parcel include implementation of a SGMP, which must meet certain specified requirements. In fact, M-HZ-1 specifies the contents of the SGMP in an extraordinary amount of detail, describing 16 different sets of protocols and requirements which must be included in the plan. The SGMP must be reviewed and approved by DTSC and the RWQCB to ensure compliance with the regulatory requirements administered by those agencies (see EIR p. IV.P.42-43). Planning Department staff therefore concludes that mitigation measure M-HZ-1 meets the requirements of CEQA.

Issue #6.33: Appellants quote from the Comments and Responses document p. 2.18.5 on ionizing radiation, and indicate that while the response is accurate, it is an example of why the EIR is not "project" level analysis, because the EIR does not discuss what may happen if the an IR site cannot be adequately cleaned up or transferred to TIDA for development purposes.

Response #6.33: As noted by Appellants, the Comments and Responses document answers the question posed by the commenter, explaining that ionizing radiation is a contaminant of Navy origin which by law must be remediated by the Navy, and that the City will not accept transfer of any property that includes radiological contaminants.

Appellants state the Navy may not be able to adequately clean up one or more environmental sites, and state the EIR should analyze what would happen should cleanup prove to be infeasible. This issue was not raised in comments on the Draft EIR. Appellants do not provide information indicating that the Navy's cleanup of this contaminant is infeasible.

The EIR summarizes information on the nature and extent of this contaminant, and actions taken by the Navy to address this contaminant (EIR, pp. IV.P-15 – IV.P.16.) The Navy expects to complete the clean-up by 2014 (Final 2010 Site Management Plan, October 2010). The City has not received any information to indicate that the clean-up is infeasible. Under such circumstances, the EIR is not required to speculate about what would occur if the clean-up proves to be infeasible. (See CEQA Guidelines, §

15145; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1450 [EIR not required to analyze impacts that are remote and speculative].) Rather, the City may act within its discretion in relying upon information provided by the Navy regarding the status of the clean-up

Although there is no available information to indicate that the cleanup is infeasible, it is possible that events could arise that make it impossible for the Navy to clean up areas containing ionizing radiation. In that event, the Navy would be unable to transfer those sites. As a result, changes to the Proposed Project may or may not be required, depending on the nature, location and extent of the contaminants. If changes to the Proposed Project were to occur, additional environmental review may be required pursuant to CEQA.

Issue #6.34: Appellants state that the change in the project's financing method raises unaddressed questions such as whether the mechanism would be better used in other San Francisco neighborhoods and result in fewer impacts than the Proposed Project. Appellants express concern that use of IFDs on Treasure Island could affect the City's ability to incur indebtedness. Appellants also allege that there has not been sufficient analysis of the potential impacts of use of IFDs.

Response #6.34: The issue of financing the project is an economic issue that is not required to be discussed in the EIR. Use of IFDs itself would have no physical effects. However, for informational purposes, information about how infrastructure financing districts work is provided here. IFDs are specifically intended to be used in areas that are "substantially undeveloped" (Cal. Gov't Code §53395.5), and would therefore not be appropriate for widespread use in developed San Francisco neighborhoods. In addition, IFD bonds are not an indebtedness of the City. IFD bonds are an indebtedness of the district, backed by the increment generated by the district only, and would not be a liability of the City and County of San Francisco. Accordingly, the premise that the use of IFDs in one area impairs the City's ability to use it in other areas is not correct. Because IFDs are a form of tax increment financing, funds from an IFD only exist to the extent development occurs that increases property values. Without investment in Treasure Island, no IFD funding would be generated by the Proposed Project.

As explained in earlier responses, the physical effects of the revisions to the Proposed Project, including the change in parking demand as a result of the reducing in number of affordable housing units, is addressed in detail, covering every topic that is analyzed in the EIR, in the memorandum to the Planning Commission dated April 12, 2011 (Attachment B).

Issue #7: Appellants state that the EIR fails to consider appropriate alternatives that would reduce identified significant effects of the Proposed Project, including impacts on aesthetics, cultural resources and biological resources.

Response #7: Many of the issues raised in Appellants' Issue #7 are also raised above and discussed in Response #6.9, and incorporated here.

An EIR must consider a reasonable range of alternatives that will foster informed public participation and decisionmaking. (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 920.) An EIR need not consider every conceivable alternative to a project. (CEQA Guidelines, § 15126.6, subd. (a); accord *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 574; *In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1162.) An EIR should "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (*City of Long Beach, supra,* 176 Cal.App.4th at p. 920, citing CEQA Guidelines, § 15126.6, subd. (a).) The analysis of alternatives is subject to the rule of reason, which requires an EIR to consider only those alternatives necessary to permit a reasoned choice. (CEQA Guidelines, § 15126.6, subd. (f).) "'Absolute perfection is not required; what is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.' [Citation.]" (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029.)

The EIR evaluated four alternatives to the Proposed Project: A. No Project Alternative; B. Reduced Development Alternative; C. No Ferry Service Alternative; and D. Reduced Parking Alternative (EIR Chapter VII, Project Alternatives). As discussed in Chapter VII, and illustrated in the EIR Summary, Table S.3, all of the alternatives reduce or avoid one or more of the significant impacts of the Proposed Project.

Appellants state that, in addition to these alternatives, the EIR was required to look at alternatives that would reduce the Proposed Project's impacts on aesthetics, cultural resources, biological resources, and homeland security.

The EIR considers alternatives that would reduce these impacts. Alternative A (No Project) would avoid all of the Proposed Project's impacts, but would also forego all of the project's benefits. Alternative B (Reduced Development) would, among other things, reduce the Proposed Project's impacts on transportation and aesthetics, although such impacts would not be entirely avoided (EIR Chapter VII, pp. VII.20 – VII.48). Alternative C (No Ferry Service) would, among other things, avoid the Proposed Project's impacts on certain historic and biological resources (EIR Chapter VII, pp. VII.52 – VII.72). Alternative D (Reduced Parking) would include the same land uses as the Proposed Project, but would restrict the available supply of parking; the EIR analyzed this alternative in order to determine whether restricting the parking supply would avoid any of the Proposed Project's significant traffic impacts (Comments and Responses document, Response in Section 2.21.2, Reduced Parking Alternative, pp. 2.21.13 – 2.21. 39, reproduced in Chapter 3 on pp. 3-50 – 3-77). Thus, the EIR considered a range of alternatives that would reduce the Proposed Project's impacts; these alternatives would have reduced impacts as compared to the Proposed Project in most impact categories, and would have avoided some of the significant and unavoidable impacts of the Proposed Project.

Appellants state that the EIR should have analyzed additional alternatives. In particular, Appellants state that the EIR should have analyzed an alternative that included less development than those presented in the EIR because Alternative B (Reduced Development) would have substantially similar impacts to the Proposed Project. While it is true that this alternative has impacts that are similar in character to those of the Proposed Project, the impacts of Alternative B would be somewhat less than those of the Proposed Project in several categories, and Alternative B avoids one significant and unavoidable impact. Thus, Alternative B was properly selected for evaluation in the EIR as an alternative that could "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (*City of Long Beach, supra*, at p. 920, citing CEQA Guidelines, § 15126.6, subd. (a).)

An EIR is not required to analyze the least impacting alternative without regard to whether the alternative achieves most of the project objectives. "Although an EIR must consider a reasonable range of potentially feasible alternatives and compare their environmental impacts, it does not have to identify and analyze alternatives that would not meet a project's objectives nor does it have to discuss every possible permutation of alternatives." (*Jones v. Regents of the University of California* (2010) 183 Cal.App.4th 818, 828; see also *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 354-355 [EIR considered enough alternatives to allow for reasoned choice in light of project objectives].)

In this case, the EIR examined alternatives designed to avoid or substantially lessen the Proposed Project's impacts on biological resources, traffic and cultural resources. The EIR did not identify an alternative (other than the No Project Alternative) that would avoid the Proposed Project's significant impact on scenic vistas. As the EIR makes clear, there is no way to avoid this impact while achieving the City's and TIDA's basic objectives for the Proposed Project. (See *Jones v. Regents of the University of California, supra*, 183 Cal.App.4th at p. 828 [EIR does not need to analyze project that is inconsistent with basic project objectives]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1502-1503 [same].)

Finally, Appellants state that the EIR should have analyzed an alternative to address the Coast Guard's concerns relating to impacts on its facilities. The Coast Guard's concerns regarding its VTS facilities were addressed by adding a required consultation process to the draft *Design for Development*, as discussed in Response #6.17. This process will ensure that no significant impacts to Coast Guard facilities would occur. Thus, there is no need to provide a "Coast Guard Compliant" alternative.

Issue #8: Appellants reiterate the request to recirculate the EIR based on the revisions in the proposed Project that occurred after the Comments and Responses document was distributed, stating that substantial new information has been made available.

Response #8: The issues raised in Appellant's item 8 have been addressed in detail in earlier responses. See in particular Response #1.1 on pp. 18-23 above. As explained in that response, recirculation is not required.

Issue #9: Appellants state that a statement of overriding considerations cannot be made for the proposed project because the benefits do not outweigh the "well-documented unavoidable adverse significant environmental impacts..." Appellants state that because there has been a potential reduction in the proportion of affordable housing, there is no guarantee that the project will be implemented, and the project is not a "sustainable" project in spite of its claims, a statement of overriding considerations cannot be made. Appellants also restate that mitigation measures to reduce transportation impacts are inadequate, alternatives that reduce significant impacts on views and aesthetics were not provided, and the governance scheme delegates approvals to a body that will not be accountable to the public.

Response #9: The issues raised in this item have all been responded to in earlier responses. In particular, the CEQA findings, including overriding considerations, are not subject to appeal.

Although Appellants state that public benefits "such as affordable housing" have been significantly curtailed, it is worthy of note that the amount of affordable housing proposed, at 25 percent, is greater than required of individual development projects in the Planning Code. The transactional documents provide opportunities to increase the proportion of affordable housing if it is feasible to do so. The minor effect of this change in the Proposed Project was thoroughly analyzed in the April 12 Memorandum to the Planning Commission.

In addition to affordable housing, the Proposed Project is providing significant other community benefits to the residents of the project site, the City and the region. These benefits were discussed in detail in the Statement of Overriding Considerations adopted by the TIDA Board and Planning Commission as a component of the CEQA Findings. These additional benefits include: approximately 300 acres of public parks and open space with a wide variety of types and uses, a comprehensive program for geotechnical stabilization and improvement of the Project site, a comprehensive strategy to address potential sea level rise, significant new and upgraded utility infrastructure including a new street network, significant transportation improvements including the administration of a congestion pricing program and bike and pedestrian improvements, creation of thousands of construction jobs and permanent jobs and additional economic development opportunities and community facilities. Appellants state that there is no guarantee that the proposed project will be implemented. This is true of any development proposal analyzed in an EIR. However, as explained in Responses #6.14 and 6.18, the DDA does, in fact, require that the public benefits included in the Proposed Project be provided together with each phase of development, and has contractual means of providing financial security to ensure that required public benefits are constructed in concert with private development.

The EIR is not required to assess the effectiveness of the proposed project's sustainability. However, the Proposed Project includes a comprehensive sustainability strategy centered around a commitment to

achieving LEED Gold certification for neighborhood design, creating a dense compact land use development program centered around transit, exceeding Title 21 Part 6 2008 California clean energy standards, requiring compliance with Green Building Specifications, reducing potable water consumption, diverting construction debris from landfills, and providing on-site separation, storage and loading of trash, recyclables and compostable waste.

As summarized in the Responses in Section 2.7.15.1: Mitigation Measures, in the Comments and Responses document, the EIR includes only three mitigation measures for 63 identified transportation impacts, although 19 of the 63 were identified as less-than-significant impacts, and two were identified as less than significant with implementation of mitigation measures. Further, for CEQA purposes, several impacts were identified multiple times, both as impacts of the Proposed Project with the current ramp configuration and as impacts with the reconfigured westbound ramps on the east side of Yerba Buena Island. In addition, impacts identified under Existing plus Project conditions are also identified as impacts under 2030 Cumulative conditions. Identifying the same or similar impacts separately, depending on the condition of the ramp configuration, serves to exaggerate the number of impacts due to the Proposed Project, particularly when the same mitigation measure would reduce impacts under both circumstances. As such, the Proposed Project would result in 20 unique significant and unavoidable transportation impacts.

The Appeal Letter again notes that implementation of Mitigation Measure M-TR-2 (Expanded Transit Service) is uncertain and suggests that because of this, it is an unacceptable mitigation measure under CEQA. As explained in Response #6.11, CEQA requires that all feasible measures be identified, even in cases where implementation is uncertain due to actions that must be taken by other agencies (i.e., implementation is outside the complete control of the Lead Agency), or in cases where funding has not been fully programmed. In the case of Mitigation Measure M-TR-2 (Expanded Transit Service), the project's Fiscal Impact Analysis, as confirmed by the Budget Analyst, and Transportation Implementation Plan (as adopted by TIDA) have identified that revenues generated to the City and to TITMA will be more than adequate to provide the necessary services to the Proposed Project, including M-TR-2 (Expanded Transit Service). However, although the funding for implementation of this mitigation measure is expected to be available in the future, dedicating those funds toward operating the specified transit service would require actions by the City to commit future Boards to budget actions that cannot be decided by current decision makers. Implementation of the Muni component of M-TR-2 is therefore considered uncertain. Further, implementation of the ferry component of M-TR-2 cannot be guaranteed by the City since it requires completion and approval of separately-proposed improvements at the downtown San Francisco Ferry Terminal. Therefore, implementation of the ferry component of M-TR-2 is also considered uncertain.

As explained in Responses #6.9 and #7, there is no requirement that an EIR include alternatives that reduce each identified significant impact.

Appellants concern about decisionmaking during implementation of the Proposed Project does not raise CEQA issues and is outside the scope of this appeal. Nevertheless, for the reasons specified in these Responses regarding TIDA's status as a public body, TIDA has been vested with jurisdictional authority to make certain decisions related to development of the Islands. The SUD, proposed as Planning Code Section 249.52, establishes that the Planning Department and Planning Commission have jurisdiction over all vertical development of the Islands outside of the areas subject to the Tidelands Trust. The SUD also recognizes that TIDA, as the State-designated Trustee of Tidelands Trust property on the Islands, has primary jurisdiction over these properties. The relationship and interaction between Planning and TIDA in the SUD is similar to Planning and the Port of San Francisco in regard to the Burton Act Trust lands (State Statutes chapter 1333, 1968) in the current Planning Code.

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Planning Commission Motion No 18325
ENVIRONMENTAL IMPACT REPORT CERTIFICATION

Hearing Date:	April 21, 2011
Case No.:	2007.0903E
Project Address:	Treasure Island and Yerba Buena Island
Zoning:	P (Public) 40-X Height and Bulk District
Block/Lot:	1939/001 and 002
Project Sponsors:	Treasure Island Development Authority Rich Hillis, Director of Development City Hall, Room 448 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94111 and Treasure Island Community Development, LLC Alexandra Galovich Wilson Meany Sullivan Four Embarcadero Center, Suite 3300 San Francisco, CA 94102
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ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED TREASURE ISLAND/YERBA BUENA ISLAND PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2007.0903E (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

   A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 26, 2008.

   B. On July 12, 2010, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of

the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 12, 2010.

D. On July 12, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 12, 2010.

2. The Commission held a duly advertised public hearing on said DEIR on August 12, 2010, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 10, 2010.

3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 59-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 10, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.

5. Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required.

6. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Commission.

7. On April 21, 2011, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2007.0903E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.

9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report:

   A. Will result in the following significant and unavoidable project-specific environmental impacts:

      1) Alteration of scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.

      2) Impairment of the significance of an historical resource by demolition of the Damage Control Trainer.

      3) Construction impacts on the transportation and circulation network, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures.

      4) Significant contribution to existing LOS E operating conditions during the weekday PM peak hour and during the Saturday peak hour at the eastbound off-ramp on the west side of Yerba Buena Island.

      5) Under conditions without the TI/YBI Ramps Project, traffic impacts at the two westbound on-ramps.

      6) Under conditions with the Ramps Project, traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

7) Queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the TI/YBI Ramps Project.

8) Queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour with and without the TI/YBI Ramps Project.

9) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

10) Exceedance of the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands during the AM, PM and Saturday peak hours.

11) AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge without the Ramps Project.

12) AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge with the Ramps Project.

13) Traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following three bus lines:

- Muni 27-Bryant;
- Muni 30X-Marina Express; and
- Muni 47-Van Ness bus line.

14) Exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands from a shift from auto to transit modes, resulting from parking

shortfall on the Islands and leading to an increase in transit travel demand during the peak hours.

15) Construction noise levels above existing ambient conditions.

16) Exposure of persons and structures to excessive ground-borne vibration or ground-borne noise levels during construction from on-shore pile "impact activities," such as pile driving and deep dynamic compaction, and vibro-compaction.

17) Increase in ambient noise levels in the project vicinity above existing ambient noise levels from project-related traffic and ferry noise.

18) Violation of air quality standards.

19) Exposure of sensitive receptors to substantial levels of toxic air contaminants.

20) Exposure of sensitive receptors to substantial levels of PM2.5.

21) Violation of air quality standards during project operations.

22) Exposure of sensitive receptors to substantial pollutant concentrations.

23) Potential conflict with adopted plans related to air quality.

24) Temporary wind hazard impacts during phased construction.

25) Potential exposure of publicly accessible locations within the Project Site to wind hazards

26) Potential adverse impacts on movement of rafting waterfowl from ferry operations.

B. Will contribute considerably to the following cumulative environmental impacts:

1) Potential cumulative construction-related traffic impacts in the project vicinity.

2) Cumulative traffic impacts at the eastbound off-ramp on the west side of Yerba Buena Island.

3) Under conditions without the Ramps Project, cumulative traffic impacts at the two westbound on-ramps.

4) Under conditions with the Ramps Project, cumulative traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

5) Cumulative queuing impacts at the Bay Bridge toll plaza during the AM and PM peak hours.

6) Cumulative queuing impacts on San Francisco streets approaching the Bay Bridge during the weekday AM and PM and Saturday peak hours.

7) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp;
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

8) Cumulative traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following four bus lines:

- Muni 27-Bryant bus line;
- Muni 30X-Marina Express bus line;
- Muni 47-Van Ness bus line; and
- Muni 10-Townsend bus line.

9) Cumulative construction noise impacts from other cumulative development in the area, including the Clipper Cove Marina and the Yerba Buena Island Ramps Improvement Project, which could have construction activities that occur simultaneously with those of the Project.

10) Increases in traffic from the project in combination with other development would result in cumulative traffic noise impacts.

11) Cumulative air quality impacts.

11) The Project, when combined with other cumulative projects, could result in exposure of publicly accessible locations within the Project Site to wind hazards.

12) Potential cumulative impacts on rafting waterfowl.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of April 21, 2011.

FOR

Linda Avery
Commission Secretary

AYES:	Commissioners Antonini, Borden, Fong, Miguel
NOES:	Commissioners Olague, Moore, Sugaya
ABSENT:	None
ADOPTED:	April 21, 2011

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Memo to the Planning Commission

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Date:	April 12, 2011
Case No.:	2007.0903E
Project Address:	**Treasure Island/Yerba Buena Island**
Project Sponsors:	Treasure Island Development Authority and Treasure Island Community Development, LLC
Staff Contact:	Rick Cooper, Senior Planner – 415-575-9027 Rick.Cooper@sfgov.org

Introduction

A number of revisions have occurred to the Proposed Treasure Island/Yerba Buena Island Redevelopment Project since publication and distribution of the Comments and Responses document for the Environmental Impact Report (EIR), scheduled for certification on April 21, 2011. The revisions relate to a change in the governing structure and documents under which the Proposed Project would be implemented, and to changes made in response to public comment in some standards in the proposed *Treasure Island/Yerba Buena Island Design for Development* since the March 5, 2010, public review draft was circulated. This memorandum summarizes the revisions to the Proposed Project and evaluates their effect on the analysis and conclusions in the EIR. Appendix 1 to this memorandum presents revisions to the text of the Draft EIR and Responses to Comments needed to reflect changes in the Proposed Project.

A Redevelopment Plan is no longer proposed for the Treasure Island/Yerba Buena Island Redevelopment Project; it would be replaced with a proposed new Treasure Island/Yerba Buena Island Area Plan (Area Plan) to be added to the *San Francisco General Plan*, which would no longer simply reference the provisions of the Redevelopment Plan. Instead the Area Plan would present objectives and policies that provide the foundation for land use and development of the Islands, and a Treasure Island/Yerba Buena Island Special Use District (SUD) would be added to the Planning Code along with Zoning Map amendments. The SUD references the proposed *Design for Development* and uses its Standards and Guidelines as a basis for development controls set out in the SUD. With this change, the "Treasure Island/Yerba Buena Island Redevelopment Project" is called the "Treasure Island/Yerba Buena Island Project" or the "Revised Project" for the remainder of this memorandum. The main financing mechanism also has been revised from use of tax increment financing under a Redevelopment Plan to an infrastructure financing district (IFD) mechanism. As an indirect result of this change, the number of affordable housing units would change from the approximately 2,400 units discussed in the EIR to approximately 2,000 units. The details of this change are provided below in the "Summary of Project Revisions."

