File No. 100861* Committee Item No. _____
Board Item No. 50

COMMITTEE/BOARD OF SUPERVISORS

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OTHER (Use back side if additional space is needed)

☐ ☐ Appeal of Certification of Final Environmental Impact Report for Candlestick Point-Hunters Point Shipyard Phase II Development Project

☐ ☐

☐ ☐

Completed by: Joy Lamug **Date** 07/08/10

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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BOARD OF SUPERVISORS
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June 21, 2010

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

Subject: Notice of Appeal of the Planning Commission **Motion No. 18096**
Adoption of the Certification Findings of a Final Environmental Impact Report for a Proposed Candlestick Point Hunters Point-Hunters Point Shipyard Phase II Development Plan.
Case No. 2007.0946E

Dear President Chiu and Supervisors,

POWER (People Organized to Win Employment Rights) is a multi-racial neighborhood based community organization of low-income families, workers and tenants in Bayview Hunters Point and the Mission districts of San Francisco. For over five years we have been engaged in environmental justice, neighborhood serving development and anti-displacement organizing in relation to the Bayview Redevelopment Area and the proposed development plans for the Shipyard and Candlestick Point.

POWER appeals the Certification of the Final Environmental Impact Report based on, among other things:

- the green house gas analysis does not comply with CEQA
- the failure to include an alternative that allowed for the clean-up of the Hunters Point Shipyard a standard of residential use/unrestricted use, as supported by the 87% of San Francisco voters according to Proposition P
- the failure to include an adequate remediation of the toxic contamination at parcel E-2
- the failure to adequately assess and mitigate for traffic impacts that could result from this project
- the failure to analyze and mitigate for displacement that would be triggered in the surrounding neighborhood by such a massive increase of market-rate housing in the area.
- the failure to provide for adequate oversight and enforcement of the terms of the Early Transfer Cooperative Agreement, Administrative Orders on Consent, and the RODs and Remedial Designs for each parcel on the Candlestick Point and HPS Phase II sites. This lack of adequate oversight and enforcement could result in exposure of humans and the environment to hazardous materials on the sites and potentially flawed remedies being implemented.
- the failure to adequately mitigate for a potential lack of adequate oversight of San Francisco Redevelopment Agency and Project Applicants contractors performing remedial activities in place of Navy contractors under the oversight of EPA

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- the failure to adequately analyze and mitigate for health risks related to chemicals of concern in concentrations above risk levels at the Hunters Point Shipyard
- the failure to evaluate and assess the *cumulative impacts* of exposure to human and ecological receptors and the environment as a result of exposure to hydrocarbons, volatile and semi-volatile organic compounds, PCBs, pesticides, heavy metals, asbestos and radionuclides
- the failure to adequately mitigate for exposure to toxins of construction workers engaged in redevelopment activities; of occupants in the redeveloped locations and sites,; and of school students, staff, teachers and visitors at Bret Harte Elementary School and Muhammad University of Islam elementary school while remedial activities are ongoing
- the failure to establish a mechanism for notification and education of community members and school students, teachers, staff and visitors occupying the property adjacent to the site about the proper precautions and procedures to avoid and reduce their exposure to hazardous materials from remedial and redevelopment activities ongoing at the site
- the failure to develop and provide for dissemination of information on institutional controls and exposure avoidance mechanisms for new occupants on the site, workers constructing development units on the site, and shoppers, workers and visitors at business units on the site. The redevelopment and utilization of the site while site remediation is still underway has the potential to expose members of the public to hazardous materials being remediated. In addition, even after the site remediation is complete, the site will still contain hazardous materials under the surface of the site. Individuals living, working and visiting the site must be aware of the situation and understand the requirements to prevent exposure to the hazardous materials remaining on the site.
- the failure to incorporate adequate toxic dust mitigation based on the ineffectiveness of the proposed measures in Phase I of this development. In the early transfer of Parcel A, the monitoring requirements established to protect human health during parcel A activities were not adequately complied with, oversight was lacking and the monitoring requirements fail to address the cumulative impacts of contaminants on the parcel A site. The monitoring required monitoring for asbestos in the dust particles in the air but did not require the monitoring of heavy metals in the dust particles. The same lack of evaluation and assessment of the cumulative impacts and oversight on the other parcels of HPS could lead to impacts on human health that the EIR failed to address.
- the reliance on institutional controls that are neither safe nor enforceable
- the failure to adequately mitigate for the impact of sea level rise according to the most current data which suggests a potential rise up to 5 meters at the development site
- the failure to assess and mitigate for the risks associated with potential liquefaction of contaminated landfill at the Hunters Point Shipyard in the event of an earthquake
- the absence of mitigation to address a pattern of regulatory failure related to the politically charged nature of this development
- the failure to prepare a joint EIR-EIS or to involve the appropriate federal agencies
- a misleading project description given how explicit the 49ers Football Team Owners have been that they prefer not be located at the Hunters Point Shipyard
- the failure to include analyze the environmental impacts of the proposed new heating and cooling facility
- the failure to adequately protect Historic Ohlone Sites that will be affected by the proposed development plan
- the failure to incorporate mitigation based on the poor environmental track record of the lead developer, the Lennar Corporation, across the country and here in San Francisco

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- CEQA required that Commissioner Michel Antonini be recused from voting on this project because he had pre-judged the project and publicly advocated inclusion of a football stadium. He could not impartially evaluate alternatives that did not include a stadium for the 49ers.

Appellants request that the Board now grant an appeal of the Certification of the Final Environmental Impact Report.

Respectfully,

Jaron Browne
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June 3, 2010

Ron Miguel, Commission President and Commissioners
Linda Avery, Planning Commission Secretary
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: The Inadequacy of the Candlestick Point Hunters Point Shipyard Phase II Development Plan Project - Comments and Responses Document (FEIR) **2007.0946E**

Dear President Miguel and Commissioners,

POWER (People Organized to Win Employment Rights) is a multi-racial neighborhood based community organization of low-income families, workers and tenants in Bayview Hunters Point and the Mission districts of San Francisco. For over five years we have been engaged in environmental justice, neighborhood serving development and anti-displacement organizing in relation to the Bayview Redevelopment Area and the proposed development plans for the Shipyard and Candlestick Point.

The Environmental Impact Report for the Candlestick Point Hunters Point Shipyard Phase II Development covers the largest development plan to ever come before the City and Country of San Francisco, spanning over 770 acres including San Francisco's only State Parkland and only EPA designated Federal Superfund Site. The numerous CEQA related environmental issues raised in this development plan are extremely complex and yet the speed at which the Commission and the community are being asked to review and approve the environmental review documents is at a record pace. Merely 60 days were given for commenting on the over 4000 page DEIR, a time period that coincided with the Thanksgiving and Christmas holidays, and only 21 days have been provided for comments on the nearly 3000 page Comments & Responses (FEIR).

Below you will find POWER's comments on the core inadequacies of the Final Environmental Impact Report.

1. FAILURE TO PREPARE A JOINT EIR-EIS OR INVOLVE THE APPROPRIATE FEDERAL AGENCIES

The FEIR acknowledges that the Navy is responsible for evaluating the impacts of the Hunters Point Shipyard Phase II Development in a supplemental analysis to its 2000 Final Environmental Impact Statement ("FEIS") for the original HPS Redevelopment Plan under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.* C&R 784. However, the FEIR contends that the Navy will proceed with its NEPA analysis independently from, and subsequent, to this CEQA process. *Id.* at 784-85. Such an approach is not consistent with the CEQA Guidelines, and has resulted in the FEIR's omission of crucial information about the level of contamination and ongoing remedial activities at the Hunters Point Shipyard currently being conducted by the Navy.

According to CEQA Guidelines Section 15222:

> If a lead agency finds that an EIS...for a project would not be prepared by the federal agency by the time when the lead agency will need to consider an EIR or negative declaration, the lead agency should try to prepare a combined EIR-EIS.... To avoid the need for the federal agency to prepare a separate document for the same project, the lead agency must involve the federal agency in the preparation of the joint document. This involvement is necessary because federal law generally prohibits a federal agency from using an EIR prepared by a state agency unless the federal agency was involved in the preparation of the document.

14 Cal. Code Reg. § 15222; *see also id.* § 15226 ("State and local agencies should cooperate with federal agencies to the fullest extent possible to reduce duplication between the [CEQA] and [NEPA]. Such cooperation should, to the fullest extent possible, include: (a) Joint planning processes, (b) Joint environmental research and studies, (c) Joint public hearings, (d) Joint environmental documents."). Here, the City and the Redevelopment Agency have made no showing of efforts to prepare a joint EIS/EIR for this project, to involve the Navy (and other federal agencies) in this process, or to coordinate planning, studies, or public hearings.

Rather, the FEIR simply states that "it was mutually agreed that it would be best to produce separate documents for several reasons," including the fact that the proposed project "encompassed more than the HPS Redevelopment Plan area," and that "the schedule considerations for both processes are different." C&R 784-85. However, such a rationale undermines the purposes of preparing a combined EIR-EIS and providing for state/federal coordination as required by the CEQA Guidelines. In particular, the FEIR includes no discussion of the potential environmental effects of the ongoing remedial activities now being conducted by the Navy, including soil excavation, transport, and operation of treatment systems, or the potential for contamination once any proposed remediation is completed.

Furthermore, the Navy is required by Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," to evaluate as part of its NEPA analysis whether any low income and minority populations will experience disproportionately high and adverse human health or environmental effects from the proposed action. Such an analysis is crucial given the project's location in the Bayview-Hunters Point community, but is not included as part of this FEIR.

2. THE INSTITUTIONAL CONTROLS ARE NEITHER ENFORCEABLE NOR SAFE.

Institutional controls are land use restrictions to limit the exposure of future landowners and/or users of a property to hazardous substances present on the property, insure the integrity of the remedial action, and limit exposure to contaminated soil and ground water by restricting specific land uses and activities[1].

[1] C&R – 105 Additionally, the Institutional Controls placed on areas with residual contaminants, as described in Section III.K.2, would require actions to maintain the protection to the environment and prevent human exposure.

Institutional control restrictions on Candlestick Point will be required due to "the ubiquitous nature of low levels of hazardous materials in Bay Fill that make it infeasible to remediate all of those materials."

Institutional controls are "expected to be imposed at most or all areas of HPS Phase II after remediation is complete." Institutional controls are required in areas where residual levels of hazardous materials remain on site after remediation.

The institutional controls for the Phase II Development include land use restrictions to prohibit the growing of vegetables or fruits in native soil for human consumption, Prohibit the use of ground water, and to restrict land disturbing activities, such as: excavation of soil, road construction and infrastructure, and demolition or removal of hardscape (cover or cap).

The FEIR does not address how these institutional controls will be enforceable with the thousands of new residents and visitors that would be in the development area. What mechanism is feasible to ensure that no one is growing fruits or vegetables or excavating soil in this massive residential, commercial and recreational development? The FEIR is inadequate in addressing this concern.

See the attached documents:

- Wilma Subra, Letter to the San Francisco Planning Environmental Review Department and Planning Commission, May 30, 2010
- Wilma Subra, Power Point Presentation, February 18, 2010

3. THE HEATING AND COOLING FACILITY IS NOT IN THE EIR AT ALL

The Sustainability Plan (pages 38 & 39) states the plan for a new Heating and Cooling facility included in the project. Is this new facility a power plant? What are the emission levels? What information has the commission or the community seen about this plan?

There is not mention of this new power plant anywhere in the EIR. If this facility is included in the Project Sustainability Plan, why is it not discussed or analyzed in the EIR?

4. SERIOUS CEQA RELATED CONCERNS RAISED BY NATIONALLY RENOWNED SCIENTIST WILMA SUBRA ARE NOT ADAQUATELY ADDRESSED IN THE EIR.

Scientist Wilma Subra received a MacArthur genius grant for her work in 1999, and is now one of the leading experts on the British Petroleum oil spill in the Gulf. Subra has served on several national committees that oversee the issues related to the Phase II Development Plan, including the National Commission on Superfund, 1993 to 1995, EPA Permit Reform Committee, 1997, EPA National Advisory Council for Environmental Policy and Technology (NACEPT), 1999 to 2005, Vice-Chair, and the EPA National Environmental Justice Advisory Council (NEJAC) Cumulative Risk/Impacts Work Group, 2003-2005.

Subra has raised serious concerns about the EIR's inadequacy in addressing the early transfer of the toxic Hunters Point Shipyard land, hazardous material use, Institutional Controls (ICs), schools within one-quarter mile of the project area, and cumulative impacts. In spite of Subra's extremely reputable status on the environmental issues raised in the DEIR, Subra's comments received a mere two paragraphs of response in the C&R document[2].

See the attached documents:

- Wilma Subra, Letter to the San Francisco Planning Environmental Review Department and Planning Commission, May 30, 2010
- Wilma A. Subra - Curriculum Vitae
- Martin, David S. "Environmental Warrior Takes on Industry" CNN May 25, 2010
- Wilma Subra, Power Point Presentation, February 18, 2010
- Board of Supervisors Lennar Firearm Resolution, April 20, 2010

5. THE HEALTH RISKS RELATED TO CHEMICALS OF CONCERN AT THE HUNTERS POINT SHIPYARD WERE NOT ADAQUATELY ADDRESSED TO MEET CEQA STANDARDS.

The DEIR and C&R have inadequately addressed the human health risks cancer and birth defects that Commissioners must be made aware of given the Chemicals of Concern, including non-radiological and radiological materials present in the subsurface at the Hunters Point Shipyard Phase II Development Area[3].

The issues of Chemicals of Concern (COCs) in the shipyard remain unresolved by this EIR. It is clear from al of the data available about the Shipyard that there is a serious health risk associated with the soil contamination at the shipyard. Cancer and other non-cancer risks remain at very high levels. The data available in the Remedial Investigation, Feasibility Studies and Records of Decision documents calculate risks based on the future uses outlined in the EIR but the also state that these uses could change. All health risks in the EIR should account for the risks for a possible future residential standard. Additionally, we need to more assurance from this EIR that the remediation goals will be met and surpassed. How will the testing be carried out to prove that remediation goals have been met?

See the attached documents:

- Parcels B & E2, Chemical of Concern Human Health Risk Assessment

[2] C&R – 995 Response to Letter 68: Technical Assistance Services for Communities (1/12/10)

[3] C&R 130–134 Non-Radiological Materials Present in the Subsurface at HPS Phase II & Radiological Materials Present in the Subsurface at HPS Phase II

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6. THE PLAN TO "COVER" TOXIC CONTAMINATION WITH DIRT OR PAVEMENT DOES NOT ADAQUATELY PROTECT HUMAN HEALTH IN ACCORD WITH CEQA STANDARDS

The FEIR acknowledges that toxic contaminants will be left in the soil at the Hunters Point Shipyard at concentrations above risk levels. The proposed remediation in most of the Shipyard is merely to cover this contaminated ground with soil, pavement, or concrete building foundations. On page 82, the C& R states that "[A]lthough residual chemicals may remain in soil after cleanup, the residual chemicals would be located under a physical barrier **(e.g., soil cover, pavement, concrete building foundation)** that prevents human exposure to these residual chemicals. It is also expected that federal and state regulatory agencies would allow a group of naturally occurring metals associated with fill material derived from native bedrock to remain under a final cover **in concentrations above risk levels**[4]."

Soil, pavement, and concrete building foundations are standard development components of any project where toxicity is not a risk. The EIR does adequately address how permeable soil and pavement protect public health from contaminated areas that have toxins above acceptable risk levels.

7. THE DUST MITIGATION PLAN IS A REPEAT OF THE FAILED PLAN FROM PARCEL A

The Comments and Response document, pages C&R 125-126, acknowledge the failure of the developer in Phase I of the development to comply with the Dust Mitigation Agreement[5]. The following paragraph lists the proposed mitigation for the Phase II development, which is a mirror of the exact same mitigation measures that were not successful in protecting community health during grading and construction activity during Phase I: operating particulate monitors and sampling air for asbestos as required; controlling traffic and limiting vehicle speeds to 15 mph; limiting construction

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[4] C&R -82 After completion of cleanup activities, chemicals present in concentrations below these cleanup levels would remain. Although residual chemicals may remain in soil after cleanup, the residual chemicals would be located under a physical barrier **(e.g., soil cover, pavement, concrete building foundation)** that prevents human exposure to these residual chemicals. It is also expected that federal and state regulatory agencies would allow a group of naturally occurring metals associated with fill material derived from native bedrock to remain under a final cover **in concentrations above risk levels**. In this scenario, the cover would limit exposure and protect humans from long-term health risks even if breaches in the cover temporarily occur. Operation and maintenance plans for these covers would be carried out to periodically monitor and repair any breaches. Breach of the cover would be required to be repaired so that no long-term health risk would occur. Therefore, even if ground rupture were to occur, contaminants and naturally occurring metals would not be released at levels presenting a concern to human or ecological health.

[5] C&R – 126 Applicants are required to implement specified dust control measures throughout the construction Project to meet SFDPH and BAAQMD standards. These measures may include any or all of the following, as needed at a particular site and for a particular activity: operating particulate monitors and sampling air for asbestos as required; controlling traffic and limiting vehicle speeds to 15 mph; limiting construction areas; sufficiently wetting ground surfaces to prevent visible dust emissions from crossing the property line; minimizing soil stockpiled; washing down equipment before moving on to a paved public road; covering, wetting and/or hydroseeding soil stockpiles; covering and limiting the amount of soil placed in trucks; installing dust curtains and windbreaks on windward and downwind sides of the property lines; cleaning all visible track out from paved public roads, and stabilizing disturbed areas following construction. The Project Applicant would be required to shutdown construction work based on wind, dust migration, or if dust is contained within the property boundary but not controlled after a specified number of minutes or if asbestos levels reach work-shutdown criteria which have been developed by BAAQMD. A hotline would be established for surrounding community members who may be potentially affected by Project-related dust and a contact person shall respond and take corrective action within 48 hours.

areas; sufficiently wetting ground surfaces to prevent visible dust emissions from crossing the property line; minimizing soil stockpiled; washing down equipment before moving on to a paved public road; covering, wetting and/or hydroseeding soil stockpiles; covering and limiting the amount of soil placed in trucks; installing dust curtains and windbreaks on windward and downwind sides of the property lines; cleaning all visible track out from paved public roads, and stabilizing disturbed areas following construction.

The community is already painfully aware that these mitigation agreements are not sufficient to protect community health, given the inadequacy of the enforcement mechanisms to ensure community protection.

The alternative of an Enclosed Remedial Activities Building (ERAB) that has been used and proven more effective at protecting community health was never considered in the FEIR.

See the attached documents:

- Technical Assistance Services for Communities. Contract No.: EP-W-07-059, TASC WA No.: R9-TASC-002, Technical Directive No.: R9-Hunters Point-12 Report by Dr. James Millette
- Micro Analytical Laboratories, Inc, MERCURY-WIPE, reports from a sample collected at 8 Navy Road, 195 Kiska, 178 Kiska Road 8/22/2007
- Micro Analytical Laboratories, Inc, METALS-CAM16, reports from a sample collected on a car outside at 8 Navy Road, 195 Kiska, 178 Kiska Road 8/22/2007

8. THE NATIONAL PATTERN OF REGULATORY FAILURE MUST BE TAKEN INTO ACCOUNT WITH A PROJECT SO POLITICALLY CHARGED.

The Candlestick Point Hunters Point Shipyard Phase II Development Final Environmental Impact Report (FEIR) responds to concerns about public health risks associated with an "early transfer" of the highly contaminated shipyard property before the clean up is complete, and the plan to develop over rather than fully clean the contaminated land with a heavy reliance on the role of regulatory agencies[6]. In Phase I of this Development Plan there is a well documented failure of regulatory agencies to taken necessary action to hold the developer accountable and protect public health when their actions are not in compliance with the mitigation agreements. Additionally, recent reports have been released

[6] C&R – 109 Potential environmental effects of the remedial activities (i.e., of soil excavation, soil transport, and operation of treatment systems) have been, and will continue to be, evaluated by the Navy and regulatory agencies in conjunction with the approval process for specific remedial actions, and appropriate environmental controls have been, and will continue to be, incorporated into the design and implementation of those remedial actions.
C&R – 126 Section III.K of the Draft EIR (on pages III.K-97 and III.K-98) also acknowledges significant community concern about the implementation of asbestos and dust control measures arising from the fact that during Phase I, the Project Applicant's former asbestos air monitoring contractor failed to ensure proper operation of the air monitoring stations for the first several months of grading activities in 2006 and could not validate the sampling results. As the Draft EIR indicates, after this problem was reported by the Project Applicant, the SFDPH, the BAAQMD, and independent experts from the UCSF, along with the federal Centers for Disease Control (CDC) and the CDC Agency for Toxic Substances and Disease Registry (ATSDR) reviewed the potential health risks from construction dust containing asbestos in HPS Phase I. The reviews concluded that there was no significant health risk created by the grading activities at the Shipyard.

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documenting a national pattern of regulatory agencies ignoring science in favor of politically motivated decisions.

Given this well documented pattern of ineffective regulatory oversight, the FEIR for a project with as serious health risks as those found of the radiologically contaminated federal superfund at the Hunters Point Shipyard must account a higher standard of community health protection.

See the attached documents:

- Kaplan, Sheila. Politics Daily. "EPA Staffers Were Forced to Ignore Science, Investigation Finds" April 29, 2010
- Record of statements by Susan Muza, Senior Regional Director, Agency for Toxic Substances and Disease Registry (ATSDR) Region 9
- Technical Assistance Services for Communities. Contract No.: EP-W-07-059, TASC WA No.: R9-TASC-002, Technical Directive No.: R9-Hunters Point-12 Report by Dr. James Millette
- Micro Analytical Laboratories, Inc, MERCURY-WIPE, reports from a sample collected at 8 Navy Road, 195 Kiska, 178 Kiska Road 8/22/2007
- Micro Analytical Laboratories, Inc, METALS-CAM16, reports from a sample collected on a car outside at 8 Navy Road, 195 Kiska, 178 Kiska Road 8/22/2007

9. THE PROJECT DESCRIPTION MISLEADS THE PUBLIC GIVEN HOW EXPLICIT THE 49ERS HAVE THAT THEY PREFER NOT TO BE LOCATED AT THE HUNTERS POINT SHIPYARD IN SAN FRANCISCO

Under CEQA the project description is set and cannot shift. In the 49ers have made it clear that they are pursuing and prefer other options. By including the stadium the entire EIR document misleads the public about the project because it suggests that a new stadium is coming into the community when it is clear that that is not going to be the case[7].

See the attached documents:

- "Millions Pouring Into Santa Clara Vote Over 49ers Proposed Stadium" http://www.allheadlinenews.com/articles/7018847242
- "Purdy: 49ers' future in Santa Clara voters' hands" < http://www.mercurynews.com/breaking-

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[7] C&R – 6 A refinement of Variant 2 (Housing Variant)—Variant 2A (Housing/R&D Variant)—has been identified that would allow for additional R&D uses on the stadium site, along with housing, in the event the 49ers do not choose to develop a stadium in the HPS Phase II area.
C&R – 62 The second transportation function of the Yosemite Slough Bridge is to accommodate vehicular traffic demands associated with the proposed new NFL stadium. Despite the Project's goals of increasing transit, walking, and bicycling as primary access modes to the stadium, a substantial number of patrons will continue to arrive via automobile. Based on recent stadium projects across the country and conversations with the NFL, a parking lot clearance time of approximately one hour or less for a typical game is required. Failure to provide adequate clearance time immediately following games is unlikely to be acceptable to the NFL or to the San Francisco 49ers, and could substantially impede or eliminate the stadium alternative, **a major goal of the City**.
C&R -66 Based on information from the team, 49ers patrons have consistently expressed a desire for additional transit service on game days. The Yosemite Slough bridge is a necessary component of delivering this service as it provides direct connections to the Bayshore Caltrain Station, Balboa Park BART Station, the T-Third light-rail line, and to other destinations served along the Geneva Avenue Rapid Network.

news/ci_15190920?source=rss&nclick_check=1>

- "Suitors lined up if San Francisco 49ers big bet on stadium in Santa Clara fails"<http://www.contracostatimes.com/news/ci_15199459?source=email>

10. THE LEAD DEVELOPER, LENNAR, HAS A POOR ENVIRONMENTAL TRACK RECORD ALL ACROSS THE COUNTRY. A HIGHER STANDARD MUST BE APPLIED TO INSURE COMMUNITY HEALTH.

There is a Disposition and Development Agreement (DDA) between the San Francisco Redevelopment Agency and the Lennar Corporation as the lead developer for the Phase II Candlestick Point Hunters Point Shipyard Development Area. The Phase II Development EIR is directly connected to this DDA and the lead developer[8].

The Bayview Hunters Point community has found itself battered by violations at the hands of Lennar. In 2008, Lennar was fined $515,000 by the Bay Area Air Quality Management District for violating the Dust Mitigation Agreement at the Hunters Point Shipyard, the largest fine in California to be levied in this context. Last month, the San Francisco Board of Supervisors passed a resolution demanding that Lennar issue an apology and cease all acts of intimidation against activist groups calling for a full clean up of the Shipyard. In this incident, Lennar sent an undercover operative with a loaded weapon into a community meeting where Wilma Subra was presenting about the environmental concerns involved in the EIR.

Additionally, the Lennar Corporation is facing lawsuits in Texas, Florida, Arizona, and San Diego California where the developer has built on toxic land. In Orlando, Florida Lennar built homes on top of a World War II bombing range. People began to find undetonated bombs underneath their homes, including a 23-pound fragment bomb. The City of Orlando called for a forced evacuation of surrounding homes and a day care center. http://www.searchhutto.com/huttoparke/Orlandobomb2.html

In Hutto Park, Texas Lennar sold people "defective homes" that fell apart. The foundatins of the homes were built using expansive clay that began to crack apart. "It was the most stressful, harrowing ordeal I've gone through," said one homeowner. Lennar claimed it was not responsible, though the problem affected every home in the development. The homeowners are continuing to fight Lennar to this day.
http://www.searchhutto.com/huttoparke/Hutto_clay.html

The San Diego Ethics Commission is currently indicting former Centre City Development Corp. president Nancy Graham over conflict-of-interest issues in relationship to her financial relationship with the Lennar Corporation. The investigation began a year ago, shortly after Graham resigned from the nonprofit city agency amid criticism over undisclosed business ties to developers Related Cos. and Lennar Corp. Both had business before the agency. The probe focuses on her relationship with

[8] C&R – 1 Lennar Urban filed an Environmental Evaluation application (EE application) with the Planning Department on August 27, 2007. The filing of the EE application initiated the environmental review process.

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Lennar, which was one of several developers trying to build a 1,929-room Marriott hotel at Ballpark Village, just east of Petco Park. Lennar eventually pulled out of the project. http://www3.signonsandiego.com/stories/2009/aug/13/bn14ethics223958/

Over eleven years ago, Lennar was given 650 acres of former Naval Base land at Mare Island for $1. Lennar promised to build 1400 housing units and create jobs. To this date, Lennar has not built any significant housing at Mare Island. In 2008, Lennar Mare Island LLC filed bankruptcy. Lennar's bankruptcy strained Vallejo's already strained finances and the city itself was forced to file bankruptcy later that year. Lennar was filing Bankruptcy in Vallejo at the same time that they were spending $5 million in San Francisco to sell Prop G to voters.

The neighborhood of Bayview Hunters Point should not be made to sacrifice health for development. The development opportunities that exist in this project area and throughout the neighborhood are immense, particularly given the Redevelopment Tax Increment financing available for the neighborhood. The Final Environmental Impact Report that before the Planning Commission is woefully inadequate and presents serious community health risks.

POWER urges Commissioners to reject the Final Environmental Impact Report for the Phase II Development. San Francisco has tremendous opportunities for environmentally accountable development if the Commission rejects this inadequate FEIR and reopens the possibility for CEQA accountable development.

Thank you for your consideration of our concerns.

Respectfully,

Jaron Browne
Lead Organizer
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June 3, 2010

Ron Miguel, Commission President and Commissioners
Linda Avery, Planning Commission Secretary
Ron Miguel, Commission President and Commissioners
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: The Inadequacy of the Candlestick Point Hunters Point Shipyard Phase II Development Plan Project - Comments and Responses Document (FEIR) **2007.0946E**

Dear President Miguel and Commissioners,

POWER and GreenAction for Health and Environmental Justice are together submitting the following comments about the Greenhouse Gas Analysis in the Phase II Candlestick Point Hunters Point Shipyard Final Environmental Impact Report.

The Greenhouse Gas Analysis Does Not Comply With CEQA.

The EIR is fundamentally flawed because it finds that the Project's **new** annual emissions of 154,639 tons of carbon dioxide equivalent ("CO2e" or greenhouse gases ("GHG")) and the additional 105,587 tons of CO2e in construction emissions are not a significant cumulative impact. (EIR at III.S-39.) Although the EIR contains a long discussion of the regulatory framework for greenhouses gases, it makes no attempt to assess whether the **total amount** of projected greenhouse gas emissions is a significant cumulative impact.[1] As a result, the EIR fails to properly analyze cumulative effects of the greenhouse gas emissions, fails to evaluate all feasible mitigations of the greenhouse gas emissions and fails to consider alternatives that would result in the emission of less greenhouse gas. These failures are illegal under the California Environmental Quality Act ("CEQA") and defeat the very purpose of CEQA of informing policy makers and the public about the environmental consequences of the project.[2]

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[1] In the analogous NEPA context, the Ninth Circuit determined that "[t]he impact of greenhouse gases on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct." (*Center for Biological Diversity v. National Highway Traffic Safety Administration*, 538 F.3d 1172, 1217 (9th Cir. 2008) (concluding that Environmental Assessment is inadequate where expected greenhouse gases are quantified but their incremental impact is not evaluated).)

[2] *See, e.g., Woodward Park Homeowners Ass'n, Inc. v. City of Fresno*, (2007) 150 Cal.App.4th 683, 691 (CEQA's purpose is to "inform the public and decisionmakers of the environmental consequences of agency decisions before they are made").

Ironically, the California Air Pollution Control Officers Association ("CAPCOA") report cited by the EIR (EIR at III.S-1 fn. 1107, III.S-26 fn. 1155) supports a finding of significance. For example, it discusses different numerical significance thresholds for GHGs under each of which this Project would be considered significant.[3] The report explains that "CEQA is generally used to slow or zero the impact of new emissions, leaving the reduction of existing emission sources to be addressed by other regulatory means."[4] If this Project, the largest development in San Francisco's recent history, does not rise to the level of a significant cumulative impact, then approval of the Project may set a precedent of exempting all large-scale development in San Francisco from a finding of significance for greenhouse gas emissions.

This is a dangerous result given the enormity of the environmental problem facing all of us. Global warming is already occurring, and it is caused by human activity that causes emissions of greenhouse gases.[5] With each passing day, the urgency of making immediate greenhouse gas reductions becomes greater. The scientific evidence and projections continue to reveal that the effects of global warming are occurring at rates faster than previously predicted.[6] The global climate is on the verge of catastrophic tipping points that could irreversibly affect the climate.[7] The U.S.EPA recently made an official finding that emissions of greenhouse gases are endangering people's health.[8] Similarly, a report from the California Climate Change Center states "[b]ecause most global warming emissions remain in the atmosphere for decades or centuries, the choices we make today greatly influence the climate our children and grandchildren inherit. The quality of life they experience will depend on if and how rapidly California and the rest of the world reduce these emissions."[9]

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[3] CAPCOA, 2008, "CEQA and Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act," at 49.

[4] Id. at 32.

[5] "Climate Change 2007: The Physical Science Basis, Summary for Policy Makers" (Fourth Assessment Report of the IPCC, February 2007).

[6] David Adam, "World CO2 levels at record high, scientists warn," guardian.co.uk (May 12, 2008) *at* http://www.guardian.co.uk/environment/2008/may/12/climatechange.carbonemissions (last visited July 8, 2008).; CNN World News, *North Pole Could Be Ice-Free This Summer, Scientists Say* (June 27, 2008), *at* *http://www.cnn.com/2008/WORLD/weather/06/27/north.pole.melting/* (last visited July 8, 2008).

[7] James Hansen, "Tipping Point: Perspective of a Climatologist," *in State of the Wild 2008-2009; A Global Portrait of Wildlife, Wildlands, and Oceans*, Wildlife Conservation Society (Kent Redford, Eva Fearn eds., April 2008). *See also* Bill McKibben, "Civilization's last chance," L.A. Times (May 11, 2008) *at* http://www.latimes.com/news/printedition/opinion/la-op-mckibben11-2008may11,0,2392815.story (last visited July 8, 2008).

[8] http://www.epa.gov/climatechange/endangerment.html> (as of April 26, 2010). 74 Fed Reg 66496 (Dec. 15, 2009) *See also* Cal. Health and Safety Code § 38501(a) ("Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems").

[9] California Climate Change Center, "Our Changing Climate Assessing the Risks to California" (July 2006) CEC-500-2006-077 at 2, available at http://www.climatechange.ca.gov/publications/biennial_reports/index.html.

Scientists, including NASA's James Hansen, believe that we have already exceeded a sustainable level of greenhouses gases in our atmosphere and that stabilization requires a reduction from current levels.[10] A paper by Matthews and Caldeira argues that in order to stabilize atmospheric levels of greenhouse gases, CO2 emissions must be reduced to "nearly zero" by mid-century.[11] Certainly these conclusions should come as no surprise given the accelerating impacts of global warming that we are already seeing. The EIR should have adopted a net emissions standard of zero or some other defensible number, if one exists, based on substantial evidence, and then assessed whether the new emissions of the Project would be cumulatively significant.

The Planning Commission and Redevelopment Agency need to openly face the fact that a decision to approve the project based on this defective analysis will provide the City's seal of approval on a project that will contribute to global warming. In a draft proposal for a statewide greenhouse gas threshold, the California Air Resources Board staff summarizes the legal effect of adding additional greenhouse gases to the atmosphere:

> There is a scientific consensus that human activities, chief among them the burning of fossil fuels, profoundly affect the world's climate by increasing the atmospheric concentration of GHG beyond natural levels. Contributing additional GHG pollution to the atmosphere leads to higher global average temperatures, changes to climate, and adverse environmental impacts here in California and around the world. Climate change, caused by 'collectively significant projects taking place over a period of time,' is a quintessential cumulative impact.[12]

Based on the current science, the EIR should have found that the greenhouse gas emissions were a significant cumulative impact.

Contrary to the EIR's claims, projects like this that increase greenhouse gas emissions make it more difficult for the State to combat warming and achieve reductions required by Assembly Bill 32, the California Global Warming Solutions Act of 2006, codified at Health and Safety Code Section 38500, et seq. ('AB32'). The Scoping Plan, a statewide program to implement AB32, requires the elimination of 42 million metric tons of CO2e from 2002-2004 average emissions by 2020.[13] Not only will the Project's addition of greenhouse gases to the atmosphere adversely effect the State's ability to comply with AB32, it will also adversely affect the City's own efforts to reduce greenhouse gas emission levels to 1990 levels. It is obvious that

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[10] *See* Hansen, J. *et al.*, Target Atmospheric CO2: Where should Humanity Aim? (April 2008) available at http://arxiv.org/ftp/arxiv/papers/0804/0804.1126.pdf.

[11] Matthews, H.D., and Caldeira, K. "Stabilizing climate requires near-zero emissions," 35 Geophys. Res. Letters L04705 (2008)

[12] "Preliminary Draft Staff Proposal Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases under the California Environmental Quality Act," California Air Resources Board (Oct. 24, 2008) at 3 (citing the IPCC 4th Assessment Report, Working Group II, Summary for Policymakers, Figure 2 and 14 Cal. Code Regs. ("CEQA Guidelines") § 15355(b)).

[13] California Air Resources Board Scoping Plan (2008) at 12.

adding emissions hinders the City's goals of reducing overall greenhouse gas emissions by 2.5 million tons by 2012. (EIR at III.S-17.) Yet, in its defense of the projected emissions, the EIR makes an argument that this Project's new emissions are consistent with both the required reductions of AB32 and the City's Climate Action Plan.

The EIR uses the wrong frame of reference for analyzing the effects on global warming of the greenhouse gas emissions from the project. The EIR compares the Project's emissions to Bay Area and statewide emission totals, and concludes that in relation to those emissions the Project's emissions are very small. This is inappropriate because the EIR fails to consider the incremental contribution of the Project's greenhouse gas emissions.[14] In addition, the EIR improperly analyzes the environmental effects in relation to a business as usual scenario. (EIR at III.S-38- III.S-39.) This is another fundamental flaw, because the EIR must use the existing environment as the baseline and then determine from that baseline if the project causes significant environmental effects.[15] The California Supreme Court recently explained that "[a]n approach using hypothetical allowable conditions as the baseline results in illusory comparisons that can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts, a result at direct odds with CEQA's intent."[16]

The EIR's reliance on the theory that the Project will be more efficient than other development and will, therefore, not result in a cumulative environmental effect strains credulity and is contrary to CEQA. This proposition has already been rejected under analogous circumstances. In *Center for Biological Diversity v. City of Desert Hot Springs*, RIC 464585, Riv. Sup. Ct. (Aug. 8, 2008), the trial court rejected an EIR's assertion that a residential and commercial development would have a "beneficial impact on CO2 emissions" because California homes are more efficient than those elsewhere in the country, absent any showing that existing homes would be demolished or remain unoccupied.[17] Similarly, since this new large-scale development will create a large amount of new emissions, the staff must assess whether the emissions from the Project are cumulatively significant.[18]

While the Project may be more efficient than previous developments, significant quantities of emissions are still generated that could be further reduced through the adoption of alternatives and mitigation measures. Because significant greenhouse gas emission reductions from existing levels are necessary to stabilize the climate, we cannot afford to squander any

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[14] *See Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120 (to make a significance finding, the EIR must determine whether proposed Project's *incremental contribution* is cumulatively considerable in light of the existing environment).

[15] See *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 321 ("the baseline for CEQA analysis must be the existing physical conditions in the affected area that is, the real conditions on the ground, rather than the level of development or activity that *could* or *should* have been present according to a plan or regulation") (quotations and citations omitted).

[16] *Id.* at 322 (quotation omitted).

[17] *See* attached decision.

[18] *See, e.g., Center for Biological Diversity v. NHTSA*, 538 F.3d 1172, 1216 (9th Cir. 2008) (noting that new fuel economy rule "will not actually result in a decrease in carbon emissions, but potentially only a decrease in the rate of growth of carbon emissions").

opportunity to adopt feasible mitigation and alternatives that reduce the greenhouse gas emissions from proposed projects. The failure to make a finding of significance improperly cuts off any analysis of project alternatives and mitigation measures.[19]

The EIR dismissal of the effect of the Project's greenhouse gas emissions not only makes for extremely dangerous public policy, but is also legally inadequate under the California Environmental Quality Act. It is essential that the City make a clear significance finding, because the significance finding triggers the obligation under CEQA to identify mitigation measures to reduce or mitigate the increase in greenhouse gas emissions form the Project.[20] The City cannot approve a project that causes significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects.[21]

The EIR makes the unsubstantiated claim that the Project's emissions of greenhouse gases will be less than significant with mitigation. (EIR at III.S-36.) Yet, the EIR cursorily lists only four mitigation measures (EIR at III.S-36.), and fails to analyze the amount of emission reductions that will occur from these measures and whether these mitigations will reduce the emissions to less than significant. This very approach was recently rejected in *Communities for a Better Environment et al. v. City of Richmond* (2010) 184 Cal.App.4th 70, 108 Cal.Rptr.3d 478, 493-98. The court explained that it was especially important to provide "complete and relevant" information about greenhouse gas mitigation measures.[22] Here, the EIR does not consider all feasible mitigation measures.[23] For example, it does not consider whether the use of alternative energy, such as solar, would reduce the Project's greenhouse gas emissions. In addition, the EIR fails to consider a range of alternatives to zero the new emissions or even significantly lessen them.

This is no ordinary project in a world increasingly facing the dire consequences of global warming. The Planning Commission and Redevelopment Agency should send the EIR the back to City staff to assess whether the Project's emissions of greenhouse gases are a significant cumulative environmental impact and to consider all feasible mitigation measures and assess alternatives to any impact.

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[19] *See Laurel Heights Imp. Ass'n of San Francisco, Inc. v. Regents of University of California*, 47 Cal.3d 376, 403 (1988) ("[A]n environmental impact report must include a meaningful discussion of both project alternatives *and* mitigation measures").

[20] *Communities for a Better Environment et al. v. City of Richmond* (2010) 184 Cal.App.4th 70, 108 Cal.Rptr.3d 478, 493-94.

[21] Pub. Res. Code § 31801; *see also Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134.

[22] *CBE v. City of Richmond*, 108 Cal.Rptr.3d at 498.

[23] The California Attorney General has compiled a list of greenhouse gas mitigation measures that could have been assessed in the EIR. *See* California Attorney General, Fact Sheet: Addressing Climate Change at the Project Level California Attorney General Office (Rev. 1/6/2010), available at http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf.

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POWER

Thank you for your consideration of our concerns.

Respectfully,

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June 2, 2010

Ron Miguel, President
Planning Commission
1650 Mission Street 4th floor
San Francisco CA 94103

RE: 2007.0946 Candlestick Point - Hunters Point Shipyard Phase 2
Hearing June 3, 2010

Dear President Miguel:

The following organizations hereby challenge the ability of Commissioner Michael Antonini to render an impartial decision on actions related to the proposed Candlestick Point-Hunters Point Shipyard Phase 2 project ("the project"). Because of significant adverse impacts from the project, which includes as a main component construction of a new football stadium for the San Francisco 49ers, this includes a SPECIFIC challenge to Commissioner Antonini's ability to render an impartial decision on the Certification of the Final Environmental Impact Report (item 1) and Adoption of environmental findings and a statement of overriding considerations (item 2). This challenge is made by:

Arthur Feinstein, Sierra Club, San Francisco Group
Mike Lynes, Golden Gate Audubon Society
Jennifer Clary, San Francisco Tomorrow
Jaron Browne, People Organized to Win Employment Rights (POWER)

That challenge was previously set out in DEIR comments submitted on December 21, 2009 (Vol VII, Comment Letter #9, C&R-221) and on January 12, 2010 (Vol. VIII, Comment Letter #50, C&R-825). This letter hereby restates that challenge.

Commissioner Antonini has clearly prejudged the proposed project and become a strong advocate for locating a football stadium for the 49ers at the Hunters Point site as part of THIS project. He has publicly urged others to support that stadium and cannot impartially review the record before him to determine whether the EIR is adequate, accurate and objective and whether adequate measures are required to protect the environment. Commissioner Antonini signed an op-ed article supporting construction of the stadium as part of the project AS PLANNING COMMISSIONER FOR THE CITY AND COUNTY OF SAN FRANCISCO. (He could have chosen to sign it as a Member of the Republican County Central Committee, but instead identified himself in the capacity where the law requires him to act impartially - as a Planning Commissioner.)

Project Advocacy by Commissioner Antonini

The Planning Commission's sole hearing on the Draft Environmental Impact Report for the project was on December 17, 2009. Before the Commission heard one word of public testimony on the adequacy of that EIR, Mr. Antonini had drafted and submitted an op-ed article to the San Francisco Business Times urging the business community to support construction of that stadium. That article ran the morning after the hearing on the DEIR. It is in the Project EIR at Comments and Responses Vol. VII, Comment 9, C&R 221. A copy of the text is also attached as Exhibit A to this letter.

CEQA requires objective decision-makers

CEQA policies include -

An EIR should demonstrate to an apprehensive citizenry that the agency has, *in fact*, analyzed and considered the ecological implications of its actions. (People ex rel. Department of Public Works v. Bosio, 47 Cal.App.3d 495.) The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (Bozung v. LAFCO, 13 Cal 3d 263) **CEQA Regs 15003.**

Obligation of Commissioners to review an EIR - Decision-makers SHALL consider a final EIR before granting any approval of a project. **CEQA Regs 15004.**

Obligation to avoid environmental damage - CEQA establishes a DUTY for public agencies to avoid or minimize environmental damage where feasible. A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the proposed project would have on the environment. **CEQA Regs 15021.**

Procedural due process requires that a hearing be conducted before a reasonably imparial, non-involved reviewer. Nasha L.L.C. v City of Los Angeles (2004) 125 CA4th 470, 483. It demands an appearance of fairness and the absence of even a probability of outside influence on the adjudication. Nightlife Partners Ltd. V City of Beverly Hills (2003) 108 CA4th 81, 90.

Yosemite Slough bridge and proposed football stadium at Hunter Point Shipyard

The project analyzed in the EIR includes a football stadium at the Hunters Point Shipyard and a bridge across Yosemite Slough that has as a central purpose carrying substantial auto traffic to serve that stadium. Many public comments, including those by challenging organizations, questioned the environmental impacts of that bridge, asked for alternatives that removed the bridge from the Plan and/or that the stadium construction be eliminated from the plan because the 49ers are working to build a new stadium in Santa Clara. The Responses to Comments have grossly insufficient responses to

these issues. Those responses are being challenged by complainants and many other who commented. This will be a main issue raised at the June 3 hearing. The sufficiency of the Responses and whether modifications are required to avoid environmental harm by removing the bridge over Yosemite Slough are key issues on which Commissioners will have to consider and decide.

The project before the Commission is extremely complex and has a massive record, including an environmental record nearly 9,000 pages long. The public is entitled to review by Commissioners who approach their decisions with an open mind so that the public may receive a fair hearing. Under Code of Civil Procedure 1094.5 agency decision makers are bound to exercise their powers with disinterested skill, zeal and diligence for the benefit of the public. A Commissioner should not be so biased in favor of the project that he cannot meet his obligation to weigh the adverse impacts of the project to determine whether another alternative or modifications that do not involve Yosemite Slough would cause less environmental harm.

Here Commissioner Antonini does not merely have a PRIVATE position supporting construction of the stadium and the bridge through the slough, he has publicly solicited members of the business community to JOIN HIM IN DOING SO. That advocacy was compounded by his argument in EIR comments that the bridge over Yosemite Slough should be EXPANDED - both in terms of hours of usage, but also in widening the approach to the Yosemite Slough bridge - to better serve the stadium. (C&R Vol. VII, Comment 33, C&R 57)

The impacts of that bridge are controversial as to the impacts on wildlife, on special aquatic sites (mud flats and wetlands) and on the health of the Bay. The focus of a Commissioner in reviewing the EIR is supposed to be AVOIDING environmental harm NOT expanding that harm.

Planning Commission hearing on the EIR was one week before Christmas and the deadline fore written comments was set o be December 28, the Monday after the Christmas holiday. When multiple public requests were made to extend comments a few weeks because of difficulty preparing testimony on such a complex DEIR, Commissioner Antonini UNIQUELY wanted to REDUCE the comment period.

Questions challenging Commissioner Antonini's ability to impartially review this project and its EIR were raised early in POWER's submission of a copy of the Business Times article (C&R p. 819). POWER stated that he has prejudged the project and its EIR and was an advocate for the project which includes a football stadium and could not impartially evaluate alternatives which do not include a football stadium.

The public and the environment are entitled to have decisions made by persons who evaluate the environmental document BEFORE making their decision on the merits of a project. Whether an alternative is environmentally preferable. Whether modifications should be made to the project to avoid harm. Whether proposed mitigations are sufficient.

The public will not get an impartial hearing that meets the standards of CEQA for decision-makers, nor one which meets standards under CCP 1094.5 if Commissioner Antonini is permitted to participate in Planning Commission decisions determining the adequacy, accuracy and objectivity of the EIR, of CEQA Findings and on the project itself.

CEQA requires that Commissioner Michael Antonini be recused from voting on this project.

Respectfully submitted,

Sue C. Hestor
on behalf of Sierra Club, San Francisco Group
Golden Gate Audubon Society
San Francisco Tomorrow
People Organized to Win Employment Rights (POWER)

Attachment SF Business Times op ed, December 18, 2009

Cc: Commissioner Michael Antonini
Linda Avery, Commission Secretary
John Rahaim, Planning Director
Kate Stacy, Deputy City Attorney
Members of the Planning Commission
Christina Olague
Gwyneth Borden
Bill Lee
Kathrin Moore
Bill Sugaya
Mayor Gavin Newsom
Arthur Feinstein. Sierra Club, San Francisco Group
Mike Lynes, Golden Gate Audubon Society
Jennifer Clary, San Francisco Tomorrow
Jaron Browne, People Organized to Win Employment Rights

Technical Assistance Services for Communities
Contract No.: EP-W-07-059
TASC WA No.: TASC-2-R9
Technical Directive No.: TASC-2-Region 9 Bay View Hunters Point-14

Comments on Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project Draft Environmental Impact Report

January 12, 2010

The following are comments prepared after a review of the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project Draft Environmental Impact Report, primarily Section III.K. Hazards and Hazardous Materials.

Early Transfer

The Navy is proposing to transfer ownership and control of the property at Hunters Point Shipyard (HPS) Phase II portion to the San Francisco Redevelopment Agency on an early transfer basis before remedial activities are completed. The San Francisco Redevelopment Agency can then transfer the remedial obligations to Project Applicants. This will ultimately result in construction of the proposed redevelopment and occupancy of redevelopment structures and units while remediation activities are still ongoing at HPS Phase II.

The San Francisco Redevelopment Agency would be responsible for remedial activities from the time of transfer under the terms of the Early Transfer Cooperative Agreement. If the San Francisco Redevelopment Agency transfers ownership to a Project Applicant, the Project Applicant would then be responsible for the remaining remediation under an Administrative Order on Consent.

The early transfer of property in HPS Phase II requires that prior to transfer of the property that is not completely remediated, the Navy must "insure that the property is suitable for the intended use and consistent with protection of human health and the environment." In addition, the Navy has to complete all radiological cleanup activities on each parcel in HPS Phase II and obtain approved Record of Decisions (RODs) for each parcel prior to transfer. Responsibility for remedial work not performed prior to the transfer would become the responsibility of the San Francisco Redevelopment Agency and/or Project Applicant. Navy funds would be provided to complete the Navy's remediation obligations. The Navy retains ultimate responsibility for the site remediation.

Radiological cleanup activities are ongoing at a number of parcels of HPS Phase II. Site investigations and ecological assessments are ongoing at a number of parcels in HPS Phase II.

Parcel B had an amended ROD finalized in February 2009. The draft ROD for parcels C and UC-2 were to be issued in December 2009 and the final RODs are proposed to be signed within 2010.

The ROD for parcel D (D-1, D-2, G and UC-1) was issued in 2009. The draft Proposed Plan and draft ROD for parcels E and E2 are expected in the 2010-2011 time frame. Parcel F is anticipated to have a draft Proposed Plan and draft ROD issued in 2012 or 2013. On page III.K-81, the text states that the RODs are expected to be final for all parcels of HPS Phase II by summer 2012. This does not agree with the text for parcel F (page III.K-26) which indicates a draft ROD is anticipated to be issued in 2012 or 2013. This time frame for the draft ROD, not the final ROD is based on information from the California Department of Toxic Substances Control (DTSC) data from Hunters Point Naval Shipyard Parcel F and is later than the date presented on page III.K-81.

If the parcels are transferred immediately after the RODs are finalized, then the San Francisco Redevelopment Agency and/or Project Applicant will be responsible for developing the Remedial Design document, having the document reviewed and approved, and conducting the Remedial Actions required in the ROD. The remedial work could be extensive on each parcel. The remedial work being conducted by contractors of the San Francisco Redevelopment Agency and the Project Applicant will be occurring at the same time and in close proximity to redevelopment work being performed by contractors of the San Francisco Redevelopment Agency and Project Applicant. The potential exist to contaminate on-site workers constructing redevelopment units, on-site occupants of the redevelopment units and school students, teachers, staff and visitors at adjacent elementary schools. In addition, U.S. Environmental Protection Agency (EPA) oversight of remedial actions being performed by contractors for the San Francisco Redevelopment Agency and Project Applicants will require additional agency resources and could result in less oversight than is currently occurring with the Navy being responsible for the remedial actions.

Areas of Concern With Early Transfer

1. Exposure of construction workers engaged in redevelopment activities.

2. Exposure of occupants in the redeveloped locations and sites.

3. Exposure to school students, staff, teachers and visitors at Bret Harte Elementary School and Muhammad University of Islam elementary school while remedial activities are ongoing.

4. Potential lack of adequate oversight of San Francisco Redevelopment Agency and Project Applicants contractors performing remedial activities in place of Navy contractors under the oversight of EPA. This could lead to multiple entities with multiple contractors performing remedial activities that could lead to fragmented oversight and result in inadequate remedial activities and potential environmental and human health exposures.

Hazardous Materials Use

The text indicates that hazardous materials, their "use, storage and disposal, are subject to numerous laws and regulations. In most cases, the laws and regulations pertaining to hazardous materials management are sufficient to minimize risks to human health and the environment,

except where site-specific conditions warrant additional considerations." In the situations referred to as "most cases" there is a lack of requirements for adequate oversight and enforcement of the laws and regulations. In the situations referred to as "site-specific conditions" warranting additional considerations, the issues of oversight and enforcement are also lacking. The lack of enforcement of the laws and regulations can result in substantial impacts to human health and the environment. In the case of Hunters Point Shipyard, the issues associated with enforcement are critical to the protection of human health and the environment.

Hazardous Contaminants

According to the Environmental Impact Report "chemicals and radioactive materials are present in soil and groundwater in various locations throughout Hunters Point Shipyard Phase II at levels that require remediation." The chemicals contaminating Hunters Point Shipyard Phase II consist of radionuclides, volatile organic compounds (VOC; benzene, carbon tetrachloride, chloroform, naphthalene, tetrachloroethane and others), semi-volatile organic compounds, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, polychlorinated biphenyls (PCBs), pesticides, heavy metals (arsenic, beryllium, chromium, chromium VI, lead, manganese, mercury and nickel), and asbestos. The bay fill material at Candlestick Point contains hydrocarbons, polycyclic aromatic hydrocarbons, semi-volatile organic compounds, PCBs, chlorinated pesticides, heavy metals (chromium VI, copper, lead, mercury, nickel, and zinc), and asbestos.

According to the Environmental Impact Report, institutional controls are "expected to be imposed at most or all areas of HPS Phase II after remediation is complete." The institutional controls are required in areas where residual levels of hazardous materials remain on the property after remediation. The Candlestick Point area will also have institutional control restrictions due to "the ubiquitous nature of low levels of hazardous materials in Bay Fill that make it infeasible to remediate all of those materials."

Concerns exist about adequate notification and education of residents, workers and visitors to the site, of the restrictions and conditions contained in the institutional controls. In addition, the question of adequacy of enforcement of the institutional control conditions by the oversight agencies also raises concerns.

There is the potential to encounter previously unidentified hazardous materials during excavation for remediation or redevelopment construction activities. The potential exists that the hazardous waste materials will negatively impact the human health of workers, community members and school students, teachers and staff and the environment. This issue could be addressed in the Environmental Impact Report.

According to the Environmental Impact Report, "development and occupancy of some portions of the Project would occur at the same time as demolition and construction would occur in other portions of the Project site. The Environmental Impact Report contends that "relatively few individuals would be exposed to the potential contaminated materials during the initial construction" phase of redevelopment. However, "during later periods of construction... an increasingly greater number of people could be affected by construction activities involving the disturbance of contaminated soils or groundwater." "This could be a particular issue in the

residential portions of HPS Phase II where construction in contaminated soils may occur near occupied residential units."

Exposure of occupants on the site to hazardous materials remaining on the site after remediation and exposure of the occupants to hazardous materials from demolition and construction activities in the areas occupied by individuals in the developed units is of great concern. Site remediation occurring at the same time as early transfer, redevelopment and occupancy may lead to unacceptable exposure of occupants to hazardous materials disturbed by remedial activities and construction activities.

Schools Within One-Quarter Mile of Hunters Point Shipyard

The Muhammad University of Islam (MUI), a year-round elementary school, is located adjacent to the Hillside portion of HPS Phase I. It is within one quarter mile of the western most portion of the project boundary. "Demolition or renovation of existing structures in HPS Phase II could result in potential exposure of students, teachers, staff, and visitors at MUI to hazardous building materials during construction, without proper abatement procedures."

The Bret Harte Elementary School is within one-quarter mile of the Alice Griffith public housing development. Demolition or renovation at the Alice Griffith public housing development could "result in potential exposure of students, teachers, staff and visitors at the school to hazardous building materials during construction, without proper abatement procedures."

According to the Environmental Impact Report, "to reduce the potential for the school sites to be exposed to hazardous air emissions, the Project would comply with regulations and guidelines pertaining to abatement of and protection from exposure to asbestos and lead." The school sites are vulnerable to the air emissions and totally dependent on the contractors of the Navy, San Francisco Redevelopment Agency, and Project Applicants to comply with the regulations and guidelines and the oversight agencies to ensure compliance with the regulations and guidelines so that the health of students, teachers, staff and visitors is protected. The Environmental Impact Report could detail a mechanism for immediate notification of the two schools of any failures of the contractors on Candlestick Point and HPS Phase II to comply with the regulations and guidelines and also to advise the schools of measures that can be taken to protect the health of the students, teachers, staff and visitors. A notification mechanism would greatly assist in human health protection at the two schools.

Need for Additional Procedures

The Environmental Impact Report did not evaluate and assess the cumulative impacts of exposure to human and ecological receptors and the environment as a result of exposure to hydrocarbons, volatile and semi-volatile organic compounds, PCBs, pesticides, heavy metals, asbestos and radionuclides.

The Environmental Impact Report also did not establish a mechanism for notification and education of community members and school students, teachers, staff and visitors occupying the property adjacent to the site about the proper precautions and procedures to avoid and reduce

their exposure to hazardous materials from remedial and redevelopment activities ongoing at the site.

The Environmental Impact Report also did not develop and provide for dissemination of information on institutional controls and exposure avoidance mechanisms for new occupants on the site, workers constructing development units on the site, and shoppers, workers and visitors at business units on the site. The redevelopment and utilization of the site while site remediation is still underway has the potential to expose members of the public to hazardous materials being remediated. In addition, even after the site remediation is complete, the site will still contain hazardous materials under the surface of the site. Individuals living, working and visiting the site must be aware of the situation and understand the requirements to prevent exposure to the hazardous materials remaining on the site.

Finally, the Environmental Impact Report did not provide for adequate oversight and enforcement of the terms of the Early Transfer Cooperative Agreement, Administrative Orders on Consent, and the RODs and Remedial Designs for each parcel on the Candlestick Point and HPS Phase II sites. This lack of adequate oversight and enforcement could result in exposure of humans and the environment to hazardous materials on the sites and potentially flawed remedies being implemented.

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May 30, 2010

Subject: Candlestick Point-Hunters Point Shipyard
Phase II Development Plan Project Draft
Environmental Impact Report 2007.0946E

Comments were prepared after a review of the Draft Environmental Impact Report (EIR) and provided on January 12, 2010. The comments focused on early transfer, areas of concern with early transfer, hazardous materials use, hazardous contaminants, schools within one-quarter mile of Hunters-Point Shipyard (HPS), and the need for additional procedures. The need for additional procedures section of the comments focused on the lack of evaluation and assessment of the cumulative impacts of exposure to human and ecological receptors and the environment; the lack of a process to disseminate information on institutional controls and exposure avoidance mechanisms for new occupants on site, workers constructing development units and shoppers, workers and visitors at business units on site; and the lack of adequate oversight and enforcement of the terms of the Early Transfer Cooperative Agreement, Administrative Orders on Consent and the Records of Decision (ROD) and Remedial Designs. (Copy of January 12, 2010 comments attached)

The Response to Comments (RTC) submitted during the Draft Environmental Impact Report comment period were dated May 2010. The RTC were reviewed and the following comments offered.

Early Transfer and Areas of Concern With Early Transfer

The RTC went into detail concerning the requirements necessary prior to Early Transfer. This information was contained in the Draft EIR. The RTC failed to clarify and correct

the inconsistencies in anticipated time frames for completion of RODs for individual parcels.

The RTC failed to adequately address the issues contained in the Areas of Concern With Early Transfer submitted in my January 12, 2010 comments. The RTC basically referenced existing sections of the draft EIR that had been reviewed and previously judged inadequate to address the issues.

The RTC did not adequately address the issues associated with redevelopment occurring during remedial activities. The redevelopment of the parcels during remediation are of concern. The RTC lacked adequate information on redevelopment and occupancy and how it is compatible and safe from exposure during remediation activities. The potential for exposure of construction workers engaged in redevelopment and occupants on the parcels were not adequately addressed in the RTC. The exposure of school students, staff, teachers, and visitors to the Bret Harte Elementary School and Muhammad University of Islam elementary school while remedial activities are ongoing were not adequately addressed.

Referencing existing sections of the EIR while not providing additional information in the EIR is inadequate to addressing the issues pointed out in the comments submitted.

Hazardous Materials Use

The lack of requirements for adequate oversight and enforcement of the laws and regulations concerning the use of Hazardous Materials were not adequately addressed in the RTC. The issues associated with adequate oversight and enforcement are critical to the protection of human health and the environment at the HPS. References to existing sections of the EIR are not adequate to address the issues.

Institutional Controls

Institutional controls are required where residual levels of hazardous materials remain on the property after remediation. The lack of adequate notification and education of residents, workers, and visitors to the restrictions and conditions of the institutional controls were not adequately addressed in the RTC. In addition, the lack of adequate enforcement of the institutional controls were not adequately addressed in the RTC. The responses basically referenced existing sections of the draft EIR.

The issue of human exposure during site remediation, redevelopment and occupancy on individual parcels was not adequately addressed and additional information was not added to the EIR.

Schools Within One-Quarter Mile

The issue of the lack of adequate notification of school staff when contractors fail to comply with regulations was not adequately addressed by the RTC. The response to this issue referenced the notification of schools of asbestos dust levels when the standards were exceeded. However, the response did not provide information on the missing monitoring events and the lack of timely transmittal of the data concerning asbestos in the dust particles. In addition, the response did not mention that other chemicals such as heavy metals were known to be present in the dust particles but were not required to be monitored. There is a fear that similar missing data and missing monitoring parameters will occur during the current and proposed remediation activities.

Cumulative Impacts

The EIR failed to evaluate and assess the cumulative impacts of exposure to human and ecological receptors and the environment as a result of exposure to all of the chemicals present at the site. The RTC failed to address the issues. The RTC referenced the sections of the draft EIR that dealt with transportation, use and disposal of hazardous waste, risk of upsets or accidents, handling of acutely hazardous materials, hazardous release sites, and impair implementation of adequate emergency response plans. The RTC failed to address the cumulative impacts of the multitude of chemicals present as contaminants on the HPS parcels.

In addition, in the early transfer of Parcel A, the monitoring requirements established to protect human health during parcel A activities were not adequately complied with, oversight was lacking and the monitoring requirements fail to address the cumulative impacts of contaminants on the parcel A site. The monitoring required monitoring for asbestos in the dust particles in the air but did not require the monitoring of heavy metals in the dust particles. The same lack of evaluation and assessment of the cumulative impacts and oversight on the other parcels of HPS could lead to impacts on human health that the EIR failed to address.

Issues that were not addressed or not adequately addressed in the RTC and additional wording not added to the EIR are of concern. The issues were brought up during the comment period in order for the issues to be addressed and additional wording and changes made to the draft EIR before the final EIR was issued. The majority of comments provided were not addressed adequately but were merely addressed by references to existing sections of the EIR and did not result in appropriate additions and changes to the EIR.

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January 12, 2010

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Comments on 2007.0946E Candlestick Point-Hunters Point Shipyard Phase II Draft EIR

POWER is a membership organization made up of low-income African American and Latino workers and families in San Francisco. Through community and electoral organizing, leadership development and movement building, POWER brings a human face to important policy debates, transforms individual lives and brings about broad-based policy change at the city, state and national levels. POWER's Bayview Organizing Project (BVOP) unites low-income residents and workers in Bayview Hunters Point to impact the decisions around affordable housing, living wage employment and environmental justice.

There are six core concerns that POWER has with the Candlestick Point-Hunters Point Shipyard Phase II Draft EIR:

1. Hazardous Materials and Contamination at the Shipyard
2. Liquefaction
3. Sea level Rise
4. Transportation
5. The Connection of the Development to the Existing Community
6. Preservation of Historic Ohlone Sites

Hazardous Materials and Contamination at the Shipyard

POWER has always maintained that the whole shipyard must be cleaned for unrestricted use as called for by Proposition P, passed by 87% of San Francisco voters. The EIR for this project is inadequate because it does not assess an alternative that would include cleaning the shipyard for unrestricted use. This analysis is even more urgent as it becomes increasingly clear that the 49ers will not be staying in San Francisco, and that non-stadium alternatives could include

residential uses for the shipyard. It will be necessary that the EIR fully assess the necessary mitigation measures in order to allow for unrestricted use, including the option of residential development at the Shipyard.

In late December 49ers owner Jed York said in an interview that the team is "completely focused" on a new stadium project in Santa Clara and that "any talk about fallback plans is secondary." Mr. York has also made it clear that those secondary plans do not involve the Hunters Point Shipyard, and that "[a]t this point, Oakland just makes more sense."

Given those statements it is strange that we are even debating a project plan that centers on a new football stadium. It is critical, therefore, that the EIR pay most attention to assessing the impacts of any alternative plans which could allow for residential development in the place of the stadium. It is clear that there will need to be a different approach to the environmental remediation if housing will be built instead of a football stadium, the EIR does not seem to address this. What are the necessary mitigation measures in order to get the Shipyard clean to unrestricted use?

Please provide an analysis of how the Shipyard will be cleaned for residential use. Clarify which parcels this housing will be built on and provide a clear map. Looking at the map it appears that the additional housing will be built on parcels D and E. Provide a chart of the specific chemicals of concern, toxins and hazardous material found in the soil and groundwater on these parcels and their effects on human health? What additional remediation steps will need to be taken to bring these parcels up to residential standards? How will this change the building schedule? How will the residents of the housing be informed of the hazards related to the housing? Will there be limitations of land use by residents of this housing? How will they be informed of such limitations? How will these be enforced? Will there be notices on all of the deeds? Are they going to give notices to all of the property owners in the surrounding area that will be recorded on the deeds? What will be done to maintain the caps and covers that protect residents from hazardous materials? Who will be in charge of maintaining caps and covers?

Liquefaction

Power is also concerned that this EIR downplays the real danger of liquefaction in the event of a major earthquake. III.L-15 states that "The Project site is in an area of San Francisco that has been designated as potentially liquefiable" and the 90% of the project is in a "Zone of Required Investigation for liquefaction potential." (III. L-18) Yet only one preliminary study has been completed on the potential impacts of liquefaction on this project, the Preliminary Geotechnical Report prepared by ENGEO for Lennar. This study concludes that more study will be necessary in order to make engineering decisions about foundations given the widespread possibility of liquefaction.

It is not only POWER who are concerned about the possible outcomes of liquefaction at this site, In January of 2009 Dr Thomas L. Holzer of the U.S. Geological Survey was quoted in the San Francisco Bay Guardian stating, "San Francisco has some soul searching to do. Is it worth it to fast track a project that has the potential to impact the city as a whole, should a major earthquake hit? Because then it would no longer be just about Bay view Hunters Point."

Please address the following questions on liquefaction:

1) Page III.L-15 names 5 types of potential hazards caused by liquefaction. Concerns regarding the potential for cracks in the cap covering the toxic site are not one of them. Dr. Thomas L Holzer of the U.S. Geological Survey has stated if "the soil liquefies, the ground gets to slosh around, and because movement isn't always uniform, you can get cracks." Neither the EIR nor the Preliminary Geotechnical Report conducted by ENGEO for Lennar mention of the possible impact of an earthquake on the cap covering the development.

What are the potential impacts of seismic shaking on the proposed caps and covers? What are the possible impacts of liquefaction on proposed caps and covers? If caps crack during earthquake toxins could be released in the development. What is the mitigation plan for this scenario? If liquefaction occurs in contaminated soil and the caps cracks, it is likely that contaminated ground water would push up through the cracks, what will be done to mitigate this impact?

Additionally, even if the cap doesn't break and the contaminated soil liquefies, groundwater will become pressurized and will flow into the bay. What is likelihood of this secondary effect of liquefaction? What steps will be taken to mitigate this outcome? What impact would this have on the water quality of the Bay? What impact will this have on wildlife?

2. III. L. 42 the mitigation plan for Liquefaction, Lateral Spreading and Settlement states that "over-excavation and replacement of unstable soil with engineering-compacted fill" will be necessary. What is not mentioned in the body of the EIR is the findings in Preliminary Geotechnical Report prepared by ENGEO for Lennar state that in areas where the soil is contaminated that this mitigation process will be much more complicated and less cost effective and other measures may have to be taken. The study states that:

"Another consideration in the selection of appropriate foundation system for new buildings is the potential to excavate and dispose of soil or groundwater that may contain hazardous materials. In addition, ground improvements such as surcharging or densification may temporarily raise groundwater levels, thereby influencing the movement of groundwater

contaminant plumes. In areas where hazardous materials are suspected, it may be more cost effective to use driven pile foundations, which generate less excavated soil... Selection of appropriate foundations types for specific building areas should be conduced in consultation with the environmental remediation team" (page 13-24)

Given the extent of hazardous materials in the soil, what is the specific plan to coordinate the environmental remediation and geological engineering teams? How will the soil be tested for contamination? Should it be necessary to excavate and compound soil in areas where the soil is contaminated, what are the environmental hazards related to this excavation? What are the plans to test the soil for toxic contamination and to dispose of this toxic soil? How will plans address the possibility of movements of contaminated groundwater and contaminant plumes?

3. Page II.L.15 states that mitigation plans related to liquefaction are addressed in mitigation plan MM GE-4. That is not the case. MM GE-4 relates to seismically induced ground shaking. Liquefaction is addressed in impact MM G-5a on page III.L-42. Reference is wrong.

Sea Level Rise

The most current research shows that the sea level predictions used through out this EIR are considerably lower than the current predictions. This project will take almost 20 years to be completed, if the data being used on to predict sea level rise is outdated before the project even begins we will be in serious trouble by the end of the project.

The recently released "Copenhagen Diagnosis," which updates the U.N.'s Intergovernmental Panel on Climate Change conservative estimates that "global sea-level rise may exceed 1 meter by 2100, with a rise of up to 2 meters considered an upper limit". A new study released by NASA put estimates considerably higher, at up to 5 meters.

It is important that the EIR confront the real risks associate with sea level rise using up to date information on this subject. As it is, the EIR does not even adequately respond to the 3 ft in 75 years it uses as its base line.

Please address the following concerns about Sea Level Rise:

1) III.M-14-16 overviews the risk for future flooding as related to sea level rise. It is stated here that the prediction for sea level rise in the Bay Area in 75 years is 3ft. On page III.M-56 it is stated that the plans for the perimeter at Hunters Point Shipyard will only accommodate a 16-inch sea level rise, therefore only protecting the shoreline for no more than the next 50 years (or for 30 years after the project is completed). Will this sacrifice the open space or parkland, which is being promoted as a selling feature of this project? Please account for long terms plans

to address erosion of parkland. What will the effect of sea level rise be on the Bay Trail, which won't be completed until the end of this project?

2) III. M-103 states that because there is no impact of a 100-year flood on Candlestick Point because no structures will be in the flood plane. Structures are not the only things that will be impacted by sea level rise and flooding. This project is being sold as improving Candlestick State park, an incredible community asset. Several of our members currently walk the Park everyday. Please address the impact of sea level rise on the State Parkland. How many feet of parkland will be erode away in the next 75 years? What will happen to the newly built Bay Trail? The existing community is being sold an "improved" State Park, but it will only be the front yard for the new condominiums if the shoreline is not protected for the long term.

4) III.M-100 outlines the plans for grading the project site to accommodate rising sea level, but does not detail how this will be done. A huge amount of fill will be needed for such a large project. Where will this fill come from? How will it be moved safely? What assurances are there that fill will come from clean and safe sources?

5) Given the Parcel E and E-2, the most contaminated parcels on Hunters Point Shipyard, are along the shore, what specific remediation steps are being taken to address how this land will be affected by sea level rise? On parcel E-2 the Navy has "installed a groundwater containment and extraction system to reduce the potential for release of chemical constituents into the bay." (III.k-23) Will this mitigation process be affected by sea level rise? As sea level rises and more of parcel E-2 is integrated into the bay, will more chemicals be released into the Bay?

As it currently this EIR does not fully account for how the Candlestick Park and new parkland on Hunters Point will be protected for many generations to come of the greater Bayview community.

Transportation:

A major flaw of the EIR and the EIR comment process is that we have not yet seen the full plan for the transportation project associated with this project. The draft EIR for the transportation project should have been released concurrently with this draft EIR. It is impossible to know the full impact of the transportation section of this project with out seeing the full transportation proposal. Many of our members live on streets that will be negatively impacted by the changes in roadways and transportation. The transportation element of this project will have the most immediate impact of the existing community and a full EIR about this project needs to be made available before this DEIR is approved.

Please address the following concerns about transportation:

Section V. C. states that there are over 25 areas where transportation and circulation would have significant environmental effects that "cannot be avoided if the project is implemented" Including an increase of congestion along Palou impacting and increasing the travel time of 3 major bus routes including the 23- Monterey 24- Divisadero and the 44 Oshaugnessy. This is a huge number of effects that will dramatically impact the residents of Bay view. Will these impacts disproportionatly impact the existing community? With out the Transportation EIR How can you be certain these are all the impacts involving transit?

pg. II-39 "A. Extended bus routes and new bus routes. Existing Muni routes 24-Divisadero...would be extended to HPS Phase II" & pg. II-41 "E. Palou Avenue Transit Preferential Street. One Muni line (24-Divisadero) would be extended along Palou Avenue to serve HPS Transit Center. Transit-priority technology would be installed on Palou Avenue..." What exactly is "Transit-priority technology"? How will that impact drivers on that street? How would the 24 line be extended specifically considering that this line is currently an electric pole operating bus? Would the electrical lines be extended to the Shipyard? Given that the community recently paid to have all electric lines put underground, why would the city now plan to put wires up for the buses? Have the residents of Palou been informed of this plan and been give an opportunity to respond to this specifically.

v. II II.E.3 pg. II-34 Transportation Improvements
"Some of the transportation improvements would require property acquisition." Which specific improvements will require property acquisition? How many properties will be acquired? What is the total amount (in gsf) of property to be acquired? What specific properties will be acquired? Will any of this property be residential? Will any of these properties be local owned and businesses that currently provide jobs in the local community? How will this impact the existing community? Have the owners been notified that their property(s) are scheduled for acquisition under this plan?

6. Connection to existing community

II.E.1 The project calls for 885,000 gsf of retail development that would serve the neighborhood and the broader San Francisco community. The proposed uses of this retail space do not seem to be oriented to the existing Bayview community. For example, on page II-17, the places for the Candlestick Point Center "are anticipated to include entertainment uses such as a movie theater, and clubs with live music, restaurants, a hotel, and large format stores lined with smaller stores." The amenities that the community in Bayview needs are grocery stores. Some of the planned uses in the EIR are very specific; there are no specific mentions of grocery stores. How will it be assured that the needs of the existing Bayview community will be served by new retail development? How will the needs of the existing community be assessed? How

will this retail be made accessible to the existing community, including making retail affordable for low income residents, making sure retail is located so it is easy for the existing community to get to including public transportation and free parking?

II-43 states that all commercial parking facilities will be paid, "to discourage single-occupant automobile use". While it may be an environmental benefit to discourage the residents of the new development to use cars, the existing community will have to travel much further to access retail in the development. Low-income families do not need more impediments to accessing healthy food at grocery stores. Some free parking must be made available to serve the existing community.

II-48 outlines the Community Housing Fund that would assist qualifying residents in the purchase of market rate homes. Market rate is a term that applies to an incredibly wide range of housing prices. What is the price range expected to be for market rate homes? How does this compare to the needs of homebuyers in San Francisco? How does this compare to the housing needs of the existing Bayveiw neighborhood?

7. Preservation of Historic Ohlone Sites

According to California Senate Bill 18, passed in 2004, local Ohlone tribal members whose names are listed with the Native American Heritage Commission are to be included in the planning process of any such development. It now appears that none of the Ohlone representatives were contacted so that they could be involved in the planning process. The draft EIR states that there are at least 4 and probably 5 Ohlone village sites within the development boundaries and another 16 that are within one-quarter mile of the project. According to Ohlone representatives this is an important opportunity to work with the city to create an Ohlone Cultural Center and protect their historic sites, which may be 6,000 years old.

Please given thorough attention and response to each of the questions and concerns raised in this document.

Sincerely,

Jaron Browne, Alicia Garza, Steve Williams, Drew Christopher Joy, Karissa Cole, Juana Tello, Esselene Stancil, Emma Harris, Jesse Tello, Mishwa Lee, Ernest Stokes, Betty Higgins, Matt Fidanque, Marisol Ortiz- Melendrez, Albert Symon Sr, and Alice Fialkin.

POWER (People Organized to Win Employment Rights)

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January 12, 2010

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2007.0946E Candlestick Point-Hunters Point Shipyard Phase II Draft EIR
Comments on behalf of People Organized to Win Employment Rights (POWER)
Introductory pages of DEIR

Abusive schedule for Comments

This is the EIR for the most complex development project in San Francisco. It authorizes development on federal, state, city and Redevelopment land. It covers thousands of pages and includes development on the City's only Superfund site. It has an insane proposal to develop a stadium for the 49ers who have PUBLICLY announced they intend to abandon San Francisco, are developing a stadium in Santa Clara, that their second choice is a joint stadium with the Raiders in the East Bay. There are complex transportation circulation issues. There are multiple state jurisdictions involved.

Yet the DEIR was published with an absolute MINIMUM 45 day comment period - ending **December 28,** three days after Christmas, a comment period which included the Thanksgiving holidays PLUS the Christmas holidays. Many government offices, as well as non-profit organizations, are CLOSED or have drastically reduced staffing during these holidays. When an extension was granted to January 12, that date was swas soon after offices had just reopened after the New Year holiday.

This schedule is being driven by an insane desire to have the FEIR certified and all local approvals done by June. The willingness of the Planning Department, the Redevelopment Agency and the Mayor's Office to complicate informed public input with an impossible deadline for written comments is not worthy of this City.

Related to this was the inappropriate participation and VOTE against continuance of public comment by Planning Commissioner Michael Antonini. That Commission considered a motion to formally extend comments to early February. PRIOR to any hearing on the DEIR Commissioner Antonini had written and submitted for publication in the SF Business Times an op ed clearly advocating for expedited approval of a new 49ers stadium, which necessarily involves approval of the EIR for that project. The stadium is an integral part of the project FOR WHICH HE WAS REVIEWING THE ADEQUACY of the EIR. Commissioner Antonini has clearly prejudged the DEIR because of his advocacy of the stadium project BEFORE the Commission's first hearing on the project, the DEIR. Further, when the motion to extend the comment deadline was made, he questioned whether a 45-day comment period (THE MINIMUM required) and argued that the period should have been an absurd **30 days**. He worked to ensure that the Planning Commission not extend the public comment period, thereby harming my clients and others who requested that extension.

Commissioner Antonini should not be allowed to be further involved in evaluating this DEIR because he had shown that he is not impartial about this project. In particular he cannot give fair consideration to alternatives that do NOT include a stadium.

Second overall comment.

Maps (Figures) which are referred to in the text should be checked and amended to show every street, every parcel that is referenced in the text. Throughout the DEIR, the text refers to a map and a particular street and when the map is checked that street is not labeled on the map. Please review and correct every single instance where the TEXT refers to a "Figure" and determine whether each street/location mentioned is labeled on that figure. If it is not labeled, PLEASE AMEND to show it. This is a generic and consistent problem/frustration.

page I-3 - Hunters Point Shipyard - it is impossible to understand the various Parcels in the Shipyard and Hunters Point Areas without a CLEAR current map showing the boundaries of those Parcels and Areas, including Area C. To the extent that boundaries have changed or been renamed (Parcel A-Prime, Parcel B-Prime) that should be indicated. The proper place for this map belongs in the TEXT of chapter I of the FEIR, **not** hidden in the back in a Comments and Responses document. This should be a text/map amendment.

It is common for Commissioners and other persons talking about the Shipyard to mention a site by a Parcel or Area label. The EIR must prominently include that info to be useful to the public and decision-makers.

I-5 - Prop G included language re standard of clean-up.

It is inappropriate to refer to Prop G without including the specific language of that Proposition without including the specific language for the level of toxic cleanup to be performed. Cleaning the site so housing and similar uses are NOT allowed, because the land is only cleaned to the standard for the stadium is dishonest and inappropriate in an environmental disclosure document.

I-7 - the DEIR mentions public agencies, other than "lead agencies" the Redevelopment Agency and the City, with discretionary authority over aspects of this project are mentioned. Some of those agencies are "Responsible Agencies" under CEQA. BCDC is one such Responsible Agency. Please list each Responsible Agencies and also provide a basic description of "Responsible Agency."

II-1 - "a new stadium for the San Francisco 49ers." As part of the defined project. The 49ers have **publicly** announced their intention to abandon Candlestick Park and move to Santa Clara. They have stated their lack of interest in Hunters Point and are publicly in negotiations to build a new stadium there. Why is the City and this DEIR seemingly obsessed with incorporating a new 49ers stadium? Is the design of the stadium and the layout of spaces based on input from the 49ers? Do the EIR authors have any idea whether what is being discussed in the DEIR is (a) acceptable to the 49ers, (b) what they really want, (c) capable of being financed without further subsidy by the City or Agency. It is fairly well-known that recently constructed stadiums have involved MASSIVE government subsidies of one sort or another. Football stadiums are built for a very limited number of games a year. They have difficult configurations, including transportation access. Because of the extremely high ticket prices they do not really serve the residents of adjacent areas, but those individuals and corporations that can afford those ticket prices. How much money has been spent ON THIS EIR to analyze a stadium project?

What is the obsession with building a stadium for a team that has announced its intention to go elsewhere? How much is the City/Agency/Lennar to pay to subsidize construction of the proposed stadium?

Same page - footnote appears to be missing "acres"

Figure II-1 - you should include an arrow pointing to the proposed Santa Clara location of the new 49ers stadium.

Figure II-2 - Please indicate the boundary of the Candlestick Point State Recreation Area. Also show and label the boundary of Area C in Hunters Point. Those dashed boundaries around Hunters Point Phase 1 area/s are unclear. Please clean that up so it is also clearly indicated. Development in Area C will directly affect impacts on THIS area - particularly transportation.

Page II-6 - (Project Objectives)

2. There is another DEIS/DEIR that is not yet available but which is integral to understanding this development - the Transportation Improvement Project (TIP) Transportation connections to the City, to the freeway system, to the sub-areas depend on the improvements covered by that DEIS/DEIR. This DEIR ignores discussion of those impacts because the TIP DEIS/DEIR is not yet available. The public should have that information before the close of comments on THIS DEIR.

3. Is there an intention to have housing in this project that is available/affordable at anything close to the amount/percent needed for housing to be produced in San Francisco at necessary levels of affordability? Refer to goals set out for SF in the most recent regional allocation per the Housing Element. The term "market rate" covers everything from housing for those earning 150% of area median income to units costing multiple millions that are only available to the super-rich. What is the "market" to be served by "market-rate" housing? How much housing at that income level is "needed" in San Francisco? To what extent do other developers, including those with already approved projects, plan to meet that need for "market rate" housing?

Page II-7

Project Objective 5. "encourage the 49ers" - see comments above, particularly in light of Objective 6, "fiscal prudence"

Is it fiscally prudent to allocate such a significant amount of land to a stadium that will be used VERY FEW days every year? If the stadium has a long life of even 40 years (what is the average span of professional football stadiums?) even with 12 games/year, that would only be 480 days in 40 years.

Stadiums are a cash sink. Again, how much money is the Agency/City/Lennar prepared to throw at the 49ers to "encourage" the 49ers to abandon their plans to move to Santa Clara? One of the costs has already been borne by the public - sufficient time to comment on this DEIR. There is an obsession with getting the EIR certified and all necessary approval using an absurd schedule that assume that every approving agency will take only minimal time to consider the information in the EIR.

It is irrelevant whether there have been dozens or hundreds of community meetings on this project. Until November 12 there was no PUBLIC ENVIRONMENTAL DOCUMENT that sets out - for the first time - the range of environmental information mandated by LAW.

Figures II-3 and II-4 (and others throughout)

These are two specific figures where streets referenced in the text are not labeled on the map. See other comment on need to label all streets or areas which refer to a particular figure.

Same figures - Bridge over Yosemite Slough

Throughout the DEIR renderings there is confusin about the straight line across Yosemite Slough. It is shown as a "project boundary here, but it is also a bridge, a transit line and a few days of the year, a roadway. Every rendering must be reviewed to ensure that ALL of its functions - relevant to comments on that rendering - are set out.

Further, a boundary generally ENCLOSES some *space*. Please describe (SHOW IT IF POSSIBLE) the SPACE shown for the "boundary" over Yosemite Slough. The area east of the boundary line for the HP Shipyard obviously goes to the Bay. Ditto for the boundary line for Candlestick Point. But that black line over the Slough - ? Please explain it as a boundary.

Figure II-5 - same as Figure II-3 and Figure II-4. This figure is referenced in text of II-20 referring to "Crisp Road." Crisp Road should be labeled on this figure.

II-13 - Neighborhood Retail - grocery store. Please explain access (car, transit, pedestrian, bicycle) to any grocery store - from the rest of BVHP outside project boundaries. Also, the size of a major grocery store, when it will come on line, whether it will be allowed to have free parking. How much new housing has to be built before there is sufficient market demand to support a grocery store?

II-14 - Hotel - The site designated for a hotel appears to have a 65-foot height limit. Please explain the nature of the hotel proposed and who it is expected to serve.

II-20 - Stadium - What survey was done of other football stadiums re how those facilities are used for events other than football games? What is the experience of other "new" stadiums, particularly ones that have been open for 3 or 4 years? Do they have rock concerts? Other large events? Political rallies? Religious ceremonies/crusades? Public events? How often? Are they marketed to help reduce the subsidies poured into the facility, i.e. to spread the costs beyond the 8-12 football games/year? Since there is no football team negotiating to build/occupy THIS stadium, does the DEIR ***assume*** those limits? Please provide solid information on usage of other stadiums.

If the Olympics came to the Bay Area (there is a history of such attempts) would this facility be "out of bounds" for such use? If Nelson Mandela, or someone of similar prominence, came to SF could an event for that person be held in this stadium?

II-24 - CPSRA 4th line - state rec area "as ***required*** by SF 792?" Shouldn't that be ALLOWED by SB 792? SB792 did not complete the transfer but merely authorized it.

Figure II-8 - the caption includes "approved" parks. But nothing on the key shows "approved" - just existing. Please clarify or correct.

II-28 - Candlestick Point SRA - second paragraph appears to describe the EXISTING plan for the state rec area, not the project in the DEIR. If it includes BOTH, please clarify which actions/improvements are those ALREADY planned by the State versus those planned by THIS PROJECT.

Figure II-10 - The Yosemite Slough boundary/line is even more ambiguous on this graphic. What is that weird red line? Does it show state parkland to be removed? Further, just south of Harney there is a skinny green area with an apparent red-cross-hatching. Is this also proposed to be removed? This graphic is really hard to read.

Since the affected area is basically Candlestick and Yosemite Slough something LARGER that shows just those areas would be helpful.