In addition to the change from a Redevelopment Plan to an Area Plan/SUD, some revisions have been made in the proposed *Design for Development* in response to public comment on the March 5 public review draft. The maximum height limits allowed for tower buildings on Treasure Island in the proposed *Design for Development* circulated for public review on March 5, 2010, have been reduced in the updated proposed *Design for Development*, and maximum parking ratios for some commercial uses on Treasure Island have been reduced.[1] These revisions are explained in more detail below.

The proposed SUD includes the same provisions for building forms and land uses that were in the proposed Redevelopment Plan, with two main exceptions: height limits for towers on Treasure Island have been reduced compared to those analyzed in the EIR, and the maximum numbers of parking spaces allowed for some commercial uses have been reduced for development on Treasure Island compared to those presented in the EIR. Both of these differences are to account for the updates in the proposed *Design for Development*.

The project revisions have been reviewed by Planning Department staff in the context of the analyses presented in the Environmental Impact Report for the Treasure Island/Yerba Buena Island Redevelopment Project. The results of the review support a determination that there would be no new significant impacts and no new mitigation measures are necessary, but some revisions to the EIR text and to a few responses to comments are necessary to fully describe and analyze the project as it is now proposed to be structured and implemented.

The EIR addresses physical environmental impacts that would result from implementing the Proposed Project. Many of the revisions to the Proposed Project relate to the differences in the financing mechanism; insofar as the financing mechanism affects potential physical development, it is discussed in this memorandum. The economic effects of the change in financing mechanism will be considered by decision makers during their actions on the Project, and explained in detail in other documents provided for the record. This memorandum discusses how proposed revisions to the Project affect the description and analyses of physical environmental effects in the EIR.

This memorandum first provides a more detailed summary of the proposed revisions to the Project; then describes the effects of these revisions on the EIR's Project Description in Chapter II; summarizes the effects on the EIR's analysis and conclusions, including those in Chapter V, Other CEQA Considerations; and then discusses the revisions in the context of local and regional Plans and Policies in EIR Chapter III, and in the context of the Environmental Setting and Impacts in EIR Chapter IV presented by topic. Finally, Appendix 1 presents specific revisions to the text of the Draft EIR and Comments and Responses document to account for the Project revisions.

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[1] Other revisions in the proposed *Design for Development*, such as retention of the existing chapel on Treasure Island, and revisions to Macalla Road on Yerba Buena Island to accommodate a mixed pedestrian/bicycle path, also made in response to public comment, were described and analyzed in the Comments and Responses sections of the EIR and do not need to be discussed again in this memorandum.

Summary of Project Revisions

The *General Plan* would no longer simply reference the provisions of a Redevelopment Plan. Instead, a Treasure Island/Yerba Buena Island Area Plan would be added to the *San Francisco General Plan.* It contains objectives and policies that are intended to guide development on the Islands. The proposed Area Plan includes sections on Land Use, Building Form, Transportation, Economic Development, Recreation and Open Space, and Sustainability and Infrastructure. The objectives and policies in the Area Plan are not substantively different from the provisions of the proposed Redevelopment Plan and the proposed *Design for Development* that were the basis for the analysis in the Draft EIR and the responses to public comments on the Draft EIR.

The proposed Special Use District would implement the objectives and policies of the Area Plan. It includes new zoning controls for the Islands, a list of permitted uses, provisions for the continuation and termination of non-conforming uses, building standards (including height, bulk, massing, separation of towers, and setbacks), maximum parking standards, and review and approval standards. It establishes a Tidelands Trust Overlay Zone. The SUD also includes references to the proposed *Design for Development,* which continues to contain the standards and guidelines for development on the Islands that were the basis for many of the analyses in the EIR. The SUD also provides the framework for review and approval by the Planning Commission and Planning Department of vertical development (structures) and uses on Treasure Island and Yerba Buena Island on property that is not subject to the Tidelands Trust, and identifies TIDA as the entity with primary jurisdiction over horizontal development (streets, pathways, flood improvements, etc.) throughout the Islands and over vertical development (structures) and uses within the Tidelands Trust Overlay Zone, subject to applicable permitting requirements.

In response to public comments, the proposed *Design for Development* has been updated since the March 5, 2010, public review draft that is analyzed in the EIR. Most of the features in the SUD and the updated proposed *Design for Development* are exactly the same as those described and analyzed in the Draft EIR, as updated in the Comments and Responses published in March 2011. Key changes are the reduction in height limits for high-rise towers on Treasure Island described in the proposed *Design for Development,* and reduction in parking ratios for some commercial uses on Treasure Island. The single area with a maximum height of 650 feet is now proposed to be a maximum of 450 feet; the three areas with maximum heights of 450 feet are proposed to have maximum heights of 315 feet; and the areas with maximum heights of 350 feet are proposed to have heights reduced to 240 feet. Areas proposed with maximum heights of 240 feet would remain. Parking ratios for hotels on Treasure Island would be reduced from 0.8 spaces per room to 0.4 spaces per room; and parking ratios for office and flex space on Treasure Island would be reduced from 2 spaces per 1,000 sq. ft. to 1 space per 1,000 sq. ft. In addition, more detail has been added in some design standards and guidelines such as those for lighting along the water's edge and those for building bulk reduction.

The overall financing structure for the Proposed Project had relied on the use of tax increment financing that would be authorized by the adoption of a Redevelopment Plan for the project site. Tax increment financing represented approximately one third of the Proposed Project's funding

sources required to pay for infrastructure and affordable housing. Since the Draft EIR was published in summer 2010, legislation has been proposed at the State level that would, among other things, eliminate redevelopment agencies and prohibit the adoption of redevelopment plans and the issuance of tax increment bonds. Because of uncertainties regarding the status of redevelopment agencies and redevelopment funding, the project sponsors are no longer proposing a Redevelopment Plan. Instead, the proposed zoning, land uses, and other controls are included in a more detailed Area Plan proposed to be added to the *San Francisco General Plan*, and a proposed Special Use District would be added to the Planning Code and Zoning Maps. Financing for infrastructure is proposed to be obtained using one or more Infrastructure Financing Districts (IFD) rather than tax increment financing that would have been available with a Redevelopment Plan. The Treasure Island Development Authority (TIDA) would no longer act as a redevelopment agency or adopt a Redevelopment Plan, but TIDA would retain its other powers and authorities pursuant to the Treasure Island Conversion Act (AB 699). TIDA would continue to be the Local Reuse Authority under federal base closure laws, and would acquire property from the U.S. Navy. TIDA would also continue to be an agency of the City and County, and enter into a Disposition and Development Agreement and other transactional agreements with the master developer, Treasure Island Community Development, LLC (TICD); and would continue to be the Trustee for the Tidelands Trust properties, including those in the Tidelands Trust Exchange Agreement that would be entered into between TIDA and the State Lands Commission.

The change from tax increment financing to one or more IFDs would result in less funding available for infrastructure and affordable housing. Unlike a Redevelopment Plan, an IFD does not require set-asides for affordable housing and generally does not permit the funds to be used to build affordable housing. The exception regarding affordable housing under an IFD is that existing housing stock that is currently occupied by low- to moderate-income households, if removed, would be required to be replaced. State law requires that housing units that are removed must be replaced on a one-for-one basis if they are affordable; in addition, 20 percent of the units occupied by households above moderate income level must be replaced. Because there would be less funding available for the Proposed Project and IFD funds cannot be used to construct affordable housing that is not replacing existing housing stock, the total amount of affordable housing is proposed to be reduced from up to 30 percent of the total number of residential units to up to 25 percent. This would reduce the number of affordable units from up to 2,400 to up to 2,000. The total number of residential units would not change, but the proportion of residential units that would be affordable would be reduced. The transition housing program and the TIHDI housing components of the affordable housing program would remain unchanged.

In summary, the main differences between the Proposed Project described in the EIR and the Revised Project are to:

- Amend the *General Plan* to add a detailed Treasure Island/Yerba Buena Area Plan and amend the Planning Code to add a Treasure Island/Yerba Buena Island Special Use District, instead of adopting a Redevelopment Plan;
- Provide for review and approval of individual buildings located on land outside the Tidelands Trust properties by the Planning Department staff and/or Planning Commission, while review and approval of structures proposed on Tidelands Trust properties would

continue to be by TIDA staff and the TIDA Board of Directors, but with review opportunities for the Planning Commission similar to that now provided for Trust properties in the Waterfront Special Use District under the jurisdiction of the Port of San Francisco (see Planning Code Section 240);

- Change one of the financing sources from one based on the adoption of a Redevelopment Plan to the creation of one or more Infrastructure Financing Districts; and
- Reduce the proportion of affordable housing from 30 percent to 25 percent of the total number of residential units.

In addition, in response to public comment, and not due to the change in financing described above, the following changes are proposed:

- Reduce height limits on Treasure Island, with a maximum height for the "Main Tower" of 450 feet instead of 650 feet, and maximum heights of 315 feet instead of 450 feet and 240 feet instead of 350 feet; and
- Reduce parking ratios for hotels from 0.8 spaces per room to 0.4 spaces per room, office space from 2 spaces to 1 space per 1,000 sq. ft., and flex space from 2 spaces per 1, 000 sq. ft. to 1 space per 1,000 sq. ft. for uses on Treasure Island. No change is proposed for parking on Yerba Buena Island.

Features That Would Not Change

Most of the documents discussing and describing the Proposed Project and used as the basis for analysis in the EIR would not change with the shift to use one or more IFDs and the associated change to an SUD/Area Plan structure, nor would there be substantial changes to those documents from the updates to the proposed *Design for Development*. Thus, the Disposition and Development Agreement between TIDA and TICD would remain, as would a Development Agreement between the City and County of San Francisco and TICD. TIDA would continue to administer the transition housing program for existing residents on the Islands.

Overall land uses (including the development program and type and amount of allowable uses) would not change, nor would the proposed transportation program, open space and recreational uses on the Islands, or the proposed Habitat Management Plan for Yerba Buena Island. The utility and infrastructure upgrades and replacements, and the flood improvements and adaptive management strategies for potential future sea level rise all would remain the same. The Sustainability Plan would remain, and the phasing of project development would not change.

Roles of TIDA and Planning Department

In general TIDA's authority and role would continue as originally anticipated and described, except that it would not adopt or administer a Redevelopment Plan, or act as a redevelopment agency in any respect. TIDA would continue to review and approve major and sub-phase applications to allow for TICD to demolish existing buildings, develop new streets, and install infrastructure – the horizontal development in the Proposed Project. TIDA would also continue as trustee for Tidelands

Trust properties, reviewing and approving uses and vertical development in the Tidelands Trust Overlay Zone as described in the proposed SUD.

The Planning Department would review and approve all "vertical" development—that is all proposed structures—on land outside of the Tidelands Trust, in consultation with TIDA; a public hearing before the Planning Commission would be required for large buildings either taller than 70 feet or involving the net addition or new construction of more than 25,000 gross square feet of commercial space.

Effects of Project Revisions on EIR Project Description

There would be no changes in the land uses described in the EIR in Chapter II, Project Description, and shown in Table II.1 on p. II. 18. However, the affordable housing component of the Proposed Project would change. While the total number of residential units would remain at 8,000, the number of affordable residential units described on pp. II.26 and II.28 would be reduced from approximately 2,400 to approximately 2,000, shifting 400 units from affordable to market rate. The affordable units would be distributed somewhat differently among the entities providing them – the Treasure Island Homeless Development Initiative (TIHDI), developers of market-rate units who would be required to include 5 percent affordable units ("inclusionary" units), and TIDA – compared to the distribution and numbers in the bullet list on p. II.30:

	Former Redevelopment Plan	**Current Proposed SUD and IFD**
Total Market Rate Units	5,600 Units	6,000 Units
Percentage Affordable	30%	25%
TIHDI Units	435 Units	435 Units
Inclusionary Units	295 Units (5%)	316 Units (5%)
TIDA Units	1,670 Units	1,249 Units
Total Affordable Units	2,400 Units	2,000 Units

Thus, the number of units to be built and managed by TIHDI would remain the same; the number of inclusionary units to be provided by TICD and other private developers would continue to be equal to 5 percent of the market rate units and therefore would increase by approximately 20 units, since the number of market rate units would increase; and the number of affordable units to be built and/or managed by TIDA would be reduced by approximately 420 units. However, the number of affordable housing units provided would exceed the required number of replacement housing units under State law for IFDs and would also exceed the affordable housing production requirement under California Redevelopment law.

The Transition Housing Program described on EIR pp. II.28-II.29 and clarified in the Response in Section 2.5.1 of the Comments and Responses on p. 2.5.1-2.5.3 would remain unchanged as part of

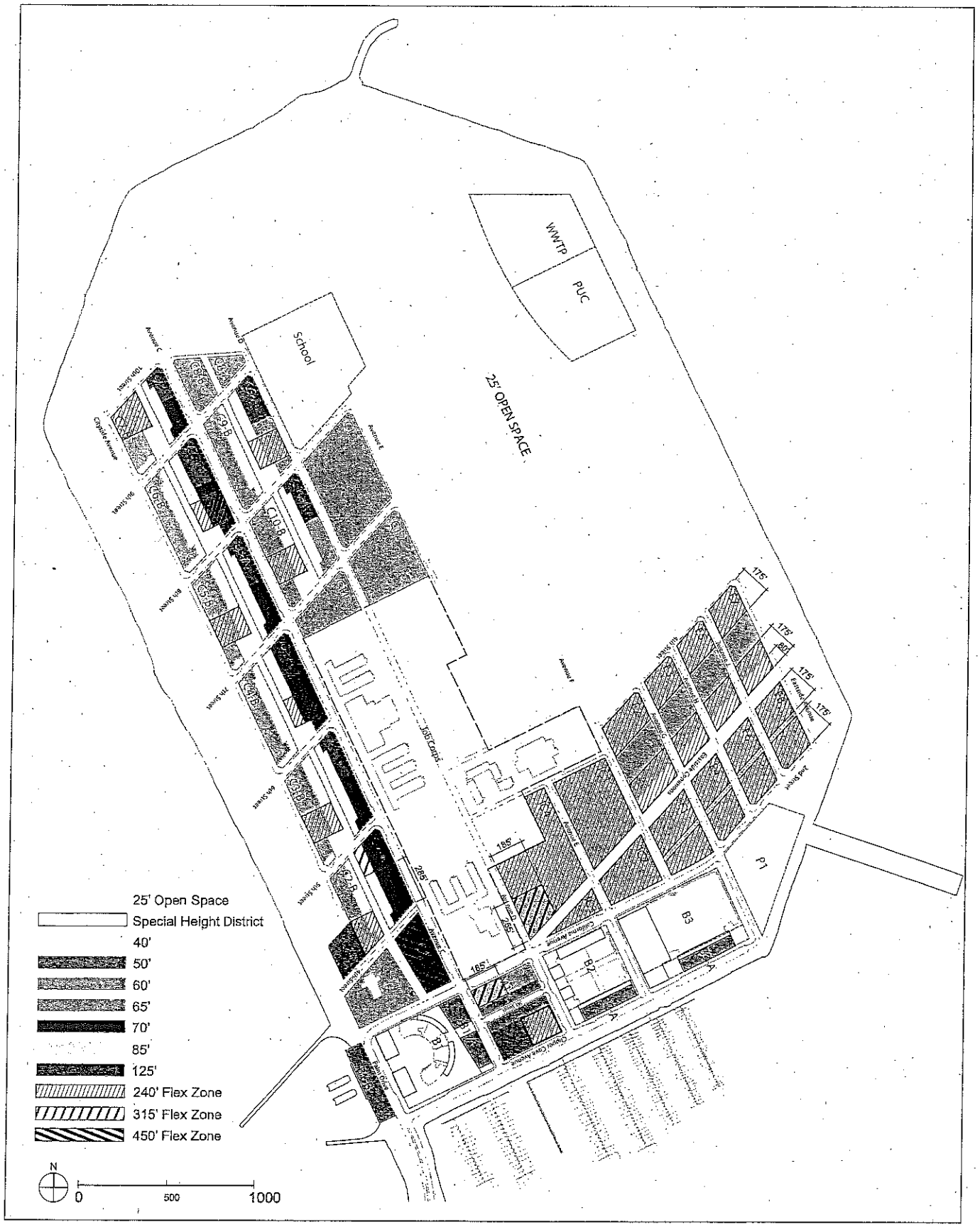
the Proposed Project. Therefore, existing, qualifying households on the Islands would continue to be provided an opportunity to move into new housing built during phased construction on the Project Site.

Height limits on Yerba Buena Island, described on EIR p. II.26 and shown in Figure II.6b on p. II.27, would not change. Height limits for residential towers on Treasure Island, described on EIR pp. II.24 – II.26 and shown in Figure II.6a on p. II.25, are proposed to be lowered. The "Main Tower" height zone would be reduced from 650 to 450 feet. The 450-foot tower flex zones would be reduced to a maximum of 315 feet, and the 350-foot tower flex height zones would be reduced to a maximum of 240 feet. The 240-foot tower flex zones would remain. Revised proposed height limits for Treasure Island are shown on Figure 1: Proposed Height Limits on Treasure Island, as Revised, on the following page.

The open space and recreational facilities would remain at approximately 300 acres, and the proposed Habitat Management Plan proposed for approximately 74 acres on Yerba Buena Island would continue to be part of the Proposed Project (see EIR pp. II.29 – II.32).

The main features of the Transportation Plan described in the EIR on pp. II.35 – II.52 would not change: a new Ferry Terminal, Transit Hub, on-island shuttle service, and bus service to the East Bay would all continue to be part of the Proposed Project. The bicycle lanes and paths included in the Project Description, as modified and expanded with a new mixed-use bicycle and pedestrian path along Macalla Road and a mixed-use path leading to a new Viewing Area along Treasure Island Road described in Section 2.7.7.1 and specifically on pp. 2.7.74 – 2.7.85 of the Comments and Responses, would also be part of the Revised Project. The Treasure Island Transportation Management Agency would still be created to manage the transportation demand management program. The transportation program is proposed to change in one area: the maximum number of parking spaces for commercial uses (shown on EIR p. II.50) is proposed to be reduced by about 470 spaces by reducing the parking ratios for hotels, office space, and flex space. The maximum parking ratios would be 0.4 spaces per hotel room on Treasure Island, rather than 0.8 per room; 1 space per 1,000 sq. ft. of office space; and 1 space per 1,000 sq. ft. for the flex space in the adaptive reuse of Buildings 1, 2, and 3. No changes are proposed in the maximum parking allowed on Yerba Buena Island.

All utilities described in Chapter II in Section II.G (pp. II.52 – II.73) would remain as described. The proposed geotechnical stabilization described in Section II.H and in Section IV.N, Geology and Soils, would remain, as would the proposed flood protection improvements and adaptive management strategies to address potential future sea level rise, described on pp. IV.O.31-IV.O.35. Project phasing and construction would continue to be as generally described on EIR pp. II.79 – II.82.



SOURCE: BKF

FIGURE 1: PROPOSED HEIGHT LIMITS ON TREASURE ISLAND, AS REVISED

The approvals listed on EIR pp. II.83-II.84 could change slightly. The three at the top of p. II.84 related to recommending and approving a Redevelopment Plan would be replaced with actions to adopt the new Area Plan in the *General Plan*, recommend and adopt the SUD and other Planning Code amendments, and delete the action by TIDA on an Owner Participation Agreement. A new bullet would be added to recommend and adopt a Development Agreement.

A few terms used throughout the EIR would either change or be defined differently with the revisions in the Proposed Project. "Redevelopment Plan Project Area" should be read as "Project Area." "Redevelopment Plan" when used in the context of a plan for development of the Project Area should be read as "Area Plan/SUD."

Summary of Effects of Project Revisions on EIR Analyses

The Proposed Project, as revised, would have the same limited conflicts with existing Planning Code provisions identified in Chapter III, Plans and Policies on EIR p. III.4, but would not conflict with other local, regional, state and federal plans and policies adopted for environmental protection purposes, as discussed below under "Plans and Policies."

The conclusions regarding significant impacts and the mitigation measures identified in the Treasure Island/Yerba Buena Island Redevelopment Project Environmental Impact Report do not require revision as a result of the changes to the Proposed Project. Although text in the EIR regarding a Redevelopment Plan and compliance with the state Community Redevelopment Law is no longer applicable, removing and revising this text to describe the proposed Area Plan, SUD, and one or more IFDs, would not result in new conclusions regarding significant physical environmental impacts, feasible mitigation measures, or the range of alternatives analyzed in the EIR.

No new significant impacts would result from the physical changes to the Proposed Project – the reduction in number of affordable housing units, reduction in tower height limits, and reduction in maximum amounts of parking for hotel, office, and flex uses. No new mitigation measures would be required; minor revisions to a few mitigation measures are necessary to clarify whether TIDA or the Planning Commission or Planning Department would have implementation or monitoring authority, but these revisions would not result in any new physical impacts on the environment. No impacts identified as significant would be substantially more severe than reported in the EIR. No new alternatives have been identified that would reduce or avoid significant impacts identified in the EIR for the Project as proposed or as revised.