II-32 - please describe the effect of a 1.5 meter sea level rise on these open spaces, particularly if toxics remain on the Shipyard site. Capping occurs on the TOP of the land. Sea level rise occurs from UNDERNEATH. What effects of surge added to sea level rise.

Figure II-12 - map of Roadway Improvements. Connections to the NORTH (Innes) seem truncated due to omission of analysis of TIP Improvements and of development at Area C. It is absurd to believe that there will not be improvements connecting the stadium to 3rd and particularly to the freeway system. It appears that the majority of the roadway improvements will occur outside the project boundaries, and the impacts of their construction will similarly be felt OUTSIDE those boundaries throughout the BVHP community.

II-39 - Muni line improvements - Please explain how MUNI operating funds will be GUARANTEED for cited improvements. Muni has been recently cutting service because of financial problems. OPERATING guarantees? Provide a map showing the special events "signalization" controls.

II-51 - Site Preparation Schedule - This is VERY difficult to read. Please redo entire graphic to make it legible. The dominant color in the upper left is THICK RED BOUNDARIES around almost impossible to read "key" colors. The key for the second column has colors that are very hard to "read" against that figure. This figure is a 4 on a scale of 1 to 10 (best) in terms of providing legible helpful information. This is really necessary info. Make it legible.

Figure II-17 - When is Phase I to be completed? Show area and key on map.

II-54 - reference is made to Parcel B Record of Decision. Please describe and where is it available?

II-55 - Shoreline Improvements - please describe effects of 1.5 meter sea level rise - particularly on "capped" (on top, NOT underneath) unremoved toxics in Parcel E.

II-71 - please superimpose Parcel Boundary for HP Shipyard and proposed uses so this information can be truly useful. This is SUBSTANTIAL area of Project Site that is on fill and could be affected by 1.5 meter sea level rise - water comes up from UNDERNEATH as well as horizontally.

II-79 - what is the market for space for R&D at this location? Type of businesses?

II-81 - project approvals You have a schedule for project approvals - I showed it at the hearing. Please insert the anticipated schedule as of the date of release of this DEIR.

Figure III.B-1 -EXISTING LAND USE - The legend is reversed for residential and commercial/industrial on this Figure. Did ANY of the text rely on the coding on this figure for use at a particular site?

In general it is difficult to understand which development will occur on which parcels.

Sue Hestor
For POWER

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January 12, 2010

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2007.0946E Candlestick Point-Hunters Point Shipyard Phase II Draft EIR
Comments on behalf of People Organized to Win Employment Rights (POWER)

II-34 Transportation Comments

Area C omission -

The roadway network for this area provides two main routes from freeways & Third Street into Candlestick Point and Hunters Point - Harney to the south and Innes to the north. BVHP Redevelopment Survey Area C is west of the project area Innes and was formerly an integral part of this project. Major development is slated to occur in this area, which abuts Innes.

Analysis of the development of and impacts from development in this area has been inappropriately removed from this DEIR. I refer to the Notice of Scoping which was issued for the entire Waterfront Project - including new plans for Candlestick Point, Hunters Point Shipyard AND INDIA BASIN SHORELINE AREAS OF SAN FRANCISCO.

Development of Area C will, in particular affect transportation and circulation in the area. Innes is the route north to the freeways and to 3rd Street and street connections to downtown San Francisco.

Bayview Transportation Improvements Projects DEIS/DEIR (TIP)

Redevelopment and MEA have been simultaneously drafting two separate and major environmental studies for this area of Bayview Hunters Point. One sets out and analyses the impacts of major transportation improvements and involves substantial effort by CalTrans. It is the joint DEIS/DEIR for Bayview TIP. Those improvements are necessary to add the substantial community contemplated by THIS DEIR for CP/HPt Shipyard Phase II.

Up until very recently all parties planned for the release of the release of the TIP DEIS/DEIR in advance of THIS DEIR. It would provide additional transportation information and inform the readers of THIS DEIR about impacts of transportation plans and alternatives. Around August the schedule switched - environmental analysis of the Transportation Improvements Project had been switched to be released

AFTER close of comments and the desired certification date of THIS (Lennar FEIR), thereby depriving the public and decision makers of information that would bear on evaluation of the Lennar project.

This is being pushed as the integration of EXISTING Bayview/Hunters Point community to the "benefits" of the Lennar project.

The DEIR states that 75% of new development will be within ¼ mile of transit stop. Please map the remaining areas and explain why THEY do not have similar transit access. Please also explain transit availability for the existing BVHP community since so much of transportation and transit routes occur outside the boundaries of THIS Plan's site.

Note that Proposed Roadway Improvements (Fig II-12) map shows that they are predominantly outside of CP/HP area. Which means that they will bear brunt of construction impacts. Will land/property have to be acquired for those improvements? Eminent domain?

Transit passes will be part of homeowners dues for condo owners. What about renters?

This area is currently isolated from transit access to much of the rest of City because of hills, freeways and geographical context. To reduce environmental impacts, transit use really MUST be not only encouraged, but actually occur. What measures will be implemented to monitor AND CHANGE the situation if transit use in the project area and surrounding communities falls short of expectations set out in the DEIR.

This includes reducing traffic volumes to/from 3rd St to avoid slow traffic on Innes/Harney. Particularly address traffic on Palou since it will bear the brunt of traffic coming to/from Shipyard towards 3rd Street.

If the stadium is a NO GO (i.e. the real world) and other uses generate traffic on more of a 365 days/year, Palou could be swamped.

Commissioner Antonini asked that the bridge over Yosemite Slough operate for autos 365 days a year. Please explain in detail the impacts of such use - particularly on air quality and integrity of restored slough - because it may evolve to auto use full time if it is built.

Are all of the east-west streets outside area to be redesigned? What involvement to date of residents of the streets to be "improved?" particularly Palou, Ingalls, Crisp, Ingerson, Jamestown, Gilman AND any additional streets improved until any alternative.

Please explain how Alice Griffith will be integrated (transportation-wise) into both the existing BVHP community and into CP/HP.

The parking standards seem to require that grocery stores must have PAID parking? Is that so? When and where is a grocery store anticipated to be built? How will is it integrated to the broader BVHP community - both cars and especially TRANSIT. Please note that people using transit will be carrying groceries.

Please describe the exact use, existing and proposed, on parcel labeled NAP (Not a Part) along Crisp?

How are the Phase I area/s to be integrated into both the existing BVHP community and into Lennar area?

Figure II-13 - It is impossible to understand "Phase I Improvements" on II-40, What is that green blob?

Please provide a simple chart that sets out the timing of transportation improvements (road and transit) relative to construction of individual parts of the project. It is necessary to understand what improvements will already be in place as individual parts (e.g. Alice Griffith, initial residences in HP) are completed.

Will Alice Griffith continued to be isolated if delay in demo of CPark because 49ers still there until their new stadium complete?

Will gas stations be built in CP/HP? If not, where are closest ones located?

How much elevation of transit/roadway improvements on Harney and Innes will be necessary to avoid problems if 1.5 meter (5 feet) sea level rise occurs?

Need Map of the traffic signals that will be controlled to move traffic to/from stadium. I couldn't find it.

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January 12, 2010

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Comments on 2007.0946E Candlestick Point-Hunters Point Shipyard Phase II Draft EIR

I have been a resident of the city of San Francisco all my life; specifically residing in Bayview Hunters Point since 1999. I am submitting comments with particular concerns with the inadequacy in the Candlestick Point-Hunters Point Shipyard Draft EIR around the levels of contamination in the soils, the plans for constructions and the remediation of that site. The Bayview Hunters Point Shipyard is a **Nationally recognized Superfund Site** that has contributed to the surrounding community's health disparities, which include (but not limited to) cancer, asthma and respiratory problems.

Parcels E and E-2 are known to be two of (if not thee most) contaminated parcel(s) on the entire shipyard. The *known* lists of contaminants that are stated in the EIR are below:

> "The chemicals of concern at Parcel E include metals and organic chemicals such as VOCs, PAHs, PCBs, and pesticides. The chemicals of concern at Parcel E-2 include metals, PCBs, SVOCs, pesticides, and petroleum hydrocarbons. The radionuclides of concern associated with Parcel E-2 include cobalt-60, cesium-137, radium-226, and strontium-90" (Section III.K-22).

Some of these contaminants are known carcinogens. The *full* list of contaminants on parcel E and E-2 are still unknown. According to the EIR,

> "The Navy has completed the RI [Remedial Investigation]/FS [Feasibility Study] process at all parcels **except Parcels E and E-2**. A draft FS has been completed for Parcel E, and a draft final RI/FS has been completed for Parcel E-2. The Navy often does not wait for the RI/FS process to be complete before commencing physical cleanup activities. The Navy has completed numerous time critical (and non-time critical) removal actions and treatability pilot studies in the evaluation of alternatives for remediating the IR [Installation Restoration] sites (Section III.K-11)".

- How do we know the Navy will remediate the soils properly, if the full list of contaminants are still unknown? How can they adequately clean that site, if they don't know what's there?

- What criteria will the Navy and the developer use to determine that Parcels E and E-2 are sufficiently remediated for open space use, given that this area is adjacent to housing and/or a stadium. How will soils from parcels E and E-2 be separated or differentiated from its adjacent Parcels G, UC-1, D-1 and D-2?

- Given that open space requires less remediation than space used for residential purposes, what measures will be put in place to make sure that contamination from the soils at Parcels E and E-2 will not spread or seep into its adjacent Parcels G, UC-1, D-1 and D-2? (Especially since the Stadium borders Parcel E's open space).

- Please provide diagrams that zooms in on Parcels E and E-2 and its adjacent parcels that layout measures for preventing that contamination is spread below ground. Please provide an image similar to Figure II-25 in Section F, which allows for a **view of the depth** of excavation (with variant images that provide a view of depth that include illustrations of the groundwater containment and extraction system at the southeast portion of the landfill and the multi-layer interim cap).

Plans for development on parcels E and E-2 are proposing that these parcels be used as open space. According to the EIR, area(s) where the proposed stadium would be would turn into "additional housing if a new stadium were not built (P I-5)". The voters of the San Francisco adopted Proposition P, calling for clean up of the shipyard to "unrestricted use" which would allow housing. The EIR fails to provide an analysis of an alternative that would allow housing on all parcels of the shipyard.

- Provide an analysis of how the Shipyard will be cleaned to residential use.

Adjacent to parcels E and E-2, will be either a stadium or (in the plan alternatives) more residential housing.

The following diagrams in the Draft EIR, highlight the phased development at the Hunters Point Shipyard and indicate that Parcel E and E-2 would be developed **after** their adjacent parcels:

- Chapter II, Project Description, Figure II-16 (II.F-51)
- Chapter II, Project Description, Figure II-17 (II.F-52)
- Chapter IV, Project Variant, Figure IV-4 (IV-13)
- Chapter IV, Project Variant, Figure IV-10 (IV-81)

As stated in the EIR, "...full remediation of the entire HPS Phase II site is not anticipated until after commencement of Project-related construction activities on, and perhaps occupancy of, portions of HPS Phase II (III.K-72)...occupants or visitors at or near portions of HPS Phase II where remediation activities have not been fully completed could also be exposed to hazardous materials as a result of remediation activities (III.K-73)."

Based on the Development Schedule laid out in this EIR, parcels E and E-2 will be developed after the housing structures in their adjacent parcels, with the possibility of occupancy.

- Please indicate the purpose of this fence. How will this fence prevent the airborne contaminants from spreading? How tall will this fence be? What material will be used for this fence?

- Please provide a diagram of the fenced areas of the HPS Phase II sites where remediation will happen simultaneous to the occupancy and public use of spaces near those sites.

- Will occupants have adequate information regarding the development and remediation of Parcels E and E-2? Will occupants be given this information prior to purchasing/occupying residencies at the Shipyard? What is the timeline for notice of these occupants?

- What criteria have been used to determine the timeline of phased development for the entire project? Due to the level of contamination, why aren't parcels E and E-2 the priority for remediation?

- Please provide a timeline that illustrates specific and independent parcel by parcel development (with all the appropriate stages, i.e. Demolition, & Abatement, Utilities & Infrastructure, Structural Shoreline Improvements) that allows more detail to each specific parcel, for side-by-side development comparison

- If Phase I of the development is at Parcel A of the Shipyard, and the first housing expected under phase II will be the rebuild of Alice Griffith housing, at what point will additional housing be built in sufficient levels to bring in neighborhood services such as grocery stores, open space/recreational facilities, etc.?

According to the EIR, "...remediation program have required interim measures to be put in place in areas that still require remediation. This would ensure that while remediation continues, the site would not pose a risk to persons or the environment outside of the ongoing remediation locations. Those measures include numerous actions to remove hazardous materials from soil and groundwater at the site, cleaning up shoreline debris, placing a temporary cap on the landfill at Parcel E-2 and securing areas still undergoing remediation with fencing (III.K-72)."

In the section on schools within One-Quarter of a mile from the HPS , the EIR states,

> "...hazardous building materials are likely to be present in older structures within the Alice Griffith public housing site and could include asbestos-containing materials, lead-based paint, PCBs, and fluorescent lights containing mercury vapors. Demolition or renovation of existing structures could result in potential exposure of students, teachers, staff, and visitors at the school [Bret Harte Elementary School] to hazardous building

materials during construction, without proper abatement procedures (III.K-105)."

- Remediation programs are supposed to ensure that there would pose no risk to surrounding people or locations outside of the remediation sites; however, a little more than 30 pages further from that same statement, the EIR states that students, teachers and visitors of the Bret Hart Elementary School would likely be exposed to hazardous building materials from the renovation at Alice Griffith public housing.
    - This school specifically is vulnerable to the air emissions (contaminants) and totally dependent on the mechanisms that minimize exposure.
- What plans are there for immediate notification of any failures of the contractors/developers on Candlestick Point and HPS Phase II to comply with the regulations and guidelines?
- What measures are there to advise the schools of measures that can be taken to protect the health of the students, teachers, staff and visitors?
- What measures for immediate notification and protocol will be put in place for notification of failures to comply with regulations and exceedances of exposure to the surrounding Bayview community (residents on Gilman, Fitzgerald, Hawes, Egbert and other impacted streets)?
- Will air monitoring be done carried out by government agencies or private contractors? Assuming either one, what frequency will occupants and the larger Bayview community receive air-monitoring reports?

The information laid out in the EIR regarding on site remediation is not adequate in addressing airborne contaminants and vapors. Besides physical removal of soil and placing a temporary cap on those areas, the only other protection that surrounding people, workers, occupants and schools are that the development will be "securing areas still undergoing remediation with fencing".

Based on the history of exposure of contaminants to the larger Bayview community not on the shipyard, with inadequate fencing:

- How is fencing still an option for on-site remediation, given the history of exceedances of exposure to the surrounding schools and residents of Bayview Hunters Point? How will these measures be any different (more efficient) than the other strategies/tactics to minimize exposure?

- What will be done to protect occupants and workers in the area from exposure to toxic dust (or airborne particulates) while the work on parcels E and E-2 is happening?

    - Will the employed workers at the HPS Phase II development site be given proper training to deal with the contaminants? What does this training include? What protective gear will these workers have to protect themselves from airborne contaminants?

- Will air monitoring be carried out by government agencies or private contractors? Assuming either one, what frequency will occupants and the larger Bayview community get these air-monitoring reports?

- What is the OSHA required protection that must be provided to workers at this radiological impacted parcel? Will similar protection be extended to the residents in the potential housing on the neighboring parcels?

- Figure III.K-25 is inadequate in laying out the specific land use of the various areas within the HPS Phase II site. Please provide map(s) that layout **both** Shipyard Parcels **over** the proposed project development (construction) plans, with a key/legend that specifies the **land use(s).**

In Section II.F.1 on Abatement and demolition, the EIR states:

> "In total, approximately 971,787 tons of construction debris would be generated, including 424,681 tons from Candlestick Point and 547,104 tons from HPS Phase II. Most of the construction debris (45 percent) would consist of concrete, with the remaining debris consisting of wood (17 percent), steel (18 percent), and other miscellaneous debris (20 percent). It is assumed that the concrete debris would be recycled on site as a pipe bedding or road base; the wood debris would be chipped and sent to the local landfill for disposal; and the steel would be recycled off site for other uses (II-50)."

- Where will the debris be stored and for how long? What is the protocol for protecting this contaminated debris?

- How long will this debris be stored for? 5 years? 10 years?

- We have already seen that debris in Candlestick Park has been left as a big pile of dirt for years. Will debris taken from Candlestick be transported to the Shipyard? If so, what volume of dirt will be moved?

- What is in the miscellaneous debris?

- Will Shipyard occupants and the surrounding Bayview communities receive direct information about this debris, its storage, and the plan for removal? What notification will be given to residents in Bayview that are included in the route for removal of this debris?

- Please provide maps for locations of debris storage

- Please provide a timeline and route for the removal of debris

- Where will the debris not left on site, be taken? What will happen to this debris after its removal? What steps will be taken to protect the community and environment where it is moved?

The EIR states that, "The major components of the soil remedial actions are: excavating contaminated soil with off-site disposal, and covering with clean soil or other impervious surfaces such as pavement, concrete, or buildings...continuing the removal of radiological contaminated building materials and soils; and implementation of Institutional Controls (ICs) to limit exposure to contaminated soil and groundwater by restricting specified land uses and activities on the parcel (III.K-15)."

- What hazardous materials will remain in each parcel? What criteria will be used to determined safe levels of exposure?
- What hazardous materials will remain in Parcels E and E-2, given that the initial list of contaminants in the soil prior to remediation is still unknown?
- Please provide a chart listing all remaining hazardous materials in each parcel.
- Please provide diagrams and explanation for the demarcation layer mentioned in Section III.K-18

The EIR clearly acknowledges that Parcel E is a an area created by landfill:

> "Nearly all of the Parcel E land area was created using artificial fill... From 1958 to 1974, the landfill received liquid chemical waste, asbestos, domestic wastes and refuse, dredge spoil materials, sandblast grit, solvent wastes, and low-level radioactive wastes from shipboard radium dials, including electronic equipment (Section III.K-22)."

The EIR also acknowledges that the proposed project site as a whole is vulnerable to liquefaction:

> "The Project site is in an area of San Francisco that has been designated as potentially liquefiable. As depicted in Figure III.L-1, the majority of the Project site is covered by lowland soils and artificial fill, which is the most susceptible soil layer for liquefaction (Section III.L-15)."

- How will the proposed Institutional Controls (ICs) such as covers and caps be affected by possible earthquakes and liquefaction?
- Has the Project studied whether tectonic activity could breach these covers and caps, releasing hazardous materials? If so, please include those studies in the EIR, with proper illustrations of tectonic plates, with a view of depth and potential impact to cause liquefaction.

- How will the Project guarantee reasonable protection of public safety on this issue?

- What is the emergency evacuation plan for occupants of the Hunters Point Shipyard housing and retail stores, in the event of a massive earthquake (or other situations where contaminated vapors rise from underground)? How will this evacuation plan differ from others, given that there will still be some unknown level of contamination left in the soil?

- What notification protocol will be put in place to notify the larger Bayview community and San Francisco residents about any possible liquefaction or earth-movement-related occurrences that can result in rising hazardous materials?

"In Parcel E-2, the Navy has installed a groundwater containment and extraction system at the southeast portion of the landfill to reduce the potential for release of chemical constituents into the Bay. This system includes sheet piling and a groundwater extraction system to control potential mounding of shallow groundwater at the southern end of the landfill (Section III.K-23)."

- Please provide a map and illustration that breaks down the extraction system

"A multi-layer interim cap was constructed on a portion of the Parcel E-2 Landfill to prevent oxygen intrusion and extinguish smoldering subsurface areas following a subsurface fire that burned for several months in 2000. Following characterization of the nature and extent of landfill gas, a landfill gas barrier and monitoring system was constructed at the northern end of the landfill to prevent methane gas migration from reaching the University of California San Francisco (UCSF) facility adjacent to parcel E-2 (the UCSF facility is outside of HPS Phase II), (Section III.K-23).

- Please explain how the multi-layer interim cap works, and how it prevents oxygen intrusion
- Please provide a map that illustrates the area that this multi-layer interim cap will cover
- Please provide an illustration of the multi-layer interim cap, with a view from its depth (that is shown in feet), that separates and explains the layers of soils
- What is the overall plan to measure to prevent landfill gas from rising up into the open space areas? What are the criteria to measure exposure of vapors and airborne contaminants in this specific area that will not be cleaned to residential standards (only to open space standards that require less remediation)?
- Please provide further explanations, maps and illustrations of this landfill gas barrier and monitoring system.

"The draft PPs and RODs for E and E-2 are expected in the 2010–2011 timeframe. Remedial design plans and completion reports will be developed and are anticipated in the 2012–2014 timeframe (Section III.K-24).

Given the above statement about the release of the PP (proposed plan) and the ROD (record of decision):

- How can the impacts of hazardous material be fully addressed with out completion of the ROD?
- How will the results of the ROD impact the project plan? What information from the ROD will be pertinent to the Bayview community?
- What is the procedure if the ROD uncovers more areas of severe toxicity?

The EIR includes several radiological investigations and evaluations of the HPS site as a whole, with the following conclusion:

"The HRA identified the following potentially contaminated media: surface soils, subsurface soil and media, structures and drainage systems. The assessment concluded, however, that there was no concern for airborne contamination from the potentially contaminated media in their undisturbed state (III.K-27)."

These investigations clearly state there is no potential airborne contamination from this media, **if it is not disturbed.**

- Why didn't these studies include the *known* possibilities that this media would be disturbed, which is necessary for any construction to be done?

It is important to address and respond to all issues, questions and concerns outlined above. I look forward to reading the answer and looking over diagrams that have been requested.

Sincerely,

_____

Juana Teresa Tello

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Planning Commission Motion No. 18096

HEARING DATE: June 3, 2010

Date:	May 20, 2010
Case No.:	2007.0946E
Project:	Candlestick Point-Hunters Point Shipyard Phase II Development Plan
Location:	Candlestick Point and Hunters Point Shipyard
Staff Contact:	Lisa Gibson – (415) 575-9032 lisa.gibson@sfgov.org
Recommendation:	Adopt the EIR Certification Findings

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN.

MOVED, that the San Francisco Planning Commission (hereinafter "Planning Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2007.0946E, Candlestick Point-Hunters Point Shipyard Phase II Development Plan (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department"), together with the San Francisco Redevelopment Agency (hereinafter "Agency"), acting as a joint lead agencies, 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 and the Agency determined that an Environmental Impact Report (hereinafter "EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007.

   B. On September 1, 2007, the Department and the Agency mailed the NOP to local, state, and federal agencies and other interested parties, initiating a 30-day public comment period that extended through September 2007.

   C. The Department and the Agency filed a Notice of Completion of the NOP with the State Secretary of Resources via the State Clearinghouse on August 31, 2007.

   D. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to 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.

E. On November 12, 2009, the Department and the Agency 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 and Redevelopment Agency Commission (hereinafter "Agency Commission") public hearings on the DEIR.

F. On November 10 and 11, 2009, notices of availability of the DEIR or copies of the DEIR were mailed or otherwise delivered to a list of persons requesting such items, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.

G. Notice of Completion of the DEIR was filed with the State Secretary of Resources via the State Clearinghouse on November 12, 2009.

H. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsors on November 18, 2009.

2. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. At each of the aforementioned public hearings, opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments on the DEIR ended January 12, 2010.

3. The Department and the Agency prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-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 May 13, 2010 and mailed or otherwise delivered to the Planning Commission, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices.

4. A FEIR has been prepared by the Department and the Agency, consisting of the DEIR, 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. Project EIR files have been made available for review by the Planning Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, Suite 400, and are part of the record before the Planning Commission.

6. On June 3, 2010, the Planning Commission reviewed and considered the FEIR and hereby does find that the contents of said report 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.

7. The project sponsors have indicated that the Project identified in Chapter II of the FEIR, as modified by Variant 3D (hereinafter "the Candlestick Tower Variant D") and Variant 5 (hereinafter "the 49ers/Raiders Shared Stadium Variant") as described in Chapter IV of the FEIR, constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either Variant 1 (hereinafter "the R&D Variant") or Variant 2A (hereinafter "the Housing/R&D Variant") constitute the Project. In addition, if the stadium is not constructed, the Project includes Subalternative 4A (hereinafter "CP-HPS Phase II Development Plan with Historic Preservation") as described in Chapter VI of the FEIR; the developer will determine the ultimate feasibility of its implementation at a later time.

8. The Planning Commission hereby does find that the FEIR concerning File No. 2007.0946E 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 FEIR in compliance with CEQA and the CEQA Guidelines.

9. The Planning Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR and the Project preferred by the project sponsors, described above under Finding 7, above:

   A. Will have project-specific significant effects on the environment including:[1]

      a. **Impact TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System.** The Project would impact the transportation system through construction vehicle traffic and roadway construction and contribute to cumulative construction impacts in the vicinity of the Project.

      b. **Impact TR-2: Effect of Project on Traffic Volumes.** The Project would cause an increase in traffic that would be substantial relative to the existing and proposed capacity of the street system.

      c. **Impact TR-3: Effect of Project Traffic at Certain Area Intersections.** The Project would have significant impacts on nine intersections in the Project vicinity, and would contribute to cumulative traffic conditions at these intersections: Third Street at Oakdale, Revere, Carroll, Jamestown, Jerrold and Williams/Van Dyke; and Bayshore Boulevard at Paul, Cortland and US 101 Northbound Off-ramp/Cesar Chavez.

      d. **Impact TR-4: Effect of Project Traffic at Tunnel/Blanken.** The Project would result in significant Project AM peak hour traffic impacts and contribute to cumulative PM peak hour traffic impacts at the intersection of Tunnel/Blanken.

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[1] Impacts listed under Finding 9A are project-specific impacts, with the exception of impacts related to transportation and circulation (denoted with the alpha-numeric code "TR-"), which, as described, include both project-specific and cumulative impacts.

e. **Impact TR-5: Project Contribution to Traffic at Degraded Intersections.** The Project would contribute significant traffic to intersections in the Project vicinity that would operate at LOS E or LOS F under 2030 No Project conditions. The Project contributions to cumulative traffic conditions would be significant in twenty intersections in the Project vicinity, and at sixteen of these intersections no feasible mitigation measures were identified. These sixteen intersections are: Third Street at 25th Street, Cesar Chavez Street, Cargo Way, Evans Avenue, Palou Avenue and Paul Avenue; Bayshore Boulevard at Visitacion Avenue, Alemany Boulevard/Industrial Street, Blanken, Bacon Street and Sunnydale Avenue; San Bruno Avenue at Paul Avenue, Silver Avenue and Mansell Avenue/US 101 Southbound Off-ramp; Cesar Chavez Street at Pennsylvania/I 280; and Evans Avenue at Napoleon Avenue/Toland Street. (The other four intersections are discussed below, under Impacts TR-6, TR-7 and TR-8.).

f. **Impact TR-6: Project Traffic at Freeway Ramps.** The Project would contribute significant traffic at the intersections of Geneva/US 101 Southbound Ramps and Harney/US 101 Northbound Ramps, which would operate at LOS F under 2030 No Project conditions.

g. **Impact TR-7. Project Traffic at Amador/Cargo/Illinois.** The Project would contribute significant traffic to the intersections of Amador/Cargo/Illinois, which would operate at LOS E under 2030 No Project conditions;

h. **Impact TR-8: Project Traffic at Bayshore/Geneva.** The Project would contribute significant traffic to the intersection of Bayshore/Geneva, which would operate at LOS F under 2030 No Project conditions.

i. **Impact TR-10: Project Traffic Effects.** The Project would result in increased traffic volumes on area roadways, and most substantially on key north/south and east/west streets, which would also experience cumulative traffic growth. As a result, the existing residential streets could be used as "cut-throughs," shortcuts, or bypasses by non-neighborhood traffic. Substantial amounts of cut-through traffic can result in impacts such as noise, safety impacts to pedestrians, impaired driveway access, interference with emergency vehicle access, increased dust, exhaust, and litter, and similar annoyances that adversely affect neighborhood character.

j. **Impact TR-11: Project Traffic at Freeway Segments.** The Project would contribute cumulatively considerable amounts of traffic to four freeway segments expected to operate at LOS E or LOS F under 2030 No Project conditions, specifically, US 101 northbound from Sierra Point to Alana/Geneva/Harney; US 101 southbound from the I 80 Merge to Cesar Chavez; US 101 southbound from Third/Bayshore to Alana/Geneva/Harney; and US 101 southbound from Alana/Geneva/Harney to Sierra Point.

k. **Impact TR-12: Project Traffic Impact at Freeway Ramps.** The Project would cause four ramp junctions to deteriorate from acceptable LOS D or better to LOS E or F conditions or

from LOS E to LOS F conditions, specifically, the US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Harney Way/Geneva Avenue.

l. **Impact TR-13: Project Traffic Contribution to Cumulative Impacts at Freeway Ramps.** The Project would contribute to significant cumulative traffic impacts at 12 freeway ramp locations. The Project would contribute cumulatively significant traffic increases at ramp junctions projected to operate at LOS E or LOS F under 2030 No Project conditions, specifically: US 101 northbound on-ramp from Sierra Point Parkway; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound off-ramp to Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Third Street/Bayshore Boulevard; US 101 southbound on-ramp from Harney Way/Geneva Avenue; US 101 southbound on-ramp from Sierra Point Parkway; I 280 northbound off-ramp to Cesar Chavez Street; I 280 northbound on-ramp from Indiana Street/25th Street; I 280 southbound off-ramp to Pennsylvania Avenue/25th Street; and I 280 southbound on-ramp from Pennsylvania Avenue/25th Street.

m. **Impact TR-14: Project Traffic Impact to Diverge Queue Storage at Harney/US 101 Northbound Off-ramp.** The Project would result in significant impacts related to freeway diverge queue storage at the Harney/US 101 Northbound Off-ramp. The Project would result in increases in traffic volumes that would cause the US 101 northbound off-ramp to Harney Way to experience queues that may extend back to the upstream freeway mainline segment which could result in unsafe conditions on the freeway mainline, resulting in significant traffic impacts at this location.

n. **Impact TR-15: Project Traffic Contribution to Diverge Queue Storage Impacts.** The Project could contribute to significant cumulative traffic impacts related to freeway diverge queue storage at some off-ramp locations: US 101 northbound off-ramp to Harney Way and Bayshore/Cesar Chavez; US 101 southbound Off-ramp to Harney Way/Geneva Avenue and Sierra Point/Lagoon; and I-280 northbound off-ramp at Cesar Chavez.

o. **Impact TR-21: Project Traffic Impacts to 9-San Bruno Transit Line.** The Project would increase congestion and contribute to cumulative conditions at intersections along San Bruno Avenue, which would increase travel times and impact operations of the 9-San Bruno. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 9-San Bruno, which would add up to 8 minutes of delay per bus during peak hours.

p. **Impact TR-22: Project Traffic Impacts to 23-Monterey, 24-Divisadero, 44-O'Shaughnessy Transit Lines.** The Project would contribute traffic to cumulative conditions at intersections along Palou Avenue, which would increase travel times and

impact operations of the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy. Project-related transit delays due to traffic congestion and passenger boarding delays associated with increased ridership would result in significant impacts on the operation of the 23-Monterey, 24-Divisadero, and 44-O'Shaughnessy along Palou Avenue, which would add up to 7 minutes of delay per bus during peak hours.

q. **Impact TR-23: Project Traffic Impacts to 29-Sunset Transit Line.** The Project would increase congestion at intersections along Gilman Avenue and Paul Avenue, which would increase travel times and would impact operations of the 29-Sunset. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 29-Sunset, particularly at Third Street and Bayshore Boulevard. Overall, the Project-related congestion would add up to 17 minutes of delay per bus during peak hours.

r. **Impact TR-24: Project Traffic Impacts to 48-Quintara-24th Street Transit Line.** The Project would increase congestion at intersections along Evans Avenue, which would increase travel times and impact operations of the 48-Quintara-24th Street. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 48-Quintara-24th Street along Evans Avenue, particularly at intersections of Third Street, Napoleon/Toland Streets and at Cesar Chavez Street. Overall, the Project-related congestion would add up to 3 minutes of delay per bus during peak hours.

s. **Impact TR-25: Project Traffic Impacts to 54-Felton Transit Line.** The Project would increase congestion at several intersections in the area, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the 54-Felton. The Project would create traffic congestion resulting in significant impacts to the operations of the 54-Felton, adding up to 6 minutes of delay per bus, particularly during the PM peak hour.

t. **Impact TR-26: Project Traffic Impacts to T-Third Transit Line.** The Project would increase congestion at intersections along Third Street, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the T-Third. Project-related transit delays due to traffic congestion on Third Street and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the T-Third, particularly in the segment between Thomas Avenue and Kirkwood Avenue, resulting in overall delays of up to 3 minutes per bus during peak hours.

u. **Impact TR-27: Project Traffic Impacts to 28L-19th Avenue/Geneva Limited Transit Line.** The Project could increase congestion at the intersection of Geneva Avenue and Bayshore Boulevard, increasing travel times and impacting operations of the 28L-19th Avenue/Geneva Limited. Increased congestion associated with Project vehicle trips would impact the operations of the 28L-19th Avenue/Geneva Limited, resulting in delays of 4 minutes per bus during peak hours.

v. **Impact TR-28: Project Traffic Impacts to 9X, 9AX, 9BX-Bayshore Expresses and 14X-Mission Express Transit Lines.** The Project would increase congestion on US 101 mainline and ramps, which would increase travel times and impact operations of the 9X, 9AX, 9BX-Bayshore Expresses, and 14X-Mission Express. The Project would also contribute to cumulative impacts on these transit routes on US 101.

w. **Impact TR-30: Project Traffic Impacts to SamTrans Bus Lines.** The Project would increase congestion and contribute to cumulative congestion on US 101 and on Bayshore Boulevard, which would increase travel times and adversely affect operations of SamTrans bus lines on these facilities.

x. **Impact TR-32: Project Traffic Impacts to Bicycle Routes.** Implementation of the Project's proposed transit preferential treatments and significant increases in traffic volumes on Palou Avenue could result in impacts on bicycle travel on Bicycle Routes #70 and #170 between Griffith Street and Third Street. The combination of the proposed transit preferential treatment and the substantial increase in traffic volumes and congestion would result in potentially significant impacts on bicycle travel on Bicycle Route #70 and Bicycle Route #170 on Palou Avenue.

y. **Impact TR-38: 49ers Game Site Access and Traffic Impacts.** Implementation of the proposed 49ers stadium would result in significant impacts on study area roadways and intersections, for as many as 12 times a year.

z. **Impact TR-39: Stadium 49er Game Transit Impacts.** Implementation of the Project with existing game day service and Project transit improvements would not be adequate to accommodate projected transit demand. It is estimated that there would be a capacity shortfall of approximately 3,640 passengers per hour during game days.

aa. **Impact TR-46: Stadium Secondary Event Site Access and Traffic Impacts.** Weekday evening secondary events at the stadium would result in increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without a secondary event, and result in significant impacts at nine additional intersections and one additional freeway off-ramp.

bb. **Impact TR-47: Stadium Secondary Event Transit Impacts.** With implementation of the Project, the existing transit service and Project improvements would not be adequate to accommodate projected transit demand during secondary events with attendance of 37,500 spectators. In addition, transit lines serving the area would experience additional delays due to traffic generated by the secondary event.

cc. **Impact TR-51: Project Site Access and Traffic Impacts from Arena Uses.** With implementation of the Project, weekday evening events at the arena would exacerbate congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without an arena event, and result in significant traffic impacts at Harney Way and Jamestown Avenue, which would

operating acceptably under Project conditions without an arena event. Overall, since local streets and freeway facilities would experience increased congested without an arena event, traffic impacts associated with the new arena would be significant.

dd. **Impact TR-52: Transit Impacts from Arena Uses.** With implementation of the Project, the existing and proposed transit service would be affected by sell-out weekday evening events at the arena. With the stadium use at HPS Phase II, transit capacity would be adequate to accommodate projected transit demand, but because of traffic congestion in the area, impacts to transit would result. With the implementation of Variants 1 or 2A at the stadium site, traffic congestion would impact transit service and in addition, events at the arena might cause transit capacity impacts.

ee. **Impact AQ-4: Criteria Pollutants from Project Operations.** Operation of the Project would violate the Bay Area Air Quality Management District (BAAQMD)'s CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources, and contribute substantially to an existing or projected air quality violation at full build-out in the year 2029. Project emissions of ROG, NOx and PM_{10} would exceed the BAAQMD CEQA thresholds and the ROG, NOx, PM_{10} and $PM_{2.5}$ proposed BAAQMD CEQA thresholds.

ff. **Impact NO-2: Groundborne Vibration Impacts from Construction.** Construction activities associated with the Project would create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the Project site and at proposed on-site residential uses should the latter be occupied before Project construction activities on adjacent parcels are complete.

gg. **Impact NO-3: Increase in Ambient Noise Levels from Construction.** Construction activities associated with the Project would result in a substantial temporary or periodic increase in ambient noise levels. Construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would involve demolition, grading, and excavation activities, followed by construction and external finishing of the proposed facilities and associated parking areas, as well as roadway and landscaping improvements. These activities would involve the use of heavy equipment.

hh. **Impact NO-6: Noise Impacts from Project Traffic.** Operation of the Project would generate increased local traffic volumes that would cause a substantial permanent increase in ambient noise levels in existing residential areas along the major Project site access routes. The increase in traffic resulting from implementation of the Project and ambient growth over the next 20 years would increase the ambient noise levels at noise-sensitive locations along the major vehicular access routes to the Project site, particularly along sections of Jamestown Avenue, Carroll Avenue, and Gilman Avenue.

ii. **Impact NO-7: Noise Impacts from Stadium Events.** Noise during football games and concerts at the proposed stadium would result in temporary increases in ambient noise levels that could adversely affect surrounding residents for the duration of a game or

concert. There would be significant noise impacts during football game days and concert days on the existing residential uses closest to the proposed stadium and possibly for the new residential uses closest to the proposed stadium.

jj. **Impact CP-1b: Impacts to Historic Resources from Construction Activities.** Construction at HPS Phase II could result in a substantial adverse change in the significance of an historical resource. Implementation of the Project could result in the demolition of Buildings 211, 224, 231, and 253, which have been identified as historic resources in the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District.

kk. **Impact SH-1a: New Shadow on Gilman Park from Tower Variants 3C and 3d.** Under Tower Variants 3C and 3D, new shadows on Gilman Park are conservatively considered significant; and

B. Will have significant cumulative effects on the environment including:[2]

a. **Cumulative Contribution of Criteria Pollutants from Project Operation.** Operation of the Project would violate BAAQMD CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources and contribute substantially to an existing or projected air quality violation at full build-out.

b. **Cumulative Contribution to TAC and $PM_{2.5}$ Impact Under the Proposed Bay Area Air Quality Management District CEQA Guidelines.** The Project may result in a considerable contribution to a cumulative air quality impact regarding TACs and $PM_{2.5}$ emissions under proposed BAAQMD CEQA Guidelines.

c. **Cumulative Contribution to Noise from Construction Activities.** Construction activities such as use of heavy equipment and pile driving associated with development of cumulative projects could contribute to a cumulative impact from increased noise levels for both off-site and on-site sensitive receptors.

d. **Cumulative Contribution to Pile-Driving Activities.** Construction of the Project would include pile-driving activities that may overlap with other nearby construction activities during Project development and make a considerable contribution to cumulative construction-related temporary increases in ambient noise levels.

e. **Cumulative Contribution to Traffic Noise Levels.** Project operation would make a considerable contribution to a substantial, permanent increase in cumulative traffic noise levels that would affect existing and future residential uses along all Project site access roads.

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[2] Finding 9B lists cumulative impacts of the project, with the exception of cumulative impacts related to transportation and circulation, which are reflected under Finding 9A (see impacts listed therein denoted with the alpha-numeric code "TR-").

f. **Cumulative Contribution to Ambient Noise During Stadium Events.** Project operation would make a considerable contribution to a substantial increase in cumulative noise during stadium events.

g. **Cumulative Contribution to Vibration Effects During Construction Activities.** Pile-driving activities during construction could make a considerable contribution to cumulative vibration effects if pile driving would occur and/or heavy construction equipment would operate on multiple sites and collectively result in vibration impacts in excess of 85 VdB at nearby sensitive receptors.

h. **Cumulative Contribution to Impacts on Historic Resources.** The Project would make a considerable contribution to a cumulative impact on significant historical resources, including residential, commercial, and civic properties that are listed or eligible for listing on national, state, or local registers.

i. **Cumulative Contribution to Demand for Police Services.** Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for police protection. While the Police Department considers population growth projections in its annual budgeting process to determine equipment and staffing needs for the coming year, it is possible that cumulative growth in the City could exceed the capacity of existing or planned staffing and facility improvements, and could require construction of one or more stations, resulting in a significant impact. Because the Project would require new or physically altered police facilities in order to maintain acceptable police services, the Project would make a cumulatively considerable contribution to a potential significant cumulative impact on police services.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 3, 2010.

Linda Avery
Commission Secretary

AYES: 4 - Miguel, Antonini, Borden, and Lee

NOES: 3 - Olague, Moore, Sugaya

ABSENT: 0

ADOPTED: June 3, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

NEIGHBORHOOD ORGANIZATION FEE WAIVER REQUEST FORM

Appeals to the Board of Supervisors

1650 Mission
Suite 400
San Francisco
CA 94103-247

Reception:
415.558.637

Fax:
415.558.640

Planning
Information:
415.558.637

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: JARON BROWNE	Address of Project: CANDLESTICK POINT - H.P. SHIPYARD
Neighborhood Organization: POWER	Planning Case No: 2007.0946 E
Applicant's Address: 4923 THIRD STREET, SF 94124	Building Permit No:
Applicant's Daytime Phone No: 415-377-2822	Date of Decision: MAY 20, 2010
Applicant's Email Address: jaron@peopleorganized.org	

* POWER (PEOPLE ORGANIZED TO WIN EMPLOYMENT RIGHTS)

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**

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: MAY 16 2003

PEOPLE ORGANIZED TO WIN EMPLOYMENT
RIGHTS
32 SEVENTH ST
SAN FRANCISCO, CA 94103

Employer Identification Number:
94-3305957
DLN:
17053088820043
Contact Person:
JODI L GARUCCIO ID# 31481
Contact Telephone Number:
(877) 829-5500
Our Letter Dated:
SEPTEMBER 1998
Addendum Applies:
NO

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Letter 1050 (DO/CG)

PEOPLE ORGANIZED TO WIN EMPLOYMENT

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Lois G. Lerner
Director, Exempt Organizations
Rulings and Agreements

Letter 1050 (DO/CG)

2107341

State of California

SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE

2 pages

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

MAY 4 1998

THE GREAT SEAL OF THE STATE OF CALIFORNIA

Bill Jones

Secretary of State

SOS/STATE FORM CE-107 (REV 4/97)

FILED
In the office of the Secretary of State
of the State of California

2167341

MAY 1 1998

BILL JONES, Secretary of State

ARTICLES OF INCORPORATION OF

PEOPLE ORGANIZED TO WIN EMPLOYMENT RIGHTS

ONE: The name of the corporation is **PEOPLE ORGANIZED TO WIN EMPLOYMENT RIGHTS.**

TWO: This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.

This corporation is organized exclusively for educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code") or the corresponding provision of any future United States internal revenue law.

Notwithstanding any other provision of these articles, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation, and the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law, or (b) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055(a) or 2522(a) of the Code or the corresponding provision of any future United States internal revenue law.

THREE: The name and address in California of the corporation's initial agent for service of process are **STEVE WILLIAMS**, 126 Hyde Street, San Francisco, CA 94102.

FOUR:

(a) No substantial part of the activities of this corporation shall consist of lobbying or propaganda, or otherwise attempting to influence legislation, except as provided in Section 501(h) of the Code or the corresponding provision of any future United States internal revenue law, and this corporation shall not participate in or intervene in (including publishing or distributing statements) any political campaign on behalf of or in opposition to any candidate for public office, except as provided in Section 501(h) of the Code or the corresponding provision of any future United States internal revenue law.

(b) All corporate property is irrevocably dedicated to the purposes set forth in Article Two, above. No part of the net earnings of this corporation shall inure to the benefit of any of its directors, trustees, officers, private shareholders or members, or to individuals.

(b) All corporate property is irrevocably dedicated to the purposes set forth in Article Two, above. No part of the net earnings of this corporation shall inure to the benefit of any of its directors, trustees, officers, private shareholders or members, or to individuals.

(c) On the winding up and dissolution of this corporation, after paying or adequately providing for the debts, obligations, and liabilities of the corporation, the remaining assets of this corporation shall be distributed to such organization (or organizations) organized and operated exclusively for scientific, charitable or educational purposes, which has established its tax-exempt status under section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law.

Dated: 4/30, 1998

STEVE WILLIAMS
Incorporator

I hereby declare that I am the person who executed the above Articles of Incorporation, which execution is my act and deed.

STEVE WILLIAMS

OFFICE OF THE SECRETARY OF STATE

224602 v1/SF
4t@y011.DOC
042998

Golden Gate Audubon	California Native Plant Society, Yerba Buena Chapter	Sierra Club San Francisco Bay Chapter	San Francisco Tomorrow

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 JUN 21 PM 3:43
BY

June 21, 2010

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

Re: Appeal of Certification of Final Environmental Impact Report – Candlestick Point – Hunter's Point Shipyard Phase II

Planning Commission Action Motion 18096 (June 3, 2010) – Adopting Findings Related to the Certification of a Final Environmental Impact Report for a Proposed Candlestick Point-Hunters Point Shipyard Phase II Development Plan

Appellants: Golden Gate Audubon Society, 2530 San Pablo Ave., Suite G, Berkeley, CA 94702. Tel. (510) 843-6551. Email: mlynes@goldengateaudubon.org.

San Francisco Tomorrow, 41 Sutter Street, San Francisco, CA 94104-4905. Tel. (415) 566-7050. Email: JenClary@sbcglobal.net

Sierra Club, San Francisco Bay Chapter, 2530 San Pablo Ave., Suite I, Berkeley, CA 94702. Tel. (510) 848-0800. Email: arthurfeinstein@earthlink.net.

California Native Plant Society, Yerba Buena Chapter, Yerba Buena Chapter, 2707 K Street, Suite I, Sacramento, CA 95816. Tel. 415- 206-1428. Email: ljshaffer1@comcast.net

To the Board of Supervisors:

The San Francisco Bay Chapter of the Sierra Club, the Golden Gate Audubon Society, the California Native Plant Society, Yerba Buena Chapter, and San Francisco Tomorrow (collectively "Appellants") hereby appeal the action of the San Francisco Planning Commission of June 3, 2010, wherein the Commission adopted findings related to the certification of the Final Environmental Impact Report ("FEIR") and certified the FEIR for the proposed Candlestick Point-Hunters Point Shipyard Phase II Development Plan. A copy of the Planning Commission's Motion 18096 is attached hereto as Attachment A.

Additional documentation in support of this appeal will be subsequently filed with the Clerk's office.

Each of the Appellants represents a sizeable constituency that has been actively participating in the development of the EIR for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan ("the Project") for almost a decade. Each has conducted or funded studies to inform the DEIR and development process and has filed comments to the DEIR and other planning documents throughout the process. Finally, each has had representatives at many of the planning meetings and hearings regarding this matter.

Unfortunately, the data, comments, and testimony provided by the Appellants and their members have been dismissed or outright ignored by the Planning Department and the developer in this process, resulting in fatal flaws in the FEIR and necessitating this appeal. The Planning Department and developer rebuffed our efforts (and those of other concerned groups) to develop a constructive dialogue and dismissed our concerns without giving them serious consideration. Had there been an earnest effort by the City to seek and consider input from all constituents, the FEIR would have been much improved and any potential delays introduced by this appeal could have been avoided.

We understand the City's legitimate interest in seeing the Project proceed quickly and we support smart, fact-based planning and redevelopment in the Candlestick Point-Hunters Point-Bayview community. We believe redevelopment in the area is long overdue and that the community deserves well-planned redevelopment now. However, the refusal of the Planning Department and Project developer to honestly consider the environmental impacts and to provide the "hard look" required by law, and the Planning Commission's endorsement of these failures, have necessitated this appeal.

Because many portions of the FEIR are inaccurate and incomplete, the Planning Commission erred in adopting several findings and certifying the FEIR. Therefore, we are appealing the FEIR because:

1. the FEIR failed to adequately analyze an alternate Bus Rapid Transit (BRT) route around Yosemite Slough;
2. the FEIR failed to adequately assess impacts resulting from the landfill cap on Parcel E2, which is a lower standard for the clean-up than required by San Francisco voters as expressed in Proposition P;
3. the FEIR inaccurately and incompletely assessed the impacts from transferring approximately 20 acres of public shoreline land in Candlestick Point State Recreation Area to the developer for the construction of high-end housing;

4. the FEIR failed to analyze those elements of the Project's Sustainability Plan that could have significant environmental impacts, including two proposed heating and cooling plants (which appear to be power plants) to serve at least 10,500 units in the Project and a Project-wide recycling collection system;

5. the FEIR failed to adequately consider impacts to the bird-nesting island component of the Candlestick Point State Recreation Area's proposed 34-acre Wetland Restoration Project, which is already permitted and planned for construction this year;

6. the FEIR failed to adequately address impacts to eight MUNI lines, which would significantly increase transit times, increase delays during peak hours, potentially dissuade ridership, and/or require increased service, busses, or drivers;

7. the FEIR failed to adequately assess impacts resulting from the construction and maintenance of the Project's underground utility matrix;

8. the FEIR failed to adequately address the fact that the Project will result in increases in air pollution that will exceed existing air quality standards—indeed even though the FEIR admits exceedences of air quality levels will occur, those statements are underestimates because the FEIR failed to consider that the development in combination with other development plans will result in significant traffic congestion on Highway 101 and Interstate 280 and force more traffic onto surface streets; and

9. the FEIR included conclusions based on false, inaccurate and/or biased statements as "evidence", including (but not limited to) that one cannot have an "undisturbed nature experience" in an urban area as a rationale for dismissing impacts that will inevitably result from construction of the bridge over Yosemite Bridge and/or the reduction of public land in the Candlestick Point State Recreation Area.

Each of these deficiencies will be further documented by additional submissions to the record prior to a hearing on this appeal by the Board of Supervisors.

We ask that the Board overturn the Planning Commission's adoption of findings as set forth in Motion 18096 of June 3, 2010 and require that the Planning Department revise the EIR to address the deficiencies set forth above. If the Board of Supervisors acts promptly, revisions to the EIR may be made quickly and result in a minimal delay in the progress of the project. Alternately, resolution of many of these disputed issues may be expedited by a decision to remove from the FEIR and Project Plan the provisions for the bridge over Yosemite Slough, the transfer of land in Candlestick Point State Recreation Area to the Project developer, and compromised clean-up efforts at Parcel E2.

Thank you for your consideration and the prompt calendaring of this appeal. In the interim, we are amenable to discussing these issues further with representatives of the Planning Department, Planning Commission, and the Board of Supervisors.

6/18/10

Arthur Feinstein
Vice-Chair, Sierra Club, SF Bay Chapter

6/21/10

Michael Lynes
Conservation Director Golden Gate Audubon Society,

Jennifer Clary
President, San Francisco Tomorrow

6/18/10

Linda J. Shaffer
Vice-Chair, Yerba Buena Chapter,
California Native Plant Society

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Planning Commission Motion No. 18096

HEARING DATE: June 3, 2010

Date:	May 20, 2010
Case No.:	2007.0946E
Project:	Candlestick Point-Hunters Point Shipyard Phase II Development Plan
Location:	Candlestick Point and Hunters Point Shipyard
Staff Contact:	Lisa Gibson – (415) 575-9032 lisa.gibson@sfgov.org
Recommendation:	Adopt the EIR Certification Findings

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN.

MOVED, that the San Francisco Planning Commission (hereinafter "Planning Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2007.0946E, Candlestick Point-Hunters Point Shipyard Phase II Development Plan (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department"), together with the San Francisco Redevelopment Agency (hereinafter "Agency"), acting as a joint lead agencies, 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 and the Agency determined that an Environmental Impact Report (hereinafter "EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007.

   B. On September 1, 2007, the Department and the Agency mailed the NOP to local, state, and federal agencies and other interested parties, initiating a 30-day public comment period that extended through September 2007.

   C. The Department and the Agency filed a Notice of Completion of the NOP with the State Secretary of Resources via the State Clearinghouse on August 31, 2007.

   D. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to 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.

E. On November 12, 2009, the Department and the Agency 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 and Redevelopment Agency Commission (hereinafter "Agency Commission") public hearings on the DEIR.

F. On November 10 and 11, 2009, notices of availability of the DEIR or copies of the DEIR were mailed or otherwise delivered to a list of persons requesting such items, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.

G. Notice of Completion of the DEIR was filed with the State Secretary of Resources via the State Clearinghouse on November 12, 2009.

H. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsors on November 18, 2009.

2. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. At each of the aforementioned public hearings, opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments on the DEIR ended January 12, 2010.

3. The Department and the Agency prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-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 May 13, 2010 and mailed or otherwise delivered to the Planning Commission, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices.

4. A FEIR has been prepared by the Department and the Agency, consisting of the DEIR, 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. Project EIR files have been made available for review by the Planning Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, Suite 400, and are part of the record before the Planning Commission.

6. On June 3, 2010, the Planning Commission reviewed and considered the FEIR and hereby does find that the contents of said report 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.

7. The project sponsors have indicated that the Project identified in Chapter II of the FEIR, as modified by Variant 3D (hereinafter "the Candlestick Tower Variant D") and Variant 5 (hereinafter "the 49ers/Raiders Shared Stadium Variant") as described in Chapter IV of the FEIR, constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either Variant 1 (hereinafter "the R&D Variant") or Variant 2A (hereinafter "the Housing/R&D Variant") constitute the Project. In addition, if the stadium is not constructed, the Project includes Subalternative 4A (hereinafter "CP-HPS Phase II Development Plan with Historic Preservation") as described in Chapter VI of the FEIR; the developer will determine the ultimate feasibility of its implementation at a later time.

8. The Planning Commission hereby does find that the FEIR concerning File No. 2007.0946E 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 FEIR in compliance with CEQA and the CEQA Guidelines.

9. The Planning Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR and the Project preferred by the project sponsors, described above under Finding 7, above:

   A. Will have project-specific significant effects on the environment including:[1]

      a. **Impact TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System.** The Project would impact the transportation system through construction vehicle traffic and roadway construction and contribute to cumulative construction impacts in the vicinity of the Project.

      b. **Impact TR-2: Effect of Project on Traffic Volumes.** The Project would cause an increase in traffic that would be substantial relative to the existing and proposed capacity of the street system.

      c. **Impact TR-3: Effect of Project Traffic at Certain Area Intersections.** The Project would have significant impacts on nine intersections in the Project vicinity, and would contribute to cumulative traffic conditions at these intersections: Third Street at Oakdale, Revere, Carroll, Jamestown, Jerrold and Williams/Van Dyke; and Bayshore Boulevard at Paul, Cortland and US 101 Northbound Off-ramp/Cesar Chavez.

      d. **Impact TR-4: Effect of Project Traffic at Tunnel/Blanken.** The Project would result in significant Project AM peak hour traffic impacts and contribute to cumulative PM peak hour traffic impacts at the intersection of Tunnel/Blanken.

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[1] Impacts listed under Finding 9A are project-specific impacts, with the exception of impacts related to transportation and circulation (denoted with the alpha-numeric code "TR-"), which, as described, include both project-specific and cumulative impacts.

e. **Impact TR-5: Project Contribution to Traffic at Degraded Intersections.** The Project would contribute significant traffic to intersections in the Project vicinity that would operate at LOS E or LOS F under 2030 No Project conditions. The Project contributions to cumulative traffic conditions would be significant in twenty intersections in the Project vicinity, and at sixteen of these intersections no feasible mitigation measures were identified. These sixteen intersections are: Third Street at 25th Street, Cesar Chavez Street, Cargo Way, Evans Avenue, Palou Avenue and Paul Avenue; Bayshore Boulevard at Visitacion Avenue, Alemany Boulevard/Industrial Street, Blanken, Bacon Street and Sunnydale Avenue; San Bruno Avenue at Paul Avenue, Silver Avenue and Mansell Avenue/US 101 Southbound Off-ramp; Cesar Chavez Street at Pennsylvania/I 280; and Evans Avenue at Napoleon Avenue/Toland Street. (The other four intersections are discussed below, under Impacts TR-6, TR-7 and TR-8.).

f. **Impact TR-6: Project Traffic at Freeway Ramps.** The Project would contribute significant traffic at the intersections of Geneva/US 101 Southbound Ramps and Harney/US 101 Northbound Ramps, which would operate at LOS F under 2030 No Project conditions.

g. **Impact TR-7. Project Traffic at Amador/Cargo/Illinois.** The Project would contribute significant traffic to the intersections of Amador/Cargo/Illinois, which would operate at LOS E under 2030 No Project conditions;

h. **Impact TR-8: Project Traffic at Bayshore/Geneva.** The Project would contribute significant traffic to the intersection of Bayshore/Geneva, which would operate at LOS F under 2030 No Project conditions.

i. **Impact TR-10: Project Traffic Effects.** The Project would result in increased traffic volumes on area roadways, and most substantially on key north/south and east/west streets, which would also experience cumulative traffic growth. As a result, the existing residential streets could be used as "cut-throughs," shortcuts, or bypasses by non-neighborhood traffic. Substantial amounts of cut-through traffic can result in impacts such as noise, safety impacts to pedestrians, impaired driveway access, interference with emergency vehicle access, increased dust, exhaust, and litter, and similar annoyances that adversely affect neighborhood character.

j. **Impact TR-11: Project Traffic at Freeway Segments.** The Project would contribute cumulatively considerable amounts of traffic to four freeway segments expected to operate at LOS E or LOS F under 2030 No Project conditions, specifically, US 101 northbound from Sierra Point to Alana/Geneva/Harney; US 101 southbound from the I 80 Merge to Cesar Chavez; US 101 southbound from Third/Bayshore to Alana/Geneva/Harney; and US 101 southbound from Alana/Geneva/Harney to Sierra Point.

k. **Impact TR-12: Project Traffic Impact at Freeway Ramps.** The Project would cause four ramp junctions to deteriorate from acceptable LOS D or better to LOS E or F conditions or

from LOS E to LOS F conditions, specifically, the US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Harney Way/Geneva Avenue.

l. **Impact TR-13: Project Traffic Contribution to Cumulative Impacts at Freeway Ramps.** The Project would contribute to significant cumulative traffic impacts at 12 freeway ramp locations. The Project would contribute cumulatively significant traffic increases at ramp junctions projected to operate at LOS E or LOS F under 2030 No Project conditions, specifically: US 101 northbound on-ramp from Sierra Point Parkway; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound off-ramp to Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Third Street/Bayshore Boulevard; US 101 southbound on-ramp from Harney Way/Geneva Avenue; US 101 southbound on-ramp from Sierra Point Parkway; I 280 northbound off-ramp to Cesar Chavez Street; I 280 northbound on-ramp from Indiana Street/25th Street; I 280 southbound off-ramp to Pennsylvania Avenue/25th Street; and I 280 southbound on-ramp from Pennsylvania Avenue/25th Street.

m. **Impact TR-14: Project Traffic Impact to Diverge Queue Storage at Harney/US 101 Northbound Off-ramp.** The Project would result in significant impacts related to freeway diverge queue storage at the Harney/US 101 Northbound Off-ramp. The Project would result in increases in traffic volumes that would cause the US 101 northbound off-ramp to Harney Way to experience queues that may extend back to the upstream freeway mainline segment which could result in unsafe conditions on the freeway mainline, resulting in significant traffic impacts at this location.

n. **Impact TR-15: Project Traffic Contribution to Diverge Queue Storage Impacts.** The Project could contribute to significant cumulative traffic impacts related to freeway diverge queue storage at some off-ramp locations: US 101 northbound off-ramp to Harney Way and Bayshore/Cesar Chavez; US 101 southbound Off-ramp to Harney Way/Geneva Avenue and Sierra Point/Lagoon; and I-280 northbound off-ramp at Cesar Chavez.

o. **Impact TR-21: Project Traffic Impacts to 9-San Bruno Transit Line.** The Project would increase congestion and contribute to cumulative conditions at intersections along San Bruno Avenue, which would increase travel times and impact operations of the 9-San Bruno. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 9-San Bruno, which would add up to 8 minutes of delay per bus during peak hours.

p. **Impact TR-22: Project Traffic Impacts to 23-Monterey, 24-Divisadero, 44-O'Shaughnessy Transit Lines.** The Project would contribute traffic to cumulative conditions at intersections along Palou Avenue, which would increase travel times and

impact operations of the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy. Project-related transit delays due to traffic congestion and passenger boarding delays associated with increased ridership would result in significant impacts on the operation of the 23-Monterey, 24-Divisadero, and 44-O'Shaughnessy along Palou Avenue, which would add up to 7 minutes of delay per bus during peak hours.

q. **Impact TR-23: Project Traffic Impacts to 29-Sunset Transit Line.** The Project would increase congestion at intersections along Gilman Avenue and Paul Avenue, which would increase travel times and would impact operations of the 29-Sunset. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 29-Sunset, particularly at Third Street and Bayshore Boulevard. Overall, the Project-related congestion would add up to 17 minutes of delay per bus during peak hours.

r. **Impact TR-24: Project Traffic Impacts to 48-Quintara-24th Street Transit Line.** The Project would increase congestion at intersections along Evans Avenue, which would increase travel times and impact operations of the 48-Quintara-24th Street. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 48-Quintara-24th Street along Evans Avenue, particularly at intersections of Third Street, Napoleon/Toland Streets and at Cesar Chavez Street. Overall, the Project-related congestion would add up to 3 minutes of delay per bus during peak hours.

s. **Impact TR-25: Project Traffic Impacts to 54-Felton Transit Line.** The Project would increase congestion at several intersections in the area, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the 54-Felton. The Project would create traffic congestion resulting in significant impacts to the operations of the 54-Felton, adding up to 6 minutes of delay per bus, particularly during the PM peak hour.

t. **Impact TR-26: Project Traffic Impacts to T-Third Transit Line.** The Project would increase congestion at intersections along Third Street, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the T-Third. Project-related transit delays due to traffic congestion on Third Street and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the T-Third, particularly in the segment between Thomas Avenue and Kirkwood Avenue, resulting in overall delays of up to 3 minutes per bus during peak hours.

u. **Impact TR-27: Project Traffic Impacts to 28L-19th Avenue/Geneva Limited Transit Line.** The Project could increase congestion at the intersection of Geneva Avenue and Bayshore Boulevard, increasing travel times and impacting operations of the 28L-19th Avenue/Geneva Limited. Increased congestion associated with Project vehicle trips would impact the operations of the 28L-19th Avenue/Geneva Limited, resulting in delays of 4 minutes per bus during peak hours.

v. **Impact TR-28: Project Traffic Impacts to 9X, 9AX, 9BX-Bayshore Expresses and 14X-Mission Express Transit Lines.** The Project would increase congestion on US 101 mainline and ramps, which would increase travel times and impact operations of the 9X, 9AX, 9BX-Bayshore Expresses, and 14X-Mission Express. The Project would also contribute to cumulative impacts on these transit routes on US 101.

w. **Impact TR-30: Project Traffic Impacts to SamTrans Bus Lines.** The Project would increase congestion and contribute to cumulative congestion on US 101 and on Bayshore Boulevard, which would increase travel times and adversely affect operations of SamTrans bus lines on these facilities.

x. **Impact TR-32: Project Traffic Impacts to Bicycle Routes.** Implementation of the Project's proposed transit preferential treatments and significant increases in traffic volumes on Palou Avenue could result in impacts on bicycle travel on Bicycle Routes #70 and #170 between Griffith Street and Third Street. The combination of the proposed transit preferential treatment and the substantial increase in traffic volumes and congestion would result in potentially significant impacts on bicycle travel on Bicycle Route #70 and Bicycle Route #170 on Palou Avenue.

y. **Impact TR-38: 49ers Game Site Access and Traffic Impacts.** Implementation of the proposed 49ers stadium would result in significant impacts on study area roadways and intersections, for as many as 12 times a year.

z. **Impact TR-39: Stadium 49er Game Transit Impacts.** Implementation of the Project with existing game day service and Project transit improvements would not be adequate to accommodate projected transit demand. It is estimated that there would be a capacity shortfall of approximately 3,640 passengers per hour during game days.

aa. **Impact TR-46: Stadium Secondary Event Site Access and Traffic Impacts.** Weekday evening secondary events at the stadium would result in increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without a secondary event, and result in significant impacts at nine additional intersections and one additional freeway off-ramp.

bb. **Impact TR-47: Stadium Secondary Event Transit Impacts.** With implementation of the Project, the existing transit service and Project improvements would not be adequate to accommodate projected transit demand during secondary events with attendance of 37,500 spectators. In addition, transit lines serving the area would experience additional delays due to traffic generated by the secondary event.

cc. **Impact TR-51: Project Site Access and Traffic Impacts from Arena Uses.** With implementation of the Project, weekday evening events at the arena would exacerbate congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without an arena event, and result in significant traffic impacts at Harney Way and Jamestown Avenue, which would

operating acceptably under Project conditions without an arena event. Overall, since local streets and freeway facilities would experience increased congested without an arena event, traffic impacts associated with the new arena would be significant.

dd. **Impact TR-52: Transit Impacts from Arena Uses.** With implementation of the Project, the existing and proposed transit service would be affected by sell-out weekday evening events at the arena. With the stadium use at HPS Phase II, transit capacity would be adequate to accommodate projected transit demand, but because of traffic congestion in the area, impacts to transit would result. With the implementation of Variants 1 or 2A at the stadium site, traffic congestion would impact transit service and in addition, events at the arena might cause transit capacity impacts.

ee. **Impact AQ-4: Criteria Pollutants from Project Operations.** Operation of the Project would violate the Bay Area Air Quality Management District (BAAQMD)'s CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources, and contribute substantially to an existing or projected air quality violation at full build-out in the year 2029. Project emissions of ROG, NOx and PM_{10} would exceed the BAAQMD CEQA thresholds and the ROG, NOx, PM_{10} and $PM_{2.5}$ proposed BAAQMD CEQA thresholds.

ff. **Impact NO-2: Groundborne Vibration Impacts from Construction.** Construction activities associated with the Project would create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the Project site and at proposed on-site residential uses should the latter be occupied before Project construction activities on adjacent parcels are complete.

gg. **Impact NO-3: Increase in Ambient Noise Levels from Construction.** Construction activities associated with the Project would result in a substantial temporary or periodic increase in ambient noise levels. Construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would involve demolition, grading, and excavation activities, followed by construction and external finishing of the proposed facilities and associated parking areas, as well as roadway and landscaping improvements. These activities would involve the use of heavy equipment.

hh. **Impact NO-6: Noise Impacts from Project Traffic.** Operation of the Project would generate increased local traffic volumes that would cause a substantial permanent increase in ambient noise levels in existing residential areas along the major Project site access routes. The increase in traffic resulting from implementation of the Project and ambient growth over the next 20 years would increase the ambient noise levels at noise-sensitive locations along the major vehicular access routes to the Project site, particularly along sections of Jamestown Avenue, Carroll Avenue, and Gilman Avenue.

ii. **Impact NO-7: Noise Impacts from Stadium Events.** Noise during football games and concerts at the proposed stadium would result in temporary increases in ambient noise levels that could adversely affect surrounding residents for the duration of a game or

concert. There would be significant noise impacts during football game days and concert days on the existing residential uses closest to the proposed stadium and possibly for the new residential uses closest to the proposed stadium.

jj. **Impact CP-1b: Impacts to Historic Resources from Construction Activities.** Construction at HPS Phase II could result in a substantial adverse change in the significance of an historical resource. Implementation of the Project could result in the demolition of Buildings 211, 224, 231, and 253, which have been identified as historic resources in the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District.

kk. **Impact SH-1a: New Shadow on Gilman Park from Tower Variants 3C and 3d.** Under Tower Variants 3C and 3D, new shadows on Gilman Park are conservatively considered significant; and

B. Will have significant cumulative effects on the environment including:[2]

a. **Cumulative Contribution of Criteria Pollutants from Project Operation.** Operation of the Project would violate BAAQMD CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources and contribute substantially to an existing or projected air quality violation at full build-out.

b. **Cumulative Contribution to TAC and $PM_{2.5}$ Impact Under the Proposed Bay Area Air Quality Management District CEQA Guidelines.** The Project may result in a considerable contribution to a cumulative air quality impact regarding TACs and $PM_{2.5}$ emissions under proposed BAAQMD CEQA Guidelines.

c. **Cumulative Contribution to Noise from Construction Activities.** Construction activities such as use of heavy equipment and pile driving associated with development of cumulative projects could contribute to a cumulative impact from increased noise levels for both off-site and on-site sensitive receptors.

d. **Cumulative Contribution to Pile-Driving Activities.** Construction of the Project would include pile-driving activities that may overlap with other nearby construction activities during Project development and make a considerable contribution to cumulative construction-related temporary increases in ambient noise levels.

e. **Cumulative Contribution to Traffic Noise Levels.** Project operation would make a considerable contribution to a substantial, permanent increase in cumulative traffic noise levels that would affect existing and future residential uses along all Project site access roads.

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[2] Finding 9B lists cumulative impacts of the project, with the exception of cumulative impacts related to transportation and circulation, which are reflected under Finding 9A (see impacts listed therein denoted with the alpha-numeric code "TR-").

f. **Cumulative Contribution to Ambient Noise During Stadium Events.** Project operation would make a considerable contribution to a substantial increase in cumulative noise during stadium events.

g. **Cumulative Contribution to Vibration Effects During Construction Activities.** Pile-driving activities during construction could make a considerable contribution to cumulative vibration effects if pile driving would occur and/or heavy construction equipment would operate on multiple sites and collectively result in vibration impacts in excess of 85 VdB at nearby sensitive receptors.

h. **Cumulative Contribution to Impacts on Historic Resources.** The Project would make a considerable contribution to a cumulative impact on significant historical resources, including residential, commercial, and civic properties that are listed or eligible for listing on national, state, or local registers.

i. **Cumulative Contribution to Demand for Police Services.** Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for police protection. While the Police Department considers population growth projections in its annual budgeting process to determine equipment and staffing needs for the coming year, it is possible that cumulative growth in the City could exceed the capacity of existing or planned staffing and facility improvements, and could require construction of one or more stations, resulting in a significant impact. Because the Project would require new or physically altered police facilities in order to maintain acceptable police services, the Project would make a cumulatively considerable contribution to a potential significant cumulative impact on police services.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 3, 2010.

Linda Avery
Commission Secretary

AYES: 4 - Miguel, Antonini, Borden, and Lee

NOES: 3 - Olague, Moore, Sugaya

ABSENT: 0

ADOPTED: June 3, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

NEIGHBORHOOD ORGANIZATION FEE WAIVER REQUEST FORM

Appeals to the Board of Supervisors

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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: Golden Gate Audubon Society	Address of Project: Candlestick Pt. HP Shipyard Phase II
Neighborhood Organization:	Planning Case No: Planning Comm. Motion 18096
Applicant's Address: 2530 San Pablo Ave, St. G	Building Permit No:
Applicant's Daytime Phone No: (510) 843-6551	Date of Decision: 6/3/2010
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

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Planning Commission Motion No.

HEARING DATE: JUNE 3, 2010

Date:	May 20, 2010
Case No.:	**2007.0946BEMRTUZ**
Project:	**Candlestick Point – Hunters Point Shipyard Phase 2 CEQA Findings**
Location:	**Candlestick Point and Hunters Point Shipyard**
Staff Contacts:	**Lisa Gibson – (415) 575-9032 lisa.gibson2sfgov.org Mat Snyder – (415) 575-6891 mathew.snyder@sfgov.org**
Recommendation:	**Adopt the Findings**

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 CANDLESTICK POINT – HUNTERS POINT SHIPYARD PHASE 2 AND RELATED ACTIONS NECESSARY TO IMPLEMENT SUCH PLANS.

WHEREAS, the San Francisco Planning Department, together with the San Francisco Redevelopment Agency 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 Candlestick Point – Hunters Point Shipyard Phase 2 ("Project") and provided for appropriate public hearings before the respective Commissions.

The Bayview Hunters Point has one of the highest concentrations of very low-income residents and one of the highest unemployment rates in San Francisco, and public health in the area has generally been poor compared to the rest of San Francisco. Bayview Hunters Point has very few quality public parks and open spaces that provide active recreation facilities for neighborhood youth, and is in need of affordable housing and business and job opportunities for its residents. The area remains under-served by transit and basic neighborhood-serving retail and cultural amenities. The betterment of the quality of life for the residents of the Bayview Hunters Point community is one of the City's highest priorities.

Hunters Point Shipyard and Candlestick Point are part of the Bayview Hunters Point neighborhood and are in close proximity to one another, separated only by the Yosemite Slough and South Basin. Together, they comprise about 702 acres, and make up the largest area of underused land in the City. The Candlestick Point area comprises approximately 281 and Hunters Point Shipyard Phase 2 area comprises approximately 402 acres. Candlestick Point is generally comprised of the 49ers Football Stadium and parking lot, the Candlestick Point State Recreation Area (CPSRA) (excluding the Yosemite Slough portion of the Park), the Alice Griffith Housing development, along with privately held parcels to the southwest of the stadium site between Bayview Hill and Jamestown Avenue, and privately held parcels between the stadium and the CPSRA. The Hunters Point Shipyard portion of the project is

comprised of a majority of the former Naval Shipyard except for the portion currently being developed as "Phase 1", also often referred to as "Parcel A".

Hunters Point Shipyard

Hunters Point Shipyard was once a thriving, major maritime industrial center that employed generations of Bayview Hunters Point residents. Following World War II, the Shipyard was a vital hub of employment in the Bayview Hunters Point, providing logistics support, construction and maintenance for the United States Department of the Navy. At its peak, the Shipyard employed more than 17,000 civilian and military personnel, many of whom lived in Bayview Hunters Point. The United States Navy ceased operations at the Shipyard in 1974 and officially closed the base in 1988. The Shipyard was then included on the Department of Defense's 1991 Base Realignment and Closure (BRAC) list. In 1993, following designation of the Shipyard by the City's Board of Supervisors as a redevelopment survey area, the City and the Redevelopment Agency began a community process to create a plan for the economic reuse of the Shipyard and the remediation and conveyance of the property by the Navy.

In planning for the redevelopment of the Shipyard, the City and the Redevelopment Agency worked closely with the Hunters Point Citizen's Advisory Committee ("CAC"). The CAC is a group of Bayview Hunters Point community residents, business owners and individuals with expertise in specific areas, who are selected by the Mayor to oversee the redevelopment process for the Shipyard. The Agency has worked with the CAC and the community throughout the process of implementing revitalization activities regarding the Shipyard.

In July 1997, the Board of Supervisors adopted a Redevelopment Plan for revitalization of the Shipyard. The Hunters Point Redevelopment Plan contemplated the development of a mix of residential, commercial, cultural, research and development and light industrial uses, with open space around the waterfront perimeter.

Since its selection by the Redevelopment Agency, the Shipyard developer has worked with the City, the Agency, and the Navy to facilitate the redevelopment and economic reuse of the Shipyard. In 2003, the Shipyard developer and the Agency entered into the Hunters Point Shipyard Phase I Disposition and Development Agreement (DDA), under which the Shipyard developer is constructing infrastructure for up to 1,600 residential units on Parcel A of the Shipyard, of which approximately 30 percent will be affordable. The Phase I DDA also requires the Shipyard developer to create approximately 25 acres of public parks and open space on Parcel A.

In March 2004, the Redevelopment Agency, in cooperation with the City and the Shipyard developer negotiated a comprehensive agreement with the Navy governing the terms and conditions of the hazardous materials remediation and conveyance of the Shipyard by the Navy to the Agency. The Conveyance Agreement obligates the Navy to remediate the hazardous materials on the Shipyard to levels consistent with the land uses designated in the original redevelopment plans for the Shipyard and to convey parcels to the Agency at no cost on a phased basis as the Navy successfully completes the remediation.

In 2005, the Navy conveyed Parcel A to the Agency under the Conveyance Agreement, and the Agency then closed escrow on its transfer of a portion of Parcel A to the Shipyard developer to begin site preparation and infrastructure development for the construction of new housing and parks on Parcel A.

Candlestick Point

As described above, Candlestick Point includes, among other things: (a) the City-owned stadium, currently named Candlestick Park, which is home to the San Francisco 49ers and is nearing the end of its useful life; (b) the Alice B. Griffith Housing Development, also known as Double Rock, and (c) the Candlestick Point State Recreation Area.

In June, 1997, San Francisco voters adopted two measures (Propositions D and F) providing for the development by the 49ers or their development partners of a new stadium, a related 1,400,000 square foot entertainment and retail shopping center, and other conditional uses including residential uses. The voters approved up to $100 million of lease revenue bonds to help finance the proposed development of the new stadium.

In June 2006, following a 10-year planning process, the Board of Supervisors adopted a Redevelopment Plan for the Bayview Hunters Point Project Area that includes Candlestick Point. The primary objective of the Redevelopment Plan is to revitalize the Bayview Hunters Point community through economic development, affordable housing and community enhancement programs for the benefit of existing residents and community-based businesses. The policies and programs of the Redevelopment Plan incorporate community goals and objectives expressed in a Concept Plan that the Bayview Hunters Point Project Area Committee ("PAC") adopted in 2000, following hundreds of community planning meetings. The PAC is a body that was formed in 1997 through a public election by Bayview Hunters Point voters to work with the Redevelopment Agency and the City and represent the interests of the Bayview Hunters Point community in planning for the area's future. The Agency has continued to work through the PAC and with the community throughout the process of implementing revitalization activities under the Redevelopment Plan.

The Alice B. Griffith Housing Development, built in the early 1960s and operated by the San Francisco Housing Authority, needs substantial improvement. An important component of the Project is to provide one-for-one replacement of Alice B. Griffith units at existing low income levels and to ensure that existing tenants have the right to move to the new upgraded units without being displaced until the replacement units are ready for occupancy.

In 1983, the City donated land at Candlestick Point to the State of California to form the Candlestick Point State Recreation Area with the expectation that the State would develop and implement a plan for improving the park land. The Recreation Area has the potential to be a tremendous open space recreational resource for the region and for the residents of Bayview Hunters Point. But it has not reached its potential due to limited State funding and a challenging configuration. The long-term restoration and improvement of the Candlestick Point State Recreation Area has been a long-term goal of the residents of Bayview Hunters Point, the City, and the State.

Integrated Development of the Hunters Point Shipyard and Candlestick Point.

For over a decade, the redevelopment of Candlestick Point and the Shipyard has proceeded on parallel, though largely separate, paths. But over the last four years, the City and the Redevelopment Agency have been working with the Bayview Hunters Point community on redeveloping the two sites together. A primary objective of both the Hunters Point Shipyard Redevelopment Plan and the Bayview Hunters Point Redevelopment Plan is to create economic development, affordable housing, public parks

and open space and other community benefits by developing the under-used lands within the two project areas. Combining the planning and redevelopment of these two areas provides a more coherent overall plan, including comprehensive public recreation and open space plans and integrated transportation plans, and provides better ways to increase efficiencies to finance the development of affordable housing and the public infrastructure necessary to expedite the revitalization of both areas .

Accordingly, in May, 2007, the Board of Supervisors adopted and the Mayor approved a resolution a Conceptual Framework for the integrated development of Candlestick Point and the Hunters Point Shipyard ("the Project"). The Conceptual Framework, which is the basis for the last three years of planning for the Project, envisioned a major mixed-use project, including hundreds of acres of new waterfront parks and open space, thousands of new housing units, a robust affordable housing program, extensive job-generating retail and research and development space, permanent space for the artist colony that exists in the Shipyard, and a site for a potential new stadium for the 49ers on the Shipyard.

In furtherance of the Conceptual Framework, in April 2007, the San Francisco Recreation and Parks Commission adopted a resolution requesting the Redevelopment Agency to include the existing stadium site under the Exclusive Negotiations Agreement. In May 2007, the Redevelopment Agency and the Shipyard developer (whose members were reconstituted) entered into a Second Amended and Restated Exclusive Negotiations and Planning Agreement related to Phase II of the Shipyard Redevelopment Plan, which extended the Shipyard developer's exclusive negotiating rights to cover Candlestick Point.

On June 3, 2008, the San Francisco voters approved Proposition G, an initiative petition measure named The Bayview Jobs, Parks, and Housing Initiative, regarding plans to revitalize the Project site. As set forth in Proposition G, the project is designed to revitalize the Project Site by (a) improving and creating hundreds of acres of public parks and open space, particularly along the waterfront, (b) significantly increasing the quality and quantity of affordable housing in southeastern San Francisco, including the complete rebuilding of the Alice Griffith Housing Development, (c) providing thousands of commercial and construction job opportunities for San Francisco residents and businesses, especially in the Bayview Hunters Point community, (d) supporting the creation of permanent space on the Shipyard for existing artists, (e) elevating the site into a regional center for green development and the use of green technology and sustainable building design, (f) providing extensive transportation improvements that will benefit southeastern San Francisco generally, (g) attracting and sustaining neighborhood serving retail and cultural amenities and services, and (h) offering a world-class waterfront stadium site opportunity as the City's last and best chance to keep the 49ers in San Francisco over the long term, but without requiring the revitalization project to be delayed if the 49ers do not timely decide to build a stadium in the project site or decide to build a new stadium elsewhere.

In October 2009, the State Legislature approved and the Governor signed and filed Senate Bill No. 792 (SB 792). SB 792, enacted as Chapter 2003 of the Statutes of 2009 in January of 2010, provides for the reconfiguration of the Candlestick Point State Recreation Area and improvement of the State park lands, in connection with the development of the Project.

Since February 2007, the Project has been reviewed by the Bayview Hunters Point community and other stakeholders in over 200 public meetings, including those held before the PAC, the CAC, the Redevelopment Agency Commission, the Board of Supervisors, the Planning Commission, and other City commissions and in other local forums.

The Planning Commission wishes to facilitate the physical, environmental, social and economic revitalization of the Bayview Hunters Point and Hunters Point Shipyard, using the legal and financial tools of a Redevelopment Plan, while creating jobs, housing and open space in a safe, pleasant, attractive and livable mixed use neighborhood that is linked rationally to adjacent neighborhoods.

The proposed amended Bayview Hunters Point Area Plan, Planning Code, Zoning Maps, the amended Bayview Hunters Point and Hunters Point Shipyard Redevelopment Plans and their implementing documents, including, without limitation, the Disposition and 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 10,500 residential units, of which approximately 32 % will be below market rate; approximately 327-336 acres of improved open space and recreational areas; approximately 885,000 square feet of regional and neighborhood-serving retail space; approximately 2.65 to 5 million square feet of research and development and office space; an additional 150,000 square feet of office at Candlestick Point, 100,000 square feet of community services; a 69,000-seat football stadium; and 10,000-seat performance arena; a 220-room hotel; and 255,000 square feet of replacement artist studio space and arts center.

To implement the Project, the Commission must take several actions including adoption of General Plan amendments, Planning Code Text amendments, Planning Code Map amendments, approving and recommending to the Board of Supervisors approval of the Bayview Hunters Point and Hunters Point Shipyard Redevelopment Plan amendments, and adoption of findings under Planning Codes sections 320 – 325 regarding office development, among other actions.

On November 12, 2009, the Department and Agency released for public review and comment the Draft Environmental Impact Report for the Project, (Department Case No. 2007.0946E).

The Planning Commission on December 17, 2009, and the Redevelopment Agency Commission on December 15, 2009, and January 5, 2010, held public hearings on the Draft Environmental Impact Report and received written public comments until 5:00 pm on January 12, 2010, for a total of 60 days of public review.

The Department and Agency 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. 2007.0946E, which is incorporated into this motion by this reference.

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

On June 3, 2010, the Planning Commission and the Redevelopment Agency Commission reviewed and considered the FEIR and, by Motion No. _____ and Resolution No. _____, 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 California Environmental Quality Act ("CEQA") and the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; and

By Motion No. _____ and Resolution No. _____, the Planning Commission and the Redevelopment Agency Commission, 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

The Department and Agency 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 Planning Department under Case No. 2007.0946E which material was made available to the public and this Commission for this Commissions' review, consideration and actions;

THEREFORE BE IT RESOLVED, that the Planning Commission has reviewed and considered the FEIR and the actions associated with the Candlestick Point – Hunters Point Shipyard Phase 2 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 June 3, 2010.

Linda D. Avery

Commission Secretary

AYES:

NOES:

ABSENT:

ATTACHMENT A

Candlestick Park – Hunters Point Shipyard Phase II 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 Candlestick Park – Hunters Point Shipyard Phase II Project ("Project") the San Francisco Planning Commission ("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 Chapter 31 of the San Francisco Administration Code.

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 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 VI presents a statement of overriding considerations setting forth specific reasons in support of the Commission'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.

These findings are based upon substantial evidence in the entire record before the Commission. 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.

I. APPROVAL OF THE PROJECT

A. Project Description

By this action, the Commission adopts and takes action to implement substantially the Project identified in Chapter II of the FEIR as modified by Variant 3D ("the Candlestick Tower Variant D") and Variant 5 ("the 49ers/Raiders Shared Stadium Variant") as described in Chapter IV of the FEIR. In addition, the Project proposed for approval will allow an alternative land use development at the stadium site in the event the 49ers do not avail themselves of the stadium site at HPS Phase II. In this event, in lieu of the stadium and related uses proposed for the Project at the stadium site (including the 49ers/Raiders Shared Stadium Variant), two alternative uses will be allowed at the stadium site, either Variant 1, which provides for a research and development use at the stadium site, (the "R&D Variant") or Variant 2A, which provides for a mix of housing and research and development at the stadium site (the "Housing/R&D Variant"). If either the R&D Variant or Housing/R&D Variant is implemented, it will be modified by implementation of Candlestick Tower Variant D.

Subalternative 4A, as described in Chapter VI of the FEIR, which would preserve four structures identified as historic resources, may be incorporated into the Project as explained below in Section I.A.3. The Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D, and the 49ers/Raiders Shared Stadium Variant as described in Chapter IV of the FEIR constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either the R&D Variant or

the Housing/R&D variant constitute the Project. In addition, under the circumstances explained in Section I.A.3, below, the Project would include Subalternative 4A.

The land uses that will be implemented under the Project with the stadium or, without the stadium are shown in Table A.