Changes in the Proposed Project from a Redevelopment Plan to a new Area Plan and SUD, changes in the financing structure, and reductions in height limits and commercial parking ratios on Treasure Island would not alter the conclusions described in Chapter V, Other CEQA Considerations, discussed on EIR pp. V.1-V.11. Growth inducing impacts would be the same, as land uses would remain the same and therefore the net new population of 16,820 residents and net new employment of 2,600 jobs would remain the same. Housing demand also would not be substantially altered because

the Proposed Project would continue to provide 7,195 net new housing units as stated in Chapter V on p. V.1, and would include a transition housing program to assist existing residents.

Significant Unavoidable Impacts on Aesthetics, Historic Architectural Resources, Transportation, Noise, Air Quality, Wind and Shadow, and Biological Resources, listed in Chapter V on pp. V.3-V.8 would not change. Significant irreversible impacts and areas of controversy discussed on pp. V.8 - V.10 also would be the same with the Revised Project.

Recirculation of a revised or updated EIR is not required, pursuant to State CEQA Guidelines Section 15088.5. The revisions to the Proposed Project do not present significant new information that requires an opportunity for the public to provide new comment regarding the significance of environmental impacts or the availability of new mitigation measures or alternatives.

Support for these conclusions is presented on a topic-by-topic basis in the next two sections of this memorandum, discussing the effects of proposed revisions to the Project on the discussion of Plans and Policies in Chapter III of the EIR and on the analysis of impacts in Chapter IV of the EIR, presented for each topic analyzed in Chapter IV.

Effects of Project Revisions on Plans and Policies

San Francisco General Plan and Planning Code

The change in the project implementation structure from a Redevelopment Plan to a new Area Plan in the *San Francisco General Plan* and a new Special Use District (SUD) to be added to the San Francisco Planning Code would not result in any new conflicts with the relevant plans and policies of the City and County of San Francisco, or with any plans adopted by regional, State and Federal agencies that have policy and regulatory jurisdiction required to implement the Proposed Project. The primary changes relate to how the Proposed Project is incorporated into the *General Plan* and Planning Code. The Proposed Project as described in the Draft EIR would include amendments to the *General Plan* to add a new Area Plan (Chapter III, p. III.3) that references the proposed Redevelopment Plan. With the revised implementation structure, the new Area Plan would instead include objectives and policies consistent with the provisions of the SUD. The SUD would address the development and land use controls previously covered in the Redevelopment Plan. The SUD would require amendments to the Planning Code that incorporate the zoning, height and bulk limits, tower separation, parking requirements, permitted uses, and approval process, and amendments to the Zoning Maps.

Other Local Plans and Policies

Project revisions would be consistent with the *San Francisco Sustainability Plan* as discussed in Chapter III on pp. III.5–III.6 since no changes are proposed for the Treasure Island Sustainability Plan or the Treasure Island Green Building Specifications in the proposed *Design for Development*. The Revised Project would continue to be required to meet the provisions of the City's Green Building Ordinance described on pp. III.6-III.8. The revisions also would not alter proposed development strategies intended to achieve Gold certification under the 2009 Neighborhood Development program of the

U.S. Green Building Council's LEED-ND rating system, and good-faith efforts to achieve Platinum certification. The Proposed Project as revised also would not conflict with San Francisco's Transit First Policy and Transit Effectiveness Program, as the proposed revisions would not substantially alter transit demand or transit services included in the Proposed Project.

Regional Plans and Policies

Project revisions would not change the proposed land uses, recreation and open space, pedestrian and bicycle access, shoreline access described in EIR Chapter III, Plans and Policies, pp. III.9 - III.12, and as clarified in Comments and Responses, Section 2.2 Plans and Policies, pp. 2.2.6 - 2.2.10. As such, the project revisions would remain consistent with the plans and policies of the San Francisco Bay Conservation and Development Commission's (BCDC) *San Francisco Bay Plan*; and the Association of Bay Area Governments' (ABAG) *San Francisco Bay Trail Plan.*

The Proposed Project would also remain consistent with the Bay Area Air Quality Management District's (BAAQMD) *Bay Area 2005 Ozone Strategy;* the Metropolitan Transportation Commission's (MTC) *Transportation 2035 Plan for the San Francisco Bay Area;* the San Francisco Bay Area Water Transit Authority *Final Implementation & Operations Plan;* the San Francisco Regional Water Quality Control Board's (RWQCB) *San Francisco Basin Plan;* and ABAG regional development and conservation program (FOCUS), and biennial *Projections* because there would be no new effects on population and housing, air quality, greenhouse gas emissions, and water quality, as discussed below in the section entitled "Discussion of Effects of Project Revisions by EIR Topic."

State Plans and Policies

The 1997 Treasure Island Conversion Act (Assembly Bill 699, amending California Health and Safety Codes Sections 33492.5 and adding Section 2.1 to Chapter 1333, Statutes of 1968) would be unchanged and remain in effect in its entirety. The 1997 Conversion Act authorized the City and County of San Francisco to establish TIDA as the redevelopment agency with jurisdiction over the redevelopment of NSTI. While TIDA would continue to have those powers unless and until they were revoked by either the City or the State, TIDA would not use those powers and would not adopt a Redevelopment Plan that would allow it to exercise them. Under the Treasure Island Conversion Act, TIDA would continue to have the authority to administer and control Tidelands Trust property located on or around NSTI. No change is proposed to the lands on the Project Site that would be subject to the Tidelands Trust.[2] Because the revisions to the Proposed Project would not change the proposed development program or locations of land uses, the Revised Project would continue to comply with Trust requirements. As the grantee of the State's trust lands, TIDA's statutory duty to ensure that uses on Public Trust property are consistent with the Public Trust would not change. As with the Proposed Project described in the EIR, the proposed SUD and proposed *Design for Development* would establish a Tidelands Trust Overlay Zone which governs all property on the Islands that would be subject to the Trust.

[2] The Tidelands Trust Doctrine and the statutory trust created by the Treasure Island Conversion Act of 1997 (the "Conversion Act") are collective referred to as the "Tidelands Trust" for the Proposed Project.

Federal Plans and Policies

Consistency of the Proposed Project with the plans, policies and permitting requirements of the Coastal Zone Management Act, U.S. Army Corps of Engineers (Section 10 of the Rivers and Harbors Act or Clean Water Act), and the Long Term Management Strategy Management Plan would not be affected by proposed revisions since land uses, infrastructure upgrades, and proposed waterside facilities, including those for the Ferry Terminal and the Sailing Center, would not change, and dredging and disposal permits required by these agencies would not change.

Discussion of Effects of Project Revisions on EIR Setting, Impacts, and Mitigation Measures, by Topic

Construction activities analyzed in the various topic sections of Chapter IV, Environmental Setting and Impacts, would not be affected by the proposed use of an Area Plan and SUD rather than a Redevelopment Plan. While the changes in height limits and commercial parking ratios in the updated proposed *Design for Development* could result in slightly less overall building area constructed on the Islands and therefore slightly shorter overall construction durations, the types of construction activities would not be affected. Construction activities also would not be affected by the change in number of affordable residential units. Therefore, construction impacts identified in the EIR, and related mitigation measures, would not change and are not discussed further in this memorandum.

Some operational impacts of the Proposed Project could change as a result of the proposed revisions to the Project. The potential for changes in significant impacts and/or mitigation measures is discussed below by topic, in the same order as the topics are presented in the EIR.

A. Land Use and Land Use Planning

All land uses described in the EIR and analyzed in Section IV.A, Land Use, would remain the same with the Revised Project. The reduction in height limits in the SUD, Area Plan, and proposed *Design for Development* compared to heights described on p. IV.A.19 and analyzed in the EIR would not add any new land use impacts not discussed in the EIR on pp. IV.A.23-IV.A.25 (see also Comments and Responses p. 2.3.16). The approximately 8,000 residential units could still be constructed within the reduced heights with no changes in the bulk limits.[3] The changes in the amount of affordable housing and parking, and the changes in height limits, would not result in any new land uses or substantial reductions in proposed uses, and therefore would not cause any significant land use

[3] See Memorandum from Alex Galovich, Wilson Meany Sullivan, to Barbara Sahm and Nancy Clark, Turnstone Consulting, regarding the Unit Count Implied by Representative Massing Model, dated January 25, 2010, which explains that over 12,000 residential units with an average size of about 1,200 sq. ft. could fit within the original massing model analyzed in the EIR. Therefore, 8,000 units could be provided with reduced heights and similar building bulk; increased bulk would not be necessary to accommodate the Proposed Project's development program.

impacts or require revision in the project specific or cumulative impact analyses in Section IV.A, Land Use.

B. Aesthetics

Although maximum height limits for towers in the flex zones proposed for Treasure Island would be lower in the SUD and the updated proposed *Design For Development* than discussed and analyzed in the EIR, and visual simulations showing long-range views in Figures IV.B.2 through IV.B.8 present taller buildings than could be constructed with the Revised Project, new towers in the Revised Project would continue to be substantially taller than existing buildings and would continue to be visible and noticeable from many locations around San Francisco Bay. The reduction in height limits would not reduce the significant impact on scenic vistas identified in the EIR in Impact AE-1 on EIR pp. IV.B.21-IV.B.23 to a less-than-significant level, nor would it cause project-specific or cumulative impacts identified as less than significant on EIR pp. IV.B.23 – IV.B.30 to become significant. Revisions in the amount of affordable housing and numbers of parking spaces would not affect aesthetics and visual impacts, nor would the change from a Redevelopment Plan to an SUD and Area Plan.

C. Population and Housing

Revisions to the Proposed Project would decrease the number of affordable housing units from 30 percent to 25 percent, resulting in a reduction from 2,400 units to 2,000 affordable units. The 25 percent of affordable units would still exceed the requirements for replacement housing under State IFD law as well as the 15 percent affordable housing requirement under Section 415 of *the Planning Code* for projects electing to construct the inclusionary housing units on site.

Although the number of affordable housing units would be reduced by 400 units, this reduction would not be a significant environmental effect under CEQA, because the total number of residential units would not change, the number of affordable housing units would continue to exceed the affordable housing requirements in the *Planning Code*, and the Revised Project would continue to provide replacement housing as required under State law.

With the proposed project revisions, TICD would continue to include a transition housing program with the same requirements included in the April 2010 Term Sheet Update.

Project revisions also would not result in changes to construction or permanent employment, or induce new substantial population growth in addition to that analyzed in the EIR, because proposed land uses and the Development Program would not change.

Therefore, the Proposed Project's effects on Population and Housing would not change substantially from the effects described in the Draft EIR on Section IV.C, Population and Housing, pp. IV.C.13 - IV.C.22, and as clarified in the Comments and Responses document in Section 2.5 Population and Housing, on pp. 2.5.1-2.5.12.

Text in EIR Section IV.C, Population and Housing, related to the change in applicability of affordable housing production requirements of the California Community Redevelopment Law and the use of one or more IFDs, is revised as shown in Appendix 1 to this memorandum.

D. Cultural and Paleontological Resources

The revisions in the Proposed Project would not result in any changes to the description or analysis of archaeological resources in Section D.1, Archaeological and Paleontological Resources, on EIR pp. IV.D.1-IV.D.24, because no changes are proposed in the amounts, locations, or types of excavation on the Islands. The revisions in the Proposed Project would not result in any new significant impacts on historic resources discussed in Section D.2, Historic Architectural Resources, or any reduction in the significant impact of demolishing the Damage Control Trainer containing the *U.S.S. Buttercup* identified in Impact CP-9 on pp. IV.D.56-IV.D.58, because reduced height limits and less commercial parking would not change the overall land use plan or the proposal to demolish all existing buildings on Treasure Island except designated historical Buildings 1, 2, and 3. The designated historic structures on Treasure Island and Yerba Buena Island would continue to be located on property subject to the Tidelands Trust; therefore review of alterations to these buildings or the surrounding cultural landscape would continue to be under TIDA's jurisdiction, as stated on EIR pp. IV.D.53-IV.D.55, in mitigation measures M-CR-6 and M-CR-7, and further explained in the Response in Section 2.6.3, Buildings 1, 2, and 3, specifically on pp. 2.6.21-2.6.22 in the Comments and Responses, citing the proposed *Design for Development, Design Review and Document Approval Procedures*. No changes in impacts or mitigation measures would result from the adoption of an Area Plan and SUD rather than a Redevelopment Plan.

E. Transportation

The revisions to the Proposed Project to adopt a proposed Area Plan and SUD rather than a Redevelopment Plan would not affect the transportation analysis provided in EIR section IV.E, Transportation, nor would the reduction in tower height limits, because the land use program, including the number of residential units, would remain as described and analyzed in the EIR.

The proposed use of one or more IFDs would result in a reduction in the number of affordable housing units. This reduction would not affect the trip generation forecasts and travel mode that are the basis for the traffic and transportation analyses in the EIR, because no reduction in trip generation was assumed for affordable residential units in the travel demand analysis described on pp. IV.E.55-IV.E.58 and in more detail in Appendix C to the EIR on pp. 64-72. This approach to the EIR transportation analysis is conservative in that it assumes that affordable units would have the same automobile travel demand as market-rate units. Therefore, the project-specific and cumulative traffic and transit impacts discussed in Section IV.E on pp. IV.E.67-IV.E.108 and IV.E.117-IV.E.136, and related mitigation measures identified there, would not change. The number of affordable housing units would also not substantially affect bicycle and pedestrian conditions or loading and emergency vehicle access impacts analyzed in the EIR. No new mitigation measures would be required.

The reduction in number of affordable housing units, and the reduction in maximum numbers of parking spaces for some commercial uses on Treasure Island, would affect the analysis of parking demand from the Proposed Project. Although person trips by vehicle and by transit were calculated without regard to affordability, affordable units were assumed to create a slightly smaller demand for parking than were market rate units. With 400 more market rate units (and 400 fewer affordable units), parking demand during the peak parking period would increase from approximately 10,162 spaces to 10,282 spaces, a difference of 120 spaces. The Proposed Project, as revised, would continue to provide an average of 1 parking space per residential unit, resulting in a deficit of 2,282 spaces, 120 more than described on pp. IV.E.138-IV.E.139 and summarized in Table IV.E.23. The EIR also explains that there would be a surplus of parking available for non-residential uses on Treasure Island of about 1,032 spaces; this surplus would be reduced by about 478 spaces, to about 554 spaces, with the proposed revision in maximum allowed parking for hotel, office, and flex uses. The 17-space deficit of non-residential parking spaces on Yerba Buena Island would not change.

The EIR also explains that a parking shortfall is not generally considered to be a direct physical effect on the environment, but can result in secondary physical impacts. The secondary impact of a parking shortfall on the Islands was analyzed in the EIR in Impact TR-63 on pp. IV.E.140-IV.E.141. This secondary impact is a potential increase in the number of people who would use transit, which would exacerbate the significant and unavoidable impact on capacity utilization of the Muni 108-Treasure Island bus line serving the Islands. That secondary impact would be somewhat greater as a result of the proposed revisions to the Project that would cause an increase in the total parking shortfall, from approximately 1,147 spaces to 1,745 spaces. This impact is not considered substantially more severe than identified in the EIR. As explained on EIR pp. IV.E.140-IV.E.141, some drivers would seek and find alternative parking facilities, and others would shift to other modes of travel or change their overall travel habits. Because of their unique location, many drivers would shift to transit. Capacity would be available on AC Transit to the East Bay and on the ferry service to San Francisco. However, as identified in Impact TR-63 on p. IV.E.140, the Proposed Project as originally analyzed would result in exceeding the 85 percent capacity utilization standard on Muni's 108-Treasure Island bus line. This impact has already been identified as significant and unavoidable in Impact TR-63 on EIR pp. IV.E.40-IV.E.41. The additional shortfall would add to the demand for transit capacity, but would not substantially increase the severity of this significant impact. This is because the peak hour of parking demand is during the middle of the day for the non-residential uses, and at night for residential uses, whereas the peak demand for transit would be during the AM and PM commute hours. The maximum parking deficit, or shortfall, is presented in the discussion of Parking on EIR pp. IV.E.137 – IV.E.139, referring to the peak parking demand, rather than the parking demand during the peak for the transit commute period. During the peak commute hours for transit, the parking shortfall associated with the Revised Project would be for about 85 more spaces. Some of those who could no longer park would shift to transit for their commute, and some of those who shift to transit would use Muni, while others would either travel to the East Bay or use the ferry to San Francisco. During the PM peak hour for transit, only an additional 30 riders would be added to the Muni 108-Treasure Island line in the peak direction as a result of the parking shortfall. Over time, it is also possible that some riders would shift the time of their trip, further reducing the added effect on Muni. Therefore, the significant impact identified in the EIR in Impact TR-63 would not be substantially more severe. Mitigation Measure M-TR-2,

Expanded Transit Service, would mitigate this impact, as explained on p. IV.E.141; however, because full funding for this measure has not yet been identified, its implementation is uncertain and the impact would remain significant and unavoidable.

F. Noise

Significant noise impacts from operation of the proposed ferry service identified in Impact NO-4 on pp. IV.F.23-IV.F.26 and the related mitigation measure M-NO-4 would not change as a result of the proposed revisions to the Project because those revisions would not affect the ferry service or its use. Nor would the significant noise impacts from traffic volumes identified in Impact NO-3 on pp. IV.F.20-IV.F.23, because, as discussed above in subsection E. Transportation, trip generation forecasts would not change with the Revised Project, including the revised parking deficit. Because the locations of proposed residential and hotel buildings would not change and the traffic volumes would not change, the significant noise impacts on sensitive receptors identified in Impact NO-5 on pp. IV.F.27-IV.F.28, as clarified in the Response in Section 2.8.4 on pp. 2.8.5-2.8.7 in the Comments and Responses, would remain, and mitigation measure M-NO-5 would continue to reduce the impact to less-than-significant levels. Similarly, the locations of utilities would not change, and the less-than-significant noise impact from operating those facilities, identified in Impact NO-6, also would not change with the Revised Project. The significant cumulative traffic noise impact identified in the EIR on pp. IV.F.30-IV.F.31 would remain as described in the EIR, because traffic volumes with the Revised Project would be the same as with the original Proposed Project. No new mitigation measures are available other than those identified in the EIR for these significant impacts, and the Revised Project would not result in new significant impacts that were not discussed in the EIR.

G. Air Quality

Similar to the discussion of noise impacts, air quality impacts due to emissions of criteria pollutants and toxic air contaminants from ferry vessels, automobiles, buses, and building operations discussed in Section IV.G, Air Quality, on EIR pp. IV.G.38-IV.G.52 and significant cumulative air quality impacts discussed on pp. IV.G.56-IV.G.58 would remain the same with the Revised Project. No new significant impacts would occur, and no impacts identified as significant would be reduced to less-than-significant levels. This is because the number of ferry vessel operations and automobile and bus trips that are the main sources of criteria pollutants and toxic air contaminants in the Proposed Project would not change with the Revised Project. Although residential towers are expected to be shorter, the same land uses and the same number of residential units would be constructed and occupied. Therefore, emissions from operating the proposed new and adaptively-reused buildings would remain the same as assumed and analyzed in the EIR.

H. Greenhouse Gas Emissions

As with the discussions in Noise and Air Quality above, the analysis of greenhouse gas (GHG) emissions would not change with the Revised Project. There would be no change in GHG emission impacts because the travel demand from proposed land uses would not change, and the proposed transportation facilities would not change with the proposed Area Plan/SUD. The change in the

number of affordable residential units as a result of the IFD, and the updates to the proposed *Design for Development*, also would not change GHG emissions from those sources. Overall, there would be no change in the analysis and calculations presented on pp. IV.H.36-IV.H.44 or in the conclusions of less-than-significant impacts identified on pp. IV.H.44-IV.H.46. GHG emissions from infrastructure facilities such as wastewater conveyance and treatment, and solid waste also would not change since no revisions are proposed in the infrastructure as analyzed in the EIR.

I. Wind and Shadow

The revisions to the Proposed Project related to the IFD and changes in the amount of affordable housing, the use of an Area Plan/SUD rather than a Redevelopment Plan, and the updates in the proposed *Design for Development* to reduce the maximum amount of commercial parking on Treasure Island, would not affect any of the analyses of wind and shadow, as they would not result in physical changes to buildings that would change wind or shadow analyses. The updates to the *Design for Development* reducing height limits on Treasure Island are not related to the use of one or more IFDs; reduced height limits would result in physical changes to buildings compared to the analysis in the Draft EIR. The effects of these changes on wind and shadow are discussed in this section.

The proposed revision in the updated proposed *Design for Development* to reduce height limits could reduce the less-than-significant shadow impacts discussed in the EIR on pp. IV.I.4-IV.I.25. Building bulk standards and guidelines in the updated proposed *Design for Development*, and included in the SUD and Area Plan, would remain as assumed in the EIR for the analysis of representative shadow effects – buildings would not need to become bulkier to account for the change in area with lower height limits (see the discussion above under A, Land Use, and footnote 3).