Table A – Comparison of Land Use Development Scenarios (Stadium and Non-Stadium Options)

Land Use Plan Components	**Project with stadium and Candlestick Tower Variant D, 49ers/Raiders Shared Stadium Variant**		**Project without stadium, with R&D Variant, Candlestick Tower Variant D**		**Project without stadium, with Housing/R&D Variant, Candlestick Tower Variant D**	
	Candlestick Point	*HPS*	*Candlestick Point*	*HPS*	*Candlestick Point*	*HPS*
Residential units	7,850	2,650	7,850	2,650	6,225	4,275
Office (gsf)	150,000		150,000		150,000	
Hotel (gsf)	150,000		150,000		150,000	
Research & Development (gsf)		2,500,000		5,000,000		3,000,000
Regional Retail (gsf)	635,000		635,000		635,000	
Neighborhood Retail (gsf)	125,000	125,000	125,000	125,000	125,000	125,000
Artists' Studios/Art Center (gsf)	N/A	255,000	N/A	255,000	N/A	255,000
Community Services (gsf)	50,000	50,000	50,000	50,000	50,000	50,000
Football Stadium (seats)		70,000		0		0
Arena (seats)	10,000		10,000		10,000	
Marina (slips)	N/A	300	N/A	300	N/A	300
Yosemite Slough Bridge	Auto/BRT/Ped		BRT/Ped		BRT/Ped	
Parking (spaces)	18,917		22,912		20,062	
- Residential	7,850	2,650	7,850	2,650	6,225	4,275

Table A – Comparison of Land Use Development Scenarios (Stadium and Non-Stadium Options)						
Land Use Plan Components	**Project with stadium and Candlestick Tower Variant D, 49ers/Raiders Shared Stadium Variant**		**Project without stadium, with R&D Variant, Candlestick Tower Variant D**		**Project without stadium, with Housing/R&D Variant, Candlestick Tower Variant D**	
	Candlestick Point	*HPS*	*Candlestick Point*	*HPS*	*Candlestick Point*	*HPS*
- Commercial	2,346	4,028	2,346	7,028	2,346	4,428
- General and Commercial (on-street)	1,360	683	1,360	1,678	1,360	1,428
Total Park & Rec Space	104.8	231.6	104.8	222.2	104.8	221.8
- New Parks	8.1	140	8.1	152.4	8.1	150.9
- Active Recreation	N/A	91.6	N/A	69.8	N/A	70.9
- State Parkland (acres)	96.7	N/A	96.7	N/A	96.7	N/A

The Project contemplates that the San Francisco Redevelopment Agency ("Agency") and a private developer, CP Development Company, LP ("Developer" or "Project Applicant") will assemble an approximately 702 acre area of property in the southeast portion of the City and County of San Francisco ("City") consisting of 281 acres at Candlestick Point ("Candlestick") and 421 acres at Hunters Point Shipyard ("HPS Phase II"), collectively referred to as the "Project Site." The Agency will convey to Developer for improvement, property at the Project Site that it owns or will acquire for the purposes of alleviating blight in the Project area.

1. Project with Stadium

The Project with the stadium contemplated for development and described in Chapter II of the FEIR, as modified by Variants 3D and 5 contains these key elements:

(1) up to 10,500 residential units, approximately 32% of which (3,345) will be offered at below market rates, with 7,850 on Candlestick and 2,650 on HPS Phase II. Towers will be located either at specifically identified locations or within specified tower zones (Candlestick Tower Variant D);

(2) approximately 336 acres of new or improved public parks and open space, including waterfront trails and plazas. New parks will total 148.1 acres, new dual-use sports fields and multi-use lawn and stadium parking and waterfront recreation will consist of 91.6

acres, improvements of existing State parkland will cover 91 acres, and 5.7 acres of new State parkland will be added;

(3) 885,000 square feet of regional and neighborhood-serving retail space, with approximately 635,000 gross square feet of regional retail located at the Candlestick and 250,000 square feet of neighborhood retail split evenly between Candlestick and the HPS Phase II;

(4) 255,000 square feet of new and renovated replacement space for the Shipyard artists, including an arts education center within a new "Arts District" supporting the Shipyard artist community;

(5) 2,650,000 square feet of commercial, light industrial, research and development and office space; 150,000 square feet of office would be located on Candlestick and 2,500,000 square feet of research and development would be developed on HPS Phase II;

(6) new public and community facilities space on the Shipyard and Candlestick Point to be used for a new fire station and an expanded police station and other public uses;

(7) improved land and supporting infrastructure for a new football stadium for the San Francisco 49ers, including necessary parking areas and transportation improvements; the stadium scenario would allow for the stadium site to be used also by the Raiders football team, should the NFL support the construction of one new stadium for both teams (e.g. 49ers/Raiders Shared Stadium Variant in the FEIR);

(8) a 300-slip marina on HPS Phase II; and

(9) a Yosemite Slough bridge to be used only for game-day automobiles, bus rapid transit, bicyclists and pedestrians.

2. Non-Stadium Variants

If the 49ers do not avail themselves of the opportunity to build a new stadium in the Project site, the Project alternatively includes other allowable uses at the stadium location. The non-stadium scenarios would include all of the elements of the stadium scenario, except there would not be a stadium use and associated stadium parking and 49ers/Raiders Shared Stadium Variant, providing for use of the stadium by another football team, would not apply. The uses that would be allowed at the stadium site in lieu of the stadium and associated parking are set out below.

a. Housing/R&D Variant.

Housing/R&D Variant is the preferred non-stadium scenario and includes these elements in lieu of the stadium:

(i) of the 10,500 housing units proposed for the stadium scenario, 625 units would be shifted to the HPS Phase II area from the Candlestick Point area, reducing the number of residential towers at Candlestick and reducing the heights of some other towers in the Candlestick Point area. As a result, of the 10,500 housing units, 6,225 units would be located at Candlestick Point and 4,275 units at HPS Phase II;

(ii) an additional 500,000 square feet of research and development space would be located at HPS Phase II in addition to the 2,500,000 square feet called for under the stadium scenario, for a total of 3,000,000 square feet of research and development space;

(iii) the total amount of new or improved open space would decrease by 9.8 acres; Housing/R&D Variant would provide a total of 326.6 acres of parkland, which is 9.8 acres less than the Project with the stadium. Park acreage on Candlestick (13.8 acres of new State parkland plus 91 acres of improved existing State parkland) would remain the same as the Project with the stadium. On HPS Phase II, 221.8 acres of new or improved open space would be included – 150.9 acres of new parks plus 70.9 acres of sports and multi-use fields (compared to 231.6 acres on HPS Phase II for the Project with the stadium); and

(iv) the Yosemite Slough bridge would be used only for bus rapid transit, bicyclists and pedestrians; automobile use would be prohibited at all times.

b. R&D Variant

R&D Variant is an alternative non-stadium scenario that would be implemented in the event regulatory agencies overseeing the environmental remediation of HPS Phase II do not authorize residential uses on the stadium site as called for by Housing/R&D Variant. The R&D Variant non-stadium scenario includes these elements in lieu of the stadium:

(i) an additional 2,500,000 square feet of research and development space at HPS Phase II for a total of 5,000,000 square feet of research and development uses;

(ii) an approximately 9.4 acre reduction in park and open space acreage as compared with the stadium scenario; a total of 327 acres of parks and open space would be provided, consisting of 160.5 acres of new parks, 69.8 acres of sports and multi-use fields, and 96.7 acres of new and improved State parklands; and

(iii) the Yosemite Slough bridge would be used only for bus rapid transit, bicyclists and pedestrians; automobile use would be prohibited at all times.

3. Subalternative 4A. Subalternative 4A provides for the same development scenario as the Project and non-stadium variants except that it would preserve four

historic structures identified in the proposed research and development area of the HPS Phase II site that under the Project analyzed in Chapter II of the DEIR are proposed for demolition. To accommodate the same amount of research and development space as proposed for the Project and non-stadium variants, Subalternative 4A calls for shifting to the adjacent research and development area some of the development space that would otherwise be located in the area of the existing historic buildings. The result of this shift is that the height limit in the adjacent research and development area would be higher as compared to the Project without Subalternative 4A.

A detailed analysis of preserving the four historic structures was undertaken by the Agency and the Mayor's Office of the City assuming the Project with the stadium is developed at HPS Phase II. This analysis showed that under the Project with the Stadium, preserving all four historic structures would not allow the project to obtain a rate of return determined by the Agency and Mayor's Office to be reasonable for this project. The analysis also considered preserving some but not all of the buildings. The financial analysis showed that none of these options are financially viable under the stadium scenario. The financial analysis conducted by the Agency and the Mayor's Office is included in the record before the Commission and incorporated by reference into these findings.[1]

A detailed analysis of preserving one or more of the four historic structures has not been undertaken assuming the Housing/R&D Variant or R&D Variant is implemented. Such an analysis is proposed to be undertaken if and when the 49ers choose not to avail themselves of the stadium use at HPS Phase II and after uncertainties are resolved over whether the Developer will be able to pursue the Housing/R&D Variant in lieu of the R&D Variant. Therefore, Subalternative 4A is being adopted at this time as to the Housing/R&D Variant and the R&D Variant so that the feasibility of this subalternative under these development scenarios can continue to be evaluated. If the Agency and Developer proceed with development under Housing/R&D Variant or the R&D Variant instead of the stadium, the Agency's agreement with Developer provides that the four identified structures cannot be demolished or materially altered unless additional findings are adopted in compliance with CEQA that determine it is infeasible to preserve the structures.

B. Project Objectives

In May 2007, the Board of Supervisors and the Mayor approved Resolution 264-07, endorsing a conceptual framework for the integrated planning of both the Hunters Point

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[1] *Candlestick Point-Hunters Point Shipyard Phase II Historic Preservation Feasibility Study*, prepared by Page & Turnbull, July 1, 2009 and Revised May 11, 2010 ; *Historic Preservation Landscape and Sea Level Rise Study*, prepared by RHAA, May11, 2010; and *Proposed Hunters Point Shipyard Phase II Redevelopment - Parcel C Financial Feasibility Analysis of Historic Reuse Option-Full Retention and Alternative Historic Retention Scenarios*, prepared by CBRE, May 2010.

Shipyard and the Candlestick Point areas of San Francisco. The conceptual framework called for the further planning and environmental review of a mixed-use development on Candlestick Point and Hunters Point Shipyard that includes the possibility of a new state-of-the-art stadium for the San Francisco 49ers and that will provide parks and open space, jobs, affordable housing and other tangible economic and public benefits for the Bayview Hunters Point community.

In June 2008, the voters of San Francisco approved Proposition G, called the Bayview Jobs, Parks and Housing Initiative ("2008 Initiative" or "Proposition G"). Proposition G repealed two earlier propositions, Propositions D and F approved by the voters in 1997, which had established a special use district for the Candlestick Point portion of the site. The 2008 Initiative spells out the elements that an integrated development plan for the area should include and states that the development of the area must be consistent with these objectives:

(1) The integrated development should produce tangible community benefits for the Bayview and the City and in so doing should:

- Improve the Candlestick Point State Recreation Area to enhance public access to the waterfront and enjoyment of the Bay.
- Create new public recreational and public open spaces in the Project Site.
- Preserve the shoreline of the Project Site primarily for public park and public open space uses, including an extension of the Bay Trail along the Project Site's waterfront.
- Afford a range of job and economic development opportunities for local, economically disadvantaged individuals and business enterprises, particularly for residents and businesses located in the Bayview.
- Include neighborhood-serving retail.
- Subsidize the creation of permanent space on HPS Phase II for the existing artists.
- Transform the contaminated portions of HPS Phase II into economically productive uses or public open space, as appropriate.
- Encourage the timely development of the Project Site and its public benefits, whether or not the 49ers decide to remain in San Francisco, including developing alternate uses for the stadium site on the Shipyard Property that are consistent with the other objectives set forth in Proposition G, but recognizing that the overall financial feasibility of the development of the Project Site and the phasing of the integrated development depends on the 49ers' vacating the current site of Monster Park, whether to a new stadium on HPS Phase II or elsewhere outside of the Project Site.

(2) The integrated development should reunify the Project Site with the Bayview and should protect the character of the Bayview for its existing residents, and in so doing should:

- Foster the creation of strong commercial, institutional, cultural and urban design ties between the development in the Project Site and the Bayview in particular and the City in general.
- Provide automobile, public transportation and pedestrian connections between HPS Phase II and Candlestick to facilitate the integration of the Project Site and reunification with the Bayview.
- Afford substantial affordable housing, jobs and commercial opportunities for existing Bayview residents and businesses.
- Prohibit, in implementing the Project, the use of eminent domain to acquire any property that is currently residentially zoned, is improved with a building that contains one or more legally occupied dwelling units, is a church or other religious institution, or is publicly owned, including, without limitation, property owned by the Housing Authority of the City and County of San Francisco.

(3) The integrated development should include substantial new housing in a mix of rental and for-sale units, both affordable and market-rate, and encourage the rebuilding of Alice Griffith Housing, and in so doing should:

- Provide substantial opportunities for new affordable housing that is targeted to the lower income levels of the Bayview population, including new units that are suitable for families, seniors and young adults.
- Include housing at levels dense enough to: create a distinctive urban form and at levels sufficient to make the development of the Project Site financially viable, consistent with the objectives stated in (6) below; attract and sustain neighborhood retail services and cultural amenities; create an appealing walkable urban environment served by transit; help pay for transportation and other infrastructure improvements; and achieve economic and public benefits for the Bayview in particular and the City generally.
- Subject to consultation with Alice Griffith Housing residents and the receipt of all required governmental approvals, rebuild Alice Griffith Housing to provide at least one-for-one replacement units targeted to the same income levels as those of the existing residents and ensure that eligible Alice Griffith Housing residents have the opportunity to move to the new, upgraded units directly from their existing Alice Griffith Housing units without having to relocate to any other area.
- Include a mix of stacked flats, attached town homes and–in appropriately selected locations–low-rise, mid-rise and high-rise towers, to help assure the economic feasibility of the development and provide a varied urban design.

(4) The integrated development should incorporate environmental sustainability concepts and practices, and in so doing should:

- Apply sustainability principles in the design and development of public open spaces, recreation facilities and infrastructure, including wastewater, storm water, utility and transportation systems.
- Apply green building construction practices.
- Include energy efficiency and the use of renewable energy.
- Encourage green development projects, such as green office, research and development or industrial projects, including a green technology, biotechnology or digital media campus.

(5) The integrated development should encourage the 49ers—an important source of civic pride—to remain in San Francisco by providing a world-class site for a new waterfront stadium and supporting infrastructure, and in so doing should:

- Provide parking, transportation, transit and other infrastructure necessary for the operation of the stadium, including automobile, public transit and pedestrian connections between HPS Phase II and Candlestick in order to facilitate the efficient handling of game day traffic.
- Prohibit the issuance by the City of lease revenue bonds or other debt that will be secured by or repaid from revenues on deposit in the City's General Fund to finance development of the new stadium.

(6) The integrated development should be fiscally prudent, with or without a new stadium, and in so doing should:

- Minimize any adverse impact on the City's General Fund relating to the development of the Project Site by relying to the extent feasible on the development to be self-sufficient.
- Promote financial self-sufficiency by: encouraging substantial private capital investment; leveraging land value created through the entitlement process for the Project Site; allowing the City or the Agency to contribute real property in the Project Site, so long as the contribution is linked to the provision of public benefits consistent with the objectives in Proposition G or to the grant of rights to the City or the Agency to share in surplus revenues from development of the Project Site; and permitting the use of certain tax exempt financing tools such as the allocation of property tax-increment from the Project Site, the issuance of tax allocation bonds based on such increment and the issuance of community facilities (Mello-Roos) bonds secured by private property in the Project Site.
- Allow the Agency to use its city-wide Affordable Housing Fund to help finance affordable housing projects in the Project Site.

- Except as provided immediately above, prohibit the use of property tax increment from any part of a redevelopment area outside of the Project Site to finance construction of improvements in the Project Site.
- To the extent feasible, use state and federal funds to pay for environmental remediation on the Project Site and help pay for transportation and other infrastructure improvements, and provide ways for other development projects outside the Project Site to pay their fair share for new infrastructure improvements.

C. Environmental Review

The Planning Department and San Francisco Redevelopment Agency initiated environmental review of the Project upon the filing by Lennar Urban of an environmental evaluation application with the Planning Department on August 27, 2007. In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department and the Agency, as joint lead-agencies, prepared a Notice of Preparation (NOP) of an EIR and conducted scoping meetings (see Draft EIR, Appendix A). The NOP was circulated to local, state, and federal agencies and to other interested parties on August 31, 2007, initiating a public comment period that extended through September, 2007.

The NOP included the India Basin Shoreline planning area because at that time it was thought that plans had proceeded to the point where a programmatic analysis of rezoning of Area C of the BVHP Survey Area could be done as part of the Project. However, since publication of the NOP, the Agency and the Planning Department, who are undertaking the development of a land use plan for the area, have conducted numerous community workshops on Area C but have not reached consensus on a rezoning proposal. Accordingly, they decided to remove the India Basin Shoreline area from the Project in order to allow more time for the community planning effort. Since that time, the Agency and Planning issued a Notice of Preparation of an Environmental Impact Report for the "India Basin Shoreline Redevelopment Program" on March 23, 2010, and the Environmental Impact Report for the India Basin Shoreline Redevelopment Program is in preparation.

As indicated in the NOP, the EIR addresses the full range of environmental impacts of the Project. The NOP included the following list of the probable environmental effects that would be addressed in the EIR:

- Land Use and Zoning
- Visual Resources
- Population and Housing
- Cultural Resources

- Transportation and Circulation
- Noise
- Air quality
- Wind
- Shadow
- Recreation
- Public Services and Utilities
- Biological Resources
- Geology and Soils
- Hydrology and Water Quality
- Hazards and Hazardous Materials
- Energy
- Growth Inducement

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 San Francisco Planning Department and Agency held public scoping meetings on September 17, 2007, and September 25, 2007. 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 response to the NOP, the Planning Department and Agency received nine comment letters from public agencies, organizations and individuals, which are summarized in the Draft EIR at pages I-8 to I-9 and included in Appendix A of the Draft EIR. In addition, at two public scoping meetings, the Planning Department and Agency received oral comments from approximately ten speakers. The oral comments are recorded in official scoping meeting transcripts, which are part of the administrative record. The comments that were received, both orally and in writing, referenced the following topics:

- Public notice and process
- Toxins on site, groundwater contamination, and shipyard cleanup
- Global warming and sea level rise
- Earthquake hazards
- Yosemite Slough bridge
- Yosemite Slough Restoration Project
- Transportation issues
    - Connectivity

  - Traffic volumes on local and regional streets and highways
  - Access
  - Transportation improvements, including financing, scheduling, and implementation responsibilities
- Traffic study should include trip generation, distribution, and assignment; analyze impacts on pedestrians and bicyclists, sidewalk crowding, intersection crossing distances
- Density and intensity of housing
  - High-rises inappropriate
- Importance of maintaining views of the Bay
- Importance of maintaining neighborhood character
- Expansion of natural areas
- Stormwater discharge
- No roads should go through state parks
- Need for transitional uses along the water for safety
- Public transit and the streetcar
- Need for initial study to help public better understand the issues
- Importance of environmental justice, economic, and social issues
- Environmental review of India Basin development
- Alternatives needed
  - Must provide for active public participation in their formation
  - Need full, rather than abbreviated environmental analysis
  - Must bracket the uncertainties and conflicting views about main features of the project
- Avoid overly restricting area of impact
- Should separate out Candlestick
- Police and fire services
- Housing/jobs balance; availability of better jobs
- Provision of affordable housing for working residents
- Consistency with Candlestick Point SRA General Plan
- Importance of community involvement in planning process
- Unclear project boundaries
- BCDC jurisdictional area should be shown on map
- Consistency with ABAG Bay Trail Plan and policies

- Provide description of Bay Trail improvements
- Noise
- Air Quality
- Rail safety and removal of unused track

The Planning Department and Agency 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. At the request of the Project Applicant, the Draft EIR also includes an analysis of five variants, including variants on uses for the stadium site, (R&D Variant and Housing Variant) tower locations, including three sub-variants, (Candlestick Tower Variants A, B, C), utilities infrastructure (Variant 4, the "Utilities Variant"), although the Project Applicant has removed this variant from consideration under the Final EIR, and the option of use of the stadium site by two NFL teams (49ers/Raiders Shared Stadium Variant). The Final EIR includes two additional sub-variants, one concerning uses for the stadium site (Housing/R&D Variant) and one concerning tower locations (Candlestick Tower Variant D).

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 the Agency, which in turn was based on Appendix G to the CEQA Guidelines and Planning's Initial Study checklist, with some modifications. 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 III 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 November 12, 2009 for a 45 day comment period, which was extended once to January 12, 2010 for a total of 60 days. During the public review period, the Planning Department and Agency received 115 letters containing written comments through the mail or by hand-delivery, fax or email. There were a total of 151 people that spoke at the three hearings on the Draft EIR held in December 2009 and January 2010, including 60 speakers at the first Agency Commission hearing; 28 speakers at the second Agency Commission hearing; and 63 speakers at the Planning Commission hearing. A court reporter was present at

each of the public hearings, transcribed the oral comments verbatim, and prepared written transcripts.

The Comments and Responses ("C&R") document was published on May 13, 2010, 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 minor refinements to the Project, two of the Variants (Housing/R&D Variant and Candlestick Tower Variant D) and one of the Alternatives (Subalternative 4A) analyzed in the Draft EIR. The refinements respond to public comments, reduce impacts, provide additional flexibility for Project implementation or respond to changing construction technologies, community priorities, site-specific urban design goals and real estate market demands. The C&R also provides additional, updated information and clarification on issues raised by commenters as well as by City staff. Staff revisions to text of the Draft EIR are included in Section F [Draft EIR Revisions] of the C&R document. 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. As substantiated by the analysis provided in Section F, master responses and response to individual comments in the C&R document, 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 Commission 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:

Revised development schedule

- Consultation with Native American tribes and representatives
- Biological resources and the Yosemite Slough
- Air quality analysis under proposed BAAQMD guidelines
- Analysis of an additional hybrid variant (Housing/R&D Variant)
- Analysis of a subalternative to Alternative 4 (Subalternative 4A)
- Further description and explanation of certain traffic mitigation measures
- Additional scientific information pertaining to sea level rise and seismic hazards, including liquefaction, and naturally occurring asbestos

- More detailed information concerning the HPS remediation process
- Additional information on remediation process for HPS
- Revisions to certain mitigation measures
- Health issues in the Bayview Hunters Point community

In certifying the Final EIR, the Commission finds 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 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.

D. Environmental Analysis of the Project, with Variants and Subalternative 4A

The environmental analysis of the Project is detailed in Chapter III of the EIR, contained in Volumes II and III. The analysis of Project Variants 1 (R&D Variant), 2 (Housing Variant), 3 (Candlestick Tower Variants A, B, and C), 4 (Utilities Variant), and 5 (49ers/Raiders Shared Stadium Variant) are contained in Chapter IV, Volume III of the EIR. Alternatives are analyzed in Chapter VI, also contained in Volume III of the EIR.

Analysis of Project refinements since publication of the Draft EIR, that is, retention of Building 208 and the updated development schedule is contained in text changes to the various technical sections of the document, as reflected in Section F (Draft EIR Revisions) of the C&R document. Retention of Building 208 would not reduce the significant impact on historic resources identified for the Project and would have no other effect on any of the analyses contained in the EIR. The revised development schedule is also reflected in text changes in Section F of the C&R document, and is substantiated by technical memoranda contained in Appendices A1 through A5. As reflected in the text changes, the revised development schedule does not change the significance conclusions contained in the EIR or result in new or more severe impacts.

Environmental analysis of the Housing/R&D Variant is contained in Section F (Draft EIR Revisions), Section F.25. As stated in that analysis, there would be no new significant environmental impacts or an increase in the severity of impacts compared to the impacts analyzed for the Project, R&D Variant, or Housing Variant as a result of the nonstadium variant presented by Housing/R&D Variant. The analysis demonstrates that in all technical areas, the impacts of the Housing/R&D Variant have been bracketed by

the impact analyses for the Project, R&D Variant, or Housing Variant, as each of these development scenarios represent a range of development intensity that is larger or smaller than the Project, "bookending" the Housing/R&D Variant. Thus, the impacts of the Housing/R&D Variant are either essentially the same as or less than the impacts previously analyzed in the Draft EIR for the Project, R&D Variant, or Housing Variant, as demonstrated in Section F.25 (Addition of Section IV.C (Variant 2A: Housing/R&D Variant [No Stadium—Relocation of Housing; Additional R&D]) [New Section])). The Housing/R&D Variant does not result in any new or more severe impacts not previously analyzed.

The refinement to Candlestick Tower Variants A, B, C consists of a fourth option, Candlestick Tower Variant D, which relocates a few of the proposed towers, enlarges the floor plates of the towers, and changes some tower heights. These changes are analyzed in Section F.26 (Changes to Section IV.D (Variant 3: Candlestick Point Tower Variants.)) The analysis focuses on impacts to aesthetics and shadow from the tower locations, and determines that Candlestick Tower Variant D would not result in any change in the significance conclusions contained in the Draft EIR for the other tower options. While the floor plates would be slightly larger than under the Project, all towers would be placed on podia, which would remain unchanged from the size analyzed for the Project. The analysis in Section F.26 demonstrates that the addition of the fourth tower option does not result in any new or more severe impacts not previously analyzed.

A subalternative to Alternative 4—Subalternative 4A (CP-HPS Phase II Development Plan with Historic Preservation)—has been included in the EIR to fully respond to comments. This is not a substantially different alternative from those alternatives considered in the Draft EIR, but one that combines the Project's development plan with preservation of the historically eligible buildings, both of which were analyzed in the Draft EIR. Similar to Alternative 4, (Draft EIR Chapter VI, pages VI-93 through -126), Subalternative 4A would retain the four historic buildings (Buildings 211, 224, 231, and 253) that would otherwise be demolished under the Project. In order to accommodate the historic preservation component in the Project's development plan, some adjustments in the location and intensity of some of the Project's land uses and a more cost-effective approach for providing sea level rise protection for the historic resources area have been included in this Subalternative. In all other respects, Subalternative 4A assumes a development plan that is identical to the Project. An analysis of Subalternative 4A is contained in Section F.30 (Changes to Chapter VI [Alternatives]). As demonstrated by that analysis, all of the components (with the exception of the treatment for sea level rise in the historic district and the raising of some heights in the adjacent R&D areas) are identical to the historic preservation component of Alternative 4 and the land use plan of the Project. An analysis of the difference in sea level rise

protection is discussed in this section, and shows that this modification would not result in any new or more severe impacts than as previously analyzed in the EIR. Similarly, the minor change in heights in the R&D district to assure a total square footage development for Subalternative A that would be the same as the Project, is discussed in this section and the analysis shows that this adjustment in the distribution of square footage would not result in any new or more severe impacts compared to those previously analyzed in the Draft EIR. Thus, the significance conclusions for the Project and the significance conclusions for Alternative 4, with respect to historic preservation, are the same for Subalternative 4A.

In summary, none of the refinements to the Project with the stadium, Variants, or Alternatives change the significance conclusions in the Draft EIR, and do not result in any new or more severe impacts than analyzed in the Draft EIR.

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, below is a list of anticipated approval actions that federal agencies will take for the Project.

Local Agency Approvals

1. San Francisco Redevelopment Agency

- Certify the Final EIR
- Report to the Board of Supervisors on the amendments to the Hunters Point Shipyard and Bayview Hunters Point Redevelopment Plans
- Approve amendments to the redevelopment plans
- Approve amendments to the design for development documents for the redevelopment plans
- Approve land transfer agreements with the San Francisco Port, San Francisco Recreation and Park, State Lands Commission, California Department of Parks and Recreation and U.S. Navy
- Approve a development agreement with San Francisco Housing Authority for replacement of Alice Griffith public housing and funding approvals
- Approve disposition and development agreements and owner participation agreements with developers in the redevelopment areas.

- Approve an Interagency Cooperative Agreement with the Board of Supervisors and City agencies
- Approve a tax allocation agreement with the Board of Supervisors

2. Planning Commission

- Certify the Final EIR
- Adopt amendments to the General Plan to ensure consistency between the General Plan and the amendments to the Hunters Point Redevelopment Plan and the Bayview Hunters Point redevelopment Plan
- Find the Project in conformity with the General Plan, including Section 101.1 Priority Policies
- Recommend the redevelopment plan amendments to the Board of Supervisors
- Recommend amendments to the Planning Code and Zoning Maps for the Project
- Approve a cooperative agreement with the Redevelopment Agency for the Project
- Approve amendments to the design for development documents for the redevelopment plans
- Approve office allocations for the Project under the Planning Code
- Adopt Proposition K shadow impact findings related to shadow on Recreation and Park property

3. Board of Supervisors

- Affirm certification of the Final EIR
- Approve amendments to the General Plan
- Approve amendments to the Hunters Point Shipyard and Bayview Hunters Point Redevelopment Plans
- Approve amendments to the Planning Code and Zoning Maps for the Project
- Approve an Interagency Cooperation Agreement with the Redevelopment Agency

- Approve land transfer agreements with the San Francisco Port, Redevelopment Agency and State Lands Commission; and the Redevelopment Agency and San Francisco Recreation and Park
- Approve amendments to Health Code Article 31 and related amendments to the Health Code, Public Works Code and Building Code
- Approve amendments to the Subdivision Code
- Approve a tax allocation agreement with the Redevelopment Agency
- Approve street vacations

4. San Francisco Recreation and Parks Commission

- Recommend to the Board of Supervisors the approval of a land transfer to the Redevelopment Agency
- Recommend shadow determinations under Proposition K to the Planning Commission

5. San Francisco Port Commission

- Approve land transfer agreements with the Redevelopment Agency and the State Lands Commission

6. San Francisco Health Commission

- Recommend to the Board of Supervisors the approval of amendments to Health Code Article 31

7. San Francisco Public Utilities Commission, San Francisco Municipal Transportation Commission, San Francisco Fire Commission

- Approve an Interagency Cooperation Agreement with the Redevelopment Agency

8. Department of Public Works

- Approve subdivision maps, public improvements and infrastructure

9. Department of Building Inspection

- Approve building permits

10. San Francisco Art Commission

- Approve public art and the design of public structures on City property

11. San Francisco Housing Authority

- Approve a development agreement with Redevelopment Agency for replacement of Alice Griffith public housing and funding approvals

Regional and State Agencies

1. Bay Conservation and Development Commission

- Approve amendments of the Bay Plan and Seaport Plan
- Approve permits for activities within BCDC's jurisdiction
- Review Project land use plan for federal consistency under the Coastal Zone Management Act for activities not previously authorized in Consistency Determination No. CN-1-99

2. State Lands Commission

- Approve public trust land agreement with the Redevelopment Agency, Port and Board of Supervisors

3. California Department of Parks and Recreation

- Approve a land transfer agreement for the reconfiguration of the Candlestick Point State Recreation Area with Redevelopment Agency
- Approve a General Plan Amendment for the Candlestick Point State Recreation Area

4. California Department of Transportation

- Approve encroachment permits for Project roadway improvements within its jurisdiction

5. Regional Water Quality Control Board

- Approve section 401 water quality certifications

6. Bay Area Air Quality Management district

- Approve air quality permits for individual uses and air quality construction management plans

Federal Agencies

1. US Navy

- Approve land transfer agreements, leases and easements with the Redevelopment Agency for property at Hunters Point Shipyard

2. US Army Corps of Engineers

- Approve permits for fill related to Project construction
- Consult with USFWS or NMFS prior to carrying out its discretionary authority under Section 404 of the Clean Water Act, pursuant to Section 7 of the Endangered Species Act, Marine Mammal Protection Act and Magnuson-Stevens Act regarding federally listed species, harbor seals and California sea lions and essential fish habitat.

3. Department of the Interior

- Approve conversions of portions of Candlestick Point State Recreation Area reconfiguration improved with Land and Water Conservation Fund grants

4. US Coast Guard

- Issue determination regarding vessel navigability for the Yosemite Slough bridge

5. US Department of Housing and Urban Development

- Approve a land transfer agreement with Redevelopment Agency and San Francisco Housing Authority for replacement of Alice Griffith public housing and funding approvals

F. Contents and Location of Record

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

- 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 the Agency Commission and 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 hearings, including the Agency Commission hearings on December 15, 2009 and January 5, 2010 and the Planning Commission hearing on December 17, 2009, and written correspondence received by the Agency and Planning Department staff during the public comment period of the Draft EIR.

The Commission 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 Commission. 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 Commission was aware in approving the Project. Other documents influenced the expert advice provided to Planning Department staff or consultants, who then provided advice to the Commission. For that reason, such documents form part of the underlying factual basis for the Commission'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 Commission files, located at 1650 Mission Street, Suite 400, San Francisco, CA 94103. Linda Avery, Planning Commission Secretary, is the custodian of records for the Commission. CEQA files are also available at the San Francisco Redevelopment Agency at One South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103. Gina Solis, Redevelopment Agency Commission Secretary, is the Custodian of Records for the Agency. All files have been available to the Commission and the public for review in considering these findings and whether to approve the Project.

G. Findings About Significant Environmental Impacts and Mitigation Measures

The following Sections II, III and IV set forth the Commission'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 Commission regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the Commission as part of the Project. To avoid duplication and redundancy, and because the Commission 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 Commission has considered the opinions of staff and experts, other agencies and members of the public. The Commission 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. Thus, although as a legal matter, the Commission is not bound by the significance determinations in the FEIR (see Pub. Resources Code

Section 21082.2, subd. (e)), the Commission finds them persuasive and hereby adopts them as its own.

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 Commission 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.

As set forth below, the Commission adopts and incorporates all of the mitigation measures set forth in the FEIR and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. In adopting these mitigation measures, the Commission intends to adopt each of the mitigation measures proposed in the FEIR for the Project. 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. In addition, 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 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 the section 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 dozens of times to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the Commission 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 Commission 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.

A. Land Use and Plans

1. **Impact LU-1 (NI)**, Impacts on an established community from physical division of the area. (DEIR III.B-34 -37)

2. **Impact LU-2**, Consistency with plans, policies and regulations. (DEIR III.B-7-32, III.B-37-39; C&R 56-57, 60-61, 64, 66, 136, 138, 140, 148, 152, 345, 360, 381, 594-595, 597, 627, 764, 780-781, 783, 786, 790-791, 799, 833, 869, 888, 931, 945, 951, 1223, 1389, 1656, 1706, 1717, 1732, 1790, 1792-1793, 1797, 1881, 2148, 2150, 2186-2187)

3. **Impact LU-3**, Effects on existing land use character. (DEIR III.B-39-41; III.E-49-50; III.E-59 through 69; C&R 351, 735, 787-788, 1468-1469)

B. Population, Housing and Employment

1. **Impact PH-1**, Effects of construction activities on population growth. (DEIR III.C-14)

2. **Impact PH-2**, Effects of Project operations on population growth. Impact PH-2 includes Impacts PH-2a and PH-2b. (DEIR III.C-14-21, V-10-V-14; C&R 737, 1655-1656, 1732)

3. **Impact PH-3 (NI)**, Impacts on existing housing units or residents from displacement. Impact PH-3 includes Impacts PH-3a and PH-3b. (DEIR III.C-21-22; C&R 951, 1699, 2019)

C. Transportation and Circulation

1. **Impact TR-9**, Effects on LOS and traffic volume at these intersections: Cesar Chavez/Evans Avenue; Bayshore Boulevard and the intersections of Hester/US-101 Southbound off-ramp, Tunnel Avenue, Arleta Street, Leland Avenue, Silver Avenue, and Old County Road; San Bruno/Silliman Street/US-101 Southbound off-ramp; Sierra Point/Lagoon Way). (DEIR III.D-86; C&R 203, 628, 802-803, 1015, 2405-2406)

2. **Impact TR-19**, Effects on transit demand at Downtown Screenlines. (DEIR III.D-102; C&R 291, 2406)

3. **Impact TR-20**, Effects on transit demand at Regional Screenlines. (DEIR III.D-103-104; C&R 291, 2406)

4. **Impact TR-29**, Effects on transit demand on the 14X-Mission Express transit route when on I-280. (DEIR III.D-116; C&R 2406)

5. **Impact TR-31 (NI)**, Safety effects on conditions for bicyclists and effects on bicycle accessibility or the ability to accommodate bicycle demand associated with Project uses. (DEIR II-5, II-33, II-41-42, III.D-117; C&R 56-58, 66-67, 255, 269, 289-290, 345, 347-349, 360, 379, 381, 597-598, 602, 606-607, 627, 739, 757, 801-802, 893, 946, 1193-1194, 1394, 1397, 1469, 1652-1654, 1703, 1734, 1881-1882, 1884, 2013, 2137)

6. **Impact TR-33 (NI)**, Effects on pedestrian facilities. (DEIR II-7, II-28-29; II-43, III.D-118-119; C&R 56-58, 60, 64, 66-67, 289-290, 345, 348, 360, 627-628, 736, 739, 750-751, 757, 771, 781, 786, 788. 790, 801-802, 894, 905, 946, 948, 1468, 1473, 1615, 1652-1654, 1734, 1873)

7. **Impact TR-34**, Safety effects for pedestrians and effects on public sidewalk crowding or pedestrian accessibility. (DEIR III.D-119-120; C&R 148, 345, 381, 589, 602, 628, 802, 893, 949, 1028, 1072, 1193, 1213, 1394, 1397, 1427, 1651, 1654, 1733, 1881, 2137)

8. **Impact TR-35,** Effects on parking needs and ability to accommodate parking with alternative solutions. (DEIR II-7; II-43; III.D-120-125; C&R 290, 359, 361, 363, 380, 598, 781, 829, 833, 860, 932, 945, 1702, 1732, 1798, 1883, 2153, 2406)

9. **Impact TR-36**, Effects to on-street parking. (DEIR III.D-125-126; C&R 61, 148-149, 152, 156, 255, 360, 380, 597, 799, 869, 893, 933, 1653, 1733-1744, 1882-1884)

10. **Impact TR-37**, Effects on loading spaces. (DEIR III.D-126-127; C&R 61)

11. **Impact TR-40**, Effects on bicycle access on game days. (DEIR III.D-136; C&R 66, 348, 802, 1193, 1653, 2406)

12. **Impact TR-41**, Safety effects for pedestrians and effects on public sidewalk crowding or pedestrian accessibility on game days. (DEIR III.D-137; C&R 66, 348, 802, 1193, 1653)

13. **Impact TR-42**, Effects on pedestrian access to State Park facilities on game days. (DEIR III.D-137-138; C&R 66, 348, 802, 1193, 1403, 1468, 1652-1653)

14. **Impact TR-43**, Effects on parking needs on game days. (DEIR III.D-138-140; C&R 628, 835, 1798, 2153, 2406)

15. **Impact TR-44**, Effects on loading capacity on game days. (DEIR III.D-140-141)

16. **Impact TR-45**, Effects on emergency access on game days. (DEIR III.D-141; C&R 269, 1401, 2185)

17. **Impact TR-48**, Effects on bicycle circulation during secondary events. (DEIR III.D-145-146)

18. **Impact TR-49**, Effects on pedestrian accessibility during secondary events. (DEIR III.D-146)

19. **Impact TR-50**, Effects on parking supply for secondary events. (DEIR III.D-146)

20. **Impact TR-53**, Effects on bicycle circulation during arena events. (DEIR III.D-150; C&R 2406)

21. **Impact TR-54**, Safety effects for pedestrians and effects on public sidewalk crowding or pedestrian accessibility during arena events. (DEIR III.D-150)

22. **Impact TR-55**, Effects on arena parking needs. (DEIR III.D-150-151; C&R 2407)

23. **Impact TR-56 (NI)**, Effects on air traffic. (DEIR III.D-151)

24. **Impact TR-57**, Impacts from design features. (DEIR III.D-151; C&R 381, 1881, 1884)

25. **Impact TR-58,** Effects on emergency access to the Project area. (DEIR III.D-152; C&R 269, 1733, 2185)

D. Aesthetics

1. **Impact AE-1**, Effects of construction activities on scenic vistas or resources. (DEIR III.E-50-51; C&R 755-756)

2. **Impact AE-3**, Creation of new sources of light and glare during construction activities. (DEIR III.E-52; C&R 756)

3. **Impact AE-4**, Effects of Project operations on scenic vistas. (DEIR III.E-53-57; C&R 351-352, 750, 755, 789, 2408)

4. **Impact AE-5**, Effects of Project operations on scenic resources. (DEIR III.E-57-59; C&R 351-352, 755-757, 780-781, 787-789, 2408)

5. **Impact AE-6,** Effects on visual character or quality of the site or surroundings. Impact AE-6 includes Impacts AE-6a and AE-6b. (DEIR III.E-49-50; III.E-59-69; C&R 351, 787-789, 2408)

E. Shadows

1. **Impact SH-1**, New shadow effects on outdoor recreation facilities or other public areas. Impact SH-1 includes Impacts SH-1a and SH-1b. (DEIR III.F-9-42; C&R 41, 43, 776-778, 793, 1218, 1649, 1703, 1733)

F. Air Quality

1. **Impact AQ-5**, Effects on air quality standards or creation of or worsening of air quality violations. (DEIR III.H-31-33; C&R 768, 1387)

2. **Impact AQ-7**, Effects on sensitive receptors from pollutant concentrations. (DEIR III.H-35; C&R 163-165 764-770, 2008, 2313-2316, 2318, 2402-2403)

3. **Impact AQ-8**, Creation of odors affecting a substantial number of people. (DEIR III.H-35-36; C&R 1028, 1643)

4. **Impact AQ-9**, Effects on implementation of the applicable air quality plan. (DEIR III.H-36-37; C&R 1387)

G. Noise and Vibration

1. **Impact NO-4**, Effects on ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR III.I-40-41; C&R 46, 758-760, 762-763)

2. **Impact NO-5**, Effects of groundborne vibration or groundborne noise levels. (DEIR III.I-41; C&R 29, 37, 44-45, 51-52, 763, 795)

3. **Impact NO-8**, Effects of noise from airport operations on people residing or working in the area. (DEIR III.I-52)

H. Cultural Resources and Paleontological Resources

1. **Impact CP-1a**, Effects of construction activities on historical resources. (DEIR III.J-33; C&R 369)

I. Hazards and Hazardous Materials

1. **Impact HZ-13**, Effects caused by exposures to hazardous materials contamination during construction of off-site roadway improvements. (DEIR III.K-88-90)

2. **Impact HZ-16**, Effects caused by exposures to hazardous materials in buildings and structures. Impact HZ-16 includes Impacts HZ-16a and HZ-16b. (DEIR III.K-101-103; C&R 429)

3. **Impact HZ-20**, Effects of routine use, storage, transport, or disposal of hazardous materials during construction. (DEIR III.K-109; C&R 766, 966, 1021)

4. **Impact HZ-22**, Effects of routine use, storage, transport, or disposal of hazardous materials during Project operation. (DEIR III.K-111-114)

5. **Impact HZ-23**, Effects caused by exposures to hazardous materials via upset and accident conditions. (DEIR III.K-114-115; C&R 968)

6. **Impact HZ-25 (NI)**, Safety effects from conflicts with airport land use plans. (DEIR III.K-116)

7. **Impact HZ-26 (NI)**, Safety effects from proximity to private airstrips. (DEIR III.K-116)

8. **Impact HZ-27**, Effects caused by creation of fire hazards or conflicts with emergency response and evacuation plans. (DEIR III.K-117-118; C&R 83, 88, 107, 124, 887, 968, 2140)

K. Geology and Soils

1. **Impact GE-6b (NI)**, Effects caused by seismically induced landslides. (DEIR III.L-48; C&R 80-81)

2. **Impact GE-12 (NI)**, Effects caused by surface fault rupture. (DEIR III.L-62; C&R 79-80)

3. **Impact GE-13 (NI)**, Impacts to septic tanks or alternative wastewater disposal systems. (DEIR III.L-62)

4. **Impact GE-14 (NI)**, Effects on unique geologic features or from changes to topography. (DEIR III.L-62-63)

L. Hydrology and Water Quality

1. **Impact HY-2**, Effects on groundwater supplies and groundwater recharge during construction. (DEIR III.M-76)

2. **Impact HY-3**, Effects of erosion and siltation from changes to drainage during construction. (DEIR III.M-76-77; C&R 122, 908, 1029, 1217, 1392, 1641, 1650)

3. **Impact HY-6c**, Effects of Yosemite Slough bridge on water quality standards or waste discharge requirements. (DEIR III.M-92; C&R 115-116, 1214, 1216)

4. **Impact HY-8 (NI)**, Effects of Project operation on groundwater supplies and groundwater recharge. (DEIR III.M-94-95)

5. **Impact HY-13a**, Effects of structures at Candlestick Point on impeding or redirecting flood flows. (DEIR III.M-103; C&R 10, 91-107, 393, 858-859, 881-888, 906, 985, 1027-1028, 1393, 1649)

6. **Impact HY-13c**, Effect of Yosemite Slough bridge on impeding or redirecting flood flows. (DEIR III.M-104-105; C&R 394, 771, 783, 797, 1654)

7. **Impact HY-15**, Effects of inundation by seiche, tsunami, or mudflow on people or structures. (DEIR III.M-106-107; C&R 105)

M. Biological Resources

1. **Impact BI-1 (NI)**, Consistency with regional conservation plans. (DEIR III.N-50)

2. **Impact BI-2**, Effects of Project activities on common species and habitats. (DEIR III.N-50-55; C&R 37-38, 42, 52, 935)

3. **Impact BI-3a (NI)**, Effects of construction activities at Candlestick Point on candidate, sensitive or special status plant species. (DEIR III.N-55-56; C&R 32, 34, 37, 734, 1072)

4. **Impact BI-3b (NI)**, Effects of construction activities at Hunters Point Phase II on candidate, sensitive or special status plant species. (DEIR III.N-56; C&R 2020, 2419)

5. **Impact BI-5a (NI)**, Effects of construction activities at Candlestick Point on eelgrass beds. (Candlestick Point) (DEIR III.N-69; C&R 793-794, 1219, 1390)

6. **Impact BI-7a**, Effects of construction activities at Candlestick Point on foraging habitat for raptors. (DEIR III.N-76-77; C&R 934-935, 1221)

7. **Impact BI-8a**, Effects of construction activities at Candlestick Point on western red bat. (DEIR III.N-79-80; C&R 795)

8. **Impact BI-9a (NI)**, Effects of pile driving during construction at Candlestick Point on marine mammals or fish identified as candidate, sensitive or special status species. (DEIR III.N-80; C&R 37, 1073)

9. **Impact BI-10a**, Effects of construction activities at Candlestick Point on native oysters. (DEIR III.N-83; C&R 37, 795, 907, 1390,)

10. **Impact BI-10b**, Effects of construction activities at Hunters Point Phase II on native oysters. (DEIR III.N-84; C&R 37, 795, 907, 1391)

11. **Impact BI-10c**, Effects of construction of Yosemite Slough bridge on native oysters. (DEIR III.N-85)

12. **Impact BI-13a**, Effects of construction activities at Candlestick on native resident or migratory wildlife movements, corridors and nursery sites. (DEIR III.N-93-95)

13. **Impact BI-15a (NI)**, Effects on fish, wildlife and aquatic communities from disturbance of contaminated soils or sediments during construction at Candlestick Point. (DEIR III.N-99-100)

14. **Impact BI-16a**, Effects of Project operations at Candlestick on candidate, sensitive or special status species, native resident or migratory fish movements and use of native wildlife nursery sites. (DEIR III.N-101)

15. **Impact BI-16b**, Effects of Project operations at Hunters Point Phase II on aquatic candidate, sensitive or special status species, native resident or migratory fish and wildlife species movements and use of native wildlife nursery sites. (DEIR III.N-102-103)

16. **Impact BI-17a (NI)**, Effects of Project operations at Candlestick Point on nesting American peregrine falcons. (DEIR III.N-103; C&R 1221)

17. **Impact BI-17b (NI)**, Effects of Project operations at Hunters Point Phase II on nesting American peregrine falcons. (DEIR III.N-103; C&R 1221, 2008, 2020, 2151)

18. **Impact BI-18a (NI)**, Effects of Project operations at Candlestick Point on aquatic candidate, sensitive or special status species and designated essential fish habitat (EFH). (DEIR III.N-103-104; C&R 795-796, 2133)

19. **Impact BI-19a (NI)**, Effects on aquatic organisms from disturbance of contaminated soils or sediments during Project operations at Candlestick Point. (DEIR III.N-106)

N. Public Services

1. **Impact PS-5 (NI)**, Effects of construction activities on access to school services. (DEIR III.O-28-29)

2. **Impact PS-6**, Effects of Project operations on school services. (DEIR III.O-29-31)

3. **Impact PS-7 (NI)**, Effects of construction activities on access to library services. (DEIR III.O-36)

4. **Impact PS-8**, Effects of Project operations on library services. (DEIR III.O-36-37)

O. Recreation

1. **Impact RE-3**, Effects on existing recreational opportunities. (DEIR III.P-32-33; C&R 349, 605, 731, 735, 739, 744, 748-751, 753-754, 756-759, 776, 779-781, 783, 789, 797, 1071-1072, 1654, 1873-1874)

P. Utilities

1. **Impact UT-1**, Impacts on water supply facilities or entitlements. (DEIR III.Q-16-17, V-8; C&R 950-951, 1735, 2012, 2182)

2. **Impact UT-4**, Impacts on wastewater treatment facilities. (DEIR III.Q-34)

3. **Impact UT-6**, Impacts on hazardous waste transport, storage and disposal facilities from construction activities. Impact UT-6 includes Impacts UT-6a and UT-6b. (DEIR III.Q-47-49; C&R 766, 966,1061)

4. **Impact UT-8**, Impacts on hazardous waste transport, storage and disposal facilities from Project operations. Impact UT-8 includes Impacts UT-8a and UT-8b. (DEIR III.Q-54-56)

5. **Impact UT-10**, Impacts on dry utility service providers capacity to provide facilities. (DEIR III.Q-60-62; C&R 382, 1469, 2011, 2017, 2138-2139)

Q. Energy

1. **Impact ME-1**, Effects of energy use during construction activities. (DEIR III.R-16-17; V-6-V-7)

III. FINDINGS OF 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 as proposed in the FEIR and as recommended for adoption by the Commission. The full explanation of the potentially significant environmental impacts is set forth in section III of the Draft EIR and in some cases is further explained in the C&R. In most 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 San Francisco Public Utilities Commission ("SFPUC") through its operation of the City sanitary sewer system, or the San Francisco Municipal Transportation Agency ("SFMTA") as part of its operation and maintenance of traffic systems. Some measures require the SFMTA to implement new transit service and the feasibility of the implementation of these mitigation measures is documented in *Memorandum to Sonali Bose, Gail Stein, Julie Kirschbaum, Timothy Papandreou from Wells Lawson, Office of Economic and Workforce Development RE: SFMTA Cost/Revenue Analysis for Candlestick Point / Hunters Point Phase 2, May 18, 2010.*

The mitigation measures proposed for adoption in this section are the same as the mitigation measures identified in the Final EIR for the Project as proposed, with the exception of MM TR-17. Mitigation measure MM TR-17 has been modified as shown and explained in Section III.A.3, below. For MM TR-17, the full text as proposed for adoption is set forth below in Section III.A.3. 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.

The Commission adopts all of the mitigation measures proposed for the Project. The Commission finds that all of the mitigation measures are appropriate and feasible, and that changes or alterations have been incorporated into the Project that mitigate or avoid the significant environmental effects as identified in the FEIR. Based on the analysis contained in the FEIR, other considerations in the record, and the standards of significance, the Commission finds 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.

A. Transportation and Circulation[2]

1. Impact TR-16: Traffic Impacts on Harney Way. (DEIR III.D-97–98; C&R 202, 601-602, 841, 1014-1016, 1193, 1404, 2405) The Project would increase traffic volumes on Harney Way.

MM TR-16, Widen Harney Way as shown in Figure 5 in the Transportation Study.

The Project would widen and improve the existing Harney Way when traffic demand warrants. Implementation of MM TR-16 would ensure that Harney Way would be widened and improved to its final configuration when traffic demand warrants additional capacity. Therefore, potential Project impacts would be reduced to less than significant as demonstrated in Table III.D-10, Table III.D-11, and Table III.D-12 in the Draft EIR. This Commission recognizes that MM TR-16 is partially within the jurisdiction of SFMTA and SFDPW. The Commission urges SFMTA and SFDPW to assist in implementing this mitigation measure, and finds that SFMTA and SFDPW can and should participate in implementing this mitigation measure.

2. Impact TR-17: Transit Capacity Impacts. (DEIR III.D-98–100; C&R 291, 596, 738, 1466-1467, 2383, 2388, 2406) Implementation of the Project would increase demand for transit capacity, and would contribute to cumulative transit demand.

MM TR-17, Implement the Project's Transit Operating Plan as set forth in the Transportation Plan.

The Project would include substantial improvements to transit service in the Hunters Point Shipyard, Candlestick Point, and Bayview neighborhoods, in addition to improvements currently proposed as part of SFMTA's Transit Effectiveness Program. Implementation of MM TR-17 would ensure that the Project's Transit Operating Plan would be implemented and Project-generated transit trips would be accommodated within the existing and proposed transit capacity.

MM TR-17 as set forth in the Final EIR enumerates specific service improvements for SFMTA to make in the Project area to satisfy transit demand. These service improvements are intended to augment existing transit service provided by SFMTA. Over time, SFMTA may adjust transit service in the City in response to changing needs or actions taken by other transit service providers in

[2] For Transportation and Circulation, cumulative impacts are included in this subsection.

the area. As a result of such adjustments, SFMTA may determine that the same transit service goals identified for the Project area can be achieved in alternative ways. To provide SFMTA the ability to adjust the specific transit service solutions implemented for the Project area while achieving the same goals for transit service improvement as identified in the Final EIR, MM TR-17 is modified as shown, with additions ***underlined in bold italicized type*** and deletions denoted by ~~***strike-through***~~:

MM TR-17

Implement the Project's Transit Operating Plan.

The Project Applicant shall work with SFMTA to develop and implement the Project's Transit Operating Plan. ***Upon completion of the Project build out,*** ~~***Elements***~~ ***elements*** *of the Project Transit Operating Plan shall include:*

- *Extension of the 24-Divisadero, the 44-O'Shaughnessy, and the 48-Quintara-24th Street into Hunters Point Shipyard.*
- *Increased frequency on the 24-Divisadero to 6 minutes in the AM and PM peak periods.*
- *Extension of the 29-Sunset from its current terminus near the Alice Griffith housing development, near Gilman Avenue and Giants Drive, into the proposed Candlestick Point retail area. The 29-Sunset would operate a short line between Candlestick Point and the Balboa Park BART station. This would increase frequencies on the 29-Sunset by reducing headways between buses from 10 minutes to 5 minutes during the AM and PM peak periods between Candlestick Point and the Balboa BART station. Every other bus would continue to serve the Sunset District (to the proposed terminus at Lincoln Drive and Pershing Drive in the Presidio) at 10-minute headways.*
- *Convert T-Third service between Bayview and Chinatown via the Central Subway from one-car to two-car trains or comparable service improvement.*
- *Extension of the 28L-19th Avenue Limited from its TEP-proposed terminus on Geneva Avenue, just east of Mission Street, into the Hunters Point Shipyard transit center. The 28L-19th Avenue Limited would travel along Geneva Avenue across US-101 via the proposed Geneva Avenue extension and new interchange with US-101, to Harney Way. East of Bayshore Boulevard, the 28L-19th Avenue Limited would operate as BRT, traveling in exclusive bus lanes into the Candlestick Point area. The BRT route would travel through the Candlestick Point retail corridor, and cross over Yosemite Slough into the Hunters Point Shipyard transit center.*
- *The 28L-19th Avenue Limited would operate a short line to the Balboa Park BART station. This would increase frequencies on the 28L-19th Avenue Limited by reducing headways between buses from 10 minutes to 5 minutes for the segment between Hunters Point Shipyard and the Balboa Park BART station. Every other bus would continue to the Sunset District (to the proposed terminus at North Point Street and Van Ness Avenue) at 10-minute headways. If the TEP-*

proposed extension of the 28L has not been implemented by the SFMTA by the time implementation of this measure is called for in the Transportation Study (Appendix D), the Project Applicant shall fund the extension of that line between its existing terminus and Bayshore Boulevard.

- *New CPX-Candlestick Express to downtown serving the Candlestick Point site, traveling along Harney Way (with potential stops at Executive Park), before traveling on US-101 toward downtown, terminating at the Transbay Terminal.*

- *New HPX-Hunters Point Shipyard Express to downtown serving the Hunters Point Shipyard site, traveling from the Hunters Point Shipyard Transit Center, along Innes Avenue, with stops at the India Basin and Hunters View areas, before continuing along Evans Avenue to Third Street, eventually entering I-280 northbound at 25th/Indiana. The HPX would continue nonstop to the Transbay Terminal in Downtown San Francisco.*

The SFMTA may modify or refine components listed above as needed to address changes in the operating environment and service demands, using SFMTA's service planning methodology and public review process, provided that the modifications result in:

- ***Similar or higher transit mode share to what was projected in the DEIR. As shown in Table III.D-5 in the DEIR, the proposed Project is anticipated to generate approximately 20 percent of its external person-trips via transit during the weekday PM peak hour. If modifications to the transit service described above are proposed, SFMTA (or other agency, as appropriate) shall demonstrate that the changes would still provide for a weekday PM peak hour transit mode share for external trips (i.e., outside of the Candlestick Point-Hunters Point Shipyard Phase II Development Area) of approximately 20 percent or greater.***

- ***Adequate capacity to serve projected transit ridership. Table III.D-17 in the DEIR presents the transit ridership and capacity utilization percentages for three study area cordons. The cordons are described on page III.D-66 of the DEIR and illustrated in Figure 19 in the Project's Transportation Study (included in Appendix D of the DEIR). As shown in Table II.D-17 in the DEIR, most of the study area cordons are projected to operate well within SFMTA's 85 percent capacity utilization standard. If modifications to the transit service described above are proposed, SFMTA (or other agency, as appropriate) shall demonstrate that the changes would not cause capacity to deteriorate such that the study area cordons as defined in Table III.D-17 in the DEIR would operate above SFMTA's capacity utilization standard.***

- ***Similar or less severe traffic impacts than identified in Impacts TR-3 through TR-16 in the DEIR. Specifically, if modifications to the transit***

service described above are proposed, SFMTA (or other agency, as appropriate) shall demonstrate that vehicular traffic congestion (i.e., intersection level of service) would be similar to or better than conditions identified in the DEIR at study intersections along major transit corridors in the study area including Palou Avenue, Gilman Avenue, Harney Way, and Innes Avenue/Hunters Point Boulevard/Evans Avenue.

Before implementing any major service changes to the expected components of the Transit Operating Plan, the SFMTA shall submit a memorandum to the San Francisco Planning Department's Environmental Review Officer, describing the proposed changes and technical analysis demonstrating compliance with the criteria above.

Nothing in this measure requires the SFMTA to provide any service in advance of the schedule for Transit Improvement Phasing set forth as Table 5 in the Transit Operating Plan or in excess of the criteria set forth above.

Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources. With the implementation of MM TR-17, as proposed for modification, Project-generated transit trips would be accommodated within the existing and proposed transit capacity, and, therefore, Project impacts on transit capacity would be less than significant and the Project's contribution to cumulative impacts on transit capacity would be reduced to less than significant. The Commission adopts MM TR-17 as modified. This Commission recognizes that MM TR-17 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure.

3. Impact TR-18: Transit Impacts at Study Area Cordons. (DEIR III.D-100–102; C&R 291) The Project would increase demand for transit capacity and contribute to cumulative demand for transit capacity at the study area cordons.

MM TR-17, Implement the Project's Transit Operating Plan.

With full implementation of the Project's proposed transit improvements, the Project demand and the Project's contribution to cumulative transit demand would not exceed the proposed transit system's capacity at the study area cordons. Implementation of MM TR-17 would ensure that the Project's Transit Operating Plan would be implemented and the Project's impacts and the Project's contribution to cumulative impacts on transit capacity at the study area cordons would be less than significant.

B. Aesthetics

1. Impact AE-2: Degradation of Visual Character/Quality Impacts During Construction. (DEIR III.E–51–52; C&R 2402-2403) Construction activities associated with the Project could result in temporary degradation of the visual character or quality of the site.

MM AE-2, Mitigation for Visual Character/Quality Impacts During Construction.

MM AE-2, which would be incorporated into the Project's construction documents, would ensure that this impact is reduced to less than significant by requiring construction sites to be screened from public view at street level, appropriate staging of construction equipment, measures to keep the surrounding streets clean and free from construction debris, and measures to maintain the cleanliness of construction equipment. Compliance with this mitigation measure would ensure that construction equipment would be confined to the Project site and ensure routine cleaning of construction equipment so mud and dirt are not spread onto adjacent streets.

2. Impact AE-7: Effects of Light and Glare. (DEIR III.E-69-76; C&R 48, 756-757, 789, 1224, 1703, 2408, 2412). Implementation of the Project could create a new source of substantial light or glare that would adversely affect day or night views in the area or that would substantially impact other people or properties. Impact AE-7 includes Impacts AE-7a and AE-7b.

MM AE-7a.1, Lighting Direction/Fixtures and Screening Walls to Minimize Glare and Light Spill.

MM AE-7a.2, Low-level/Unobtrusive Light Fixtures.

MM AE-7a.3, Lighting Plan.

MM AE-7a.4, Non-reflective Exterior Surfaces to Minimize Glare Impacts.

MM AE-7b.1, Testing of Field Lighting System. (Stadium Option)

MM AE-7b.2, Stadium Lighting Orientation and Cut-Off Shields. (Stadium Option)

Implementation of MM AE-7a.1 through MM AE-7a.4 would reduce impacts from light and glare to less than significant by requiring shielding of lighting fixtures, minimizing spill light from Project lighting, screening vehicle headlights to the maximum extent feasible, and eliminating or minimizing increased glare by the use of nonreflective glass and nonreflective textured surfaces in the proposed development. MM AE-7b.1 and MM AE-7b.2 would ensure that the impact of stadium lighting would be less than significant by requiring that the stadium

operator: (1) test the installed field lighting system to ensure that lighting meets the operating requirements in the stadium and minimizes obtrusive spill lighting from the facility and (2) ensure that the stadium lighting orientation and use of cut-off shields minimize increased lighting on adjacent properties.

C. **Wind**

1. **Impact W-1: Wind Hazard Criterion.** (DEIR III.G–6–10; C&R 7, 46, 1704, 2304, 2412) Implementation of the Project would include tall structures that could result in ground-level-equivalent wind speed exceeding 26 mph for a single hour of the year in pedestrian corridors and public spaces. Impact W-1 includes Impacts W-1a and W-1b.

MM W-1a, Building Design Wind Analysis.

Implementation of MM W-1a would reduce the potential wind impact to less than significant by requiring review by a qualified wind consultant for buildings above 100-feet in height and, where necessary, design changes to reduce any impact below the established threshold. Required design changes would reduce potential hazardous wind effects at pedestrian level by forcing wind downwash to tops of podium areas and/or into the street and away from pedestrian areas and thus ensure pedestrian safety.

D. **Air Quality**

1. **Impact AQ-1: Criteria Pollutants From Construction Activities.** (DEIR III.H-23-24; C&R 159-160, 2403) Construction activities associated with the Project would result in short-term increases in the emission of criteria air pollutants and precursors that could exceed Bay Area Air Quality Management District (BAAQMD) CEQA significance criteria.

MM HZ-15, Asbestos Dust Mitigation Plans and Dust Control Plans.

Implementation of MM HZ-15 requires the Applicant to ensure that construction contractors comply with the dust control strategies included in an approved dust control plan and, as applicable, an Asbestos Dust Mitigation Plan. These plans would reduce the impacts caused by construction dust to less than significant.

2. **Impact AQ-2: Diesel Particulate Matter (DPM) from Construction Activities.** (DEIR III.H-24-27; C&R 160-163, 764-765, 768-770, 2218, 2311-2316, 2403) Construction activities associated with the Project could result in impacts to off-site populations from Project-generated emissions of DPM. Impact AQ-2 includes Impact AQ-2a, AQ-2b, and AQ-2c.

MM AQ-2.1, Implement Emission Control Device Installation on Construction.

MM AQ-2.2, Implement Emission Control Device Installation on Construction Equipment used for Alice Griffith Parcels.

Implementation of MM AQ-2.1 and MM AQ-2.2 would require emission control devices to reduce the carcinogenic and noncarcinogenic health risks posed by DPM emissions during construction activities to below established thresholds, and thus would reduce this impact to less than significant.

3. **Impact AQ-3: Toxic Air Contaminants (TACs) from Construction Activities.** (DEIR III.H-27-30; C&R 159-163, 165-168, 764-768, 2307-2308, 2316-2317, 2403) Construction activities associated with the Project could result in impacts to off-site and Alice Griffith populations from emissions of TACs bound to soil-PM_{10}. Impact AQ-3 includes Impacts AQ-3a and Impact AQ-3b.

MM HZ-15, Asbestos Dust Mitigation Plans and Dust Control Plans.

Implementation of MM HZ-15 requires the Applicant to ensure that construction contractors comply with the dust control strategies included in an approved dust control plan and, as applicable, an Asbestos Dust Mitigation Plan. These plans would reduce the impacts caused by construction dust to less than significant.

4. **Impact AQ-6: TACs From Project Operations.** (DEIR III.H-33–34; C&R 159, 161-168, 2307-2308, 2320, 2412-2414) Implementation of HPS Phase II could expose nearby receptors to an increase in local concentrations of TACs due to the operation of Research and Development (R&D) uses.

MM AQ-6.1, Analysis for Facilities on Less Than One Acre.

MM AQ-6.2, Analysis for Facilities on One Acre or Larger.

MM AQ-6.1 and MM AQ-6.2 would ensure that emissions from Project R&D uses would not exceed the BAAQMD residential cancer risk and the chronic non-cancer hazard index thresholds at the nearest residential locations. Thus, these mitigation measures would reduce the potential impact to less than significant.

E. Noise and Vibration

1. **Impact NO-1: Exposure of Persons to Excessive Noise Levels From Construction Activities.** (DEIR III.I-24-33; C&R 759, 2403) Construction associated with the Project would generate increased noise levels for both off-site and on-site sensitive receptors; however, the Project's construction noise impacts would occur primarily in noise-sensitive areas adjacent or near to active construction sites (which would vary in location and duration over the entire period the proposed Project would be under construction), would not occur during recognized sleep hours, and would be consistent with the requirements for construction noise that exist in Sections 2907 & 2908 of the *Municipal Code*. Impact NO-1 includes Impacts NO-1a and Impact NO-1b.

MM NO-1a.1, Construction Document Mitigation to Reduce Noise Levels During Construction.

MM NO-1a.2, Noise-reducing Pile Driving Techniques and Muffling Devices.

MM NO-1a.1 and MM NO-1a.2 require implementation of construction best management practices to reduce construction noise and the use of noise-reducing pile-driving techniques. Additionally, construction activities must comply with the San Francisco Noise Ordinance. These requirements would reduce construction noise impacts to less than significant.

F. Cultural Resources and Paleontological Resources

1. **Impact CP-2: Change in Significance of Archaeological Resources From Construction Activities.** (DEIR) III.J-36-41; C&R 26-27, 426, 1031, 1463, 1657-1658, 1825-1826, 2332, 2403) Construction activities associated with the Project could result in a substantial adverse change in the significance of archaeological resources, including prehistoric Native American resources, Chinese fishing camps, and maritime related resources. Impact CP-2 includes Impacts CP-2a and 2b.

MM CP-2a, Mitigation to Minimize Impacts to Archaeological Resources at Candlestick Point.

MM CP-2a would reduce the potential Project impacts to significant archaeological resources to less than significant by ensuring that an archaeological testing program is performed and that any discovered archaeological resources are appropriately handled and documented.

2. **Impact CP-3: Change in the Significance of Paleontological Resources From Construction Activities.** DEIR III.J-41-44; C&R 25-28, 2403) Construction activities associated with the Project could result in a substantial adverse change in the significance of a paleontological resource. Impact CP-3 includes Impacts CP-3a, CP-3b, CP-3c and CP-3d.

MM CP-3a, Paleontological Resources Monitoring and Mitigation Program.

MM CP-3a would reduce the potentially significant effects of construction-related activities to paleontological resources throughout the Project site to less than significant by mitigating for the permanent loss of the adversely affected resources through implementation of a Paleontological Resources Monitoring and Mitigation Program.

G. Hazards and Hazardous Materials

1. **Impact HZ-1: Exposure to Known Contaminants During Construction Activities.** (DEIR III.K-53-57; C&R 115-116, 124- 134, 140-144, 995, 2221-2223, 2403) Construction activities associated with the Project could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of the disturbance of soil and/or groundwater with known contaminants from historic uses. Impact HZ-1 includes Impacts HZ-1a and HZ-1b.

MM HZ-1a, Article 22A Site Mitigation Plans. (Applies only to Candlestick Point.)

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies only to HPS Phase II)

Implementation of MM HZ-1a would reduce effects related to exposure of known contaminants at Candlestick Point by requiring compliance with SF Health Code Article 22A, or an equivalent process, which requires implementation of site mitigation prior to construction. For construction activities at HPS Phase II, MM HZ-1b would require SFDPH to verify that activities that would disturb soil or groundwater would be done in compliance with all applicable restrictions imposed for the site under the federal Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") process. Implementation of these measures would ensure that potential adverse effects on human health and the environment from exposure to known subsurface hazards from construction activities would be reduced to less than significant. This Commission recognizes that MM HZ-1b is partially within the jurisdiction of the Agency. The Commission urges the Agency to assist in implementing this mitigation measure, and finds that the Agency can and should participate in implementing this mitigation measure.

2. **Impact HZ-2: Exposure to Previously Unidentified Contaminants During Construction.** (DEIR III.K-58-60; C&R 115-116, 124- 134, 140-144, 995, 2221-2223, 2403) Construction activities associated with the Project could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of the disturbance of soil and/or groundwater with previously unidentified subsurface contaminants from historic uses. Impact HZ-2 includes Impacts HZ-2a and HZ-2b.

MM HZ-2a.1 Unknown Contaminant Contingency Plan. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-2a.2 Site-Specific Health and Safety Plans. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

Implementation of MM HZ-2a.1 requires the development of an unknown contaminant contingency plan in accord with specific SF Health Code requirements to assure appropriate procedures are followed in the event unexpected contamination is encountered during construction activities, including procedures for ensuring compliance with applicable laws and regulations. MM HZ-2a.2 requires the preparation and implementation of a site-specific health and safety plan in compliance with federal and state OSHA regulations and other applicable laws prior to implementing construction activities. Implementation of these measures would ensure that potential adverse effects on human health and the environment from unidentified subsurface hazards encountered during construction would be reduced to less than significant.

3. **Impact HZ-3: Off-Site Transport and Disposal of Contaminated Soil and Groundwater During Construction.** (DEIR III.K-60-62; C&R 766, 966, 1021, 2403) Construction activities associated with the Project could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of off-site transport and disposal of contaminated soil and groundwater. Impact HZ-3 includes Impacts HZ-3a and HZ-3b.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies to HPS Phase II.)

MM HY-1a.3, Groundwater Dewatering Plan.

For all Project construction and remediation activities that require transport of contaminated soil or groundwater, compliance with federal, state, and local regulations and implementation of MM HZ-1b (requiring compliance with restrictions imposed in the clean up decision and property transfer documents) and MM HY-1a.3 (requiring compliance with SFRWQCB/NPDES standards in the dewatering plan) would ensure that potential adverse effects on human health and the environment from dewatered groundwater would be reduced to less than significant.

4. **Impact HZ-4: Installation of Underground Utilities.** (DEIR III.K-63-64; C&R 115-116, 124- 134, 140-144, 995, 2221-2223, 2403) Construction activities associated with the Project could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of improvements to existing and installation of new underground utilities. Impact HZ-4 includes Impacts HZ-4a and HZ-4b.

MM HZ-1a, Article 22A Site Mitigation Plans.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents.

MM HZ-2a.1, Unknown Contaminant Contingency Plan.

MM HZ-2a.2, Site-Specific Health and Safety Plans.

Implementation of MM HZ-1a, MM HY-1b, and MM HZ-2a.1, MM HZ-2a.2 and compliance with the plans, documents, and regulations referenced and required by these mitigation measures would ensure the safe handling of potentially contaminated materials encountered during improvement or installation of underground utilities and effects on human health and the environment would be reduced to less than significant.

5. **Impact HZ-5: Installation of Foundation Support Piles.** (DEIR III.K-64-66; C&R 115-116, 2403) Construction activities associated with the Project create vertical conduits for hazardous materials that could contaminate groundwater as a result of installation of foundation support piles. Impact HZ-5 includes Impacts HZ-5a and 5b.

MM HZ-1a, Article 22A Site Mitigation Plans.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents.

MM HZ-5a, Foundation Support Piles Installation Plan.

Implementation of MM HZ-1a, MM HZ-1b, and MM HZ-5a, which require compliance with Articles 22A and 31 and confirmation from SFPDH that the method that will be used for installing boreholes for each pile will prevent disturbance of potentially contaminated fill materials, would reduce potential groundwater quality impacts from pile driving to less than significant. This Commission recognizes that MM HZ-5a is partially within the jurisdiction of the Agency. The Commission urges the Agency to assist in implementing this mitigation measure, and finds that the Agency can and should participate in implementing this mitigation measure.

6. **Impact HZ-6: Soil Handling, Stockpiling, and Transport Within the Project Site Boundaries During Construction.** (DEIR III.K-66-70; C&R 964-967, 1021, 2227-2228, 2237, 2403) Construction activities associated with the Project could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of the handling, stockpiling, and transport of soil that may contain contaminants. Impact HZ-6 includes Impacts HZ-6a and HZ-6b.

MM HZ-1a, Article 22A Site Mitigation Plans.

MM HZ-2a.1, Unknown Contaminant Contingency Plan.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combined Storm Sewer System.

MM HY-1a.2, Storm Water Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.1 and MM HY-1a.2 would require preparation and implementation of a site specific Storm Water Pollution Prevention Plan ("SWPPP") in accordance with the detailed requirements of these mitigation measures, which will ensure implementation of the specific measures and Best Management Practices ("BMPs") that are applicable to construction activities in the event of a spill or exposure of hazardous materials and would control potential discharge of chemicals, if chemicals were present in the runoff. Actions for responding to this impact to be required by a site mitigation plan and unknown contaminant contingency plan are included in MM HZ-1a and MM HZ-2a.1. Thus, for all construction associated with the Project requiring handling, stockpiling, or transport of soil, compliance with existing federal, state, and local regulations and controls and implementation of mitigation measures MM HZ-1a, MM HZ-1b, MM HY-1a.1, and MM HY-1a.2 would ensure that potential adverse effects on human health and the environment would be reduced to less than significant.

7. **Impact HZ-7: Contaminated Surface Runoff From Construction Sites.** (DEIR III.K-70-71; C&R 29, 908, 1214-1217, 1641-1643, 1650-1652, 2261, 2342-2343, 2403) Construction activities associated with the Project could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials that could be present in stormwater runoff. Impact HZ-7 includes Impacts HZ-7a and HZ-7b.

MM HZ-1a, Article 22A Site Mitigation Plans.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decisions Documents and Property Transfer Documents.

MM HZ-2a.1, Unknown Contaminant Contingency Plan.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combine Storm Sewer System.

MM HY-1a.2, Storm Water Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.1 and MM HY-1a.2 would require preparation and implementation of a site specific Storm Water Pollution Prevention Plan (SWPPP) in accordance with the detailed requirements of these mitigation measures, which will ensure implementation of the specific measures and Best Management Practices (BMPs) that are applicable to construction activities in the event of a spill or exposure of hazardous materials and would control potential discharge of chemicals, if chemicals were present in the runoff. MM HZ-1a, MM HZ-1b and MM HZ-2a.1 require compliance with restrictions and plans designed to protect human health and the environment from contamination. Implementation of MM HZ-1a, MM HZ-1b, MM HZ-2a.1, MM HY-1a.1, and MM HY-1a.2 would ensure that potential adverse effects on human health and the environment would be reduced to less than significant.

8. **Impact HZ-8: Exposure to Hazardous Materials Releases That Have Not Been Fully Remediated.** (DEIR III.K-71-77; C&R 129, 2418) Project occupants or visitors in or near portions of HPS Phase II where remediation has not been fully completed could be exposed to unacceptable levels of hazardous materials.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decisions Documents and Property Transfer Documents.

MM HZ-12, Compliance with Administrative Order on Consent at Early Transferred Parcels. (applies only at HPS Phase II.)

To the extent this impact could be potentially significant despite the Navy's implementation of protective measures, it would be reduced to less than significant through implementation of MM HZ-1b, which requires compliance with restrictions in cleanup and transfer documents. Potential impacts to occupants or visitors from remediation activities that may be conducted by or on behalf of the Agency or the Project Applicant are addressed by MM HZ-12, which requires compliance with all requirements incorporated into remedial design documents, work plans, health and safety plans, dust control plans, and any other document or plan required under the Administrative Order on Consent. Thus, these mitigation measures would ensure that the potential impact would be reduced to less than significant.

9. Impact HZ-9: Exposure to Hazardous Materials in Conjunction with Limited Remediation Activities During Construction of the Yosemite Slough Bridge. (DEIR III.K-77-79; C&R 1029, 1217-1218, 2403) Construction at HPS Phase II could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of Yosemite Slough bridge construction.

MM HZ-9, Navy-approved work plans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property.)

MM HZ-9 would require that remediation activities conducted in conjunction with the construction of the Yosemite Slough bridge be performed only after approval of a removal action workplan for excavation of radiologically contaminated materials. Thus, the potential for exposure to hazardous materials during remediation activities conducted in conjunction with the construction of the Yosemite Slough bridge would be reduced to less than significant. This Commission recognizes that MM HZ-9 is partially within the jurisdiction of the Agency. The Commission urges the Agency to assist in implementing this mitigation measure, and finds that the Agency can and should participate in implementing this mitigation measure.

10. Impact HZ-10: Exposure to Hazardous Materials During Construction of Shoreline Improvements. (DEIR III.K-79-85, C&R 908, 1388, 1642, 2403) Construction activities associated with the Project in shoreline areas could expose construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of the disturbance of sediment or soil that may contain chemical or radiological contaminants. Impact HZ-10 includes Impacts HZ-10a and HZ-10b.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related impacts.

MM BI-5b.4, Eelgrass Water Quality BMPs.

MM BI-12b.1, Essential Fish Habitat Avoidance and Minimization Measures.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combine Storm Sewer System.

MM HY-1a.2, Storm Water Pollution Prevention Plan: Separate Storm Sewer System.

MM HZ-1a, Article 22A Site Mitigation Plans.

MM HZ-2a.1, Unknown Contaminant Contingency Plan.

MM HZ-10b, Regulatory Agency Approved Workplans and Permits for Shoreline Improvements

MM BI-4a.1, MM BI-4a.2, MM BI-5b.4, MM BI-12b.1, MM HY-1a.1, MM HY-1a.2, MM HZ-1a, MM HZ-2a.1, and MM HZ-10b would require that for locations where sediments containing hazardous materials are identified, plans must be developed and implemented to manage the sediment, all appropriate permits must be obtained, and best management practices (BMPs) must be implemented. The mitigation measures and compliance with applicable regulations and required permits would ensure that potential impacts related to exposure to hazardous materials releases from contaminated sediments that could be disturbed during proposed shoreline improvements would be reduced to less than significant. This Commission recognizes that MM HZ-10b is partially within the jurisdiction of the Agency. The Commission urges the Agency to assist in implementing this mitigation measure, and finds that the Agency can and should participate in implementing this mitigation measure.

11. Impact HZ-11: Exposure to Hazardous Materials While Constructing Infrastructure on Navy-owned property. (DEIR III.K-85-86; C&R 71, 106, 143, 908, 2338, 2403) Construction activities associated with the Project on Navy-owned property, including improvements to existing utilities and installation of new underground utilities, could expose occupants, construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of the disturbance of soil, sediment, or groundwater that may contain contaminants from historic uses, including radiological contaminants.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decisions Documents and Property Transfer Documents.

MM HZ-9, Navy-approved workplans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property.)

MM HZ-1b requires the Project Applicant to submit documentation to the SFDPH that the work will be undertaken in compliance with all restrictions imposed pursuant to the Institutional Controls (ICs) and transfer documents. The general requirement of MM HZ-9 would also apply to underground utility construction activities by requiring that such activities be conducted only after approval of a workplan by the Navy to assure compliance with all restrictions imposed on the property through the CERCLA process. This mitigation measure would also require such underground utility construction activities be conducted in accordance with applicable health and safety plans, DCPs, or any other documents or plans required under applicable law or laws. As a result, the

potential for exposure to hazardous materials during underground utility construction at HPS Phase II would be reduced to less than significant.

12. Impact HZ-12: Remediation Activities Conducted in Conjunction with Development Activities at HPS Phase II Early Transfer Parcels. (DEIR III.K-86-88; C&R 129, 136, 138-139, 142-144, 429, 995, 1467-1468, 2338, 2403) Remediation activities conducted on behalf of the City or Project Applicant at the HPS Phase II parcels transferred prior to completion of remediation in an "early transfer" could expose remediation and construction workers, the public, or the environment to unacceptable levels of hazardous materials as a result of the disturbance of soil, sediment, and/or groundwater that may contain contaminants from historic uses.

MM HZ-12, Compliance with Administrative Order on Consent at Early Transferred Parcels. (Applies only at HPS Phase II.)

To ensure compliance with the controls included in the Administrative Order on Consent ("AOC"), MM HZ-12 would require SFDPH to ensure that before development occurs, the Agency or the Project Applicant and their contractors have incorporated all applicable requirements imposed through the CERCLA process into remedial design documents, work plans, health and safety plans, DCPs and any other document or plan required under the AOC or other applicable law, as a condition of development, as illustrated by the requirements set forth in DEIR Table III.K-2, and to conduct work in accordance with the Risk Management Plans ("RMPs"). As a result, the potential impact of exposure to hazardous materials during remediation activities conducted on behalf of the Agency or the Project Applicant in conjunction with development of HPS Phase II would be reduced to less than significant. This Commission recognizes that MM HZ-12 is partially within the jurisdiction of the Agency. The Commission urges the Agency to assist in implementing this mitigation measure, and finds that the Agency can and should participate in implementing this mitigation measure.

13. Impact HZ-14: Exposure of Ecological Receptors to Hazardous Materials From Construction Activities. (DEIR III.K-90-96; C&R 2403) Construction activities associated with the Project could expose ecological receptors to unacceptable levels of hazardous materials as a result of the disturbance of soil, sediment, and/or groundwater with contaminants from historic uses.

MM HZ-1a, Article 22A Site Mitigation Plans. (Applies only to Candlestick Point.)

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies only to HPS Phase II)

MM HZ-2a.1 Unknown Contaminant Contingency Plan. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-9, Navy-approved workplans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property.)

MM HZ-10b, Regulatory Agency Approved Workplans and Permits for Shoreline Improvements

MM HZ-12, Compliance with Administrative Order on Consent at Early Transferred Parcels. (applies only at HPS Phase II.)

MM HZ-15, Asbestos Dust Mitigation Plans and Dust Control Plans.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combine Storm Sewer System.

MM HY-1a.2, Storm Water Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.3, Groundwater Dewatering Plan.

MM BI-4a.1, Wetlands and jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and jurisdictional/Regulated Waters Impact Minimization for Construction-Related impacts.

MM BI-12b.1, Essential Fish Habitat Avoidance and Minimization Measures.

Compliance with the requirements, permits, and other procedures included in these mitigation measures would ensure that soil handling, stockpiling, and movement within HPS Phase II would not present a significant risk to the ecological environment. Therefore, with implementation of MM HZ-1a, MM HZ-1b, MM HZ-2a.1, MM HZ-9, MM HZ-10b, MM HZ-12, MM HZ-15, MM HY-1a.1, MM HY-1a.2, MM HY-1a.3, MM BI-4a.1, MM BI-4a.2, and MM BI-12b.1, potential construction ecosystem impacts related to handling, stockpiling, and transport of contaminated soil (including shoreline sediments) and groundwater would be reduced to less than significant.

14. Impact HZ-15: Exposure to Naturally Occurring Asbestos From Construction Activities. (DEIR III.K-97-101; C&R 124-127, 142-143, 765-768, 1389, 2403) Construction and grading activities associated with the Project could disturb soil or rock that could be a source of naturally occurring asbestos in a manner that would present a human health hazard.

MM HZ-15, Asbestos Dust Mitigation Plans (ADMP) and Dust Control Plans (DCP).

MM HZ-15 would require the preparation of an ADMP approved by BAAQMD and a DCP approved by SFDPH before commencing grading activities and any other activity that could disturb potential sources of naturally-occurring asbestos (including Bay Fill areas with the potential to contain previously-disturbed serpentinite fragments). Implementation of this mitigation measure would reduce impacts related to naturally occurring asbestos exposure during construction activities to less than significant.

15. Impact HZ-17: Worker Safety — Exposure to Hazardous Materials During Construction. (DEIR III.K-103-104; C&R 115-116, 124- 134, 140-144, 995, 2221-2223, 2403) Construction activities associated with the Project could expose construction workers to unacceptable levels of hazardous materials in soil, sediment, or groundwater in a manner which would present a human health risk. Impact HZ-17 includes Impacts HZ-17a and HZ-17b.

MM HZ-2a.2 Site-Specific Health and Safety Plans. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-2a.2 would require compliance with applicable federal and Cal/OSHA requirements and other applicable laws. Implementation of this mitigation measure would reduce impacts to less than significant.

16. Impact HZ-18: Construction Activities with Potential to Generate Hazardous Air Emissions Within One-Quarter Mile of a School. (DEIR III.K-105-108; C&R 965, 1643, 2403) Construction activities associated with the Project could result in a human health risk involving the disturbance of naturally occurring asbestos, demolition of buildings that could contain hazardous substances in building materials, or possible disturbance of contaminated soils or groundwater within one-quarter mile of an existing school. Impact HZ-18 includes Impacts HZ-18a and HZ-18b.

MM HZ-1a, Article 22A Site Mitigation Plans. (Applies only to Candlestick Point.)

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies only to HPS Phase II)

MM HZ-2a.1, Unknown Contaminant Contingency Plan. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-2a.2, Site-Specific Health and Safety Plans. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-15, Asbestos Dust Mitigation Plans and Dust Control Plans.

This impact at Candlestick Point would be reduced through implementation of Article 22A, where applicable, or MM HZ-1a and MM HZ-2a.1. Implementation of MM HZ-1b would reduce impacts for HPS Phase II development. Implementation of mitigation measures MM HZ-2a.1, MM HZ-2a.2, and MM HZ-15 would control dust emissions at the Project site boundary, which would ensure airborne asbestos emissions do not present a health risk off site. Thus, this impact would be reduced to less than significant through implementation of MM HZ-1a, MM HZ-1b, MM HZ-2a.1, MM HZ-2a.2, and MM HZ-15.

17. Impact HZ-19: Potential Project-Wide Impacts During Construction (DEIR III.K-108-109; C&R 908, 2403) Simultaneous construction activities at the Project site could pose a human health risk from the release of contaminants from historic uses or fill.

MM HZ-1a, Article 22A Site Mitigation Plans. (Applies only to Candlestick Point.)

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies only to HPS Phase II)

MM HZ-9, Navy-approved workplans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property.)

MM HZ-15, Asbestos Dust Mitigation Plans and Dust Control Plans

MM HZ-1a, MM HZ-1b, MM HZ-9, and MM HZ-15 would ensure that before development occurs within the Project site and vicinity that appropriate procedures are in place to manage any residual contaminants, including implementation of soil management plans, ADMPs and DCPs. These procedures would address both soil movement and reuse within the Project site and off-site reuse and disposal. With the implementation of these mitigation measures, impacts from soil movements within and outside of the entire Project site would be reduced to less than significant.

18. Impact HZ-21: Routine Maintenance of Properties. (DEIR III.K-110-111; C&R 82-83, 87, 107, 123, 133, 796-797, 857-858, 873, 1642, 2140, 2418) Implementation of the Project could result in adverse impacts to residents, visitors, or the environment from periodic maintenance requiring excavation of site soils to maintain or replace utilities, repair foundations, or make other subsurface repairs. Impact HZ-21 includes Impacts HZ-21a and HZ-21b.

MM HZ-1a, Article 22A Site Mitigation Plans. (Applies only to Candlestick Point.)

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies only to HPS Phase II)

MM HZ-2a.1, Unknown Contaminant Contingency Plan. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-2a.2, Site-Specific Health and Safety Plans. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.)

MM HZ-9, Navy-approved workplans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property.)

MM HZ-12, Compliance with Administrative Order on Consent at Early Transferred Parcels. (applies only at HPS Phase II.)

MM HZ-1a, MM HZ-1b, MM HZ-2a.1, MM HZ-2a.2, MM HZ-9, and MM HZ-12 would require compliance with existing regulations and restrictions set forth in ICs, transfer documents, and the AOC and require the preparation and implementation of a soil management contingency plan and HASP. Thus, these mitigation measures would ensure that impacts during occupancy from these routine maintenance activities would be reduced to less than significant.

19. Impact HZ-24: Facilities With Hazardous Air Emissions Within One-Quarter Mile of a School. (DEIR III.K-115-116; C&R 1643, 241, 2412-2415) Areas designated for research and development uses within HPS Phase II could pose a human health risk as a result of hazardous air emissions within one-quarter mile of a school.

MM AQ-6.1, Analysis for Facilities on Less Than One Acre.

MM AQ-6.2, Analysis for Facilities on One Acre or Larger.

MM AQ-6.1 and MM AQ-6.2 identify limitations on the location and extent of air emissions of research and development facilities to ensure BAAQMD significance thresholds are not exceeded. Thus, this impact would be less than significant.

H. Geology and Soils

1. Impact GE-1: Soil Erosion During Construction. (DEIR III.L-31-33; C&R 1392, 2403) Construction activities associated with the Project could result in the loss of topsoil caused by soil erosion. Impact GE-1 includes Impacts GE-1a and GE-1b.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combine Storm Sewer System.

Requirements to control surface soil erosion during and after construction associated with the Project would be implemented through the requirements of MM HY-1a.1. Thus, the potential for adverse effects from soil erosion would be avoided or reduced to less than significant.

2. Impact GE-2: Settlement from Dewatering Activities During Construction. (DEIR III.L-33-35; C&R 2403) Construction activities associated with the Project could result in damage to structures caused by settlement from lowering of groundwater levels. Impact GE-2 includes Impacts GE-2a and GE-2b.

MM GE-2a, Mitigation to Minimize Dewatering Impacts During Construction.

With implementation of the dewatering techniques, groundwater level monitoring, and subsurface controls as specified in the San Francisco Building Code ("SFBC") and required by MM GE-2a, groundwater levels in the area would not be lowered such that that unacceptable settlement at adjacent or nearby properties would occur. Consequently, settlement hazards related to dewatering would be less than significant.

3. Impact GE-3: Destabilization of Bedrock From Rock Removal Activities. (DEIR III.L-35-37; C&R 2403) Rock removal activities at the Alice Griffith Public Housing site and the Jamestown area could result in damage to structures from vibration and/or settlement caused by the fracturing of bedrock for excavation.

MM GE-3, Mitigation to Minimize Rock Fragmentation Impacts During Construction.

With implementation of the techniques and ground surface and building damage monitoring, as specified in the SFBC and required by MM GE-3, vibration from controlled rock fragmentation in the area would not cause unacceptable settlement or damage at adjacent or nearby properties would occur. Consequently, settlement hazards related to controlled rock fragmentation would be less than significant.

4. **Impact GE-4: Seismically Induced Groundshaking.** (DEIR III.L-37-40; C&R 80-81, 87, 2418) Implementation of the Project could expose people and structures to substantial adverse effects caused by seismically induced groundshaking. Impact GE-4 includes Impacts GE-4a and GE-4b.

MM GE-4a.1, Site-Specific Geotechnical Investigation with Seismic Analyses.

MM GE-4a.2, Seismic Design Compliance Documentation.

MM GE-4a.3, Site-specific Seismic Analyses to Ensure Safety of Bridge Design.

MM GE-4a.1, MM GE-4a.2, and MM GE-4a.3 would require design-level geotechnical investigations that would include site-specific seismic analyses to evaluate the peak ground accelerations for design of Project structures and the Yosemite Slough bridge, as required by the SFBC and Caltrans. Implementation of these mitigation measures would ensure that potential impacts from groundshaking would be less than significant. This Commission recognizes that MM GE-4a is partially within the jurisdiction of DBI. The Commission urges DBI to assist in implementing this mitigation measure, and finds that DBI can and should participate in implementing this mitigation measure.

5. **Impact GE-5: Seismically Induced Ground Failure.** (DEIR III.L-40-46; C&R 80-81, 87, 2418) Implementation of the Project could expose people or structures to substantial adverse effects caused by seismically induced ground failure such as liquefaction, lateral spreading, and settlement. Impact GE-5 includes Impacts GE-5a and GE-5b.

MM GE-4a.1, Site-Specific Geotechnical Investigation with Seismic Analyses.

MM GE-4a.2, Seismic Design Compliance Documentation.

MM GE-4a.3, Site-specific Seismic Analyses to Ensure Safety of Bridge Design.

MM GE-5a, Site-Specific Geotechnical Investigation with Analyses of Liquefaction, Lateral Spreading and/or Settlement.

MM GE-4a.1, MM GE-4a.2, MM GE-4a.3, and MM GE-5a would require design-level geotechnical investigations and must include site-specific seismic analyses to evaluate the peak ground accelerations for design of Project structures, as required by the SFBC. The structural design review required by these mitigation measures would ensure that all necessary methods and techniques would be incorporated in the design for Project foundations and structures to reduce potential impacts from ground failure or liquefaction less than significant. This Commission recognizes that MM GE-5a is partially within the jurisdiction of DBI.

The Commission urges DBI to assist in implementing this mitigation measure, and finds that DBI can and should participate in implementing this mitigation measure.

6. **Impact GE-6a: Seismically Induced Landslides.** (DEIR III.L-46-49; C&R 80- 81, 2418) Implementation of the Project at Candlestick Point, including the Alice Griffith Housing, could expose people or structures to substantial adverse effects caused by seismically induced landslides. Impact GE-6a includes Impacts GE-6.

MM GE-6a, Site-Specific Geotechnical Investigation with Landslide Risk Analyses.

MM GE-4a.2, Seismic Design Compliance Documentation.

Implementation of MM GE-6a and MM GE-4a.2 would ensure compliance with the SFBC and any special requirements of the HUD for compliance documentation. Thus, these mitigation measures would reduce potential impacts from landslides to less than significant. This Commission recognizes that MM GE-6a is partially within the jurisdiction of DBI. The Commission urges DBI to assist in implementing this mitigation measure, and finds that DBI can and should participate in implementing this mitigation measure.

7. **Impact GE-7: Shoreline Instability.** (DEIR III.L-49-51; C&R 2418) Implementation of the Project could expose people or structures to substantial adverse effects caused by shoreline instability. Impact GE-7 includes Impacts GE-7a and GE-7b.

MM HY-12a.1, Finished Grade Elevations Above Base Flood Elevation.

MM HY-12a.1 would reduce this impact to less than significant through requirements that account for future sea level rise and include an adaptive management strategy that would provide further protection for future sea level rise.

8. **Impact GE-8: Landslides.** (DEIR III.L-51-52; C&R 2418) Implementation of the Project could expose people or structures to substantial adverse effects caused by landslides. Impact GE-8 includes Impacts GE-8a and GE-8b.

MM GE-6a, Site-Specific Geotechnical Investigation with Landslide Risk Analyses.

Site-specific, design-level geotechnical investigations would be required to be submitted to Department of Building Inspection (DBI) in connection with permit applications for individual Project elements, as specified in MM GE-6a. The site-specific analyses must assess potential landslide conditions and prescribe the requirements for foundations on slopes in accordance with the SFBC. With

implementation of this mitigation measure, the Project's impact with regard to landslides would be reduced to less than significant.

9. **Impact GE-9: Soil Hazards — Settlement.** (DEIR III.L-52-56; C&R 80, 86-89, 105, 124, 1766, 2418) Implementation of the Project could expose people or structures to substantial adverse effects caused by damage from settlement. Impact GE-9 includes Impacts GE-9a and GE-9b.

MM GE-5a, Site-Specific Geotechnical Investigation with Analysis of Liquefaction Lateral Spreading and/or Settlement.

MM GE-4a.2, Seismic Design Compliance Documentation.

MM GE-4a.3, Site-specific Seismic Analyses to Ensure Safety of Bridge Design.

Implementation of MM GE-5a, MM GE-4a.2, and MM GE-4a.3 would ensure compliance with the provisions of the SFBC and site-specific geotechnical and design recommendations. Thus, these mitigation measures would reduce the impact to less than significant.

10. **Impact GE-10: Soil Hazard — Expansive Soils.** (DEIR III.L-56-59; C&R 2418) Implementation of the Project could expose people or structures to substantial adverse effects caused by expansive soils.

MM GE.10a, Site-Specific Geotechnical Investigation with Expansive Soils Analyses.

MM GE-4a.1, Site-Specific Geotechnical Investigation with Seismic Analyses.

MM GE-4a.2, Seismic Design Compliance Documentation.

MM GE-4a.3, Site-specific Seismic Analyses to Ensure Safety of Bridge Design.

MM GE-10a, MM GE-4a.1, MM GE-4a.2, and MM GE-4a.3 would require compliance with applicable codes and site-specific geotechnical and design recommendations. Thus these mitigation measures would avoid or reduce the impact to Project structures from expansive soils to less than significant. This Commission recognizes that MM GE-10a is partially within the jurisdiction of DBI. The Commission urges DBI to assist in implementing this mitigation measure, and finds that DBI can and should participate in implementing this mitigation measure.

11. **Impact GE-11: Soil Hazard — Corrosive Soils.** (DEIR III.L-59-62; C&R 2418) Implementation of the Project could expose people or structures to substantial adverse effects caused by corrosive soils.

MM GE-11a, Site-Specific Geotechnical Investigation with Corrosive Soils Analyses.

MM GE-4a.2, Seismic Design Compliance Documentation.

MM GE-4a.3, Site-specific Seismic Analyses to Ensure Safety of Bridge Design.

MM GE-11a, MM GE-4a.2, and MM GE-4a.3 would ensure that all applicable code requirements and site-specific geotechnical and design recommendations would be implemented. Thus these mitigation measures would avoid or reduce the impact to Project structures from corrosive soils to less than significant. This Commission recognizes that MM GE-11a is partially within the jurisdiction of DBI. The Commission urges DBI to assist in implementing this mitigation measure, and finds that DBI can and should participate in implementing this mitigation measure.

I. **Hydrology and Water Quality**

1. **Impact HY-1: Compliance with Water Quality Standards and Waste Discharge Requirements During Construction.** (DEIR III.M-55-76; C&R 907, 1641, 1799; 2403) Construction activities associated with the Project could cause an exceedance of water quality standards or contribute to or cause a violation of waste discharge requirements. Impact HY-1 includes Impacts HY-1a, HY-1b, and HY-1c.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combined Storm Sewer System.

MM HY-1a.2, Stormwater Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.3, Groundwater Dewatering Plan.

MM HZ-12, Compliance with Administrative Order of Consent at Early Transferred Parcels.

MM HZ-15, Asbestos Dust Mitigation and Control Plans.

MM HZ-10b, Regulatory Agency – Approved Work Plans and Permits for Shoreline Improvements.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related Impacts.

MM BI-5b.4, Eelgrass Water Quality BMPs.

MM BI-12b.1, Essential Fish Habitat Avoidance and Minimization Measures.

MM BI-12b.2, Deconstruction/Construction Debris Recovery.

MM HZ-1a, Article 22 Site Mitigation Plan.

MM HZ-2a.1, Unknown Contaminant Contingency Plan.

MM HZ-9, Navy Approved Work Plans for Construction and Remediation Activities on Navy Owner Property.

With respect to erosion and sediment control, implementation of MM HY-1a.1, MM HY-1a.2, MM HZ-1a, MM HZ-2a.1, MM HZ-9, MM HZ-12, and MM HZ-15 would reduce the potential for contaminants, sediments, or pollutants in stormwater runoff to enter the combined or separate sewer system. MM HY-1a.3 would reduce the impacts of discharging dewatered groundwater into the separate sewer system.

With respect to potential water quality impacts caused by the shoreline improvements at Candlestick Point, implementation of MM HY-1a.2, MM HY-1a.2, MM HZ-1a, MM HZ-2a.1, and MM HZ-10b would reduce the potential for contaminants, sediments, or pollutants in stormwater runoff to enter the Lower Bay. MM HY-1a.1 and MM HY-1a.2, each of which requires the preparation and implementation of a SWPPP, would assure implementation of specified BMPs that would address shoreline improvement activities.

MM BI-4a.1, MM BI-4a.2, MM BI-5b.4, MM BI-12b.1, and MM BI-12b.2 provide specific mechanisms to protect biological resources and reduce potential effects on water quality during in-water construction activities.

All of these mitigation measures would ensure that water quality standards would not be exceeded and that the Project would not cause or contribute to a violation of the applicable Waste Discharge Requirements ("WDRs"). Thus, this impact would be reduced to less than significant. This Commission recognizes that MM HY-1a.1 is partially within the jurisdiction of SFPUC. The Commission urges SFPUC to assist in implementing this mitigation measure, and finds that SFPUC can and should participate in implementing this mitigation measure.

2. **Impact HY-4: Flooding Effects of Construction Activities.** (DEIR III.M-77; C&R 1392, 1793, 2403) Construction activities associated with the Project could substantially alter the existing drainage pattern of the site.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combined Storm Sewer System.

MM HY-1a.2, Stormwater Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.3, Groundwater Dewatering Plan.

With implementation of MM HY-1a.1 and MM HY-1a.2, and MM HY-1a.3, construction of the Project would not substantially alter the existing drainage pattern of the site or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site. Thus, this impact would be reduced to less than significant.

3. **Impact HY-5: Storm Sewer System Capacity During Construction.** (DEIR III.M-77-78; C&R 2403) Construction activities associated with the Project could create or contribute runoff water that could exceed the capacity of existing or planned storm sewer systems or provide substantial additional sources of polluted runoff.

MM HY-1a.2, Stormwater Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.2 would include measures to collect, retain, and discharge runoff in ways that would not exceed the capacity of existing downstream drainage facilities. Thus, this impact would be reduced to less than significant.

4. **Impact HY-6: Compliance with Water Quality Standards and Waste Discharge Requirements During Project Implementation.** (DEIR III.M-78-93; C&R 907, 1214-1217, 1799, 2418) Implementation of the Project could contribute to violations of water quality standards or waste discharge requirements. Impact HY-6 includes Impacts HY-6a and HY-6b.

MM HY-6a.1, Regulatory Stormwater Requirements.

MM HY-6a.2, Recycled Water Irrigation Requirements.

MM HY-6b.1, Limitations on Stormwater Infiltration.

MM HY-6b.2, Industrial General Permit

MM HY-6b.3, Clean Marinas California Program.

MM BI-18b.1, Maintenance Dredging and Turbidity Minimization Measure for the Operation of the Marina.

MM BI-18b.2, BMPs to Reduce Impacts of Dredging to Water Quality.

MM BI-19b.1, Work Windows to Reduce Maintenance Dredging Impacts to Fish During Operation of the Marina.

MM BI-19b.2, BMPs to Reduce Impacts of Dredging to Water Quality.

Compliance with applicable regulatory requirements and implementation of the mitigation measures referenced above would ensure that water quality standards would not be exceeded and the Project would not cause or contribute to a violation of the applicable WDRs. Thus, this impact would be reduced to less than significant.

5. Impact HY-7: Other Water Quality Effects During Project Implementation. (DEIR III.M-93-94; C&R 908, 2418) Implementation of the Project could otherwise degrade water quality.

MM HY-6a.1, Regulatory Stormwater Requirements.

MM HY-6a.2, Recycled Water Irrigation Requirements.

MM HY-6b.1, Limitations on Stormwater Infiltration.

Implementation of MM HY-6a.1 would ensure compliance with the Municipal Stormwater General Permit and would include BMPs designed to treat stormwater runoff. MM HY-6b.1 would prohibit infiltration BMPs at HPS Phase II and further reduce the potential for degradation of groundwater quality. Implementation of MM HY-6a.2 would ensure compliance with the Recycled Water General Permit. Compliance with these mitigation measures would reduce the potential for nitrogen and salt migration to groundwater. Thus, the potential for the Project to degrade groundwater quality would be reduced to less than significant.

6. Impact HY-9: Erosion or Siltation Effects During Project Implementation. (DEIR III.M-95; C&R 2418) Implementation of the Project could alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, and could result in substantial erosion or siltation on-site or off-site.

MM HY-6a.1, Regulatory Stormwater Requirements.

MM HY-6a.1 would require preparation and implementation of a Stormwater Drainage Master Plan ("SDMP") and a Stormwater Control Plan ("SCP") that meet the specifications of this mitigation measure to control post-construction

erosion. Compliance with these requirements would reduce this impact to less than significant.

7. Impact HY-10: Flooding From Surface Runoff. DEIR III.M-95-97; C&R 1392, 2418) Implementation of the Project could alter the existing drainage pattern of the site or substantially increase the rate or amount of surface runoff, and could result in flooding on-site or off-site.

MM HY-6a.1, Regulatory Stormwater Requirements.

MM HY-6a.1 would require preparation and implementation of a Stormwater Drainage Master Plan (SDMP) and a Stormwater Control Plan (SCP) that meet the specifications of this mitigation measure to control post-construction runoff. Compliance with this measure will ensure that this impact would be reduced to less than significant.

8. Impact HY-11: Storm Sewer System Capacity. (DEIR III.M-98; C&R 888, 906, 1214-1217, 1650-1652, 2418) Implementation of the Project could create or contribute runoff water that would exceed the capacity of existing or planned storm sewer systems or provide substantial additional sources of polluted runoff.

MM HY-6a.1, Regulatory Stormwater Requirements.

MM HY-6a.1 would require compliance with stormwater drainage capacity design criteria and would ensure that impacts related to exceeding the capacity of the storm sewer system would be reduced to less than significant.

9. Impact HY–12: Housing within a 100-Year Flood Hazard Area. (DEIR III.M-98-103; C&R 10, 90-107, 906, 2418) Implementation of the Project could place housing in a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.

MM HY-12a.1, Finished Grade Elevations Above Base Flood Elevation.

MM HY-12a.2, Shoreline Improvements for Future Sea-Level Rise.

Implementation of MM HY-12a.1 and MM HY-12a.2 would require that all housing be elevated out of the floodplain by grading and fill, that the City's Interim Floodplain Maps (or the FEMA maps, if adopted prior to Project implementation) be updated to reflect finished grade elevations, and that open space setbacks be put in place to allow protection against future sea level rise. These mitigation measures would ensure impacts pertaining to the placement of housing within a mapped flood hazard area would be reduced to less than significant.

10. Impact HY-13b: Structures within a 100-year Flood Hazard Area. (DEIR III.M-103-105; C&R 10, 90-107, 906, 2418) Implementation of the Project at HPS Phase II could place structures within a 100-year flood hazard area or impede or redirect flood flows. Impact HY-13b includes impact HY-13.

MM HY-12a.2, Shoreline Improvements for Future Sea-Level Rise.

MM HY-12a.2 would require shoreline and public access improvements to be designed to respond to increases in elevation. Thus, this impact would be reduced to less than significant.

11. Impact HY-14: Other Flood Risk. (DEIR III.M-105-106; C&R 90-107, 329, 360, 393-394, 599, 748, 840-841, 858-859, 881-882, 887-888, 1027, 1393, 1649, 1793, 2187-2189, 2418) Implementation of the Project could expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam.

MM HY-14, Shoreline Improvements to Reduce Flood Risk.

MM HY-14 would require implementation of improvements recommended in the shoreline evaluation and improvement report prepared for the EIR. In accordance with these recommendations, areas along the shoreline would be developed as open space, which would allow for implementation of additional flood control improvements, if necessary. The shoreline improvements would also reinforce the structural integrity of the existing shoreline, reducing the risk of sudden structural failure of deteriorated shoreline features. Thus, this impact would be reduced to less than significant.

J. Biological Resources

1. Impact BI-4: Regional Conservation Plans. (DEIR III.N-56-63; C&R 2418-2419). Construction of the Project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the *Clean Water Act* through direct removal, filling, hydrological interruption, or other means. Impact BI-4 includes Impacts BI-4a, BI-4b, and BI-4c.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related Impacts.

MM BI-4c, Mitigation for Shading Impacts to Jurisdictional/Regulated Waters. (Applies to Yosemite Slough bridge only)

Mitigation measures MM BI-4a.1 and MM BI-4a.2 would be implemented to reduce the effects of construction-related activities to wetlands by mitigating for the temporary and permanent loss of the wetlands and jurisdictional waters

through avoidance of impacts, requiring compensatory mitigation (i.e., creation and/or restoration), obtaining permits from the USACE, SFRWQCB, BCDC, and other agencies as applicable that are designed to protect wetlands and jurisdictional waters, and implementing construction BMPs to reduce and/or prevent impacts to on waters of the United States, including wetlands and navigable waters. In addition, implementation of mitigation measure MM BI-4c would mitigate the impacts of shadow fill to mud flats and aquatic habitats as a result of construction of Yosemite Slough bridge. Consequently, implementation of mitigation measures MM BI-4a.1, MM BI-4a.2, and MM BI-4c would fully mitigate for the temporary and permanent loss of wetlands and jurisdictional waters, and adverse effects would be less than significant.

2. **Impact BI-5b: Sensitive Vegetation Communities: Eelgrass Beds.** (DEIR III.N-69-71; C&R 10, 793-794, 2403) Construction at HPS Phase II would not have a substantial adverse effect on eelgrass beds, a sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFG or USFWS.

MM BI-5b.1, Avoidance of Impacts to Eelgrass.

MM BI-5b.2, Eelgrass Survey.

MM BI-5b.3, Compensatory Eelgrass Mitigation.

MM BI-5b.4, Eelgrass Water Quality BMPs.

Implementation of mitigation measures MM BI-5b.1 through MM BI-5b.4 would reduce the effects of shoreline treatments on eelgrass by avoiding impacts through initial design if feasible; determining the locations of eelgrass beds through surveys; using survey data to refine shoreline treatments to further avoid or minimize impacts to eelgrass; and compensating for unavoidable impacts through the creation or restoration of eelgrass beds at a 3:1 ratio, thus replacing impacted habitat and increasing its abundance regionally. Consequently, implementation of these mitigation measures would reduce potential adverse effects to less-than-significant levels.

3. **Impact BI-6: Birds.** (DEIR III.N-72-76; C&R 28-29, 33, 35-36-37, 44-45, 47-54, 734, 757, 781, 794-795, 882, 933-936, 1071-1072, 1219,. 1220-1223, 1644, 1733, 1735, 2008, 2403) Construction of the Project would not have a substantial adverse effect, either directly or through habitat modifications, on any bird species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS. Impact BI-6 includes Impacts BI-6a and BI-6b.

MM BI-6a.1, Impact Avoidance and Pre-Construction Surveys for Nesting Special-Status and Legally Protected Avian Species.

MM BI-6a.2, Burrowing Owl Protocol Surveys and Mitigation.

MM BI-6b, American Peregrine Falcon Nest Protection Measures.

Implementation of mitigation measures MM BI-6a.1 and MM BI-6a.2 would reduce the effects of Project construction and implementation on nesting special-status and legally protected avian species by surveying for, identifying, and avoiding occupied nests and delaying construction if necessary to prevent nest abandonment, and/or providing a buffer zone around occupied nests to ensure that disturbance from construction activities do not result in the loss of individuals or destruction of nests or eggs. In addition, mitigation measure MM BI-6a.2 would require focused surveys for burrowing owls and specifies active and passive impact avoidance measures to avoid impacting this species and replace lost habitat. Specifically, if these species are identified nesting within the site, mitigation measures would implement construction buffers to protect occupied burrows, eggs, and young, as dictated by site-specific conditions in consultation with CDFG. Implementation of these mitigation measures would reduce potential adverse effects to less-than-significant levels by avoiding the loss of special-status or legally protected nesting species.

Mitigation measure MM BI-6b would ensure effects of Project construction to nesting peregrine falcons are reduced to a less-than-significant level by identifying active nests during pre-construction surveys and delaying construction (if necessary) to limit disturbance.

4. **Impact BI-7b: Foraging Habitat for Raptors.** (DEIR III.N-77-78; C&R 934-935, 1221, 1768, 2418-2419) Implementation of the Project at HPS Phase II would not have a substantial adverse effect on the quantity and quality of suitable foraging habitat for raptors.

MM BI-7b, Enhancement of Raptor Foraging Habitat.

The Project's ecological enhancements (as detailed in the Draft Parks, Open Space, and Habitat Concept Plan), the requirements specified in mitigation measure MM BI-7b, and new and improved parkland, would provide both raptor foraging opportunities and enhanced raptor and raptor prey habitat. Consequently, adverse effects to raptor foraging habitat would be less than significant. Further, these Project improvements would result in a net increase in the quality of suitable raptor foraging habitat, as well as providing ancillary habitat improvement benefits to their prey species (small mammals, birds, and insects) that could result in a higher prey base for raptors within HPS Phase II. Overall, with mitigation, the effect of the Project on raptors is expected to be beneficial.

5. **Impact BI-9b: Marine Mammals and Fish.** (DEIR III.N-81-83; C&R 37, 399, 1073, 2403) Pile driving associated with construction of the marina and the Yosemite Slough bridge would not have a substantial adverse effect at HPS Phase II, either directly or through habitat modifications, on marine mammals or fish identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS.

MM BI-9b, Pile Driving Design and Minimization Measures.

Mitigation measure MM BI-9b would reduce the effects of pile driving-related activities by recommending the type of piles to use to minimize sound impacts, provide for an alternative method of installation to minimize sound impacts, requiring installation during an agency-approved construction window when fish are least likely to be present and thus avoid the bulk of potential impacts, and require a construction monitor to ensure all measures, including sound monitoring are complied with. This measure would not be required for the Yosemite Slough bridge if piles were driven in dry conditions behind coffer dams, as is proposed, because no aquatic pressure waves would be generated. Implementation of this mitigation measure would reduce potential adverse effects to less-than-significant levels.

6. **Impact BI-11: Special-status Fish.** (DEIR III.N-85-87; C&R 795-796, 1073, 1796-1797, 2403) Construction of the Project would not have a substantial adverse effect on designated critical habitat for green sturgeon and Central California Coast steelhead, and would not result in impacts to individuals of these species as well as Chinook salmon and longfin smelt through disturbance and loss of aquatic and mudflat habitat as a result of construction of shoreline revetments. Impact BI-11 includes Impacts BI-11a, BI-11b, and BI-11c.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related impacts.

Implementation of mitigation measures MM BI-4a.1 and MM BI-4a.2 would reduce the effects of construction-related activities to aquatic habitat by mitigating for the temporary and permanent loss of jurisdictional waters from the Project as a whole by requiring compensatory mitigation (i.e., creation and/or restoration), obtaining permits from the USACE, SFRWQCB, BCDC, and other agencies as applicable that are designed to protect wetlands and jurisdictional waters, and implementing construction BMPs to reduce and/or prevent impacts to waters of the United States, including aquatic habitats. Implementation of these mitigation measures would minimize any adverse effects on aquatic habitat

of special-status fish, including designated critical habitat for the green sturgeon and Central California Coast steelhead, during construction and fully compensate for any residual impacts to these species' habitats resulting from the Project as a whole, thus reducing impacts to special-status fish to less-than-significant levels.

7. **Impact BI-12: Essential Fish Habitat.** (DEIR III.N-88-93; C&R 795-797, 2133, 2403) Construction of the Project would not have a substantial adverse effect on designated essential fish habitat (EFH) or result in a substantial change in total available EFH through placement of riprap and other fill or through temporary water-quality impacts during construction. EFH is a sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFG or USFWS. Impact BI-12 includes Impacts BI-12a, BI-12b, and BI-12c.

MM BI-12a.1 Seasonal Restrictions on In-Water Work.

MM BI-12a.2 Worker Training.

MM BI-12b.1, Essential Fish Habitat Avoidance and Minimization Measures.

MM BI-12b.2, Deconstruction/Construction Debris Recovery.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related Impacts.

MM HZ-1a, Article 22A Site Mitigation Plans.

MM HZ-1b, Compliance with Requirements Imposed by Cleanup Decisions Documents and Property Transfer Documents.

MM HZ-2a.1, Unknown Contaminant Contingency Plan.

MM HZ-9, Navy-approved workplans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property.)

MM HZ-10b, Regulatory Agency Approved Workplans and Permits for Shoreline Improvements

MM HZ-12, Compliance with Administrative Order on Consent at Early Transferred Parcels. (Applies only at HPS Phase II.)

MM HZ-15, Asbestos Dust Mitigation Plans and Dust Control Plans.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combine Storm Sewer System.

MM HY-1a.2, Storm Water Pollution Prevention Plan: Separate Storm Sewer System.

MM HY-1a.3, Groundwater Dewatering Plan.

Mitigation measure MM BI-12a.1 would reduce the effects of construction-related activities to EFH by establishing a construction window that would minimize impacts to fish by avoiding migration and breeding periods, and mitigation measure MM BI-12a.2 would ensure that personnel involved in construction and deconstruction activities are trained on measures to avoid and minimize adverse effects to special-status aquatic species and their habitats. Implementation of these mitigation measures, along with mitigation measures MM BI-4a.1 and MM BI-4a.2, would reduce potential adverse effects on EFH at the Project site to less-than-significant levels.

Compliance with the requirements, permits, and other procedures included in these mitigation measures would ensure that soil handling, stockpiling, and movement within HPS Phase II would not present a significant risk to the ecological environment. Therefore, with implementation of MM HZ-1a, MM HZ-1b, MM HZ-2a.1, MM HZ-9, MM HZ-10b, MM HZ-12, MM HZ-15, MM HY-1a.1, MM HY-1a.2, MM HY-1a.3, MM BI-4a.1, MM BI-4a.2, and MM BI-12b.1, potential construction ecosystem impacts related to handling, stockpiling, and transport of contaminated soil (including shoreline sediments) and groundwater would be reduced to less than significant.

Any loss of EFH that would result from the Yosemite Slough bridge would be mitigated via the compensatory mitigation for impacts to jurisdictional waters (mitigation measure MM BI-4a.1). Measures to avoid and minimize impacts to aquatic habitats, described in mitigation measure MM BI-4a.2, would further reduce impacts to EFH. To reduce these potential impacts to less-than-significant levels, mitigation measures MM BI-12a.1, MM BI-12a.2, MM BI-12b.1, and MM BI-12b.2 would be implemented. Mitigation measure MM BI-12a.1 would reduce the effects of construction-related activities to EFH by establishing a construction window that would minimize impacts to fish by avoiding migration and breeding periods. Measure MM BI-12a.2 would ensure that personnel involved in deconstruction activities are trained on measures to avoid and minimize adverse effects to special-status aquatic species and their habitats. Measure MM BI-12b.1 would avoid areas with submerged vegetation thereby protecting habitat and manage construction equipment with Best Management Practices to prevent contamination. Mitigation measure MM BI-12b.2 would mandate the creation and implementation of a Seafloor Debris Removal Plan. This Plan must contain specified provisions to ensure effective recovery of lost Project debris and minimize potential environmental impairment posed by the debris, or debris recovery activity to designated EFH or other sensitive Bay

habitats and biota (i.e., critical habitat and herring spawning habitats). Implementation of these mitigation measures would reduce potential adverse effects on EFH in Yosemite Slough to less-than-significant levels.

8. **Impact BI-13b: Wildlife Movement.** (DEIR III.N-94-95; C&R 38, 1072-1073, 2403) Construction at HPS Phase II and construction of the Yosemite Slough bridge would not interfere substantially with the movement of native resident or migratory wildlife species or with established native resident or migratory wildlife corridors, but it could impede the use of native wildlife nursery sites.

MM BI-5b.1, Avoidance of Impacts to Eelgrass.

MM BI-5b.2, Eelgrass Survey.

MM BI-5b.3, Compensatory Eelgrass Mitigation.

MM BI-5b.4, Eelgrass Water Quality BMPs.

Implementation of mitigation measures MM BI-5b.1 through MM BI-5b.4 would reduce the effects of HPS Phase II construction on eelgrass by avoiding impacts through initial design if feasible; determining the locations of eelgrass beds through surveys; using survey data to refine shoreline treatments to further avoid or minimize impacts to eelgrass; and compensating for unavoidable impacts through the creation or restoration of eelgrass beds at a 3:1 ratio. Consequently, implementation of these measures would reduce impacts to eelgrass beds, and thus to nursery sites, to less-than-significant levels. This would ensure that construction of HPS Phase II would not interfere substantially with the use of native wildlife nursery sites. Implementation of these mitigation measures would reduce this impact to a less-than-significant level.

9. **Impact BI-14: Local Plans and Policies.** (DEIR III.N-95-99; C&R 38; 783; 1792, 2418-2419) Construction of the Project would not conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Impact BI-14 includes Impacts BI-14a and BI-14b.

MM BI-14a Preservation and Replacement of Significant Trees, and Preservation and Planting of Street Trees.

MM BI-7b, Enhancement of Raptor Foraging Habitat.

Mitigation measure MM BI-14a would encourage the preservation of street trees and trees that are large enough to meet the size specification of significant trees in the *Public Works Code*, and would require the replacement of large trees that are removed. Further, it would require the planting of street trees consistent with

the intent of the *Planning Code* Section 143. In addition, mitigation measure MM BI-7b includes the planting of approximately 10,000 net new trees. The planting of an estimated 10,000 net new trees would increase the number of trees in the Study Area considerably, increase canopy cover, and promote a healthy and sustainable urban forest. With implementation of mitigation measures MM BI-14a and MM BI-7b, the Project would not result in a conflict with City policies designed to protect urban streetscape through the planting of street trees. Impacts would be less than significant.

Further, the Draft Parks, Open Space, and Habitat Concept Plan (as required by mitigation measure MM BI-7b) includes the planting of approximately 10,000 net new trees, avoids removal of native trees where feasible, and establishes new parkland and open space that would include a predominance of native species (see Impact BI-2 and Impact BI-7b). The planting of an estimated 10,000 net new trees at the Project site and in the community would increase the number of trees in the Study Area considerably, increase canopy cover, and promote a healthy and sustainable urban forest. Consequently, development of the Project would not conflict with any local policies or ordinances protecting biological resources, and overall impacts would be beneficial.

10. Impact BI-15b: Contaminated Soils or Sediments during Construction. (DEIR III.N-100; C&R 907-908, 1029, 1214, 1390, 2403) Construction within the shoreline or Bay at HPS Phase II would not result in the disturbance of contaminated soil or the re-suspension of contaminated sediments.

MM HY-1a.1, Storm Water Pollution Prevention Plan: Combine Storm Sewer System.

MM HY-1a.2, Storm Water Pollution Prevention Plan: Separate Storm Sewer System.

MM HZ-10b, Regulatory Agency Approved Workplans and Permits for Shoreline Improvements

Implementation of measures to control stormwater runoff during construction would control discharge of potential chemicals adhered to soil in the runoff. Mitigation measures MM HY-1a.1 and MM HY-1a.2 would require preparation of a SWPPP to identify the specific measures and BMPs that are applicable to HPS Phase II construction activities in the event of a spill of construction materials or exposure of hazardous materials. This would reduce the likelihood of contaminants being conveyed to near-shore and offshore environments, which would reduce the risk to the aquatic environment and species that rely on that habitat (e.g., birds and mammals). Implementation of mitigation measures

MM HZ-10b, MM HY-1a.1, and MM HY-1a.2 would reduce the exposure of fish or wildlife to contaminated fill or Bay/shoreline sediments during construction activities, and adverse effects would be less than significant.

11. Impact BI-18b: Sensitive Aquatic Species, Mollusks, and Designated EFH. (DEIR III.N-104-106; C&R 796-797, 906-908, 1390-1391, 1799, 2418-2419) Implementation of the marina in HPS Phase II would require routine maintenance dredging of the marina, which could remove habitat or generate substantial increases in turbidity within the marina, but would not have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status in local or regional plans, policies, or regulations, or by the CDFG or USFWS, or have a substantial adverse effect on designated EFH, a sensitive natural community identified in local or regional plans, policies, and regulations or by the NMFS.

MM BI-18b.1, Maintenance Dredging and Turbidity Minimization Measures for the Operation of the Marina.

MM BI-18b.2, Implement BMPs to Reduce Impacts of Dredging To Water Quality.

Implementation of mitigation measure MM BI-18b.1 would reduce the effects of marina maintenance dredging to less-than-significant levels by requiring compensatory mitigation for impacts to oysters and EFH that would be designed to avoid, minimize, and if avoidance is not feasible, restore oyster habitat and EFH. Mitigation measure MM BI-18b.2 would mandate the application of BMPs to control the distribution of sediments disturbed by the dredging activities. Consequently, implementation of both measures would reduce adverse effects of sedimentation associated with dredging to less-than-significant levels.

12. Impact BI-19b: Contaminated Sediments during Operation. (DEIR III.N-106-108; C&R 907-908, 1029, 1214, 1390, 2418-2419) Implementation of the marina in HPS Phase II would not have a substantial adverse effect, either directly or through habitat modifications, on sensitive aquatic species, identified as candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS, or have a substantial adverse effect on designated EFH, a sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFG or USFWS, or have a substantial effect on predators that prey on contaminated species or feed on contaminated substrates as a result of routine maintenance dredging or could generate routine increases in turbidity within the marina that would result in the re-suspension of contaminated sediments.

MM BI-19b.1, Work Windows to Reduce Maintenance Dredging Impacts to Fish during Operation of the Marina.

MM BI-19b.2, Implement BMPs to Reduce Impacts of Dredging To Water Quality.

Implementation of mitigation measures MM BI-19b.1 and MM BI-19b.2 would reduce contamination associated with dredging to less-than-significant levels by (1) reducing the effects of increased contamination resulting from routine maintenance dredging by requiring that dredging occur during established work windows when sensitive fish species are less likely to be present, and (2) mandating application of BMPs to control the distribution of sediments disturbed by the dredging activities. Consequently, implementation of these mitigation measures would reduce potential adverse effects to less-than-significant levels.

13. **Impact BI-20: Wildlife Movement.** (DEIR III.N-108-111; C&R 936, 1072, 2418-2419) Implementation of the Project would not interfere substantially with the movement of resident or migratory bird species by increasing collision hazards and the amount of artificial lighting. Impact BI-20 includes Impacts BI-20a and BI-20b.

MM BI-20a.1 Lighting Measures to Reduce Impacts to Birds.

MM BI-20a.2 Building Design Measures to Minimize Bird Strike Risk.

MM BI-20a.1 and MM BI-20a.2 would reduce the effects of operational activities related to tall structures and increased lighting to birds to less-than-significant levels by incorporating these solutions. Specifically, these measures would reduce the incidence of bird strikes by requiring operational methods to reduce the effects of artificial lighting; making the structure (especially the glass surfaces) more visible from the outside with the use of external window coverings; and creating non-reflective or interference zones on or inside the glass. These measures are promoted in eastern and midwestern cities such as Toronto, Chicago, and New York City where avian collisions with buildings have been much better documented than on the West Coast, and implementation of these mitigation measures would reduce potential adverse effects to less-than-significant levels.

14. **Impact BI-21: Local Plans and Policies.** (DEIR III.N-111-112; C&R 38; 783; 1792, 2418-2419) Implementation of the Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Impact BI-21 includes Impacts BI-21a and BI-21b.

MM BI-14a Preservation and Replacement of Significant Trees, and Preservation and Planting of Street Trees.

Operation of the Project would be consistent with the biological resources protection policies of the *City of San Francisco General Plan*. In addition, the City has adopted an Urban Forestry Ordinance and Section 143 of the *Planning Code* to protect trees as a significant resource to the community, and as discussed in Impact BI-14a, the Project's construction-related effects would comply with the Urban Forestry Ordinance to the extent applicable and, with mitigation measure MM BI-14a, would ensure that the Project is constructed in a manner consistent with policies of the Urban Forestry Ordinance and *Planning Code* Section 143. Consequently, the operation of the Project would not conflict with any local policies or ordinances protecting biological resources, and the impact would be less than significant.

15. **Impact BI-22: Special-Status and/or Legally Protected Species.** (DEIR III.N-112-114, C&R 31-54, 734, 795-796, 1073, 1219-1221, 1223, 1796-1797, 2418-2419) Implementation of the Project would not have a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, by the CDFG, USFWS, or NMFS.

MM BI-5b.1, Avoidance of Impacts to Eelgrass.

MM BI-5b.2, Eelgrass Survey.

MM BI-5b.3, Compensatory Eelgrass Mitigation.

MM BI-5b.4, Eelgrass Water Quality BMPs.

MM BI-7b, Enhancement of Raptor Foraging Habitat.

MM BI-6a.1, Impact Avoidance and Pre-Construction Surveys for Nesting Special-Status and Legally Protected Avian Species.

MM BI-6a.2, Burrowing Owl Protocol Surveys and Mitigation.

MM BI-6b, American Peregrine Falcon Nest Protection Measures.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related Impacts.

MM BI-9b, Pile Driving Design and Minimization Measures.

Implementation of ecological Project design features described in the Draft Parks, Open Space, and Habitat Concept Plan (required by mitigation measure MM BI-7b) would result in multiple measures to avoid, limit, and mitigate for impacts to special-status and legally protected species. Mitigation measures MM BI-5b.1 through MM BI-5b.4 would reduce the effects on eelgrass, and the sensitive or special-status fish species that could occupy these areas by surveying for and avoiding this habitat. For areas that cannot be avoided, the Project Applicant would implement a comprehensive eelgrass mitigation plan that would replace at a minimum ratio of 3:1 (i.e., 3 new acres of eelgrass to 1 removed acre) the impacted areas of eelgrass and monitor them for success over sequential years, thus replacing impacted habitat and increasing its abundance regionally. Residual adverse effects would be less than significant with this mitigation.

Mitigation measures MM BI-6a.1, MM BI-6a.2, and MM BI-6b would require surveys for special-status and nesting avian species and implement impact-avoidance measures such as construction buffers to ensure that the loss or take of these species would not occur. Potential impacts to burrowing owls would be mitigated through the conservation of lands as detailed in the *California Burrowing Owl Consortium's April 1995 Burrowing Owl Survey Protocol and Mitigation Guidelines*, and Project-related open space preservation. Residual adverse effects would be less than significant with this mitigation.

Impacts to foraging raptors would be beneficial due to the removal of invasive plants and improvement of existing parkland through the restoration and management of native-dominated grassland. The Project would provide high-quality foraging habitat, and a net increase in the quality of raptor foraging habitat would result. Mitigation measure MM BI-9b would reduce the effects of pile driving-related activities to fish and marine mammals by recommending the type of piles to use to minimize sound impacts; providing for an alternative method of installation to minimize sound impacts; requiring installation during an agency-approved construction window when fish are least likely to be present to avoid the bulk of potential impacts; and requiring a construction monitor to ensure compliance with all measures, including sound monitoring. Residual adverse effects would be less than significant with this mitigation.

Compensatory mitigation for Project impacts to aquatic habitat would be provided as described by mitigation measure MM BI-4a.1, and mitigation measure MM BI-4a.2 would be implemented to minimize impacts to wetlands, aquatic habitats, and water quality during construction. Implementation of these measures would reduce potential adverse effects on special-status fish species to less-than-significant levels. Further, a net increase of approximately 8 acres of

new aquatic habitat as a result of removal of fill and structures would more than offset the loss of open water habitat.

Implementation of mitigation measure MM BI-18b.1 would reduce the effects of marina operational activities to less-than-significant by (1) determining the distribution of oyster populations within the new marina area, and (2) preparing a modeling study of potential sediment plume generation and assessing the potential for that plume to reach oysters, and using that model to guide site-specific mitigation for sedimentation impacts to oysters that would be designed to avoid, minimize, and if avoidance is not feasible, restore oyster habitat. Implementation of mitigation measure MM BI-18b.2 would mandate the application of BMPs to control the distribution of sediments disturbed by the dredging activities to reduce water quality impacts to the species. Residual adverse effects would be less than significant with implementation of this mitigation measure.

16. **Impact BI-23: Sensitive Habitats.** (DEIR III.N-14-15, C&R 793-794, 2418-2419) Implementation of the Project would not have a substantial adverse effect on sensitive natural communities identified in local or regional plans, policies, or regulations by the CDFG, USFWS, or NMFS.

MM BI-12a.1 Seasonal Restrictions on In-Water Work.

MM BI-12a.2 Worker Training.

MM BI-12b.1, Essential Fish Habitat Avoidance and Minimization Measures.

MM BI-12b.2, Deconstruction/Construction Debris Recovery.

MM BI-18b.1, Maintenance Dredging and Turbidity Minimization Measures for the Operation of the Marina.

MM BI-18b.2, Implement BMPs to Reduce Impacts of Dredging To Water Quality.

MM BI-5b.1, Avoidance of Impacts to Eelgrass.

MM BI-5b.2, Eelgrass Survey.

MM BI-5b.3, Compensatory Eelgrass Mitigation.

MM BI-5b.4, Eelgrass Water Quality BMPs.

MM BI-19b.1, Work Windows to Reduce Maintenance Dredging Impacts to Fish during Operation of the Marina.

MM BI-19b.2, Implement BMPs to Reduce Impacts of Dredging To Water Quality.

Mitigation measures MM BI-12a.1, MM BI-12a.2, MM BI-12b.1, and MM BI-12b.2 would be implemented. Implementation of mitigation measure MM BI-18b.1 would reduce the effects of marina operational activities to EFH by (1) determining the distribution of oyster populations within the new marina area, and (2) preparing a modeling study of potential sediment plume generation and assessing the potential for that plume to reach oysters, and using that model to guide site-specific mitigation for sedimentation impacts to EFH that would be designed to avoid, minimize, and if avoidance is not feasible, restore oyster habitat. Implementation of mitigation measure MM BI-18b.2 would mandate the application of BMPs to control the distribution of sediments disturbed by the dredging activities to reduce water quality impacts to EFH.

Mitigation measures MM BI-5b.1 through MM BI-5b.4 would reduce potential Project effects on eelgrass by requiring surveys for and avoidance of this habitat. For areas that cannot be avoided, the Project Applicant would implement a comprehensive eelgrass mitigation plan that would replace at a minimum ratio of 3:1 (i.e., 3 new acres of eelgrass to 1 removed acre) the impacted areas of eelgrass and monitor them for success over a 5-year period, thus, replacing impacted habitat and increasing its abundance regionally. Residual impacts would be less than significant with implementation of this mitigation measure. Mitigation measures MM BI-19b.1 and MM BI-19b.2 would reduce dredging and contamination impacts to EFH to less-than-significant levels by (1) reducing the effects of increased contamination resulting from routine maintenance dredging by requiring that dredging occur during established work windows when sensitive fish species are less likely to be present, and (2) mandating application of BMPs to control the distribution of sediments disturbed by the dredging activities.

17. Impact BI-24: Wetlands and Jurisdictional Waters. (DEIR III.N-115-116; C&R 10, 32, 34, 37-52, 732, 736, 778, 782-783, 788, 792-793, 796, 907, 933, 1021, 1214, 1218, 1392, 1644, 1654, 1704-1705, 1768, 1792-1793, 2418-2419)Implementation of the Project would not have a substantial adverse effect on federally protected wetlands and other waters as defined by Section 404 of the *Clean Water Act* (including, but not limited to, marsh, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

MM BI-4a.1, Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts.

MM BI-4a.2, Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related impacts.

Mitigation measures MM BI-4a.1 and MM BI-4a.2 would reduce the effects of construction-related activities to wetlands and other waters by mitigating for the temporary and permanent loss of the wetlands and jurisdictional waters through avoidance of impacts, requiring compensatory mitigation (i.e., creation, preservation, and/or restoration), obtaining permits from the USACE, SFRWQCB, and BCDC that are designed to protect wetlands and jurisdictional waters, and implementing construction Best Management Practices to reduce and/or prevent impacts to waters of the United States, including wetlands and navigable waters. With implementation of mitigation measures MM BI-4a.1 and MM BI-4a.2, potential adverse effects of the Project to federally protected wetlands and other waters as defined by Section 404 of the *Clean Water Act* would be reduced to a less-than-significant level.

18. **Impact BI-25: Wildlife Movement.** (DEIR III.N-116-117; C&R 38, 1072-1073, 2418-2419) Implementation of the Project would not interfere substantially with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery site.

MM BI-5b.1, Avoidance of Impacts to Eelgrass.

MM BI-5b.2, Eelgrass Survey.

MM BI-5b.3, Compensatory Eelgrass Mitigation.

MM BI-5b.4, Eelgrass Water Quality BMPs.

MM BI-20a.1 Lighting Measures to Reduce Impacts to Birds.

MM BI-20a.2 Building Design Measures to Minimize Bird Strike Risk.

Construction of breakwaters and other shoreline treatments in HPS Phase II would occur near eelgrass beds, which could directly or indirectly impact them such that productivity and survival of these habitats would be substantially reduced. Eelgrass communities are considered important aquatic nursery sites as they serve as a haven for numerous aquatic species. Elimination of these important nursery areas would be considered a significant impact due to the ecological importance of these habitats to aquatic species. Mitigation measures MM BI-5b.1 through MM BI-5b.4 would reduce the effects on eelgrass by requiring surveys for and avoidance of this habitat. Mitigation measures MM BI-20a.1 and MM BI-20a.2 would reduce the effects of operational activities related to tall structures and increased lighting to birds to less-than-significant levels by incorporating design features that would help minimize bird strikes, including using operational methods to reduce the effects of new lighting towers

and design measures to make the exteriors of buildings more readily visible to birds.

19. Impact BI-26: Local Plans and Policies. (DEIR III.N-117-118; C&R 38; 783; 1792, 2418-2419) Implementation of the Project would not conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

MM BI-14a Preservation and Replacement of Significant Trees, and Preservation and Planting of Street Trees.

MM BI-7b, Enhancement of Raptor Foraging Habitat.

Mitigation measure MM BI-14a would encourage the preservation of street trees and trees that are large enough to meet the size specification of significant trees in the *Public Works Code*, and would require the replacement of large trees that are removed. Further, it would require the planting of street trees consistent with the intent of the *Planning Code* Section 143. In addition, mitigation measure MM BI-7b includes the planting of approximately 10,000 net new trees at the Project site and in the community. The planting of an estimated 10,000 net new trees would increase the number of trees in the Study Area considerably, increase canopy cover, and promote a healthy and sustainable urban forest. With implementation of mitigation measures MM BI-14a and MM BI-7b, the Project would not result in a conflict with City policies designed to protect urban streetscape through the planting of street trees, and impacts would be less than significant.

The Draft Parks, Open Space, and Habitat Concept Plan (required by mitigation measure MM BI-7b) includes the planting of an estimated 10,000 net new trees at the Project site and in the community, avoids removal of native trees where possible, and establishes new parkland and open space that would include a predominance of native species. Consequently, the Project would not conflict with any local policies or ordinances protecting biological resources, and overall impacts of the Project are expected to be beneficial.

K. Public Services

1. Impact PS-1: Police Protection During Construction (DEIR III-O-8; C&R 1658, 2403) Construction activities associated with the Project could result in a need for new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for police protection.

MM PS-1, Site Security Measures During Construction.

Implementation of the security measures required by MM PS-1, this impact would be reduced to less than significant.

2. **Impact PS-2: Police Protection During Operation.** (DEIR III.O-9-12; C&R 1732, 2006, 2020, 2191, 2419) Implementation of the Project could result in a need for new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for police protection.

The Project could include construction of a facility for the police in areas designated for community-serving uses. Construction activities associated with the proposed public facilities were considered in the analysis of the overall Project. A discussion of project-related construction impacts, including those associated with the construction of public facilities, is provided in the applicable sections of this EIR, including Section III.D (Transportation and Circulation), Section III.H (Air Quality), Section III.I (Noise), Section III.J (Cultural Resources and Paleontological Resources), Section III.K (Hazards and Hazardous Materials), and Section III.M (Hydrology and Water Quality). Construction of the entire development program, including the public facilities, would result in significant and unavoidable impacts related to construction noise and demolition of an historic resource **(See Findings Section IV)** ; all other construction-related impacts would be less than significant (in some cases, with implementation of identified mitigation).

3. **Impact PS-3: Fire Protection and Emergency Medical Services During Construction.** (DEIR III.O-18; C&R 2403) Construction activities associated with the Project could result in a need for new or physically altered facilities in order to maintain acceptable response times for fire protection and emergency medical services.

MM TR-1, Construction Traffic Management Plan.

During construction of the Project, emergency access to the Project site would be maintained through compliance with the Construction Transportation Management Plan ("CTMP") prepared for the Project, as required by MM TR-1. Compliance with the CTMP would ensure that access to the Project site is not obstructed during construction activities. Thus, this impact would be reduced to less than significant.

4. **Impact PS-4: Fire Protection and Emergency Medical Services During Operation.** (DEIR III.O-18-22, C&R 968, 1643, 1732, 2006-2007, 2020, 2137, 2419) Implementation of the Project could result in a need for new or physically altered facilities in order to maintain acceptable response times for fire protection and emergency medical services.

A new SFFD station could be accommodated on the Project site, on land designated for community-serving uses. Community serving uses were anticipated as part of the Project and the impacts of their construction are evaluated in this EIR. A discussion of Project-related construction impacts, including those associated with the construction of public facilities, is provided in the applicable sections of this EIR, including Section III.D, Section III.H, Section III.I, Section III.J, Section III.K, and Section III.M. Construction of the entire development program, including the public facilities, would result in significant and unavoidable impacts related to construction noise and demolition of an historic resource **(See Findings Section IV)**; all other construction-related impacts would be less than significant (in some cases, with implementation of identified mitigation). Refer to Section III.D, Section III.H, Section III.I, Section III.J, Section III.K, and Section III.M for the specific significance conclusions for construction-related effects.

L. Recreation

1. **Impact RE-2: Deterioration or Degradation of Existing Parks and Recreational Facilities.** (DEIR III.P-15-31; C&R 607, 743, 1473-1474, 1648-1649, 1704, 1735, 2419-2420) Implementation of the Project could increase the use of existing parks and recreational facilities that could cause the substantial physical deterioration of the facilities to occur or to be accelerated, and result in the need for, new or physically altered park or recreational facilities.

MM RE-2, Phasing of parkland with respect to residential and/or employment-generating uses.

Implementation of MM RE-2 would ensure that adequate parkland is provided as residential and employment-generating uses are constructed and occupied. Thus, impacts related to parkland development with respect to development phasing would be reduced to less than significant.

2. **Impact RE-1: Construction of Parks, Recreational Uses and Open Space.** (DEIR III.P-12-14, C&R 1751, 2403) Construction of the parks, recreational uses, and open space proposed by the Project could result in substantial adverse physical environmental impacts.

Construction activities associated with the proposed parks and recreational facilities were analyzed as part of the overall Project. A discussion of project-related construction impacts, including those associated with the construction of parks and recreational facilities, is provided in the applicable sections of this EIR, including Section III.D (Transportation and Circulation), Section III.H (Air Quality), Section III.I (Noise), Section III.J (Cultural Resources and Paleontological

Resources), Section III.K (Hazards and Hazardous Materials), and Section III.M (Hydrology and Water Quality). Construction of the entire development program, of which the parks and recreational facilities are a part, would result in significant and unavoidable impacts related to construction noise and demolition of an historic resource **(See Findings IV);** all other construction-related impacts would be less than significant (in some cases, with implementation of identified mitigation). Refer to Section III.D, Section III.H, Section III.I, Section III.J, Section III.K, and Section III.M for the specific significance conclusions for construction-related effects.

M. Utilities

1. Impact UT-2: Construction of New or Expansion of Existing Water Treatment of Conveyance Facilities. (DEIR III-Q-17-18; C&R 951, 1643, 2403) Implementation of the Project could require or result in the construction of new or expanded water treatment facilities.

MM UT-2, Auxiliary Water Supply System.

The Project would require the expansion of an auxiliary water conveyance system to provide adequate water supply for firefighting to the Project site. MM UT-2 would ensure the provision of adequate water for on-site fire-fighting purposes, and the Project would not require water supplies in excess of existing entitlements or result in the need for new or expanded entitlements for water to fight fires. Thus, this impact would be reduced to less than significant.

2. Impact UT-3: Wastewater Conveyance and Treatment (DEIR III.Q-29-34; C&R 2420-2421) Implementation of the Project at Candlestick Point could require expansion of existing off-site wastewater conveyance facilities. Impact UT-3 includes Impacts UT-3a and UT-3b.

MM UT-3a, Wet-Weather Wastewater Handling.

MM UT-3a would ensure that there would be no net increase in wet-weather flows in the Combined Sewer System ("CSO") as a result of the Project that could result in a temporary increase in CSO volume. During wet weather, the temporary retention or detention of wastewater on site during wet weather or completion of the separate stormwater and wastewater systems for the Project would ensure that there would be no increase in the likelihood of a CSO event as a result of the Project. Thus, the impact on the Combined Sewer System would be reduced to less than significant.

3. **Impact UT-5: Construction Solid Waste and Permitted Land Fill Capacity.** (DEIR III-Q-43-47; C&R 812, 966, 1021, 2403) Construction activities associated with the Project, including demolition of existing facilities, could generate construction-related solid waste that could exceed the capacity of landfills serving the City and County of San Francisco. Impact UT-5 includes Impacts UT-5a and UT-5b.

MM UT-5a, Construction Waste Diversion Plan.

MM UT-5a requires the Applicant to submit a Waste-Diversion Plan demonstrating strategies to divert at least 75 percent of total construction wastes. Thus, the impact of the construction waste generated by the Project on the capacity of the Altamont Landfill would be reduced to less than significant.

4. **Impact UT-7: Operation Solid Waste and Permitted Landfill Capacity.** (DEIR III.Q-49-53; C&R 2421-2422) Implementation of the Project could generate solid waste that could exceed the capacity of landfills serving the City and County of San Francisco. Impact UT-7 includes Impacts UT-7a and UT-7b.

MM UT-7a, Site Waste Management Plan.

MM UT-7a would provide specific strategies to ensure that the Project reduces solid waste disposed of in landfills in a manner consistent with the City's overarching goal of achieving zero waste by 2020. Thus, this impact would be reduced to less than significant.

5. **Impact UT-9: Compliance with Solid Waste Regulations.** (DEIR III.Q-56-58; C&R 2421-2422) Implementation of the Project would comply with federal, state, and local statutes and regulations related to solid waste.

MM UT-5a, Construction Waste Diversion Plan.

MM UT-7a.1, Site Waste Management Plan.

MM UT-7a.1 and MM UT-5a would ensure compliance with applicable regulations pertaining to solid waste. Development of the Project would not conflict with regulatory policies pertaining to solid waste. Thus, this impact would be reduced to less than significant.

N. Energy

1. **Impact ME-2: Electricity Use.** (DEIR III.R-17-21; C&R 2017, 2138, 2182, 2184, 2423) Buildings constructed by the Project could use large amounts of electricity in a wasteful manner.

MM GC-2, Exceed Title 24 Standards.

MM GC-3, ENERGY STAR Appliances.

MM GC-4, LED Lighting.

MM GC-2 would require the Project to exceed the 2008 Title 24 energy efficiency standards for homes and businesses by at least 15 percent. MM GC-3 would require installation of ENERGY STAR appliances for builder-supplied appliances, and MM GC-4 would require installation of energy efficient lighting. Implementation of these measures would reduce electricity consumption impacts to less than significant.

2. **Impact ME-3: Natural Gas Use.** (DEIR III.R-22-26; C&R 2184, 2423) Buildings constructed by the Project could use large amounts of natural gas in a wasteful manner.

MM GC-2, Exceed Title 24 Standards.

MM GC-3, ENERGY STAR Appliances.

MM GC-2 would require the Project to exceed the 2008 Title 24 energy efficiency standards for homes and businesses by at least 15 percent. MM GC-3 would require installation of ENERGY STAR appliances for builder-supplied appliances. Implementation of these measures would reduce natural gas consumption impacts to less than significant.

3. **Impact ME-4: Vehicle-Trip Energy Use in Large Amounts or a Wasteful Manner.** (DEIR III.R-24-26; C&R 2423) Vehicle trips associated with the Project could use large amounts of energy in a wasteful manner.

MM TR-1, Construction Traffic Management Program.

MM TR-2, TDM Plan.

MM TR-1 and MM TR-2 would require implementation of traffic reduction measures that would minimize vehicles miles traveled. Thus, this impact would be reduced to less than significant.

O. **Greenhouse Gas Emissions**

1. **Impact GC-1: Conflict With GHG Emission Goals.** (DEIR III.S-36-38; C&R 96, 605-606, 945, 1471, 2184-2185, 2187, 2423) The Project could result in a substantial contribution to global climate change by increasing GHG emissions in a manner that conflicts with the state goal of reducing GHG emissions in California to 1990 levels by 2020 (e.g., a substantial contribution to global climate change) or conflicts with San Francisco's Climate Action Plan by impeding implementation of the local GHG reduction goals established by the San Francisco 2008 Greenhouse Gas Reduction Ordinance.

MM GC-1, Tree Planting.

MM GC-2, Exceed Title 24 Standards.

MM GC-3, ENERGY STAR Appliances.

MM GC-4, LED Lighting.

Implementation of MM GC-1 through MM GC-4 would ensure that adequate GHG emission reductions are achieved as residential and employment-generating uses are constructed and occupied. Thus, impacts related to climate change and GHG emissions for the operational phase of the development would be less than significant.

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

A. Aesthetics

1. **Contribution to Cumulative Degradation of Visual Character/Quality Impacts During Construction** (DEIR III.E-78-79; C&R 48, 756-757, 789, 1224, 1703, 2408, 2412). Construction activities associated with cumulative development in the Project are could result in temporary degradation of the visual character or quality of the site or result in increases sources of light and glare. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measures MM AE-2 and AE-7a.1. Consequently, the Project would not make a considerable contribution to the cumulative impact.

2. **Contribution to Cumulative Effects of Light and Glare** (DEIR III.E-81-82; C&R 48, 756-757, 789, 1224, 1703, 2408, 2412). Development of cumulative projects in the identified Plan areas would result in increased sources of light and glare from building and street lighting, parking lot lighting, vehicle headlights, and increased building surfaces. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measures MM AE-7a.1, AE-7a.2, AE-7a.3, and AE-7a.4. Consequently, the Project would not make a considerable contribution to the cumulative impact.

B. Wind

1. **Contribution of Cumulative Wind Hazard** (DEIR III.G-10-11; C&R 7, 46, 1704, 2304, 2412) Wind effects from cumulative development, depending on building heights and massing, could result in a significant adverse wind effect. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measure MM WI-1a.

Consequently, the Project would not make a considerable contribution to the cumulative impact.

C. Air Quality

1. Contribution to Increases of Criteria Pollutants from Construction Activities (DEIR III.H-23-24; C&R 159-160, 2403) Construction activities associated with the Project could contribute to cumulative impacts from increases in emission of criteria air pollutants and precursors that exceed BAAQMD CEQA significance criteria if development of cumulative projects were to occur simultaneously with construction of the Project. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measure MM HZ-15. Consequently, the Project would not make a considerable contribution to the cumulative impact.

2. Contribution to Cumulative Diesel Particulate Matter from Construction Activities (DEIR III.H-24-27; C&R 160-163, 764-765, 768-770, 2218, 2311-2316, 2403) Construction activities associated with the Project could contribute to impacts to off-site populations from emissions of DPM if development of cumulative projects were to occur simultaneously with construction of the Project. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measures MM AQ-2.1 and AQ-2.2. Consequently, the Project would not make a considerable contribution to the cumulative impact.

3. Contribution to Cumulative Toxic Air Contaminants from Construction Activities (DEIR III.H-27-30; C&R 159-163, 165-168, 764-768, 2307-2308, 2316-2317, 2403) Construction activities associated with the Project could contribute to cumulative impacts to off-site and Alice Griffith populations from emissions of TACs bound to soil-PM_{10} if development of cumulative projects were to occur simultaneously with construction of the Project. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measure MM HZ-15. Consequently, the Project would not make a considerable contribution to the cumulative impact.

D. Cultural Resources and Paleontological Resources

1. Contribution to Cumulative Change in Significance of Archaeological Resources and Paleontological Resources, as well as Human Remains from Construction Activities (DEIR III.J-45-46; C&R 25-28, 2403) Cumulative development in the Project area could result in a significant impact to archaeological and paleontological resources, as well as human remains. The Project's contribution to this cumulative impact would be avoided or substantially

reduced by the implementation of mitigation measures MM CP-2a and CP-3a. Consequently, the Project would not make a considerable contribution to the cumulative impact.

E. Hydrology and Water Quality

1. Contribution to Cumulative Alteration of Drainage Pattern within the Islais Creek and Yosemite Basins (DEIR III.M-107; C&R 1392, 1793, 2403, 2418) Cumulative development in the watershed could alter the drainage pattern of the various development sites within the Islais Creek and Yosemite Basins, resulting in localized changes, and in some cases, adverse effects such as flooding. Past construction activities have significantly altered the drainage patterns of the watersheds and the impact from these past activities is considered significant and adverse. However, the Project's contribution to this cumulative impact would not be considerable, because overall, the Project would not substantially change the existing drainage patterns at the Project site, and mitigation measures MM HY-1a.1, MM HY-1a.2, and MM HY-1a.3 would be implemented. Consequently, the Project would not make a considerable contribution to the cumulative impact.

2. Contribution to Cumulative Degradation of SF Bay Water Quality (DEIR III.M-108; C&R 907, 1214-1217, 1641, 1799; 2403, 2418) Cumulative development in the watershed could contribute to violations of water quality standards or waste discharge requirements. The Lower Bay, the receiving waterbody, has noted impairments for chlordane, dichlro-diphenyl-trichloroethane (DDT), dieldrin, dioxin compounds, exotic species, furan compounds, mercury, and polychlorinated biphenyls (PCBs) from past discharges. Additional development could exacerbate existing pollutant concentrations. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measures MM HY-6a.1, MM HY-6a.2, MM HY-6b.1, MM HY-6b.2, MM HY-6b.3, MM BI-18b.1, MM BI-18b.2, MM BI-19b.1, and MM BI-19b.2. Consequently, the Project would not make a considerable contribution to the cumulative impact.

3. Cumulative Contribution of Runoff Water to Storm Sewer System (DEIR III.M-107-108; C&R 888, 906, 1214-1217, 1650-1652, 2403, 2418) Implementation of cumulative development in the watershed could create or contribute runoff water that would exceed the capacity of existing or planned storm sewer systems or provide substantial additional sources of polluted runoff. The Project's contribution to this cumulative impact would be avoided or substantially reduced by the implementation of mitigation measures MM HY-6a.1.

Consequently, the Project would not make a considerable contribution to the cumulative impact.

F. Biological Resources

1. Cumulative Contribution to Removal or Modification of Areas with Special-Status Species and Sensitive Natural Communities (DEIR III.N-119-120; C&R 31-54, 734, 795-796, 1073, 1219-1221, 1223, 1796-1797, 2403, 2418-2419 2403) Cumulative projects within the Bay could involve removal and/or modification of areas that have the potential to contain special-status species and sensitive natural communities. As development in the region continues, habitat for and individuals of sensitive wildlife species native to the Region, including those species listed under federal and state ESAs and those individuals identified by state and federal resources agencies as species of concern, fully protected, or sensitive, would be lost through conversion of habitat to urbanized environment. With continued conversion of natural habitat to human use, the availability and accessibility of remaining natural habitats in this ecosystem would dwindle and those remaining natural areas may not able to support additional plant or animal populations above their current carrying capacities. Thus, the conversion of plant and wildlife habitat on a Regional level would result in a significant regional cumulative impact on special-status species and their habitats.

The Project may be required to participate in mitigation plans approved by state and federal resource agencies (i.e., for green sturgeon, Central California Coast steelhead and possibly Chinook salmon and longfin smelt), which would replace lost habitat and preserve contiguous areas of habitat for these species. The Project would also implement ecological design features and mitigation measures specifically designed to avoid, reduce, or mitigate impacts to special-status/sensitive species and their habitat and reduce the Project's contribution to the cumulative loss of these species and their habitats. These mitigation measures include MM BI-5b.1 through BI-5b.4, MM BI-6a.1, BI-6a.2, BI-6b, BI-7b, BI-12a.1, BI-12a.2, BI-12b.1, BI-12b.2, BI-14a.

In addition, the Project would mitigate impacts to 43 acres of non-native grassland that provides raptor foraging habitat on HPS Phase II by restoring an equivalent amount of higher-quality native-dominated grassland specifically managed for grassland-associated species. These areas would represent high-quality foraging habitat and would result in a net increase in the quality of raptor foraging habitat. Consequently, with implementation of the proposed mitigation and ecological Project components the Project would mitigate any contributions to significant cumulative impact to candidate, sensitive, or special-status species, riparian habitat, or other sensitive natural communities. The Project would thus

not make a cumulatively considerable contribution to a regionally significant cumulative impact.

2. Cumulative Contribution to Impacts on wetlands and Jurisdictional Waters (DEIR III.N-121-122; C&R 10, 32, 34, 37-52, 732, 736, 778, 782-783, 788, 792-793, 796, 907, 933, 1021, 1214, 1218, 1392, 1644, 1654, 1704-1705, 1768, 1792-1793, 2418-2419). Development of cumulative projects could result in significant impacts to wetlands and jurisdictional waters. Wetlands and jurisdictional waters restoration projects within the Bay area are extensive, with approximately 40,000 acres of wetlands are either in progress or planned. Although these restoration projects are attempting to reduce the cumulative loss of these habitats within the Region, the large historical loss of these areas has resulted in a cumulatively significant loss of wetlands and jurisdictional waters within the Region. Minimizing impacts to jurisdictional wetlands and other waters; compensating for impacts to these habitats; securing a SAA from the CDFG (if applicable) and 404 and 401 permits under the CWA; and compliance with the federal and state "no net loss of wetlands" policy would protect the hydrology and ecology of the wetlands and jurisdictional waters within the Project site and the Bay and its adjacent wetlands. Impacts from the Project to these habitats would thus be fully compensated. Therefore, because no long-term net loss of wetland resources would be attributable to the Project, development of the Project would not make a cumulatively considerable contribution to the regionally significant cumulative impact.

3. Cumulative Contribution to Impact on Wildlife Movement Corridors and Nursery Sites from Conversion of Open Areas (DEIR III.N-122-124; C&R 936, 1072-1073, 2418-2419, 2403) The conversion of open areas, both terrestrial and aquatic, on a Regional level as a result of cumulative development would result in a regionally significant cumulative impact on wildlife movement corridors and nursery sites. The Project site does not contain any regional wildlife corridors or pathways. The Project's contribution to the cumulative impact to migratory birds would be avoided or substantially reduced by the implementation of mitigation measures MM BI-20a.1 and MM BI-20a.2. Consequently, implementation of the Project would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors and the Project would not make a considerable contribution to this cumulative impact.

4. Cumulative Contribution to Impacts on Eelgrass Beds (DEIR III.N-123-124; C&R 10, 31-54, 734, 793-794, 795-796, 1073, 1219-1221, 1223, 1796-1797, 2403, 2418-2419) Construction of the Project and the cumulative projects on the shoreline or in-water in the vicinity of eelgrass beds could remove them or

indirectly impact them such that productivity and survival of these habitats would be reduced Mitigation measures MM BI-5b.1 through MM BI-5b.4 would reduce potential Project effects on eelgrass by requiring surveys for and avoidance of this habitat. For areas than cannot be avoided, this habitat would be replaced at a minimum ratio of 3:1 (i.e., 3 new acres of eelgrass to 1 removed acre), replacing impacted habitat. Consequently, implementation of the Project would not impede the use of native wildlife nursery sites and the Project would not make a considerable contribution to this cumulative impact.

G. Public Services

1. Cumulative Contribution to Demand for Fire Protection (DEIR III.O-22-23; C&R C&R 968, 1643, 1732, 2006-2007, 2020, 2137, 2419) Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for fire protection. New or physically altered fire or emergency medical facilities could be required in order to maintain acceptable levels of service from cumulative development, and expansion of the water conveyance system could also be required. Because it is unknown the extent to which such facilities and systems would require expansion and whether such improvements would accommodate projected growth, this is a potentially significant impact. Since adequate response times would be ensured for the Project through provision of a new fire facility, the construction of which is evaluated and mitigated for in this EIR, the Project would not make a cumulatively considerable contribution to any potentially significant cumulative impact on fire and emergency medical services. The Project's cumulative impact would be less than significant.

H. Utilities

1. Cumulative Contribution to Water Demand (DEIR III.Q-18-19; C&R 950-951, 1643, 1735, 2012, 2182, 2403). Development of cumulative projects would result in increased demands for water. After 2030, during multiple dry-year periods, the total retail water supply in San Francisco would be slightly less than estimated total demand, including the cumulative demand associated with the Project, major development proposals, and background growth. During multiple dry-year periods, the SFPUC would need to implement the provisions of the WSAP and RWSAP, which could include voluntary rationing or the curtailment of retail deliveries. With the implementation of the WSAP and RWSAP during multiple dry-year periods, existing and projected future water supplies could accommodate cumulative future retail water demand. Implementation of the Phased WSIP would ensure sufficient water supply and water treatment capacity for the Project and estimated current and future retail

demand. Provision of an AWSS on site and connection to the existing off-site AWSS by implementation of mitigation measure MM UT-2 would ensure adequate water for firefighting purposes. As no additional water supply or water treatment capacity is needed to serve the Project and projected future development beyond the supply identified under the Phased WSIP, the Project would not make a considerable contribution to a cumulative impact on water supply. The Project's cumulative impact on water supply would be less than significant.

2. **Cumulative Contribution to Demand on Sewer Storm System** (DEIR III.Q-35-36; C&R 2420-2421) Cumulative projects in the Bayside Drainage Area would contribute both additional wastewater and additional stormwater to the Bayside System, which could exceed its capacity. Peak-flow capacities of the Bayside System are adequate to convey the wastewater generated by the Project. Wet-weather flow volumes would be reduced compared to existing conditions because the stormwater that currently flows from the Project site into the combined system would be offset by the proposed separated stormwater and wastewater system on site. Because there would be adequate dry-weather conveyance capacity to transport wastewater from the Project and because the total wet-weather volume in the Bayside system with the Project would be less than under current conditions, it would have no impact and, regardless of future contributions to CSOs from other projects, the Project's contribution would not be cumulatively considerable. Mitigation measure MM UT-3a would ensure that there would be no increase in CSO flows as a result of the Project by providing temporary detention or retention of wastewater on site during wet weather or completion of the separate stormwater and wastewater systems for the Project. The Project's cumulative impact would be less than significant.

3. **Cumulative Contribution to Solid Water Generation** (DEIR III.Q-56-58; C&R 812, 966, 1021, 2403, 2421-2422) Cumulative development in the City would generate varying amounts of solid waste that would decrease the remaining capacity of servicing landfills. As some landfills are nearing capacity or would close during the planning period for the General Plan, this is a potentially significant cumulative problem. The Project would implement strategies for reduction of construction waste and would achieve a construction waste diversion rate of at least 75 percent. Implementation of mitigation measure MM UT-7a would provide for preparation of a waste diversion plan that would address waste-diversion strategies for areas not otherwise covered by existing City policies. With compliance with the Green Building Ordinance and implementation of on-site recycling, the Project would not make a cumulatively

considerable contribution to any potential cumulative impact with regard to landfill capacity. The Project's cumulative impact would be less than significant.

I. Greenhouse Gas Emissions

1. Cumulative Contribution to Greenhouse Gas Emissions (DEIR III.S-36-39; C&R 96, 605-606, 945, 1471, 2184-2185, 2187, 2423) Development of cumulative projects would result in greenhouse gas emissions during construction and operation that would contribute to global climate change. Given the requirements of ARB's scoping plan and early action measures that would apply to construction contractors, these emissions are less than significant for the cumulative impact to climate change because the Project would not conflict with state goals or the goals articulated in the Greenhouse Gas Reduction Ordinance and the San Francisco Climate Action Plan. The Project's contribution to the operational cumulative impact would be avoided or substantially reduced by the implementation of mitigation measures MM GC-1 through MM GC-4. Given the Project design as a dense, infill mixed-use project, with a transit-oriented design, the mitigation measures identified previously, the Project's large reductions in GHG emissions as compared to the ARB Scoping Plan No Action Taken scenario, and the continuing implementation of GHG reduction actions by the City and County of San Francisco, the Project would not conflict with the state's goals of reducing GHG emissions to 1990 levels by 2020, or the City's GHG reduction goals established in the Greenhouse Gas Reduction Ordinance, and would not result in a significant cumulative impact. Consequently, the Project would not make a considerable contribution to this cumulative impact.

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

Based on substantial evidence in the whole record of these proceedings, the Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts listed below as identified in the FEIR. The Commission 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, to use the language of Public Resources Code section 21002 and CEQA Guidelines section 15091, may substantially lessen, but do not avoid (i.e., reduce to less than significant levels), the potentially significant or significant environmental effects associated with implementation of the Project as described in Chapter III. The Commission adopts all of the mitigation measures proposed in the FEIR that are relevant to the Project and set forth in the MMRP, attached hereto as Attachment B. The Commission further finds, however, for the impacts listed below, that no mitigation is currently available to render the effects less

than significant. The effects therefore remain significant and unavoidable. Based on the analysis contained within the FEIR, other considerations in the record, and the standards of significance, the Commission 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, the impacts are ***significant and unavoidable***.

The Commission 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 15091(a)(3), 15092(b)(2)(B), and 15093, the Commission 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.

A. Transportation and Circulation[3]

1. Impact TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System. (DEIR III.D-68-70; C&R 1001-1002, 1027, 2133, 2402) The Project would impact the transportation system through construction vehicle traffic and roadway construction and contribute to cumulative construction impacts in the vicinity of the Project. Implementation of MM TR-1, which requires development and implementation of a Project construction traffic management program, would minimize impacts associated with construction traffic but disruption and increased delays and construction-related traffic impacts on local and regional roadways could still occur even with implementation of traffic control plans. These impacts are considered ***significant and unavoidable.***

MM TR-1: Candlestick Point-Hunters Point Shipyard Phase II Construction Traffic Management Program.

2. Impact TR-2: Effect of Project on Traffic Volumes (DEIR III.D-70-71; C&R 64-65, 1733-1734, 1882-1883, 2137, 2402, 2405) The Project would cause an increase in traffic that would be substantial relative to the existing and proposed capacity of the street system. MM TR-2 requires development and implementation of a Travel Demand Management Plan for the Project, so that alternative modes of transportation would be encouraged, the use of single-occupant vehicles would be discouraged, and the impact of additional vehicles generated by the Project would be lessened. However, the Project would still result in significant and unavoidable impacts on traffic and transit operations, and

[3] Significant cumulative impacts for traffic and transportation are included in this subsection. See Section IVA for discussion of significant and unavoidable contributions to cumulative impacts in other resource areas.

would still make considerable contributions to cumulative impacts related to substantial increases in traffic. These impacts are considered ***significant and unavoidable.***

MM TR-2: Transportation Demand Management Plan.

3. Impact TR-3: Effect of Project Traffic at Certain Area Intersections. (DEIR III.D-72-82; C&R 63, 65, 360, 596-597, 599-601, 799, 1404, 2405) The Project would have significant impacts on nine intersections in the Project vicinity, and would contribute to cumulative traffic conditions at these intersections: Third Street at Oakdale, Revere, Carroll, Jamestown, Jerrold and Williams/Van Dyke; and Bayshore Boulevard at Paul, Cortland and US 101 Northbound Off-ramp/Cesar Chavez. No feasible mitigation measures have been identified to reduce Project impacts on these intersections. Therefore, these impacts are considered ***significant and unavoidable.***

4. Impact TR-4: Effect of Project Traffic at Tunnel/Blanken. (DEIR III.D-82-83) The Project would result in significant Project AM peak hour traffic impacts and contribute to cumulative PM peak hour traffic impacts at the intersection of Tunnel/Blanken. MM TR-4, which requires restriping the northbound and southbound approaches of the intersection of Tunnel/Blanken to provide dedicated left-turn lanes adjacent to shared through/right-turn lanes would improve conditions at this intersection, but not to acceptable LOS D or better conditions during the AM and PM peak hours. This Commission recognizes that MM TR-4 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. Even with implementation of this mitigation measure, Project-related impacts at this intersection are ***significant and unavoidable***.

MM TR-4: Restripe the northbound and southbound approaches of the intersection of Tunnel/Blanken to provide dedicated left-turn lanes adjacent to shared through/right-turn lanes.

5. Impact TR-5: Project Contribution to Traffic at Degraded Intersections. (DEIR III.D-83-84; C&R 152, 203, 596, 628, 2405) The Project would contribute significant traffic to intersections in the Project vicinity that would operate at LOS E or LOS F under 2030 No Project conditions. The Project contributions to cumulative traffic conditions would be significant in twenty intersections in the Project vicinity, and at sixteen of these intersections no feasible mitigation measures were identified. These sixteen intersections are: Third Street at 25th Street, Cesar Chavez Street, Cargo Way, Evans Avenue,

Palou Avenue and Paul Avenue; Bayshore Boulevard at Visitacion Avenue, Alemany Boulevard/Industrial Street, Blanken, Bacon Street and Sunnydale Avenue; San Bruno Avenue at Paul Avenue, Silver Avenue and Mansell Avenue/US 101 Southbound Off-ramp; Cesar Chavez Street at Pennsylvania/I 280; and Evans Avenue at Napoleon Avenue/Toland Street. (The other four intersections are discussed below, at Impacts TR-6, TR-7 and TR-8.) Because no feasible mitigation measures were identified to alleviate the Project's significant contribution to cumulative conditions at these intersections, this impact is ***significant and unavoidable.***

6. **Impact TR-6: Project Traffic at Freeway Ramps.** (DEIR III.D-84; C&R 1014-1016, 1701, 2405-2406) The Project would contribute significant traffic at the intersections of Geneva/US 101 Southbound Ramps and Harney/US 101 Northbound Ramps, which would operate at LOS F under 2030 No Project conditions. MM TR-6 requires that the Project Applicant pay its fair share contribution to the Harney Interchange Project, which is currently being studied by the City of Brisbane and Caltrans. This Commission recognizes that MM TR-6 is partially within the jurisdiction of SFMTA, the San Francisco County Transportation Authority ("SFCTA") and SFDPW. The Commission urges SFMTA, SFCTA and SFDPW to assist in implementing this mitigation measure, and finds that SFMTA, SFCTA and SFDPW can and should participate in implementing this mitigation measure. But, because the environmental review of the Harney Interchange Project is not yet complete and the interchange would be approved by Caltrans, the implementation of MM TR-6 is uncertain and is partially outside of the City/Agency jurisdiction. Therefore, Project-related contributions to cumulative traffic impacts at these two intersections are ***significant and unavoidable***.

MM TR- 6: Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts.

7. **Impact TR-7. Project Traffic at Amador/Cargo/Illinois.** (DEIR III.D-84-85) The Project would contribute significant traffic to the intersections of Amador/Cargo/Illinois, which would operate at LOS E under 2030 No Project. MM TR-7 requires a feasibility study of reconfiguring the southbound approach on Illinois Street to provide a dedicated southbound left turn lane and a dedicated right-turn lane. This Commission recognizes that MM TR-7 is partially within the jurisdiction of SFMTA and the Port. The Commission urges SFMTA and the Port to assist in implementing this mitigation measure, and finds that SFMTA and the Port can and should participate in implementing this mitigation measure. If feasible, the Project Applicant would contribute its fair share to the intersection improvements. Implementation of this mitigation would improve operations at

this intersection to acceptable LOS C conditions during the AM and PM peak hours. However, since a feasibility study would be required, implementation of MM TR-7 is uncertain. Therefore, Project-related impacts at this intersection are ***significant and unavoidable***.

MM TR-7: Feasibility study of reconfiguring the southbound approach on Illinois Street to provide a dedicated southbound left turn lane and a dedicated right-turn lane.

8. **Impact TR-8: Project Traffic at Bayshore/Geneva.** (DEIR III.D-85; C&R 2405) The Project would contribute significant traffic to the intersection of Bayshore/Geneva, which would operate at LOS F under 2030 No Project. MM TR-8 requires that the Project Applicant pay its fair share contribution to the Geneva Avenue Extension Project, which is currently being studied by the City of Brisbane. This Commission recognizes that MM TR-8 is partially within the jurisdiction of SFMTA, SFCTA and SFDPW. The Commission urges SFMTA, SFCTA and SFDPW to assist in implementing this mitigation measure, and finds that SFMTA, SFCTA and SFDPW can and should participate in implementing this mitigation measure. However, since implementation of MM TR-8 would be partially under the jurisdiction of the City of Brisbane, its implementation is uncertain. Therefore, the Project-related impacts at this intersection are ***significant and unavoidable***.

MM TR-8: Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts.

9. **Impact TR-10: Project Traffic Effects.** (DEIR III.D-86-87; C&R 1702, 1798, 2407) The Project would result in increased traffic volumes on area roadways, and most substantially on key north/south and east/west streets, which would also experience cumulative traffic growth. As a result, the existing residential streets could be used as "cut-throughs," shortcuts, or bypasses by non-neighborhood traffic. Substantial amounts of cut-through traffic can result in impacts such as noise, safety impacts to pedestrians, impaired driveway access, interference with emergency vehicle access, increased dust, exhaust, and litter, and similar annoyances that adversely affect neighborhood character. MM TR-2, which calls for the development and implementation of a Travel Demand Management Plan for the Project, and MM TR-17, which requires implementation of the Project's Transit Operating Plan, would likely reduce spillover impacts. Nonetheless, cut-through traffic may still occur during periods of congestion, and the impacts associated with spillover traffic are considered ***significant and unavoidable***.

MM TR-2: Transportation Demand Management Plan.

MM TR-17, Implement the Project's Transit Operating Plan.