The wind analysis presented in the EIR on pp. IV.I.36-IV.I.50 was prepared for a representative massing of buildings that would meet the building envelope standards in the March 5, 2010, public review draft of the proposed *Design for Development*. The new height limits in the SUD and the updated proposed *Design for Development* would result in shorter buildings, but towers would continue to be in the same general locations and in the same general relationships to each other and to building podiums and low- and mid-rise buildings. No substantial change in the analysis of impacts or the determination that the impacts would be significant, as identified on EIR pp. IV.I.50-IV.I.60, is expected to occur with the reduced height limits for towers. Specific changes in wind speeds reported on pp. IV.I.36-IV.I.50 cannot be estimated without additional wind tunnel study; however, the impacts are expected to remain significant. The mitigation measures identified on EIR pp. IV.I.51-IV.I.52 (M-WS-3) and IV.I.56-IV.I.60 (M-WS-4) would remain applicable. Minor revisions in these mitigation measures would be necessary to shift responsibilities for review and analysis of wind effects of individual buildings from TIDA to the Planning Commission and Planning Department staff, due to the change from a Redevelopment Plan to an Area Plan and Special Use District. These revisions are shown in Appendix 1 to this memorandum; these revisions do not make substantive changes in the operation or effectiveness of the mitigation measures.

J. Recreation

The revisions to the Proposed Project would not change the analysis or conclusions in the discussion of recreational impacts on EIR pp. IV.J.12-IV.J.27. The amount and types of open space would not change as a result of any of the revisions, nor would the demand for open space. The less-than-significant impacts identified in the EIR would not be significant as a result of the revisions to the Proposed Project. No new significant impacts would result from implementing the Area Plan/SUD rather than a Redevelopment Plan, providing less affordable housing and more market-rate housing, reducing height limits for towers on Treasure Island, or reducing maximum amounts of parking for commercial uses on Treasure Island, and no new mitigation measures would be required.

K. Utilities and Service Systems

The utilities and service systems proposed and described in EIR Chapter II, Project Description, and further detailed in EIR Section IV.K, Utilities and Service Systems, would not change as a result of the proposed revisions to the Project. Although tax increment financing would not be available to support construction of utilities infrastructure, funding would be available through the proposed Infrastructure Financing District, and no impacts would result from the change. Land uses also would not change; therefore, demand for water and wastewater services, solid waste collection and disposal, electric and gas services, and telecommunications services discussed in the various subsections of EIR Section IV.K would not change. The amounts and types of open space, and streetscape design and landscaping guidelines also would not change; therefore, stormwater runoff volumes would be the same as assumed for the discussion in the EIR on pp. IV.K.26-IV.K.38. Stormwater collection and treatment, including the stormwater treatment wetland, would not change, and the demand for recycled water for landscape irrigation and other non-potable uses also would not change. No new significant impacts would result, no new mitigation measures would be needed, and none of the less-than-significant impacts identified in Section IV.K of the EIR would become significant as a result of the proposed revisions to the Project.

L. Public Services

Land uses would not change from those analyzed in the EIR as a result of the revisions to the Proposed Project. The number of residential units would remain at up to 8,000, and the estimate of population growth on the Islands would not be affected by the change in number of affordable housing units. Demand for police and fire services, school facilities, hospitals, and libraries are all based primarily on population and types of land uses. Therefore, the revisions to the Proposed Project would not result in changes to the analysis or to the less-than-significant impacts identified in this Section of the EIR, and no new significant impacts would occur. No new mitigation measures would be required.

M. Biological Resources

The change proposed in the Project, from a Redevelopment Plan to an Area Plan/SUD, from the use of tax increment financing to an IFD, related reductions in the number of affordable housing units,

and the updates to the proposed *Design for Development* to reduce height limits and reduce the maximum amount of allowed parking spaces for some commercial uses in Treasure Island, would not substantially affect any of the significant impacts on biological resources or the mitigation measures identified in Section IV.M of the EIR. The amount and location of open space and recreational uses on the Islands would remain the same. The footprint and types of construction activities, including the proposed geotechnical stabilization, the proposed Ferry Terminal and Sailing Center improvements, the proposed Habitat Management Plan for Yerba Buena Island, and the proposed utilities, would not change. Therefore, the Revised Project would not result in new significant impacts on terrestrial or marine biological resources, and no new mitigation measures would be required. The less-than-significant impacts would not become significant as a result of the revisions, and no significant impacts would become more severe.

The change from a Redevelopment Plan to an Area Plan/SUD, with review and approval responsibilities established for the Planning Commission and Planning Department in the Planning Code for vertical development, would require minor revisions in one of the mitigation measures identified. In Mitigation Measure M-BI-4a, Minimizing Bird Strikes, where TIDA is specifically identified, responsibility would now be vested in the Planning Commission and/or Planning Department staff for portions of the measure, and in TIDA for other portions. This is because this mitigation measure addresses both horizontal and vertical development; TIDA would be responsible for the portions of the measure related to horizontal development such as outdoor lighting in open spaces and sports fields and for any buildings proposed in the Tidelands Trust Overlay Zone, while the Planning Department would be responsible for ensuring that measures to minimize bird strikes were implemented for vertical development on sites outside the Tidelands Trust properties. (Note that, as explained in the Response in Section 2.15.4.1, Bird Strikes, on pp. 2.15.15 and 2.15.16 in the Comments and Responses, this mitigation measure is similar to the Planning Department's October 2010 public review draft of the *Standards for Bird-Safe Buildings*, but was developed to account for the Islands' unique location.) These text revisions to the mitigation measure are shown in Appendix 1 to this memorandum.

N. Geology and Soils

Revisions to the Proposed Project would not affect the proposed geotechnical stabilization described in Chapter II, Project Description, and detailed on pp. IV.N.21-IV.N.23 in Section N, Geology and Soils. Although tax increment financing would not be available to support construction of infrastructure, including the geotechnical stabilization, funding would be available through the proposed Infrastructure Financing District, and no physical changes would result. No changes are proposed in the land uses or building locations, construction techniques, or in the infrastructure described and analyzed in the EIR. Therefore, the less-than-significant impacts identified in Section N, Geology and Soils, would not change, the significant impact identified in Impact GE-5 on EIR pp. IV.N.30-IV.N.31 would not become more severe, no new significant impacts would occur, and no new mitigation measures would be required.

O. Hydrology and Water Quality

The revisions to the Proposed Project would not change the infrastructure proposed to address stormwater management, wastewater treatment, flood protection improvements, or elements of the Proposed Project intended to address potential future sea level rise, described in Chapter II, Project Description, and detailed in Section IV.O, Hydrology and Water Quality, on pp. IV.O.24-IV.O.35. Although tax increment financing would not be available to support construction of utilities infrastructure, funding would be available through the use of one or more IFDs, and no physical impacts would result from the change. Other revisions, such as changing from a Redevelopment Plan to an Area Plan/SUD, revising height limits for buildings on Treasure Island, and reducing maximum amounts of parking for some commercial uses on Treasure Island, would not affect stormwater flows or treatment, and would not affect the flood improvements or strategies to address potential future sea level rise. The less-than-significant impacts identified in Section IV.O, Hydrology and Water Quality, would not change, no new significant impacts would occur, and the significant impact identified in Impact HY-2 on EIR pp. IV.O.38-IV.O.39 would not become more severe as a result of proposed revisions. No new mitigation measures would be required.

P. Hazards and Hazardous Materials

The proposed revisions to the Project would not affect the remediation activities being carried out on Treasure Island by the U.S. Navy described in Section IV.P, Hazards and Hazardous Materials on EIR pp. IV.P.3-IV.P.27 or the transfer process described there and on pp. IV.P.37-IV.P.38. The locations and types of land uses would not change as a result of revisions to the Proposed Project, utilities would remain as proposed, and construction techniques would not change. The significant impacts identified in Section IV.P would not become more severe as a result of revisions to the Proposed Project; mitigation measures identified on pp. IV.P.41-IV.P.43, IV.P.50-IV.P.51, IV.P.52, and IV.P.54, would continue to be applicable. The impacts identified as less than significant would not change. No new significant impacts would result, and no new mitigation measures would be required.

Q. Mineral and Energy Resources

The revisions to the Proposed Project would not result in any new effects on mineral resources or energy demand and consumption. Land uses would not change, and the revisions to height limits and parking ratios would not affect energy demand identified for the Proposed Project. Revisions would not cause the Proposed Project to be unable to meet the commitment to supply at least 5 percent of the peak energy demand with renewable sources. Project revisions would not change the energy conservation practices likely to be implemented to meet the San Francisco Green Building Ordinance, and the ordinance would continue to apply to the Proposed Project. Therefore, project revisions would not change the less-than-significant impacts identified in the EIR on pp. IV.Q.15-IV.Q.17, and no new significant impacts would occur. No new mitigation measures would be required.

R. Agricultural Resources and Forest Land

The Project as proposed would have no impact on agricultural resources, as stated on pp. IV.R.2-IV.R.3, and revisions to the Proposed Project would not change this conclusion. The proposed Habitat Management Plan for Yerba Buena Island would not change. Revisions to the Proposed Project would not result in new, significant impacts on forest land on Yerba Buena Island, and no new mitigation measures would be required.

Summary and Conclusions

Based on the revisions to the Proposed Project, and the analysis of those revisions in relation to the analysis and conclusions in the Draft EIR, as clarified and explained in the Comments and Responses document responding to public comments received on the Draft EIR, the Planning Department does not find that there is any requirement to make substantive revisions in the information presented in the EIR, nor is there any requirement to recirculate any portion of the EIR for new public review and comment. Minor revisions to the EIR text to account for the proposed revisions are presented in Appendix 1 to this memorandum.

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APPENDIX 1

Revisions to the Draft EIR and Comments and Responses Document

This appendix lists the changes to the text of the Draft EIR and Comments and Responses document to incorporate the revisions to the Proposed Project described in the preceding memorandum

As described in the preceding memorandum, revisions to the Proposed Project would not result in any changes in proposed land uses or infrastructure upgrades. Nor would the Revised Project result in any new significant impacts, or the need for new mitigation measures. Impacts would be the same or less than those indentified in the Draft EIR. Revisions that require changes to the Draft EIR text and, where necessary, to the Comments and Responses document are shown below by topic. Briefly, the revisions

- Clarify the changes in the governing structure of the Proposed Project and the related changes in numbers of affordable housing units; and
- Reflect the proposed reduction in commercial parking spaces.

No text changes have been presented to address the changes to the height limits included in the updated proposed *Design for Development*. The Revised Project would result in shorter buildings than those analyzed in the EIR, but the bulk dimensions would remain within the framework analyzed; therefore, no revisions to the EIR text or Responses to Comments are necessary.

All text revisions are shown in ~~strikethrough~~ for deleted text and <u>underline</u> for new text. The revisions to the Draft EIR and Comments and Responses document are minor and do not constitute significant new information requiring recirculation of a revised or updated EIR, pursuant to State CEQA Guidelines Section 15088.5.

<u>Draft EIR Text Changes</u>

Since a Redevelopment Plan is no longer proposed and the project approval and implementation structure would be replaced with a new Area Plan and new Special Use District, all references to "Redevelopment Plan Project Area" are changed throughout the Draft EIR and Comments and Responses document to read "Project Area," and all references to "*Redevelopment Plan*" that mean a document are changed to read Area Plan and Special Use District (SUD)" or "Area Plan/SUD."

Chapter I. Introduction

The second full paragraph on p. I.5 is deleted and replaced with the following new paragraph as shown below.

REDEVELOPMENT PLAN

~~Following certification of this EIR, TIDA will consider actions to adopt and implement a Redevelopment Plan for Treasure Island and Yerba Buena Island, which would govern development on the property it receives from the Navy following conveyance. The redevelopment plan would establish a Redevelopment Plan Project Area boundary and set forth a program of redevelopment actions for the revitalization of Treasure Island and Yerba Buena Island, as required under California Redevelopment Law.~~

In the Draft EIR published July 2010, TIDA and Treasure Island Community Development, LLC ("TICD") proposed that TIDA would approve a Redevelopment Plan under the Community Redevelopment Law in connection with the Proposed Project. TIDA and TICD no longer propose that TIDA approve a Redevelopment Plan for the Proposed Project. This decision is based on uncertainties regarding the legal status of redevelopment agencies, and the stability and security of revenue sources available to such agencies in the foreseeable future. TIDA and TICD now propose to use other financing mechanisms in order to enable TIDA to engage in revitalization activities, such as constructing infrastructure. The decision to no longer propose adopting a Redevelopment Plan does not affect the environmental impacts of the Proposed Project; rather, the decision affects funding mechanisms to be used to implement the Proposed Project. References to a "Redevelopment Plan" throughout the EIR should be understood to refer to a proposal to redevelop the site in the ordinary sense of the term, rather than as a statement that a Redevelopment Plan (within the meaning of the Community Redevelopment Law) will be considered for adoption. Also references to the "*Redevelopment Plan*" as a document that embodies the proposed land use controls and design standards for the Proposed Project should be understood to refer to the new Area Plan/SUD. All references to the Treasure Island Development Authority (TIDA) and its powers and authorities as a "Local Reuse Authority" are corrected to "Local Redevelopment Authority."

Chapter II. Project Description

The second paragraph on p. II.1 is revised as follows:

The Treasure Island Development Authority ("TIDA"~~), the redevelopment agency for the project,~~ is proposing to redevelop ~~a *Redevelopment Plan for the Treasure Island / Yerba Buena Island Project ("Redevelopment Plan")* that would provide the basis for redevelopment of~~ the portions of NSTI stilled owned by the Navy, once they are transferred to TIDA. The Development Plan would be carried out by Treasure Island Community Development, LLC ("TICD"), a private entity competitively selected as the prospective master developer, subject to approval of a Disposition and Development Agreement and related conveyance agreements governing redevelopment of NSTI. One or more Infrastructure Financing districts ("IFDs") would be used to help finance public facilities and infrastructure improvements.

The last bullet under "Additional TIDA Objectives" on pp. II.5 - II.6 is changed as follows.

Additional TIDA Objectives

In addition to the shared objectives, TIDA has the following project objectives:

- Provide an affordable housing program that delivers ~~30~~ 25 percent of all residential units at below market rates across a wide range of income levels, including units for formerly homeless persons, as provided in the City's agreement with Treasure Island Homeless Development Initiative ("TIHDI").

The Affordable Housing Program discussion on pp. II.26 and II.28 is revised as shown:

Affordable Housing Program

The Proposed Project includes several affordable housing initiatives that would allow up to approximately ~~30~~ 25 percent (approximately ~~2,400~~ 2,000) of the new housing units to be priced at a range of below-market rates. ~~The project would exceed the California Community Redevelopment Law requirement that 15 percent of all new housing units be affordable.~~ Specifically:

- Inclusionary Housing. The Proposed Project would require a portion of the units in market-rate buildings be set aside as affordable. It is expected that approximately 5 percent of the units in market rate buildings, or up to ~~280~~316 units, would be sold or leased as inclusionary. The inclusionary housing units would generally serve moderate-income households (in the for-sale units) and low-income households (in the rental units).[19]
- Treasure Island Homeless Development Initiative ("TIHDI"). The Proposed Project includes land and funding to replace the 250 units of housing in the existing TIHDI program, as well as land for an additional 185 residential units, expanding the program to a total of 435 units. The TIHDI units would generally be for formerly homeless (extremely low-income) families.
- Stand-alone Affordable Housing. Up to ~~1,685~~1,249 units would be in stand-alone, completely affordable buildings implemented by TIDA or others. The TIDA units would likely include a mix of rental and for-sale units and would target very-low-, low-, and moderate-income households.

At least 20 percent of the affordable units would be affordable to very-low-income residents. To meet the ~~Community Redevelopment Law~~

State law requirement for replacement of affordable housing removed within an Infrastructure Financing District, the Proposed Project includes a replacement housing plan that would be adopted as part of the ~~redevelopment~~ Infrastructure Financing planning process. Pursuant to ~~the California Redevelopment Law~~ State law, whenever residential units housing low- or moderate-income persons are destroyed or taken out of the low- and moderate-income market as part of ~~a redevelopment project where there is a written agreement with the redevelopment agency or the redevelopment agency provides financial assistance for the development~~ the activities of an Infrastructure Financing District, the ~~redevelopment agency~~ district must cause replacement of

those units with new or ~~newly~~ rehabilitated low- and moderate-income units. In addition, the district must replace 20 percent of the units that are destroyed or removed that are occupied by persons above moderate income. The units must be replaced within 4 years after they are destroyed or removed from the housing market. Replacement units may be located anywhere within the district ~~territorial jurisdiction of the redevelopment agency~~. All of the replacement units must be affordable to low- or moderate-income households. ~~The same or lower income categories as the person displaced from the destroyed or removed units. The Agency may replace destroyed units with a smaller number of units if the total number of bedrooms in the replacement units equals or exceeds the number of bedrooms in the destroyed units and the units are affordable in the same or lower income categories as the persons displaced from the destroyed or removed units.~~

~~At least 30 days prior to executing an agreement that would result in the destruction or removal of low- and moderate-income units, the redevelopment agency must adopt a replacement housing plan. The plan must outline the general location of the replacement units and set forth an adequate means of obtaining development of the replacement housing. Housing units may not be destroyed or removed from the market prior to adoption of the replacement housing plan.~~

The text of footnote 19 is not changed and has not been reproduced here.

The second and third paragraphs on p. II.34 are changed to incorporate the new Area Plan/SUD. The revisions to these two paragraphs in the Comments and Responses document, Chapter 3, Draft EIR Revisions, Section 3.2, Staff Initiated Text Changes on p. 3.111-3.112 are superseded by these revisions and that text is removed from the Comments and Responses document and replaced with this revised text.

The Proposed Project includes amendments to the *General Plan* and Planning Code that would identify the geographic and physical boundaries of Treasure Island and Yerba Buena Island. The Planning Code amendments would ~~reference the land use controls and design standards specified in the *Redevelopment Plan* and~~ add a new Treasure Island / Yerba Buena Island Special Use District ("SUD") that establishes the land use controls for Treasure Island and Yerba Buena Island and incorporates by reference the land use controls and design standards and guidelines in the *Design for Development*. The *General Plan* would be amended by adding a new Treasure Island / Yerba Buena Island Area Plan ~~for the Redevelopment Plan Project Area~~ that would ~~include~~ reference the new neighborhoods on Treasure Island and Yerba Buena Island ~~and would reference the *Redevelopment Plan*~~ and define City objectives and policies related to redevelopment of the Islands.

~~In connection with adoption of the proposed *Redevelopment Plan*~~, ~~t~~The City would consider adopting amendments to the Planning Code that would establish the Special Use District, incorporating by reference the ~~consistent with the *Redevelopment Plan*~~ *Design for Development*. The Planning Code text amendments would also modify the provisions of Section 105(f) by removing the portion that currently imposes a height limit of 40 feet on all of Treasure Island and Yerba Buena Island pursuant to the Planning Code amendment process provided in Section 302; and would amend Section 201 to reference the new classes of land use districts on Treasure Island and Yerba Buena Island created by the SUD. The Planning Code would also be amended to establish

a Treasure Island/Yerba Buena Island "TI Height and Bulk District" that would reference the permitted height and bulk standards form the SUD and *Design for Development*. Zoning Map amendments would add new Sheet ZN14 to change the zoning designation within the Development Plan Area from "Public" to the Treasure island/Yerba Buena Island SUD ~~a Redevelopment Agency Treasure Island / Yerba Buena Island District that references the designations contained in the Redevelopment Plan~~. Areas remaining under the jurisdiction of the Job Corps, FHWA and Caltrans would remain as "P" districts within a 40-X height and bulk district. Zoning map amendments would also add new Sheet HT14 to change the height and bulk district within the Development Plan Area from 40-X to ~~refer to~~ the TI Height and Bulk District, which would include the designations contained in the ~~*Redevelopment Plan*~~SUD. Zoning Map amendments would also add a new Sectional Map Sheet SU14 to establish the Treasure Island/Yerba Buena Island Special Use District.

The first paragraph on p. II.50 is revised to incorporate changes to the number of proposed parking spaces. The chart (not shown below) following the first paragraph on p. II.50 is also revised to reflect the total number of off-street and on-street parking spaces.

PARKING

The Development Program includes approximately ~~11,155~~ 10,680 parking spaces to be provided on the Islands. All of these spaces would incur a charge for use. A breakdown of the proposed parking spaces by type of space is shown below:

The third paragraph on p. II.50 which continues onto p. II.51 is revised to incorporate the new parking ratios as follows.

Off-street parking standards for commercial uses on Treasure Island would be reduced from ~~similar to~~ those in the San Francisco Planning Code: ~~2~~ 1 parking spaces for each 1,000 sq. ft. of gross floor area for office uses, ~~2~~ 1 parking spaces for each 1,000 sq. ft. for retail uses, and 0.~~8~~4 space for each hotel room. Car-share spaces would be required in commercial buildings at a rate of 1 space for each 50 parking spaces for all buildings with more than 25 parking spaces. Approximately ~~2,120~~ 1,640 off-street and 1,035 on-street parking spaces are planned to serve the proposed commercial, retail, and hotel uses; the visitor-serving recreational uses; the uses in Buildings 1, 2, and 3; and the Clipper Cove Marina. Retail and hotel parking spaces would be generally located in off-street parking garages. Both on- and off-street parking spaces would be provided for the other proposed uses. Visitors to these uses would pay for off-street or on-street parking, and the revenues would be combined with those from transit passes and a congestion pricing program to offset the transportation program's operating costs for services, such as the off-island transit service, the on-island shuttle service, and the bicycle library.

Chapter III. Plans and Policies

The third paragraph on p. III.1 is revised as shown below.

As discussed in Chapter II, Project Description, pp. II.1-II.3, the ~~*Redevelopment Plan* and~~ Area Plan, and the Special Use District, which incorporates the *Design for Development*, would establish the

land use controls and design standards and guidelines for the Proposed Project. ~~California Community Redevelopment Law (Health and Safety Code, Section 33331) requires that the proposed *Redevelopment Plan* and its related documents such as the *Design for Development* be consistent with, and conform to, the adopted *General Plan* and its related adopted policies before the *Redevelopment Plan* is approved and adopted.~~ The Proposed Project includes amendments to the text and maps of the *General Plan* and Planning Code (discussed below) that would identify the geographic and physical boundaries of Treasure Island and Yerba Buena Island, and establish ~~incorporate by reference~~ the land use controls and design standards specified in the proposed SUD ~~*Redevelopment Plan*~~ and *Design for Development* for the Development Plan Area.

The first full paragraph on p. II.3 is revised as follows.

To implement the Proposed Project, the *General Plan* would be amended to add ~~by adding~~ a new Area Plan for the ~~Redevelopment Plan~~ Project Area that would include the new neighborhoods on Treasure Island and Yerba Buena Island. ~~And would reference the *Redevelopment Plan*.~~ With these proposed amendments, there would be no conflicts with the *General Plan*.

Chapter IV. Environmental Setting and Impacts

IV.B. Aesthetics

The Impact Statement at the top of p. IV.B.21 is revised as follows to remove reference to the Redevelopment Plan:

Impact AE-1: Development under the ~~p~~Proposed Project ~~Treasure Island and Yerba Buena Island Redevelopment Plan~~ would adversely alter scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span. *(Significant and Unavoidable)*

No revisions are necessary in the discussion of this impact.

IV.C Population and Housing

New text is added as the first full paragraph on p. IV.C. 8 as shown below.

Infrastructure Financing District

Financing for infrastructure is proposed to be obtained by TIDA using an Infrastructure Financing District mechanism. Sections 53395.5 and 53395.14 of the Government Code allow for the establishment of an Infrastructure Financing District ("IFD") to fund specified public facilities and infrastructure improvements. Within an IFD, State law requires that whenever residential units housing low- or moderate-income persons or families are destroyed or taken out of the low- and moderate-income market as part the activities of an IFD, the district must cause replacement of those units with new or rehabilitated low- and moderate-income units within four years after they are destroyed or removed from the housing market. In addition, within an IFD, 20 percent

of the units that are destroyed or removed that are occupied by persons or families above moderate income must be replaced within the four-year time frame. Replacement units may be located anywhere within the district. All of the replacement units must be affordable to low- or moderate-income households.

The following revisions are made to the first paragraph on page IV.C.8.

Community Redevelopment Law

~~Treasure Island Development Authority ("TIDA") is the redevelopment agency responsible for implementing the proposed Treasure Island / Yerba Buena Redevelopment Plan.~~ California Health and Safety Code Section 33334.6 states that the provision of housing is a fundamental purpose of redevelopment. Under the California Redevelopment Law[22] ("CRL") Section F, California Health and Safety Code, Section 33680-33692, redevelopment agencies must annually deposit at least 20 percent of the gross tax increment received into a low- and moderate-income housing fund. In addition to the requirement to create funding for affordable housing, the CRL requires a redevelopment agency to produce affordable housing totaling at least 15 percent of all new units within the redevelopment plan project area. Not less than 6 percent of all new units must be affordable to very low-income households, with the remaining 9 percent affordable to very low-, low-, and moderate-income households. The housing production requirement must be met every ten years during the life of the redevelopment plan. Redevelopment agencies may meet the housing production obligation by producing units outside the project area on a two for one basis. Redevelopment agencies may also meet their housing production requirements by acquiring long-term affordability covenants on existing housing.

If the Proposed Project were to include a redevelopment plan, TIDA would serve as the redevelopment agency responsible for implementing any such redevelopment plan. The Project is no longer proposed to include a redevelopment plan under the CRL. For this reason, the requirements of the CRL are not directly applicable to the Proposed Project.

Footnote 22 has not changed and is not reproduced here.

The second full paragraph on p. IV.C.15 is revised as shown.

The Proposed Project would increase the City's housing stock and would therefore contribute to the City's ability to meet its need for housing options of varying sizes, types, and levels of affordability. ~~The Proposed Project would be subject to the affordable housing production of the California Community Redevelopment Law requirement for all new units developed in the Redevelopment Plan Project Area.~~ TIDA has agreed to provide up to ~~2,400~~ 2,000 units that would be affordably priced at a range of below-market rates, which is 25 percent of the total project housing units. At least 20 percent of the affordable units would be affordable to very low-income residents. The Proposed Project, as a whole, would exceed the 15 percent inclusionary housing requirement in Section 415 of the Planning Code. The Proposed Project would also exceed the California Community Redevelopment Law requirement that 15 percent of all new housing units be affordable to low- and moderate-income households, although this requirement would no longer be applicable. The Proposed Project would also exceed the requirements of State law for an Infrastructure Financing District ("IFD"). Under State law, within an IFD, if residential units housing low- or moderate-income persons or families are destroyed or taken out of the low-

and moderate-income market as part the activities of an IFD, the district must cause replacement of those units with new or rehabilitated low- and moderate-income units within four years after they are destroyed or removed from the housing market. In addition, within an IFD, 20 percent of the units that are destroyed or removed that are occupied by persons or families above moderate income must be replaced within the four-year time frame. Replacement units may be located anywhere within the district. All of the replacement units must be affordable to low- or moderate-income households. The Proposed Project is expected to include approximately 5 percent of the units (up to about ~~280~~316) in market-rate buildings, which would be sold or leased as inclusionary housing.

The Proposed Project would also include land and funding to replace 250 units in the existing TIHDI housing, as well as land for an additional 185 residential units, expanding the program to a total of 435 units subject to conveyance of the Property to TIDA and implementation of the Proposed Project. These TIHDI housing units would generally be for formerly homeless (extremely low-income) families. Up to around ~~1,685~~1,249 units (a mix of rental and for-sale units) would be in stand-alone, completely affordable buildings. A minimum of 20 percent of the proposed residences would be sized for families.[28]

Footnote 28 on EIR p. IV.C.15 would not change and has not been reproduced here.

IV.D. Cultural and Paleontological Resources

The Impact Statement on p. IV.D.17 is revised as follows to change "Redevelopment Plan Project Area" to "Project Site", because in this statement, the term Redevelopment Plan Project Area is not referring to the Job Corps campus, which was part of the Redevelopment Plan Project Area, but only the portion of the Project Area to be developed under the Proposed Project:

Impact CP-1: Project construction activities could disturb significant archaeological resources, if such resources are present within the Project Site ~~Redevelopment Plan Project Area~~. *(Less than Significant with Mitigation)*

The Impact Statement on p. IV.D.22 is revised for the same reason as above.

Impact CP-2: Project construction activities could disturb human remains, if such resources are present within the Project Site ~~Redevelopment Plan Project Area~~. *(Less than Significant with Mitigation)*

IV.E Transportation

To reflect the changes in parking demand due to the decrease in affordable units and the reduction in parking rates for commercial space on Treasure Island, the following changes are made to the Parking Information discussion on pp. IV.E.136-IV.E.137.

The last paragraph on p. IV.E.137 is revised as shown below.

> Table IV.E.23 summarizes the aggregate of the parking demand calculated for the Proposed Project land uses, and also presents the maximum permitted off-street parking and new on-street parking spaces that would be provided. There would be no free parking on the Islands for either on-street or off-street spaces. Overall, the project proposes ~~11,153~~ 10,675 parking spaces, including 1,035 on-street spaces.

The first paragraph on p. IV.E.138 is changed as shown below.

> Overall, during the peak hour of parking demand for all of Treasure Island, the Proposed Project would result in a deficit of ~~1,071~~ 1,664 parking spaces, including a deficit of ~~2,103~~ 2,218 residential spaces and a surplus of ~~1,032~~ 554 non-residential spaces. Yerba Buena Island would experience a shortfall of ~~76~~ 81 spaces during its peak hour of parking demand, comprised of ~~59~~ 64 residential spaces and 17 non-residential spaces. For non-residential uses, each neighborhood would provide a surplus of non-residential parking spaces; conversely, each neighborhood would experience a deficit of residential spaces compared to peak demand.

Tables IV.E.22, Permitted Parking Ratios and Maximum Off-Street Parking Spaces, and Table IV.E.23, Summary of Proposed Project Peak Hour Parking Demand and Maximum Permitted Supply are also revised accordingly to reflect these changes.

IV.I Wind and Shadow

Mitigation Measures M-WS-3 and M-W-4 concerning potential wind hazards are revised as follows to change the responsible parties from TIDA to the Planning Department under the new Area Plan and SUD. These revisions do not change the impact conclusion or implementation of the mitigation measure indentified in the EIR.

Subsections 3 and 4 of Mitigation Measure M-WS-3 on p. IV.I.52 are revised as shown below.

3. TIDA shall ensure, by conditions of approval for horizontal work activity, and the Planning Department shall ensure by conditions of approval for ~~both~~ building permits and site permits, that the project sponsor and the subsequent building developer(s) cooperate to implement and maintain all structural measures and precautions identified by the wind consultant.
4. TIDA shall document undertaking the actions described in this mitigation measure, including copies of all reports furnished for vertical development by the Planning Department. TIDA shall maintain records that include, among others: the technical memorandum from the EIR; all written recommendations and memoranda, including any reports of wind testing results, prepared by the wind consultant(s) in the conduct of the reviews and evaluations described in this mitigation measure; and memoranda or other written proof that all constructed buildings incorporate the requisite design mitigations that were specified by the wind consultant(s).

Subsection 1 of Mitigation Measure M-WS-4 on pp. IV.I.56-IV.I.57 is revised as follows.

1. Prior to schematic design approval of the building(s) on any parcel within the Project, ~~TIDA~~ the Planning Department shall require that a qualified wind consultant shall review and compare the

exposure, massing, and orientation of the proposed building(s) on the subject parcel to the building(s) on the same parcel in the representative massing model of the Proposed Project tested in the wind tunnel as part of this EIR and in any subsequent wind testing. The wind consultant shall identify and compare the potential impacts of the proposed building(s) relative to those described in this EIR.

Subsection 3 of Mitigation Measure M-WS-4 on p. IV.I.59 is revised as follows.

3. TIDA shall document undertaking the actions described in this mitigation measure, including copies of all reports furnished for vertical development by the Planning Department. TIDA shall maintain records that include, among others: the technical memorandum from the EIR; all written recommendations and memoranda, including any reports of wind testing results, prepared by the wind consultant(s) in the conduct of the reviews and evaluations described in this mitigation measure; and memoranda or other written proofs that all constructed buildings incorporate the requisite design mitigations that were specified by the wind consultant(s).

IV.M. Biological Resources

Mitigation Measure M-BI-4a concerning bird strikes is revised as follows to change the responsible parties from TIDA to the Planning Department under the Area Plan/SUD. These revisions do not change the impact conclusion or implementation of the mitigation measure described in the EIR.

The two paragraphs under "Building Design and Landscaping" on p. IV.M.52 are revised as follows:

Prior to the issuance of the first building permit for each building in the Proposed Project, ~~TIDA~~ project applicants shall have a qualified biologist experienced with bird strikes review ~~and approve~~ the design of the building to ensure that it sufficiently minimizes the potential for bird strikes and report to the Planning Department. ~~TIDA~~ The Planning Department may consult with resource agencies such as the California Department of Fish and Game or others, as it deems appropriate.

The building developer shall provide to ~~TIDA~~ the Planning Department a written description of the measures and features of the building design that are intended to address potential impacts on birds, with a copy to TIDA of the final measures approved by the Planning Department or Commission. Building developers are encouraged to coordinate with the Planning Department ~~TIDA~~ early in the design process regarding design features intended to minimize bird strikes. The design shall include some of the following measures or measures that are equivalent to, but not necessarily identical to, those listed below, as new, more effective technology for addressing bird strikes may become available in the future:

The first paragraph under "Lighting" on p. IV.M.53 is revised as follows:

~~TIDA~~ The Planning Department shall similarly ensure that the design and specifications for buildings on non-Trust property, and TIDA shall ensure that the design and specifications for sports facilities/playing fields and buildings on Trust property, implement design elements to reduce lighting usage, change light direction, and contain light.

The first two full paragraphs on p. IV.M.54 are revised as shown below.

Antennae, Monopole Structures, and Rooftop Elements

~~TIDA~~ The Planning Department shall ensure, as a condition of approval for every building permit, that buildings minimize the number of and co-locate rooftop-antennas and other rooftop equipment, and that monopole structures or antennas on buildings, in open areas, and at sports and playing fields and facilities do not include guy wires.

Educating Residents and Occupants

~~TIDA~~ The Planning Department shall ensure, as a condition of approval for every building permit, that the permit applicant agrees to provide educational materials to building tenants and occupants, hotel guests, and residents encouraging them to minimize light transmission from windows, especially during peak spring and fall migratory periods, by turning off unnecessary lighting and/or closing window coverings at night. TIDA shall review and approve the educational materials prior to building occupancy.

Chapter V. Other CEQA Considerations

The second paragraph on p. V.1 is changed as shown below to address the new Area Plan and SUD.

Implementation of the Proposed Project would require amendments to the *San Francisco General Plan* and the Planning Code. The existing zoning on Treasure Island and Yerba Buena Island is P (Public Use) District, and the existing height and bulk classification is 40-X. The Proposed Project would require that the *General Plan* and Planning Code be amended to incorporate the land use designations, height limits, and allowable land uses specified in the Area Plan and SUD, which incorporates the proposed ~~*Redevelopment Plan* and~~ *Design for Development*. These amendments and the resulting Development Program would change the mix and types of land uses on Treasure Island and Yerba Buena Island, and would allow for increased density and building heights. The ABAG regional *Projections 2009* includes proposed development within the Redevelopment Plan Project Area as a Priority Development Area, and designates Treasure Island as an opportunity site for high-density housing and support services in the region. Improved and expanded infrastructure, public services, and transit improvements would be required to serve development on the Islands; however, the improved and/or expanded infrastructure and services would not create additional capacity beyond what is required to serve the Redevelopment Plan Project Area, and therefore would not directly or indirectly induce growth in the region.

Chapter VII. Alternatives

Table VII.2: Key Land Use Differences - Proposed Project and Reduced Development Alternative, and Table VII.16: Key Land Use Differences - Proposed Project and No Ferry Service Alternative are revised to note that the total number of parking spaces provided by the Proposed Project is changed from 11,155 spaces to 10,675 spaces.

Revisions to Chapter 2 of the Comments and Responses Document

Responses to comments are revised to reflect the Revised Project where appropriate. Where these revisions result in further changes to revised Draft EIR text, the same changes will be made in Chapter 3, Section 3.1, Changes in Responses to Comments, and are not repeated here.

Section 2.1 Project Description

The following updates are made to the first paragraph in the Response in subsection 2.1.1.1, Mitigation Responsibility, on p. 2.1.3:

> The Treasure Island Development Authority ("TIDA") has been established as the ~~redevelopment~~ agency ~~for~~ to redevelop the project site (see EIR Chapter I, Introduction, pp. I.3-I.4, and EIR Chapter II, Project Description, p. II.1). Because of uncertainties regarding the legal status of redevelopment agencies, a redevelopment plan is no longer proposed; however, TIDA would continue to be an agency of the City and County, as well as the Trustee for the Tidelands Trust properties. TIDA and the Planning Department or Planning Commission would have the responsibility for ensuring that mitigation measures included in the Proposed Project or imposed as conditions of approval are carried out following actions to approve the Area Plan, Special Use District, Development Agreement, Disposition and Development Agreement, and related transactional documents ~~*Redevelopment Plan*~~.

Revisions are made to the second paragraph of the Response in subsection 2.1.2.1, Zoning Map on p. 2.1.6 as follows:

> The proposed height limits would be incorporated into the Planning Code through an amendment adding a Special Use District ("SUD"), ~~that would incorporate by reference the Redevelopment Plan~~ proposed to be adopted as part of the Proposed Project. The SUD ~~Redevelopment Plan~~ would set forth the Island-wide maximum heights, and would refer to the proposed *Design for Development*, to be adopted by TIDA and the Planning Commission, for the more detailed height limits within each designated zone. The more fine-grained height zones set forth in the proposed *Design for Development* would govern development on the Islands, and allow for a range of heights within each zone up to a maximum.

Section 2.3 Land Use

The last sentence in the first paragraph of the Response on p. 2.3.14 in Section 2.3.3, On-Island Services is revised to read:

> As shown in Table T3.c: Treasure Island Land Use Standards, on pp. 151-154 of the proposed *Design for Development*, religious institutions would be allowed. Such uses would require a ~~special~~ conditional use permit from either TIDA or the Planning Commission, depending on the location of the proposed use.

Section 2.4 Aesthetics

The fifth sentence in the Response on p. 2.4.2 in subsection 2.4, Aesthetics, is clarified as follows:

As noted on EIR p. IV.B.26, when specific building designs are developed, either the Planning Commission or TIDA, depending on the location of the building, would review the proposed design~~them~~ against the standards and guidelines provided in the proposed *Design for Development* to ensure that it ~~they~~ contributes visual interest, texture, and variety to the public and pedestrian realm.

Section 2.5 Population and Housing

The following changes are made to the Response in subsection 2.5.1, Impacts and Affordability of Housing Relocation.

The first paragraph of the response on p. 2.5.1 is revised as shown below.

The comment correctly states that economic impacts are not evaluated in an EIR. Economic information regarding the cost of replacement housing and the affordability levels for such replacement housing will be provided to decision-makers as part of the material to be considered during deliberations about the replacement housing plan, which would~~must~~ be prepared in conjunction with~~before~~ the Infrastructure Financing District process~~proposed Disposition and Development Agreement ("DDA") is approved. As described on EIR p. II.28, pursuant to California Redevelopment Law, TIDA is required to replace units housing low- or moderate-income persons that would be destroyed or taken out of the market as a result of the Proposed Project, and to adopt a replacement housing plan that would outline the general location and the means of obtaining development of replacement housing.~~

The second full paragraph on p. 2.5.2 that continues on to p. 2.5.3 is revised as shown below.

The Proposed Project would include an Affordable Housing Program, which is described on EIR pp. II.28-II.29. Under the program, TIDA has agreed to provide up to 25 percent or ~~2,400~~ 2,000 units that would be affordably priced at a range of below-market rates. At least 20 percent of the affordable units would be affordable to very-low-income residents.[2] The project would exceed the 15 percent inclusionary housing requirement of Section 415 of the Planning Code. The Proposed Project would also exceed the California Community Redevelopment Law requirement that 15 percent of all new housing units be affordable to low- and moderate-income households, although this requirement would no longer be applicable. The Proposed Project would also exceed the requirements of State law for an Infrastructure Financing District ("IFD"). Under State law, within an IFD, if residential units housing low- or moderate-income persons or families are destroyed or taken out of the low- and moderate-income market as part the activities of an IFD, the district must cause replacement of those units with new or rehabilitated low- and moderate-income units within four years after they are destroyed or removed from the housing market. In addition, within an IFD, 20 percent of the units that are destroyed or removed that are occupied by persons or families above moderate income must be replaced within the four-year time frame. Replacement units may be located anywhere within the district. All of the replacement units must be affordable to low- or moderate-income households. The Proposed Project is expected to include approximately 5 percent of the affordable units (up to about ~~295~~316) in market-rate buildings, which would be sold or leased as inclusionary housing. Up to around 1,684 ~~2,105~~ would be in stand-alone, affordable buildings, of which up to around ~~1,670~~1,249 units would be

constructed by developers selected by TIDA, and approximately 435 units would be in programs developed and operated by the Treasure Island Homeless Development Initiative ("TIHDI") or its designee.

The text of footnote 2 in this section is not changed and has not been reproduced here.

The second, third and fourth full paragraphs on p. 2.5.3 are revised as follows.

A minimum of 20 percent of the proposed residences would be sized for families. EIR pp. IV.C.15-IV.C.16 describe the Proposed Project's compliance with the affordable housing requirements ~~of the California Community Redevelopment Law~~ and compare them with the requirements under State law and the City's Inclusionary Housing Program (Section 415 of the Planning Code).