10. Impact TR-11: Project Traffic at Freeway Segments. (DEIR III.D-87-91; C&R 800, 1016, 2405-2406) The Project would contribute cumulatively considerable amounts of traffic to four freeway segments expected to operate at LOS E or LOS F under 2030 No Project conditions, specifically, US 101 northbound from Sierra Point to Alana/Geneva/Harney; US 101 southbound from the I 80 Merge to Cesar Chavez; US 101 southbound from Third/Bayshore to Alana/Geneva/Harney; and US 101 southbound from Alana/Geneva/Harney to Sierra Point. No feasible mitigations were identified to reduce this Project-related contribution to 2030 cumulative freeway congestion impacts to a less-than-significant level. Therefore, the Project's contributions to cumulative congestion impacts at these freeway segments are considered ***significant and unavoidable.***

11. Impact TR-12: Project Traffic Impact at Freeway Ramps. (DEIR III.D-91; C&R 1014-1016, 1701, 2405-2406) The Project would cause four ramp junctions to deteriorate from acceptable LOS D or better to LOS E or F conditions or from LOS E to LOS F conditions, specifically, the US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Harney Way/Geneva Avenue. No feasible mitigation measures were identified to reduce these impacts to less-than-significant. Project impacts at these locations are considered ***significant and unavoidable.***

12. Impact TR-13: Project Traffic Contribution to Cumulative Impacts at Freeway Ramps. (DEIR III.D-91-95; C&R 1014-1016, 1701, 2405-2406) The Project would contribute to significant cumulative traffic impacts at 12 freeway ramp locations. The Project would contribute cumulatively significant traffic increases at ramp junctions projected to operate at LOS E or LOS F under 2030 No Project conditions, specifically: US 101 northbound on-ramp from Sierra Point Parkway; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound off-ramp to Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Third Street/Bayshore Boulevard; US 101 southbound on-ramp from Harney Way/Geneva Avenue; US 101 southbound on-ramp from Sierra Point Parkway; I 280 northbound off-ramp to Cesar Chavez Street; I 280 northbound on-ramp from Indiana Street/25th Street; I 280 southbound off-ramp to Pennsylvania

Avenue/25th Street; and I 280 southbound on-ramp from Pennsylvania Avenue/25th Street. No feasible mitigation measures have been identified for these ramp junction locations. Therefore, the Project's contribution to cumulative impacts at the ramp locations is considered ***significant and unavoidable.***

13. **Impact TR-14: Project Traffic Impact to Diverge Queue Storage at Harney/US 101 Northbound Off-ramp.** (DEIR III.D-95 to DEIR III.D-96; C&R 1014-1016, 1701, 2405-2406) The Project would result in significant impacts related to freeway diverge queue storage at the Harney/US 101 Northbound Off-ramp. The Project would result in increases in traffic volumes that would cause the US 101 northbound off-ramp to Harney Way to experience queues that may extend back to the upstream freeway mainline segment which could result in unsafe conditions on the freeway mainline, resulting in significant traffic impacts at this location. MM TR-6 provides for the Project Applicant to pay a fair share toward the construction of the Harney Way Interchange Project, which could mitigate for the Project's contributions to this impact. Because the environmental review of the interchange project is not yet complete and the interchange project would be undertaken and approved by Caltrans, the implementation of MM TR-6 is uncertain and is outside the City/Agency jurisdiction. Therefore, Project-related impacts related to freeway diverge queue storage are ***significant and unavoidable***.

MM TR- 6: Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts.

14. **Impact TR-15: Project Traffic Contribution to Diverge Queue Storage Impacts.** (DEIR III.D-97; C&R 1014-1016, 1701, 2405-2406) The Project could contribute to significant cumulative traffic impacts related to freeway diverge queue storage at some off-ramp locations: US 101 northbound off-ramp to Harney Way and Bayshore/Cesar Chavez; US 101 southbound Off-ramp to Harney Way/Geneva Avenue and Sierra Point/Lagoon; and I-280 northbound off-ramp at Cesar Chavez. MM TR-6 provides for the Project Applicant to pay a fair share toward the construction of the Harney Way Interchange Project, which could mitigate for the Project's contributions to this impact. Because the environmental review of the interchange project is not yet complete and the interchange project would be undertaken and approved by Caltrans, the implementation of MM TR-6 is uncertain and is outside the City/Agency jurisdiction. Therefore, Project-related impacts related to freeway diverge queue storage are ***significant and unavoidable.***

MM TR- 6: Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts.

15. Impact TR-21: Project Traffic Impacts to 9-San Bruno Transit Line. (DEIR III.D-104-106; C&R 148, 291, 2406) The Project would increase congestion and contribute to cumulative conditions at intersections along San Bruno Avenue, which would increase travel times and impact operations of the 9-San Bruno. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 9-San Bruno, which would add up to 8 minutes of delay per bus during peak hours. MM TR-21.1 requires the maintenance of the headways of the 9-San Bruno by requiring the Project Applicant, in cooperation with SFMTA and prior to issuance of a grading permit for Development Phase I, to conduct a study to evaluate the effectiveness and feasibility of various roadway improvement which could reduce Project impacts on transit operations along the San Bruno Avenue corridor. If these measures are not feasible or effective, MM TR-21.2 requires the purchase of additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 9-San Bruno. This Commission recognizes that MM TR-21.1 and MM TR-21.2 are partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing these mitigation measures, and finds that SFMTA can and should participate in implementing these mitigation measures. Because the feasibility and effectiveness of the improvements contemplated in MM TR-21.1 and MM TR-21.2 are uncertain Project impacts on the 9-San Bruno are considered ***significant and unavoidable***.

MM TR-21.1: Maintain the proposed headways of the 9-San Bruno.

MM TR-21.2: Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 9-San Bruno.

16. Impact TR-22: Project Traffic Impacts to 23-Monterey, 24-Divisadero, 44-O'Shaughnessy Transit Lines. (DEIR III.D-106-109; C&R 148-149, 590, 859-860, 894, 932, 2139, 2406) The Project would contribute traffic to cumulative conditions at intersections along Palou Avenue, which would increase travel times and impact operations of the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy. Project-related transit delays due to traffic congestion and passenger boarding delays associated with increased ridership would result in significant impacts on the operation of the 23-Monterey, 24-Divisadero, and 44-O'Shaughnessy along Palou Avenue, which would add up to 7 minutes of delay per bus during peak hours. MM TR-22.1 requires the maintenance of the headways of the 23-Monterey, 24-Divisidero and the 44-O'Shaughnessy, by requiring the Project Applicant, in cooperation with SFMTA and prior to issuance

of a grading permit for Development Phase I, to conduct a study to evaluate the effectiveness and feasibility of various improvements, which could reduce Project impacts on transit operations along the Palou Avenue corridor. If MM TR-22.1 is not feasible or effective, MM TR-22.2 requires the purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 23-Monterey, the 24-Divisadero and the 44-O'Shaughnessy. This Commission recognizes that MM TR-22.1 and MM TR-22.2 are partially within the jurisdiction of SFMTA and SFDPW. The Commission urges SFMTA and SFDPW to assist in implementing these mitigation measures, and finds that SFMTA and SFDPW can and should participate in implementing these mitigation measures. Because the feasibility and effectiveness of the improvements contemplated in MM TR-22.1 and MM TR-22.2 are uncertain to sufficiently reduce the impacts on the 23-Monterey, the 24-Divisadero and the 44-O'Shaughnessy to a less-than-significant level, the Project impacts on the 23-Monterey, the 24-Divisadero and the 44-O'Shaughnessy are considered ***significant and unavoidable***.

MM TR-22.1: Maintain the proposed headways of the 23-Monterey, 24-Divisidero and the 44-O'Shaughnessy.

MM TR-22.2: Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 23-Monterey, the 24-Divisadero and the 44-O'Shaughnessy.

17. Impact TR-23: Project Traffic Impacts to 29-Sunset Transit Line. (DEIR III.D-109-111; C&R 148-149, 152, 590, 598, 627, 948, 2406) The Project would increase congestion at intersections along Gilman Avenue and Paul Avenue, which would increase travel times and would impact operations of the 29-Sunset. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 29-Sunset, particularly at Third Street and Bayshore Boulevard. Overall, the Project-related congestion would add up to 17 minutes of delay per bus during peak hours. MM TR-23.1 requires maintenance of headways of the 29-Sunset, by requiring the Project Applicant, in cooperation with SFMTA and prior to issuance of a grading permit for Development Phase I, to conduct a study to evaluate the effectiveness and feasibility of various improvements, which could reduce Project impacts on transit operations along the along the Gilman Avenue and Paul Avenue corridor. If MM TR-23.1 is not feasible or effective, MM TR-23.2 requires the purchase of additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 29-Sunset. This Commission recognizes

that MM TR-23.1 and MM TR-23.2 are partially within the jurisdiction of SFMTA and SFDPW. The Commission urges SFMTA and SFDPW to assist in implementing these mitigation measures, and finds that SFMTA and SFDPW can and should participate in implementing these mitigation measures. Because the feasibility and effectiveness of the improvements contemplated in MM TR-23.1 and MM TR-23.2 might not be sufficient to reduce the impacts on the 29-Sunset to a less-than-significant level, the Project impacts on the 29-Sunset are considered ***significant and unavoidable***.

MM TR-23.1: Maintain the proposed headways of the 29-Sunset.

MM TR-23.2: Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 29-Sunset.

18. Impact TR-24: Project Traffic Impacts to 48-Quintara-24th Street Transit Line. (DEIR III.D-111-112; C&R 152, 590, 948, 932, 1703, 1734, 2406) The Project would increase congestion at intersections along Evans Avenue, which would increase travel times and impact operations of the 48-Quintara-24th Street. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 48-Quintara-24th Street along Evans Avenue, particularly at intersections of Third Street, Napoleon/Toland Streets and at Cesar Chavez Street. Overall, the Project-related congestion would add up to 3 minutes of delay per bus during peak hours. MM TR-24.1 requires maintenance of headways of the 48-Quintara-24th Street, by requiring the Project Applicant, in cooperation with SFMTA and prior to issuance of a grading permit for Development Phase I, to conduct a study to evaluate the effectiveness and feasibility of a series of improvements which could reduce Project impacts on transit operations along the Evans Avenue corridor. If MM TR-24.1 is not feasible or effective, MM TR-24.2 requires the purchase of additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 48-Quintara-24th Street line. This Commission recognizes that MM TR-24.1 and MM TR-24.2 are partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing these mitigation measures, and finds that SFMTA can and should participate in implementing these mitigation measures. Because the feasibility and effectiveness of the improvements contemplated in MM TR-24.1 and MM TR-24.2 might not be sufficient to reduce the impacts on the 48-Quintara-24th Street to a less-than-significant level, the Project impacts on the 48-Quintara-24th Street are considered ***significant and unavoidable***.

MM TR-24.1: Maintain the proposed headways of the 48-Quintara-24th Street.

MM TR-24.2: Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 48-Quintara-24th Street.

19. **Impact TR-25: Project Traffic Impacts to 54-Felton Transit Line.** (DEIR III.D-113; C&R 590, 2406) The Project would increase congestion at several intersections in the area, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the 54-Felton. The Project would create traffic congestion resulting in significant impacts to the operations of the 54-Felton, adding up to 6 minutes of delay per bus, particularly during the PM peak hour. MM TR-25.1 requires the purchase additional transit vehicles to mitigate the Project impacts and Project contribution to cumulative impacts to headways on 54-Felton. This Commission recognizes that MM TR-25.1 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. While the provision of additional transit vehicles for the 54-Felton would reduce impacts associated with increased travel times, the transit vehicles would still be subject to delays resulting from increased congestion, and therefore Project impacts on the 54-Felton are considered ***significant and unavoidable***.

MM TR-25.1: Purchase additional transit vehicles to mitigate the Project impacts and Project contribution to cumulative impacts to headways on 54-Felton.

20. **Impact TR-26: Project Traffic Impacts to T-Third Transit Line.** (DEIR III.D-113 to DEIR III.D-114; C&R 63, 65-66, 156, 289-291, 590, 627, 931-932, 948, 1700, 2406) The Project would increase congestion at intersections along Third Street, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the T-Third. Project-related transit delays due to traffic congestion on Third Street and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the T-Third, particularly in the segment between Thomas Avenue and Kirkwood Avenue, resulting in overall delays of up to 3 minutes per bus during peak hours. MM TR-26.1 requires maintenance of headways of the T-Third, by requiring the Project Applicant, in cooperation with SFMTA and prior to issuance of a grading permit for Development Phase I, to conduct a study to evaluate the effectiveness and feasibility of various improvements, which could reduce Project impacts on transit operations along Third Street. If MM TR-26.1 is

not feasible or effective, MM TR-26.2 requires the purchase of additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the T-Third. This Commission recognizes that MM TR-26.1 and MM TR-26.2 are partially within the jurisdiction of SFMTA and SFDPW. The Commission urges SFMTA and SFDPW to assist in implementing these mitigation measures, and finds that SFMTA and SFDPW can and should participate in implementing these mitigation measures. Because the feasibility and effectiveness of the improvements contemplated in MM TR-26.1 and MM TR-26.2 might not be sufficient to reduce the impacts on the T-Third to a less-than-significant level, the Project impacts on the T-Third are considered ***significant and unavoidable***.

MM TR-26.1: Maintain the proposed headways of the T-Third.

MM TR-26.2: Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the T-Third.

21. Impact TR-27: Project Traffic Impacts to 28L-19th Avenue/Geneva Limited Transit Line. (DEIR III.D-115; C&R 590, 627, 948, 1398-1399, 1405, 2406) The Project could increase congestion at the intersection of Geneva Avenue and Bayshore Boulevard, increasing travel times and impacting operations of the 28L-19th Avenue/Geneva Limited. Increased congestion associated with Project vehicle trips would impact the operations of the 28L-19th Avenue/Geneva Limited, resulting in delays of 4 minutes per bus during peak hours. MM TR-27.1 requires San Francisco County Transportation Authority (SFCTA) and SFMTA to coordinate with the City of Brisbane to ensure transit preferential treatment is accounted for in the design of the Geneva Avenue Extension. If MM TR-27.1 is not feasible or effective, MM TR-27.2 requires the purchase of additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 28L-19th Avenue/Geneva Limited. This Commission recognizes that MM TR-27.1 and MM TR-27.2 are partially within the jurisdiction of SFMTA and SFCTA. The Commission urges SFMTA and SFCTA to assist in implementing these mitigation measures, and finds that SFMTA and SFCTA can and should participate in implementing these mitigation measures. But, because implementation of MM TR-27.1 would be partially under the jurisdiction of the City of Brisbane, its implementation is uncertain. Implementation of MM TR- 27.2, on the other hand, would allow maintenance of headways as proposed for the 28L-19th Avenue/Geneva Limited. However, given the congestion along Geneva Avenue, implementation of MM TR-27.2 alone, without MM TR-27.1, might not be sufficient to reduce the impact to less-than-significant levels. Therefore, the

Project impacts on the 28L-19th Avenue/Geneva Limited are considered ***significant and unavoidable.***

MM TR-27.1: Ensure transit preferential treatment is accounted for in the design of the Geneva Avenue Extension.

MM TR-27.2: Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 28L-19th Avenue/Geneva Limited.

22. **Impact TR-28: Project Traffic Impacts to 9X, 9AX, 9BX-Bayshore Expresses and 14X-Mission Express Transit Lines.** (DEIR III.D-116; C&R 148, 2406) The Project would increase congestion on US 101 mainline and ramps, which would increase travel times and impact operations of the 9X, 9AX, 9BX-Bayshore Expresses, and 14X-Mission Express. The Project would also contribute to cumulative impacts on these transit routes on US 101. No feasible mitigation measures have been identified to reduce these impacts, and therefore they are considered ***significant and unavoidable.***

23. **Impact TR-30: Project Traffic Impacts to SamTrans Bus Lines.** (DEIR III.D-116-117; C&R 204, 2406) The Project would increase congestion and contribute to cumulative congestion on US 101 and on Bayshore Boulevard, which would increase travel times and adversely affect operations of SamTrans bus lines on these facilities. No feasible mitigation has been identified to reduce these impacts, and therefore they are considered ***significant and unavoidable.***

24. **Impact TR-32: Project Traffic Impacts to Bicycle Routes.** (DEIR III.D-118; C&R 2406) Implementation of the Project's proposed transit preferential treatments and significant increases in traffic volumes on Palou Avenue could result in impacts on bicycle travel on Bicycle Routes #70 and #170 between Griffith Street and Third Street. The combination of the proposed transit preferential treatment and the substantial increase in traffic volumes and congestion would result in potentially significant impacts on bicycle travel on Bicycle Route #70 and Bicycle Route #170 on Palou Avenue. MM TR-32 requires the Project Applicant to fund a study, to be undertaken by SFMTA, to determine the feasibility of relocating these bicycle routes. This Commission recognizes that MM TR-32 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. Because the feasibility of the relocation of Bicycle Routes #70 and #170 on Palou Avenue is uncertain, the Project impact on bicycle circulation on Palou Avenue is considered ***significant and unavoidable.***

MM TR-32: Determine the feasibility of relocating Bicycle Routes #70 and #170.

25. **Impact TR-38: Stadium 49ers Game Site Access and Traffic Impacts.** (DEIR III.D-127 to DEIR III.D-133, 2406) Implementation of the proposed 49ers stadium would result in significant impacts on study area roadways and intersections, for as many as 12 times a year. MM TR-38 requires that a management plan for accommodating the increased vehicle, transit, pedestrian and bicycle demands during game days be prepared and implemented. This mitigation would likely reduce automobile travel to the stadium and encourage transit usage. This Commission recognizes that MM TR-38 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. However, even with implementation of MM TR-38, the Project's impacts on Sunday pre-game and post-game period traffic conditions would be considered ***significant and unavoidable***.

MM TR-38: Transportation Management Plan (TAMP) for the stadium 49er game events .

26. **Impact TR-39: Stadium 49er Game Transit Impacts.** (DEIR III.D-134-136; C&R 596, 738, 2406) Implementation of the Project with existing game day service and Project transit improvements would not be adequate to accommodate projected transit demand. It is estimated that there would be a capacity shortfall of approximately 3,640 passengers per hour during game days. MM TR-39 requires SFMTA to increase the frequency on regularly scheduled Muni routes serving the stadium area on game days, and the stadium operator to fund additional Muni shuttle service between the stadium and regional transit service, including BART (Balboa Park and/or Glen Park Station) and Caltrain (Bayshore Station). Implementation of this mitigation measure would reduce the Project's impacts to transit service on Sundays during a football game to less-than-significant levels. This Commission recognizes that MM TR-39 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. However, because of the traffic impacts during post-game conditions, the impact on transit operations would remain ***significant and unavoidable***.

MM TR-39: SFMTA to increase the frequency on regularly scheduled Muni routes serving the stadium area on game days and stadium operator to fund additional Muni shuttle service to transit facilities.

27. **Impact TR-46: Stadium Secondary Event Site Access and Traffic Impacts.** (DEIR III.D-141-144) Weekday evening secondary events at the stadium would result in increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without a secondary event, and result in significant impacts at nine additional intersections and one additional freeway off-ramp. MM TR-46 requires the stadium operator to develop, as part of a Stadium Transportation Management Plan (TMP), a strategy for coordinating with representatives of SFMTA and the SF Police Department for deploying traffic control officers in the Project vicinity during secondary events, similar to what would be in place for game days. Implementation of this mitigation measure would likely improve vehicle entrance and exit flows to the stadium site during secondary events. This Commission recognizes that MM TR-46 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. However, even with the implementation of MM TR-46, on days when secondary events are held at the stadium, the Project's impacts to the study roadway network are considered ***significant and unavoidable***.

MM TR-46: Transportation Management Plan (TMP) for the stadium secondary events .

28. **Impact TR-47: Stadium Secondary Event Transit Impacts.** (DEIR III.D-144-145) With implementation of the Project, the existing transit service and Project improvements would not be adequate to accommodate projected transit demand during secondary events with attendance of 37,500 spectators. In addition, transit lines serving the area would experience additional delays due to traffic generated by the secondary event. MM TR-47 requires SFMTA to increase frequency on regularly scheduled Muni routes serving the stadium area prior to large special events, and the stadium operator to fund additional Muni shuttle service between the stadium and regional transit service, including BART (Balboa Park and/or Glen Park stations) and Caltrain (Bayshore station). This Commission recognizes that MM TR-47 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. With implementation of MM TR-47, the Project's impacts to transit service on special event days would be reduced, but not to less-than-significant levels. In addition, traffic impacts during secondary events would not be mitigated, and would impact transit operations. Therefore, the impact on transit operations is considered ***significant and unavoidable***.

MM TR-47: SFMTA to increase the frequency on regularly scheduled Muni routes serving the stadium area on special event days and stadium operator to fund additional Muni shuttle service to transit facilities.

29. Impact TR-51: Project Site Access and Traffic Impacts from Arena Uses. (DEIR III.D-146-149; C&R 362, 2383, 2388, 2407-2408) With implementation of the Project, weekday evening events at the arena would exacerbate congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without an arena event, and result in significant traffic impacts at Harney Way and Jamestown Avenue, which would operating acceptably under Project conditions without an arena event. Overall, since local streets and freeway facilities would experience increased congested without an arena event, traffic impacts associated with the new arena would be significant. MM TR-51 requires the arena operator to develop a Transportation Management Plan (TMP) and to coordinate with representatives of SFMTA and the SF Police Department for deploying traffic control officers in the Project vicinity to increase efficiency during events at the arena, and for developing incentives to increase transit ridership to the arena. As explained under Impact TR-52, MM TR-51 also requires that if Variants 1 or 2A are implemented in lieu of the stadium, the arena operator work with SFMTA to increase service on selected bus lines during arena events and provide shuttle service to transit. This Commission recognizes that MM TR-51 is partially within the jurisdiction of SFMTA. The Commission urges SFMTA to assist in implementing this mitigation measure, and finds that SFMTA can and should participate in implementing this mitigation measure. However, even with the implementation of MM TR-51, the Project's impacts to the study roadway network during a sell-out event at the arena would be considered ***significant and unavoidable***.

MM TR-51: Transportation Management Plan (TMP) for Arena Events.

30. Impact TR-52: Transit Impacts from Arena Uses. (DEIR III.D-149-150; C&R 627, 2383, 2388, 2407-2408) With implementation of the Project, the existing and proposed transit service would be affected by sell-out weekday evening events at the arena. With the stadium use at HPS Phase II, transit capacity would be adequate to accommodate projected transit demand, but because of traffic congestion in the area, impacts to transit would result. This impact of traffic congestion on transit service could be avoided with implementation of MM TR-23.1, described above, but its feasibility is uncertain. With the implementation of Variants 1 or 2A at the stadium site, traffic congestion would impact transit service and in addition, events at the arena might cause transit capacity impacts, which could be mitigated by increasing service on

selected bus lines and having the arena operator provide shuttle service to transit as required by MM TR-51. However, due to the uncertainty of the mitigation, the impact is considered ***significant and unavoidable***.

MM TR-23.1: Maintain the proposed headways of the 29-Sunset.

MM TR-51: Transportation Management Plan (TMP) for Arena Events. (Variants 1 and 2A)

B. Air Quality

1. Impact AQ-4: Criteria Pollutants from Project Operations. (DEIR III.H-30-31; C&R 158-168, 764-768, 1387, 2305-2306, 2384, 2412-2415) Operation of the Project would violate the Bay Area Air Quality Management District (BAAQMD)'s CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources, and contribute substantially to an existing or projected air quality violation at full build-out in the year 2029. Project emissions of ROG, NOx and PM_{10} would exceed the BAAQMD CEQA thresholds and the ROG, NOx, PM_{10} and $PM_{2.5}$ proposed BAAQMD CEQA thresholds. No feasible mitigation measures have been identified to reduce the Project's operational criteria emissions below these thresholds. This impact is considered ***significant and unavoidable.***

C. Noise and Vibration

1. Impact NO-2: Groundborne Vibration Impacts from Construction. (DEIR III.I-33-39; C&R 51, 763, 795, 2415-2417) Construction activities associated with the Project would create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the Project site and at proposed on-site residential uses should the latter be occupied before Project construction activities on adjacent parcels are complete. MMs NO-1a.1, NO-1a.2, and NO-2a would require implementation of construction best management practices, noise-reducing pile driving techniques as feasible, and monitoring of buildings within 50 feet of pile driving activities. Implementation of these measures would reduce vibration impacts, but not to a less-than-significant level as vibration levels from pile driving activities could be as high as 103 VdB for the residential uses within the HPS North District and the CP Center and South Districts when occupied. Additionally, excavation activities at the Alice Griffith area would result in vibration levels of approximately 87 VdB, due to the use of heavy construction equipment. Therefore, this impact is considered ***significant and unavoidable.*** Impact NO-2 includes Impacts NO-2a, NO-2b and NO-2c.

MM NO-1a.1, Construction Document Mitigation to Reduce Noise Levels During Construction.

MM NO-1a.2, Noise-reducing Pile Driving Techniques and Muffling Devices.

MM NO-2a: Pre-construction Assessment to Minimize Pile Driving Impacts.

2. **Impact NO-3: Increase in Ambient Noise Levels from Construction.** (DEIR III.I-39-40; C&R 759, 768, 2415-2417) Construction activities associated with the Project would result in a substantial temporary or periodic increase in ambient noise levels. Construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would involve demolition, grading, and excavation activities, followed by construction and external finishing of the proposed facilities and associated parking areas, as well as roadway and landscaping improvements. These activities would involve the use of heavy equipment. MMs NO-1a.1, NO-1a.2 and NO-2a would reduce construction related noise levels, but not to a less-than-significant level. Therefore, construction related temporary impacts in ambient noise levels are ***significant and unavoidable.***

MM NO-1a.1, Construction Document Mitigation to Reduce Noise Levels During Construction.

MM NO-1a.2, Noise-reducing Pile Driving Techniques and Muffling Devices.

MM NO-2a: Pre-construction Assessment to Minimize Pile Driving Impacts.

3. **Impact NO-6: Noise Impacts from Project Traffic.** (DEIR III.I-41-44; C&R 44-46, 48-49, 760, 762, 1472, 1882, 2415-2417) Operation of the Project would generate increased local traffic volumes that would cause a substantial permanent increase in ambient noise levels in existing residential areas along the major Project site access routes. The increase in traffic resulting from implementation of the Project and ambient growth over the next 20 years would increase the ambient noise levels at noise-sensitive locations along the major vehicular access routes to the Project site, particularly along sections of Jamestown Avenue, Carroll Avenue, and Gilman Avenue. No feasible mitigation measures have been identified to reduce this impact to a less-than-significant level. Therefore, this impact is considered ***significant and unavoidable.***

4. **Impact NO-7: Noise Impacts from Stadium Events.** (DEIR III.I-45-52; C&R 45) Noise during football games and concerts at the proposed stadium would result in temporary increases in ambient noise levels that could adversely affect surrounding residents for the duration of a game or concert. There would be significant noise impacts during football game days and concert days on the

existing residential uses closest to the proposed stadium and possibly for the new residential uses closest to the proposed stadium. MM NO-7.1 requires the Stadium Operator to create a Stadium Noise Mitigation Program, to minimize game and concert-related temporary increases in ambient noise levels at nearby residences. MM NO-7.2 requires the Project Applicant to choose a qualified acoustical consultant to review plans for the new residential and follow its recommendations to provide acoustic insulation or other equivalent measures to these residences. These measures would reduce the noise impacts from games and concerts at the proposed stadium, but, because the noise insulation measures recommended under MM NO-7.1 would depend on factors outside of the control of the City or the Project Applicant, their ultimate feasibility cannot be guaranteed at this time. Therefore, noise impacts from football games and concerts at nearby residences are considered ***significant and unavoidable***.

MM NO 7.1: Mitigation to Minimize Game/Concert-related Temporary Increases in Ambient Noise Levels at Nearby Residences.

MM NO 7.2: Residential Use Plan Review by Qualified Acoustical Consultant.

D. Cultural Resources and Paleontological Resources

1. Impact CP 1b: Impacts to Historic Resources from Construction Activities. (DEIR III.J-33-36; C&R 5, 11-12, 330, 355, 369-370, 419-430, 439, 617-619, 1031, 1656, 1736, 2198, 2328, 2331, 2417, 2462-2463) Construction at HPS Phase II could result in a substantial adverse change in the significance of an historical resource. Implementation of the Project could result in the demolition of Buildings 211, 224, 231, and 253, which have been identified as historic resources in the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District. MM CP-1b.1 requires preparation of written and photographic documentation of the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District prior to demolition. In addition, MM CP-1b.2 requires interpretive displays depicting the history of the Hunters Point Shipyard to be installed at Heritage Park at Drydocks 2 and 3. Implementation of these mitigation measures would reduce the Project's impacts on historic resources. However, the demolition of historic resources would not be reduced to a less-than-significant level by these mitigation measures. Therefore, Project impacts on historical resources are considered ***significant and unavoidable***.

MM CP-1b.1: Mitigation to Minimize Impacts on Historic Resources at HPS Phase II.

MM CP-1b.2: Interpretive Displays Depicting History of HPS.

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

A. Air Quality

1. Cumulative Contribution of Criteria Pollutants from Project Operation (DEIR III.H-30-31; C&R 158-168, 764-768, 1387, 2305-2306, 2384, 2412-2415) Operation of the Project would violate BAAQMD CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources and contribute substantially to an existing or projected air quality violation at full build-out. No feasible mitigation measures have been identified that would reduce the Project's contribution to this cumulative impact, which would be ***significant and unavoidable***.

2. Cumulative Contribution to TAC and $PM_{2.5}$ Impact Under the Proposed Bay Area Air Quality Management District CEQA Guidelines (DEIR III.H-42; C&R 158-168, 764-768, 2307-2308, 2311, 2403, 2414-2415) The Project may result in a considerable contribution to a cumulative air quality impact regarding TACs and $PM_{2.5}$ emissions under proposed BAAQMD CEQA Guidelines. The area adjacent to the Project that is zoned commercial has the potential to house small-scale TAC or $PM_{2.5}$ emissions sources, such as automotive repair or refinishing, dry cleaning, or artist shops. An analysis of Project sources of TACs and $PM_{2.5}$ on sensitive receptors and known existing and projected sources of TACs and $PM_{2.5}$ on new receptors did not identify an exceedance of the proposed BAAQMD CEQA Guidelines to receptors in the Project area or within 1,000 feet of the Project area. But, it is not known to what extent other sources may exist in the area or Bay Area Air Basin to which the Project may contribute. There is the potential for these cumulative emissions to exceed the proposed BAAQMD CEQA thresholds and for the Project to contribute to such an exceedance. If these guidelines are adopted as proposed, the Project may result in a considerable contribution to a cumulative air quality impact for TAC or PM 2.5 in the Project area. Given the inability to determine the nature of such an impact accurately at this time and to determine whether any mitigation measures would be effective to reduce the impact to a less than significant level, this impact is considered ***significant and unavoidable***.

B. Noise

1. Cumulative Contribution to Noise from Construction Activities (DEIR III.I-53; C&R 759, 768, 2415-2417) Construction activities such as use of heavy equipment and pile driving associated with development of cumulative projects could contribute to a cumulative impact from increased noise levels for both off-

site and on-site sensitive receptors. Although the EIR identifies mitigation measures that would reduce the Project's contribution to this cumulative impact, even with implementation of these mitigation measures MM NO-1a.1, MM NO-1a.2, and MM NO-2a, the Project's contribution would remain considerable and the impact would be ***significant and unavoidable.***

2. **Cumulative Contribution to Pile-Driving Activities** (DEIR III.I-53; C&R 759, 768, 2415-2417) Construction of the Project would include pile-driving activities that may overlap with other nearby construction activities during Project development and make a considerable contribution to cumulative construction-related temporary increases in ambient noise levels. Although the EIR identifies mitigation measures that would reduce the Project's contribution to this cumulative impact, even with implementation of these mitigation measures MM NO-1a.1, MM NO-1a.2, and MM NO-2a, the Project's contribution would remain considerable and the impact would be ***significant and unavoidable.***

3. **Cumulative Contribution to Traffic Noise Levels** (DEIR III.I-53; C&R 44-46, 48-49, 760, 762, 1472, 1882, 2415-2417) Project operation would make a considerable contribution to a substantial, permanent increase in cumulative traffic noise levels that would affect existing and future residential uses along all Project site access roads. No feasible mitigation measures have been identified that would reduce the Project's contribution to this cumulative impact, which would be ***significant and unavoidable.***

4. **Cumulative Contribution to Ambient Noise During Stadium Events** (DEIR III.I-53; C&R-45) Project operation would make a considerable contribution to a substantial increase in cumulative noise during stadium events. Although the EIR identifies mitigation measures that would reduce the Project's contribution to this cumulative impact, even with implementation of these mitigation measures MM NO-7.1 and NO-7.2, the ultimate feasibility and practicality of mitigation measure MM NO-7.1 cannot be guaranteed at this time. Therefore, the Project would make a considerable contribution to cumulative noise impacts from football games and concerts and this cumulative impact would be ***significant and unavoidable.***

5. **Cumulative Contribution to Vibration Effects During Construction Activities** (DEIR III.I-54; C&R 51, 763, 795, 2415-2417) Pile-driving activities during construction could make a considerable contribution to cumulative vibration effects if pile driving would occur and/or heavy construction equipment would operate on multiple sites and collectively result in vibration impacts in excess of 85 VdB at nearby sensitive receptors. Although the EIR identifies mitigation measures that would reduce the Project's contribution to this

cumulative impact, even with implementation of these mitigation measures MM NO-1a.1, MM NO-1a.2, and MM NO-2a, the Project's contribution would remain considerable and the cumulative impact would be ***significant and unavoidable.***

C. Cultural Resources and Paleontological Resources

1. Cumulative Contribution to Impacts on Historic Resources (DEIR III.J-44-45; C&R 5, 11-12, 330, 355, 369-370, 419-430, 439, 617-619, 1031, 1656, 1736, 2198, 2328, 2331, 2417, 2462-2463) The Project would make a considerable contribution to a cumulative impact on significant historical resources, including residential, commercial, and civic properties that are listed or eligible for listing on national, state, or local registers. Although the EIR identifies mitigation measures that would reduce the Project's contribution to this cumulative impact, even with implementation of these mitigation measures MM CP-1b.1 and CP-1b.2, the Project's incremental contribution to these cumulative effects would be cumulatively considerable, and thus ***significant and unavoidable.***

D. Public Services

1. Cumulative Contribution to Demand for Police Services (DEIR III.O-12-13) Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for police protection. While the Police Department considers population growth projections in its annual budgeting process to determine equipment and staffing needs for the coming year, it is possible that cumulative growth in the City could exceed the capacity of existing or planned staffing and facility improvements, and could require construction of one or more stations, resulting in a significant impact. Because the Project would require new or physically altered police facilities in order to maintain acceptable police services, the Project would make a cumulatively considerable contribution to a potential significant cumulative impact on police services. The Project's cumulative impact would be ***significant and unavoidable.***

V EVALUATION OF PROGRAM ALTERNATIVES

This Section describes the Project as well as the Project Alternatives and the reasons for approving the Project and for rejecting the Alternatives. This Article 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 goals of the Project are to carry out the policy adopted by the voters of San Francisco in approving Proposition G. The objectives identified in Proposition G are set out in detail in Section I. The main objectives of the integrated development called for by Proposition G are the following:

1. Produce tangible community benefits for the Bayview and the City.

(a) Economic Opportunity: The Project transforms an urban brownfield into an economically diverse community of housing and job opportunities.

Low, moderate and above-moderate income housing will be provided throughout the Project site, as discussed in more detail below.

Construction jobs, jobs in the retail and service sectors, and research and development jobs requiring highly skilled workers will be created. Professional office space is also provided to serve banking, medical, and other such community needs. The Project is expected to create approximately 5,582 construction job opportunities across a wide range of trades through the build-out of the Project and approximately 10,700 permanent jobs.

The Project's developer will be subject to provisions of the Bayview Hunters Point Employment and Contracting Policy and other Agency policies that will require that the developer use good faith efforts to ensure that 50% of the job opportunities and contracts will be for individuals and businesses within the City of San Francisco, with first consideration given to those in District 10.

The Project will provide a range of additional programs designed to create commercial opportunities for small and local businesses, including:

- A requirement of the Developer to pay $8,925,000 to fund workforce training and placement programs for local residents. The City's Office of Economic and Workforce Development will match these funds with compatible programs in the Bayview area. Additionally, the Developer will comply with the City's First Source Hiring Policy and will work with the City Build Sector Academies and community

based organizations ("CBOs") to maximize access to professional development opportunities;

- A community builder program designed to support the participation of local builders in the construction of both market-rate and affordable housing;

- $2,500,000 for construction assistance programs designed to provide technical assistance and contractor workshops in conjunction with local hiring and disadvantaged business programs;

- $1,000,000 contribution towards the Agency's surety bond program designed to assist local contractors in obtaining insurance and credit support;

- A community realtor program designed to provide specific opportunities for licensed brokers in the area; and

- A requirement that any hotel or restaurant project constructed on the Project site comply with the Agency's Card Check Policy. Other uses also must comply with the Agency's Card Check Policy, including businesses using custodial, security, stationary engineering services, and grocery stores.

(b) Arts District: the Project will provide permanent new and renovated space for the existing Shipyard artists as well as an arts education center.

(c) Parks and Open Space: the Project will provide a substantial increase in the amount of developed, useable, high-quality parks, recreational facilities, and open space within the Project site. The Project will create a continuous network of interconnected recreational opportunities, promoting the use of the existing parks, such as the Candlestick Point State Recreation Area ("CPSRA"), as well as new parks, sports fields, and active urban recreation uses. The Project will provide a network of pedestrian and bike pathways that will connect Project uses to the adjacent neighborhoods and ensure unrestricted public access to the parks and open space on the Project site and the San Francisco Bay shoreline. Enhanced connectivity of on-site and off-site facilities and new neighborhood parks will allow integration of new and existing facilities into the citywide park network. (DEIR III.P-15)

(d) Habitat Restoration: The Project will result in a net increase in the quality of suitable raptor foraging habitat, and that of their prey species (small mammals, birds, and insects). At least 43 acres at HPS Phase II will be enhanced by removal of invasive plants and restoration of native-dominated grasslands. Outside of designated grassland management areas, 10,000 new trees will be planted, thus providing roosting sites, hunting perches, and nesting sites.

2. Reunify the Project Site with the Bayview and protect the character of the Bayview for its existing residents.

(a) Integration of the Project Site with the Bayview: The Project will provide for extensive transportation improvements designed to integrate transit, bicycle and pedestrian circulation and automobile connections with the greater Bayview community, including the investment of more than $545 million in transportation and related pedestrian and bicycle improvements including street lights and signs, sidewalks and gutters, streets and roads and off-site transportation improvements.[4]

3. Incorporate environmental sustainability concepts and practices.

(a) Mixed Use: The Project brings together opportunities to live, work and recreate in one place. A comparable project without these design features would generate 76% more vehicle trips.

(b) Energy and Water Conservation: The Project has set a target to achieve LEED Gold for neighborhood development for the entire Project. New buildings will be constructed to exceed California Building Code Title 24 2008 energy efficiency standards by 15% by using such measures as high performance glazing, efficient lighting, daylighting, shading, envelope optimization, reflective roofs, and natural ventilation in the design of vertical improvements. Additionally, ENERGY STAR appliances are proposed for all new residential units. Strategies to conserve water include the potential use of recycled water for non-potable water uses, drought tolerant plant species and efficient irrigation systems such as drip irrigation, moisture sensors, weather data-based controllers and progressive low impact development strategies to retain and treat stormwater on site and/or in adjacent areas.

(c) Sea level Rise: The Project plans for sea level rise. Project design for sea level rise meets both near term (2050) and long-range (2080) projected needs. In addition, the Project incorporates an adaptive management strategy to address sea level rise for the most conservative estimates at 2100 and beyond.

4. Encourage the 49ers – an important source of civic pride – to remain in San Francisco by providing a world-class site for a new waterfront stadium and supporting infrastructure.

(a) A New Stadium Site and Supporting Infrastructure: The Project has been designed to provide the 49ers with a site for a world-class waterfront stadium on Hunters Point Shipyard. The Project will provide for the construction of stadium related infrastructure, including parking and transportation improvements, and, upon satisfaction of certain conditions the developer will contribute $100,000,000 to the construction of a new stadium on the Shipyard.

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[4] MACTEC Master Cost Estimate and Infrastructure Cashflows, May 7, 2010.

5. Be fiscally prudent, with or without a new stadium.

(a) Positive Revenues to the City: A fiscal analysis of the Project has shown net new revenues to the City from the Project significantly exceed new costs to the City. Economic benefits stemming from the Project at full build out include more than $8 billion in net new property value.

Section 4 of Proposition G states that consistent with the objectives identified in Section 4 and subject to the public review process described in Proposition G, the City shall encourage the timely development of the Project Site with a mixed-use project that includes the following major uses, together with supporting transportation and other infrastructure improvements.

1. Over 300 acres of public park and public open space improvements, including the improvement of the existing Candlestick Point State Recreation Area, the establishment of a new State park area on the Shipyard Property, the creation of a number of recreation facilities, sports fields, and neighborhood-oriented parks, passive open space, waterfront promenades and recreation areas and the extension of the Bay Trail along the waterfront of the Project Site.

The Project with the stadium use includes 336 acres of parks and open space improvements, including proposed improvement to the existing Candlestick Point State Recreation Area. The scenarios for non-stadium uses include 327 acres of parks and open space for the Housing/R&D Variant and 327 acres of parks and open space for the R&D Variant. The Project includes open space on the PHS Phase II Property that could be accepted by the State for park under SB 792, although the decision whether to do so will be made by the State, not by the City and so far the State has not indicated an interest in acquiring Shipyard property.[5] The Project also includes recreational facilities, sports fields and neighborhood-oriented parks as set forth in the Draft Park, Open Space and Habitat Concept Plan.[6] The Project also provides for extension of the Bay Trail along the waterfront of the Project Site. The Project proposes to extend the Bay Trail from the western edge of CPSRA to Yosemite Slough, and along the waterfront on the Shipyard, ultimately connecting to the existing northern trail at India Basin. The Project also will provide access for personal non-motorized watercraft. While the precise location of access points will be determined through the CPSRA General Plan Amendment process, by providing such access, the Project will advance the purposes of the Bay Area Water Trail.[7]

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[5] California Department of Parks and Recreation, January 12, 2010 comment letter on the DEIR, C&R-1624.
[6] Draft Park, Open Space, and Habitat Concept Plan, April 27, 2010.
[7] Existing San Francisco Bay Trail Plan Route, Figure III.B-3, Revised; C&R-346, C&R-349.

2. Between about 8,500 and 10,000 residential housing units across the Project Site, including a mix of rental and for-sale units, both affordable and market-rate.

The Project includes up to 10,500 for-sale and rental residential units: approximately 7,155 market-rate units and 3,345 below market-rate units or approximately 32%. The below market-rate units include:

- Alice Griffith Replacement Units (256). The affordability of the Alice Griffith units is determined by the Federal Department of Housing and Urban Development.
- Agency Tax Credit Units (1,388). These units will serve households earning up to 60% AMI, and should other subsidy sources be obtained by the Agency the goal is to serve households earning below 50% of AMI.
- Inclusionary Units (809). These units will serve households earning between 80-120% AMI.
- Workforce Units (892). These units will serve households earning between 140-160% AMI.

The Project proposes a mix of townhomes, low and mid-rise flats, and high-rise tower homes that range in size from studios to four bedrooms. Additionally, the Project requires the Developer to contribute an additional $28,665,000 into a Community First Housing Fund to assist qualifying residents in the purchase of housing units.

3. About 600,000 square feet of regional retail on Candlestick Point and about 100,000 square feet of neighborhood-serving retail on the Shipyard Property.

The Project includes up to 635,000 square feet of regional retail on Candlestick Point and 250,000 square feet of neighborhood retail, with half planned for the Shipyard and half planned for Candlestick Point.

4. About 2,000,000 square feet of green office, science and technology, biotechnology or digital media office, research and development and industrial uses on the Shipyard Property and about 150,000 square feet on Candlestick Point, with more of such uses on the Project site if the stadium is not built on the Shipyard Property.

The Project with the stadium scenario includes 2,500,000 square feet of research and development and related uses, including light industry, on the Shipyard. On Candlestick Point, the Project includes 150,000 square feet of office and other commercial uses.

5. If practicable, a site for an arena or other public performance venue.

The Project includes a 10,000-seat performance venue on Candlestick Point.

6. If the 49ers and the City determine it is feasible to build a new stadium for the 49ers and the 49ers elect in a timely manner to do so, a site on the Shipyard property for a new National Football League stadium for the 49ers, including green parking surfaces that would both accommodate parking for stadium events and serve as public playing fields at other times.

The Project includes a 69,000-seat football stadium for the 49ers and parking areas that can be used as sports fields when not used for the stadium parking purpose. The Project includes an approximately 85 acre community sports field complex and multi-use field area. The multi-use fields will provide much needed community sports fields that can also accommodate stadium parking on game days. Small, medium and large multi-use soccer fields will be available for use throughout the year.

7. If a new stadium is not built, then additional green office, science and technology, research and development and industrial space, or housing – or a combination of those uses – instead of the stadium and associated parking.

The Project includes two scenarios in lieu of the stadium use, in the event the 49ers choose not to avail themselves of the opportunity to build a new stadium at the Shipyard. In lieu of the stadium use at HPS Phase II, the Project's preferred non-stadium scenario includes a mix of housing and research and development uses at the stadium site by moving 1,600 housing units from Candlestick Point to the Shipyard location and providing for 500,000 square feet of additional research and development uses. Alternatively, in the event housing is not permitted by the regulatory agencies overseeing the remediation of the Shipyard, the stadium site could be used for up to an additional 2,500,000 square feet of research and development.

The Project also includes some elements not specifically called for by Proposition G. These include a 220-room hotel on Candlestick Point, space for new public and community facilities on both the Shipyard and Candlestick Point, and a 300-slip marina on the Shipyard.

B. Alternatives Rejected and Reasons for Rejection

The Commission rejects the Alternative set forth in the Final EIR and listed below because the Commission 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 Commission 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." The Commission is also aware that under CEQA case law the concept of

"feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of the project, and (ii) the question of whether an alternative is "desirable' from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal and technological factors.

In addition, adoption of the Project will reduce many of the impacts associated with the Project through the implementation of the mitigation measures identified previously. Some of the alternatives are less effective at reducing some of the environmental impacts associated with the Project and are not environmentally superior to the Project because they would reduce some of the Project impacts at the expense of creating other impacts.

1. No Project Alternative

Consistent with Section 15126.6(e)(1) of the CEQA Guidelines, this alternative assumes that no new development would occur at Candlestick Point and HPS Phase II would be developed with new uses consistent with the existing Hunters Point Shipyard Redevelopment Project (HPS Redevelopment Plan). Under the existing HPS Redevelopment Plan, total development at HPS would result in construction of up to 1,800 new housing units at HPS, including the 1,500 previously authorized under HPS Phase I, approximately 570,000 gross square feet (gsf) of commercial space (132,000 gsf of commercial space was approved as part of HPS Phase I), 1,087,000 gsf of R&D space, and replacement of existing artist studios. This alternative also provides for 580,000 gsf of mixed use development and 330,000 gsf of cultural and education space The HPS Redevelopment Plan allows maritime industrial uses and does not allow a football stadium. (Draft EIR, VI-7.)

The No Project Alternative is rejected for the following reasons:

(a) Integrated Development and Revitalization: This alternative would not meet the Project and Proposition G objective of creating an integrated development of the Candlestick Point and Hunters Point Shipyard areas with strong commercial, institutional, cultural, urban design, and transportation connections between the two areas in order to revitalize this area and reconnect it with larger Bayview Hunters Point community and the City. Under this alternative, the Hunters Point Shipyard Phase II would be developed as a separate undertaking. No foreseeable large-scale redevelopment of the Candlestick Point area would be anticipated. The southeast area of the City, and in particular these two redevelopment areas, would lose the benefit of the Project's integrated improvements and programs for transportation, transit, pedestrian and bike paths, open space and recreation, urban design, mix of uses, community facilities, and community benefits. This alternative would fail to reconnect

the Candlestick Point area with the larger neighborhood and the City, because this area would remain in its existing condition.

(b) Substantial New Housing Including Affordable Housing: This alternative would substantially reduce the ability to meet the Project and Proposition G objective of providing substantial new market rate and affordable housing opportunities. The No Project Alternative would result in only an additional 300 new housing units on the Hunters Point Shipyard. In contrast, the Project would provide 10,500 new housing units, of which approximately 32% or 3,345 would be offered at below market rates. The No Project Alternative would impede the City's ability to meet its ABAG defined housing need by severely limiting the new housing opportunities on a site that could accommodate significant new housing. (Draft EIR, III-C-6.) Additionally, unlike the Project, the No Project Alternative would not provide the number of housing units required to meet the housing demand projected by the number of employees on-site at full buildout and thus would not provide a balance of jobs and housing. (Draft EIR, VI-10.)

(c) Alice Griffith Public Housing Rebuilding: This alternative would not meet the Project and Proposition G objective of rebuilding the Alice Griffith public housing, which is currently in need of replacement, physically isolated from the surrounding area, and without benefit of nearby neighborhood-serving uses. Under this alternative, Alice Griffith would not be rebuilt as part of a larger new neighborhood served by new infrastructure, including significant new transit service, retail uses, new and improved parks and open space, and community uses. Additionally, under this alternative, the condition of the Alice Griffith housing would continue to deteriorate.

(d) Job Creation: This alternative would substantially reduce the ability to meet the Project and Proposition G objective of creating a range of job and economic development opportunities for local, economically disadvantaged individuals and business enterprises, particularly for residents and businesses located in the Bayview. The No Project Alternative would generate an estimated 6,200 jobs. (Draft EIR, VI-10.) Total jobs projected under the Project and the Variants proposed for approval range from 10,730 – 16,635 jobs. (Draft EIR, III C-12; IV-15.) This alternative would result in approximately 4,000 fewer jobs than the Project and potentially up to 10,000 fewer jobs under the Variants proposed for approval.

(e) Green Technology: This alternative would not meet the Project and Proposition G objective of providing a green technology, biotechnology or digital media campus component. The No Project Alternative includes over 1.1 million square feet of industrial and maritime uses, including manufacturing, processing, fabricating and

assembly. The market for these types of industry has been declining in San Francisco.[8] For example, a recent study of the break-bulk cargo market showed that the demand for such facilities is limited to its current or projected availability. (Draft EIR, III.B-16.) The Project and two Variants proposed for approval would include sites for cutting edge research and development space ranging from 2.5-5 million square feet to serve the green technology industry market.

(f) Parks, Recreation and Open Space: This alternative would not meet the Project and Proposition G objective of providing over 300 acres of new and improved park, open space and recreation areas. The proposed significant improvements to the CPSRA and ongoing operation and maintenance funding of the CPSRA as provided for by Public Resources Code Section 5006.8 with the land exchange envisioned by the Project would not occur. Improvements to the CPSRA that would not occur under this alternative include revegetation and landscaping, shoreline restoration and stabilization, new trails, paths, and visitor facilities, widening of the park at its narrowest pinch point, creation of habitat areas, and salt-marsh restoration. (Draft EIR III.P-17; VI-22.) The portions of the CPSRA that are used for stadium parking, are undeveloped, or are inaccessible would remain in these underutilized conditions. Consequently, the Project improvements that would enhance park aesthetics, enhance the park landscape ecology, provide connections throughout the CPSRA and connections with other Project parks, and provide direct access to the Bay and the shoreline for walking, swimming, fishing, kayaking, and windsurfing would not occur. (Draft EIR VI-22.) In addition, California State Parks lacks an adequate and reliable funding stream to support the operation and maintenance of the CPSRA. Under this alternative, improvements to the CPSRA, and the provision of operation and maintenance funding for the CPSRA totaling $50 million dollars would not be provided. (Public Resources Code Section 5006.8)

(g) Community Benefits: This alternative would not include the Project Community Benefits Plan totaling $83.2 million for workforce training and placement programs for local residents, a community builder program designed to support the participation of local builders, new and renovated artists studios, a Community First Housing Fund to assist qualifying residents in the purchase of housing units, education support and support for community health facilities, and a community benefits fund (the "Legacy Fund") funded through the payment of 0.5% of the initial sales price of all market rate homes.

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[8] *Eastern Neighborhoods Area Plans, Economic Impact Report, City and County of San Francisco,* Office of the Controller, October 7, 2008; *City and County of San Francisco - An Overview of San Francisco's Recent Economic Performance, Executive Summary,* ICF Consulting, April 3, 2006.

(h) Opportunity for a New Stadium: This alternative would not meet the Project and Proposition G objective of encouraging the 49ers to remain in San Francisco by providing a site for, and infrastructure to serve, a new 49ers stadium. The 49ers have been actively pursing the opportunity to construct a new football stadium in Santa Clara; the current stadium at Candlestick Point is outdated and no longer meets their standards or requirements. Without a new stadium that meets current NFL standards, the Project would not fulfill the objective of encouraging the 49ers to remain in San Francisco.

(i) Environmental Impacts: This alternative would reduce some of the Project's potentially significant environmental impacts, including aesthetics, wind, air quality, noise, and certain transportation impacts. Also, the Project would have impacts that would not occur with this alternative, including impacts associated with construction and operation of the Yosemite Slough Bridge, the marina, the stadium, and the arena. But, as described in C&R Table ES-1d, this alternative would result in most of the significant and unavoidable impacts that were identified for the Project, with the exception of certain construction-related traffic impacts, traffic spillover impacts, transit impacts, and various impacts specifically related to the stadium and the arena. Further, under this alternative, the construction and operation of maritime uses at HPS Phase II could result in impacts that would not occur with the Project, including, but not limited to, impacts on air quality, noise, hydrology and water quality, and biological resources and these would be avoided with the Project. (Draft EIR VI-170.) Additionally, the Project's shoreline improvements and protective measures to avoid or reduce the potential for flooding and future sea level rise impacts would not be implemented for the CPSRA.

Thus, this alternative would reduce some of the Project impacts and would avoid impacts associated with the bridge, marina, stadium and arena. However, this alternative would result in many of the same potentially significant impacts requiring mitigation as the Project and many of the same significant and unavoidable impacts, including significant and unavoidable transportation and cultural resource impacts. This alternative would have some impacts that would not occur with the Project. Consequently, this alternative would not provide substantial environmental benefits in comparison to the Project.

2. CP-HPS Phase II Development Plan; No Yosemite Slough Bridge

The CP-HPS Phase II Development Plan, No Yosemite Slough Bridge alternative would have the same development program as the Project (Draft EIR, Table II-3), except the Yosemite Slough Bridge would not be built. The main roadway connection between Candlestick Point and the Hunters Point Shipyard Phase II would be via Ingalls Street. A bus rapid transit route would be constructed along an abandoned railroad right of way to provide access between Candlestick Point and Hunters Point Shipyard Phase II. All

other aspects of the Development Plan would remain the same, including the proposed stadium at the Hunters Point Shipyard and the agreement with the California State Parks to reconfigure, improve, and provide certain funding for the CPSRA.

The CP-HPS Phase II Development Plan, No Yosemite Slough Bridge Alternative is rejected for the following reasons:

(a) Project Objectives: This alternative would not meet, or would substantially reduce the ability to meet, three key Project and Proposition G objectives: (1) to provide automobile, public transportation, and pedestrian connections between the Shipyard and Candlestick Point; (2) to create an appealing walkable urban environment served by transit; and (3) to provide the necessary transportation infrastructure, including automobile, public transit and pedestrian connections between Candlestick Point, the Hunters Point Shipyard, and the larger neighborhood to facilitate the handling of game day traffic in conjunction with the proposed new 49ers stadium.

Due to geography, topography, and the current condition of infrastructure, Candlestick Point and the Hunters Point Shipyard are comparatively isolated from the transit and roadway networks serving the City and region, and are not easily accessible by pedestrians and bicyclists. These deficiencies have been identified as top community concerns during the extensive local and citywide planning efforts for the Project and across southeastern San Francisco. (C&R-55-56.) As part of the City's transportation goals and plans, and to serve the increased travel demands from the Project, a new BRT network has been proposed. BRT service generally provides faster more reliable service than traditional local bus routes using a variety of strategies to reduce conflicts with other vehicles. (C&R-56.) For the Project, BRT service would provide an internal link between the two Project areas, would link the Project with the surrounding developments and neighborhoods, and would connect to Caltrain, BART, the T-Third light rail, and numerous Muni bus lines. A key element of the Project's overall transportation system would involve providing the most direct route of travel for the BRT, as well as bicycles and pedestrians, between Hunters Point Shipyard, Candlestick Point, and destinations to the west. (C&R-56.) Thus, the planned BRT is a critical component in the promotion of public transit use by the Project residents, visitors, and employees consistent with the City's Transit-First policy and the Project's Transportation Plan.

Another key goal of the Project's Transportation Plan is to provide effective ingress and egress for the proposed new stadium. The NFL has stated that an essential feature of any stadium access plan is the ability to clear the stadium parking lots within an hour or less. (C&R-56.) In doing so, the City is concerned that surrounding residential area streets not be unduly affected by stadium traffic. (C&R-56.)

The Draft EIR concluded that the Yosemite Slough Bridge would best achieve three primary transportation functions consistent with the Project objectives and overall City goals and policies. First, the Bridge's BRT lanes allow a more direct route (approximately ⅔ mile shorter) between the Project neighborhoods and to and from BART, Caltrain, Muni light rail and local buses than an alternative route around the slough. Second, the Bridge provides pedestrians and cyclists a direct connection between Hunters Point Shipyard and Candlestick Point, avoiding a diversion through or near the industrial area around Yosemite Slough, which is not well suited for other types of traffic. Third, the bridge provides automobile access between the stadium site and US-101, via a planned reconstructed interchange at Harney Way, which is the only route that can meet NFL standards for traffic egress; other routes would create substantial risks that the NFL would not approve a stadium in the area.[9]

For each of these three transportation functions, the Draft EIR analysis and the additional analysis in the C&R determined that the Yosemite Slough Bridge would provide a superior and necessary function compared to alternatives without the bridge. (C&R-54-67.) For the BRT service, the analysis demonstrated that in terms of travel time and associated ridership, reliability, safety, operating costs, adaptability to possible future light rail, and minimizing impacts on local industrial businesses, the BRT route across the Yosemite Slough Bridge would be substantially superior to alternative routes around the Slough and would provide a quality of service associated with bus rapid transit. (C&R-57-61.) Based on these findings, SFMTA has stated that the additional travel time, cost, reduced ridership, and overall effect on route reliability associated with a route around the Slough would likely affect Muni's ability operate the service to the Hunters Point Shipyard. (C&R-61.)

To evaluate accommodating game day traffic, the analysis examined two alternative egress routes without a bridge and concluded that: (1) Alternative Route 1 would have a stadium exit capacity substantially below what would be necessary to accommodate a new NFL stadium at the Shipyard; and (2) Alternative Route 2 would closely approximate the required egress clearance capacity, but would have negative drawbacks, including elimination of BRT service from the Balboa Park BART station and the Bayshore Caltrain Station and serious conflicts with the operation of the T-third light rail service. (C&R-62-66.) These drawbacks would conflict with the City's Transit-First policy.

The bridge would enable walking and cycling between Candlestick Point and the Hunters Point Shipyard, thereby enhancing the connection between these two Project

[9] Letter from Neil Glat, Senior Vice President, National Football League, to Stanley Muraoka, Environmental Review Officer, San Francisco Redevelopment Agency, January 12, 2009.

areas and reducing automobile use and the demand for parking. Without the bridge, walking and cycling distance between the center of Candlestick Point and the center of Hunter Point Shipyard would increase by 2/3 mile or 50 percent compared to conditions with the bridge. Without the bridge, pedestrians and cyclists would travel through an industrial area with heavy truck traffic, several intersections, and few amenities. Some of these differences may be reduced with the construction of the Bay Trail around Yosemite Slough. The trail, however, would be open only during park hours from 8:00 A.M. to sunset. The bridge lighting would provide security in the evening hours, when recreational fields at the Shipyard would be in use. (C&R-66-67.)

In addition, the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement provides that the bridge will serve as a part of the open space network on all days when it is not open to private motor vehicle traffic. The bridge would be required to function primarily for public transit, bicycle, and pedestrian use, and would be closed to private motor vehicle traffic except on days when football games are held at the stadium on the Shipyard. Without the bridge, the unique recreational and viewing benefits provided for pedestrians and cyclists using the bridge would not occur.

(b) Environmental Impacts: This alternative would result in the same impacts as the Project, except for those impacts associated with the construction and operation of the bridge. The Project's potentially significant impacts associated with aesthetics, wind, cultural resources, air quality, noise, geology and soils, hazards and hazardous materials, hydrology and water quality, biology, public services, recreation, utilities, energy and greenhouse gas emissions would be the same under this alternative and would require the same mitigation measures except for MM HZ-9 and MM BI 4c, which specifically address the bridge construction. Biological impacts associated with the bridge would not occur. The Draft EIR determined, and the C&R document (in particular, Master Response 3, pp. 30-54 and Response to Letter 47, pp. 731-803.) provided additional supporting facts, analysis, and expert opinion based on the facts demonstrating that all of the potential biological associated with the bridge would be either less than significant or would be reduced to less than significant with implementation of the prescribed Project mitigation measures, all of which are adopted as part of the Project approval. Additionally, all of the Project's significant and unavoidable impacts related to transportation, air quality, noise, and cultural resources would occur under this alternative. (Draft EIR VI-30-59; C&R, Table ES-1d.) Game day transportation impacts would be increased under this alternative. Thus, this alternative would not provide a substantial reduction of Project impacts or a substantial environmental benefit in comparison to the Project.

3. Reduced CP-HPS Phase II Development; San Francisco 49ers Stay at Existing Candlestick Park Stadium; Limited State Parks Agreement; Yosemite Slough Bridge Serving Only Transit, Bicycles, and Pedestrians

This alternative would be a reduced development alternative. Total housing with this alternative would be 5,210 units, about half of the units proposed with the Project. At Candlestick Point, the number of residential units would be decreased and retail and arena uses would not be developed. Replacement of the Alice Griffith public housing would occur as part of a larger 1,210 housing unit development. Minor improvements would be made to the CPSRA under the Limited State Parks Agreement. At HPS Phase II, housing would be increased by 1,350 units for a total of 4,000 units; other development uses at HPS Phase II would be the same as the Project, except for the proposed stadium. A new approximately 40-foot wide Yosemite Slough Bridge serving only transit, bike, and pedestrian uses would extend Arelious Walker Drive from Candlestick Point to HPS Phase II. This alternative assumes that the 49ers football team would continue to use the existing Candlestick Park stadium and would not include a new 49ers stadium at HPS Phase II.

The Reduced CP-HPS Phase II Development, San Francisco 49ers Stay at Existing Candlestick Park Stadium, Limited State Parks Agreement, Yosemite Slough Bride Serving Only Transit, Bicycles, and Pedestrians Alternative is rejected for the following reasons:

(a) Integrated Development: This alternative would significantly reduce the ability to meet the Project and Proposition G objective to provide an integrated development connecting Candlestick Point and the Hunters Point Shipyard site with the larger BVHP neighborhood by fostering the creation of strong commercial, institutional, cultural and urban design ties between the development on Candlestick Point and the Hunters Point Shipyard and the Bayview in particular and the City in general. Under this alternative, only the Alice Griffith replacement development would occur in the Candlestick Point area. No new mixed use, commercial, arena, community uses or other development would occur at Candlestick Point. Additionally, enhanced streetscape improvements along Harney Way and Gilman, including street trees, sidewalk plantings, furnishings, and paving treatments designed to visually tie together the waterfront with the greater Bayview neighborhood would not occur, nor would street improvements along Ingerson, and Jamestown Avenues.

(b) Affordable Housing and Job Creation: This alternative would reduce the ability to meet the Project and Proposition G objectives to create substantial affordable housing, jobs, and commercial opportunities for existing Bayview residents and businesses. Over 50 percent of the residential units and 86 percent of the retail proposed under the Project would not be built under this alternative. The alternative also would result in a

loss of 150,000 square feet of office space, a 10,000-seat performance arena, and a 220-room hotel. This reduction in development would result in 3725 fewer jobs than the Project. (Draft EIR, VI-65.)

(c) Opportunity for a New Stadium: This alternative would not meet the Project and Proposition G objective of encouraging the 49ers to remain in San Francisco by providing a site for, and infrastructure to serve, a new 49ers stadium. The 49ers have been actively pursing a new football stadium in Santa Clara; the current stadium at Candlestick Point is outdated and no longer meets their standards or requirements. Without a new stadium that meets current NFL standards, the Project would not fulfill the objective of encouraging the 49ers to remain in San Francisco.

(d) Parks, Recreation, and Open Space: This alternative would not meet the Project and Proposition G objective of providing over 300 acres of new and improved park, recreation, and open space areas. The proposed significant improvements to the CPSRA and ongoing operation and maintenance funding of the CPSRA as provided for by Public Resources Code Section 5006.8 with the land exchange envisioned by the Project would be substantially reduced under this alternative. The portions of the CPSRA that are used for stadium parking, are undeveloped, or are inaccessible would remain in these underutilized conditions. Except for the Alice Griffith redevelopment area, other neighborhood parks or open space uses would not be developed in the Candlestick Point area.

(e) Community Benefits: This alternative would not generate the same level of funding for the Project Community Benefits Plan and would reduce the extent of the benefits to the community anticipated under the Project. No community facilities would be constructed at Candlestick Point, resulting in a 50 percent reduction in community facilities from those proposed in the Project.

(f) Environmental Impacts: This alternative would result in less development and would reduce the scope and intensity of many of the Project's potentially significant impacts, including all construction related impacts, transportation, noise, aesthetics, wind, air quality, geology and soils, hydrology and water quality, hazards and hazardous materials, biology, public services, recreation, utilities, energy and greenhouse gas emissions. Nonetheless, the Project's potentially significant impacts for these topics, except for the aesthetic impact associated with the stadium lighting (AE-7b), would occur under this alternative and require mitigation measures identified for the Project to avoid or reduce these impacts to less than significant. (Table ES-2a, C&R-2243-2247.) Six of the Project's significant and unavoidable transportation impacts associated with the proposed stadium and arena would not occur and the Project's significant and unavoidable noise impact associated with the stadium would not occur. All of the Project's other significant and unavoidable impacts associated with transportation, air

quality, noise, and cultural resources would occur under this alternative. (Table ES-1d, C&R-22.) If the Project's non-stadium scenarios are implemented in lieu of the stadium, the Project, like this alternative, would avoid the significant noise and lighting impacts associated with the stadium. Although this alternative would reduce the intensity and scope of impacts associated with the Project, most significant and unavoidable impacts associated with the Project would still occur under this alternative, hence, this alternative does not provide substantial environmental benefits as compared to the Project.

4. Reduced CP-HPS Phase II Development; Historic Preservation; No HPS Phase II Stadium, Marina, or Yosemite Slough Bridge

Land uses under this alternative would be similar to those proposed under the Project. Residential densities and commercial intensities for most uses would be approximately 30 percent less than those proposed under the Project. A total of 7,350 residential units would be constructed under this alternative. This alternative includes the preservation of four historic buildings, Buildings 211, 224, 231, and 252, and Drydock 4 at HPS Phase II in addition to the historic structures already preserved under the Project (Buildings 104, 204, 205, 207, 208 and Drydocks 2 and 3). The proposed Yosemite Slough Bridge, marina, and new stadium would not be built. Additionally, the State Parks agreement would not occur.

The Reduced CP-HPS Phase II Development; Historic Preservation; No HPS Phase II Stadium, Marina, or Yosemite Slough Bridge alternative is rejected for the following reasons:

(a) Substantial New Housing Including Affordable Housing: This alternative would substantially reduce the ability to meet the Project and Proposition G objective of providing substantial new market rate and affordable housing opportunities. The total number of housing units would be reduced from 10,500 to 7,350. As the Disposition and Development Agreement provides for affordable housing units as a percentage of the total housing units, the number of affordable housing units would be reduced from 3,345 to 2,509.[10]

(b) Job Creation: This alternative would substantially reduce the ability to meet the Project and Proposition G objective of creating a range of job and economic development opportunities for local, economically disadvantaged individuals and business enterprises, particularly for residents and businesses located in the Bayview.

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[10] Disposition and Development Agreement (Candlestick and Phase 2 of the Hunters Point Shipyard), dated for reference purposes only as of June 3, 2010, by and between the Redevelopment Agency of the City and County of San Francisco (the "Agency") and CP Development Co., LP, a Delaware limited partnership (the "Developer"), Candlestick Point and Phase 2 of the Hunters Point Shipyard Below Market Rate Housing Plan at F-11.

This alternative would generate an estimated 7,219 jobs. (Draft EIR, VI-98.) Total jobs projected under the Project and the Variants proposed for approval range from 10,730 – 16,635 jobs. (Draft EIR, III C-12; IV-15.) This alternative would result in approximately 3,511 fewer jobs than the Project and potentially up to 9,416 fewer jobs under the Variants proposed for approval.

(c) Community Benefits: This alternative would reduce the level of finding for the Community Benefit Plan programs and thus would reduce the level of benefits provided to the community.

(d) Opportunity for a New Stadium: This alternative would not meet the Project and Proposition G objective of encouraging the 49ers to remain in San Francisco by providing a site for, and infrastructure to serve, a new 49ers stadium. The 49ers have been actively pursing the opportunity to construct a new football stadium in Santa Clara; the current stadium at Candlestick Point is outdated and no longer meets their standards or requirements. Without a new stadium that meets current NFL standards, the Project would not fulfill the objective of encouraging the 49ers to remain in San Francisco.

(e) Transportation Objectives: This alternative would not meet, or would substantially reduce the ability to meet, two key Project and Proposition G objectives: (1) to provide automobile, public transportation, and pedestrian connections between the Shipyard and Candlestick Point; (2) to create an appealing walkable urban environment served by transit.

Due to geography, topography, and the current condition of infrastructure, Candlestick Point and the Hunters Point Shipyard are comparatively isolated from the transit and roadway networks serving the City and region, and are not easily accessible by pedestrians and bicyclists. These deficiencies have been identified as top community concerns during the extensive local and citywide planning efforts for the Project and across southeastern San Francisco. (C&R-55-56.) As part of the City's transportation goals and plans, and to serve the increased travel demands from the Project, a new BRT network has been proposed. BRT service generally provides faster more reliable service than traditional local bus routes using a variety of strategies to reduce conflicts with other vehicles. (C&R-56.) For the Project, BRT service would provide an internal link between the two Project areas, link the Project with the surrounding developments and neighborhoods, and connect to Caltrain, BART, the T-Third light rail, and numerous Muni bus lines. A key element of the Project's overall transportation system would involve providing the most direct route of travel for the BRT, as well as bicycles and pedestrians, between Hunters Point Shipyard, Candlestick Point, and destinations to the west. (C&R-56.) Thus, the planned BRT is a critical component in the promotion of

public transit use by the Project residents, visitors, and employees consistent with the City's Transit-First policy and the Project's Transportation Plan.

The Draft EIR analysis and the additional analysis in the C&R determined that the Yosemite Slough Bridge would provide a superior and necessary function compared to alternatives without the bridge. (C&R-54-67.) For the BRT service, the analysis demonstrated that in terms of travel time and associated ridership, reliability, safety, operating costs, adaptability to possible future light rail, and minimizing impacts on local industrial businesses, the BRT route across the Yosemite Slough Bridge would be substantially superior to alternative routes around the Slough and would provide a quality of service associated with bus rapid transit. (C&R-57-61.) Based on these findings, SFMTA has stated that the additional travel time, cost, reduced ridership, and overall effect on route reliability associated with a route around the Slough would likely affect Muni's ability operate the service to the Hunters Point Shipyard. (C&R-61.)

The bridge would enable walking and cycling between Candlestick Point and the Hunters Point Shipyard, thereby enhancing the connection between these two Project areas and reducing automobile use and the demand for parking. Without the bridge, walking and cycling distance between the center of Candlestick Point and the center of Hunter Point Shipyard would increase by 2/3 mile or 50 percent compared to conditions with the bridge. Without the bridge, pedestrians and cyclists would travel through an industrial area with heavy truck traffic, several intersections, and few amenities. Some of these differences may be reduced with the construction of the Bay Trail around Yosemite Slough. The trail, however, would be open only during park hours from 8:00 A.M. to sunset. The bridge lighting would provide security in the evening hours, when recreational fields at the Shipyard would be in use. (C&R-66-67.)

In addition, the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement provides that the bridge will serve as a part of the open space network on all days when it is not open to private motor vehicle traffic. The bridge would be required to function primarily for public transit, bicycle, and pedestrian use, and would be closed to private motor vehicle traffic except on days when football games are held at the stadium on the Shipyard. Without the bridge, the unique recreational and viewing benefits provided for pedestrians and cyclists using the bridge would not occur.

(f) Parks, Recreation, and Open Space: This alternative would not meet the Project and Proposition G objective of providing over 300 acres of new and improved park, open space and recreation areas. The proposed significant improvements to the Candlestick Point State Recreation Area (CPSRA) and ongoing operation and maintenance funding of the CPSRA as provided for by Public Resources Code Section 5006.8 with the land exchange envisioned by the Project would not occur.

Improvements to the CPSRA that would not occur under this alternative include revegetation and landscaping, shoreline restoration and stabilization, new trails, paths, and visitor facilities, widening of the park at its narrowest pinch point, creation of habitat areas, and salt-marsh restoration. (Draft EIR III.P-17; VI-22.) The portions of the CPSRA that are used for stadium parking are undeveloped or inaccessible and would remain in these underutilized conditions. Consequently, the Project improvements that would enhance park aesthetics, enhance the park landscape ecology, provide connections throughout the CPSRA and connections with other Project parks, and provide direct access to the Bay and the shoreline for walking, swimming, fishing, kayaking, and windsurfing would not occur. (Draft EIR VI-22.) In addition, California State Parks lacks an adequate and reliable funding stream to support the operation and maintenance of the CPSRA. Under this alternative, improvements to the CPSRA, and the provision of operation and maintenance funding for the CPSRA totaling $50 million dollars would not be provided. (Public Resources Code Section 5006.8.)

(g) Financial Infeasibility: At the request of the City, CBRE Consulting conducted an independent financial feasibility analysis of Alternative 4.[11] The CBRE Consulting analysis determined that Alternative 4 is financially infeasible primarily due to the significant costs associated with the historic reuse component of this alternative and the reduced density, land sale revenue and public financing proceeds that would occur under this reduced development scenario. CBRE compared the estimated revenue derived from land sales in the reduced development alternative with the costs of the infrastructure, open space and other public benefits associated with this alternative. As density is reduced, the developable homes and commercial uses are insufficient to finance the costs via land sales, community facilities districts and tax increment bond proceeds. Capital outlay is shifted to more costly forms of capital such as equity, which reduces returns. The analysis finds that the net difference would result in a land value insufficient to attract a private developer to develop the land or investors and/or lenders to finance the project given the complexity of the project and risk profile.

(h) Environmental Impacts: This alternative was identified by the Draft EIR as the environmentally superior alternative. In general, under this alternative the Project impacts would be reduced and impacts related to the bridge, stadium, marina, and historic structures would be avoided. Nonetheless, the alternative would result in thirty significant unavoidable impacts. (Table ES-1d, C&R pp. 2200-2206.) Additionally, except for those impacts and mitigation measures specifically related to the stadium and the bridge, this alternative would have the same potentially significant impacts requiring the same mitigation measures as the Project. Because no improvements to the CPSRA would occur, this alternative would not provide for shoreline improvements and

[11] *Candlestick Point-Hunters Point Shipyard Phase II Reduced Development Alternative Evaluation of Financial Feasibility*, CBRE Consulting, May 20, 2010.

protective measures to avoid or reduce the potential for flooding and future sea level rise impacts at CPSRA. While identified as the environmentally superior alternative, a detailed comparison of the impacts associated with this alternative and those associated with the Project demonstrates that the alternative would provide limited, but not substantial, environmental benefits in comparison with the Project.

4A. CP-HPS Phase II Development Plan with Historic Preservation

This subalternative to alternative 4 includes the historic preservation element of alternative 4 in conjunction with the Project's full development program. This subalternative would retain the historic structures included in the Project (Buildings 140, 204, 205, 207 and 208 and Drydocks 2 and 3) and also would retain Buildings 211, 224, 231, and 253 and Drydock 4. The retention and rehabilitation of these structures would be achieved generally in accordance with the recommendations included in the *Candlestick Point-Hunters Point Shipyard Phase II Historic Preservation Feasibility Study,* prepared by Page & Turnbull, July 1, 2009 and Revised May 19, 2010. In order to accommodate the research and development uses that would be displaced with the preservation of Buildings 211, 224, 231 and 253, maximum height limits would be increased (from a maximum of 105 feet to a maximum of 120 feet) in certain areas in HPS Phase II. Additionally, to address sea level rise in the historic district, a wave protection berm would be constructed around the district to accommodate a 36-inch sea level rise.

The ultimate feasibility of this subalternative for the non-stadium scenarios, the Housing/R&D Variant and the R&D Variant, has not been determined at this time and for this reason, the Project incorporates this subalternative into the non-stadium scenarios as explained in Section I. The following findings support the rejection of Subalternative 4A as applied to the Project with implementation of the stadium scenario.

(a) Financial Infeasibility: This finding applies to the Project with the proposed new stadium located at HPS Phase II and is primarily based on the facts, analysis, and expert opinion contained in the following three reports and all of the documents referenced therein: (1) *Candlestick Point-Hunters Point Shipyard Phase II Historic Preservation Feasibility Study,* prepared by Page & Turnbull, July 1, 2009 and Revised May 19, 2010; (2) *Historic Preservation Landscape and Sea Level Rise Study,* prepared by Royston Hanamoto Alley & Abey ("RHAA"), May 18, 2010; and (3) *Proposed Hunters Point Shipyard Phase II Redevelopment - Parcel C Financial Feasibility Analysis of Historic Reuse Option-Full Retention and Alternative Historic Retention Scenarios,* prepared by CBRE Consulting, May 19, 2010.

At the request of the City, CBRE Consulting ("CBRE") prepared a financial feasibility analysis of the option of preserving the four structures as proposed in Subalternative 4A

as well as the feasibility of preserving only some buildings or a portion of Building 253. In addition to the full preservation proposed in Subalternative 4A, (preservation of Buildings 211, 224, 231 and 253), the options evaluated for feasibility included preservation of Buildings 224 and 253 (Option 1), preservation of Buildings 224, 231 and 253 (Option 2) and preservation of Building 224 and the 6-story tower portion of Building 253. CBRE prepared its analysis based on the Candlestick Point - Hunters Point Shipyard Phase II Historic Preservation Alternatives Feasibility Study prepared by Page & Turnbull, which was peer-reviewed for the City by Architectural Resources Group, the Agency's architectural preservation consultant, and Hawk Engineers, the City's consulting civil engineer. Further, CBRE received projections on development costs and revenues for the Project from Lennar Urban, all of which have been reviewed by C.H. Elliott and Associates, the City's financial consultant for the Project. C.H. Elliott also reviewed CBRE's feasibility analysis with a particular focus on the integration of CBRE's analysis into the horizontal land development model as described further below.

CBRE determined that the full preservation option, as set forth in Subalternative 4A, and all lesser preservation options analyzed by Page and Turnbull (Options 1, 2, and 3) were financially infeasible, whether evaluated within the context of the Parcel C and Crisp Road areas as a subdevelopment area of the Project or in the context of the entire Candlestick Point-Hunters Point Shipyard II development area. The primary reason underlying the infeasibility conclusion is the extremely high restoration costs associated with the historic retention options.

CBRE's feasibility analysis was completed in two steps. First, CBRE undertook a residual land value analysis, which compared the estimated value of the buildings upon completion with the costs of development or rehabilitation. The net difference between these values is the amount "left over" for the land, or the residual land value. If the residual is below the market-value for land, then a subsidy would be required to attract a developer to the site. Second, CBRE incorporated the residual land values into a dynamic, project-wide financial model. The financial model indicates project financial feasibility by calculating an internal rate of return ("IRR"), which indicates the return on capital that is capable of being generated throughout the course of development and ownership of land. CBRE calculated the IRR for the project-wide development assuming implementation of Subalternative 4A and each of the partial preservation options. As explained in the analysis, the Project Developer anticipates achieving a minimum rate of return for the Project with the stadium, but without historic preservation of the four buildings, of around 18 percent.

In the Subalternative 4A scenario, restoration costs are extremely high ($407.1 million), which are only partially offset by the estimated capitalized value ($139.8 million). The difference between the two ($267.3 million, or $262.0 million net of demolition)

represents a significant subsidy that increases the project's expected $2.28 billion infrastructure and development budget by 11.5 percent. The resulting IRR anticipated under this scenario is estimated at 13.7 percent. The costs are an order of magnitude that does not justify retention, as no developer would be enticed to pursue and no lender would finance this project, whether at the Parcel C major phase level or the Project-wide level, with residual land values and an IRR significantly below required thresholds.

The other scenarios analyzed reflect the spectrum between complete demolition and full retention. The results of the analyses of these scenarios indicate that they are all infeasible. Two of the three options (Options 1 and 2) yielded negative residual land values, while the third (Option 3), albeit slightly positive, did not meet the criteria of feasibility. In this case, the $19.0 million residual land value represented less than 2.0 percent of the construction costs, an insufficient cushion to entice a developer to build or a lender to finance construction. As with the Historic Retention-Base Plan (e.g. Subalternative 4A), Options 1, 2, and 3 were evaluated in the context of the overall Candlestick Point-Hunters Point Shipyard II development financial analysis. The IRR of the three partial retention options ranged from 14.3 percent to 15.0 percent. As such, all three indicated an IRR below the minimum 18 percent range threshold, declines in net cash flow, and ratios to total development costs out of proportion to building square footage.

While the financial model analysis of the Project with the stadium as proposed in the EIR produces at present an IRR between 15 to 16 percent, taking into account expected public and philanthropic subsidies, the Project Developer and the City reasonably expect that an 18 percent or higher IRR will ultimately be achieved with the broad additional financial support and funding mechanisms that are likely to accompany the Project's retention of the San Francisco 49ers. Therefore, it is reasonable for the Developer to move forward with an NFL stadium project currently projected at a IRR below 18 percent with the expectation that ultimate rate of return will achieve the target rate.

However, it is not equally reasonable to assume that the economic feasibility of historic reuse will improve or that significant new support will be available for retaining historic structures. The ability to attract private capital partners for the Project is reasonably likely as a result of refinements to costs and enhancements over time as the Project advances. However, inclusion of the historic preservation alternative would further widen the gap between currently projected and target rate of return. Further, subsidies that might be available specifically for historic preservation would not be expected to close the financial feasibility gap because these subsidies would not be expected to be sufficient in this instance. At best, federal tax credits and other public subsidies would total about $28 million for Subalternative 4A, the Historic Retention - Base Plan, which

would not offset costs significantly enough to be feasible. Similar, but lesser credits might be available for Scenario Options 1 and 2, but would not be sufficient to make them feasible. This tax credit would not be available for Scenario Option 3 due to the partial demolition of the building.

In sum, Subalternative 4A and the lesser preservation options analyzed (e.g. partial implementation of Subalternative 4A) are financially infeasible for this Project because they would result in the Project facing a greater reduced rate of return from the target rate, resulting in a further financial drag on the feasibility of the Project, and subsidies that might be available for preservation of historic resources are not reasonably expected to close the feasibility gap so as to render the preservation of these buildings analyzed in Subalternative 4A feasible.

(b) Environmental Impacts: This alternative would avoid the significant impact to cultural resources associated with the demolition of historic resources on HPS Phase II. However, all other Project potentially significant impacts and significant unavoidable impacts would occur under this alternative. Thus, this alternative, while avoiding one significant unavoidable impact, would still result in all other Project impacts that are significant and unavoidable.

5. Reduced CP-HPS Phase II Development; No HPS Phase II Stadium, State Parks Agreement or Yosemite Slough Bridge

This alternative would have the same land use program proposed with the Project, except that the new stadium at HPS Phase II and the Yosemite Slough Bridge would not be constructed and the 49ers would continue to use Candlestick Park. The total number of housing units would be the same as for the Project; however, because this alternative would not include the CPSRA boundary reconfiguration, the land coverage of the development at Candlestick Point would be smaller. Approximately 1,350 units would be shifted from Candlestick Point to HPS Phase II. This alternative assumes a State Parks agreement would not occur, no 49ers stadium would be built at HPS Phase II, and the proposed Yosemite Slough bridge would not be constructed.

The Reduced CP-HPS Phase II Development, No HPS Phase II Stadium, State Parks Agreement or Yosemite Slough Bridge is rejected for the following reasons:

(a) Opportunity for a New Stadium: This alternative would not meet the Project and Proposition G objective of encouraging the 49ers to remain in San Francisco by providing a site for, and infrastructure to serve, a new 49ers stadium. The 49ers have been actively pursing a new football stadium in Santa Clara; the current stadium at Candlestick Point is outdated and no longer meets their standards or requirements. Without a new stadium that meets current NFL standards, the Project would not fulfill the objective of encouraging the 49ers to remain in San Francisco.

(b) Parks, Recreation, and Open Space: This alternative would not meet the Project and Proposition G objective of improving the CPSRA to enhance public access to the waterfront and enjoyment of the Bay. The proposed significant improvements to the CPSRA and ongoing operation and maintenance funding of the CPSRA as provided for by Public Resources Code section 5006.8 with the land exchange envisioned by the Project would not occur under this alternative. Improvements to the CPSRA that would not occur under this alternative include revegetation and landscaping, shoreline restoration and stabilization, new trails, paths and visitor facilities, widening of the park at its narrowest pinch point, creation of habitat areas, and salt marsh restoration. (Draft EIR III.P-17) The portions of the CPSRA that are used for stadium parking, are undeveloped, or are inaccessible would remain in these underutilized conditions. In addition, the California State Parks an adequate and reliable funding stream to support the operation and maintenance of the CPSRA. Under this alternative, improvements to the CPSRA, and the provision of operation and maintenance funding for the CPSRA totaling $50 million dollars would not be provided: (Public Resources code section 5006.8)

This alternative would not provide for the construction of the Bay Trail from the western boundary of Candlestick Point near the Harney Way/US-101 interchange, through the CPSRA, to the proposed Bay Trail extensions around Yosemite Slough, and along the waterfront on HPS ultimately connecting to the existing northern trail along the India Basin shoreline. Additionally, under this alternative, opportunities to purchase or rent up to eleven Workforce Housing Units (as defined in the Project Housing Plan) in the Candlestick Point area would not be available to income-eligible employees of State Parks working at the CPSRA.

(c) Transportation Objectives: This alternative would not meet, or would substantially reduce the ability to meet, two key Project and Proposition G objectives: (1) to provide automobile, public transportation, and pedestrian connections between the Shipyard and Candlestick Point; (2) to create an appealing walkable urban environment served by transit.

Due to geography, topography, and the current condition of infrastructure, Candlestick Point and the Hunters Point Shipyard are comparatively isolated from the transit and

roadway networks serving the City and region, and are not easily accessible by pedestrians and bicyclists. These deficiencies have been identified as top community concerns during the extensive local and citywide planning efforts for the Project and across southeastern San Francisco. (C&R-55-56.) As part of the City's transportation goals and plans, and to serve the increased travel demands from the Project, a new BRT network has been proposed. BRT service generally provides faster more reliable service than traditional local bus routes using a variety of strategies to reduce conflicts with other vehicles. (C&R-56.) For the Project, BRT service would provide an internal link between the two Project areas, would link the Project with the surrounding developments and neighborhoods, and would connect to Caltrain, BART, the T-Third light rail, and numerous Muni bus lines. A key element of the Project's overall transportation system would involve providing the most direct route of travel for the BRT, as well as bicycles and pedestrians, between Hunters Point Shipyard, Candlestick Point, and destinations to the west. (C&R-56.) Thus, the planned BRT is a critical component in the promotion of public transit use by the Project residents, visitors, and employees consistent with the City's Transit-First policy and the Project's Transportation Plan.

The Draft EIR analysis and the additional analysis in the C&R determined that the Yosemite Slough Bridge would provide a superior and necessary function compared to alternatives without the bridge. (C&R-54-67.) For the BRT service, the analysis demonstrated that in terms of travel time and associated ridership, reliability, safety, operating costs, adaptability to possible future light rail, and minimizing impacts on local industrial businesses, the BRT route across the Yosemite Slough Bridge would be substantially superior to alternative routes around the Slough and would provide a quality of service associated with bus rapid transit. (C&R-57-61.) Based on these findings, SFMTA has stated that the additional travel time, cost, reduced ridership, and overall effect on route reliability associated with a route around the Slough would likely affect Muni's ability operate the service to the Hunters Point Shipyard. (C&R-61.)

The bridge would enable walking and cycling between Candlestick Point and the Hunters Point Shipyard, thereby enhancing the connection between these two Project areas and reducing automobile use and the demand for parking. Without the bridge, walking and cycling distance between the center of Candlestick Point and the center of Hunter Point Shipyard would increase by 2/3 mile or 50 percent compared to conditions with the bridge. Without the bridge, pedestrians and cyclists would travel through an industrial area with heavy truck traffic, several intersections, and few amenities. Some of these differences may be reduced with the construction of the Bay Trail around Yosemite Slough. The trail, however, would be open only during park hours from 8:00 A.M. to sunset. The bridge lighting would provide security in the evening hours, when recreational fields at the Shipyard would be in use. (C&R-66-67.)

In addition, the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement provides that the bridge will serve as a part of the open space network on all days when it is not open to private motor vehicle traffic. The bridge would be required to function primarily for public transit, bicycle, and pedestrian use, and would be closed to private motor vehicle traffic except on days when football games are held at the stadium on the Shipyard. Without the bridge, the unique recreational and viewing benefits provided for pedestrians and cyclists using the bridge would not occur.

(d) Environmental Impacts: This alternative would have a smaller development area than the Project, no new stadium, no State Parks agreement, and no bridge and would reduce or avoid the Project's construction and operational impacts related to these development reductions. Except for the potentially significant impacts specifically associated with the new stadium and the bridge, this alternative would have similar potentially significant impacts and require implementation of the Project mitigation measures to reduce those impacts to less than significant. (Table ES-2a, C&R-2243-2247.) This alternative would avoid the Project impacts associated with the bridge. The Draft EIR determined, and the Comments and Responses document (particularly, Master Response 3) provided additional supporting facts, analysis, and expert opinion based on the facts demonstrating, that all of the potential biological impacts associated with the bridge would be reduced to less than significant with implementation of the prescribed mitigation measures, all of which are adopted as part of the Project approval. This alternative would also avoid the Project's significant and unavoidable traffic and noise impacts associated with the stadium. All of the Project's other significant and unavoidable impacts associated with transportation, air quality, noise, and cultural resources would occur under this alternative. (C&R Table ES-1d.)

This alternative would have an adverse impact on CPSRA based on increased use of the park without any additional source of funding for improvements and maintenance to accommodate the increased use. Additionally, the Project's shoreline improvements and protective measures to avoid or reduce the potential for flooding and future sea level rise impacts would not be implemented for the CPSRA.

Thus, this alternative would reduce some of the Project impacts, would avoid impacts associated with the bridge and the stadium, would result in many of the same potentially significant impacts requiring mitigation and significant and unavoidable impacts, including significant and unavoidable transportation and cultural resource impacts, and would have some impacts that would not occur with the Project. Consequently, this alternative would not provide substantial environmental benefits in comparison to the Project.

VI STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA section 21081 and CEQA Guideline 15093, the Commission 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. 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 Commission 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 Commission 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. The Commission 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, with the amendment of MM TR-17 as explained above, that are applicable to the Project are adopted as part of this approval action. Furthermore, the Commission 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.

The Project has the following benefits:

- Provides for 10,500 new housing units, approximately 32 percent of which will be offered at below market-rates in order to serve a range of household income levels. The below market-rate housing requirements of the Project exceed what is required under California Redevelopment Law and the City's affordable inclusionary housing laws. The below market-rate housing includes the 1:1 replacement of all 256 public housing units at Alice Griffith. The Project provides for the phased replacement of these public housing units so that residents will be able to move directly into new units without having to relocate off-site.

- Creates or improves more than 300 acres of open space throughout the Project including the improvement of the Candlestick Point State Recreation Area, representing the largest park improvement project in the City's history since the

construction of Golden Gate Park. This includes a contribution of $10 million to fund the ongoing operations and maintenance of the CPSRA. The parks and open space will create a linked system of promenades, plazas, overlooks and play areas providing a variety of public spaces and amenities for both passive and active recreation. The parks and open space plans include neighborhood parks within Candlestick and HPS Phase II, new waterfront parks around the entire perimeter of the Shipyard, restored habitat areas, and restored public access to the water. The Project will provide a network of pedestrian and bike pathways that connect Project uses to the adjacent neighborhoods and provide unrestricted public access to the parks and open space on the Project site and the Bay shoreline. Enhanced connectivity of on-site and off-site facilities and new neighborhood parks will allow integration of new and existing facilities into the citywide park network. (DEIR III P-15)

- Provides 255,000 square feet of new and renovated replacement studio space for the existing Shipyard artist tenants, including land for a potential Arts Center.
- Invests more than $2 billion in infrastructure to serve the site including $404 million in transportation improvements.
- Provides space and infrastructure for a new United Nations Global Compact Center at the Shipyard.
- Provides a robust package of additional community benefits including:
    - $3,500,000 for a scholarship fund to provide scholarships for local residents;
    - $10,000,000 for an education improvement fund to improve or construct educational facilities in the area;
    - $2,000,000 for community health facilities, including a potential pediatric health and wellness center;
    - The funding of a community benefits fund through the payment of 0.5 percent of the initial sale of each market rate home, as well as 50 percent of profits above the specified threshold, if any;
    - $8,925,000 to fund workforce training and placement programs for local residents, which the City's Office of Economic and Workforce Development will match with compatible programs in the Bayview area;
    - A community builder program designed to support the participation of local builders in the construction of both market-rate and affordable housing;

- $2,500,000 for construction assistance programs designed to provide technical assistance and contractor workshops in conjunction with local hiring and disadvantaged business programs;
- $1,000,000 contribution towards the Agency's surety bond program designed to assist local contractors in obtaining insurance and credit support; and
- A community realtor program designed to provide specific opportunities for licensed brokers in the area.

- Provides 4.8 acres of improved land for additional community facilities as determined by a local community process.
- Provides 65,000 square feet of built space for additional community facilities, including space for the International African Marketplace and library reading rooms.
- Creates approximately 5,582 construction job opportunities onsite over the build-out of the Project. Total annual payroll during peak periods is estimated to be $44 million. Construction spending will indirectly generate an additional 1,600 jobs total in San Francisco over a 20-year build out.[12]
- Creates approximately 10,000 permanent jobs. Permanent jobs at CP-HPS Phase II are estimated to generate an annual payroll of $750 million. In addition, economic activity from CP-HPS Phase II businesses is projected to generate multiplier effects on other businesses and employment, creating a projected additional 8,000 jobs from indirect and induced expenditures in the San Francisco economy.
- Will generate over $2 billion annually in business revenue from economic activity by CP-HPS Phase II businesses. This business activity, in turn, will produce additional indirect spending by vendors to the CP-HPS Phase II businesses, estimated to be over $900 million annually. Induced spending by employee households as a result of direct and indirect activity will result in over $700 million in spending.
- Provides an opportunity site for a new 49ers football stadium at the Shipyard.
- At full build-out provides more than $8 billion in net new property value.

The revitalization of the Bayview Hunters Point and the betterment of the quality of life for the residents of this community is one of the City's highest priorities. Having

[12] Fiscal and Economic Impact Analysis of the Candlestick Point/Hunters Point Shipyard Phase II Redevelopment Project, May 2010

considered these benefits, including the benefits discussed in Section I above, and as described in Section V above "Reasons for Selection of the Project" which is incorporated by reference under this Section VI , the Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

ATTACHMENT B

MITIGATION MONITORING AND REPORTING PROGRAM

CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PROJECT

Mitigation Monitoring and Reporting Program

SECTION 1: AUTHORITY

This Environmental Mitigation Monitoring and Reporting Program has been prepared pursuant to Section 21081.6 of the *California Environmental Quality Act*, known as CEQA (Public Resources Code Section 21000 et seq.), to provide for the monitoring of mitigation measures required of the Candlestick Point–Hunters Point Shipyard Phase II Development Plan (Project), as set forth in the Final Environmental Impact Report (Final EIR) prepared for the Project. This report will be kept on file in the offices of the San Francisco Redevelopment Agency (Agency), One South Van Ness Avenue, Fifth Floor, San Francisco, CA, 94103 and at the City Planning Department (City), 1650 Mission Street, Fourth Floor, San Francisco, CA, 94103.

SECTION 2: MONITORING SCHEDULE

Prior to the issuance of building permits, while detailed development plans are being prepared for approval by Agency and/or City staff, Agency and/or City staff will be responsible for ensuring compliance with mitigation monitoring applicable to the project construction, development, and design phases. Agency and/or City staff will prepare or cause to be prepared reports identifying compliance with mitigation measures. Once construction has begun and is underway, monitoring of the mitigation measures associated with construction will be included in the responsibilities of designated Agency and/or City staff, who shall prepare or cause to be prepared reports of such monitoring no less than once a month until construction has been completed. Once construction has been completed, the Agency and/or City will monitor the project as deemed necessary.

SECTION 3: CHANGES TO MITIGATION MEASURES

Any substantive change in the monitoring and reporting plan made by Agency and/or City staff shall be reported in writing to the City Environmental Review Officer. Reference to such changes shall be made in the monthly/yearly Environmental Mitigation Monitoring Report prepared by City staff. Modifications to the mitigation measures may be made by City staff subject to one of the following findings, documented by evidence included in the record:

a. The mitigation measure included in the Final EIR and the Mitigation Monitoring and Reporting Program is no longer required because the significant environmental impact identified in the Final EIR has been found not to exist, or to occur at a level which makes the impact less than significant as a result of changes in the project, changes in conditions of the environment, or other factors.

OR

b. The modified or substitute mitigation measure to be included in the Mitigation Monitoring and Reporting Program either provides corrections to text without any substantive change in the intention or meaning of the original mitigation measure, or provides a level of environmental protection equal to or greater than that afforded by the mitigation measure included in the Final EIR and the Mitigation Monitoring and Reporting Program; and

The modified or substitute mitigation measures do not have significant adverse effects on the environment in addition to or greater than those which were considered by the responsible hearing bodies in their decisions on the Final EIR and the proposed project; and

The modified or substitute mitigation measures are feasible, and the City, through measures included in the Mitigation Monitoring and Reporting Program or other City procedures, can assure their implementation.

SECTION 4: SUPPORT DOCUMENTATION

Findings and related documentation supporting the findings involving modifications to mitigation measures shall be maintained in the project file with the Mitigation Monitoring and Reporting Program and shall be made available to the public upon request.

SECTION 5: FORMAT OF MITIGATION MONITORING MATRIX

The mitigation monitoring matrix on the following pages identifies the environmental issue areas for which monitoring is required, the required mitigation measures, the time frame for monitoring, and the responsible implementing and monitoring agencies.

If any mitigation measures are not being implemented, the Agency and/or City may pursue corrective action. Penalties that may be applied include, but are not limited to, the following: (1) a written notification and request for compliance; (2) withholding of permits; (3) administrative fines; (4) a stop-work order; (5) criminal prosecution and/or administrative fines; (6) forfeiture of security bonds or other guarantees; and (7) revocation of permits or other entitlements.

SECTION 6: DEFINITIONS

For purposes of this MMRP, the following definitions are used:

- **Arena Operator**—An individual who or business that operates the retail business constructed at the Arena site.
- **City's Environmental Review Officer**—The Environmental Review Officer at the San Francisco Planning Department, referred to herein as "ERO."
- **Developer**—An individual who or business that prepares raw land for the construction of buildings or causes to be built physical building space for use primarily by others. This includes contractors of an individual or business that is a developer.
- **Development/Construction Phases**—During construction, three major phases of activities would be expected: abatement and demolition, site preparation and earthwork/grading, and building construction. Within each of these phases are sub-phases generally identified by area. For each parcel, a lot application would be required and individual building permits.
- **Project Applicant**—A Developer or Vertical Developer.
- **Stadium Operator**—An individual who or business that enters into an agreement with the Agency to operate the Stadium constructed at the Stadium site.
- **SFRA**—San Francisco Redevelopment Agency, referred to herein as "Agency" or "SFRA."

- **Vertical Developer**—An individual who or business that constructs urban land uses. This term shall be construed to mean the subsequent developer(s) who constructs or extends urban land uses through subdivision of land and construction or alteration of structures. Vertical developer includes contractors of an individual or business that is a vertical developer.

Ordering and Pagination of Mitigation Measures in Table

Mitigation Measures	Starts on Page Number
Section III.D (Transportation and Circulation)	MMRP-4
MM TR-1 through MM TR-51	
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MM AE-2 through MM AE-7b.2	
Section III.G (Wind)	MMRP-33
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Section III.H (Air Quality)	MMRP-34
MM AQ-2.1 through MM AQ-6.2	
Section III.I (Noise and Vibration)	MMRP-36
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Section III.J (Cultural Resources and Paleontological Resources)	MMRP-40
MM CP-1b.1 through MM CP-3a	
Section III.K (Hazards and Hazardous Materials)	MMRP-50
MM HZ-1a through MM HZ-15	
Section III.L (Geology and Soils)	MMRP-62
MM GE-2a through MM GE-11a	
Section III.M (Hydrology and Water Quality)	MMRP-75
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Section III.N (Biological Resources)	MMRP-95
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Section III.O (Public Services)	MMRP-131
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Section III.P (Recreation)	MMRP-132
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Section III.Q (Utilities)	MMRP-132
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Section III.S (Greenhouse Gas Emissions)	MMRP-134
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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
SECTION III.D (TRANSPORTATION AND CIRCULATION)					
MM TR-1 Candlestick Point–Hunters Point Shipyard Phase II Construction Traffic Management Program. The Project Applicant shall develop and implement a Candlestick Point–Hunters Point Shipyard Phase II Construction Traffic Management Program to minimize impacts of the Project and its contribution to cumulative impacts related to construction activities and construction traffic. The program shall provide necessary information to various contractors and agencies as to 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. The program shall supplement and expand, rather than modify or supersede any manual, regulations, or provisions set forth by SFMTA, DPW or other City departments and agencies. Preparation of the Construction Management Program shall be the responsibility of the Project Applicant, and shall be reviewed and approved by SFMTA and DPW prior to initiation of construction. The Project Applicant shall update the program prior to approval of development plans for Phase 2, Phase 3, and Phase 4 of construction to reflect any change to Project development schedule, reflect transportation network changes, to update status of other development construction activities, and to reflect any changes to City requirements. The program shall: ▪ Identify construction traffic management practices in San Francisco, as well as other jurisdictions that although not being implemented in the City could provide useful	Project Applicant	Program shall be implemented at first sub-phase application and updated with each subsequent sub-phase application	San Francisco Municipal Transportation Agency (SFMTA)/ Department of Public Works (DPW)/SFRA/DBI	SFRA/DBI	Confirm establishment as part of Phase 1 approval; Project Applicant shall update the program prior to approval of development plans for Phase 1, Phase 3, and Phase 4 SFMTA and DPW to approve program prior to each sub-phase approval; SFMTA and DPW to undertake ongoing enforcement during construction.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
guidance for a project of this size and characteristics. ■ Describe procedures required by different departments and/or agencies in the City for implementation of a construction management plan, such as reviewing agencies, approval process, and estimated timelines. ■ Describe coordination efforts associated with the Navy remediation efforts and scheduling regarding construction vehicle routing via the Crisp gate. ■ Identify construction traffic management strategies and other elements for the Project, and present a cohesive program of operational and demand management strategies designed to maintain acceptable levels of traffic flow during periods of construction activities in the Bayview Hunters Point area. These could include construction strategies, demand management strategies, alternate route strategies, and public information strategies. ■ Coordinate with other projects in construction in the immediate vicinity, so that they can take an integrated approach to construction-related traffic impacts. ■ Present guidelines for selection of construction traffic management strategies.					
MM TR-2 TDM Plan. The Project Applicant shall prepare and implement a final TDM plan, which shall include the following elements: ■ Visitor Variable, Market-Rate Parking Pricing ■ Maximum Permitted Parking Ratios ■ Flexible Parking Management Strategies ■ Unbundled Residential Parking ■ Transit Strategies and Support Strategies	Project Applicant	TDM approval as part of DDA; Timing of mitigation components to be specified within TDM plan.	SFRA	SFRA/CP-HPS Transportation Management Association (TMA)	Confirm establishment of the TDM as part of the Disposition and Development Agreement. Agency to consult with TMA to submit periodic status reports to Agency as specified in the TDM

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
■ Central Transit Hub ■ Enhanced Transit Service and Bicycle Facilities ■ Bicycle Support Facilities ■ Wayfinding Signs ■ EcoPass for Residents ■ Carshare Services ■ Employee TDM Programs > Information Boards/Kiosks > In-building Real-Time transit monitors with sightlines of transit hubs > Commuter Benefits > Employee EcoPass > Carpool/Vanpools > Guaranteed Ride Home Program > Compressed Work Weeks, Flex Time, and Telecommuting ■ CP-HPS Transportation Management Association ■ On-site Transportation Coordinator and Website ■ Targeted Marketing ■ Monitoring of Transportation Demand ■ Monitoring Effectiveness of Congestion-Reducing and Traffic-Calming Efforts The final TDM plan shall be approved as part of the Disposition and Development Agreement (DDA).					Plan.
MM TR-4 Restripe the northbound and southbound approaches of the intersection of Tunnel/Blanken to provide dedicated left-turn lanes adjacent to shared through/right-turn lanes. The restriping would require prohibition of parking for 160 feet in the southbound approach (loss of eight parking	Project Applicant/SFMTA	Monitor the Tunnel/Blanken intersection biannually by undertaking traffic counts after implementation of the	SFRA/SFMTA	SFRA/SFMTA/ Planning Department	Completed upon implementation of restriping of intersection if not needed by completion of Project buildout,

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
spaces) and for 100 feet in the northbound approach (loss of five parking spaces). Implementation of the intersection restriping shall be the responsibility of SFMTA, and shall be implemented when intersection improvements associated with the Visitacion Valley Redevelopment Plan (i.e., signalization) are no longer sufficient to maintain acceptable intersection level of service conditions.		intersection improvements associated with the Visitacion Valley Redevelopment Plan (i.e., signalization). When LOS degrades to unacceptable levels, restripe intersection as indicated.			MM TR-4 will not be required.
MM TR-6 Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts. The City of Brisbane and Caltrans, as part of the Harney Interchange Project, shall account for existing traffic, background traffic growth, and the most recent forecasts of traffic expected to be associated with each of several adjacent development projects, including the Project. The San Francisco County Transportation Authority (SFCTA) shall coordinate with the City of Brisbane and Caltrans to ensure Project-generated vehicle trips are accounted for in the Harney Interchange analyses and design. Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts, including freeway segment impacts, shall be formulated through the current inter-jurisdictional Bi-County Transportation Study effort being led by the SFCTA, or its equivalent. The Project Applicant shall contribute its fair share to the Harney Interchange Project.	Project Applicant/ San Francisco County Transportation Authority (SFCTA))/ SFMTA / SFDPW / Caltrans / City of Brisbane	Ongoing as part of the Harney Interchange Project	SFRA	SFRA	Completed upon payment of fair-share contribution to the Harney Interchange Project.
MM TR-7 Feasibility study of reconfiguring the southbound approach on Illinois Street to provide a dedicated southbound left turn lane and a dedicated right-turn lane. SFMTA shall conduct a	Project Applicant/SFMTA/The Port of San Francisco	Monitor the Amador/Cargo/Illinois intersection biannually by undertaking traffic	SFRA/SFMTA	SFRA/SFMTA/Port of San Francisco	Upon completion of the feasibility study, the applicant shall contribute its fair

Draft Mitigation Monitoring & Reporting Program					
Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
feasibility study with the Port of San Francisco to determine the feasibility of reconfiguring the southbound approach on Illinois Street to provide a dedicated southbound left turn lane and a dedicated right-turn lane. Sufficient right-of-way is available to implement this improvement; however, provision of two southbound lanes would require narrowing a portion of the island to the west of the southbound approach to Cargo Way. Implementation of the intersection improvements shall be the responsibility of SFMTA and the Port of San Francisco, and shall be implemented when traffic operating conditions with the existing intersection configuration worsens to unacceptable levels. If determined feasible, the Project Applicant shall contribute its fair share to the intersection improvements.		counts five years after occupancy of HPS begins. When LOS degrades to LOS D, SFMTA and the Port of San Francisco shall undertake the feasibility study. Improvements shall be implemented when LOS reaches mid-range LOS D.			share to the intersection improvements.
MM TR-8 Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts. The City of Brisbane, as part of the Geneva Avenue Extension Project, shall account for existing traffic, background traffic growth, and the most recent forecasts of traffic expected to be associated with each of several adjacent development projects, including the Project. The San Francisco County Transportation Authority (SFCTA) and SFMTA shall coordinate with the City of Brisbane to ensure projected traffic volumes are accounted for in the design of the Geneva Avenue Extension. Mitigations and associated fair-share funding measures for cumulative regional roadway system impacts, including freeway segment impacts, shall be formulated through the current interjurisdictional Bi-County Transportation Study effort being led by the SFCTA, or its equivalent. The Project Applicant shall contribute its fair share to the Harney	Project Applicant/San Francisco County Transportation Authority (SFCTA)/ SFMTA / SFDPW / Caltrans / City of Brisbane	Ongoing as part of the Geneva Avenue Extension Project	SFRA	SFRA	Completed upon payment of fair-share contribution to the Geneva Avenue Extension Project

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Interchange Project.					
MM TR-16 Widen Harney Way as shown in Figure 5 in the Transportation Study. Prior to issuance of the grading permit for Development Phase 1 of the Project, the Project Applicant shall widen Harney Way as shown in Figure 5 in the Transportation Study. Prior to the issuance of grading permits for Phases 2, 3 and 4, the Project Applicant shall fund a study to evaluate traffic conditions on Harney Way and determine whether additional traffic associated with the next phase of development would result in the need to modify Harney Way to its ultimate configuration, as shown in Figure 6 in the Transportation Study, unless this ultimate configuration has already been built. This study shall be conducted in collaboration with the SFMTA, which would be responsible for making final determinations regarding the ultimate configuration. The ultimate configuration would be linked to intersection performance, and it would be required when study results indicate intersection LOS at one or more of the three signalized intersection on Harney Way at mid-LOS D (i.e., at an average delay per vehicle of more than 45 seconds per vehicle). If the study and SFMTA conclude that reconfiguration would be necessary to accommodate traffic demands associated with the next phase of development, the Project Applicant shall be responsible to fund and complete construction of the improvements prior to occupancy of the next phase.	Project Applicant/SFDPW	Prior to issuance of Grading Permits for Phase 1 of the Project	SFMTA	SFMTA	Completed when improvements to Harney Way as Shown in Figure 5 of the Transportation Study are final.
	Project Applicant/SFMTA	Prior to the issuance of grading permits for Phases 2, 3 and 4 of the Project, monitor traffic conditions on Harney Way by undertaking traffic counts and performing traffic study.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of the traffic study as directed by the SFMTA
	Project Applicant/SFMTA	Upon completion of the traffic study as determined by the SFMTA, reconfigure Harney consistent with Figure 6, if deemed necessary by SFMTA	SFRA/SFMTA	SFRA/SFMTA	Completed when improvements to Harney Way as Shown in Figure 6 of the Transportation Study are final as required by the SFMTA.
MM TR-17 Implement the Project's Transit Operating Plan. The Project Applicant shall work with SFMTA to develop and implement the Project's Transit Operating Plan. Upon completion of the Project	Project Applicant/SFMTA	The Project Transit Operating Plan shall be submitted as part of the Disposition and Development Agreement prior to	SFRA/SFMTA	SFRA/SFMTA	Upon approval of DDA containing Project Transit Operating Plan

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
build out, elements of the Project Transit Operating Plan shall include: ■ Extension of the 24-Divisadero, the 44-O'Shaughnessy, and the 48-Quintara-24th Street into Hunters Point Shipyard. ■ Increased frequency on the 24-Divisadero to 6 minutes in the AM and PM peak periods. ■ Extension of the 29-Sunset from its current terminus near the Alice Griffith housing development, near Gilman Avenue and Giants Drive, into the proposed Candlestick Point retail area. The 29-Sunset would operate a short line between Candlestick Point and the Balboa Park BART station. This would increase frequencies on the 29-Sunset by reducing headways between buses from 10 minutes to 5 minutes during the AM and PM peak periods between Candlestick Point and the Balboa BART station. Every other bus would continue to serve the Sunset District (to the proposed terminus at Lincoln Drive and Pershing Drive in the Presidio) at 10-minute headways. ■ Convert T-Third service between Bayview and Chinatown via the Central Subway from one-car to two-car trains or comparable service improvement. ■ Extension of the 28L-19th Avenue Limited from its TEP-proposed terminus on Geneva Avenue, just east of Mission Street, into the Hunters Point Shipyard transit center. The 28L-19th Avenue Limited would travel along Geneva Avenue across US-101 via the proposed Geneva Avenue extension and new interchange with US-101, to Harney Way. East of Bayshore Boulevard, the 28L-19th Avenue Limited would operate as BRT, traveling in		project approval. Implementation of roadway improvements and transit service as specified in Transit Operating Plan and Transportation Plan			

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
exclusive bus lanes into the Candlestick Point area. The BRT route would travel through the Candlestick Point retail corridor, and cross over Yosemite Slough into the Hunters Point Shipyard transit center. ■ The 28L-19th Avenue Limited would operate a short line to the Balboa Park BART station. This would increase frequencies on the 28L-19th Avenue Limited by reducing headways between buses from 10 minutes to 5 minutes for the segment between Hunters Point Shipyard and the Balboa Park BART station. Every other bus would continue to the Sunset District (to the proposed terminus at North Point Street and Van Ness Avenue) at 10-minute headways. If the TEP-proposed extension of the 28L has not been implemented by the SFMTA by the time implementation of this measure is called for in the Transportation Study (Appendix D), the Project Applicant shall fund the extension of that line between its existing terminus and Bayshore Boulevard. ■ New CPX-Candlestick Express to downtown serving the Candlestick Point site, traveling along Harney Way (with potential stops at Executive Park), before traveling on US-101 toward downtown, terminating at the Transbay Terminal. ■ New HPX-Hunters Point Shipyard Express to downtown serving the Hunters Point Shipyard site, traveling from the Hunters Point Shipyard Transit Center, along Innes Avenue, with stops at the India Basin and Hunters View areas, before continuing along Evans Avenue to Third Street, eventually entering I-280 northbound at 25th/Indiana. The HPX would continue non-stop					

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
to the Transbay Terminal in Downtown San Francisco. The SFMTA may modify or refine components listed above as needed to address changes in the operating environment and service demands, using SFMTA's service planning methodology and public review process, provided that the modifications result in: ■ Similar or higher transit mode share to what was projected in the DEIR. As shown in Table III.D-5 in the DEIR, the Proposed Project is anticipated to generate approximately 20 percent of its external person-trips via transit during the weekday PM peak hour. If modifications to the transit service described above are proposed, SFMTA (or other agency, as appropriate) shall demonstrate that the changes would still provide for a weekday PM peak hour transit mode share for external trips (i.e., outside of the Candlestick Point–Hunters Point Shipyard Phase II Development Area) of approximately 20 percent or greater. ■ Adequate capacity to serve projected transit ridership. Table III.D-17 in the DEIR presents the transit ridership and capacity utilization percentages for three study area cordons. The cordons are described on page III.D-66 of the DEIR and illustrated in Figure 19 in the project's Transportation Study (included in Appendix D of the DIER). As shown in Table III.D-17 in the DEIR, most of the study area cordons are projected to operate well within SFMTA's 85 percent capacity utilization standard. If modifications to the transit service described above are proposed, SFMTA (or other agency, as appropriate) shall demonstrate that the changes would not cause	SFMTA, or other Agency, as appropriate	Prior to implementing any changes to Transit Operating Plan	SFRA/ Planning	SFRA/ Planning	Approval by ERO of proposed revisions to Transit Operating Plan

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
capacity to deteriorate such that the study area cordons as defined in Table III.D-17 in the DEIR would operate above SFMTA's capacity utilization standard. ■ Similar or less severe traffic impacts than identified in Impacts TR-3 through TR-16 in the DEIR. Specifically, if modifications to the transit service described above are proposed, SFMTA (or other agency, as appropriate) shall demonstrate that vehicular traffic congestion (i.e., intersection level of service) would be similar to or better than conditions identified in the DEIR at study intersections along major transit corridors in the study area including Palou Avenue, Gilman Avenue, Harney Way, and Innes Avenue/Hunters Point Boulevard/Evans Avenue. Before implementing any major service changes to the expected components of the Transit Operating Plan, the SFMTA shall submit a memorandum to the San Francisco Planning Department's Environmental Review Officer, describing the proposed changes and technical analysis demonstrating compliance with the above criteria. Nothing in this measure requires the SFMTA to provide any service in advance of the schedule for Transit Improvement Phasing set forth as Table 5 in the Transit Operating Plan or in excess of the criteria set forth above.					
MM TR-21.1 Maintain the proposed headways of the 9-San Bruno. To address Project impacts to the 9-San Bruno, prior to issuance of a grading permit for Development Phase 1, the Project Applicant in cooperation with SFMTA shall conduct a study to evaluate the effectiveness and feasibility of the following improvements which could reduce Project	Project Applicant/SFMTA	Develop monitoring program for traffic and transit operations related to the 9-San Bruno prior to issuance of a grading permit for Phase I.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as directed and approved by the SFMTA.

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
impacts on transit operations along the San Bruno Avenue corridor, generally between Campbell Avenue and Silver Avenue. The study shall create a monitoring program to determine the implementation extent and schedule (as identified below) to maintain the proposed headways of the 9-San Bruno.		As directed by monitoring program, prepare traffic and transit improvement feasibility study to define improvements and schedule.			Feasibility study submitted and approved by SFMTA
▪ Install a transit-only lane on northbound San Bruno Avenue for the one-block section (400 feet) between Silliman Street and Silver Avenue. This would involve removal of five metered spaces on the east side of San Bruno Avenue, just south of Silver Avenue. Treatment for transit-only lanes can range from striping to physical elevation changes or barriers to protect transit right-of-way from mixed-flow traffic.		Based on the schedule/thresholds set forth in the feasibility study.	SFRA/SFMTA	SFRA/SFMTA	Completed when improvements identified in feasibility study are implemented.
▪ Install a transit-only lane on southbound San Bruno Avenue at the approach to Dwight Street/Paul Avenue. This lane would function as a so-called "queue-jump" lane, allowing buses to bypass queues on southbound San Bruno Avenue at the intersection. The lane should begin approximately 200 feet north of Dwight Street and extend one block (about 300 feet) south of Paul Avenue to Olmstead Street. This would involve the removal of up to 20 on-street parking spaces on the west side of San Bruno Avenue. This treatment could be limited to peak hours only, which would minimize the impact of the parking loss. The segment of San Bruno Avenue between Dwight Street and Olmstead Street is designated as Bicycle Routes #705 and 5 (Class III signed routes).					
▪ At the intersection of San Bruno/Silver install signal priority treatments on westbound Silver Avenue, where buses waiting to turn left from					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Silver Avenue onto southbound San Bruno Avenue must currently wait through almost an entire signal cycle due to the heavy oncoming traffic on eastbound Silver Avenue. Installation of a transit signal pre-emption at this location that provides a "green" signal for westbound vehicles but holds eastbound vehicles when buses are present would allow transit vehicles to turn left onto San Bruno Avenue without having to wait for opposing eastbound through traffic to clear. The Project Applicant shall fully fund the costs of implementing the transit priority improvements (either the improvements identified above, or alternative improvements of equal or greater effectiveness and comparable cost) as determined by the study and the monitoring program. Other options to be evaluated in the study could include comprehensive replacement of stop-controlled intersections with interconnected traffic signals equipped with transit priority elements.					
MM TR-21.2 Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 9-San Bruno. Should mitigation measure MM TR-21.1 not be feasible or effective, the Project Applicant shall work with SFMTA to purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 9-San Bruno. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study.	SFRA/SFMTA	SFRA/SFMTA	Completed when the purchase of additional transit vehicles is funded as determined by the feasibility study.
MM TR-22.1 Maintain the proposed headways of the 23-Monterey, 24-Divisidero and the 44-	Project Applicant/SFMTA	Develop monitoring program for traffic and	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as

Draft Mitigation Monitoring & Reporting Program					
Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
O'Shaughnessy. To address Project impacts to the 23-Monterey, 24-Divisidero and the 44-O'Shaughnessy, prior to issuance of a grading permit for Development Phase 1, the Project Applicant in cooperation with SFMTA shall conduct a study to evaluate the effectiveness and feasibility of the following improvements which could reduce Project impacts on transit operations along the Palou Avenue corridor, generally between Griffith Street and Newhall Street. The study shall create a monitoring program to determine the implementation extent and schedule (as identified below) to maintain the proposed headways of the 23-Monterey, 24-Divisidero and the 44-O'Shaughnessy.		transit operations related to the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy prior to issuance of a grading permit for Phase 1.			directed and approved by the SFMTA.
		As directed by the monitoring program, prepare traffic and transit improvement feasibility study to define improvements and schedule.l.			Feasibility study submitted and approved by SFMTA
■ Convert one of the two westbound travel lanes on Palou Avenue between Keith Street and Newhall Street (three blocks) to a transit-only lane at all times. Treatment for transit-only lanes can range from striping to physical elevation changes to protect right-of-way from mixed-flow traffic. Because the westbound lanes between Third Street and Newhall Street are relatively narrow, parking would likely need to be prohibited on the north side of Palou Avenue between Third Street and Newhall Street (approximately 600 feet) during peak periods to maximize the effectiveness of the transit-only lane.	Project Applicant/SFMTA/SFDPW	Based on the schedule/thresholds set forth in the feasibility study.	SFRA/SFMTA	SFRA/SFMTA	Completed when improvements identified in feasibility study are implemented.
■ Convert one of the two eastbound travel lanes on Palou Avenue between Newhall Street and Third Street (one block) to a transit-only lane at all times. Because the eastbound travel lanes between Newhall Street are relatively narrow, parking would likely need to be prohibited on					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance

the south side of Palou Avenue between Newhall Street and Third Street (approximately 600 feet) during peak periods to maximize the effectiveness of the transit-only lane. In the eastbound direction, east of Third Street, buses would re-enter the single mixed-flow traffic lane at the bus stop on the far (east) side of Third Street.

- There are currently pedestrian corner bulbs on the northwest and southwest corners of the intersection of Palou Avenue and Third Street. In order to accommodate the transit-only lanes west of Third Street, these bulbouts would be reconfigured or removed. Although removing pedestrian bulb-outs may increase pedestrian crossing distances and is generally inconsistent with the City's desire to prioritize pedestrian activity, in this case, the improvement would offer substantial benefits to transit travel times by allowing a transit-only lane through a congested intersection. This would be consistent with the City's transit-first policy.
- During the PM peak period only, prohibit parking on westbound Palou Avenue for the four-block segment between Griffith Street/Crisp Avenue and Keith Street, to provide for a PM peak period curb transit-only lane along this segment. This would create a continuous westbound transit-only lane on Palou Avenue between Griffith Street/Crisp Avenue and Newhall Street during the PM peak period.

As an alternative to the bulleted measures above, narrow the existing sidewalks on Palou Avenue from Third Street to Crisp Avenue (seven blocks) from 15 feet to 12 feet in width. The pedestrian

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
bulb-outs on the west side of Third Street would be removed. The resulting 12-foot-wide sidewalks would be consistent with the Better Streets Plan guidelines. The reduction in sidewalk width would allow for the provision of a 7-foot-wide on-street parking lane, an 11-foot-wide transit-only lane, and a 10-foot-wide mixed-flow lane in each direction on Palou Avenue. This would preserve on-street parking along the corridor and provide a seven-block transit-only lane on Palou Avenue between Griffith Street/Crisp Avenue and Newhall Street. Treatment for transit-only lanes can range from striping to physical elevation changes to protect right-of-way from mixed-flow traffic. Subsequent to publication of the Draft EIR, SFMTA and the Project Applicant conducted an evaluation of this alternative measure and determined that it is a feasible and viable alternative to the four bulleted items above. The Project Applicant shall fully fund the costs of implementing the transit priority improvements (either the improvements identified above, or alternative improvements of equal or greater effectiveness and comparable cost) as determined by the study and the monitoring program. Other options to be evaluated in the study could include signal priority treatments at other signalized intersections including at Bayshore/Cortland, Bayshore/Industrial, and Bayshore/Oakdale.					
MM TR-22.2 Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 23-Monterey, the 24-Divisadero and the 44-O'Shaughnessy. Should mitigation measure MM TR-22.1 not be feasible or effective, the Project Applicant shall work with SFMTA to purchase additional transit vehicles as necessary	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study.	SFRA/SFMTA	SFRA/SFMTA	Completed when the purchase of additional vehicles is funded as determined by the feasibility study.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 23-Monterey, the 24-Divisadero, and the 44-O'Shaughnessy. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.					
MM TR-23.1 Maintain the proposed headways of the 29-Sunset. To address Project impacts to the 29-Sunset, prior to issuance of a grading permit for Development Phase 1, the Project Applicant in cooperation with SFMTA shall conduct a study to evaluate the effectiveness and feasibility of the following improvements which could reduce Project impacts on transit operations along the Gilman Avenue and Paul Avenue corridor, generally between Arelious Walker Drive and Bayshore Boulevard. The study shall create a monitoring program to determine the implementation extent and schedule (as identified below) to maintain the proposed headways of the 29-Sunset.	Project Applicant/SFMTA	Develop monitoring program for traffic and transit operations related to the 29-Sunset prior to issuance of a grading permit for Phase 1.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as directed and approved by SFMTA
	Project Applicant/SFMTA	As directed by the monitoring program, prepare traffic and transit improvement feasibility study to define improvements and schedule.	SFRA/SFMTA	SFRA/SFMTA	Feasibility study submitted and approved by SFMTA
■ For the five-block segment of Gilman Avenue between Arelious Walker Drive and Third Street, prohibit on-street parking on westbound Gilman Avenue during the AM and PM peak periods to provide for three westbound travel lanes. During the peak periods convert one of the three westbound travel lanes to transit-only. During off-peak periods, parking would be allowed, and buses would travel in one of the two mixed-flow lanes. The peak period transit lanes would impact 90 parking spaces.	Project Applicant/SFMTA/SFDPW	Based on the schedule/thresholds set forth in the feasibility study	SFRA/SFMTA	SFRA/SFMTA	Completed when improvements identified in feasibility study are implemented.
■ For the same five-block segment of Gilman Avenue between Arelious Walker Drive and Third Street, restripe the eastbound direction to					

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
provide two travel lanes, one of which would accommodate on-street parking and one of which would be a mixed-flow travel lane. During the AM and PM peak periods, prohibit on-street parking in the eastbound direction, and operate one of the two eastbound lanes as transit-only lanes. The peak period transit lanes would impact 80 parking spaces. ■ As an alternative to the two bulleted measures above, convert one of the two travel lanes in each direction on Gilman Avenue from Third Street to Griffith Street to transit-only. This would allow for the provision of a 7-foot-wide on-street parking lane, an 11-foot-wide transit-only lane, and a 10-foot-wide mixed-flow lane in each direction on Gilman Avenue. This would preserve on-street parking along the corridor and provide four-block transit-only lanes on Gilman Avenue between Griffith Street and Third Street. Treatment for transit-only lanes can range from striping to physical elevation changes to protect right-of-way from mixed-flow traffic. Subsequent to publication of the Draft EIR, SFMTA and the Project Applicant conducted an evaluation of this alternative measure and determined that it is a feasible and viable alternative to the two bulleted items above ■ Prohibit on-street parking on the north side of Paul Avenue, between Third Street and Bayshore Boulevard to create two westbound through lanes. Convert one westbound through lane to transit-only in the AM and PM peak periods. The peak period transit-only lane would impact 40 parking spaces. At the intersection of Paul Avenue and Bayshore Avenue, provide transit signal priority treatment					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
(i.e., queue jump) to allow transit vehicles to maneuver into the mixed flow left-hand lane, facilitating a left-turn movement immediately west of Bayshore Boulevard from westbound Paul Avenue to southbound San Bruno. The Project Applicant shall fully fund the costs of implementing the transit priority improvements (either the improvements identified above, or alternative improvements of equal or greater effectiveness and comparable cost) as determined by the study and the monitoring program. Other options to be evaluated in the study could include transit priority treatments on San Bruno Avenue, on the portions where the 29-Sunset travels.					
MM TR-23.2 Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 29-Sunset. Should mitigation measure MM TR-23.1 not be feasible or effective, the Project Applicant shall work with SFMTA to purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 29-Sunset. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study.	SFRA/SFMTA	SFRA/SFMTA	Completed when the purchase of additional transit vehicles is funded as determined by the feasibility study.
MM TR-24.1 Maintain the proposed headways of the 48-Quintara-24th Street. To address Project impacts to the 48-Quintara-24th Street, prior to issuance of a grading permit for Development Phase 1, the Project Applicant in cooperation with SFMTA shall conduct a study to evaluate the effectiveness and feasibility of the following improvements which could reduce Project impacts on transit operations along the Evans	Project Applicant/SFMTA	Develop monitoring program for traffic and transit operations related to the 48-Quintara-24th Street prior to issuance of a grading permit for Phase 1.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as directed and approved by SFMTA

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
Avenue corridor, generally between Hunters Point Boulevard and Napoleon Street. The study shall create a monitoring program to determine the implementation extent and schedule (as identified below) to maintain the proposed headways of the 48-Quintara-24th Street.	Project Applicant/SFMTA	As directed by the monitoring program, prepare traffic and transit improvement feasibility study to define improvements and schedule.	SFRA/SFMTA	SFRA/SFMTA	Feasibility study submitted and approved by SFMTA
▪ On Evans Avenue, between Jennings Street and Napoleon Street (a nine-block segment—about 6,000 feet), convert one of the two travel lanes in each direction to a transit-only lane at all times. Treatment for transit-only lanes can range from striping to physical elevation changes or barriers to protect transit right-of-way from mixed-flow traffic.	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study	SFRA/SFMTA	SFRA/SFMTA	Completed when improvements identified in feasibility study are implemented.
The Project Applicant shall fully fund the costs of implementing the transit priority improvements (either the improvements identified above, or alternative improvements of equal or greater effectiveness and comparable cost) as determined by the study and the monitoring program. Other options to be evaluated in the study could include extension of transit only lanes in one or both directions between Napoleon Street and Cesar Chavez Street or onto Hunters Point Boulevard and Innes Avenue.					
Or:					
MM TR-24.2 Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 48-Quintara-24th Street. Should mitigation measure MM TR-24.1 not be feasible or effective, the Project Applicant shall work with SFMTA to purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study	SFRA/SFMTA	SFRA/SFMTA	Completed when the purchase of additional transit vehicles is funded as determined by the feasibility study

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
headways on the 48-Quintara-24th Street. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.					
MM TR-25 Purchase additional transit vehicles to mitigate the Project impacts and Project contribution to cumulative impacts to headways on 54-Felton. SFMTA shall purchase additional transit vehicles to mitigate the Project impacts and Project contribution to cumulative impacts to headways on 54-Felton. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.	Project Applicant/SFMTA	Develop monitoring program for traffic and transit operations related to the 54-Felton prior to issuance of a grading permit for Phase 1.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as directed and approved by SFMTA.
	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study	SFRA/SFMTA	SFRA/SFMTA	Completed when the purchase of additional transit vehicles is funded as determined by the feasibility study.
MM TR-26.1 Maintain the proposed headways of the T-Third. To address Project impacts to the T-Third, prior to issuance of a grading permit for Development Phase 1 the Project Applicant in cooperation with SFMTA shall conduct a study to evaluate the effectiveness and feasibility of the following improvement that could reduce Project impacts on transit operations along Third Street between Thomas Avenue and Kirkwood Avenue. The study shall create a monitoring program to determine the implementation extent and schedule (as identified below) to maintain the proposed headways of the T-Third.	Project Applicant/SFMTA	Develop monitoring program for traffic and transit operations related to the T-Third prior to issuance of a grading permit for Phase 1.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as directed and approved by SFMTA.
	Project Applicant/SFMTA	As directed by the monitoring program, prepare traffic and transit improvement feasibility study to define improvements and schedule	SFRA/SFMTA	SFRA/SFMTA	Feasibility study submitted and approved by SFMTA
■ Reconfigure the section of Third Street between Thomas Avenue and Kirkwood	Project Applicant/SFMTA/SFDPW	Based on the schedule/thresholds	SFRA/SFMTA	SFRA/SFMTA	Completed when improvements

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
Avenue (9 blocks) where the light rail vehicles currently share the travel lane with auto traffic to provide a dedicated transit right-of-way, consistent with the rest of the route. This would require either removal of one travel lane in each direction on Third Street, or removal of on-street parking and some sidewalk bulbouts. In addition, left-turns from Third Street in this segment would be restricted in both directions. Treatment for transit-only lanes can range from striping to physical elevation or barriers to protect transit right-of-way from mixed-flow traffic.		set forth in the feasibility study			identified in the feasibility study are implemented.
Implementation of the roadway reconfiguration shall be the responsibility of SFMTA, and shall be implemented when the results of the study described above indicate transit improvements are necessary. The Project Applicant shall fully fund the costs of implementing the transit priority improvements prior to approval of subsequent phases of development.					
MM TR-26.2 Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the T-Third. Should mitigation measure MM TR-26.1 not be feasible or effective, the Project Applicant shall work with SFMTA to purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the T-Third. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study	SFRA/SFMTA	SFRA/SFMTA	Completed when the purchase of additional transit vehicles is funded as determined by the feasibility study.
MM TR-27.1 Ensure transit preferential treatment is accounted for in the design of the Geneva Avenue	Project Applicant/SFMTA/SFCTA	Ongoing as part of the Geneva Avenue	SFRA/SFMTA/SFCTA	SFRA/SFMTA/SFCTA	Upon completion of the Geneva Avenue

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Extension. The City of Brisbane, as part of the Geneva Avenue Extension Project, shall account for existing traffic, background traffic growth, and the most recent forecasts of traffic expected to be associated with each of several adjacent development projects, including the Project. The San Francisco County Transportation Authority (SFCTA) and SFMTA shall coordinate with the City of Brisbane to ensure transit preferential treatment is accounted for in the design of the Geneva Avenue Extension.		Extension Project			Extension Project
MM TR-27.2 Purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 28L-19th Avenue/Geneva Limited. Should mitigation measure MM TR-27.1 not be feasible or effective, the Project Applicant shall work with SFMTA to purchase additional transit vehicles as necessary to mitigate the Project impacts and Project contribution to cumulative impacts to headways on the 28L-19th Avenue/Geneva Limited. Funds for the implementation of this mitigation measure are expected to be generated from a combination of Project revenues that accrue to the City, and other funding sources.	Project Applicant/SFMTA	Develop monitoring program for traffic and transit operations related to the 28L-29th Avenue/Geneva Limited prior to issuance of a grading permit for Phase 1.	SFRA/SFMTA	SFRA/SFMTA	Upon completion of a monitoring program as directed and approved by SFMTA.
	Project Applicant/SFMTA	Based on the schedule/thresholds set forth in the feasibility study	SFMTA	SFMTA	Completed when the purchase of additional transit vehicles is funded as determined by the feasibility study.
MM TR-32 Determine the feasibility of relocating Bicycle Routes #70 and #170. Prior to issuance of the grading permit for Development Phase 1, the Project Applicant shall fund a study to determine the feasibility of relocating Bicycle Routes #70 and #170. The study of the bicycle route relocation, necessary environmental clearance documentation, and implementation shall be the responsibility of SFMTA.	Project Applicant/SFMTA	Prior to issuance of the grading permit for Phase 1	SFRA/SFMTA	SFMTA	Upon completion of the feasibility study.
MM TR-38 Transportation Management Plan	Stadium Operator/SFMTA	Prior to opening day of	SFRA/SFMTA	SFRA/SFMTA	Approval of the

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
(TMP) for the stadium. The stadium operators shall develop and maintain a Transportation Management Plan (TMP) for the stadium. The stadium operator shall work with representatives from the SFMTA, the State Highway Patrol, the Police Department, private charter operators, Caltrain and others on a continuing basis to develop and refine the TMP, as determined appropriate by SFMTA. The final stadium TMP shall be approved by SFMTA. Preparation of the TMP shall be fully funded by the stadium operator, and shall be completed in time for implementation on opening day of the stadium. The following actions shall be included in the TMP: ▪ Information on transportation options to the stadium, including game day service by the various regional service providers shall be distributed to season ticket holders, employees, and other patrons if possible. ▪ A brochure, information packet, and/or web page providing full information on transit access to the stadium, similar to that currently offered at the 49ers website, shall be updated and maintained. ▪ The use of charter buses to the stadium shall be encouraged and expanded. A number of measures shall be considered that could be implemented at low-cost to expand the use of group charters, including reduced parking costs, publicize the groups in 49ers publications and mailings, provide priority parking, provide lounges for bus drivers and provide support services for rooter clubs. ▪ Residential Permit Parking Program and/or additional parking restrictions, such as time limits, during game days, particularly in the Bayview Hunters Point areas, shall be explored		the stadium			Transportation Management Plan (TMP) by the SFMTA

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with residents to reduce potential for intrusion of stadium vehicles into the adjacent neighborhood during a football game or secondary event.

- The stadium operator shall implement measures to encourage carpools of 4-plus persons per vehicle.
- The stadium operator shall charge a higher parking cost for low occupancy vehicles.
- The stadium operator shall develop a separate TDM plan for employees of the stadium and concessionaires. The plan shall consider measures such as providing employees and concessionaires with free or subsidized transit passes to encourage transit use and reduce vehicular travel to the stadium. Employees shall not receive preferential parking.
- The stadium operator shall develop measures with CPSRA to ensure that game day spectators do not park in CPSRA day use parking lots. Strategies to be explored include limiting parking in CPSRA lots to a limited duration during game days (e.g., to a two-hour period), or an increase in parking fees equivalent to game day parking, and ticketing and enforcement.
- The TMP shall ensure that regular transit routes operate acceptably near the stadium. The plan should consider providing alternate routes for those transit lines that do not have exclusive right-of-way on game days (48-Quintara-24th Street, 44-O'Shaughnessy, 29-Sunset) onto transit-only facilities such as the BRT right-of-way to the south and Palou Avenue to the north (which would be a transit-only facility on game days).

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
MM TR-39 Transit Service during Game Days. SFMTA shall increase frequency on regularly scheduled Muni routes serving the stadium area on game days. In addition, the stadium operator shall fund additional Muni shuttle service between the stadium and regional transit service, including BART (Balboa Park and/or Glen Park Station) and Caltrain (Bayshore Station). Although the specific frequencies of individual routes should be determined based on patron characteristics that may evolve over time, the increased transit service, taken as an aggregate, should generally compensate for the projected shortfall of 3,600 passengers per hour on the existing and proposed transit lines. Prior to opening day at the new stadium, the City and stadium operator shall determine costs associated with the increased service and determine funding sources. Examples of funding sources that shall be considered include a surcharge on game tickets or other such revenue mechanism. Implementation of increased transit service would be the responsibility of SFMTA and the stadium operator, and would be implemented when projected attendance warrants additional service.	Stadium Operator/SFMTA	Prior to opening day of the stadium	SFRA/SFMTA	SFRA/SFMTA	Approval of gameday transit operating plan by SFMTA.
MM TR-46 Traffic Control Officers. The stadium operator shall develop as part of a stadium Transportation Management Plan (TMP), a strategy for coordinating with representatives of SFMTA and the SF Police Department for deploying traffic control officers in the Project vicinity to increase efficiency of pre- and post-event traffic, similar to what would be in place for football game days. The secondary event component of the stadium TMP shall be approved	Stadium Operator/SFMTA	Prior to opening day of the stadium	SFRA/SFMTA	SFRA/SFMTA	Approval of the Transportation Management Plan (TMP) by the SFMTA

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
by SFMTA. The stadium operator shall fully fund implementation of the secondary event (i.e., non-49ers football events) measures.					
MM TR-47 Transit Service during Secondary Events. SFMTA shall increase frequency on regularly scheduled Muni routes serving the stadium area prior to large special events. In addition, the stadium operator shall fund additional Muni shuttle service between the stadium and regional transit service, including BART (Balboa Park and/or Glen Park stations) and Caltrain (Bayshore station). ■ Routes 24-Divisadero, 28L-19th Avenue Limited, and 44-O'Shaughnessey would already be operating near their maximum frequency. Therefore, this mitigation measure primarily applies to the 48-Quintara-24th Street route and the new HPX service. If each of these routes were increased to have five-minute frequencies (typically considered the maximum frequency that can be regularly maintained), the transit capacity toward the stadium would increase by 828 passengers per hour, for a total of 3,928 passengers. Even with the additional service on these two lines, there would be a shortfall of 1,797 passengers per hour in transit capacity. ■ Additional express service to key regional transit destinations and regional charter express service, similar to what is offered on football game days, would offset a portion of the shortfall in transit capacity. The amount and nature of special service to special stadium events would depend on the type and size of the special event. Generally, the capacity of the express service should compensate for the shortfall of 1,797	Stadium Operator/SFMTA	Prior to opening day of the stadium	SFRA/SFMTA	SFRA/SFMTA	Approval of special-event transit operating plan by SFMTA.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
passengers per hour for a 37,500-person event (transit supply, would of course, be designed on a case-by-case basis depending on the expected size of the secondary event). ▪ SFMTA and the stadium operator shall implement a stadium transportation systems plan similar to that developed for game-day operations (except that the Yosemite Slough bridge shall not be available for private automobiles), on a case-by-case basis depending on the expected size of the secondary event. Prior to opening day at the new stadium, the City and the stadium operator shall determine costs associated with the increased service and determine funding requirements. Examples of funding sources that shall be considered include a surcharge on game tickets, parking or admission surcharge, or other such revenue mechanism. Implementation of increased transit service would be the responsibility of SFMTA and the stadium operator, and would be implemented when projected attendance warrants additional service.					
MM TR-51 Transportation Management Plan (TMP). The arena operator shall develop a Transportation Management Plan (TMP) for coordinating with representatives of SFMTA and the SF Police Department for deploying traffic control officers in the Project vicinity to increase efficiency of pre- and post- event traffic, and for developing incentives to increase transit ridership to the arena. If Variants 1, 2 or 2A are implemented, the TMP shall provide for SFMTA to increase the frequency on regularly scheduled Muni routes (primarily the CPX-Candlestick Express) serving the arena area prior to large events at the arena and for the arena operator to	Arena Operators/SFMTA	Prior to opening day of the Arena	SFRA/SFMTA	SFRA/SFMTA	Approval of the Transportation Management Plan (TMP) by the SFMTA

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
provide additional shuttle service to key regional transit destinations, such as BART, Caltrain, and the T-Third light rail route. Implementation of this mitigation measure would likely speed vehicle entrance and exit to the arena site as well as maintain orderly traffic and transit operations and reduce intrusion onto minor routes to and from the arena. Traffic control officers would facilitate traffic flow at the intersection of Harney/Jamestown which would operate at LOS F conditions with a sell-out arena event. The final arena TMP shall be approved by SFMTA. Preparation of the TMP Plan shall be fully funded by the arena operator, and shall be completed in time for implementation on opening day of the arena.					
SECTION III.E (AESTHETICS)					
MM AE-2 Mitigation for Visual Character/Quality Impacts During Construction. Construction documents shall require all construction contractors to strictly control the staging of construction equipment and the cleanliness of construction equipment stored or driven beyond the limits of the construction work area. Construction equipment shall be parked and staged on the Project site. Staging areas shall be screened from view at street level with solid wood fencing or green fence. Prior to the issuance of building permits, the Project Applicant (through the construction contractor[s]) shall submit a construction staging, access, and parking plan to the San Francisco Department of Building Inspection for review and approval. On-street parking of construction worker vehicles shall be prohibited. Vehicles shall be kept clean and free of mud and dust before leaving the Project site. Project contractors shall sweep surrounding streets	Project Applicant	Requirements in construction documents: Prior to issuance of first permit for each phase of construction. Implementation of requirements: Ongoing through the construction process	SFRA/DBI	Construction Contractor	SFRA and DBI to review construction documents and construction staging, access, and parking plan. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
used for construction access daily and maintain them free of dirt and debris.					
MM AE-7a.1 Lighting Direction/Fixtures and Screening Walls to Minimize Glare and Light Spill. The Project Applicant shall ensure that all parking lot and other security lighting shall be directed away from surrounding land uses and towards the specific location intended for illumination. State-of-the-art fixtures shall be used, and all lighting shall be shielded to minimize the production of glare and light spill onto surrounding use. All parking structures shall be constructed with screening walls of sufficient height to block spill light from vehicle headlights.	Project Applicant	Submission of lighting plan subject to lot application or open space design document review; prior to issuance of building permit	SFRA/DBI/DPW	SFRA/DBI/DPW	SFRA to review designs and specifications as part of lot application or open space design document review. DBI/DPW to issue permits and approve construction completion
MM AE-7a.2 Low-level/Unobtrusive Light Fixtures. The Project Applicant shall ensure that landscape illumination and exterior sign lighting shall be accomplished with low-level, unobtrusive fixtures	Project Applicant	Submission of lighting plan subject to lot application or open space design document review; prior to issuance of building permit	SFRA/DBI/DPW	SFRA/DBI/DPW	SFRA to review designs and specifications as part of lot application or open space design document review. DBI/DPW to issue permits and approve construction completion
MM AE-7a.3 Lighting Plan. The Developer shall prepare a lighting plan for each sub-Phase of the Project and submit it to the Agency prior to approval of a sub-Phase. Outdoor lighting shall maintain a minimum required illumination, as determined appropriate by the Agency for all parking and pedestrian areas. In addition, the plan shall include details such as beam spreads and/or photometric calculation, location and type of fixtures, exterior colors, details on foundations, and arrangement of exterior lighting such that it does not create glare, hazardous interference on	Project Applicant	Submission of lighting plan prior to sub-Phase approval	SFRA	SFRA	SFRA to review design as part of sub-Phase application; DBI to issue permits and approve construction completion

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
adjacent streets, or properties or result in spill light that would adversely impact sensitive receptors in the project area.					
MM AE-7a.4 Non-reflective Exterior Surfaces to Minimize Glare Impacts. The Project Applicant shall ensure that design of the proposed structures shall include the use of textured or other nonreflective exterior surfaces and nonreflective glass.	Project Applicant	At schematic lot application or open space design review and plan check; prior to issuance of building permit	SFRA/DBI	SFRA/DBI	SFRA to review designs and specifications as part of lot application or open space design application
MM AE-7b.1 Testing of the Field-Lighting System. Prior to opening the stadium, the Stadium Operator shall test the installed field-lighting system to ensure that lighting meets operating requirements in the stadium and minimizes obtrusive spill lighting in the ballpark facility. Testing shall include light-meter measurements at selected locations in the vicinity to measure spill lighting from stadium field-lighting fixtures, permit adjustment of lighting fixtures, and confirm that spill-lighting effects shall be within an acceptable range and compatible with typical street lighting fixtures.	Stadium Operator	Prior to opening day of the Stadium	SFRA/DBI	SFRA/DBI	SFRA to review designs and specifications as part of lot application review; DBI to issue schematic permits and approve construction completion
MM AE-7b.2 Stadium Lighting Orientation and Cut-Off Shields. Prior to opening the stadium, the Stadium Operator shall ensure that stadium lighting is oriented in such a manner to reduce the amount of light shed onto sensitive receptors and incorporate "cut-off" shields as appropriate to minimize any increase in lighting at adjacent properties, providing that it still meets the standard of lighting for football operations.	Stadium Operator	At lot application/ schematic design documents submitted for approval	SFRA/DBI	SFRA/DBI	SFRA to review designs and specifications as part of lot application review; DBI to issue permits and approve construction completion
		SECTION III.G (WIND)			
MM W-1a Building Design Wind Analysis. Prior to design approval of Project buildings for high-rise structures above 100 feet, if recommended by Agency staff, the Project Applicant shall retain a	Project Applicant	At lot application schematic design review and plan check; prior to	SFRA/DBI	SFRA	SFRA to review design and specification as part of lot application

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qualified wind consultant to provide a wind review to determine if the exposure, massing, and orientation of the building would result in wind impacts that could exceed the threshold of 26-mph-equivalent wind speed for a single hour during the year. The wind analysis shall be conducted to assess wind conditions for the proposed building(s) in conjunction with the anticipated pattern of development on surrounding blocks to determine if the Project building(s) would cause an exceedance of the wind hazard standard. The analysis shall be conducted as directed by the City's wind study guidelines, including, if required, wind tunnel modeling of potential adverse effects relating to hazardous wind conditions. The Agency shall require the Project Applicant to identify design changes that would mitigate the adverse wind conditions to below the threshold of 26-mph-equivalent wind speed for a single hour of the year. These design changes could include, but are not limited to, wind-mitigating features, such as placing towers on podiums with a minimum 15-foot setback from street edges, placement of awnings on building frontages, street and frontage plantings, articulation of building facades, or the use of a variety of architectural materials.		issuance of bldg permit.			schematic design review; DBI to issue permits and approve construction completion
		SECTION III.H (AIR QUALITY)			
MM AQ 2.1 Implement Emission Control Device Installation on Construction. To reduce DPM emissions during Project construction, the Project Applicant shall require construction equipment used for the Project to utilize emission control technology such that 50% of the fleet will meet US EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies) for particulate matter control (or equivalent) during the first two years of	Project Applicant	Prior to issuance of construction site permit	SFRA/ DBI	SFRA/DBI	SFRA and DBI to review construction documents; Construction contractor to submit quarterly report and compliance of activity through fourth year of construction, and annually thereafter,

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construction activities, increasing to 75% of the fleet in the third year and 100% of the fleet starting in the fourth year and for the duration of the Project.					until deemed complete by SFRA.
MM AQ-2.2 Implement Accelerated Emission Control Device Installation on Construction Equipment Used for Alice Griffith Parcels. In addition to mitigation measure MM AQ-2.1, in order to minimize the potential impacts to residents living in Alice Griffith from the construction activities in that area, the Project Applicant will require that all construction equipment used in the Alice Griffith parcels (CP01 though CP06) would utilize equipment which meets the US EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies) for particulate matter control (or equivalent) throughout the entire duration of construction activities on those parcels.	Project Applicant	Prior to issuance of construction site permit	SFRA /DBI	SFRA/DBI	SFRA and DBI to review construction documents; Construction contractor to submit quarterly report and compliance of activity through duration, until deemed complete by SFRA.
MM AQ-6.1 If a facility with sources of TAC emission wishes to locate on a plot size smaller than 1 acre, an analysis will be required to show the facility, in conjunction with all other TAC emitting facilities in the R&D areas, will not cause thresholds of a residential cancer risk of 10 in one million and a chronic noncancer HI of 1.0 to be exceeded at the nearest residential locations.	Project Applicant	Lot size submitted at time of sub-phase application; if lot size is less than 1 acre, TAC analysis required prior to building occupancy	SFRA/DBI	SFRA/DBI	SFRA and DBI to review sub-phase application; for lots under once acre SFRA and DBI to review TAC analysis prior to building occupancy. ,
MM AQ-6.2 Each facility with sources of TAC emissions on a plot of 1 acre or larger will limit their emissions such that residential cancer risk and chronic non-cancer hazard index evaluated at the facility boundary does not exceed 10 in one million or 1.0, respectively. If these thresholds are exceeded at the boundary, an analysis will be required to show the facility, in conjunction with all other TAC emitting facilities in the R&D areas, will	Project Applicant	Lot size submitted at time of sub-phase application; if lot size is equal to or greater than 1 acre, TAC analysis required annually. If thresholds exceeded, additional analysis required at	SFRA/DBI	SFRA/DBI	Ongoing requirement

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not cause these thresholds to be exceeded at the nearest residential locations.		direction of SFRA			
SECTION III.I (NOISE AND VIBRATION)					
MM NO-1a.1 Construction Document Mitigation to Reduce Noise Levels during Construction. The Project Applicant shall incorporate the following practices into the construction documents to be implemented by the Project contractor: ■ Provide enclosures and mufflers for stationary equipment, shrouding or shielding for impact tools, and barriers around particularly noisy operations on the site ■ Use construction equipment with lower noise emission ratings whenever possible, particularly air compressors ■ Provide sound-control devices on equipment no less effective than those provided by the manufacturer ■ Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptors ■ Prohibit unnecessary idling of internal combustion engines ■ Require applicable construction-related vehicles and equipment to use designated truck routes to access the Project site ■ Implement noise attenuation measures to the extent feasible, which may include, but are not limited to, noise barriers or noise blankets. The placement of such attenuation measures will be reviewed and approved by the Director of Public Works prior to issuance of development permits for construction activities. ■ Designate a Noise Disturbance Coordinator who shall be responsible for responding to	Project Applicant	Prior to issuance of construction site permit	SFRA/DBI/DPW	SFRA/DBI/DPW	Review and approve contract specifications; Project Applicant to submit quarterly report to SFRA

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complaints about noise during construction. The telephone number of the Noise Disturbance Coordinator shall be conspicuously posted at the construction site and shall be provided to the City. Copies of the construction schedule shall also be posted at nearby noise-sensitive areas.					
MM NO-1a.2 Noise-reducing Pile Driving Techniques and Muffling Devices. The Project Applicant shall require its construction contractor to use noise-reducing pile driving techniques if nearby structures are subject to pile driving noise and vibration. These techniques include pre-drilling pile holes (if feasible, based on soils) to the maximum feasible depth, installing intake and exhaust mufflers on pile driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile driving hammer where feasible. Contractors shall be required to use construction equipment with state-of-the-art noise shielding and muffling devices. In addition, at least 48 hours prior to pile-driving activities, the Project Applicant shall notify building owners and occupants within 500 feet of the Project site of the dates, hours, and expected duration of such activities.	Project Applicant	Prior to issuance of construction site permit	SFRA/DBI/DPW	SFRA /DBI/DPW	Review and approve contract specifications ; Project Applicant to submit quarterly report to SFRA
MM NO-2a Pre-construction Assessment to Minimize Pile Driving Impacts. The Project Applicant shall require its geotechnical engineering contractor to conduct a pre-construction assessment of existing subsurface conditions and the structural integrity of nearby buildings subject to pile driving impacts prior to receiving a building permit. If recommended by the geotechnical engineer, for structures or facilities within 50 feet of pile driving, the Project Applicant shall require ground borne vibration monitoring of nearby structures. Such methods and technologies shall	Project Applicant	Assessment prior to issuance of construction site permit; Monitoring: Ongoing through construction process	SFRA/DBI	SFRA/DBI/DPW	Review and approve corrective measures as identified throughout construction process quarterly report

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be based on the specific conditions at the construction site such as, but not limited to, the following: ■ Pre-pile driving surveying of potentially affected structures. ■ Underpinning of foundations of potentially affected structures, as necessary. ■ The construction plan shall include a monitoring program to detect ground settlement or lateral movement of structures in the vicinity of an excavation. Monitoring results shall be submitted to DBI. In the event of unacceptable ground movement, as determined by DBI inspections, all pile driving work shall cease and corrective measures shall be implemented. The pile driving program and ground stabilization measures shall be reevaluated and approved by DBI.					
MM NO-7.1 Mitigation to Minimize Game/Concert-related Temporary Increases in Ambient Noise Levels at Nearby Residences. To ensure that stadium game-and event-induced interior L_{max} noise levels do not exceed an interior noise level of 60 dBA and interfere with speech and other indoor activities in the existing Hunters Point Hill residential community closest to and north of the proposed Stadium (i.e., as identified by the R3 stadium noise model receiver), the Stadium Operator shall: ■ After stadium operator enters into lease agreement with Agency, send notification of the establishment of a stadium noise mitigation program (SNMP) to the residential property owners in the identified neighborhood potentially affected by noise from the proposed Stadium	Stadium Operator	After stadium operator enters lease agreement with SFRA	SFRA	SFRA	Complete upon payment of qualified property owners as identified by the acoustical survey. Stadium operator to report to SFRA upon establishment SNMP and yearly threshold until SNMP is completely implemented; continue monitoring through creation of ad hoc community working group.

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■ Allow property owners an appropriate time after the date of notification about the SNMP to apply for the program, with a reminder sent to the owners before the end of the application period ■ Determine if responding property owners meet qualifications ■ Compile for property-owners reference and send to them a summary of standard types of structural acoustical mitigations ■ Choose a qualified acoustical consultant to survey the potentially affected residential units and recommend sound reduction measures appropriate to offset the modeled stadium noise impacts, which may include: > Acoustical upgrades to windows and doors > Acoustical stripping around doors and other openings > Ventilation improvements ■ Estimates cost of recommended sound reduction measures, which shall include labor and materials, permit fees, and City inspections; material costs will, as much as possible, be based on "like-for-like", that is, for replacement of existing materials similar in quality or appearance ■ Pay each qualifying property owner the amount of this estimate after obtaining a release from future claims for stadium event noise impacts at each property with each property owner responsible for implementing the sound reduction improvements ■ Establish an ad hoc community working group of neighbors to develop a mediation process should any future disputes arise over the effectiveness of the SNMP in eliminating					

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
stadium noise intrusions					
MM NO-7.2 Residential Use Plan Review by Qualified Acoustical Consultant. To ensure that stadium game-and event-induced interior Lmax noise levels do not exceed an interior noise level of 60 dBA and interfere with speech and other indoor activities in the proposed on-site residential uses closest to the proposed Stadium, the Project Applicant shall choose a qualified acoustical consultant to review plans for the new residential uses planned for areas closest to the proposed Stadium and follow their recommendations to provide acoustic insulation or other equivalent measures to ensure that interior peak noise events would not exceed 60 dBA L_{max}.	Project Applicant	Design review lot application	SFRA /DBI	SFRA /DBI	Review in all design documents
SECTION III.J (CULTURAL RESOURCES AND PALEONTOLOGICAL RESOURCES)					
MM CP-1b.1 Mitigation to Minimize Impacts on Historic Resources at HPS Phase II. To reduce the adverse effect on historical resources, prior to any structural demolition and removal activities, the Project Applicant shall retain a professional who meets the Secretary of the of the Interior's Professional Qualifications Standards for Architectural History to prepare written and photographic documentation of the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District, as identified in the report titled *Bayview Waterfront Plan Historic Resources Evaluation, Volume II: Draft Historic Resources Survey and Technical Report*, July 2009, prepared by Circa Historic Property Development. The documentation for the property shall be prepared based on the National Park Services' (NPS) Historic American Building Survey (HABS) / Historic American Engineering Record (HAER) Historical Report Guidelines. This type of	Project Applicant	Prior to issuance of any demolition and removal activities of historic resources	SFRA/Planning Department	SFRA	All written and photographic documentation of the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District shall be approved by the SFRA prior to issuance and permits for any demolition and removal activities.

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documentation is based on a combination of both HABS/HAER standards (Levels II and III) and NPS new policy for NR-NHL photographic documentation as outlined in the National Register of Historic Places and National Historic Landmarks Survey Photo Policy Expansion (March 2005). The written historical data for this documentation shall follow HABS / HAER Level I standards. The written data shall be accompanied by a sketch plan of the property. Efforts should also be made to locate original construction drawings or plans of the property during the period of significance. If located, these drawings should be photographed, reproduced, and included in the dataset. If construction drawings or plans cannot be located as-built drawings shall be produced. Either HABS / HAER standard large format or digital photography shall be used. If digital photography is used, the ink and paper combinations for printing photographs must be in compliance with NR-NHL photo expansion policy and have a permanency rating of approximately 115 years. Digital photographs will be taken as uncompressed .TIF file format. The size of each image will be 1600x1200 pixels at 300 ppi (pixels per inch) or larger, color format, and printed in black and white. The file name for each electronic image shall correspond with the index of photographs and photograph label. Photograph views for the dataset shall include *(a)* contextual views; *(b)* views of each side of each building and interior views, where possible; *(c)* oblique views of buildings; and *(d)* detail views of character-defining features, including features on the interiors of some buildings. All views shall be referenced on a photographic key. This photograph key shall be on a map of the property and shall					

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show the photograph number with an arrow indicate the direction of the view. Historic photographs shall also be collected, reproduced, and included in the dataset. All written and photographic documentation of the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District shall be approved by the SFRA, in consultation with the ERO, prior to any demolition and removal activities.					
MM CP-1b.2 Interpretive Displays Depicting History of HPS. Interpretive displays related to the history of HPS shall be installed at Heritage Park at Dry Dock Nos. 2 and 3. The number and type of displays shall be approved by the SFRA, in consultation with the ERO.	Project Applicant	Schematic design review for Heritage Park	SFRA/Planning Department	SFRA	Displays approved by SFRA; Project Applicant to provide report to SFRA once installed
MM CP-2a Mitigation to Minimize Impacts to Archaeological Resources at Candlestick Point. Based on a reasonable presumption that archaeological resources may be present within the Project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the Project on buried or submerged historical resources. Overview: The Project Applicant shall retain the services of a qualified archaeological consultant having expertise in California prehistoric and urban historical archeology. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the archaeological consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure and with the requirements of the Project Archaeological Research Design and Treatment					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Plan (Archeo-Tec. Archaeological Research Design and Treatment Plan for the Bayview Waterfront Project, San Francisco, California, 2009) at the direction of the City's Environmental Review Officer (ERO). In instances of inconsistency between the requirement of the Project Archaeological Research Design and Treatment Plan and of this archaeological mitigation measure, the requirement of this archaeological mitigation measure shall prevail. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the Project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce potential effects on a significant archaeological resource as defined in CEQA Guidelines Section 15064.5(a)(c) to a less-than-significant level.					
Archaeological Testing Program: The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the Project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine	Project Applicant	Testing Plan: Completed prior to issuance of any permit authorizing soils disturbance Testing program: Completed Prior to commencement of any soils disturbing construction activity Testing Report: Completed prior to	SFRA, ERO	SFRA, ERO	Quarterly MMRP reports to SFRA, to include reporting on any Archeo Mit Measure tasks completed Testing Plan complete upon approval by ERO of Final Testing Plan Testing Program and Report deemed

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.		commencement of any soils disturbing activity			complete upon approval by ERO Final Testing Report
At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings for submittal to the ERO. If, based on the archaeological testing program, the archaeological consultant finds that significant archaeological resources may be present, the ERO (in consultation with the archaeological consultant) shall determine if additional measures are warranted. Additional measures that may be undertaken include, but are not necessarily limited to, additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the Project, the Project Applicant shall either: a. Re-design the Project so as to avoid any adverse effect on the significant archaeological resource; or b. Implement a data recovery program, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.					Prior to project construction demolition and remediation
Archaeological Monitoring Program: If the ERO, in consultation with the archaeological consultant, determines that an Archaeological Monitoring Program (AMP) shall be implemented, the AMP shall include the following provisions, at a minimum:	Project Applicant	Monitoring Program: Development of program work scope prior to commencement of soils disturbing	SFRA; ERO	SFRA; ERO	Quarterly MMRP reports to SFRA, to include reporting on any Archeo Mit Measure tasks completed

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
■ The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the AMP prior to the commencement of any Project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what Project activities shall be archaeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), and site remediation, shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context.		construction activity; monitoring activity to occur during site excavation and construction, as per monitoring program Monitoring Report: Report submitted to ERO upon completion of monitoring Program			Monitoring program and Report deemed Complete upon approval by ERO of Final Monitoring Report
■ The archaeological consultant shall train all Project construction personnel who could reasonably be expected to encounter archaeological resources of the expected resource(s), how to identify the evidence of the expected resource(s), and the appropriate protocol in the event of apparent discovery of an archaeological resource.					
■ The archaeological monitor(s) shall be present on the Project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with the archaeological consultant, determined that Project construction activities could have no effects on significant archaeological deposits.					
■ The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis.					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
▪ If an intact archaeological deposit is encountered, all soil-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be authorized to temporarily halt demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If, in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of any encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit and present the findings of this assessment to the ERO as expeditiously as possible. ▪ Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.					
Archaeological Data Recovery Program: The archaeological data recovery program shall be conducted in accord with an Archaeological Data Recovery Plan (ADRP). The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is	Project Applicant	Data Recovery Plan: Development of Program work scope, in conjunction with work scope for Archeo Monitoring Program prior to commencement of soils disturbance construction activity. More specific or	SFRA; ERO	SFRA; ERO	Quarterly MMRP reports to SFRA, to include reporting on any Archeological Mit Measure tasks completed Data Recovery Plan and Program deemed complete upon

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the Project. Destructive data recovery methods shall not be pursued if nondestructive methods are practical. The scope of the ADRP shall include the following elements: ■ Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. ■ Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. ■ Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. ■ Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program. ■ Security Measures. Recommended security measures to protect the archaeological resource from vandalism, looting, and other potentially damaging activities. Final Report. Description of proposed report format and distribution of results. ■ Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation		detailed subsequent work scope may be required by ERO upon completion of Archeo Monitoring Program and Report Data Recovery program: Activity to occur during and subsequent to construction activity, as per Data Recovery Program			approval by ERO of Final report indicating completion of data recovery program.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
facilities, and a summary of the accession policies of the curation facilities.					
Human Remains and Associated or Unassociated Funerary Objects: The treatment of human remains and associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with applicable state and federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Sec. 5097.98). The archaeological consultant, Project Applicant, and MLD shall make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines Sec. 15064.5(d)). The agreement shall take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.	Project Applicant	Upon discovery, if applicable	Coroner; SFRA	Applicant to notify SFRA, Coroner, and, if applicable, California State Native American Heritage Commission	Upon approval by ERO of Final Archaeo Resources Report
Final Archaeological Resources Report: The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s). Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.	Project Applicant	Upon completion of testing, monitoring and data recovery programs: For Horizontal Developer – prior to determination of substantial completion of infrastructure @ each sub-phase;	SFRA; ERO	SFRA; ERO	Upon approval by ERO of Final Archaeo Resources Report

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than presented above.		For Vertical Developer – Prior to issuance of Certificate of Temporary or Final Occupancy, whichever occurs first			
MM CP-3a Paleontological Resources Monitoring and Mitigation Program. The Project Applicant shall retain the services of a qualified paleontological consultant having expertise in California paleontology to design and implement a Paleontological Resources Monitoring and Mitigation Program (PRMMP). The PRMMP shall include a description of when and where construction monitoring would be required; emergency discovery procedures; sampling and data recovery procedures; procedures 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.	Project Applicant	Design of Paleo Resources Monitoring and Mitigation Program (PRMMP) prior to soils disturbing activity Monitoring of site for paleo resources pursuant to PRMMP, to occur throughout soils disturbing activity	SFRA; ERO	SFRA; ERO	Approval by ERO of final design for PRMMP Quarterly MMRP reports to SFRA, to include reporting on any Paleo Mit Measure tasks completed
The PRMMP shall be consistent with the Society for Vertebrate Paleontology (SVP) Standard Guidelines for the mitigation of construction-related adverse impacts to paleontological resources and the requirements of the designated repository for	Project Paleontologist	During project soils disturbing activities	SFRA, ERO	SFRA, ERO	During project soil disturbing activities. ERO to review and approve PRMMP and determine whether

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
any fossils collected. During construction, earth-moving activities shall be monitored by a qualified paleontological consultant having expertise in California paleontology in the areas where these activities have the potential to disturb previously undisturbed native sediment or sedimentary rocks. Monitoring need not be conducted in areas where the ground has been previously disturbed, in areas of artificial fill, in areas underlain by nonsedimentary rocks (serpentinite, greenstone), or in areas where exposed sediment would be buried, but otherwise undisturbed. The consultant's work shall be conducted in accordance with this measure and at the direction of the City's Environmental Review Officer (ERO). Plans and reports prepared by the consultant shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Paleontological monitoring and/or data recovery programs required by this measure could suspend construction of the Project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce potential effects on a significant paleontological resource as previously defined to a less-than-significant level.					suspension of work is required.
SECTION III.K (HAZARDS AND HAZARDOUS MATERIALS)					
MM HZ-1a Article 22A Site Mitigation Plans. (Applies only to Candlestick Point.) Prior to obtaining a site, building or other permit from the City for development activities involving subsurface disturbance at portions of Candlestick Point bayward of the high tide line, the Project Applicant	Project Applicant/SFRA	Prior to obtaining a site, building or other permit from the City for development activities involving subsurface	SFRA/DPH/California Department of Parks and Recreation if CDPR implements improvements	SFRA/DPH/California Department of Parks and Recreation if CDPR implements improvements	Approval of the site mitigation plan consistent with Article 22A

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
shall comply with the requirements of San Francisco Health Code Article 22A. If the site investigation required by Article 22A (or, in the case of development activity in CPSRA, which is not subject to Article 22A, a comparable site investigation that is carried out to comply with this measure, and which involves notification to California State Parks if a site mitigation plan is prepared), indicates the presence of a hazardous materials release, a site mitigation plan must be prepared. The site mitigation plan must specify the actions that will be implemented to mitigate the significant environmental or health and safety risks caused or likely to be caused by the presence of the identified release of hazardous materials. The site mitigation plan shall identify, as appropriate, such measures as excavation, containment, or treatment of the hazardous materials, monitoring and follow-up testing, and procedures for safe handling and transportation of the excavated materials, or for protecting the integrity of the cover or for addressing emissions from remedial activities, consistent with the requirements set forth in Article 22A. To the extent that Article 22A does not apply to state-owned land at CPSRA, prior to undertaking subsurface disturbance activities at CPSRA, the Agency and the California Department of Parks and Recreation shall enter into an agreement to follow procedures equivalent to those set forth in Article 22A for construction and development activities conducted at Candlestick Point State Recreation Area.		disturbance at portions of Candlestick Point bayward of the high tide line			
MM HZ-1b Compliance with Requirements Imposed by Cleanup Decision Documents and Property Transfer Documents. (Applies only to HPS Phase II) Prior to obtaining a grading,	Project Applicant	Prior to obtaining a grading, excavation, site, building or other permit from the City	SFRA/DPH	SFRA/DPH	DPH to determine Project Applicant's compliance with Cleanup Decision

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
excavation, site, building or other permit from the City for development activity at HPS Phase II involving subsurface disturbance, the Project Applicant shall submit documentation acceptable to the San Francisco Department of Public Health that the work will be undertaken in compliance with all notices, restrictions and requirements imposed pursuant to a CERCLA ROD, Petroleum Corrective Action Plan, FOST, FOSET or FOSL, including notices, restrictions and requirements imposed in deeds, covenants, leases, easements, and LIFOCs, and requirements set forth in Land Use Control Remedial Design Documents, Risk Management Plans, Community Involvement Plans and health and safety plans. Such restrictions, imposed by federal and state regulatory agencies as a condition on the Navy transfer of the property to the Agency, will ensure that the property after transfer will be used in a manner that is protective of the environment and human health. The City/Agency may choose to implement this measure by requiring these actions as part of amendments to San Francisco Health Code Article 31, which currently sets forth procedural requirements for development in HPS Phase I, or through an equivalent process established by the City or Agency.		for development activity at HPS Phase 2 involving subsurface disturbance			Documents and Property Transfer Documents
MM HZ-2a.1 Unknown Contaminant Contingency Plan. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.) Prior to obtaining the first site, building or other permit for development activities involving subsurface disturbance, the Project Applicant shall prepare and the San Francisco Department of Public Health shall approve a contingency plan to address unknown contaminants encountered during development activities. This plan, the conditions of which shall	Project Applicant	Prior to obtaining the first site, building or other permit for development activities involving subsurface disturbance	SFRA/DPH	SFRA/DPH	DPH to approve contingency plan

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be incorporated into the first permit and any applicable permit thereafter, shall establish and describe procedures for implementing a contingency plan, including appropriate notification to nearby property owners, schools and residents and appropriate site control procedures, in the event unanticipated subsurface hazards or hazardous material releases are discovered during construction. Control procedures would include, but would not be limited to, further investigation and, if necessary remediation of such hazards or releases, including off-site removal and disposal, containment or treatment. In the event unanticipated subsurface hazards or hazardous material releases are discovered during construction, the requirements of this unknown contaminant contingency plan shall be followed. The contingency plan shall be amended, as necessary, in the event new information becomes available that could affect the implementation of the plan. This measure shall be implemented for HPS Phase II through additions to Article 31 or through an equivalent process established by the City or Agency as explained in MM HZ-1b.					
MM HZ-2a.2 Site-Specific Health and Safety Plans. (Applies to Candlestick Point, HPS Phase II, and off-site improvements.) Prior to obtaining the first site, building or other permit for the Project from the City for development activities involving subsurface disturbance, the Project Applicant shall prepare and submit to SFDPH a site-specific health and safety plan (HASP) in compliance with applicable federal and state OSHA requirements and other applicable laws to minimize impacts to public health and the environment. development of the plan shall be required as a condition of any applicable permit. The plan shall include	Project Applicant	Prior to obtaining the first site, building or other permit for the Project from the City for development activities involving subsurface disturbance	SFRA/DPH	SFRA/DPH	DPH to approve HASP.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
identification of chemicals of concern, potential hazards, personal protective equipment and devices, and emergency response procedures. The HASP shall be amended, as necessary, in the event new information becomes available that could affect the implementation of the plan. This measure shall be implemented for HPS Phase II through additions to Article 31 or through an equivalent process established by the City or Agency as explained in MM HZ-1b.					
MM HZ-5a Foundation Support Piles Installation Plan. (Applies to Candlestick Point and HPS Phase II.) Prior to obtaining a permit from the City that authorizes installation of deep foundation piles, the Project Applicant shall prepare and submit a plan acceptable to the City stating that pilot boreholes for each pile would be drilled through the artificial fill materials so the piles can be installed without damage or misalignment and to prevent potentially contaminated fill materials from being pushed into the underlying sediments or groundwater. This measure shall be implemented for Candlestick Point through implementation of mitigation measure MM HZ-1a. This measure shall be implemented for HPS Phase II through additions to Article 31 or through an equivalent process established by the City or Agency as explained in MM HZ-1b.	Project Applicant/ SFRA/DBI	Prior to obtaining a permit from the City that authorizes installation of deep foundation piles	SFRA/DBI/DPH	SFRA/DBI/DPH	DPH/DBI to approve plan
MM HZ-9 Navy-approved workplans for construction and remediation activities on Navy-owned property. (Applies only to the portions of HPS Phase II on Navy-owned property). Construction activities and remediation activities conducted on behalf of the Agency or the Project Applicant, on Navy-owned property shall be	Project Applicant/SFRA/City	Prior to construction and remediation activities on Navy-owned property.	City/SFRA	City/SFRA	Navy to approve construction and remediation activities workplan. Construction Contractor to submit quarterly report of

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
conducted in compliance with all required notices, restrictions, or other requirements set forth in the applicable lease, easement, or license or other form of right of entry and in accordance with a Navy-approved workplan. This mitigation measure also requires that such activities be conducted in accordance with applicable health and safety plans, dust control plans, stormwater pollution prevention plans, community involvement plans, or any other documents or plans required under applicable law. The City/Agency will access Navy property through a lease, license, or easement. The City/Agency shall not undertake any activity or approve any Project Applicant activity on Navy-owned property until the Navy and other agencies with approval authority have approved a workplan for the activity. The requirement to comply with the approved work plans shall be incorporated into and made a condition of any City/Agency approvals related to activities on Navy property. This measure shall be implemented for HPS Phase II through a process established by the City or Agency as explained in MM HZ-1b.					compliance activity, until deemed complete by SFRA.
MM HZ-10b Regulatory Agency–Approved Workplans and Permits for Shoreline Improvements. Prior to undertaking any shoreline improvement activities that would affect sediment at HPS Phase II, the Agency or its contractor or Project Applicant shall prepare appropriate design documents and submit to US EPA, DTSC, RWQCB, and, if necessary, the Navy and CDPH for approval. A Dredged Material Management Office (DMMO) permit shall be obtained. The design documents shall incorporate the necessary shoreline improvements required for each specific area (e.g., including, but not limited to, rock buttressing, pile replacement, backfilling, riprap, or	Project Applicant/Construction Contractor/SFRA	Prior to undertaking any shoreline improvement activities that would affect sediment at HPS Phase II	SFRA	US EPA, DTSC, RWQCB, and, if necessary, the Navy and CDPH	Appropriate regulatory agencies to approve f design documents.