The second bullet on p. II.28 is revised as follows to clarify the total number of stand-alone affordable housing units proposed (deletions are shown in ~~strike-through~~ and new text is underlined):

- Stand-alone Affordable Housing. Up to ~~2,105~~ 1,684 units (which could be a mix of rental and for-sale units) would be in stand-alone, affordable buildings, of which up to around ~~1,670~~ 1,249 units would be developed by developers selected by TIDA or its designee. ~~Up to 1,685 units would be in stand-alone, completely affordable buildings implemented by TIDA or others.~~ The TIDA units would likely include a mix of rental and for-sale units and would target very-low-, low-, and moderate-income households.

A comment also notes that the Association of Bay Area Governments' ("ABAG") regional housing needs allocation should be specifically reviewed to determine the affordability and income levels needed for the proposed units. ~~The Proposed Project is a redevelopment project, and is required to comply with housing requirements and regulations of the California Community Redevelopment Law ("CRL"). Pursuant to these requirements, TIDA is required to replace any existing units housing low- and moderate-income households to ensure that there is no net loss of affordable units, and is also required to ensure that at least 15 percent of all housing built is affordable. Additionally under the CRL, TIDA is obligated to target expenditures from its Low and Moderate Income Housing Fund to very low and low income households proportionately to the identified regional housing needs allocation.~~ As noted above, the Proposed Project, as a whole, would exceed the 15 percent affordable housing requirement of Section 415 of the Planning Code, and also would exceed the CRL requirement that 15 percent of all new housing units be affordable to low- and moderate-income households, although a Redevelopment Plan is no longer proposed and the CRL requirement would not apply. In addition, within an Infrastructure Financing District if residential units housing low- or moderate-income persons or families are destroyed, or taken out of the low- and moderate-income market as part of the activities of an IFD, the district must cause replacement of those units with new or rehabilitated low- and moderate-income units within four years after they are destroyed or removed from the housing market. In addition, within an IFD, 20 percent of the units that are destroyed or removed that are occupied by persons of families above moderate

income must be replaced within the four-year time frame. Replacement units may be located anywhere within the district. All of the replacement units must be affordable to low- or moderate-income households. ~~would replace all existing units housing low- and moderate-income households, and would meet the housing fund targeting requirements.~~ Compliance with these ~~CRL~~ requirements would ensure that the housing programs on the Islands complement the City's efforts to meet the Housing Element goals and objectives.

The second paragraph of the response in the Subsection 2.5.5, Existing Business Displacement, on p. 2.5.8 is revised as shown below.

~~Health and Safety Code Section 33339.5 requires that all redevelopment agencies extend a reasonable preference to businesses in the project area to reenter in business if they otherwise meet the requirements prescribed in the redevelopment plan. The draft Redevelopment Plan for the Proposed Project complies with this requirement.~~ Existing businesses, other than those that are on the Islands on an interim or temporary basis, would be extended a reasonable preference to reenter in business on the Islands.

Section 2.15 Biological Resources

The text in the Response in subsection 2.15.4.1, Bird Strikes, in the first partial paragraph at the top of p. 2.15.16 is revised as follows to reflect revisions in responsibilities identified in Mitigation Measure M-BI-4a in the EIR text on p. IV.M.52, presented above:

In Mitigation Measure M-BI-4a, the EIR on p. IV.M.52 states "The building developer shall provide to ~~TIDA~~ the Planning Department a written description of the measures and features of the building design that are intended to address potential impacts on birds....The design shall include some of the following measures or measures that are equivalent to, but not necessarily identical to, those listed below, as new, more effective technology for addressing bird strikes may become available in the future." Thus, to implement this measure, prior to the issuance of the first building permit for each building in the Proposed Project ~~TIDA~~ the building developer would have a qualified biologist experienced with bird strikes review and the Planning Department would approve the design of the building to ensure that it sufficiently minimizes the potential for bird strikes based on the current state of knowledge at that time. This approach strikes a balance between the Project's commitment to reduce bird strikes and the ability of individual development proposals in the Proposed Project to adapt to new methodologies as they change over time. As a practical matter, this would allow the reviewing biologist to choose suitable measures from the City's final standards or from other, newer, emerging research results.

The text at the end of the Response in subsection 2.15.4.2, Bird Strikes, in the second paragraph in the first full paragraph on p. 2.15.19 is revised to reflect the change in responsibilities for enforcing the Bird Strikes mitigation measure:

The mitigation measures regarding bird strikes in the EIR that are adopted by decision-makers as part of the Mitigation Monitoring and Reporting Program ("MMRP") would become conditions of project approval, and would be enforced by the Planning Department ~~TIDA~~.

Section 2.21 Alternatives

2.21.2 Reduced Parking Alternative Response

The text of the new Reduced Parking Alternative in the Response in subsection 2.21.2 is revised in a number of locations to reflect the Revised Project's reduced commercial parking supply. The same revisions are made in Chapter 3, Section 3.1 to the new text for the Summary, presented on p. 3.5, changing the Proposed Project's parking supply value from 10,118 to 9,646 and changing the difference between the Reduced Parking Alternative and the Proposed Project from 4,500 spaces to 4,030 spaces.

The last bullet on p. 2.21.10 is revised as follows:

- Some comments suggested that parking for Office and Flex uses both be provided at 0.2 spaces per 1,000 square feet. Parking for Office and Flex uses are proposed at ~~2.0~~ 1.0 spaces per 1,000 square feet as part of the Proposed Project. The Reduced Parking Alternative would ~~reduce the~~ provide the same Office Flex parking rate ~~to~~ of 1.0 spaces per 1,000 square feet, which is higher than the rate proposed in some comments~~, but still represents a reduction from the Proposed Project~~.

The last sentence in the first paragraph under "Description" on p. 2.21.13 is revised as follows:

> Taken together, the reduction in parking ratios for the above listed land uses in the Reduced Parking Alternative would reduce the total number of off-street parking spaces by about ~~4,500~~ 4,030, from about ~~10,118~~ 9,646 in the Proposed Project to about 5,616 spaces.

The following changes are made in new Table VII.19 on p. 2.21.15 in the Proposed Project column:

> In the "Hotel (Treasure Island)" row, 0.8 spaces/room is revised to 0.4 spaces /room and the related footnote 3 in the Table is revised to read "Hotel rate is the same as or less than the rate for hotels in Neighborhood Commercial District, *San Francisco Planning Code*."
>
> In the "Flex" and "Office" rows, 2/1,000 square feet is revised to 1/1,000 square feet.
>
> In the "Off-Street Parking Subtotal" row, the subtotal is changed from 10,118 to 9,646.
>
> In the "Total" row, the total number of parking spaces in the Revised Proposed Project is changed from 11,153 to 10,681.

The third sentence in the first full paragraph on p. 2.21.18, under "Transportation" is revised as follows:

> With the Reduced Parking Alternative, the total number of off-street parking spaces would be up to about 5,615 compared with up to about ~~10,120~~ 9,645 spaces included in the Proposed Project.

2.21.10 No Redevelopment Plan Response

The Response in subsection 2.21.10, No Redevelopment Plan on pp. 2.21.75-2.21.76 is revised as follows to reflect the Revised Proposed Project:

As the comment indicates there are a number of ways to incorporate land use controls associated with the approval and adoption of redevelopment plans. The Draft EIR analyzes the Treasure Island Yerba Buena Island Redevelopment Plan as it was ~~has been~~ proposed by the project sponsors, TIDA, the designated California Redevelopment Agency, and TICD, the prospective master developer. Given the uncertainties in the availability of tax increment financing through use of a redevelopment plan, ~~In this case,~~ TIDA, in consultation with the Planning Department, has determined not to adopt a Redevelopment Plan. Instead, it has determined that the Proposed Project's land use controls would be implemented by adding an Area Plan to the City's *General Plan* (which would contain objectives and policies that would set the foundation for land use development on the Islands), and by amending the ~~existing~~ City's Planning Code to adopt a Special Use District for the area (which would contain zoning and height and bulk classifications within the ~~Redevelopment Plan~~ Project Area ~~to reference the allowable land use and height limit designations~~ and would reference the more detailed standards and guidelines in the *Design for Development*) ~~contained in the proposed Redevelopment Plan~~.

Under California Community Redevelopment law (CRL), the Treasure Island / Yerba Buena Island Redevelopment Plan would be required to be consistent with the *San Francisco General Plan* ("*General Plan*") as is true for the Planning Code. Although no longer required by the CRL if the Proposed Project does not include adopting a Redevelopment Plan, ~~T~~to approve the Proposed Project, the Planning Commission would still have to make consistency findings stating that the Proposed Project is consistent with the *General Plan* and the Planning Code, Section 101.1 Priority Policies. ~~The California Community Redevelopment law does not preclude amending the Redevelopment Plan, if needed, to provide specific land use controls.~~

Land use controls based on the Planning Code would not be the environmentally superior alternative as defined by CEQA. CEQA Guidelines (Section 15126.6(a) and (e)(2)) require that an EIR analysis of alternatives identify the environmentally superior alternative, the purpose of which, is to identify a superior alternative that has the fewest significant environmental impacts. This CEQA requirement does not pertain to how land use controls for a project are codified.

Section 2.23 Fiscal and Economic Issues

The third, fourth and fifth paragraphs of the response in subsection 2.23.1, Fiscal and Economic Effect of Geotechnical Stabilization, which begins on p. 2.23.1 and continues on p. 2.23.2 are revised as follows.

The overall financing structure for the Proposed Project had been a Redevelopment Plan that would use tax increment financing for infrastructure and affordable housing. Since the Draft EIR was published in July 2010, there has been discussion at the State level in Sacramento of eliminating redevelopment agencies as part of reducing the state's budget shortfall. Because of uncertainties regarding the status of redevelopment agencies and redevelopment funding, the project sponsors are no longer considering financing infrastructure improvements as part of a Redevelopment Plan. Instead, financing for infrastructure is proposed to be obtained using an Infrastructure Financing District ("IFD") mechanism rather than tax increment financing available with a Redevelopment Plan.

The initial capital costs of the Proposed Project would be paid for, in general, from three sources: private capital; ~~bonds supported by public tax increment financing generated solely by the~~

~~redevelopment project~~ bonds supported by incremental tax revenues generated solely by development within an Infrastructure Financing District or Districts; and bonds supported by a community facilities district assessed solely on market-rate homes in the ~~Redevelopment Plan~~ Project Area. Private capital and community facilities district assessments on market-rate homes are separate from financing under the IFD ~~redevelopment tax increment financing~~. Private capital has no taxpayer burden because the financial investment capital is from non-public parties. The use of ~~tax increment~~ IFD financing relies on incremental tax revenues ~~the powers of redevelopment to redirect the 1 percent ad valorem property tax~~ generated within the district~~by a redevelopment project area from other state and local uses to the redevelopment project area~~. ~~Their~~ IFD financing mechanism does not increase property taxes paid by individual property owners within a redevelopment project area or the city at-large. ~~The City decision makers are aware of the Governor's proposal on January 10, 2011 for the statewide elimination of funding mechanisms for redevelopment agencies. Final decisions on this proposal at the state level are not expected to occur during the timeframe that the EIR is expected to be presented for certification and the Proposed Project is presented for approval actions. Any future proposals or legislative actions concerning redevelopment funding would be taken into consideration by the City decision makers.~~

The last source, the community facility district ("CFD"), would impose a tax assessment on property owners within the ~~Redevelopment Plan~~ Project Area to pay for infrastructure and public improvements, including the geotechnical improvements. The CFD tax assessment secures the debt issued in order to finance the public improvements authorized within the district. The CFD tax assessment reflects the cost of the improvements constructed for the benefit of both the properties within the assessment district and the public at-large. Properties located outside of the district do not pay the assessment. Homeowners who choose to purchase a home in the area would have full knowledge of this assessment (see the response in Section 2.23.2, Economic Effects, below, for a brief discussion of how this assessment would be applied to existing residents and households in affordable units). The community facility district assessment appropriately asks residents within the assessment district to help pay (over a long time period) for the infrastructure from which they benefit. This mechanism avoids asking San Francisco tax payers who own property outside the ~~Redevelopment Plan~~ Project Area to contribute to infrastructure within the Project Area ~~in the redevelopment area~~. Thus, implementation of the Proposed Project using these three sources for initial capital costs would not burden future generations of tax payers throughout the City.

In summary, the Proposed Project is depending on two public financing mechanisms, an Infrastructure Financing District and a Community Facility District, both of which are paid for using tax proceeds generated from development within the ~~Redevelopment Plan~~ Project Area. The infrastructure being proposed as part of the Project, however, would also benefit people who do not pay those taxes. For example, the Proposed Project's construction would generate jobs, many of which would be targeted to San Franciscans; also, non-residents would be provided use of the new public open spaces.

The second paragraph of the response in Section 2.23.1 on p. 2.23.3 is revised as follows.

Fee title transfers convey ownership of a particular piece of property with all of its property rights, whereas a ground lease is a rental interest where the land is retained by the original owner and use of the land is subject to the conditions of the lease. Generally, people are willing to pay more to own something outright than to rent it. In addition, development of ground leased parcels are significantly more difficult to finance, and have become increasingly so in the current economic environment. Because of these constraints, fee-title transfers are the most feasible way to solve both the short-term and long-term financial requirements of the project. In the short term, fee-title transfers of market rate lots create a source of capital that can be used to fund both construction of public infrastructure and other associated public benefits, such as affordable housing, transit, parks, and open space. Over the long term, the higher prices paid for condominiums built on fee-title ownership sites result in more property taxes being paid, which in turn sustain long-term island maintenance, including the support of the transit system. The Infrastructure Financing District funding mechanism ~~Being a redevelopment area~~ enables the Proposed Project to capture ~~all~~ such property tax increments for the short-term and long-term financial needs of the Islands.

The third and fourth full paragraphs on p. 2.23.5 of the response in subsection 2.23.2, Economic Effects, are revised as shown below:

The comment expresses concern about the impacts of potential fees and other financing mechanisms on affordable housing. The affordable housing that is proposed as stand-alone housing to be developed by TIDA or designees (including the Treasure Island Homeless Development Initiative, which is expected to provide an expanded number of units affordable to very low income residents) would not be subject to the community facilities district ("CFD") assessments that are described above in the response in Subsection 2.23.1, Fiscal and Economic Effect of Geotechnical Stabilization. Inclusionary affordable housing that is constructed as part of buildings with market-rate housing would be subject to the CFD assessments. Those assessments would be taken into account, along with other costs, in determining the overall affordable rental or sales rate to be paid by the household; therefore, the total payment by a household determined eligible for affordable housing would not be increased because of the CFD assessments. ~~These provisions are typical in redevelopment areas where CFDs have been formed.~~

The comment lists a number of potential special districts that might be used for funding infrastructure, including reclamation districts, street and lighting districts, park districts, sewer assessment districts, and water districts. The Proposed Project does not propose to use these types of districts; see the response in Subsection 2.23.1, above for a brief discussion of the infrastructure funding that is proposed. San Francisco does not typically establish the types of special districts listed in the comment as funding mechanisms for infrastructure improvements, unlike most California cities and counties. Instead, an Infrastructure Financing District will be implemented. The funding mechanism and cost to property owners and San Francisco residents are discussed in the response in Subsection 2.23.1, above. Infrastructure in the City is constructed, operated and maintained by various City departments from property taxes and other sources of revenue in the City's General Fund and from bond funds.

Revisions to Section 3.2, Staff Initiated Text Changes, of the Comments and Responses Document

In Revised Table VII.1, shown on p. 3.149 of the Comments and Responses document, the Proposed Project column is revised to indicate that the Proposed Project includes 10,680 parking spaces instead of 11,155 spaces.

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BY AK

SAN FRANCISCO
PLANNING DEPARTMENT

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DATE: April 21, 2011

TO: San Francisco Planning Commission

Treasure Island Development Agency Board

FROM: Bill Wycko, Environmental Review Officer – (415) 575-9048

Rick Cooper, Senior Planner – (415) 575-9037

RE: Case No. 2007.0903E Errata
Treasure Island / Yerba Buena Island Redevelopment Project EIR Certification Scheduled for April 21, 2011

Attached is a list of errata to the *Treasure Island / Yerba Buena Island Redevelopment Project EIR*. The purpose of the errata is to correct minor editorial errors in the Draft EIR and Comments and Responses document; the errata provide no new information. The Final EIR, which consists of the Draft EIR in combination with the Comments and Responses document, is scheduled for certification at the Planning Commission on April 21, 2011.

Errata are reflected in ~~strikethrough~~ for deleted text and underline for new text.

1. In the third sentence in the first paragraph under "Proposed Wastewater Treatment" on p. II.58 in the Draft EIR the peak treatment capacity of the existing treatment plant is corrected:

> The treatment plant provides secondary treatment and has a peak treatment capacity of ~~0.80~~ 2.0 mgd.

2. In the list of approvals for the Proposed Project, on Draft EIR p. II.84, the following revisions have been made to correct the fourth and seventh bullets, as follows (new text is underlined and deleted text is shown in ~~strikethrough~~):

- Adoption of *Design for Development* ~~and *Design Review and Document Approval Procedures*~~ (TIDA and Planning Commission, subject to final approval of DDA by Board of Supervisors);
- Approval of an Interagency Cooperation Agreements (~~San Francisco Planning Commission~~ TIDA, San Francisco Board of Supervisors, SFMTA, SFPUC, San Francisco Port Commission, SFFD, ~~SFPD~~, SFDPW ~~San Francisco Department of Building Inspection ["DBI"]~~);

3. In Draft EIR Section IV.J, Recreation, on p. IV.J.25, Improvement Measure I-RE-3a, addressing use of artificial turf on sports fields, is revised as follows to clarify when consultation with City Fields Foundation and the Recreation and Park Department should occur:

Where artificial turf is proposed, tThe project sponsors are encouraged to work with the City fields Foundation and City Recreation and Park Department staff to design and build artificial turf fields using the latest SFRPD criteria at the time of implementation, including the City's purchasing criteria.

4. In the last sentence in the second paragraph on p. IV.K.2 in the Draft EIR, the capacity of the existing wastewater treatment plant is corrected:

The plant was upgraded in 1989 to expand treatment capacity to ~~0.80~~ 2.0 million gallons per day ("mgd").

5. Revised Figure II.6a, Treasure Island Maximum Height Limit Plan, reproduced in larger format in the Response in Section 2.1.2.2, on page 2.1.9 of the Comments and Responses, has errors in the legend for the tower flex zones. The stripes for each of the four flex zones in the legend are oriented in the opposite direction compared to the zones as shown on the figure. The legend has been corrected for the Comments & Responses and will be corrected for the Final EIR.

6. On p. 2.1.29 in Comments and Responses Chapter 2, Section 2.1.4, Project Land Use, the date in footnote 8 is corrected:

State Lands Policy on Public Trust, adopted September 17 ~~21, 2007~~2001, available at http://www.slc.ca.gov/Policy_Statements/Public_Trust/Public_Trust_Policy.pdf.

7. A minor wording change is needed and a footnote was omitted in Chapter 2, Section 2.21, Alternatives, of the Comments and Responses document. The referenced material was discussed in the Response and has been available for public review in the Administrative Record for the Comments and Responses at the Planning Department. These changes have been added as follows to the first sentence in the last paragraph on page 2.21.48:

TIDA also commissioned an independent peer review by Economic & Planning Systems ("EPS") of all four economic and market feasibility~~ies~~ studies for the Reduced Parking Alternative.[19]

[19] Economic & Planning Systems, Inc., Financial Feasibility Impacts of Reduced Treasure Island Parking, Memorandum to Michael Tymoff, Office of Economic and Workforce Development/Treasure Island Development Authority, February 14, 2011. A copy of this memorandum is available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, in Case File 2007.0903E.

With the addition of footnote 19, subsequent footnotes in Chapter 2, Section 2.21, Alternatives, are renumbered, accordingly, as footnotes 20 through 33.

BOARD of SUPERVISORS

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May 13, 2011

Saul Bloom
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Golden Gate Audubon Society
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Ken Masters
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Aaron Peskin
c/o Golden Gate Audubon Society
2530 San Pablo Avenue, Suite G
Berkeley, CA 94702

Subject: Appeal of Certification of Final Environmental Impact Report - Treasure Island/Yerba Buena Island Redevelopment Project

Dear Appellants:

The Office of the Clerk of the Board is in receipt of your appeal filed on May 11, 2011, from the decision of the Planning Commission's April 21, 2011, Certification of a Final Environmental Impact Report identified as Planning Case No. 2007.0903E, through its Motion No. 18325, for the Treasure Island/Yerba Buena Island Redevelopment Project. (NOTE: The Planning Commission's CEQA Findings are not appealable to the Board of Supervisors.)

A hearing date has been scheduled on **Tuesday, June 7, 2011, at 4:00 p.m.,** at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Please provide 18 copies to the Clerk's Office by:

8 days prior to the hearing:	any documentation which you may want available to the Board members prior to the hearing;
11 days prior to the hearing:	names of interested parties to be notified of the hearing in label format.

If you have any questions, please feel free to contact Legislative Deputy Director, Rick Caldeira, at (415) 554-7711 or Legislative Clerk, Joy Lamug, at (415) 554-7712.