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installation of natural-looking shoreline protection using fill and ACB mats) such that remediation (removal of sediment and any necessary dredging) and structural improvements are performed under the same regulatory approvals and permits. Prior to undertaking any shoreline improvement activities that could affect contaminated sediments left in place and covered or capped with a Navy-installed remedial measure, or that would involve pile replacement in such areas, the Agency or its contractor or Project Applicant shall prepare appropriate design documents that: (1) describes how the cover or cap would be inspected to determine whether proposed shoreline improvements would adversely affect the cover or cap; and (2) describes how construction activities would be performed to mitigate environmental risk and to restore the cover or cap. The design documents shall be submitted to US EPA, DTSC, RWQCB, and, if necessary, the Navy and CDPH for approval. A DMMO permit shall be obtained, as applicable. Prior to undertaking any shoreline improvements that could encounter contaminated sediments, the Agency or its contractor or Project Applicant shall comply with all requirements incorporated into the design documents, work plans, health and safety plans, dust control plans, and any other document or plan required under the Administrative Order of Consent. This includes all restrictions imposed pursuant to a CERCLA ROD, Petroleum Corrective Action Plan, FOSET, including restrictions imposed in deeds, covenants, and requirements set forth in Land Use Control Remedial Design Documents, Risk Management Plans and health and safety plans. Prior to obtaining a grading, excavation, site, building, or other permit from the City that					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
authorizes remedial activities, SFDPH shall confirm that the work proposed complies with the applicable plans required by the Administrative Order of Consent. This measure shall be implemented through additions to Article 31 or through an equivalent process established by the City or Agency as explained in MM HZ-1b.					
MM HZ-12 Compliance with Administrative Order on Consent at Early Transferred Parcels. (Applies only at HPS Phase II.) Prior to undertaking any remediation activities at HPS Phase II on property that the Navy has transferred to the Agency as part of an early-transfer, the Agency or its contractor or Project Applicant shall comply with all requirements incorporated into remedial design documents, work plans, health and safety plans, dust control plans, community involvement plans, and any other document or plan required under the Administrative Order on Consent. This includes all notices, restrictions, and requirements imposed pursuant to a CERCLA ROD, Petroleum Corrective Action Plan, FOSET, including restrictions imposed in deeds, covenants, and requirements set forth in Land Use Control Remedial Design Documents, Risk Management Plans, community involvement plans, and health and safety plans. Prior to obtaining a grading, excavation, site, building, or other permit from the City that authorizes remedial activities, SFDPH shall confirm that the work proposed complies with the applicable plans required by the Administrative Order on Consent. This measure shall be implemented through a requirement in the potential additions to Article 31 imposing requirements to parcels other than Parcel A or through an equivalent process established by the City or Agency.	Project Applicant/ SFRA	Prior to obtaining a grading, excavation, site, building, or other permit from the City that authorizes remedial activities	SFRA/DPH	SFRA/DPH	DPH to determine compliance with Administrative Order on Consent.
MM HZ-15 Asbestos Dust Mitigation Plans and	Project Applicant	Prior to obtaining a	BAAQMD/DPH	BAAQMD/DPH	BAAQMD and DPH to

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Dust Control Plans. Prior to obtaining a grading, excavation, site, building or other permit from the City that includes soil disturbance activities, the Project Applicant shall obtain approval of an Asbestos Dust Mitigation Plan (ADMP) from BAAQMD for areas over 1 acre that potentially contain naturally occurring asbestos and approval of a Dust Control Plan (DCP) from SFDPH for all areas at HPS Phase II and for areas over 0.5 acre at Candlestick Point. Compliance with the ADMP and DCP shall be required as a condition of the permit. The ADMP shall be submitted to and approved by the BAAQMD prior to the beginning of construction, and the Project Applicant must ensure the implementation of all specified dust control measures throughout the construction Project. The ADMP shall require compliance with the following specific control measures to the extent deemed necessary by the BAAQMD to meet its standard: ▪ For construction activities disturbing less than one acre of rock containing naturally occurring asbestos, the following specific dust control measures must be implemented in accordance with the asbestos ATCM before construction begins and each measure must be maintained throughout the duration of the construction Project: > Limit construction vehicle speed at the work site to 15 miles per hour > Sufficiently wet all ground surfaces prior to disturbance to prevent visible dust emissions from crossing the property line > Keep all graded and excavated areas around soil improvement operations, visibly dry unpaved roads, parking and staging areas wetted at least three times		grading, excavation, site, building or other permit from the City that includes soil disturbance activities. Ongoing throughout construction activity			approve site specific DCP and ADMP and to monitor compliance throughout construction activity

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per shift daily with reclaimed water during construction to prevent visible dust emissions from crossing the property line. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour > Adequately wet all storage piles, treat with chemical dust suppressants, or cover piles when material is not being added to or removed from the pile > Wash down all equipment before moving from the property onto a paved public road > Clean all visible track out from the paved public road by street sweeping or a HEPA filter equipped vacuum device within 24 hours ■ For construction activities disturbing greater than one acre of rock containing naturally occurring asbestos, construction contractors are required to prepare an ADMP specifying measures that will be taken to ensure that no visible dust crosses the property boundary during construction. The plan must specify the following measures, to the extent deemed necessary by the BAAQMD to meet its standard: > Prevent and control visible track out from the property onto adjacent paved roads. Sweep with reclaimed water at the end of each day if visible soil material is carried out from property > Ensure adequate wetting or covering of active storage piles > Hydroseed or apply non-toxic soil stabilizers to disturbed surface areas and storage piles greater than ten cubic yards					

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or 500 square feet of excavated materials, backfill material, import material, gravel, sand, road base, and soil that will remain inactive for seven days or more. > Control traffic on on-site unpaved roads, parking lots, and staging areas—including a maximum vehicle speed of 15 miles per hour or less > Control earth moving activities > Provide as much water as necessary to control dust (without creating run-off) in any area of land clearing, earth movement, excavation, drillings, and other dust-generating activity > Control dust emissions from off-site transport of naturally occurring asbestos containing materials > Stabilize disturbed areas following construction If required by the BAAQMD, air monitoring shall be implemented to monitor for off-site migration of asbestos dust during construction activities, and appropriate protocols shall be established and implemented for notification of nearby schools, property owners and residents when monitoring results indicate asbestos levels that have exceeded the standards set forth in the plan. The DCP shall be submitted to and approved by the SFDPH prior to the beginning of construction, and the site operator must ensure the implementation of all specified dust control measures throughout the construction Project. The DCP shall require compliance with the following specific mitigation measures to the extent deemed necessary by the SFDPH to achieve no visible dust at the property boundary:					

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■ Submission of a map to the Director of Health showing all sensitive receptors within 1,000 feet of the site. ■ Keep all graded and excavated areas, areas around soil improvement operations, visibly dry unpaved roads, parking and staging areas wetted at least three times per shift daily with reclaimed water during construction to prevent visible dust emissions from crossing the property line. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour ■ Analysis of wind direction and placement of upwind and downwind particulate dust monitors. ■ Record keeping for particulate monitoring results. ■ Requirements for shutdown conditions based on wind, dust migration, or if dust is contained within the property boundary but not controlled after a specified number of minutes. ■ Establishing a hotline for surrounding community members who may be potentially affected by Project-related dust. Contact person shall respond and take corrective action within 48 hours. Post publicly visible signs around the site with the hotline number as well as the phone number of the BAAQMD and make sure the numbers are given to adjacent residents, schools, and businesses. ■ Limiting the area subject to construction activities at any one time. ■ Installing dust curtains and windbreaks on windward and downwind sides of the property lines, as necessary. Windbreaks on windward side should have no more than 50% air					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
porosity. ▪ Limiting the amount of soil in trucks hauling soil around the job site to the size of the truck bed and securing with a tarpaulin or ensuring the soil contains adequate moisture to minimize or prevent dust generation during transportation. ▪ Enforcing a 15 mph speed limit for vehicles entering and exiting construction areas. ▪ Sweeping affected streets with water sweepers at the end of the day. ▪ Hiring an independent third party to conduct inspections for visible dust and keeping records of those inspections. ▪ Minimizing the amount of excavated material or waste materials stored at the site. ▪ Prevent visible track out from the property onto adjacent paved roads. Sweep with reclaimed water at the end of each day if visible soil material is carried out from property For all areas, this measure shall be implemented through Article 22B (areas over one half acre) or for HPS Phase II through a requirement in the potential additions to Article 31 imposing requirements to parcels other than Parcel A or through an equivalent process established by the City or Agency.					
SECTION III.L (GEOLOGY AND SOILS)					
MM GE-2a Mitigation to Minimize Dewatering Impacts during Construction. Prior to the issuance of any permit for a construction activity that would involve dewatering that could affect structures on adjacent or nearby properties, the Applicant shall, in compliance with Section 1803.1 of the *San Francisco Building Code* (SFBC), include in the permit application methods and techniques to	Project Applicant	Prior to the issuance of any permit for a construction activity that would involve dewatering that could affect structures on adjacent or nearby properties	DBI	DBI	Approval of permit applications

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
ensure that dewatering would not lower the water table such that unacceptable settlement (as determined by a California Certified Engineering Geologist [CEG] or California Registered Geotechnical Engineer [GE]) at adjacent or nearby properties would occur. Such methods and technologies shall be based on the specific conditions at the construction site and could include, but are not necessarily limited to, the following: ■ Excavating below the groundwater table in confined areas with steel sheet piling driven below the base elevation of the proposed excavation, installation of bracing to support the excavation walls as required and, if necessary, underpinning the foundations of adjacent structures. Subsequently, the excavation would be carried out and seepage that enters the dammed area would be pumped out. ■ Perform dewatering using methods such as wellpoint systems, drainage ditches, and sump pumps. The excavation or dewatering methods shall be monitored to detect ground settlement and to monitor individual dewatering activities in the vicinity of an excavation. Monitoring results shall be submitted to the San Francisco Department of Building Inspection (DBI). In the event of unacceptable ground movement, as determined by DBI inspections and/or the review of monitoring results, all excavation work shall cease and corrective measures (including, for example, different dewatering methods and/or ground stabilization methods) shall be determined by the Project CEG or GE and reviewed and approved by DBI. No construction permit involving dewatering	Project Applicant	During excavation and dewatering activities	DBI	DBI	Approval of corrective measures. Ongoing throughout construction activity

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
would be issued until the Project CEG or GE and DBI have approved dewatering and/or ground stabilization methods. The Project CEG or GE shall implement the corrective measures and continue monitoring activities.					
MM GE-3 Mitigation to Minimize Rock Fragmentation Impacts during Construction. Prior to the issuance of any permit for a construction activity that would involve controlled rock fragmentation that could cause settlement or lateral movement of structures on adjacent or nearby properties, the Applicant shall, in compliance with Section 1803.1 of the *San Francisco Building Code* (SFBC), include in the permit application methods and techniques to ensure that controlled rock fragmentation would not cause unacceptable vibration and/or settlement or lateral movement of structures at adjacent or nearby properties. Such methods and technologies shall be based on the specific conditions at the construction site such as, but not limited to, the following: ■ Pre-excavation surveying of potentially affected structures. ■ Underpinning of foundations of potentially affected structures, as necessary.	Project Applicant	Prior to the issuance of any permit for a construction activity that would involve controlled rock fragmentation	DBI	DBI	Approval of permit applications
The excavation plan shall include a monitoring program to detect ground settlement or lateral movement of structures in the vicinity of an excavation. Monitoring results shall be submitted to DBI. In the event of unacceptable ground movement, as determined by DBI inspections, all excavation work shall cease and corrective measures shall be implemented. The controlled rock fragmentation program and ground stabilization measures shall be reevaluated and approved by the DBI.		During controlled rock fragmentation activities	DBI	DBI	Approval of corrective measures. Ongoing throughout controlled rock fragmentation activities

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
MM GE-4a.1 Site-Specific Geotechnical Investigation with Seismic Analyses. Prior to the issuance of any building permits for the Project site: ■ The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC), the Seismic Hazards Mapping Act, and requirements contained in CGS Special Publication 117A "Guidelines for Evaluating and Mitigating Seismic Hazards in California." In addition, all engineering practices and analyses of peak ground accelerations and structural design shall be consistent with SFBC standards to ensure that structures can withstand expected ground accelerations. The CEG or GE shall determine and DBI shall approve design requirements for foundations and all other improvements associated with the permit application.	Project Applicant	Prior to issuance of construction site permit	DBI	DBI	Approval of design requirements for foundations and all other improvements associated with the permit application. Ongoing throughout construction activity
■ DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all necessary geotechnical mitigation measures. No permits shall be issued by DBI until the	DBI	Prior to approval of site-specific geotechnical investigations	DBI	DBI	Approval of site-specific geotechnical investigations. Ongoing throughout construction activity.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods. ▪ All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations. ▪ The Project CEG or GE shall be responsible for ensuring compliance with these requirements.					
MM GE-4a.2 Seismic Design Compliance Documentation. Prior to the issuance of building permits for the replacement of the Alice Griffith Public Housing site, the Applicant shall submit any and all seismic design compliance documentation to the HUD, as required by that agency. The Project Developer shall confirm, by copy of all documents submitted, including transmittal, compliance with this requirement to DBI. The Project California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE) shall be responsible for verifying Project compliance with this requirement.	Project Applicant	Prior to the issuance of building permits for the replacement of the Alice Griffith Public Housing site	DBI/HUD	DBI	Approval of site-specific geotechnical investigations for the replacement of the Alice Griffith Public Housing site.
MM GE-4a.3 Site-specific Seismic Analyses to Ensure Safety of Bridge Design. Prior to the issuance of any building permits for the Project site, the California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE) for the Project shall confirm that the design-level geotechnical investigation for the Yosemite Slough bridge is based on Caltrans specifications (*Bridge Design Specifications*, Section 20 of *Bridge Memos to Designers, Seismic Design Criteria* as previously described) and meets the San Francisco Department of Public Works Bureau of Engineering (BOE) requirements. The	Project Applicant	Prior to the issuance of building permits for the Yosemite Slough bridge	DPW	DPW	Approval of site-specific geotechnical investigations for the Yosemite Slough bridge

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Project CEG or GE and California Registered Structural Engineer (SE) shall approve bridge design. No building permits shall be issued until the CEG or GE and SE verify that the Project's bridge design complies with all Caltrans specifications and BOE requirements.					
MM GE-5a Site-Specific Geotechnical Investigation with Analyses of Liquefaction, Lateral Spreading and/or Settlement. Prior to issuance of building permits for the Project site: ■ The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC), the Seismic Hazards Mapping Act, and requirements contained in CGS Special Publication 117A "Guidelines for Evaluating and Mitigating Seismic Hazards in California." In addition, all engineering practices, and analyses of structural design shall be consistent with SFBC standards to ensure seismic stability, including reduction of potential liquefaction hazards.	Project Applicant/Project Geologist	Prior to issuance of building permits for the Project site	DBI	DBI	Approval of site-specific geotechnical investigations
■ DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all	DBI	Prior to approval of site-specific geotechnical investigations	DBI	DBI/GPRC	Approval of site-specific geotechnical investigations

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
necessary geotechnical mitigation measures. No permits shall be issued by DBI until the GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods. ▪ All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations. ▪ The site-specific Project plans shall incorporate the mitigation measures contained in the approved site-specific geotechnical reports to reduce liquefaction hazards. The engineering design techniques to reduce liquefaction hazards shall include proven methods generally accepted by California Certified Engineering Geologists, subject to DBI and GPRC review and approval, including, but not necessarily limited to: > Structural Measures o Construction of deep foundations, which transfer loads to competent strata beneath the zone susceptible to liquefaction, for critical utilities and shallow foundations o Structural mat foundations to distribute concentrated load to prevent damage to structures > Ground Improvement Measures o Additional over-excavation and replacement of unstable soil with engineering-compacted fill o Dynamic compaction, such as Deep Dynamic Compaction (DDC) or Rapid Impact Compaction (RIC), to densify loose soils below the groundwater					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
table o Vibro-compaction, sometimes referred to as vibro-floatation, to densify loose soils below the groundwater table o Stone columns to provide pore pressure dissipation pathways for soil, compact loose soil between columns, and provide additional bearing support beneath foundations o Soil-cement columns to densify loose soils and provide additional bearing support beneath foundations ■ The Project CEG or GE shall be responsible for ensuring compliance with these requirements.					
MM GE-6a Site-Specific Geotechnical Investigation with Landslide Risk Analyses. Prior to issuance of building permits for the Project site: ■ The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC), the Seismic Hazards Mapping Act, and requirements contained in CGS Special Publication 117A "Guidelines for Evaluating and Mitigating Seismic Hazards in California." In addition, all engineering practices, and analyses of structural design shall be consistent with SFBC standards to ensure seismic stability, including reduction of potential landslide hazards.	Project Applicant	Prior to issuance of building permits for the Project site	DBI	DBI	Approval of site-specific geotechnical investigations

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
▪ DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all necessary geotechnical mitigation measures. No permits shall be issued by DBI until the GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods. ▪ All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations. ▪ The site-specific Project plans shall incorporate the mitigation measures contained in the approved site-specific geotechnical reports to reduce landslide hazards. The engineering design techniques to reduce landslide hazards shall include proven methods generally accepted by California Certified Engineering Geologists, subject to DBI and GPRC review and approval. The design-level geologic and geotechnical studies shall identify the presence of landslides and potentially unstable slopes and shall identify means to avoid the hazard or support the design of engineering procedures to stabilize the slopes, as required by Chapter 18 (Soils and Foundations) of the SFBC, as well as the procedures outlined in CGS Special Publication 117A. SFBC Sections 1803 through 1812 contain the formulae, tables, and graphs by which the	DBI	Prior to approval of site-specific geotechnical investigations	DBI	DBI/GPRC	Approval of site-specific geotechnical investigations

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Project engineer shall develop the Project's slope-stability specifications, including the appropriate foundation designs for structures on slopes and which would be used by DBI to verify the applicability of the specifications. If the presence of unstable slopes is identified, appropriate support and protection procedures shall be designed and implemented to maintain the stability of slopes adjacent to newly graded or re-graded access roads, work areas, and structures during and after construction, and to minimize potential for damage to structures and facilities at the Project site. These stabilization procedures, including, but not necessarily limited to, the following: > Retaining walls, rock buttresses, screw anchors, or concrete piers > Slope drainage or removal of unstable materials > Rockfall catch fences, rockfall mesh netting, or deflection walls > Setbacks at the toe of slopes > Avoidance of highly unstable areas ■ The Project CEG or GE shall be responsible for ensuring compliance with these requirements.					
MM GE-10a Site-Specific Geotechnical Investigation with Expansive Soils Analyses. Prior to issuance of building permits for the Project site: ■ The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project	Project Applicant	Prior to issuance of building permits for the Project site	DBI	DBI/GPRC	Approval of site-specific geotechnical investigations

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC). In addition, all engineering practices, and analyses of structural design shall be consistent with SFBC standards to ensure soils stability, including reduction of potential soil expansion hazards.					
▪ DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all necessary geotechnical mitigation measures. No permits shall be issued by DBI until the GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods.	DBI	Prior to approval of site-specific geotechnical investigations	DBI	DBI/GPRC	Approval of site-specific geotechnical investigations
▪ All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations.					
▪ The site-specific Project plans shall incorporate the mitigation measures contained in the approved site-specific geotechnical reports to reduce expansive soils hazards. The engineering design techniques to reduce expansive soils hazards shall include proven methods generally accepted by California Certified Engineering Geologists, subject to DBI and GPRC review and approval. The design-level geologic and geotechnical studies shall identify the presence of expansive soils and potentially unstable soils and shall identify					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
means to avoid the hazard or support the design of engineering procedures to stabilize the soils, as required by Chapter 18 (Soils and Foundations) of the SFBC. SFBC Sections 1803 through 1812 contain the formulae, tables, and graphs by which the Project engineer shall develop the Project's soil-stability specifications, including the appropriate foundation designs for structures on expansive soils and which would be used by DBI to verify the applicability of the specifications. If the presence of expansive soils is identified, appropriate support and protection procedures shall be designed and implemented to maintain the stability of soils adjacent to newly graded or re-graded access roads, work areas, and structures during and after construction, and to minimize potential for damage to structures and facilities at the Project site. ■ The Project CEG or GE shall be responsible for ensuring compliance with these requirements.					
MM GE-11a Site-Specific Geotechnical Investigation with Corrosive Soils Analyses. Prior to issuance of building permits for the Project site: ■ The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC). In addition, all engineering practices, and analyses of structural design	Project Applicant	Prior to issuance of building permits for the Project site	DBI	DBI/GPRC	Approval of site-specific geotechnical investigations

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
shall be consistent with SFBC standards to ensure soils stability, including reduction of potential hazards from corrosive soils.					
▪ DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all necessary geotechnical mitigation measures. No permits shall be issued by DBI until the GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods.	DBI	Prior to approval of site-specific geotechnical investigations	DBI	DBI/GPRC	Approval of site-specific geotechnical investigations
▪ All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations.					
▪ The site-specific Project plans shall incorporate the mitigation measures contained in the approved site-specific geotechnical reports to reduce potential hazards from corrosive soils. The engineering design techniques to reduce corrosive soils hazards shall include proven methods generally accepted by California Certified Engineering Geologists, subject to DBI and GPRC review and approval. The design-level geologic and geotechnical studies shall identify the presence of corrosive soils and shall identify means to avoid the hazard, as required by Chapter 18 (Soils and Foundations) of the SFBC. SFBC Sections 1803 through 1812 contain the formulae, tables, and graphs by which the					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Project engineer shall develop the Project's structural design specifications, including the appropriate foundation designs for structures on corrosive soils and which would be used by DBI to verify the applicability of the specifications. If the presence of corrosive soils is identified, appropriate protection procedures shall be designed and implemented to minimize potential for damage from corrosive soils to structures and facilities at the Project site. ■ The Project CEG or GE shall be responsible for ensuring compliance with these requirements.					
SECTION III.M (HYDROLOGY AND WATER QUALITY)					
MM HY-1a.1 Storm Water Pollution Prevention Plan: Combined Storm Sewer System. In compliance with the Article 4.1 of the Public Works Code and the City's Construction Site Water Pollution Prevention Program, the Project Applicant shall submit a site-specific Storm Water Pollution Prevention Plan (SWPPP) to the SFPUC for approval, prior to initiating construction activities in areas draining to the combined sewer system. The SFPUC requires implementation of appropriate Best Management Practices (BMPs) from the California Stormwater Quality Association Stormwater BMP Handbook- Construction or the Caltrans Construction Site BMPs Manual. In accordance with SFPUC's requirements, the SWPPP shall include: ■ An Erosion and Sediment Control Plan that includes a site map illustrating the BMPs that will be used to minimize on-site erosion and the sediment discharge into the combined sewer system, and a narrative description of	Project Applicant	Submit site-specific SWPPP to SFPUC for approval prior to initiating construction activity in any area draining to *combined* sewer system	SFPUC	SFPUC	SWPPP for each site undergoing construction in areas draining to combined sewer system to be approved by SFPUC
		Inspection before and after storm event, and once per 24-hour period during storm event	SFPUC	SFPUC	Quarterly MMRP reports to SFPUC, to include reporting on compliance with this measure, until completion of construction

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those BMPs. Appropriate BMPs for Erosion and Sediment Control Plan may include: > Scheduling—Develop a schedule that includes sequencing of construction activities with the implementation of appropriate BMPs. Perform construction activities and control practices in accordance with the planned schedule. Schedule work to minimize soil-disturbing activities during the rainy season. Schedule major grading operations for the dry season when practical. Monitor the weather forecast for rainfall and adjust the schedule as appropriate. > Erosion Control BMPs—Preserve existing vegetation where feasible, apply mulch or hydroseed areas with native, non-invasive species, until permanent stabilization is established, and use soil binders, geotextiles and mats, earth dikes and drainage swales, velocity dissipation devices, slope drains, or polyacrylamide to protect soil from erosion. > Wind Erosion BMPs—Apply water or other dust palliatives to prevent dust nuisance; prevent overwatering which can cause erosion. Alternatively, cover small stockpiles or areas that remain inactive for seven or more days. > Sediment Control BMPs—Install silt fences, sediment basins, sediment traps, check dams, fiber rolls, sand or gravel bag barriers, straw bale barriers, approved chemical treatment, and storm drain inlet protection to minimize the discharge of sediment. Employ street sweeping to remove sediment from streets.					

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> Tracking Controls—Stabilize the construction site entrance to prevent tracking of sediment onto public roads by construction vehicles. Stabilize on-site vehicle transportation routes immediately after grading to prevent erosion and control dust. Install a tire wash area to remove sediment from tires and under carriages. ■ Non-Stormwater Management BMPs that may include water conservation practices; dewatering practices that minimize sediment discharges; and BMPs for: paving and grinding activities; identifying illicit connections and illegal dumping; irrigation and other planned or unplanned discharges of potable water; vehicle and equipment cleaning, fueling, and maintenance; concrete curing and finishing; temporary batch plants; implementing shoreline improvements and working over water. Discharges from dewatering activities shall comply with the SFPUC's Batch Wastewater Discharge Requirements that regulate influent concentrations for various constituents. ■ Waste Management BMPs shall be implemented for material delivery, use, and storage; stockpile management; spill prevention and control; solid and liquid waste management; hazardous waste management; contaminated soil management; concrete waste management; and septic/sanitary waste management. ■ SWPPP Training Requirements—Construction personnel will receive training on the SWPPP and BMP implementation. ■ Site Inspections and BMP Maintenance—An inspector identified in the SWPPP will inspect	SFPUC	Before and after a storm event, and once	SFPUC	SFPUC	Ongoing throughout

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
the site on a regular basis, before and after a storm event, and once each 24-hour period during extended storms to identify BMP effectiveness and implement corrective actions if required. The SWPPP shall include checklists that document when the inspections occurred, the results of the inspection, required corrective measures, and when corrective measures were implemented. Required BMP maintenance related to a storm event shall be completed within 48 hours of the storm event.		each 24-hour period during extended storms			construction activity
MM HY-1a.2 Stormwater Pollution Prevention Plan: Separate Storm Sewer System. Consistent with the requirements of the SWRCB General Permit for Storm Water Discharges Associated with Construction and Land Disturbing Activities (Construction General Permit), the Project Applicant shall undertake the proposed Project in accordance with a project-specific Storm Water Pollution Prevention Plan (SWPPP) prepared by Qualified SWPPP Developer, who shall consult with California State Parks on those elements of the SWPPP that cover the Candlestick Park State Recreation Area, including selection of best management practices and other SWPPP improvements. The SFRWQCB, the primary agency responsible for protecting water quality within the project area, is responsible for reviewing and ensuring compliance with the SWPPP. This review is based on the Construction General Permit issued by the SWRCB.	Project Applicant	Submit site-specific SWPPP to SFRWQCB for approval prior to initiating construction activity in any area draining to *separate* storm sewer system (see also MM HY-1a.3 for more specific requirements related to groundwater dewatering)	SFRWQCB	SFRWQCB; SFRA	SWPPP for each site undergoing construction in areas draining to separate storm sewer system to be approved by SFRWQCB
		Construction monitoring and reporting ongoing throughout construction period			Quarterly reporting to SFRWQCB and SFRA, to include reporting on compliance with this measure, until completion of construction
The SWPPP shall include, as applicable, all Best Management Practices (BMPs) required in Attachment C of the Construction General Permit for Risk Level 1 dischargers, Attachment D for Risk Level 2 dischargers, or Attachment E for Risk Level 3 dischargers. In addition, recommended BMPs,		Post construction BMPs monitoring and			Annual post-construction period

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subject to review and approval by the SFRWQCB, include the measures listed below. However, the measures themselves may be altered, supplemented, or deleted during the SFRWQCB's review process, since the SFRWQCB has final authority over the terms of the SWPPP. ■ Scheduling: > To reduce the potential for erosion and sediment discharge, schedule construction to minimize ground disturbance during the rainy season. Schedule major grading operations during the dry season when practical, and allow enough time before rainfall begins to stabilize the soil with vegetation or to install sediment-trapping devices. > Sequence construction activities to minimize the amount of time that soils remain disturbed. > Stabilize all disturbed soils as soon as possible following the completion of ground disturbing work. > Install erosion and sediment control BMPs prior to the start of any ground-disturbing activities. ■ Erosion and Sedimentation: > Preserve existing vegetation in areas where no construction activity is planned or where construction activity will occur at a later date. > Stabilize and re-vegetate disturbed areas as soon as possible after construction with planting, seeding, and/or mulch (e.g., straw or hay, erosion control blankets, hydromulch, or other similar material) except in actively cultivated areas. Planting		maintenance in accordance with SWPPP			reporting to SFRWQCB and SFRA, to include reporting on compliance with this measure

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and seeding shall use native, non-invasive species. > Install silt fences, coir rolls, and other suitable measures around the perimeter of the areas affected by construction and staging areas and around riparian buffers, storm drains, temporary stockpiles, spoil areas, stream channels, swales, down-slope of all exposed soil areas, and in other locations determined necessary to prevent off-site sedimentation. > Install temporary slope breakers during the rainy season on slopes greater than 5 percent where the base of the slope is less than 50 feet from a water body, wetland, or road crossing at spacing intervals required by the SFRWQCB. > Use filter fabric or other appropriate measures to prevent sediment from entering storm drain inlets. > Detain and treat stormwater using sedimentation basins, sediment traps, baker tanks, or other measures to ensure that discharges to receiving waters meet applicable water quality objectives. > Install check dams, where applicable, to reduce flow velocities. Check dams reduce erosion and allow sediment to settle out of runoff. > Install outlet protection/energy dissipation, where applicable, to prevent scour of the soil caused by concentrated high velocity flows. > Implement control measures such as spraying water or other dust palliatives to alleviate nuisance caused by dust.					

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- Groundwater/Dewatering:
  - > Prepare a dewatering plan prior to excavation specifying methods of water collection, transport, treatment, and discharge of all water produced by construction site dewatering.
  - > Impound water produced by dewatering in sediment retention basins or other holding facilities to settle the solids and provide other treatment as necessary prior to discharge to receiving waters. Locate sedimentation basins and other retention and treatment facilities away from waterways to prevent sediment-laden water from reaching streams.
  - > Control discharges of water produced by dewatering to prevent erosion.
  - > If contaminated groundwater is encountered, contact the SFRWQCB for appropriate disposal options. Depending on the constituents of concern, such discharges may be disallowed altogether, or require regulation under a separate general or individual permit that would impose appropriate treatment requirements prior to discharge to the stormwater drainage system.
- Tracking Controls:
  - > Grade and stabilize construction site entrances and exits to prevent runoff from the site and to prevent erosion.
  - > Install a tire washing facility at the site access to allow for tire washing when vehicles exit the site.
  - > Remove any soil or sediment tracked off paved roads during construction by street

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sweeping.

- Non-stormwater Controls:
  - > Place drip pans under construction vehicles and all parked equipment.
  - > Check construction equipment for leaks regularly.
  - > Wash construction equipment in a designated enclosed area regularly.
  - > Contain vehicle and equipment wash water for percolation or evaporative drying away from storm drain inlets.
  - > Refuel vehicles and equipment away from receiving waters and storm drain inlets, contain the area to prevent run-on and run-off, and promptly cleanup spills.
  - > Cover all storm drain inlets when paving or applying seals or similar materials to prevent the discharge of these materials.
- Waste Management and Hazardous Materials Pollution Control:
  - > Remove trash and construction debris from the project area daily.
  - > Locate sanitary facilities a minimum of 300 feet from receiving waters. Maintain sanitary facilities regularly.
  - > Store all hazardous materials in an area protected from rainfall and stormwater run-on and prevent the off-site discharge of hazardous materials.
  - > Minimize the potential for contamination of receiving waters by maintaining spill containment and cleanup equipment on site, and by properly labeling and disposing of hazardous wastes.
  - > Locate waste collection areas close to

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
construction entrances and away from roadways, storm drains, and receiving waters. > Inspect dumpsters and other waste and debris containers regularly for leaks and remove and properly dispose of any hazardous materials and liquid wastes placed in these containers. > Train construction personnel in proper material delivery, handling, storage, cleanup, and disposal procedures. > Implement construction materials management BMPs for: > Road paving, surfacing and asphalt removal activities. > Handling and disposal of concrete and cement. ■ BMP Inspection, Maintenance, and Repair: > Inspect all BMPs on a regular basis to confirm proper installation and function. Inspect BMPs daily during storms. > Immediately repair or replace BMPs that have failed. Provide sufficient devices and materials (e.g., silt fence, coir rolls, erosion blankets, etc.) throughout project construction to enable immediate corrective action for failed BMPs. ■ Monitoring and Reporting: > Provide the required documentation for SWPPP inspections, maintenance, and repair requirements. Personnel that will perform monitoring and inspection activities shall be identified in the SWPPP. > Maintain written records of inspections, spills, BMP-related maintenance activities,					

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
corrective actions, and visual observations of off-site discharges of sediment or other pollutants, as required by the SFRWQCB. > Monitor the water quality of discharges from the site to assess the effectiveness of control measures. ■ Implement Shoreline Improvements and work over water BMPs to minimize the potential transport of sediment, debris, and construction materials to the Lower Bay during construction of shoreline improvements. ■ Post-construction BMPs: > Re-vegetate all temporarily disturbed areas as required after construction activities are completed. Re-vegetation shall use native, non-invasive species. > Remove any remaining construction debris and trash from the project site and area upon project completion. > Phase the removal of temporary BMPs as necessary to ensure stabilization of the site. > Maintain post-construction site conditions to avoid formation of unintended drainage channels, erosion, or areas of sedimentation. > Correct post-construction site conditions as necessary to comply with the SWPPP and any other pertinent SFRWQCB requirements. ■ Train construction site personnel on components of the SWPPP and BMP implementation. Train personnel that will perform inspection and monitoring activities.					
MM HY-1a.3 Groundwater Dewatering Plan. Prior	Project Applicant	Groundwater	SFRWQCB	SFRWQCB; SFRA	SWPPP for each site

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
to commencement of construction activities and to minimize potential impacts to receiving water quality during the construction period, the Project Applicant shall through the proper implementation of this dewatering plan, show compliance with SFRWQCB/NPDES requirements, whichever are applicable. The Dewatering Plan shall specify how the water would be collected, contained, treated, monitored, and/or discharged to the vicinity drainage system or Lower Bay. Subject to the review and approval of the SFRWQCB, the Dewatering Plan shall include, at a minimum: ■ Identification of methods for collecting and handling water on site for treatment prior to discharge, including locations and capacity of settling basins, infiltration basins (where not restricted by site conditions), treatment ponds, and/or holding tanks ■ Identification of methods for treating water on site prior to discharge, such as filtration, coagulation, sedimentation settlement areas, oil skimmers, pH adjustment, and other BMPs ■ Procedures and methods for maintaining and monitoring dewatering operations to ensure that no breach in the process occurs that could result in an exceedance of applicable water quality objectives ■ Identification of discharge locations and inclusion of details on how the discharge would be conducted to minimize erosion and scour ■ Identification of maximum discharge rates to prevent exceedance of storm drain system capacities ■ Additional requirements of the applicable General Permit or NPDES Permit/WDR		Dewatering Plan to be a specific component of SWPPP, to be submitted to SFRWQCB for approval prior to initiating construction activity in any area draining to *separate* sewer system			undergoing construction in areas draining to separate storm sewer system to be approved by SFRWQCB Quarterly reporting to SFRWQCB and SFRA, to include reporting on compliance with this measure, until completion of construction

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
(including effluent and discharge limitations and reporting and monitoring requirements, as applicable) shall be incorporated into the Dewatering Plan Any exceedance of established narrative or numeric water quality objectives shall be reported to the SFRWQCB and corrective action taken as required by the SFRWQCB and the Dewatering Plan. Corrective action may include increased residence time in treatment features (e.g., longer holding time in settling basins) and/or incorporation of additional treatment measures (e.g., addition of sand filtration prior to discharge).					
MM HY-6a.1 *Regulatory Stormwater Requirements.* The Project Applicant shall comply with requirements of the Municipal Stormwater General Permit and associated City SWMP, appropriate performance standards established in the Green Building Ordinance, and performance standards established by the SFPUC in the San Francisco Stormwater Design Guidelines. The Draft San Francisco Stormwater Design Guidelines have been developed to satisfy the Municipal Stormwater General Permit requirements for new development and redevelopment projects in areas served by separate storm sewers, and are expected to be adopted by December 2009. The Project Applicant shall comply with requirements of the Draft San Francisco Stormwater Design Guidelines. Upon adoption of the Final Stormwater Design Guidelines, the Project shall comply with the Final San Francisco Stormwater Design Guidelines unless discretionary permits have been approved. Per the Draft San Francisco Stormwater Design Guidelines, the Project Applicant shall submit a	Project Applicant	Stormwater Control Plan (SCP) and Stormwater Drainage Master Plan (SDMP) to be submitted to SFPUC as part of development application.	SFPUC; SFRA	SFPUC; SFRA	Approval by SFPUC of SCP and SDMP

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SCP to the SFPUC, as part of the development application submitted for approval. The SCP shall demonstrate how the following measures would be incorporated into the Project:

- Low impact development site design principles (e.g., preserving natural drainage channels, treating stormwater runoff at its source rather than in downstream centralized controls)
- Source control BMPs in the form of design standards and structural features for the following areas, as applicable:
  - > Commercial areas
  - > Restaurants
  - > Retail gasoline outlets
  - > Automotive repair shops
  - > Parking lots
- Source control BMPs for landscaped areas shall be documented in the form of a Landscape Management Plan that relies on Integrated Pest Management and also includes pesticide and fertilizer application guidelines.
- Treatment control measures (e.g., bioretention, porous pavement, vegetated swales) targeting the Project-specific COCs: sediment, pathogens, metals, nutrients (nitrogen and phosphorus compounds), oxygen-demanding substances, organic compounds (e.g., PCBs, pesticides), oil and grease, and trash and debris. The SCP shall demonstrate that the Project has the land area available to support the proposed BMP facilities sized per the required water quality design storm. Volume-based BMPs shall be sized to treat runoff resulting from 0.75 inches of rainfall (LEED® SS6.2), and flow-based BMPs shall be sized to treat runoff resulting from a rainfall intensity of

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0.2 inches per hour. Treatment trains shall be used where feasible. Additional requirements: ■ LEED® SS6.2: BMPs used to treat runoff shall be designed to remove 80 percent of the average annual post-development total suspended solids loads. BMPs are considered to meet these criteria if they are designed in accordance with SFPUC requirements. ■ The SCP shall include an Operations and Maintenance Plan that demonstrates how the treatment control BMPs would be maintained in the long term, what entities would be responsible for BMP maintenance within the public and private rights-of-way, funding mechanisms, and what mechanisms would be used to formalize maintenance and access agreements.					
■ The Project Applicant shall also prepare a Stormwater Drainage Master Plan (SDMP) for approval by the SFPUC. The SDMP shall include plans for the storm drain infrastructure and plans for stormwater management controls (e.g., vegetated swales, dry wells). The storm drain infrastructure shall illustrate conveyance of the 5-year storm event in a separate storm drain piped system, and conveyance of the 100-year storm event in the street and drainage channel rights-of-way.	Project Applicant	Prior to approval of site specific development plans	SFPUC/DPW	SFPUC/DPW	Approval of the SDMP
MM HY-6a.2 Recycled Water Irrigation Requirements. Prior to application of recycled water at the Project site for landscape irrigation, the Project Applicant shall demonstrate compliance with all terms and conditions of the SFPUC's Operations and Maintenance Plan and the Recycled Water General Permit conditions for the	Project Applicant	Prior to application of recycled water at project site for landscaping irrigation, Applicant to submit Operations and Management Plan,	SWRCB/SFPUC	SWRCB/SFPUC	Approval of Operations and Management Plan and Irrigation Management Plan by SFPUC

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
use of recycled water. As required by the Recycled Water General Permit, the Project Applicant shall submit an Operations and Maintenance Plan and an Irrigation Management Plan to the SWRCB. The Project Applicant shall also submit the Operations and Maintenance Plan and the Irrigation Management Plan to the SFPUC. Prior to on-site application of recycled water, the Project Applicant shall obtain written confirmation from the SFPUC that the Project Operations and Maintenance Plan and the Irrigation Management Plan is in compliance with the SFPUC's Operations and Maintenance Plan, and other SFPUC requirements for the use of recycled water. All recycled water provided to Project Applicant, pursuant to the Recycled Water General Permit, shall be treated in and managed in conformance with all applicable provisions of the Recycled Water Policy and shall meet Title 22 Requirements for disinfected tertiary recycled water as described in CCR Title 22, sections 60301.230 and 60301.320. In accordance with the Recycled Water General Permit, the Project Applicant's Operations and Maintenance Plan shall describe methods and procedures for complying with recycled water regulations, and the maintenance of equipment and emergency backup systems to maintain compliance with the General Permit conditions and California Department of Public Health (CDPH) requirements. The Project Applicant shall ensure that all users of recycled water comply with the Operations and Maintenance Plan by developing educational materials (e.g., pamphlet or brochure) that convey key operational elements (e.g., prevention of cross-connections) of the plan. In accordance with the Recycled Water General Permit, the Project Applicant's Irrigation		and Irrigation Management Plan to both SWRCB and SFPUC Monthly monitoring of recycled water applied	SWRCB/SFPUC/ SFRA	SWRCB/SFPUC; SFRA	Ongoing reporting to SFPUC and SFRA

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
Management Plan shall include measures to ensure the use of recycled water occurs at an agronomic rate while employing practices to minimize application of salinity constituents. The Irrigation Management Plan shall account for soil characteristics, recycled water characteristics, plant species irrigation requirements, climatic conditions, supplemental nutrient additions to support plant growth, and management of impoundments used to store or collect recycled water. The Irrigation Management Plan shall describe any conditions of approval required by the City, CDPH, or SWRCB. The Project Applicant shall implement the following landscape irrigation BMPs in accordance with Recycled Water General Permit Requirements: ■ The Operations and Maintenance Plan shall include leak detection methods and correction within 72 hours of identifying a leak or prior to the release of 1,000 gallons. ■ Recycled water shall not be applied during precipitation events. ■ Impoundment areas shall be managed such that no discharge occurs from storms smaller than the 25-year, 24-hour event. The Project Applicant shall also implement BMPs for general operational controls, protection of workers and the public (e.g., education about not drinking recycled water), and efficient irrigation (e.g., dedicated landscape water meters for monitoring water usage and leak detection). The Project Applicant shall conduct monthly monitoring to quantify the volume of recycled water applied, the locations and total area of application, and the mass of nitrogen and salinity constituents applied.					

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MM HY-6b.1 Limitations on Stormwater Infiltration. Infiltration BMPs on HPS Phase II shall be prohibited. Alternative BMPs for stormwater quality control, reuse, and treatment shall be used. For instance, biofiltration BMPs can be implemented with an impervious liner and subdrain system to treat stormwater runoff while preventing infiltration. Overland flow (greater than the five-year and up to the 100-year storm) shall be conveyed in lined channels or other conveyances that will not result in infiltration.	Project Applicant	With respect to Hunters Point Shipyard Phase II, the SCP and SDMP referred to in HY-6a.1 will avoid infiltration BMPs	SFPUC	SFPUC	Approval by SFPUC of SCP and SDMP
MM HY-6b.2 Industrial General Permit. The Facility Operator shall apply for an Industrial General Permit prior to operational activities for facilities requiring coverage under the Industrial General Permit, which is determined based on the facility's SIC. The Facility Operator shall comply with all provisions in the Industrial General Permit, including implementation of a SWPPP, to effectively control pollutants to the BAT/BCT during the normal course of operations. Primary components and pollution prevention measures that the SWPPP shall address are described below. The Facility Operator shall refer to the California Stormwater Quality Association Stormwater Best Management Practice Handbook – Industrial and Commercial or equivalent for details on BMP implementation. The SFRWQCB is responsible for overseeing Industrial General Permit activities, including SWPPP compliance. The following BMPs shall be incorporated into the SWPPP. Non-Structural BMPs ■ Good Housekeeping: Good housekeeping generally consists of practical procedures to	Project Applicant/Site Specific Facility Operator	Prior to facility operation	SWRCB/SFPUC	SWRCB/SFPUC	Approval by SFRWQCB

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
maintain a clean and orderly facility. ■ Preventive Maintenance: Regular inspection and maintenance of structural stormwater controls (catch basins, oil/water separators, etc.) as well as other facility equipment and systems. ■ Spill Response: Spill clean-up procedures and necessary clean-up equipment based upon the quantities and locations of significant materials that may spill or leak. ■ Material Handling and Storage: Procedures to minimize the potential for spills and leaks and to minimize exposure of significant materials to stormwater and authorized non-stormwater discharges. ■ Employee Training: Training of personnel who are responsible for (1) implementing activities identified in the SWPPP, (2) conducting inspections, sampling, and visual observations, and (3) managing stormwater. The SWPPP shall identify periodic dates for such training. Records shall be maintained of all training sessions held. ■ Waste Handling/Recycling: Procedures or processes to handle, store, or dispose of waste materials or recyclable materials. ■ Recordkeeping and Internal Reporting: Procedures to ensure that all records of inspections, spills, maintenance activities, corrective actions, visual observations, etc., are developed, retained, and provided, as necessary, to the appropriate facility personnel. ■ Erosion Control and Site Stabilization: This may include the planting and maintenance of vegetation, diversion of run-on and runoff, placement of sandbags, silt screens, or other					

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sediment control devices, etc.

- Inspections: This includes, in addition to the preventative maintenance inspections identified above, an inspection schedule of all potential pollutant sources. Tracking and follow-up procedures shall be described to ensure adequate corrective actions are taken and SWPPP revisions are made as needed.
- Quality Assurance: Procedures to ensure that all elements of the SWPPP and Monitoring Program are adequately conducted.

Structural BMPs to be Considered

- Overhead Coverage: Structures that provide horizontal coverage of materials, chemicals, and pollutant sources from contact with stormwater and authorized non-stormwater discharges.
- Retention Ponds: Basins, ponds, surface impoundments, etc. that do not allow stormwater to discharge from the facility.
- Control Devices: Berms or other devices that channel or route run-on and runoff away from pollutant sources.
- Secondary Containment Structures: This generally includes containment structures around storage tanks and other areas for the purpose of collecting any leaks or spills.
- Treatment: This includes inlet controls, infiltration devices, oil/water separators, detention ponds, vegetative swales, etc. that reduce the pollutants in stormwater discharges and authorized non-stormwater discharges. However, because of extensive site constraints, use of infiltration BMPs shall be limited.

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MM HY-6b.3 Clean Marinas California Program. The marina operator shall obtain certification under the Clean Marinas California Program. The Clean Marinas California Program has developed marina BMPs and an inspection and certification process for marinas that meet the program standard for BMP implementation. The marina operator shall implement BMPs that address the following sources of pollution: petroleum containment, topside boat maintenance and cleaning, underwater boat hull cleaning, marina operations, marina debris, boat sewage discharge, solid waste, liquid waste, fish waste, hazardous materials, and stormwater runoff.	Project Applicant	Prior to marina operation	SFRWQCB/SFRA	SFRWQCB/SFRA	Upon certification of the Clean Marinas Program
MM HY-12a.1 Finished Grade Elevations Above Base Flood Elevation. The Project site shall be graded such that finished floor elevations are 3.5 feet above the Base Flood Elevation (BFE), and streets and pads are 3 feet above BFE to allow for future sea level rise, thereby elevating all housing and structures above the existing and potential future flood hazard area. If the FIRM for San Francisco is not finalized prior to implementation of the Project, the Project Applicant shall work with the City Surveyor to revise the City's Interim Floodplain Map. If the FIRM for San Francisco is finalized prior to implementation of the Project, the Project Applicant shall request that the Office of the City Administrator (Floodplain Manager) request a Letter of Map Revision based on Fill (LOMR-F) from FEMA that places the Project outside SFHA and requires that the FIRM is updated by FEMA to reflect revised regulatory floodplain designations.	Project Applicant	Prior to issuance of construction permits	DPW/DBI	DPW/DBI	Upon revision of the City's interim Floodplain Map OR: Upon issuance of LOMAR-F from FEMA
MM HY-12a.2 Shoreline Improvements for Future Sea-Level Rise. Shoreline and public access	Project Applicant	Prior to issuance of construction permits	SFRA/DPW	SFRA/DPW	Upon approval of development permits

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improvements shall be designed to allow future increases in elevation along the shoreline edge to keep up with higher sea level rise values, should they occur. Design elements shall include providing adequate setbacks to allow for future elevation increases of at least 3 feet from the existing elevation along the shoreline. Before the first Small Lot Final Map is approved, the Project Applicant must petition the appropriate governing body to form (or annex into if appropriate) and administer a special assessment district or other funding mechanism to finance and construct future improvements necessary to ensure that the shoreline, public facilities, and public access improvements will be protected should sea level rise exceed 16 inches at the perimeter of the Project. Prior to the sale of the first residential unit within the Project, the governing body shall have acted upon the petition to include the property within the district boundary. The newly formed district shall also administer a Monitoring and Adaptive Management Plan to monitor sea level and implement and maintain the protective improvements.		for shoreline improvements			
MM HY-14 Shoreline Improvements to Reduce Flood Risk. To reduce the flood impacts of failure of existing shoreline structures, the Project Applicant shall implement shoreline improvements for flood control protection, as identified in the Candlestick Point/Hunters Point Development Project Proposed Shoreline Improvements report. Where feasible, elements of living shorelines shall be incorporated into the shoreline protection improvement measures.	Project Applicant	Prior to issuance of construction permits for shoreline improvements	SFRA/DPW	SFRA/DPW	Upon approval of development permits
SECTION III.N (BIOLOGICAL RESOURCES)					
MM BI-4a.1 Wetlands and Jurisdictional/Regulated	Project Applicant	Prior to initiation of	CDFG, the USACE, the	SFRA	Obtain and comply

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Waters Mitigation for Temporary and/or Permanent Impacts. Wetlands and jurisdictional waters shall be avoided to the maximum extent practicable for all Project components. For example, any measures taken to improve the existing shoreline of Candlestick Point or HPS Phase II for purposes of flood control, erosion control, or repair or stabilization of existing structures shall minimize the amount of fill to be placed in jurisdictional areas. Where avoidance of existing wetlands and drainages is not feasible, and before any construction activities are initiated in jurisdictional areas, the Applicant shall obtain the following permits, as applicable to the activities in question: ■ CWA Section 404 permit from the USACE. ■ Section 10 *Rivers and Harbors Act* Permit from the USACE. ■ CWA Section 401 water quality certification from the RWQCB, and/or Report of Waste Discharge for Waters of the State. ■ CWA Section 402/National Pollution Discharge Elimination System permit from SWRCB [requiring preparation of a Stormwater Pollution Prevention Plan (SWPPP)]. ■ CDFG Section 1602 streambed alteration agreement from CDFG. ■ A permit from the BCDC. ■ Dredging permits from the USACE and BCDC as required, obtained through the Dredged Material Management Office (DMMO) process. Copies of these permits shall be provided to the contractor, along with the construction specifications. The Project Applicant shall be responsible for complying with all of the conditions set forth in these permits, including any financial		construction activities	BCDC, SFRWQCB; and City/SFRA		with applicable permits

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responsibilities.

Compensation for impacts to wetlands and jurisdictional waters shall be required to mitigate any permanent impacts to these habitats to less-than significant-levels. Such mitigation shall also be developed (separately from the CEQA process) as a part of the permitting process with the USACE, or for non-USACE-jurisdictional wetlands, during permitting through the SFRWQCB, BCDC, and/or CDFG. The exact mitigation ratio shall be established during the permitting process, and depends on a number of factors, including the type and value of the wetlands permanently affected by the Project; however, mitigation shall be provided at a ratio of no less than 1:1 (at least 1 acre of mitigation for every 1 acre of waters of the US/State permanently filled). Mitigation could be achieved through a combination of on-site restoration or creation of wetlands or aquatic habitats (including removal of on-site fill or structures such as piers, resulting in a gain of wetland or aquatic habitats); off-site restoration/creation; and/or mitigation credits purchased at mitigation banks within the San Francisco Bay Region. However, any mitigation for impacts to jurisdictional waters providing habitat for special-status fish such as the green sturgeon, Central California Coast steelhead, Chinook salmon, and longfin smelt must result in the restoration or creation (at a minimum 1:1 ratio) of suitable habitat for these species, and any mitigation for impacts to jurisdictional wetlands or other waters that are considered EFH by the NMFS must result in the restoration or creation (at a minimum 1:1 ratio) of EFH. Suitably planned mitigation sites may satisfy mitigation requirements for jurisdictional areas, special-status fish, and EFH

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simultaneously (i.e., in the same mitigation areas) if the mitigation satisfies all these needs.					
For funding of off-site improvements or purchase of mitigation bank credits, the Project Applicant shall provide written evidence to the City/Agency that either (a) compensation has been established through the purchase of a sufficient number of mitigation credits to satisfy the mitigation acreage requirements of the Project activity, or (b) funds sufficient for the restoration of the mitigation acreage requirements of the Project activity have been paid to the BCDC, CCC, or other entity or agency that offers mitigation credits in the San Francisco Bay Area.	Project Applicant	Prior to initiation of construction activities	CDFG, the USACE, the BCDC, SFRWQCB; and SFRA	SFRA	Written evidence to the City/SFRA for funding of off-site improvements or purchase of mitigation bank credits
For areas to be restored, to mitigate for temporary or permanent impacts, the Project Applicant shall prepare and implement a Wetland and Jurisdictional Waters Mitigation Monitoring Plan (Mitigation Monitoring Plan). The Plan shall be submitted to the regulatory agencies along with permit application materials for approval, along with a copy to the City/Agency. The Project Applicant shall retain a restoration ecologist or wetland biologist to develop the Wetland and Jurisdictional Waters Mitigation and Monitoring Plan, and it shall contain the following components (or as otherwise modified by regulatory agency permitting conditions): 1. Summary of habitat impacts and proposed mitigation ratios, along with a description of any other mitigation strategies used to achieve the overall mitigation ratios, such as funding of off-site improvements and/or purchase of mitigation bank credits 2. Goal of the restoration to achieve no net loss of habitat functions and values	Project Applicant	Prior to initiation of construction activities	CDFG, the USACE, the BCDC, SFRWQCB; and SFRA	SFRA	Preparation and implementation of Wetland and Jurisdictional Waters Mitigation and Monitoring Plan. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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3. Location of mitigation site(s) and description of existing site conditions 4. Mitigation design: ■ Existing and proposed site hydrology ■ Grading plan if appropriate, including bank stabilization or other site stabilization features ■ Soil amendments and other site preparation elements as appropriate ■ Planting plan ■ Irrigation and maintenance plan ■ Remedial measures/adaptive management, etc. 5. Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.) 6. Contingency plan for mitigation elements that do not meet performance or final success criteria. Restoration and/or creation of wetlands or aquatic habitats could occur on site or off site and at one or more locations, as approved by the regulatory agencies. Impacts occurring due to activities on Candlestick Point may be mitigated by restoration or creation activities on HPS Phase II and vice versa. For example, loss of open water habitat that might result from construction of shoreline treatments could potentially be mitigated by the removal of fill or structures from aquatic habitat on HPS Phase II. The Project Applicant, or its agent, shall implement the Wetland and Jurisdictional Waters Mitigation Monitoring Plan. At least five years of monitoring (or more if required as a condition of the permits)	Project Applicant	During construction activities, for at least 5 years	CDFG, the USACE, the BCDC, SFRWQCB; and City/SFRA	SFRA	At least 5 years of monitoring, and preparation of annual monitoring reports to

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shall be conducted to document whether the success criteria (that are determined as part of the mitigation plan) are achieved, and to identify any remedial actions that must be taken if the identified success criteria are not met. Annual monitoring reports (described below) shall be submitted to CDFG, the USACE, the BCDC, the City/Agency, and the SFRWQCB. Each report shall summarize data collected during the monitoring period, describe how the habitats are progressing in terms of the success criteria, and discuss any remedial actions performed. Additional reporting requirements imposed by permit conditions shall be incorporated into the Wetland and Jurisdictional Waters Mitigation Monitoring Plan and implemented. Success criteria for specified years of monitoring for vegetated mitigation wetlands are as follows (though these may be subject to change pending development of specific Mitigation and Monitoring Plans and consultation during the permit process): ▪ Year 1 after restored areas reach elevations suitable for colonization by wetland plants: 10 percent combined area and basal cover (rhizomatous turf) of all vegetation in the preserve wetland; at least two hydrophytic plants co-dominant with whatever other vegetative cover exists. ▪ Year 3 after restored areas reach colonization elevation: 50 percent combined area and basal cover (rhizomatous turf) of all vegetation; prevalence of hydrophytic species in terms of both cover and dominant species composition of the vegetation; native vascular species shall comprise 95 percent of the vegetation in the preserve wetland. ▪ Year 5 after restored areas reach colonization					be submitted to CDFG, USACE, BCDC, SFRA, and SFRWQCB. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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elevation: 70 percent combined area and basal cover (rhizomatous turf) of all vegetation; more than 50 percent dominance in terms of both cover and species composition of facultative (FAC), facultative wetland (FACW), and obligate (OBL) species; native vascular species shall comprise 95 percent of the vegetation in the preserve wetlands.					
Other success criteria shall be developed for open water/mud flat habitats (which would not be expected to support vegetation) or for wetland complexes specifically designed to contain extensive areas of channels, pannes, or flats that would not be vegetated. In addition, the final Project design shall avoid substantial adverse effects to the pre-Project hydrology, water quality, or water quantity in any wetland that is to be retained on site. This shall be accomplished by avoiding or repairing any disturbance to the hydrologic conditions supporting these wetlands, as verified through an on-site Wetland Protection Plan that shall be prepared by a restoration ecologist or wetland biologist that is retained by the Project Applicant, and submitted to regulatory agencies for approval, along with a copy to the City/Agency. If such indirect effects cannot be avoided, compensatory mitigation shall be provided for the indirectly affected wetlands at a minimum 1:1 ratio, as described above. Mitigation for indirectly impacted wetlands shall be described in the Wetland and Jurisdictional Waters Mitigation and Monitoring Plan.	Project Applicant	Prior to initiation of construction activities	CDFG, the USACE, the BCDC, SFRWQCB, and City/SFRA	SFRA	Preparation of an on-site Wetland Protection Plan. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
Project features resulting in impacts to open water areas as a result of the marina, bridge, and breakwater construction shall be designed to be the minimum size required to meet their designated need. The opening in the breakwater shall be large	Project Applicant	During Project design	SFRA	SFRA	Approval of final design

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enough and positioned such that it would allow for a complete daily exchange of water within the marina that would otherwise result from normal tidal flow, as determined by a coastal engineer and an aquatic biologist. This opening shall be designed to minimize disruption to the local hydrology generated by the breakwater and allow for normal tidal flow to ensure the daily exchange of nutrients.					
MM BI-4a.2 Wetlands and Jurisdictional/Regulated Waters Impact Minimization for Construction-Related Impacts. The Project Applicant shall ensure that the contractor minimizes indirect construction-related impacts on wetlands and jurisdictional/regulated waters throughout the Study Area by implementing the following Best Management Practices (BMPs): ▪ Prior to any construction activities on the site, a protective fence shall be installed a minimum of one foot (or greater, if feasible) from the edge of all wetland habitat to be avoided in the immediate vicinity of the proposed construction areas. Prior to initiation of construction activities, a qualified biologist shall inspect the protective fencing to ensure that all wetland features have been appropriately protected. No encroachment into fenced areas shall be permitted during construction and the fence shall remain in place until all construction activities within 50 feet of the protected feature have been completed. ▪ Construction inspectors shall routinely inspect protected areas to ensure that protective measures remain in place and effective until all	Project Applicant	Prior to initiation of construction activities	DBI/SFRA ; CDFG, USACE, BCDC, SFRWQCB	DBI/SFRA, in consultation with other regulatory agencies, as necessary	SFRA and DBI to review construction documents and construction staging, access, and parking plan. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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construction activities near the protected resource have been completed. The fencing shall be removed immediately following construction activities. ■ To maintain hydrologic connections, the Project design shall include culverts for all seasonal and perennial drainages that are waters of the United States and/or Waters of the State. ■ Sediment mitigation measures shall be in place prior to the onset of Project construction and shall be monitored and maintained until construction activities have been completed. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas. Excess excavated soil shall be disposed of at a regional landfill or at another approved and/or properly permitted location. Stockpiles that are to remain on the site throughout the wet season shall be protected to prevent erosion. ■ Where determined necessary by regulatory agencies, geotextile cushions and other appropriate materials (i.e., timber pads, prefabricated equipment pads, geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation. ■ Exposed slopes and banks shall be stabilized immediately following completion of construction activities to reduce the effects of erosion on the drainage system. ■ In highly erodible areas, such as Yosemite Slough, banks shall be stabilized using a non-vegetative material that shall bind the soil initially and break down within a few years. If,					

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during review of the grading permit for this area, the City/Agency determines that more aggressive erosion control treatments are needed, the contractor shall be directed to use geotextile mats, excelsior blankets, or other soil stabilization products. ■ The contractors shall develop a Storm Water Pollution Prevention Plan (SWPPP) prior to construction. As discussed in the Regulatory Framework of the Hydrology and Water Quality section of this EIR, the SWPPP will comply with applicable local, state, and federal requirements. Erosion control BMPs may include, but are not limited to, the application of straw mulch; seeding with fast growing grasses; construction of berms, silt fences, hay bale dikes, stormwater detention basins, and other energy dissipaters. BMPs shall be selected and implemented to ensure that contaminants are prevented from entering the San Francisco Bay during construction and operation of the facilities shall protect water quality and the marine species in accordance with all regulatory standards and requirements. ■ Testing and disposal of any dredged sediment shall be conducted as required by the USACE and the Long-Term Management Strategy (LTMS)[1] ■ All temporarily impacted wetlands and other jurisdictional waters, whether in tidal or non-tidal areas, shall be restored to pre-construction contours following construction. Such impact areas include areas that are					

[1] US Army Corps of Engineers, US Environmental Protection Agency, San Francisco Bay Conservation and Implementation Commission, and San Francisco Bay Regional Water Quality Control Board. Long-term Management Strategy for the Placement of Dredge Material in the San Francisco Bay, Management Plan 2001.

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dewatered (e.g., using coffer dams) and/or used for construction access. Temporarily impacted wetlands that were vegetated prior to construction shall be revegetated in accordance with a Wetlands and Jurisdictional Waters Mitigation and Monitoring Plan as described above. ■ For impacts to tidal habitats: > Conduct all work in dewatered work areas > Install sediment curtains around the worksite to minimize sediment transport > Work only during periods of slack, tide (minimal current) and low wind to minimize transport of sediment laden water					
MM BI-4c Mitigation for Shading Impacts to Jurisdictional/Regulated Waters. Mud flats and aquatic habitats impacted by permanent shading from the Yosemite Slough bridge shall be mitigated by the creation or restoration, either on site, off site, and/or via purchase of mitigation bank credits, at a 0.5:1 (mitigation :impacted) ratio. Aside from the mitigation ratio, such mitigation shall be provided as described for mitigation measure MM BI-4a.1.	Project Applicant	Prior to initiation of construction activities	DBI/SFRA; CDFG, USACE, BCDC, SFRWQCB	DBI/SFRA, in consultation with other regulatory agencies, as necessary	Written evidence to the City/SFRA for funding of off-site improvements or purchase of mitigation bank credits; preparation of Wetland and Jurisdictional Waters Mitigation and Monitoring Plan and subsequent annual monitoring reports for areas to be restored shall be submitted to CDFG, the USACE, the BCDC, the City/SFRA, and the SFRWQCB.
MM BI-5b.1 Avoidance of Impacts to Eelgrass. As the design of shoreline treatments progresses, and a specific Shoreline Treatment Plan is determined,	Project Applicant	During the design of shoreline treatments	NMFS; SFRA	SFRA	Approval of Shoreline Treatment Plan; Construction

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the Plan shall minimize any in-water construction required for installation of any treatment measures near either of the two eelgrass locations noted above.					Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
MM BI-5b.2 Eelgrass Survey. Prior to the initiation of construction of the Yosemite Slough bridge or construction of shoreline treatments, an update to the existing eelgrass mapping shall be conducted to determine the precise locations of the eelgrass beds. For the shoreline treatments, this survey shall occur when a final Shoreline Treatment Plan has been prepared. The survey shall be conducted by a biologist(s) familiar with eelgrass identification and ecology and approved by NMFS to conduct such a survey. The area to be surveyed shall encompass the mapped eelgrass beds, plus a buffer of 750 feet around any in-water construction areas on Hunters Point or associated with the Yosemite Slough bridge. Survey methods shall employ either SCUBA or sufficient grab samples to ensure that the bottom was adequately inventoried. The survey shall occur between August and October and collect data on eelgrass distribution, density, and depth of occurrence for the survey areas. The edges of the eelgrass beds shall be mapped. At the conclusion of the survey a report shall be prepared documenting the survey methods, results, and eelgrass distribution within the survey area. This report shall be submitted to NMFS for approval. The survey data shall feed back into the shoreline treatment design process so that Project engineers can redesign the treatments to avoid or minimize any direct impacts to eelgrass beds. If the shoreline treatments can be adjusted so that no direct impacts to eelgrass beds would occur, no	Project Applicant	When a final Shoreline Treatment Plan has been prepared	NMFS; SFRA	SFRA	Submittal of a report for NMFS approval documenting survey methods, results, and eelgrass distribution within the survey area. Submit report and proof of NMFS approval to SFRA.

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further mitigation under this measure would be required for shoreline treatment construction. Management of water quality concerns is addressed through mitigation measure MM BI-5b.4 and shall be required to minimize sediment accumulation on the eelgrass. If direct impacts to eelgrass beds cannot be avoided either by Hunters Point shoreline treatments or Yosemite Slough bridge construction, mitigation measure MM BI-5b.3 shall be implemented.					
MM BI-5b.3 Compensatory Eelgrass Mitigation. If direct impacts to eelgrass beds cannot be avoided, compensatory mitigation shall be provided in conformance with the Southern California Eelgrass Mitigation Policy. Mitigation shall entail the replacement of impacted eelgrass at a 3:1 (mitigation:impact) ratio on an acreage basis, based on the eelgrass mapping described in mitigation measure MM BI-5b.2 and detailed designs of the feature(s) that would impact eelgrass beds. Such mitigation could occur either off site or on site.[2] Off-site mitigation could be achieved through distribution of a sufficient amount of funding to allow restoration or enhancement of eelgrass beds at another location in the Bay. If this option is selected, all funds shall be distributed to the appropriate state or federal agency or restoration-focused non-governmental agency (i.e., CDFG restoration fund, California Coastal Conservancy, Save the Bay, etc). The Project Applicant shall provide written evidence to the City/Agency that either a) compensation has been established through the purchase of a sufficient number of mitigation credits to satisfy the mitigation	Project Applicant	Upon the determination that direct impacts to eelgrass beds cannot be avoided, and off-site mitigation would be appropriate (prior to in-water construction)	NMFS /SFRA	SFRA	Written evidence to the City/SFRA for the compensation of off-site mitigation credits or funds

[2] NMFS, Southwest Regional Office, Southern California Eelgrass Mitigation Policy, as revised August 30, 2005. Website: http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf. Accessed July 20, 2009.

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acreage requirements of the Project activity, or b) funds sufficient for the restoration of the mitigation acreage requirements of the Project activity have been paid. These funds shall be applied only to eelgrass restoration within the Bay.					
If on-site mitigation is selected as the appropriate option, the Project Applicant shall retain a qualified biologist familiar with eelgrass ecology (as approved by the City/Agency) to prepare and implement a detailed Eelgrass Mitigation Plan. Unless otherwise directed by NMFS, the Eelgrass Mitigation Plan shall follow the basic outline and contain all the components required of the Southern California Eelgrass Mitigation Policy (as revised in 2005),[3] including: identification of the mitigation need, site, transplant methodology, mitigation extent (typically 3:1 on an acreage basis[4]), monitoring protocols (including frequency, staffing, reviewing agencies, duration, etc), and success criteria. A draft Eelgrass Mitigation Plan shall be submitted to NMFS, for its review and approval prior to implementation, with a copy to the City/Agency. Once the plan has been approved, it shall be implemented in the following appropriate season for transplantation. Restored eelgrass beds shall be monitored for success over a 5-year period.	Project Applicant	Upon the determination that direct impacts to eelgrass beds cannot be avoided, and on-site mitigation would be appropriate (prior to in-water construction)	NMFS/ SFRA	SFRA	Preparation and implementation of an Eelgrass Mitigation Plan if on-site mitigation occurs.
MM BI-5b.4 Eelgrass Water Quality BMPs. To prevent sediment that could be suspended during construction from settling out onto eelgrass, for any	Project Applicant	Prior to and during in-water construction	NMFS/SFRA	SFRA	BMPs deemed appropriate by NMFS

[3] NMFS, Southwest Regional Office, Southern California Eelgrass Mitigation Policy, as revised August 30, 2005. Website: http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf. Accessed July 20, 2009.

[4] US Army Corps of Engineers, US Environmental Protection Agency, San Francisco Bay Conservation and Implementation Commission, and San Francisco Bay Regional Water Quality Control Board. Long-term Management Strategy for the Placement of Dredge Material in the San Francisco Bay, Management Plan 2001; Appendix F – ESA and EFH Consultation.

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shoreline treatments within 750 feet of identified eelgrass beds, the Project Applicant shall require the selected contractor to implement appropriate BMPs that could include any or all of the following options, or others deemed appropriate by NMFS: 1. Conduct all work in dewatered work areas 2. Conduct all in-water work during periods of eelgrass dormancy (November 1-March 31) 3. Install sediment curtains around the worksite to minimize sediment transport 4. Work only during periods of slack tide (minimal current) and low wind to minimize transport of sediment laden water					
MM BI-6a.1 Impact Avoidance and Pre-Construction Surveys for Nesting Special-Status and Legally Protected Avian Species. The following measures shall be implemented by the Project Developer to avoid impacts to nesting birds. 1. Not more than 15 days prior to construction activities that occur between February 1 and August 31, surveys for nesting birds shall be conducted by a qualified biologist (one familiar with the breeding biology and nesting habits of birds that may breed in the Project vicinity) that is selected by the Project Developer, and approved by the City/Agency. Surveys shall cover the entire area to be affected by construction and the area within a 250-foot buffer of construction or ground-disturbing activities. The results of the surveys, including survey dates, times, methods, species observed, and a map of any discovered nests, shall be submitted to the City/Agency. If no active avian nests (i.e. nests with eggs or young) are identified on or within 250 feet of	Project Applicant	Not more than 15 days prior to construction activities that occur between February 1 and August 31	CDFG	SFRA	Submittal of nesting bird survey findings to the SFRA and consultation with CDFG as appropriate

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the limits of the disturbance area, no further mitigation is necessary. Phased construction work shall require additional surveys if vegetation or building removal has not occurred within 15 days of the initial survey or is planned for an area that was not previously surveyed. Alternatively, to avoid impacts, the Project Developer shall begin construction after the previous breeding season for local raptors and other special-status species has ended (after August 31) and before the next breeding season begins (before February 1). 2. If active nests (with eggs or young) of special-status or protected avian species are found within 250 feet of the proposed disturbance area, a minimum 250-foot no-disturbance buffer zone surrounding active raptor nests and a minimum 100-foot buffer zone surrounding nests of other special-status or protected avian species shall be established until the young have fledged. Project activities shall not occur within the buffer as long as the nest is active. The size of the buffer area may be reduced if a qualified biologist familiar with the species' nesting biology (as approved by the City/Agency) and CDFG determine it would not be likely to have adverse effects on the particular species. Alternatively, certain activities may occur within the aforementioned buffers, with CDFG concurrence, if a qualified biologist monitors the activity of nesting birds for signs of agitation while those activities are being performed. If the birds show signs of agitation suggesting that they could abandon the nest, activities would cease within the buffer area. No action other than avoidance shall be taken without CDFG consultation.					

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3. Completion of the nesting cycle (to determine when construction near the nest can commence) shall be determined by a qualified biologist experienced in identification and biology of the specific special-status or protected species.					
MM BI-6a.2 Burrowing Owl Protocol Surveys and Mitigation. Because burrowing owls may take refuge in burrows any time of year, species-specific measures are necessary to avoid take of this species. The following measures shall be undertaken by the Project Developer to protect burrowing owls. Prior to construction activities, focused pre-construction surveys shall be conducted for burrowing owls where suitable habitat is present within the construction areas. Surveys shall be conducted by a qualified biologist (i.e., one who is familiar with burrowing owl ecology and experienced in performing surveys for them, approved by the City/Agency) no more than 30 days prior to commencement of construction activities. These surveys shall be conducted in accordance with the CDFG burrowing owl survey protocol contained within California Burrowing Owl Consortium's April 1995 Burrowing Owl Survey Protocol and Mitigation Guidelines, or any more current equivalent should new guidelines be released before construction.	Project Applicant	No more than 30 days prior to commencement of construction activities	CDFG	SFRA	Submittal of burrowing owl survey findings to the SFRA and consultation with CDFG as appropriate
1. If no occupied burrows are found in the survey area, a letter report documenting survey methods and findings shall be submitted to the City/Agency and CDFG, and no further mitigation is necessary.					
2. If unoccupied burrows are found during the non-breeding season, prior to construction	Project Applicant	Upon determination that impacts to	CDFG	SFRA	If unoccupied burrows are found during non-

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activities, the Project Developer shall collapse the unoccupied burrows, or otherwise obstruct their entrances to prevent owls from entering and nesting in the burrows. This measure would prevent inadvertent impacts during construction activities.		occupied burrows are unavoidable and prior to construction activities			breeding season, unoccupied burrows will be collapsed. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
3. If occupied burrows are found, a letter report documenting survey methods and findings (including a map showing the locations of the occupied burrows) shall be submitted to the City/Agency and CDFG. Impacts to the burrows shall be avoided by providing a construction-free buffer of 250 feet during the nesting season (February 1 through August 31). A buffer of 165 feet from the active burrows should be provided during the non-breeding season (September 1 through January 31) if feasible, though a reduced buffer is acceptable during the non-breeding season as long as construction avoids direct impacts to the burrow(s) used by the owls. The size of the buffer area may be reduced if the CDFG determines it would not be likely to have adverse effects on the owls. No Project activity shall commence within the buffer area until a qualified biologist (as approved by the City/Agency) confirms that the burrow is no longer occupied. If the burrow is occupied by a nesting pair, as recommended by the California Burrowing Owl Consortium's April 1995 Burrowing Owl Survey Protocol and Mitigation Guidelines, a minimum of 6.5 acres of foraging habitat contiguous (immediately adjacent) to the burrow shall be maintained until the nesting	Project Applicant	Prior to construction activities upon completion of preconstruction focused surveys for burrowing owls	CDFG	SFRA	If occupied burrows are found, a letter report of findings will be submitted to CDFG and the City/SFRA. Avoidance of occupied burrows and compensatory habitat mitigation, as appropriate, shall occur as stated. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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season is over. If the foraging habitat contiguous to the occupied burrow is currently less than 6.5 acres, the entire foraging habitat shall be maintained until the nesting season is over.					
4. If impacts to occupied burrows are unavoidable, passive relocation techniques approved by CDFG shall be used to evict owls from burrows within the construction area prior to construction activities. However, no occupied burrows shall be disturbed during the nesting season unless a qualified biologist (as approved by the City/Agency) verifies through non-invasive methods that juveniles from the occupied burrows are foraging independently and are capable of independent survival, or verifies the owls have not yet laid eggs. If any breeding owls must be relocated (i.e., after the nesting season has ended), mitigation of impacts to lost foraging and nesting habitat for relocated pairs shall follow guidelines provided in the California Burrowing Owl Consortium's April 1995 Burrowing Owl Survey Protocol and Mitigation Guidelines, which depending upon conditions detailed in the guidance (such as mitigation habitat quality), range from 7.5 to 19.5 acres per pair. This mitigation may take the form of the purchase of credits in a burrowing owl mitigation bank or the preservation and management of the required habitat acreage on site (e.g., in the Grasslands Ecology Park) or off site. If mitigation is provided via on-site or off-site habitat preservation and management, a Burrowing Owl Habitat Management Plan shall be prepared by a qualified biologist and submitted to the CDFG for review and approval, along	Project Applicant	Upon determination that impacts to occupied burrows are unavoidable and prior to construction activities	CDFG	SFRA	If mitigation is required and provided via on-site or off-site habitat preservation and management, a Burrowing Owl Habitat Management Plan to be prepared by qualified biologist and submitted to the CDFG for review and approval, along with a copy to the City/SFRA. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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with a copy to the City/Agency. This plan shall detail the location of the mitigation site, the means of preservation of the site (i.e., via a conservation easement), any enhancement and management measures necessary to ensure that habitat for burrowing owls is maintained in the long term, a monitoring program, and the size of an endowment established for the long-term maintenance of the site.					
MM BI-6b American Peregrine Falcon Nest Protection Measures. To protect the nest of peregrine falcons during construction, the following measures shall be implemented by the Project Developer prior to construction or other disturbance within 500 feet of the Re-gunning crane nest. 1. Not more than 30 days prior to construction activities that occur between February 1 and August 15, surveys for nesting peregrine falcons shall be conducted on the Re-gunning crane, and within a 500-foot buffer surrounding the potential nesting location. Surveys shall be performed by a qualified biologist (i.e., one familiar with falcon biology and nesting) that is selected by the Project Developer, and approved by the City/Agency. The results of the surveys shall be submitted to the City/Agency and the CDFG. If no active peregrine falcon nests, eggs, or breeding activity, are identified on or within 500 feet of the limits of the disturbance area, no further mitigation is necessary. Alternatively, to avoid impacts, the Project Developer can begin construction after the previous breeding season has ended (after August 31) and before the next breeding season begins (before February 1).	Project Applicant	Not more than 30 days prior to construction activities that occur between Feb. 1st and August 15th.	CDFG	SFRA	Survey for nesting peregrine falcons and submittal of results to CDFG and the City/SFRA. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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2. If active peregrine nests or breeding activity are observed within the survey area, a minimum 250-foot no disturbance buffer zone surrounding the nesting location shall be established until the young have fledged. Within this buffer, no Project construction activities shall occur while the nest is active. The size of the buffer area may be reduced if a qualified biologist and CDFG determine it would not be likely to have adverse effects on the falcons. No action other than avoidance shall be taken without CDFG consultation. 3. No new Project construction activity shall commence within the buffer area until young have fledged and the nest is no longer active, or until nesting has been terminated for reasons unrelated to Project activities. Completion of the nesting cycle shall be determined by a qualified biologist who is experienced in peregrine falcon breeding biology (as determined and approved by the City/Agency).					
MM BI-7b Enhancement of Raptor Foraging Habitat. The Draft Parks, Open Space, and Habitat Concept Plan shall implement, at a minimum, the following measures in open space areas outside the CPSRA, and if allowed, within the CPSRA area: ■ **Restoration and Management of Grasslands:** To maintain grassland-associated wildlife species on the site, grasslands extensive enough to support such species shall be maintained and enhanced through the restoration of native grasses. Such grassland habitat shall not be well manicured or regularly mown. No trees shall be planted within such areas, and shrub cover would be	Project Applicant	Throughout the construction phase	SFRA	SFRA	Approval of Plan by SFRA and, if applicable, by CPSRA. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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limited to a few small, scattered patches of low-statured coastal scrub plants. At a minimum, replacement of non-native grassland impacted at HPS Phase II with native-dominated grassland shall occur at a ratio of 1:1 (1 acre of native-dominated grassland restored: 1 acre of non-native grassland impacted). ▪ **Increase in Tree/Shrub Cover:** Trees and shrubs (particularly natives) shall be planted and maintained outside the designated grassland restoration area to provide foraging habitat for raptors and other migratory birds, and cover for mammals, reptiles, and smaller birds that may serve as raptor prey. While native vegetation shall be favored, site-appropriate non-native trees and shrubs that provide food or structural resources that are particularly valuable to native wildlife shall also be considered. Approximately 10,000 net new trees shall be planted at the Project site and in the community, in addition to trees that will be replaced as required by the Urban Forestry Ordinance or MM BI-14a. The elements identified above shall be reviewed and approved by a qualified biologist (one familiar with the ecology of the Project site), and the Draft Parks, Open Space, and Habitat Concept Plan shall be implemented during construction of the Project. This plan shall be approved by the City/Agency prior to construction, and its preparation and implementation shall be the financial responsibility of the Project Applicant.	Project Applicant	Plan to be approved by City/SFRA prior to construction, and implemented throughout the construction phase of the Project	SFRA	SFRA	Approval and implementation of the Draft Parks, Open Space, and Habitat Concept Plan. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
MM BI-9b Pile Driving Design and Minimization Measures. To minimize impacts on fish and marine mammals, the Project Applicant shall be					

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implemented the following measure to reduce the amount of pressure waves generated by pile driving. The first set of measures shall be implemented during Project design. The second set of measures shall be implemented during construction.					
Design Measures: 1. Engineer structures to use fewer or smaller piles, where feasible, and preferably, solid piles. 2. Design structures that can be installed in a short period of time (i.e., during periods of slack tide when fish movements are lower). 3. Do not use unsheathed creosote-soaked wood pilings. The City/Agency, with consultation from a qualified biologist who is familiar with marine biology, as approved by the City/Agency, shall review the final Project design to ensure that these design requirements have been incorporated into the Project.	Project Applicant	During Project design	DBI/SFRA	DBI/SFRA	Approval of final plans
Construction Measures: 1. Drive piles with a vibratory device instead of an impact hammer if feasible. 2. Restrict pile driving of steel piles to the June 1 to November 30 work window, or as otherwise recommended by NMFS (driving of concrete piles would not be subject to this condition). 3. Avoid installation of any piles during the Pacific herring spawning season of December through February. Consult with the CDFG regarding actual spawning times if pile installation occurs between October and April. 4. If steel piles must be driven with an impact hammer, an air curtain shall be installed to	Project Applicant	During construction activities	DBI/SFRA, in consultation with NMFS and CDFG, if necessary	DBI/SFRA, in consultation with NMFS and CDFG, if necessary	Monitoring of pile driving activities. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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disrupt sound wave propagation, or the area around the piles being driven shall be dewatered using a cofferdam. The goal of either measure is to disrupt the sound wave as it moves from water into air. 5. If an air curtain is used, a qualified biologist shall monitor pile driving to ensure that the air curtain is functioning properly and Project-generated sound waves do not exceed the threshold of 180-decibels generating 1 micropascal (as established by NMFS guidelines). This shall require monitoring of in-water sound waves during pile driving. 6. Unless the area around the piles is dewatered during pile driving, a qualified biologist shall be present during pile driving of steel piles to monitor the work area for marine mammals. Driving of steel piles shall cease if a marine mammal approaches within 250 feet of the work area or until the animal leaves the work area of its own accord.					
MM BI-12a.1 Seasonal Restrictions on In-Water Work. In-water work when juvenile salmonids are moving through the estuary on the way to the ocean or when groundfish and prey species could be directly impacted shall be avoided. Because steelhead are potentially present, the allowed dredge window for this area of the San Francisco Bay is June 1 through November 30. All in-water construction shall occur during this window. If completion of in-water work within this period is not feasible due to scheduling issues, new timing guidelines shall be established and submitted to NMFS and CDFG for review and approval.	Project Applicant	During construction between June 1st and November 30th	NMFS and CDFG	SFRA, in consultation with NMFS and CDFG, as necessary	Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
MM BI-12a.2 Worker Training. Personnel involved in in-water construction and deconstruction	Project Applicant	Prior to construction activities	DBI/SFRA	DBI/SFRA	Construction Contractor to submit

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activities shall be trained by a qualified biologist (experienced in construction monitoring, as approved by the City/Agency) in the importance of the marine environment to special-status fish, birds, and marine mammals and the environmental protection measures put in place to prevent impacts to these species, their habitats, and Essential Fish Habitat. The training shall include, at a minimum, the following: ■ A review of the special-status fish, birds, and marine mammals and sensitive habitats that could be found in work areas ■ Measures to avoid and minimize adverse effects to special-status fish, birds, marine mammals, their habitats, and Essential Fish Habitat ■ A review of all conditions and requirements of environmental permits, reports, and plans (i.e., USACE permits) **MM BI-4a.1** and **MM BI-4a.2** would also apply to this impact.					quarterly report of compliance activity, until deemed complete by SFRA.
MM BI-12b.1 Essential Fish Habitat Avoidance and Minimization Measures. The following mitigation measures have been adapted from Amendment 11 of the West Coast Groundfish Plan[5] and Appendix A of the Pacific Coast Salmon Plan.[6] Incorporation of the following, or equivalent mitigation as otherwise required by the USACE or NMFS, would reduce the impacts to Essential Fish Habitat (EFH) to a level considered	Project Applicant	During construction activities	USACE; NMFS	SFRA, in consultation with NMFS and USACE, as necessary	Approval of dredging permits. Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

[5] PFMC 1998. Essential Fish Habitat – West Coast Groundfish, Amendment 11.
[6] PFMC 1999. Appendix A: Identification and description of Essential Fish Habitat, Adverse Impacts, and Recommended Conservation Measures for Salmon. *In* Pacific Coast Salmon Plan (1997) as amended through Amendment 14. Website: http://www.pcouncil.org/salmon/salfmp/a14.html.
[7] National Management Measures to Control Nonpoint Source Pollution from Marinas and Recreational Boating. EPA 841-B-01-005, November 2001.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
less than significant. Unless modified by the federal permitting agencies (NMFS or USACE), these measures shall be implemented during construction by the Project Applicant. Any reporting required shall be specified in the USACE permits and reports shall be submitted to the USACE and NMFS. ▪ If dredging is required, permits will be obtained through the Dredged Material Management Office (DMMO) process, and the following mitigation from the Long-Term Management Strategy (LTMS) shall be implemented: > Dredging shall avoid areas with submerged aquatic vegetation (eelgrass beds or other EFH areas of particular concern) especially where the action could affect groundfish, prey of outmigrating juvenile salmon or groundfish, larval marine species, or habitat for native oysters > Sediments shall be tested for contaminants as per EPA and USACE requirements. Contaminated sediments shall be disposed of in accordance with EPA and USACE guidelines > Slopes of the dredged area shall be gradual enough so that sloughing is unlikely to occur. Verification of these conditions shall be achieved through follow-up bathymetric surveys > To minimize turbidity and potential resuspension of contaminated sediments, dredging shall use suction equipment, or similar equipment, when feasible. Where an equipment type may generate significant turbidity (i.e., clamshell), dredging shall be conducted using					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
adequate engineering and best management practices to control turbidity. These include, but are not limited to, sediment curtains and tidal work windows. ■ All construction equipment used in conjunction with in-water work (pipelines, barges, cranes, etc.) shall avoid wetlands, marshes, and areas of subaquatic vegetation (including eelgrass beds) ■ Upland disposal options shall be considered for all spoils generated by on-site construction, especially if high levels of contaminants are present ■ Maximize the use of clean dredged material for beneficial use opportunities, such as salt marsh restoration ■ Use Best Management Practices (BMPs) for controlling pollution from marina operations, boatyards, and fueling facilities that meet, as applicable, the BMPs listed in the National Management Measures to Control Nonpoint Source Pollution from Marinas and Recreational Boating[7]					
MM BI-12b.2 Deconstruction/Construction Debris Recovery. A Seafloor Debris Minimization and Removal Plan shall be prepared by the Project Applicant and approved by the City/Agency, prior to initiation of in-water deconstruction (dismantling) or construction activities. The Plan shall be implemented during in-water deconstruction or construction activities, and such activities shall be monitored by a qualified biologist who is experienced in construction monitoring (as approved by the City/Agency). The Seafloor Debris Minimization and Removal Plan shall include, at a	Project Applicant	Seafloor Debris Minimization and Removal Plan to be prepared prior to initiation of in-water deconstruction or construction activities; implementation of the plan to occur during in-water deconstruction or construction activities	DBI/SFRA	DBI/SFRA	Approval of Seafloor Debris Minimization and Removal Plan; Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
minimum: ▪ Debris field boundaries associated with deconstruction activities ▪ Identification of measures taken to minimize the potential for debris to fall into aquatic habitats (i.e., the use of netting below in-water construction or deconstruction areas) ▪ Deconstruction equipment, tools, pipes, pilings, and other materials or debris that are inadvertently dropped into the Bay, along with their descriptions and locations ▪ Circumstances requiring immediate cessation of deconstruction activities and immediate initiation of search and recovery efforts, including procedures for implementing those recovery efforts ▪ How lost debris that is to be removed post-deconstruction is to be identified, who will be conducting search and recovery operations, and the survey methods to be employed to locate lost equipment and materials ▪ Criteria that will be used to: ▪ Determine whether recovery efforts are appropriate for the object being recovered and do not result in potential environmental impairment greater than if the debris was allowed to remain in place ▪ When sufficient effort has been expended to recover a lost object(s) with no success and continued efforts to recover the seafloor debris have diminishing potential for success and/or result in environmental impairment greater than leaving the debris in place ▪ Person(s) responsible for implementing the Plan and making the determination on the type of recovery required					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
■ How debris is to be disposed of or recycled ■ Metrics for determining when recovery efforts will be considered complete Following completion of all post deconstruction recovery efforts for seafloor debris, a report shall be prepared by the Project Applicant and submitted to the City/Agency detailing, at a minimum, (1) recovery activities during deconstruction and post-deconstruction, (2) listings of all lost and recovered debris, (3) final disposition of recovered debris, and (4) discussion of what debris could not be recovered and why.	Project Applicant	Following completion of all post deconstruction recovery efforts for seafloor debris	DBI/SFRA	DBI/SFRA	Receipt of report of recovery activities by DBI/SFRA
MM BI-14a Preservation and Replacement of Significant Trees, and Preservation and Planting of Street Trees. Construction activities outside of the Department of Public Works (DPW) jurisdiction could result in the disturbance or removal of a large number of trees. To minimize this impact, the following measures shall be implemented by the Project Applicant in these areas: 1. Avoidance of the removal of trees that meet the size specifications of significant trees in the Public Works Code Article 16 shall occur to the maximum extent feasible, and any such trees that are removed shall be replaced at a minimum of 1:1 (1 impacted:1 replaced). The species used for replacement shall be consistent with DPW recommendations. 2. Street trees shall be planted in all new development areas. The species, size, and locations shall be consistent with the requirements specified in Planning Code Section 143, including, but not limited to, the following:	Project Applicant	During construction activities	DBI/SFRA	DBI/SFRA	Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
a) The street trees installed shall be a minimum of one 24-inch box tree for each 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Such trees shall be located either within a setback area on the lot or within the public right-of-way along such lot. b) The species of trees selected shall be suitable for the site, and, in the case of trees installed in the public right-of-way, the species and locations shall be subject to the approval by the DPW. Procedures and other requirements for the installation, maintenance, and protection of trees in the public right-of-way shall be as set forth in Public Works Code Article 16.					
3. If a significant tree or street tree will not be removed, but construction activities will occur within the dripline of such trees, a Tree Protection Plan shall be prepared by an International Society of Arboriculture (ISA) certified arborist, in accordance with the Urban Forestry Ordinance. This plan shall be submitted to the Planning Department for review and approval prior to issuance of a demolition or building permit. The Tree Protection Plan shall include measures to protect all parts of a tree from disturbance during construction, and may include the following: a) A site plan with tree species, trunk location, trunk diameter at breast height, and the canopy dripline area within development b) The use of protective fencing to establish	Project Applicant	Prior to issuance of a demolition or building permit	Planning Dept/SFRA	Planning Dept/SFRA	Approval of a Tree Protection Plan

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
an area to be left undisturbed during construction c) Protection specifications, including construction specifications such as boring instead of trenching for utility lines, or tree specifications such as drainage, fertilization, or irrigation measures d) Pruning specifications, if needed, to preserve the health of the tree and allow construction to proceed					
MM BI-18b.1 Maintenance Dredging and Turbidity Minimization Measures for the Operation of the Marina. Maintenance dredging for the marina could remove or generate sediment plumes that could impact special-status species, their habitats, and Essential Fish Habitat (EFH). To minimize this effect, the following measures shall be implemented by the Project Applicant: 1. Conduct a detailed survey for native oysters in all suitable substrates within the marina, which includes the area between the land and breakwaters, after construction of the new breakwaters. This survey shall be conducted by a qualified oyster biologist at low tides that expose the maximum amount of substrate possible. Surveys can be conducted at any time of year, but late summer and early fall are optimal because newly settled oysters are detectable. This survey shall occur before any construction within the proposed marina location takes place to establish a baseline condition. If few or no oysters are observed on hard substrates that would remain in place after dredging, no further mitigation is required.	Project Applicant	Prior to in-water dredging activities, and at low tides preferably in late summer or early fall	NMFS	SFRA, in consultation with NMFS, as necessary	Approval by NMFS of Survey for native oysters

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Mitigation Measure	*Responsibility for Implementation*	*Mitigation Timing*	*Enforcement Responsibility*	*Monitoring Responsibility*	*Monitoring Actions/ Verification of Compliance*
2. If oysters are found at densities at or above 90 oysters per square meter[8] on suitable oyster-settlement substrates that would be removed or in areas where dredging sediment could settle out onto the oysters, a detailed sediment plume modeling study of the proposed marina operation shall be conducted to determine if the operations and maintenance of the marina would generate a substantial plume of sediment. This model shall include the local bathymetry and sediment information, tidal data, and detailed marina information (number and types of boats, etc). The model shall be prepared by a qualified harbor engineer (as approved by the City/Agency) with direct experience in this type of work within San Francisco Bay, prior to issuance of any permits for the construction of features directly associated with the marina. A report documenting modeling methods, input data, assumptions, results, and implications for increased rates of sedimentation shall be prepared and provided to NMFS during the USACE-directed Section 7 and EFH consultation for the marina. If the model demonstrates minimal sediment resuspension that would settle out before reaching sensitive habitats, no further mitigation is required.	Project Applicant	Prior to issuance of any permits for construction of marina structures	USACE; NMFS	SFRA, in consultation with NMFS and USACE, as necessary	Submittal of a detailed sediment plume modeling study to NMFS
3. If the sediment plume reaches sensitive shoreline habitats (substrates that support native oysters), compensatory mitigation shall be provided by the Project Applicant at a ratio recommended by NMFS for the type of habitat adversely affected. The Project Applicant shall	Project Applicant	Prior to issuance of any permits for construction of marina structures	NMFS	SFRA, in consultation with NMFS, as necessary	Development and approval of an Oyster Restoration Plan

[8] MACTEC Engineering and Consulting, Inc. 2008. *Oyster Point Marina Olympia Oyster Surveys Pre- and Post-Dredging February 2008, Oyster Point Marina, South San Francisco, California.* Prepared for PBS&J; Obernolte. 2009. Personal communication between MACTEC and PBS&J.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
retain a qualified oyster biologist (as approved by the City/Agency) to develop an Oyster Restoration Plan that shall be reviewed and approved by the City/Agency. This Plan shall include site selection, substrate installation, and monitoring procedures, and include the following components (unless otherwise modified by NMFS): ■ A suitable site for installation of replacement substrate would be one with adequate daily tidal flow, a location that would not be affected by maintenance dredging or other routine marina maintenance activities, and one that is lacking in appropriate settlement substrate. A location outside of the new breakwaters or in association with any eelgrass mitigation sites would be appropriate. ■ Although oysters would settle on a variety of materials, the most appropriate for restoration purposes is oyster shell. This is typically installed by placing the shell into mesh bags that can then be placed in piles on the seafloor of the mitigation site. Enough shell shall be installed under the guidance of a qualified oyster biologist to make up for the loss attributable to the Project. Mitigation shall occur after construction of all in-water elements of the Project within HPS Phase II. The restoration site shall be monitored on a regular basis by a qualified oyster biologist for a minimum of two years, or until success criteria are achieved if they are not achieved within two years. Monitoring shall involve routine checks (bi-monthly					

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
during the winter and monthly during the spring and summer) to evaluate settlement, growth, and survival on the mitigation site. Success shall be determined to have been achieved when settlement and survival rates for oysters are not statistically significantly different between the mitigation site and either populations being impacted (if data are available) or nearby established populations (i.e., Oyster Point Marina).					
MM BI-18b.2 Implement BMPs to Reduce Impacts of Dredging To Water Quality. BMPs established in Appendix I of the Long-Term Management Strategy (LTMS) for management of disposal of dredge material in San Francisco Bay are designed specifically to minimize spread of contaminants Long-Term Management Strategy (LTMS) outside of dredge areas. All of these elements of the LTMS shall be applied to any proposed dredging or construction activities associated with the Project unless otherwise modified by the USACE, BCDC, or SFRWQCB in permit conditions associated with the proposed dredging activities associated with this Project (same as MM BI-19b.2).	Project Applicant	During dredging or construction activities	USACE, BCDC, SFRWQCB	SFRA, in consultation with regulatory agencies, as necessary	Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
MM BI-19b.1 Work Windows to Reduce Maintenance Dredging Impacts to Fish during Operation of the Marina. According to the Long-Term Management Strategy (LTMS), dredging Projects that occur during the designated work windows do not need to consult with NMFS under the federal *Endangered Species Act* (FESA).[9] The window in which dredging is allowed for the protection of steelhead in the central Bay is June 1	Project Applicant	Dredging activities may not occur between March 1st and November 30th	NMFS	SFRA, in consultation with NMFS, as necessary	Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.