Sincerely,

Angela Calvillo
Clerk of the Board

c:
Cheryl Adams, Deputy City Attorney, w/ copy of appeal
Kate Stacy, Deputy City Attorney, w/ copy of appeal
Marlena Byrne, Deputy City Attorney, w/ copy of appeal
John Malamut, Deputy City Attorney, w/ copy of appeal
Scott Sanchez, Zoning Administrator, Planning Department, w/ copy of appeal
Bill Wycko, Environmental Review Officer, Planning Department, w/ copy of appeal
AnMarie Rodgers, Planning Department, w/ copy of appeal
Tina Tam, Planning Department, w/ copy of appeal
Nannie Turrell, Planning Department, w/ copy of appeal
Linda Avery, Planning Department, w/ copy of appeal
Rick Cooper, Planning Department, w/ copy of appeal
Project Sponsors, Treasure Island Development Authority, Rich Hillis, Director of Development, City Hall, Room 448, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94111 and Treasure Island Community Development, LLC, Alexandra Galovich/Wilson Meany Sullivan, Four Embarcadero Center, Suite 3300, San Francisco, CA 94102, w/ copy of appeal

BOARD of SUPERVISORS

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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: **Tuesday, June 7, 2011**

Time: **5:00 p.m.**

Location: **Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102**

Subject: **File No. 110618. Hearing of persons interested in or objecting to the decision of the Planning Commission's April 21, 2011, Certification of a Final Environmental Impact Report identified as Planning Case No. 2007.0903E, through its Motion No. 18325, for the proposed Treasure Island/Yerba Buena Island Project. (Appellants: Saul Bloom, on behalf of Arc Ecology, Michael Lynes, on behalf of Golden Gate Audubon Society, Kate Looby on behalf of Sierra Club - San Francisco Bay Chapter, Brent Plater, on behalf of Wild Equity Institute, Ken Masters, and Aaron Peskin.)**

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to

mailed - 5/26/11

Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, June 2, 2011.

Angela Calvillo
Clerk of the Board

DATED: May 27, 2011

BOS-11, 1 page

File 110618

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SAN FRANCISCO
2011 JUN -1 PM 3:22
BY



To: San Francisco Board of Supervisors
Fr: Judy Irving, Pelican Media
Re: File #110618
Hearing date: June 7, 2011
Objection to Planning Commission's 4/21/11 certification of the Final EIR for the Treasure Island/Yerba Buena Island Project

I've been reading a wonderful book about the 1906 earthquake and fire, which presents a strong case that the people trying to save San Francisco – the self-appointed citizens' committees, National Guard, fire department, police – actually hastened its destruction, by sanctioning wide-spread use of inappropriate "black powder" dynamite, which not only didn't stop the fires, but added to their extent and ferocity by reducing buildings to kindling and by setting off sparks that started new fires. Anyone familiar with black powder dynamite could have told them not to use it, but chaos reigned, and frenzied inexperience prevailed.

Jump ahead to 2011. You have a budget crisis. You're trying to save San Francisco. You want to do it by giving away ownership and control over city-owned property, on which you intend to allow highrises to be built on liquid land fill, in an active earthquake/tsunami zone, shortly before sea level rise inundates the island. In years to come, your lack of good judgment and your haste to develop this revenue stream will be critiqued by those who must deal with the consequences. Your rationalizations about the project "meeting code" will be seen as a convenient way to avoid deeper and far more serious issues. When the Bay Bridge becomes mired in traffic jams, when birds by the thousands crash into these Pacific Flyway barriers and die, when future residents gaze out upon mini-Manhattan in the middle of our beautiful Bay and wonder why?, you can try to answer them. Or, you can take a wise stand now. Please do not approve this misguided and potentially disastrous project. There are better ways to solve the budget crisis.

The questions I asked earlier in this process have not been adequately answered in the final EIR, and the mitigations proposed are too little, and too ineffective. Therefore, I reiterate them here, so that they will become part of the public record:

Re:Treasure Island/Yerba Buena Island Redevelopment Project Case:

PELICAN MEDIA • 1736 STOCKTON STREET, SUITE 2 • SAN FRANCISCO CA 94133
(415) 362-2420 FAX (415) 362-2421 FILMS@PELICANMEDIA.ORG WWW.PELICANMEDIA.ORG

#2007.0903E — Questions on the DEIR

As the producer of the documentary,*The Wild Parrots of Telegraph Hill*, and my current project, *Pelican Dreams*, I am deeply concerned about the proposed TI/YBI redevelopment project ("the project") on which comments are being solicited for the DEIR. In that regard, I have a number of questions for which I would hope to receive informed and detailed responses:

1. As I understand it, numerous high-rise towers (multi-story commercial and residential), may be planned for Treasure Island. In that regard, DEIR Impact B1-4 deals with avian collisions with buildings. What studies, if any, not including the subject DEIR, have been done to determine whether the Pacific Flyway for migratory birds could be significantly impacted or affected by high-rise towers built on or proximate to such Flyway path?
2. The DEIR cites at p. 1V.M.50, Stenzel, et.al.,*Abundance and Distribution of Shorebirds in the San Francisco Area,* however, does the DEIR rely on any more specific studies than this? If so, please give the author and title of such materials.
3. Please provide a description of each and every species of (a)migrating bird, (b) resident bird, for which the project could have potential impact or affect, and for each and every species the nature and scope of such impact or affect.
4. Please describe in detail as to each local and regional bird species, how glass surfaces on the project's high-rise towers would "affect the viability of local and regional bird populations."
5. Please describe which species of migratory birds would be vulnerable to illuminated buildings at night.
6. Please state why there are no illuminated night renderings of the proposed project's high-rise towers.
7. Please describe in detail, as to each species of migratory bird, why "avian collisions are a potentially significant impact."
8. Please describe at least five locations in the United States where patterned and fritted glass has been used in high-rise towers, and what has been the result of such use in each such location in diminishing avian collisions.
9. Please set forth in detail why, with Mitigation Measure M-B1-4a, "the impacts on birds from the Proposed Project would be less than significant."
10. Why do the "ground floor and first few stories of buildings present the greatest hazards to birds"?
11. Which "breeding birds" within the project area may be at risk of colliding with the project's possible high-rise towers?
12. Specifically to the peregrine falcon, please describe the nature and extent of the project's potential impacts on this endangered species.
13. Specifically to the California brown pelican, please describe the nature and extent of the project's potential impacts.
14. What species of birds listed under the Federal Endangered Species Act, or proposed to be listed, may be subject to impact from or affected by the proposed project's buildings, including high-rise towers?
15. As to Question # 14, would such impacts or affects be considered

significant? If so how? If not, why not?
16. What species of birds listed under the California Endangered Species Act, including candidate species, and any species of special concern, may be impacted or affected by the proposed project's buildings, including high-rise towers?
17. As to Question # 16, would such impacts be considered significant? If so, how? If not, why not?
18. Which bird species would be considered to have a known or high potential to nest on any of the project's proposed high-rise towers?
19. What measures would be taken to minimize avian collision with antennae, monopole and rooftop elements on any of the project's buildings, including high-rise towers?
20. As to breeding birds on Treasure Island, what steps will be taken during each stage of project development to mitigate impacts?

Best regards,

Judy Irving
Executive Director

To: San Francisco Board of Supervisors
Land Use & Economic Development Committee

Fr: Bernie Choden (choden@sbcglobal.net)

Re: Treasure Island BOS Appeal

May 2, 2011

There are three major issues challenging the Planning Commission approved EIR.

1. **Seismic safety:**

   Building the Dutch equivalent of polders around developments does not appear sufficiently viable to resist the anticipated quake. Remember that the Dutch initiation of polder use was a 14th century program to reclaim the Zuider Zee after a then major earthquake and subsidence created the Zee. Do T.I. proposed methods meet objective tests or, even Dutch earthquake standards?

   A major life safety issue is that the infrastructure that links polders will not resist liquefaction as severe as occurred in the minor quake of 1989.

2. **Mitigation Impacts:**

   The pro-forma for Treasure Island suggests an inadequacy to cover public mitigation impacts costs as required by an EIR. Particularly affected will be bridge traffic capacity and island infrastructure liabilities, including life safety, as noted above.

3. **Title Clearance Mitigation:**

   Regardless of the Treasure Island use, its ownership is sufficiently questionable as to require mitigation. There are means to both provide clearance of title and provide substantial revenue underpinning for EIR mitigation. Proposed is title clearance in the State's favor as a "Wetlands" under the aegis of the California State Lands Commission as follows:

   A. Close analogy to the title issue for T.I. is that pursued by the State for Hamilton Airbase in Marin. It was found that abandonment of the Airbase would entail reverting title to the state of a portion of the Airbase that was filled by Catholic Archdiocese. These lands were wetlands below mean high tide in 1850 that, therefore, were covered by the terms of the Arkansas Act of 1850. That Act granted California, among other states, "stewardship" of such lands on behalf of the federal government forever.

Despite "facts on the ground" and a land transfer to the Air Force, as a wartime owner, the perpetual ownership by the State remains the dominant claim to a fee-simple title for such land.

What is true in Marin remains true of Treasure Island despite Navy usage as a wartime necessity. The city claims that it is re-buying title from the Navy. Consider that the city, then, did not have a legal claim to title because such lands were required to be owned by the State in perpetuity in "stewardship." What the Navy bought from the city earlier was the right of usage, not title.

But the city acknowledges the state's title by proposing to exchange the state's wetlands ownership of Treasure Island for an offshore, submerged- under water- state land ownership. How can a city, even with the assistance of state legislative chicanery, trade state ownership of land the state already owns for land the state already owns?

B. Suggested is a way out of title difficulty that provides a safe harbor and benefit for all regardless of future use.

1. Clear title by acknowledging the State's underlying title under the Terms of the Wetlands Trust. View the Navy's claim as development second deed of trust.
2. Entrust the County of San Francisco as an administrative district of the State as the residual authority for the State with negotiated fiscal shares for the State and the County.
3. Deed developers a second deed of trust subject to "Stewardship" stipulations, General Plan and EIR requirements. Property taxes would then become, under the same stipulations, possessory interest taxes.
4. Because the proposal will no longer be a redevelopment project, the use of tax increments will no longer be available to such needs as capital improvements and public benefits as affordable housing. Alternative means for providing for capital costs, such as Mello Roos, are cumbersome.
5. However, a more providential means exist in use of leased land "ground rents" charged to the ultimate owners of development. This method would provide a more sustainable base for fiscal underpinning and for secure design and maintenance controls.
6. Because "ground rents" would be charged to the ultimate users on the downside the cost to the developers' equity position should be nil especially due to clearance of title issues.

[redacted]

te of California

Memorandum

To : Arnold C. Sternberg
Donald R. Crow
Wayne Schell
Jack Harrison
John Kramer (Counsel Resources Agency)
Walter Cook (Counsel State Lands Commission)
Comments to written in 2/24/76 LTC

Date: November 21, 1975

W 3909

From : DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF RESEARCH AND POLICY DEVELOPMENT

Subject: Hamilton Airbase Policy Proposal

Copy forwarded to: Chaden-SFT (Letter w/o attachments)
Date 2/25/76 by [redacted]

I. BACKGROUND

The attached maps A and B and legend indicate the types of parcels which underly the approximately 1800 acres of Hamilton Airbase. Discussions with Walter Cook have indicated that a substantial portion of this land is, with varying degrees of probability, recoverable by the state.

1. Submerged Lands

These lands are sovereign lands by virtue of having been ceded to the state when California joined the Union in 1850. By state law, the state's use of such lands is limited to fisheries, wild life, game, and navigational purposes. The areas to the east and including Parcel TLL 31, Map B, are lands which fall into this category and which can be readily reacquired by the state through legal action. Vegetation prior to 1851 ceased at the western boundary line of this parcel, thus implying the existence of mud flats on these parcels at that time.

Parcels TL 179, 178, 175, TLL 5(c), and TLS 210 represent patents for use which have lapsed and, therefore, these lands appear reclaimable without challenge. The remainder of this submerged land was patented with permission to build a levee. However, such patents did not negate the state's sovereign right to trespass for the maintenance of fisheries, navigation, wild life, and game.

2. Wet Lands

Congress, in the 1850 Arkansas Act, gave to the states sovereignty over wet lands which include lands below sea level, above mean high tide, and areas with salt marsh vegetation.

Early maps indicate the presence of numerous scattered salt ponds and sluices throughout the remainder of the runway and maintenance shop area extending northwest up to and including parcl S and O 69. The state granted patents for the use of this land. However, SLC

feels this area is worth litigation on the basis of the uses and of the ecological protection rights noted. The state argues that it has retained the rights to trespass in this area in order to maintain it for fisheries, wild life, game, and navigation.

3. The Ranchero

This area was originally above sea level and GSA has clear title. Therefore, it appears beyond litigation so far as potential reclamation by the state is concerned. This is the area contiguous to Highway 101 and which contains the Lanham housing site.

4. Previous Action

Title to the area bordering the northern side of the airbase was litigated by the state and the title rights were resolved with the California Packing Corporation in 1943. This area, therefore, is in an unchallengeable ownership situation with fee-simple title. Hamilton Airbase to the south, therefore, represents a defeasible fee, with reservations, subject now to litigation. This condition also applies to the area to the south of the airbase beginning with Parcel S and O 80.

II. ACTION BY THE SLC

It is the intention of Mr. Cook to begin a recovery action first by notifying the GSA and, second, through possible litigation to recover the submerged and wet lands within the airbase. He does not wish to subject this area to negotiation with GSA which might involve a trade-off of claimed state rights for other areas or equities on the higher elevations such as Lanham site since this would prejudice his case with regard to claimed sovereign objectives and uses. In addition to notifying GSA, Walter Cook will notify Marin County and the City of Novato.

After the above action is initiated, to avoid prejudicial judgment with regard to the intent of the State Lands Commission to establish sovereign rights and use, HCD and SLC should enter negotiations with the GSA with regard to the possibility of trading part of the federal land debt (comprising a total of 121,000 acres) for the above sea level area of Hamilton Airbase. HCD and SLC will argue that the improvements are valueless and constitute a detriment to the future improvement and reuse of the site. The objectives to the GSA and the state administration, for the above sea level area then, will be posited as follows:

a. Protect the ecology of the water shed, particularly the below sea level areas.

b. Integrity of use in a manner harmonious with the maintenance of the wet and tide lands ecology and uses.

TO: ACS

SUBJECT: HAMILTON

Walter Cook briefed me this morning regarding his meeting with Tony Pace, et.al, at GSA. The bottom line is that our opportunity to move on Hamilton is alive and well buy urgent.

1. GSA will procede to ignore Walter's claim of state soverignty based uppn a soliciter general's interpretation in 1965 regarding adverse possession.

2. Walter will request litigation from the Commission based on

a. adverse possession only pertained to defense uses now being abrogated and recent enquiries from Washington expressing doubts about the title and desiring to clean up the situation.

b. Walter expects to need to post a $1,000,000 bond to cover the maintenance of the base during the interval of the suit; he now favors extending the land trade concept to cover the entire area of Hamilton; thus, the uncontested areas will be paid for outright, by trade, the ~~interminate~~ indeterminant areas will be paid ~~by~~ at a court determined amount with the sums being represented by the state land's equities being held in escrow. No cash from the legislature, therefore, will be needed...our approach , therefore, becomes extrememly desireable.

c. The suit bond needs pulls priority away from Northrup's priority for a trade away from the Imperial Valley thermal lands and makes SLC dependent on the eventual cash flow from Hamilton as a means of aquiring the thermal lands later (which they should do in any case since we can multiply the land equities faster by putting it into the Hamilton investment than letting it ~~xxxx~~ sit in abeyance in state title).

3, Walter will be at the 2 pm meeting to back this and deal with ---

c. Establishment of development of a suitable ground rent return which, in part, can be used to maintain the ecology and state lands interest in the overall site.

d. To return a surplus of such ground rents into a sinking fund for general statewide community development and housing purposes, and for intensive development of bay area fisheries.

III. PHASING OF ACTION

a. Letter by SLC claiming rights and threatening litigation to the GSA.

b. A second following letter from HCD jointly with SLC and Resources Agency to GSA with regard to an uplands trade-off for part of the federal school lands debt.

c. Initiate legislation declaring that low and moderate income housing and employment development are public purposes compatible with the existing authorized use of submerged and wet lands if those lands are no longer submerged or wet lands, are not required for restoration of the ocean, riverine, or seashore ecology, and the development would not adversely affect the use of other sovereign lands. It should be understood clearly that these additional proposed uses are offered only as a secondary priority to the existing authorized uses. Compatibility should be further defined as follows:

1. Primarily for low and moderate income housing, community development, and employment.

2. Having a monetary and/or functional benefit to present authorized uses.

3. Recognizes the right of a possible or eventual reuse of community developed lands for presently authorized uses.

The legislation should also establish a sinking fund funded through ground rents or development rights for the reuse of state lands such as Hamilton Airbase. The funds may be used statewide for indicated public purposes such as stabilization of deteriorated communities, housing aids, and development of state fishery ecologies. Recommendations to the Legislature for allocations from the fund will be made jointly by the Resources Agency, SLC, and HCD. In order to carry out the housing and community development activities financed by the fund, the legislation should declare that HCD is a public housing agency with powers to carry out the authorized housing and community development programs.

We may also suggest recourse to Congressional action regarding the state possession of the uplands area and the discounting of existing equities.

All of the above will establish precedent with regard to other shoreline properties, defense lands such as Susanville, Stockton, and Los Angeles. In particular, the SLC will follow up the above litigation action by challenging the San Francisco Harbor Subdivision Act of 1872 on the basis of English Common Law precedent which established that submerged and wet lands, after 100 years of an uninitiated purpose, should revert to state sovereignty. This relates to our previous memo regarding the Santa Fe Railroad lands and other lands within five miles of a point near the Ferry Building located on the eastern edge of San Francisco.

The higher areas can be expected to be fully developed except for small park areas. The sovereign use area can, in part, be leased from the SLC on a 99-year basis; Port and fisheries development would be permanent.

Presuming a 50% development coverage of the 1800 acres at Hamilton Airbase, we can expect about $2/300,000,000 of development. In addition to my charges to the leaseholder for payment of in lieu taxes to local government, the state could expect to receive a ground rent of 8% on the value of the land and improvements.

Assuming half of the ground rents are allocated to HCD, Hamilton alone will generate a $12,000,000 annual cash flow to HCD. This cash flow will be more than enough to carry out a significant program of housing and community development, including Hamilton.

Bernard Choden

Attachments

TO: ACS

SUBJECT: HAMILTON

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Re: Hamilton Airbase

Cook has returned with the report that GSA is going ahead with disposition backed by the solicter general's opinion regarding the state claim. GSA has indicated that they are willing to cede a shoreline portion to the state's Fish and Game Dept. and leave the remainder in open space use as an airport (of the state's claimed area) jointly operated by Marin Co. and the Coast Guard. The uplan-ds portion will be disposed of, piecemeal in an isolated manner, ie: Lanham, etc. There is an urgency therefore to present the GSA with a negotiable proposals to trade state lands for, at least, the non-airport uplands aarea in toto.

A

B

CALENDAR ITEM

(W 27[illegible])

Date March 1976

1. Originator (indicate Further routing) (WC) WC
2. Asst. Mgr./Supv. Eng. (LG)
__ Legal ( )
__ Unit Supervisor ( )
__ Boundary Unit ( )
3. Section Head (JFT)
4. Asst. Exec. Officer (RSC)
5. Executive Officer (WFM)
__ Calendar Unit-Sacto

SUMMARY OF CALENDAR ITEM: Prelim. Draft.

Request authorization to proceed with title litigation at Hamilton Air Force Base, Marin County, California.

****

The Federal General Services Administration is proceeding with disposal of Hamilton Air Force Base which has been declared surplus by the Air Force.

A search of the records shows the existence of State sovereign titles within the Base. Exhibit A, attached hereto, shows the approximate location of the various categories of title, as follows:

1. Parcel A: No State patents have been issued for this portion of the Base. The parcel originally consisted of tidelands of San Pablo Bay owned by the State in its sovereign capacity. This parcel was blocked off from the Bay by levee construction many years ago. The Federal Government acquired private title claims but is unable to trace its title back to its source.
2. Parcel B: State tideland patents were issued in the last century for this parcel. The Federal title claims to this parcel are

13.4 (Rev. 1/75)

based on their assertions of ownership as successors in interest to the State's tideland patents. The public trust easement was reserved in law by these tideland patents and continues to exist in the absence of its being terminated in some lawful manner. We find no such termination. The tidelands are within the City limits and the California Constitution (Art. V, Sec. 3) prohibits the alienation by the State of its right, title, and interest therein.

3. Parcel C: This area was patented by the State by Swamp and Overflowed Lands patents in the last century. However, the historical maps and charts show that the parcel was interlineated with sloughs and other tidelands over which the State's tideland easement exists.

4. Parcel D: ~~Remainder of the Base~~: The remainder of the Base was within the confirmatory patent issued by the United States under the Treaty of Guadalupe Hidalgo for the Rancho Novato, the existence of which preceded statehood. The title review has not shown evidence of any State sovereign right, title, or interest therein.

Exhibit B shows the Base parcel along the northerly bank of Novato Creek. The evidence shows State ownership within this parcel as part of the natural bed of the Creek and as tidelands along said Creek.

A small portion of the Base may be held by the Federal Government by easement only and a portion may be included within real property the title to which may have been settled.

The Federal Government disputes the existence of any State titles within the Base and refuses to delay its disposition procedures. Further action may substantially jeopardize the State's titles and litigation appears to be essential

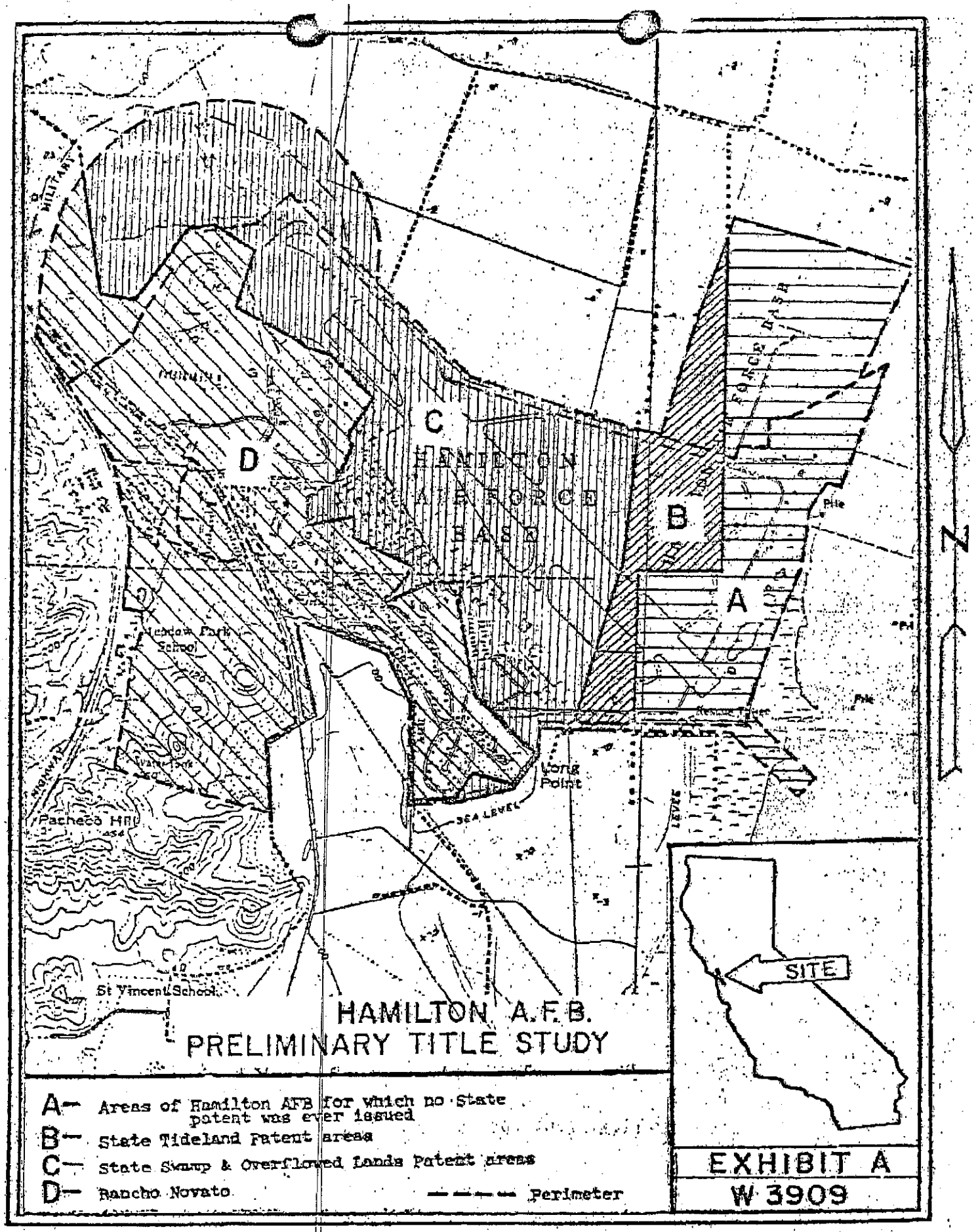
to permit the dispute to be resolved according to the law and the evidence.

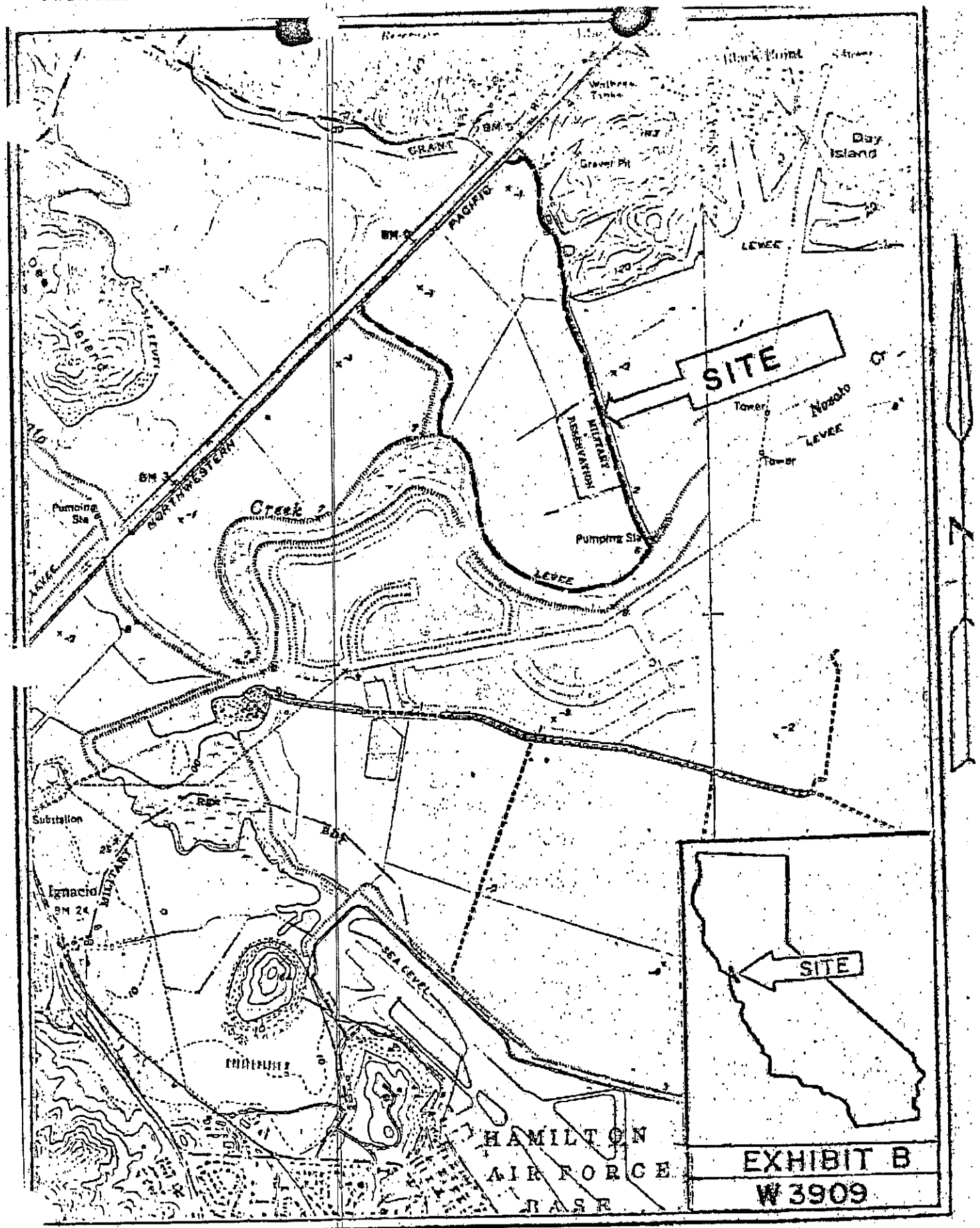
IT IS THEREFORE RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ATTORNEY GENERAL TO INSTITUTE AND PROSECUTE LITIGATION AS MAY BE NECESSARY AND APPROPRIATE TO IDENTIFY AND PROTECT THE STATE'S TITLES WITHIN THE LIMITS OF HAMILTON AIR FORCE BASE.

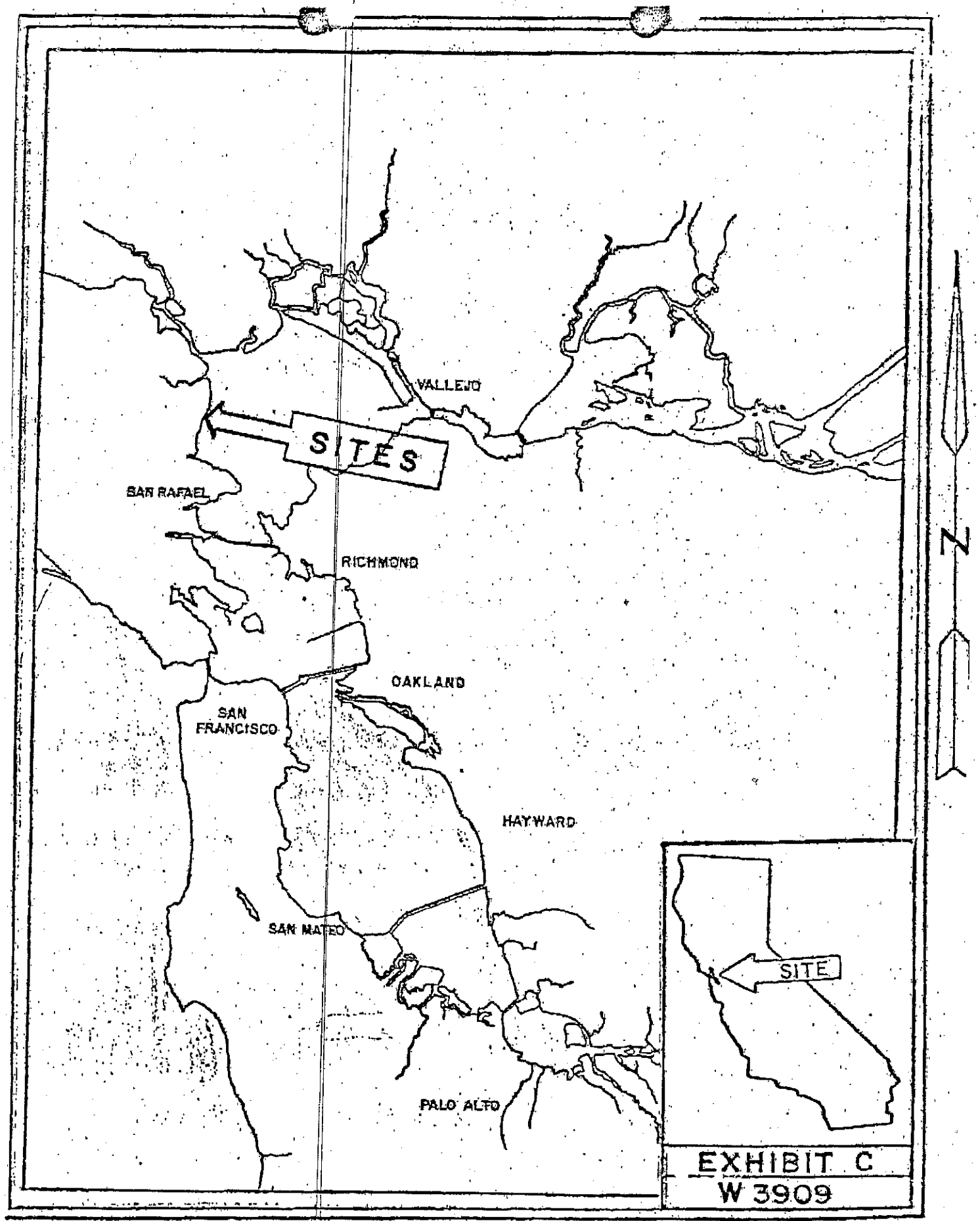
EXHIBIT A - SITE LOCATION (MAIN BASE)

EXHIBIT B - SITE LOCATION (NOVATO CREEK PARCEL)

EXHIBIT C - VICINITY MAP


C
HAMILTON
AIR FORCE
BASE
D
B
A
N
Meadow Park
School
Pacheco Hill
St Vincent School
Long
Point
SEA LEVEL
LEVEE
SITE
HAMILTON A.F.B.
PRELIMINARY TITLE STUDY
A— Areas of Hamilton AFB for which no State patent was ever issued
B— State Tideland Patent areas
C— State Swamp & Overflowed Lands Patent areas
D— Rancho Novato
Perimeter
EXHIBIT A
W 3909


SITE
Day Island
Gravel Pit
GRANT
PACIFIC
NORTHWESTERN
Creek
LEVEE
Pumping Sta
Tower
Nozzolo
Ignacio
Substation
SEA LEVEL
HAMILTON
AIR FORCE
BASE
SITE
EXHIBIT B
W3909


VALLEJO
SITES
SAN RAFAEL
RICHMOND
OAKLAND
SAN FRANCISCO
HAYWARD
SAN MATEO
PALO ALTO
N
SITE
EXHIBIT C
W 3909



San Francisco 1868

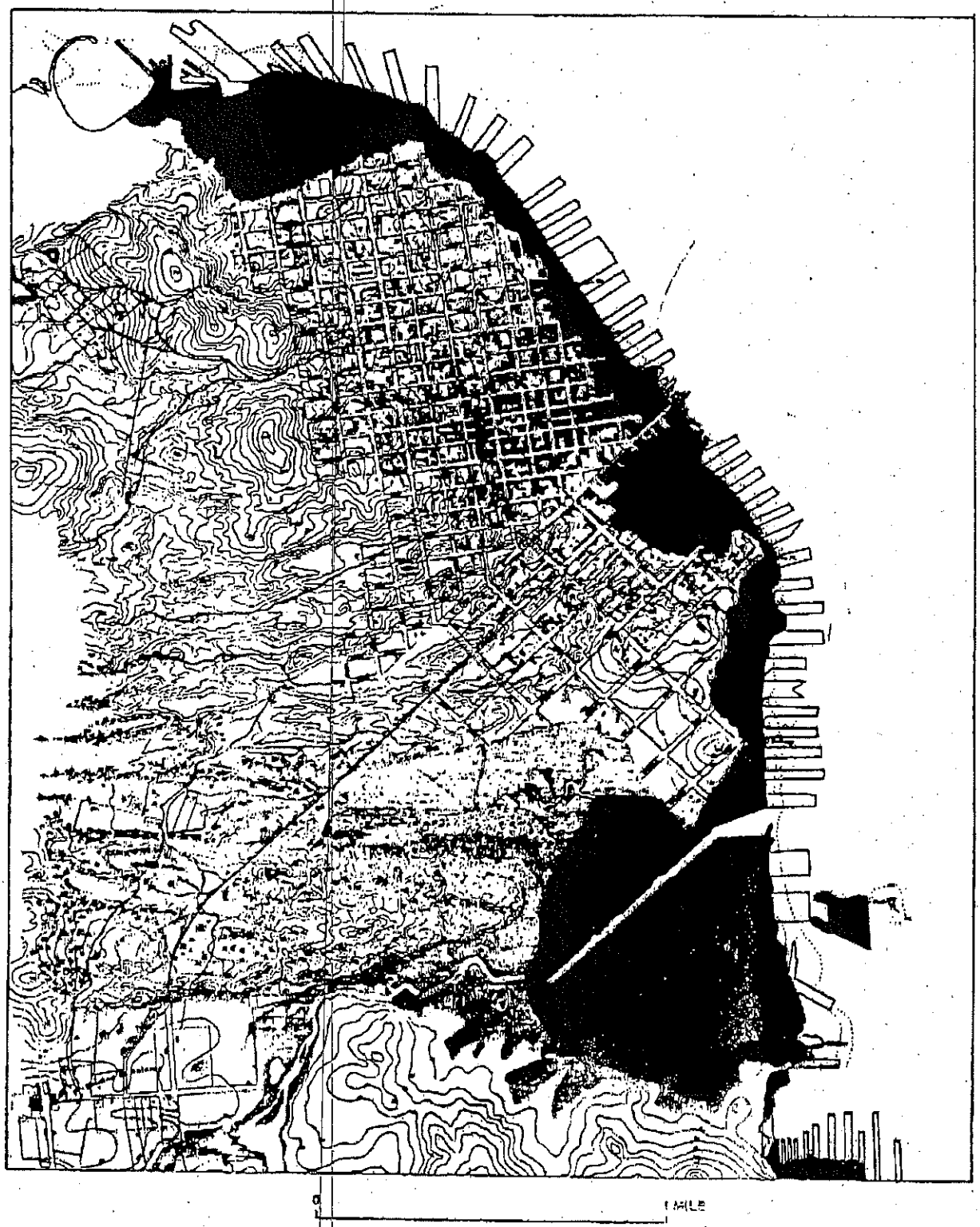
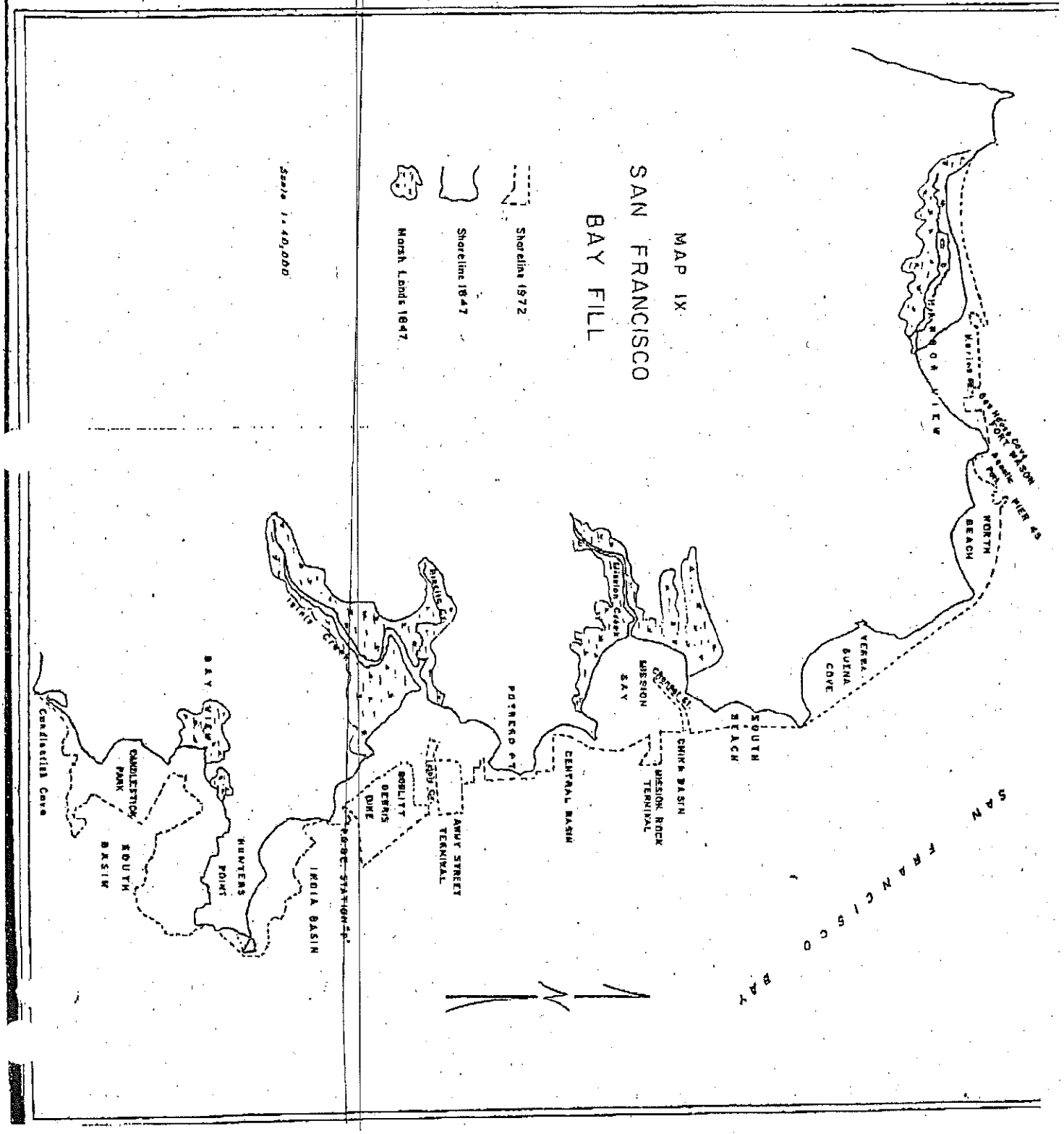


FIGURE 62.—Map showing shoreline of San Francisco in 1853, present shoreline, and areas formerly covered by water that are now artificially filled (shaded). Base modified from Chart 527, U.S. Coast and Geodetic Survey (formerly U.S. Coast Survey).

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