[9] US Army Corps of Engineers, US Environmental Protection Agency, San Francisco Bay Conservation and Implementation Commission, and San Francisco Bay Regional Water Quality Control Board. Long-term Management Strategy for the Placement of Dredge Material in the San Francisco Bay, Management Plan 2001.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
to November 30. The spawning season for the Pacific herring is March 1 to November 30.[10] Therefore, the window that shall be applied to minimize impacts to sensitive fish species (during which dredging activities cannot occur) is March 1 to November 30.					
MM BI-19b.2 Implement BMPs to Reduce Impacts of Dredging To Water Quality. BMPs established in Appendix I of the Long-Term Management Strategy (LTMS) are designed specifically to minimize spread of contaminants outside of dredge areas. All of these elements of the LTMS shall be applied to any proposed dredging or construction activities associated with the Project unless otherwise modified by the USACE, BCDC, or the San Francisco Bay Regional Water Quality Control Board in permit conditions associated with the proposed dredging activities associated with this Project (same as MM BI-18b.2).	Project Applicant	During dredging or construction activities	USACE, BCDC, SFRWQCB	SFRA, in consultation with regulatory agencies, as necessary	Construction Contractor to submit quarterly report of compliance activity, until deemed complete by SFRA.
MM BI-20a.1 Lighting Measures to Reduce Impacts to Birds. During design of any building greater than 100 feet tall, the Project Applicant and architect shall consult with a qualified biologist experienced with bird strikes and building/lighting design issues (as approved by the City/Agency) to identify lighting-related measures to minimize the effects of the building's lighting on birds. Such measures, which may include the following and/or other measures, will be incorporated into the building's design and operation. ■ Use strobe or flashing lights in place of continuously burning lights for obstruction	Project Applicant	During Project design	DBI/SFRA	DBI/SFRA	DBI/SFRA approval of building designs

[10] US Army Corps of Engineers, US Environmental Protection Agency, San Francisco Bay Conservation and Implementation Commission, and San Francisco Bay Regional Water Quality Control Board. Long-term Management Strategy for the Placement of Dredge Material in the San Francisco Bay, Management Plan 2001; Appendix F.

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
lighting. Use flashing white lights rather than continuous light, red light, or rotating beams. ▪ Install shields onto light sources not necessary for air traffic to direct light towards the ground. ▪ Extinguish all exterior lighting (i.e., rooftop floods, perimeter spots) not required for public safety. ▪ When interior or exterior lights must be left on at night, the developer and/or operator of the buildings shall examine and adopt alternatives to bright, all-night, floor-wide lighting, which may include: > Installing motion-sensitive lighting. > Using desk lamps and task lighting. > Reprogramming timers. > Use of lower-intensity lighting. ▪ Windows or window treatments that reduce transmission of light out of the building will be implemented to the extent feasible. ▪ Educational materials will be provided to building occupants encouraging them to minimize light transmission from windows, especially during peak spring and fall migratory periods, by turning off unnecessary lighting and/or closing drapes and blinds at night. ▪ A report of the lighting alternatives considered and adopted shall be provided to the City/Agency for review and approval prior to construction. The City/Agency shall ensure that lighting-related measures to reduce the risk of bird collisions have been incorporated into the design of such buildings to the extent practicable.					
MM BI-20a.2 Building Design Measures to Minimize Bird Strike Risk.	Project Applicant	During Project design	DBI/SFRA	DBI/SFRA	DBI/SFRA approval of building designs

Draft Mitigation Monitoring & Reporting Program

Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
During design of any building greater than 100 feet tall, the Project Applicant and architect will consult with a qualified biologist experienced with bird strikes and building/lighting design issues (as approved by the City/Agency) to identify measures related to the external appearance of the building to minimize the risk of bird strikes. Such measures, which may include the following and/or other measures, will be incorporated into the building's design. ■ Use non-reflective tinted glass. ■ Use window films to make windows visible to birds from the outside. ■ Use external surfaces/designs that "break up" reflective surfaces. ■ Place bird attractants, such as bird feeders and baths, at least 3 feet and preferably 30 feet or more from windows in order to reduce collision mortality. A report of the design measures considered and adopted shall be provided to the City/Agency for review and approval prior to construction. The City/Agency shall ensure that building design-related measures to reduce the risk of bird collisions have been incorporated to the extent practicable.					
SECTION III.O (PUBLIC SERVICES)					
MM PS-1 Site Security Measures During Construction. During site preparation and in advance of construction of individual buildings, fencing, screening, and security lighting shall be provided by the Project Applicant. During non-construction hours the site must be secured and locked, and ample security lighting shall be provided.	Project Applicant	During site preparation and in advance of construction of individual buildings, fencing, screening, and security lighting	DBI/SFRA	DBI/SFRA	DBI/SFRA approval of construction documents. Construction Contractor to submit quarterly report of compliance activity, until deemed

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
					complete by SFRA.
SECTION III.P (RECREATION)					
MM RE-2 Phasing of parkland with respect to residential and/or employment generating uses. Development of the Project and associated parkland shall generally proceed in four phases, as illustrated by Figure II-16 (Proposed Site Preparation Schedule) of Chapter II (Project Description) of this EIR. To ensure that within each phase parks and population increase substantially concurrently, development shall be scheduled such that adequate parkland is constructed and operational when residential and employment-generating uses are occupied. The following standards shall be met: ■ No project development shall be granted a temporary certificate of occupancy if the City determines that the new population associated with that development would result in a parkland-to-population ratio within the Project site lower than 5.5 acres per 1,000 residents/population, as calculated by the Agency. ■ For the purposes of this mitigation measure, in order for a park to be considered in the parkland-to-population ratio, the Agency must determine that within 12 months of the issuance of the temporary certificate of occupancy, it will be fully constructed and operational, and, if applicable, operation and maintenance funding will be provided to the Agency.	Project Applicant	Prior to issuance of a temporary certificate of occupancy	DBI/SFRA	DBI/SFRA	Issuance of a temporary certificate of occupancy
SECTION III.Q (UTILITIES)					
MM UT-2 Auxiliary Water Supply System.	Project Applicant	Prior to issuance of	San Francisco Fire Dept.	SFFD/SFRA	Approval of

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
Prior to issuance of occupancy permits, as part of the Infrastructure Plan to be approved, the Project Applicant shall construct an Auxiliary Water Supply System (AWSS) loop within Candlestick Point to connect to the City's planned extension of the off-site system off-site on Gilman Street from Ingalls Street to Candlestick Point. The Project Applicant shall construct an additional AWSS loop on HPS Phase II to connect to the existing system at Earl Street and Innes Avenue and at Palou and Griffith Avenues, with looped service along Spear Avenue/Crisp Road.		occupancy permits			Infrastructure Plan; Deemed complete upon issuance of temporary certificate of occupancy.
MM UT-3a Wet-Weather Wastewater Handling. Prior to approval of the Project's wastewater infrastructure construction documents for any new development, the Project Applicant shall demonstrate to the San Francisco Public Utilities Commission (SFPUC), in writing, that there will be no net increase in wastewater discharges during wet-weather conditions from within the Project Area boundary to the Bayside System compared to pre-Project discharges. This may be accomplished through a variety of means, including, but not limited to: ■ Temporary on-site retention or detention of flows to the system ■ Separation of all or a portion of the stormwater and wastewater system at Candlestick Point	Project Applicant	Prior to approval of wastewater infrastructure construction documents for new developments	SFPUC	SFPUC	Approval of wastewater infrastructure construction documents
MM UT-5a Construction Waste Diversion Plan. The Project Applicant shall submit a Construction Waste Diversion Plan to the Director of the San Francisco Department of the Environment demonstrating a plan to divert at least 75 percent of or more of the total construction and demolition debris produced as the result of the Project (such	Project Applicant	Prior to the issuance of building permits	SFRA/Department of the Environment	SFRA/Department of the Environment	Submittal and approval of a Construction Waste Diversion Plan

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
as wood, metal, concrete, asphalt, and sheetrock) from landfill interment, which is required by the City's Green Building Ordinance. The Plan shall be submitted and approved by the Director of the San Francisco Department of the Environment before the issuance of building permits. This Plan shall include (1) identification of how much material resulting from demolition of existing facilities could be reused on site (e.g., existing asphalt and concrete could be removed, crushed, reconditioned, and reused as base material for new roadways and parking lots); (2) the extent to which materials could be sorted on site (e.g., through piecemeal demolition of selected facilities to extract recyclable materials), (3) the amount of material that would be transported to an off-site location for separation; and (4) the amount of materials that cannot be reused or recycled and would be interred at a landfill, such as the Altamont Landfill in Livermore.					
MM UT-7a Site Waste Management Plan. The Project Applicant shall prepare a Site Waste Management Plan (SWMP) in cooperation with the Agency to describe the methods by which the Project shall minimize waste generation not otherwise covered by existing City regulatory policies, with the goal of achieving a diversion rate of at least 72 percent, consistent with the City's existing diversion rate in 2008. The SWMP shall be submitted to the Department of Environment (DOE) for approval prior to the issuance of the first development permit for the Project.	Project Applicant	Prior to the issuance of the first development permit	SFRA/ Department of the Environment	SFRA/Department of the Environment	Submittal and approval of a Site Waste Management Plan
SECTION III.S (GREENHOUSE GAS EMISSIONS)					
MM GC-1 Plant up to 10,000 net new trees at the Project site and in the community.	Project Applicant	Throughout the construction phase	SFRA	SFRA	Deemed complete upon issuance of temporary certificate

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Mitigation Measure	Responsibility for Implementation	Mitigation Timing	Enforcement Responsibility	Monitoring Responsibility	Monitoring Actions/ Verification of Compliance
					of occupancy.
MM GC-2 Exceed the 2008 Standards for Title 24 Part 6 energy efficiency standards for homes and businesses would by at least 15 percent.	Project Applicant	Throughout the construction phase	SFRA	SFRA	Deemed complete upon issuance of temporary certificate of occupancy.
MM GC-3 Install ENERGY STAR appliances, where appliances are offered by homebuilders.	Project Applicant	Throughout the construction phase	SFRA	SFRA	Deemed complete upon issuance of temporary certificate of occupancy.
MM GC-4 Use light emitting diode (LED) based energy efficient street lighting.	Project Applicant	Throughout the construction phase	SFRA	SFRA	Deemed complete upon issuance of temporary certificate of occupancy.

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June 22, 2010

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Via Hand Delivery

Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Bill Wyco, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Notice and Letter of Appeal to the San Francisco Board of Supervisors of the Certification of the Candlestick Point-Hunters Point Shipyard Phase II Final Environmental Impact Report

Dear Clerk of the Board of Supervisors:

On behalf of the California State Parks Foundation ("CSPF"), this is a Notice and Letter of Appeal of all motions, resolutions, findings, and/or other actions by the San Francisco Planning Commission, San Francisco Redevelopment Agency, and other Agencies of the City and/or County of San Francisco certifying the Final Environmental Impact Report ("EIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project").

CSPF appreciates the significance of the Project to the City of San Francisco and is actively seeking to resolve its concerns directly with the City and other interested parties. Such efforts are ongoing, however, and until and unless resolved, participation in the CEQA process and related appeals remains necessary for CSPF to preserve its rights.

This Notice and Letter of Appeal is filed pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code sections 21000 *et. seq.*, and the San Francisco Administrative Code section 31.16. Grounds for appeal lie in the Planning Commissions' and Redevelopment Agency's violations of CEQA and such other laws that may apply, as set forth in the attached CEQA comment letters, dated June 3, 2010 (final EIR comment letter) and January 12, 2010 (draft EIR comment letter), incorporated

by reference in their entirety. *See* Exhibit A and Exhibit B, respectively. Appellant requests the Board of Supervisors to direct the Planning Department to remedy violations of CEQA and other laws.

Enclosed also is a check for $500 and a copy of the Planning Commission's certification of the EIR, dated June 3, 2010. *See* Exhibit C.

Thank you for the opportunity to comment on this Project. Please notify us of the date of the hearing and all other actions on this Appeal and on the Project.

Yours Truly,

James M. Birkelund
Law Offices of James Birkelund
Attorneys for California State Parks Foundation

JMB/gs
Enclosures: Exhibits A, B, C
$500 Filing Fee, Check #029653

EXHIBIT A

Comments to Final EIR

Submitted by the California State Parks Foundation

CALIFORNIA STATE PARKS FOUNDATION

June 3, 2010

Via Email and Hand Delivery

Attn. Planning Commission Secretary
San Francisco Planning Department
1650 Mission Street, Suite 400
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Email: linda.avery@sfgov.org

Attn. Redevelopment Agency Commission Secretary
San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Email: gina.solis@sfgov.org

RE: Candlestick Point-Hunters Point Shipyard Phase II Final Environmental Impact Report; SCH No. 2007082168

Dear Planning Commissioners and Redevelopment Agency Commissioners:

On behalf of the California State Parks Foundation ("CSPF") and our 115,000 members statewide, we write to comment on the Final Environmental Impact Report ("DEIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"). Our comments consist of this cover letter and the attached legal comment letter with exhibits from experts. Thank you for the opportunity to comment on this important project.

CSPF recognizes the Project's potential to improve the surrounding neighborhoods and enhance the recreational attributes of certain portions of the Candlestick State Recreation Area ("CSPRA"). We are not opposed to the Project in principle, however, CSPF has special concerns over ensuring that the Project integrates with and fully protects the resources in the Yosemite Slough, a wetlands area within CPSRA. Yosemite Slough is on the verge of a major transformation with the implementation of the Yosemite Slough Wetlands Restoration Project ("Restoration Project"). Sponsored by the California Department of Parks and Recreation in collaboration with CSPF, the Restoration Project has secured millions of dollars in funding and is already approved under CEQA. The primary goals of the Restoration Project are to enhance Yosemite Slough's recreational and biological values for all Californians.

Efforts to protect the Restoration Project are ongoing. CSPF is actively engaged in a dialogue with the City of San Francisco and other interested parties to ensure the Project does not negatively

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www.calparks.org

Your Voice for Parks

impact future restoration and improvements to Yosemite Slough. However, to preserve our CEQA rights, we also are submitting the attached legal comment letter.

Yours Truly,

Elizabeth Goldstein
President

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California State Parks Foundation
Legal Comment Letter on the Final Environmental Impact Report
for the Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project;
SCH #2007082168

On behalf of the California State Parks Foundation ("CSPF"), please accept our legal comments on the Final Environmental Impact Report ("FEIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"), a joint proposal of the San Francisco Redevelopment Agency ("Agency") and San Francisco Planning Department ("Planning Department").

CSPF appreciates the significance of the Project to the City of San Francisco ("City") and is actively seeking to resolve its concerns directly with the City and other interested parties. Such efforts are ongoing, however, and until and unless resolved, participation in the administrative process of the California Environmental Quality Act ("CEQA"), Public Resources Code §§ 21000 *et seq.*, remains necessary for CSPF to preserve its rights.

These comments are in addition to our comments on January 12, 2010 ("DEIR Comment Letter"), which are incorporated by reference in their entirety. Given the limited time period to review the FEIR, the comments below are non-exhaustive and not intended to reflect all of CSPF's concerns, nor should the failure to speak to any particular issues be construed as concurrence with the FEIR's offered responses. The FEIR does not adequately address the deficiencies and concerns we identified in the DEIR and therefore fails to comply with CEQA; please refer to CSPF's DEIR Comment Letter for a more detailed discussion.

Two technical experts, WRA, Consultants Inc., and Tom Brohard, P.E., have assisted with comments on the FEIR, and their comments are incorporated by reference in Exhibit A and Exhibit B, respectively.

PROJECT DESCRIPTION

The project site fails to include the entire Yosemite Slough. We appreciate that the FEIR reconfigures maps to more accurately depict the relationship of the Project to the Yosemite Slough area and to clarify how the Yosemite Slough Bridge would directly take and impact areas within the Slough. *See* Comments and Responses ("C&R"), Figure 8; C&R, p. 2368. The fact that the bridge would take additional lands within the Yosemite Slough constitutes significant new information (14 California Code of Regulations ("CCR") § 15162) and compounds our concern that the entire Yosemite Slough be included and fully analyzed as part of the project site. *See* DEIR Comment Letter, pp. 5-7. Numerous other commenters also expressed concern that Yosemite Slough be fully considered as part of the project site. *See, e.g.*, C&R, p. 1781

(comments from Bay Conservation and Development Commission ("BCDC")); C&R, p. 1627 (comments from California Department of Parks and Recreation ("DPR")).

The Project proposed for approval includes Variant 5, which allows for two National Football Teams, the 49ers and Raiders, to utilize a new stadium. C&R, p. 12. Under this scenario, increased stadium usage also results in increased use of the Yosemite Slough Bridge by private vehicles from 12 to 20 game days. Proposed restrictions on the use of the bridge by private vehicles, including in the State Parks Reconfiguration, Improvement, and Transfer Agreement, do not fully protect against the possibility that the bridge eventually may be opened to private vehicles 365 days a year. Exhibit B, pp. 1, 3. Public pressure, under future unanticipated conditions, presents the substantial risk of an expansion of bridge uses for private vehicles. *Id.* Moreover, all of the Project variants warrant additional analysis and render a project-level analysis of the Project inappropriate. *See* DEIR Comment Letter, p. 4 (CEQA requirement for program-level EIR, not project-level EIR).

YOSEMITE SLOUGH RESTORATION PLAN

Impacts to the Yosemite Slough Restoration Project ("Restoration Project") continue to be a major concern. Proposed by DPR in collaboration with CSPF, the Restoration Project will transform and enhance wetlands and recreation opportunities in the Slough. Despite its importance, the FEIR attempts to refute the need to fully analyze the Project's inconsistencies with and potential impacts to the Restoration Project.

The FEIR asserts that such an analysis is unnecessary because: (i) the Project's impact on future recreational uses under the Restoration Project is too speculative to require analysis under CEQA; (ii) the DEIR already fully assessed impacts on "the resources that are the focus of the Restoration Project," because habitats in the existing slough contain "the same or similar characteristic as the restored slough"; (iii) the Restoration Project already was discussed in the DEIR under the cumulative impacts analysis as one of the "planned land in-process wetland restoration projects within the Bay area;" and (iv) the Restoration Project is not part of the project's baseline conditions. C&R, pp. 32, 748.

None of these reasons are persuasive. The Restoration Project is not speculative and, in fact, concrete plans already have been approved and 100% of the permitting has been completed. *See Wetland Restoration and Management Plan, Yosemite Slough*, WRA Environmental Consultants, January, 2006, incorporated herein by reference and attached with Exhibit A. Extensive wetlands and habitat improvements, with over $13 million being invested in the restoration, merit additional examination beyond what was proffered for the existing habitat in the Slough. The FEIR's cumulative impact analysis does not assess the Project's impacts on the *future* planned improvements of the Restoration Project itself. *See, e.g.*, C&R, p. 779 ("The Yosemite Sough Restoration Project will not have any adverse impacts related to recreation. Thus, it will have no effects that might combine with the incremental effects of the Project to

create significant cumulative impacts"). And the Restoration Project need not be part of baseline conditions to require CEQA scrutiny. *See* DEIR Comment Letter, pp. 10-12. A full analysis of inconsistencies with and impacts to the Restoration Project's future planned improvements is therefore still needed under CEQA. Exhibit A, p. 1; *see also* CEQA Findings for the Project, p. 32 (finding that Project impacts would have less than significant impacts with regard only to "existing" recreational activities).

The FEIR is ambiguous because it disclaims the need and even possibility of addressing impacts to the Restoration Project but *nonetheless* concludes in the Response to Comments that the Project will not significantly impact planned improvements to the Slough. *See, e.g.*, C&R, p. 29. Decisionmakers and the public therefore may be under the mistaken impression that impacts to the Restoration Project have been fully addressed.

Additionally, the FEIR fails to recognize that removing 1.5 acres of the 34 acres planned for improvements under the Restoration Project, as well as impacting the biological, public access, and recreational values of the remainder, is a significant impact. Exhibit A, p. 2. (Yosemite Slough Bridge will impact an undetermined amount of aquatic habitat, mudflats, and wetlands). These impacts also raise concerns over whether the Restoration Project can fulfill its previously committed mitigation obligations for other Bay Area development projects. *Id.*; *see also* DEIR Comment Letter, pp. 9-10.

VISUAL AND AESTHETIC IMPACTS

CSPF's concerns with the Project's visual and aesthetic impacts to CSPRA are as follows: (i) damage to Yosemite Slough as a scenic resource, including to the Restoration Project's planned improvements to wetlands, upland habitat, public recreational areas, vegetation, and otherwise; (ii) degradation of scenic vistas, particularly obstruction of Bay views by the Yosemite Slough Bridge; and (iii) damage to the visual character and quality of the Yosemite Slough area and its surroundings.

We appreciate the additional simulations provided in the FEIR clarifying how aesthetic and scenic values may be impacted. C&R, figures 10-13. The concerns raised in our DEIR Comment Letter, however, have not been addressed. *See* DEIR Comment Letter, pp. 18-21; Exhibit A, p. 5. For instance, there are no depictions of: short-range views of the bridge, especially from the perspective of public users recreating directly adjacent to the bridge; the appearance of Arelious Walker Drive as it would be extended through CSPRA; or birds-eye views of the bridge being used by buses, cars, and pedestrians. Exhibit A, p. 5. Additionally, none of the simulations provided in the FEIR depict uses of the bridge (e.g., uses by public buses, private vehicles, and bicyclists) that would increase aesthetic and visual impacts. *Id.* As a consequence, the public and decisionmakers are unable to fully assess how the bridge would affect CSPRA, and the conclusion that aesthetic and visual impacts would be less than significant is not supported by substantial evidence under CEQA law.

The FEIR references additional bridge attributes, such as "green" auto lanes with plantings providing a green boardwalk, piers and lookout points for pedestrians, and the blending of bridge openwork, materials, and color with the surrounding environment. C&R, p. 787-788. However, these attributes are not visually depicted and there are no enforceable provisions in the FEIR to ensure they are implemented.

More generally, CSPF disagrees with the FEIR's repeated assertion that the "urbanized" surroundings of Yosemite Slough preclude a new bridge – running through the park and blocking Bay views – from having significant negative impacts to aesthetics and visual resources (and recreational users). *See, e.g.,* C&R, pp. 736 ("the 'natural' view and feel of the Slough as it currently exists would only be sensed if one were wearing blinders, providing the narrowest possible focus directly out from the Slough. Otherwise, urban development as it exists would intrude on the 'natural feel' of the area, even without the Project"). In effect, the FEIR masks impacts to scenic resources and public views by declaring them insignificant based on the insensitive nature of the public users. Yosemite Slough's recreational value stems in large part from the open space running unimpeded to the shoreline with stunning uninterrupted views of the Bay. The bridge would significantly degrade these values, and open views to the Bay would be closed off by the bridge and extension of Arelious Walker Drive – a highly significant impact. Exhibit A, p. 5; *see also* C&R, p. 1784 (BCDC conclusion that "the proposed bridge at Yosemite Slough would clearly impact views of the bay").

RECREATIONAL IMPACTS

The FEIR's revisions to the recreational analysis are minimal and do not address concerns raised in our DEIR Comment Letter. *See* C&R, pp. 2364 -2371. We appreciate clarifications and details on how Arelious Walker Drive and the Yosemite Sough Bridge would bisect the park, running between CSPRA proper and Yosemite Slough. C&R, pp. 732, 802. Traveling between these two areas of the park, recreational users on the shoreline would need to walk 250 feet inland along Arelious Walker Drive, cross at a paved road intersection, and then walk back 250 feet to the shoreline. *Id.* The FEIR conclusion that this is not a significant impact is without substantial evidence. Any park enthusiast can attest that crossing over major infrastructure and urbanized roads is a significant degradation to the park experience. *See also* Exhibit B, pp. 1, 4-5; C&R, p. 1632 (DPR's request to examine an alternate route crossing beneath the bridge to avoid interference with public mobility within the park). Arelious Walker Drive also would bisect and significantly disrupt the planned Bay Trail around Yosemite Slough, significantly impacting bicyclists as well as pedestrians. Exhibit B, pp. 1, 4-5.

The FEIR fails to address impacts to the planned vista points within Yosemite Slough. The FEIR reasons that (i) the nature of these vista points is not known and CEQA does not require such "speculation"; and (ii) in pedestrian mode, the bridge would be effectively an aspect of the Project's parkland and replace any vista points impacted in the Slough. C&R, p. 750.

Substantial evidence does not support these assertions. Vista points in the Restoration Project are not speculative but precisely identified, two of which exist under the footprint of the bridge. *See* DEIR Comment Letter, Exh. A, Figure 2. Moreover, vista points in an open space area are not comparable to views from roads and infrastructure, and during NFL game days the bridge utility for pedestrians would be further diminished.

The FEIR asserts that the Yosemite Slough Bridge will provide other recreational benefits, including by bringing additional visitors to the park and providing unique viewing opportunities from the bridge. C&R, p. 735. These alleged benefits from new infrastructure and roads are not substantial evidence for the FEIR conclusion that impacts will be less than significant to recreational opportunities and views within a state park. The bridge is not needed for the public to access the park, and viewing opportunities from infrastructure on the bridge are not equivalent to and cannot replace diminished views from open space areas. Even if the bridge arguendo facilitated new park visitations, this would not compensate for bridge impacts to the recreational, aesthetic, and other qualities of Yosemite Slough.

Finally, the FEIR asserts that CEQA only requires an examination of impacts to the physical environment, and therefore the FEIR fails to analyze impacts to specific groups of future recreational users (e.g., picknickers, beach goers, hikers) who would utilize Yosemite Slough. *See* C&R, p. 753. Under CEQA, however, a project's physical impacts that cause social consequences must be analyzed. *See* 14 CCR § 15131(b) (for example, if the construction of a new freeway divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant); *Citizens Association for Sensible Development of Bishop Area v. County of Inyo*, 17 Cal.App.3d, 151, 170 (1985) (CEQA mandates consideration of secondary and indirect impacts).

BIOLOGICAL RESOURCES

The FEIR does not adequately examine impacts to the Restoration Project's planned biological improvements. The attached expert report, prepared by WRA Consultants, Inc., details our concerns with the biological analysis. Exhibit A.

The FEIR finds that the Restoration Project will not provide any new habitat or wetlands that require an additional analysis beyond what was done in the DEIR or beyond an examination of existing conditions in the Slough. C&R, p. 32. Thus, the FEIR concludes that biological impacts to Yosemite Slough would be less than significant. *Id.*, p. 29. This conclusion is not supported with substantial evidence. Exhibit A, pp. 2-5. The Restoration Project will funnel over $13 million to enhance the Yosemite Slough, restore over twelve acres of new wetlands, create two bird-nesting islands, and provide other habitat improvements. *See* DEIR Comment Letter, pp. 10-12. This restoration will transform and vastly improve the biological vitality of the Slough, which merits full consideration under CEQA.

Other concerns in the FEIR with the biological analysis include but are not limited to the lack of substantial evidence for the following claims:

- The Restoration Project will not attract any wildlife that is endangered or threatened, such as the snowy plover, or any wildlife that is not already regionally abundant; and therefore impacts to species that may use the Slough in the future are insignificant, *see* C&R, p. 35;

- All existing and potential wildlife in Yosemite Slough will habituate and therefore not be significantly impacted by construction and operation of the bridge, *see* C&R, pp. 51-53;

- Birds using future nesting areas would be in an already urban environment and therefore not significantly affected by light, vibration, noise, or other bridge-related impacts, even on NFL game days, *see* C&R, pp. 37, 48;

- A mitigation ratio of 0.5:1 acres suffices to compensate for bridge shading impacts to wetlands, *see also* C&R, p. 1785 (same concern raised by BCDC); and

- The shading of 1.48 acres of mud flats is not a significant impact.

See Exhibit A.

NOISE AND VIBRATIONAL IMPACTS

The FEIR follows the approach of the DEIR in examining noise and vibrational impacts to park users. This approach does not suffice under CEQA because it fails to (i) consider park users as sensitive receptors, (ii) analyze sensitive noise receptors in the park, and (iii) apply World Health Organization thresholds for significant noise impacts to recreational users. *See* C&R, pp. 755, 758. Noise and vibrational impacts would be especially acute for public users who recreate near or directly adjacent to the Yosemite Slough Bridge. Further, it is not accurate to state that there would be "no development within the CPSRA," as the bridge and approaching roads would be built directly on parklands. *Id.*, p. 760. The assertion that "construction related vibration would likely not occur within 50 feet of users of CPSRA" is not supported in the FEIR with any enforceable measures to ensure that recreational activities would not be present within 50 feet of construction activities.[1] *Id.*, p. 763. For these reasons, the FEIR conclusion that noise impacts to park users will be less than significant is not supported with substantial evidence.

[1] Moreover, if the public were precluded from recreating in areas near to the bridge or its road approaches, this would raise additional concerns over the utility of Yosemite Slough during potentially long periods of project construction.

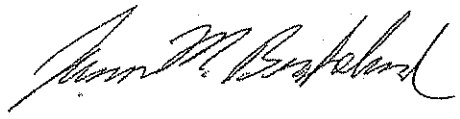
TRAFFIC AND ALTERNATIVES ANALYSIS

The FEIR's analysis of traffic and project alternatives does not provide substantial evidence to justify the construction of the Yosemite Slough Bridge, especially in the event that a new stadium is not built for the NFL. The concerns raised in our DEIR comment letter regarding traffic and project alternatives are not addressed. *See* DEIR Comment Letter, pp. 17, 28-29; *see also* C&R, p. 1633 (DPR support for non-bridge alternatives if a stadium is not built). CSPF also agrees with and incorporates by reference the comments of BCDC regarding the need to examine upland alternatives to constructing a bridge. C&R, pp. 1779-1787. The attached expert report, prepared by Tom Brohard, further details our ongoing concerns with the traffic and alternatives analysis. Exhibit B. Mr. Brohard concludes, among other things, that alternatives to the bridge, such as improvements to existing road infrastructure, are feasible to accommodate both public buses and NFL game-day traffic, and that other bridge alternatives, such as tunneling under the Bay, have not been adequately examined. Exhibit B, pp. 1-4.

CONCLUSION

Thank you for the opportunity to comment on the Project. CSPF intends on extending a good-faith effort to address its concerns in a collaborative fashion with the City and interested parties, and submits this legal comment letter to preserve its legal rights under CEQA. For the reasons discussed herein and in our previous comments, the FEIR does not meet the statutory requirements of the California Environmental Quality Act, and does not provide sufficient basis for a decision on the Project.

Sincerely,



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Ribbon

Date	Received	Issued to	Count	Balance
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7/29/09		Mar	1	37
8/19/09		Mirkarimi	4	33
9/22/09		Dufty	2	31
9/23/09		Campos	2	29
10/2/09		Avalos	1	28
11/5/09		Maxwell	2	26
11/13/09		Chu	2	24
11/18/09		Chiu	1	23
12/15/09		Alioto-Pier	1	22
1/27/10		Chu	1	21
2/9/10		Mar	1	20
2/25/10		Mirkarimi	1	19
3/30/10		Chu	3	16
4/13/10		Mirkarimi	2	14
4/14/10		Elsbernd	2	12
4/20/10		Mar	1	11
4/21/10		Dufty	1	10
5/5/10		Dufty	1	9
6/10/10		Chu	3	7
6/11/10		Avalos	1	6
6/16/10		Chiu	1	5
6/22/10		Rustom	1	4
				4
				4

EXHIBIT A

Expert Letter from WRA Consultants, Inc.

Submitted by the California State Parks Foundation
Regarding Comments to the FEIR for the
Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project

ENVIRONMENTAL CONSULTANTS

June 2, 2010

James Birkelund, Esq.
840 California St., Suite 45
San Francisco, CA 94108

Re: Technical Comment on the Candlestick Point-Hunter's Point Shipyard Phase II FEIR

Dear Mr. Birkelund,

At the request of the California State Parks Foundation, WRA is preparing this brief technical review of the Response to Comments for the Candlestick Point-Hunter's Point Shipyard Phase II FEIR. We discuss the responses to the comments in the FEIR generally below with respect to:

1. unmitigated impacts resulting from conflicts with approved and ongoing plans;

2. inadequate examination of impacts to the biological and recreational improvements planned as part of the Yosemite Slough Wetlands Restoration Project ("Restoration Project"), attached and incorporated by reference as Exhibit A (Wetland Restoration and Management Plan, Yosemite Slough, WRA Environmental Consultants, January, 2006); and

3. inadequate examination of impacts to the existing biological conditions in Yosemite Slough;

4. the lead agency did not fully address concerns raised by the California Department of Parks and Recreation as part of the EIR process; and

5. inadequate examination of visual and aesthetic impacts to the existing conditions in the Candlestick State Point Recreation Area and to future conditions under the Restoration Project.

Unmitigated impacts remain, resulting from conflicts with the approved and ongoing Yosemite Slough Restoration Plan.

The EIR did not adequately address the Yosemite Slough Restoration Plan as an approved and ongoing plan. CEQA requires analysis of pertinent plans and policies to prevent potential conflicts. Master Response 3 claims the restoration project was considered as one of the "planned and in progress wetland restoration projects" on page III.N-118, but the footnote attached to that sentence directly references the South Bay Salt Ponds restoration and does not include mention of the approved restoration plan. Furthermore, the EIR stated that the restored wetlands that would be created by the Restoration Project would not be impacted by the Candlestick Point-Hunter's Point Phase II (CP-HSP) Project (see paragraph 2 on page C&R-37). It is evident that the Yosemite Slough Restoration Project was not originally considered in the DEIR and is only considered minimally in the FEIR as a correction to the DEIR. The lack of full consideration and subsequent impacts given to the Restoration Plan in the FEIR are inadequate.

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Conversely, the DEIR clearly considers the naval cleanup mitigation wetlands and related restoration as an approved and ongoing plan and incorporated that plan into the baseline conditions. The response to comment 47-73 does not address any of the issues raised in WRA's DEIR comment letter. The response to this comment goes into detail with regard to issues raised as part of other comments, but does not address the key issue of comment 47-73. The response does not address why the EIR uses differing standards with regard to baseline conditions for the Naval Remediation Project as compared to the Restoration Project. The same baseline conditions standards should be applied to both plans. The response to comments doesn't explain why the baseline conditions changed with respect to the naval cleanup mitigation wetlands, but not in consideration of the Yosemite Slough Restoration Project. Thus, the DEIR was not consistent in the analysis, and the FEIR has not addressed this issue adequately.

The CP-HSP Project presents unmitigated impacts to the approved and ongoing Yosemite Slough Restoration Plan. Because the CP-HSP Project, specifically the inclusion of the bridge, would impact the Restoration Plan, a redesign of the restoration will be necessary, and mitigation for the redesign should be incorporated into the EIR. The financial impact to the Yosemite Slough Restoration Project due to the failure of the EIR to account for and require mitigation for impacts resulting from the conflict between projects has not been addressed. While resource agencies may or may not re-open the in-lieu mitigation permits for BART and SFO, the California State Parks Foundation is responsible for providing that mitigation with improvements to Yosemite Slough. The CP-HSP Project would directly impact the ability of the California State Parks Foundation to implement that mitigation through the already planned and approved restoration project. This is a potential impact that has not been mitigated.

The FEIR provides a revised figure (Figure III-N.7) to show impacts to Yosemite Slough from the bridge (see C&R, p. 40). The depiction of impacts in the figure is not accurate. The depiction of the islands in the figure does not portray that the islands, designed for breeding birds, would be impacted by traffic noise, vibration, and light from the bridge. In addition, the figure does not show the grading limits at each landing of the bridge for the construction of the bridge abutments. This abutment construction will likely pose a permanent impact on an undetermined amount of aquatic habitat, mudflats, and wetlands at the landings of the bridge. Additionally, the figure does not depict the shading effect of waters, mudflat, or vegetated wetland other than directly beneath the bridge, nor the future restored wetlands that will be likely filled at each end of the bridge. The FEIR does not adequately analyze these impacts under CEQA.

The Master Response 3 and response to comment 47-70 do not adequately account for the project's effects on the Yosemite Slough Restoration Plan. According to the FEIR, the impacts to biological resources created as part of the mitigation plan would only be mitigated for if the Restoration Plan were implemented prior to the construction of the bridge. The Restoration Project is an approved plan, and the Yosemite Slough Bridge has direct impacts on wetlands planned for creation as part of this plan. The planned wetland creation will be significantly impacted by the CP-HSP Project without further redesign or mitigation.

The FEIR does not adequately examine impacts to the Restoration Project's planned biological improvements.

The FEIR's discussion of potential wildlife habitat utilization in the Yosemite Slough Restoration Area makes several assumptions, the most important of which is that the species utilizing the Restoration Area would be the same as those present under current conditions. The FEIR does

not account for the new types of habitat created as part of the planned restoration. Under current conditions, this area of San Francisco Bay does not contain any habitat types that are similar in extent and condition as those that are proposed as part of the Yosemite Slough Restoration Plan (the closest similar habitats proposed by the Restoration Plan, and of any comparable size, are on the western side of the San Francisco Bay located over 12 miles to the South near Foster City). The Restoration Project would create low marsh, high marsh, and transitional marsh habitat. These individual habitat types are currently limited in this area of the Bay and the presence of all three habitat types in a natural (or restored) progression that provides high habitat value is non-existent. The FEIR concludes that the potential impacts to biological resources following restoration would be similar to those occurring under current conditions because the habitats would be "comparable" (C&R, page 38). Habitat of the type created by the Restoration Project is not currently present in the area, and the FEIR does not adequately account for the potential biological benefits from the introduction of these planned habitat types. Therefore, biological resources impacts and mitigation discussed in the FEIR are not adequate to account for conditions following restoration.

The case studies presented in FEIR Master Response 3 contain several examples of special status species use of sites with surrounding disturbance. Several of the same special status species described in these case studies are mentioned in the Mitigated Negative Declaration (MND)[1] for the Restoration Project as potential species to utilize the Restoration Area. However, the response to comments in the FEIR cites nearby sources of disturbance as a reason that these special status species would not utilize the Restoration Area. In this way, the case studies cited in Master Response 3 contradict the conclusions made regarding species utilization in the Restoration Area. The special status species discussed in the Restoration Plan and FEIR were not fully evaluated as part of the DEIR, and the case studies presented in Master Response 3 demonstrate that those species have potential to utilize the site following restoration.

The FEIR does not adequately examine impacts and provide adequate mitigation for existing or future planned biological resources in Yosemite Slough.

Master Response 3 does not adequately identify shading impacts and does not provide adequate mitigation for those impacts (see C&R, p.42-44; and C&R, p. 1785). WRA's DEIR comments addressed specific studies regarding the effects of shading from over-water structures on aquatic life. Although the FEIR adds the analysis for shading of habitat by overlaying the proposed bridge footprint on the proposed restoration plans, the analysis fails to incorporate seasonal and hourly differences into the impacts of shading on both wetlands and subtidal habitats and instead utilizes direct coverage only. The FEIR also incorrectly concludes, without substantial evidence, that the shading of 1.48 acres of mud flats and open water is not a significant impact. Moreover, the impact of shading of the vegetated wetland, the exposed mudflat, and the subtidal habitat is expected to be larger than just the footprint of the bridge alone and thus a greater area of impact should be considered.

Additionally, the FEIR states that the effects of shading on mud flat and aquatic habitat would be less substantial than on vegetated wetlands because tidal marshes around the bay export nutrients and organic material to other estuarine habitats and thus impacted mud flats and aquatic habitats gain some of their productivity from outside the project area. The reverse is true as well; habitats outside the project area will receive nutrients and organic material from the

[1] California Department of Parks and Recreation. 2005 (December). Initial Study Mitigated Negative Declaration – Candlestick Point State Recreation Area Yosemite Slough Restoration Project.

project area and if that area is shaded, production would be decreased such that import and export may be equivalent and thus effects of shading on mud flats and aquatic habitats would not be less substantial than that on vegetated wetlands. Thus a ratio of 0.5:1 is insufficient and ineffective for mitigation; this ratio should be higher. In addition, no true evaluation of habitat functional value was presented in proposing this mitigation ratio, so the basis for this reduced ratio is not clear. The FEIR does not adequately analyze the impacts of shading on wetland and aquatic habitat and requires updates mitigations.

The FEIR found that the Restoration Project will not attract any wildlife that is endangered or threatened, such as the snowy plover, or any wildlife that is not already regionally abundant; and therefore impacts to species that may use the Slough in the future are insignificant (see C&R, p. 35). Because the Restoration Project does, in fact, specify creation of habitat specifically designed for these special status species, there is potential for future occurrence (as described on page 3 of this letter) and the species described in the Restoration Plan MND should be considered when analyzing impacts to special status species within Yosemite Slough and throughout the Restoration Plan area.

The FIER found that birds using future nesting areas would be in an already urban environment and therefore not significantly affected by light, vibration, noise, or other bridge-related impacts, even on NFL game days (see C&R, pp. 37 - 48). However, the EIR does not account for the cumulative effects the bridge would have to the utilization of these islands by bird species. Many species of birds are sensitive to visual barriers, and will not nest in areas where such barriers are present. The Restoration Project contains areas designed for attraction of nesting birds, and it is reasonable to expect that nesting birds will utilize those sites. Nesting bird sites will be located on the created islands, one of which is approximately 50 feet from the proposed bridge. Although some species of birds may habituate to low levels of noise, vibration, or light, the combined presence of all three, along with the presence of a large visual barrier, will create a substantial impact to those animals. In addition, the FEIR does not provide specific studies pertaining to how many of the expected nesting bird species discussed would respond to these disturbances. The FEIR fails to fully analyze the impacts to potentially nesting birds within the Restoration Plan area.

The response to comment 47-94 does not demonstrate that creation of Essential Fish Habitat (EFH) in other upland areas is feasible within the Project Area. The response states that creation of EFH could be accomplished through "restoration of tidal waters...by removing fill and restoring natural habitat in any number of areas within the Bay". To demonstrate that such creation of habitat is feasible, the EIR would need to identify specific areas for removal of fill to accomplish these goals. Not identifying potential areas for removal of such fill is deferral of mitigation, and does not demonstrate that the mitigation is feasible.

The lead agency did not fully address concerns raised by the California Department of Parks and Recreation as part of the EIR process.

The FEIR does not fully address comment 47-69 in WRA's DEIR comment letter. This response avoids the issue raised in the original comment letter by focusing on areas raised by other comments. Comment 47-69 remains unaddressed as part of the FEIR. Therefore, the FEIR is flawed because it does not address these original comments on the DEIR.

The FEIR did not provide an adequate examination of visual and aesthetic impacts to the existing conditions in the Candlestick State Point Recreation Area and to future conditions under the Restoration Project.

WRA's DEIR comments expressed concern that the proposed Yosemite Slough bridge would have significant aethethic and visual impacts on Candlestick Point Recreation Area (CSPRA) and Yosemite Slough. The proposed bridge would block viewpoints of Double Rock, the open waters of San Francisco Bay, and impede the natural aesthetic character Yosemite Slough and the shoreline. The FEIR states in response to Comment 47-36 that the bridge would not result in a substantial adverse change in the visual character or quality of the site (see C&R, p. 757) and in response to Comment 47-58 states that the bridge would only partially obstruct views of the Bay from close-up vantage points (see C&R, p. 782). The FEIR also responds to Comment 47-46 by admitting that the bridge would in some cases block views of Double Rock. Upon reviewing FEIR's new visual simultions, *see* Figures C&R-10 through Figure C&R-13, it remains clear that the presence of the bridge will damage the visual character and quality of the Yosemite Slough area and its surroundings. Scenic views would be disrupted and signficantly impacted by the bridge, which would block views of the open bay, the East Bay skyline, and Double Rock. The bridge would also block and/or degrade the view of the restored Yosemite Slough area to kayakers and boaters in the San Francisco Bay and recreational users elsewhere in CSPRA. Additionally, numerous simulations and viewpoints that WRA suggested be examined were still not addressed in the FEIR (See Exhibit B). None of the FEIR simulations of the bridge indicate how it would appear with the use of buses, pedestrians, and bicyclists (as well as private vehicles on National Football League game days). The FEIR therefore does not provide substantial evidence under CEQA for the conclusion that visual and aesthetic impacts from the Yosemite Slough bridge would be less than significant. Given the responses and the addition of the panoramic views depicted, the bridge would still significantly impact the visual character and quality of the Yosemite Slough area.

As demonstrated by the above sections, the FEIR remains flawed, and has not fully addressed, and in some cases, has not addressed at all, many of the concerns raised by the original comment letter.

Respectfully,

Justin Semion
WRA, Inc.

Exhibit A
Wetland Restoration and Management Plan, Yosemite Slough

Wetland Restoration and Management Plan
Yosemite Slough

Candlestick Point State Recreation Area
San Francisco County, California

Prepared For:
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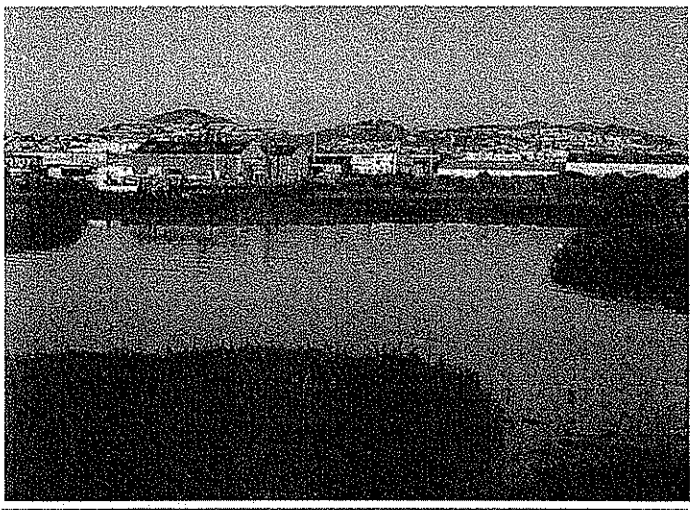
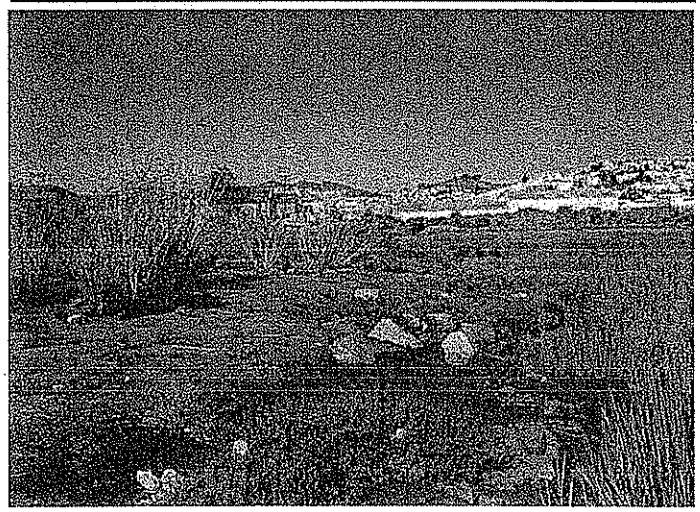
January 2006





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1.0 INTRODUCTION

The California State Parks Foundation, on behalf of the California Department of Parks and Recreation, prepared this Wetland Restoration Proposal and Management Plan (Restoration Plan) for the Yosemite Slough portion of Candlestick Point State Recreation Area (Project Area). The primary objectives of the Restoration Plan are to: (1) describe the restoration activities designed to restore tidal marsh habitat at Yosemite Slough and (2) describe the performance standards, monitoring, and management plan for the restoration. The Restoration Plan describes the proposed restoration activities, restoration implementation and planting schemes, restoration goals, and maintenance and monitoring of the restored tidal marsh wetlands.

The Restoration Plan calls for restoring 12 acres of historic bay fill to functioning tidal marsh. In addition, the project will create upland buffers, two bird nesting islands, and a portion of the Bay Trail. The remainder of the 34 acre project site will be maintained as passive recreational and educational areas. The entire site has been filled, however, existing wetlands along the edge of the fill were delineated on November 12, 2003, and a final jurisdictional determination was issued by the Corps on October 8, 2004 (Corps File No. 28439S). In addition, the San Francisco Bay Conservation and Development Commission has jurisdiction within the project based on the 100 foot shoreline band and tidal jurisdiction over the outer edge of the fill.

Responsible Parties

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2.0 RESTORATION PROJECT

2.1 Location of Project

The Project Area is part of Candlestick Point State Recreation Area and is located along the margins of Yosemite Slough just north of the San Francisco county line on the western shore of South San Francisco Bay (see "Restoration Project Site" (Figures 1 through 3)). Yosemite Slough is situated to the north of Candlestick Park, south of the Bayview district, and approximately one half mile east of Highway 101 in the City and County of San Francisco.

2.2 Brief Summary of Overall Project

The purpose of the Yosemite Slough Restoration Project is to restore tidal wetlands on filled lands within the Candlestick Point State Recreation Area adjacent to a tidal channel referred to as Yosemite Slough. This project is in compliance with the Candlestick Point State Recreation Area General Plan (Department of Parks and Recreation 1987), which has identified the restoration of natural areas within the Project Area as a high priority.

The project, while supporting the General Plan for Candlestick Park, also contributes to the overall regional goal of restoring native habitats along San Francisco's bay front. Recent restoration projects at Crissy Field and Heron's Head Park have demonstrated the value of restoring natural habitat along San Francisco's bay front. Assistance and input from local and state agencies, reports and surveys from community organizations, and concerns expressed by stakeholders from the Bayview/Hunters Point neighborhood have been and continue to be used to guide the project's restoration design.

The design for the proposed project increases the area of tidally influenced wetlands along the Bay margin through the removal of historic bay fill. It also provides for two isolated bird nesting islands including one designed specifically for special status species, nursery areas for fish and benthic organisms, transitional and upland areas to buffer sensitive habitats, a significant new portion of the Bay Trail, and passive public use areas with an environmental interpretive center. The restoration design also addresses soil contaminant issues arising from previous fill activities. As a result, the community will benefit from expanded open space opportunities including recreational trails linked to other regional trails and wildlife viewing, reduction in soil contaminants within the Park, and economic benefits from increased visitor use of the Park. The proposed project can also act as a catalyst for other recreational and open space opportunities along the Bayview/Hunter's Point shoreline and for further clean up activities within Yosemite Slough and the nearshore areas.

3.0 EXISTING CONDITIONS

A routine level wetland delineation for the Project Area was conducted by WRA on November 12, 2003, and a jurisdictional determination was issued by the Corps on October 8, 2004 (Corps File No. 28439S)(WRA 2004). Tidal marsh wetlands border the Project Area. Potentially 1.20 acres of tidal marsh vegetation and open waters could be affected by removal of rock rip and fill in order to match the restored wetland to existing conditions within the Slough. Most of the Project Area is upland that has been developed with buildings, pavement, and open space areas vegetated with ruderal species.

3.1 Hydrology

The principal hydrologic sources for the Project Area are direct precipitation and tidal action from San Francisco Bay for those areas within reach of tidal inundation.

3.2 Soils

3.2.1 Mapped Soils

The Soil Survey of San Mateo County, East Part, and San Francisco County, California (USDA 1991) identifies two mapping units within the Project Area (Figure 4):

131 – Urban Land
134 – Urban Land - Orthents, reclaimed complex, 0 to 2 percent slopes

Urban Land

This map unit occupies approximately 20 percent of the Project Area. This soil type exists in areas where more than 85 percent of the surface is covered by asphalt, concrete, buildings, and other structures. The slopes generally ranged from 0 to 5 percent. This unit is used for homesite, urban, and recreational development.

Urban Land - Orthents, reclaimed complex, 0 to 2 percent slopes

This map unit is in areas that were once part of San Francisco Bay and adjacent tidal flats. This soil type occupies approximately 80 percent of the Project Area. The soils are comprised of approximately 65 percent Urban Land and 30 percent Orthents, reclaimed. The Orthents consist of soils in areas that have been filled. These soils are very deep and are poorly drained and somewhat poorly drained. They vary greatly in texture and are made up of soil material, gravel, broken cement and asphalt, bay mud, and solid waste material.

3.2.2 Soil Contaminants

The soil is primarily fill overlaying bay mud, with outcrops of bedrock of the Franciscan Complex to the south and in the northwest portion of the site. Since the late 1800s, imported fill has been placed over the area, raising the ground surface to a level approximately 5 to 20 feet above sea level. It is believed that fill material at the site is partially derived from Franciscan bedrock in the Project Area vicinity. Soils derived from mafic and ultramafic rocks (such as serpentinite), which are common in the Franciscan Complex, are known to contain higher concentrations of chromium and nickel than soils developed from other rock types. In addition, the historical, industrial, and commercial uses of the Project Area and surrounding vicinity may have contributed to contaminants in the soil and groundwater.

In a report discussing the total maximum daily load and implementation plan for polychlorinated biphenyls (PCBs) in San Francisco Bay (RWQCB 2004), Yosemite Slough was identified as one of the PCB hot spots in the Bay, where sediment PCB concentrations are higher than in the rest of the Bay. Although remediation of sediments within the slough is not part of this restoration project, the City of San Francisco has undertaken studies to determine a strategy to address these issues.

Phase II soil and groundwater investigations were conducted in January 2004 and in September through October 2004 to assess soil and groundwater quality to support the design and construction of planned wetland restoration within the Project Area (Northgate 2004).

Based on analytical results, groundwater impacts at the site appear to be limited to two localized areas: (1) detections of lead, nickel, cobalt, and total extractable petroleum hydrocarbons (TEPH) in a limited portion of the northwest quadrant defined by three adjacent sampling locations; and (2) TEPH in the northeast quadrant adjacent to the suspected sump. Based on groundwater samples collected down gradient from the suspected sump in the northeast quadrant, TEPH is not migrating in groundwater beyond this localized area. Nickel and chromium do not appear to be migrating in groundwater at the site.

Results of soil analyses showed that local ambient concentrations of arsenic and chromium are within the range of background concentrations in Bay area soils and chromium and nickel are attributable to mafic and ultramafic rocks, such as serpentinite, in the Franciscan bedrock. Other metals detected in fill soils at concentrations above criteria for reuse will be removed from the constructed cap of the wetland or upland cover.

TEPH and polynuclear aromatic hydrocarbons (PAHs) were distributed in fill materials throughout the site. TEPH and PAHs in fill soils will be bioremediated at the site, either in situ before grading begins or ex situ during grading.

Options being considered for reuse of cut soils that meet appropriate criteria include placement as wetland or upland cover. Soils that do not meet criteria for reuse as wetland or upland cover will be covered with clean soil, treated to allow reuse; or if necessary, disposed at an approved, licensed, off-site facility. The RWQCB's draft staff report, "Beneficial Use of Dredge Materials: Sediment Screening and Testing Guidelines" (RWQCB 2000) will be used as a guide for decision-making regarding reuse of cut soils as wetlands cover, in consultation with RWQCB staff. The RWQCB's Environmental Screening Levels (ESLs; RWQCB 2005) will be used to screen soil for potential reuse as uplands cover.

3.3 Vegetation

The vegetation present on the site in the upland areas is ruderal (non-native) and includes pampas grass (*Cortaderia sp.*) and fennel (*Foeniculum vulgare*), in addition to non-native grasses and forbs. Two small areas with native coyote brush (*Baccharis pilularis*) are present in the northeast and southwest portion of the Project Area. The dominant species of vegetation in the wetland areas are cordgrass *(Spartina foliosa/alternaflora* (hybridized)), gumplant (*Grindelia stricta*), pickleweed (*Salicornia virginica*), and saltgrass (*Distichlis spicata*). Consistent with the non-native *Spartina* eradication project EIR approved by the State Coastal Conservancy, a control program has been implemented to remove the invasive hybrid species of cordgrass in Yosemite Slough. The *Spartina* eradication program was made possible due to Coastal Conservancy funding and assistance.

3.4 Federally-Listed Species

Several special status plant and animal species have been documented to occur, or potentially occur, in southern San Francisco and northern San Mateo counties. A search of the California Department of Fish and Game Natural Diversity Data Base found no documented occurrences of special status species within the Project Area. Two special status species may occasionally forage within subtidal and intertidal areas of the Project Area; the California brown pelican and double-crested cormorant. However, these two birds do not nest within or adjacent to Yosemite

Slough. Based on existing habitat conditions, there is a low potential for occurrence on the site for other special status animals; however, due to isolation from other similar habitats and the proximity of human activity, these species probably do not occur on the site. Similarly, special status plant species are not expected to occur on the site because of complete habitat conversion during the last century, resulting in the dominance of non-native invasive plant species (WRA 2002). Wildlife surveys conducted by Golden Gate Audubon in 2003-2004 also did not find any special status plant and animal species within the Project Area (Golden Gate Audubon; LSA 2004).

3.5 Description of Jurisdictional Areas to be Impacted

Unavoidable temporary and permanent impacts associated with the proposed restoration project will result in impacts to small areas of jurisdictional areas along the margin of Yosemite Slough (Table 3, Figures 5-8). The impacts illustrated in Figures 5-8 are the result of the grading required to create the appropriate transitions from open water to low marsh habitat and nesting bird islands. The impacts will extend to approximately 10 feet below (horizontally) mean high water (3.13 ft. NGVD) and result in the net increase of 12 acres of tidal marsh embayments to the waters of Yosemite Slough that represent historical (pre-fill) conditions. Small areas of permanent fill are proposed to be placed within jurisdictional areas as a result of this wetlands restoration project. Total permanent fill placed within jurisdictional areas is approximately 359 square feet (0.008 acres).

Table 1. Impacts to Jurisdictional Areas

	Temporary Impacts		Permanent Impacts	
Jurisdictional Area	**Sq. Feet**	**Acres**	**Sq. Feet**	**Acres**
Section 404	51,948	1.20	68	0.001
Section 10	25,873	0.59	291	0.007
BCDC (waterward)	28,174	0.65	291	0.007
BCDC (shoreline band)	247,506	5.68	0.00	0.00

3.5.1 Hydrology

The principal hydrologic sources for the impacted portions of the Project Area are direct precipitation and tidal action from San Francisco Bay for those areas within reach of tidal inundation.

3.5.2 Soils

The soils within the temporarily impacted jurisdictional areas are the same as within the Project Area and include Urban Land comprised of developed areas including pavement and buildings, and Urban Land - Orthents, reclaimed complex, 0 to 2 percent slopes, which consists of poorly draining fill material.

3.5.3 Vegetation

The vegetation present in the temporarily impacted jurisdictional areas is typical Bay margin vegetation and includes *Spartina foliosa/alternaflora* (hybridized), gum plant, pickleweed, and salt grass.

3.5.4 Functions and Values of the Jurisdictional Areas to be Impacted

Typical functions and values attributed to wetlands and waters include attenuating flood flows, sediment, nutrient, and toxicant retention/transformation, erosion control, habitat for wildlife, and recreation. The functions and values of the jurisdictional areas proposed to be impacted within the Project Area are generally rated low to moderate because of their poor quality, small size, surrounding land use, and isolation from other similar habitats. Table 2 contains an evaluation of the functions and values for the proposed impacted wetlands based on classifications in the Corps Wetland Assessment Technical Report (Smith 1993) and the Corps Wetland Evaluation Technique (WET) handbook (Adamus et. al. 1987).

Table 2. Assessment of Functions and Values for Impacted Areas

Function or Value	Rating of Function or Value	Rationale
Store and/or convey flood water	Moderate	The small size of the existing tidal marsh and slough prohibits significant flood water conveyance.
Buffer storm surges	Low	The small size of the existing tidal marsh and poor transition to upland habitats prohibits significant storm surge buffering.
Sediment and toxicant retention and stabilization	Moderate	Although some accretion of sediments occurs in the slough, the large mouth of the slough and lack of vegetation prevent adequate retention and stabilization of sediments and toxins.
Production export	Moderate	The wetlands and surrounding buffer are small in size but do contribute to overall bay productivity since they are generally low marsh species which are easily exported.
Uniqueness heritage	Moderate	Although small and of poor quality, the salt marsh habitat in Yosemite Slough is unique in that it is one of the few remaining salt marshes in this area of the Bay.
Nutrient removal/transformation	Low	Nutrient input is low due to the degraded surrounding habitat; also the small size and minimal vegetation in the wetland does not adequately trap nutrients.

Wildlife diversity/abundance	Moderate	Although small and highly disturbed, Yosemite Slough provides valuable wildlife habitat in an otherwise urban surrounding.
Aquatic diversity/abundance	Moderate	The existing mud flats provide adequate habitat for some marine invertebrates, but the lack of marsh vegetation and diversity prohibit a wide range of aquatic life from flourishing.
Recreational opportunities	Low	The site is currently fenced and unavailable for use by the public.

4.0 RESTORATION DESIGN

The wetland restoration concept was developed by analyzing the existing conditions of the Project Area, the constraints and opportunities at the site, regional habitat goals, and the economic and construction feasibility of various alternatives. The wetland restoration plan focuses on restoring the historic habitats that were once located here and to provide increased tidal marsh habitat in the Slough. Public education and passive recreational opportunities were also included in the overall design concept.

Tidal marsh wetlands have rapidly disappeared throughout the Bay area and typically, these types of habitat are difficult to create due to lack of suitable hydrology or soils. Due to the proximity to the open waters of the San Francisco Bay, Yosemite Slough not only provides foraging habitat for shorebirds but also refugia for foraging shorebirds during storm and high tide events. Therefore, the expansion of existing tidal marsh wetlands within the Project Area offers a unique opportunity to enhance this habitat and thereby increase functions and values that have historically been lost in this part of the Bay.

4.1 Location

Three tidal marsh embayments and two bird nesting islands will be created as part of the Yosemite Slough restoration project (Figure 9). The three restoration areas envisioned are; 1) the southwestern area (next to the existing Park Maintenance facility), 2) the northeast area (containing currently leased buildings, and 3) the northwest area (currently unused and vacant). The two bird nesting islands will flank either side of the entrance to the slough and be situated within the southern and northeastern areas.

4.2 Ownership Status

The ownership of the site is the State of California.

4.3 Existing Conditions of Proposed Restoration Site

4.3.1 Hydrology

The principal hydrologic sources for the restoration area are direct precipitation and tidal action from San Francisco Bay for those areas within reach of tidal inundation.

4.3.2 Soils

The soils within the restoration area are the same as within the Project Area and include Urban Land comprised of developed areas including pavement and buildings, and Urban Land - Orthents, reclaimed complex, 0 to 2 percent slopes, which consist of poorly draining fill material in addition to some urban land.

4.3.3 Vegetation

The vegetation observed in the upland portions of the proposed restoration area primarily consists of non-native grasses and forbs. Non-native plant species observed in these areas include fennel and pampas grass. Two small stands of native coyote brush exist on either side of the slough. Hybrid cordgrass is present along the margins of Yosemite Slough. In addition, a small strip of marsh vegetation that includes saltgrass, pickleweed, and gumplant exists in the higher elevation areas of Yosemite Slough that are tidally influenced.

4.4 Present and Historical Uses of Restoration Areas

The history of the Yosemite Slough has been one of tidal habitat loss due to gradual filling for residential and industrial use. Development of the area began in the 1850's and filling of the tidelands continued through the 1960's until the approximate current shoreline became established in 1972. Historically, the Project Area has primarily been utilized for import of fill (and potentially other debris), light industrial and commercial development as an auto salvage and wrecking yard, as a utility corridor for several sewer lines; the canal has collected storm/sanitary overflow at two outfalls in the canal and one at the canal mouth. Light industry and residential housing presently surround the Project Area. Upland areas are nearly completely isolated by urbanization.

4.5 Present and Proposed Use of All Adjacent Areas

Land uses around the Project Area include light manufacturing, industrial, recreation, residential and vacant land. Currently, the northern area of the site generally consists of vacant land to the northwest of the extension of Griffith Street. A small cluster of buildings currently occupied by a cabinetmaker is located southeast of the extension of Griffith Street. A large unoccupied corrugated metal building, reportedly used for diesel engine manufacturing, is located just east of the cabinetmaker's shop, and a suspected waste oil sump is located under a concrete pad between the cabinetmaker's shop and the unoccupied building. The suspected sump is no longer in use, and may have been used by the former occupant of the metal building. The southern area consists primarily of vacant land, with a small corporation yard for California State Parks located at the corner of Carroll Avenue and Griffith Street.

Once restored, the areas surrounding the tidal marsh will provide a buffer zone that will protect the constructed wetlands from the surrounding urban landscape in addition to substantial native habitat for wildlife. Sensitive areas will be protected by natural plant buffers which will enhance the breeding and foraging habitat for wildlife. Interpretive trails and structures, picnic and restroom facilities, and open space will provide ideal educational and recreational opportunity to the community. The area outside of the Project Area will continue to harbor commercial and residential structures.

5.0 RESTORED WETLANDS

The proposed project will create approximately 12 acres of tidal wetland habitat. The design also provides for two isolated bird nesting islands including one designed specifically for special status species, nursery areas for fish and benthic organisms, transitional and upland areas to buffer sensitive habitats, public interpretative trails, viewpoints, and passive public use areas with an environmental interpretive center.

The proposed project alternative will achieve the following:

- Increased bay area subject to tidal influence
- Restored habitat diversity by re-establishing tidal marsh in areas of upland fill
- Improved local foraging and roosting habitat for migratory and resident birds.
- Improved quality of life for surrounding community.
- Remove and sequester contaminated soils to reduce potential for human and wildlife contact.
- A clean, beautiful, local park that people can visit and view wildlife habitat. The park will have a passive recreation area for picnicking and kite-flying and an environmental interpretive center. Restrooms and picnic benches will be provided.
- Create an environmental area that local schools can use for field trips.
- Benefits to local businesses by increasing visitors to the area.
- Bay Trail connection through Candlestick Point Recreation Area with the Bay Trail that is proposed to connect at Hunters Point.

5.1 Restored Wetland Description

The proposed wetland restoration will excavate bay fill along the northern and southern edge of Yosemite Slough with the least intrusion of existing habitat as possible. The excavated areas will be graded to appropriate elevations suitable for the establishment of low marsh, mid marsh, high marsh, and transitional habitats (Figure 9).

The expanded low and mid marsh habitats will provide increased nesting and foraging habitat for avifauna. Areas of cordgrass and low inter-tidal to mid-tidal ranges are the preferred habitat of California clapper rail, and pickleweed and high marsh areas are the preferred habitat of the salt marsh harvest mouse, both listed species. The transitional area and buffer zones would create refugia habitat during high tides and also roosting for raptors, and potential habitat for the San Francisco salt marsh harvest mouse.

A principal feature of the proposed plan are the isolated bird nesting islands. The sand, shell and rocky beaches will provide nesting habitat for a variety of summer nesting shorebirds such as the American avocet, black-necked stilt, and several species of terns. Isolation of the islands from the mainland by tidal channels will protect nesters from feral animal and human disturbance. Public access and trails are designed to limit intrusion into the sensitive habitat areas.

5.2 Anticipated Functions and Values of the Restored Wetlands

Table 3. Anticipated Functions and Values for Restored Areas

Function or Value	Rating of Function or Value	Rationale
Store and/or convey flood water	High	The enlarged size of the restored tidal marsh and slough will allow for increased flood water storage.
Buffer storm surges	High	The increased size of the tidal marsh, improved transition to upland habitats, and additional vegetation will improve storm surge buffering.
Sediment and toxicant retention and stabilization	High	The additional 12 acres of restored salt marsh will greatly enhance the retention and stabilization of sediments and toxins.
Production export	High	The restored wetlands and surrounding buffers will generate increased biomass for export to the bay.
Uniqueness heritage	High	The restored salt marsh habitat in Yosemite Slough will be unique in the area due to its large size and high quality native habitat.
Nutrient removal/transformation	High	Nutrient input will increase with improved upland and buffer habitat and the increase in wetland marsh area will trap large amounts of nutrients.
Wildlife diversity/abundance	High	Wildlife diversity and abundance will increase after the restoration due to increased quality and size of marsh and upland buffer habitats, and the addition of two bird nesting islands to the slough.
Aquatic diversity/abundance	High	Aquatic diversity and abundance will increase after the restoration due to increased quality and size of marsh and transitional habitats.
Recreational opportunities	High	The restored marsh and buffer areas will provide ideal birdwatching and educational opportunities especially with the addition of interpretive trails and buildings.

The restoration site will be contiguous with the existing tidal wetlands thereby increasing the area and the value of this wetland habitat. The wetland habitat created on the site will provide important functions and values including:

- Expansion of wetland habitat for wildlife;
- Increased supply of macro- and micro-invertebrates that can be utilized as food by birds;
- Increased buffering of created and existing wetland areas by vegetation that screens the area from the adjacent residential and service areas;
- Increased birdwatching opportunities, a passive recreational value, by expansion of existing wetlands through linkage with the restoration site;
- Improvement in water quality of run-off entering local waters through the water-filtering capabilities of native wetland vegetation;
- Establishment of plants on the site which will take up nutrients and transform them into organic plant tissues, thereby improving water quality and increasing food available for herbivores, detritivores, and other organisms;
- Creation of tidal habitat in a portion of San Francisco Bay Shoreline where this type of habitat is extremely limited;
- Increased sediment retention by greater area of wetland vegetation.

6.0 RESTORED TIDAL MARSH WETLAND IMPLEMENTATION PLAN

6.1 Grading Plan

Restored Tidal Marsh

The present tidally influenced area of Yosemite Slough is approximately 9.8 acres. Three embayments will be excavated from the banks of the slough, adding 12 acres of tidally-influenced wetlands and marsh area (Figure 9). Excavation along the northern boundary of the slough will occur with the least intrusion of existing canal habitat areas as possible. The proposed restoration project involves inland excavation only, with no dredging within the slough. Limited grading along the slough bank will be undertaken to make the connection to the new embayments. This will avoid disturbing any PCB contamination in sediments within the slough and reduce the potential for public contact with this contaminant. The City of San Francisco has undertaken studies to determine a strategy for remediation of sediments within the slough, though that is not part of this restoration project. Hydraulic modeling conducted on the proposed design have determined that the increased tidal prism created by the restoration project will not significantly increase channel scour and the placement of the islands reduces any scour within the restored wetlands associated with storm driven wave action (Noble Consultants 2005). Therefore, the restoration project itself will not result in any increased mobilization of sediment borne contaminants.

The goals for soil in the wetland cover layer (1- to 3-foot interval below the design surface of the planned wetland areas) are to achieve mean concentrations of chemical constituents that are near-ambient concentrations in San Francisco Bay sediments. To achieve these goals, soil that does not meet the proposed not-to-exceed criteria (ER-Ms for most chemicals and wetlands non-cover criteria for nickel and selenium) in the wetland cover layer will be excavated and removed. Soil that can be bioremediated for TEPH and PAHs and meets not-to-exceed criteria will be reused in the wetland layer. Soils that do not meet cap-screening criteria will be covered with soils that do meet criteria either as upland or wetland cover. Soil removed from the wetland layer will be replaced with suitable material meeting not-to-exceed criteria taken from cut soils or with clean imported fill that meets not-to-exceed criteria for wetland cover.

Construction of the planned wetland is expected to generate approximately 265,800 cy of cut soils and debris, which will need to be classified and managed in accordance with applicable regulations. Excess soil will be stockpiled just south of the Project Area in an 18-acre area on State Park property (Figure 10).

In the northeast embayment, approximately 9,200 to 14,000 cy of wetland layer soil containing metals above proposed not-to-exceed criteria will be removed to a depth of one to three feet below the wetland design surface. In the southwest embayment, approximately 11,400 to 29,200 cy of wetland layer soil containing metals above proposed not-to-exceed criteria will be removed to a depth of one to three feet below the wetland design surface. In the northwest embayment, approximately 2,100 to 5,100 cy of wetland layer soil containing metals above proposed not-to-exceed criteria will be removed to a depth of one to three feet below the wetland design surface. An estimated 22,700 to 48,300 cy of reused cut soils or imported fill will be needed to backfill the removal areas in the wetland design layer. Approximately 20,400 cy of cut soil are estimated to be potentially suitable for reuse as wetland cover.

Nesting Islands

Excavation on the northeastern and southwestern sides of the slough will create a wide tidal channel and two isolated nesting islands. A sandy nesting island will be created on the northern side of the slough to provide ideal habitat for birds such as plovers, curlews and sandpipers. This island will be approximately 0.71 acres in size and will be located in a more stable area and will be less subject to erosion from tidal action. A second island, approximately 0.33 acres in size will be created on the southern side of the slough. This island will primarily be composed of coyote brush to provide ideal habitat for birds such as ducks, Western grebes (*Aechmophorus occidentalis*), and greater and lesser scaups (*Aythya marila, A. affinis*).

6.2 Impact Avoidance Measures

- Silt fences will be erected around the perimeter of the slough during excavation to prevent sediment runoff into the Bay.
- Soil stockpiles will be covered and surrounded by berms or gravel bags and will not be located within 50 feet of the high tide line of the San Francisco Bay or roadway.
- The construction limit of disturbance will be clearly identified in the field. All construction personnel will be informed of the importance of the existing marsh habitat and penalties for conducting unauthorized activities within these areas.
- Upon completion of final grading, all disturbed areas will receive a final seeding and mulching in accordance with a Soil Erosion and Sediment Control Plan to be developed by the State Park Foundation.
- All slopes will be protected from erosion by top hydroseeding or soil binders as much as possible after final grading.
- All soil erosion and sediment control measures shall be kept in place until construction is complete and/or the disturbed area is stabilized.

6.3 Planting Plan

6.3.1 Restored Tidal Marsh Wetlands

Salt marsh vegetation typically exhibits vertical zonation, in which different dominant species or groups of species consistently occur within a particular elevational zone. Three subtypes of salt marsh (low, middle, and high) can be distinguished on the basis of elevation, which determines frequency of tidal flooding, and based on the dominant plant species. Each tidal zone will be planted with the appropriate native species.

The low marsh habitat to be dominated by cordgrass (*Spartina foliosa*), will be graded to elevations ranging from approximately 3.5 to 5 feet NAVD 88. The mid marsh will be dominated by pickleweed and will be brought to elevations ranging from 5 to 7 feet NAVD 88. Plant species such as gumplant, saltgrass, fat-hen spearscale (*Atriplex triangularis*), and alkali heath (*Frankenia salina*) will be established in the high marsh region. This area will be graded from approximately 7 to 9 feet NAVD 88. The transitional habitat will be located along the interface of the high marsh and upland habitats and will be graded to elevations ranging from approximately 9 to 16 feet NAVD 88. The lower elevations of the transitional habitat will be dominated by species observed in the high marsh while the higher elevations will be planted with upland shrubs and grasses. This would create approximately 12 additional acres of suitable cordgrass, pickleweed, and high salt marsh habitat.

All plant material is being grown at Candlestick State Park by students in an environmental education program. Plant materials have been gathered from the park and from nearby Heron's Head marsh restoration. Seeds, propagules, and sprigs have been collected and have been grown in a nursery setting. Transplants will be installed in the restored area using these materials.

6.3.2 Transitional Buffer

Upland planting in the restoration area will include installation of bio-degradable netting and seeding with native grasses and forbs throughout the upland buffer area. This will help to control erosion of any newly disturbed soils on the upland side of the wetland, and reduce the invasion of non-native grasses onto the site. Native grass species such as zorro annual fescue (*Vulpia myuros*), red fescue (*Festuca rubra*), California barley (*Hordeum californicum*), and big squirreltail (*Sitanion jubatum*) will be established through seeding rates ranging from 35 to 45 pounds per acre depending on seed size. Seeding will take place in the fall, prior to the onset of the fall rains. The upland buffer zone also will be planted with coyote brush and toyon (*Heteromeles arbutifolia*) in holes that are approximately twice the container size. These shrubs will be planted from six-inch liner plants on approximately five-foot centers. All remaining pampas grass and other non-native vegetation will be removed.

6.4 Non-Native Vegetation Removal

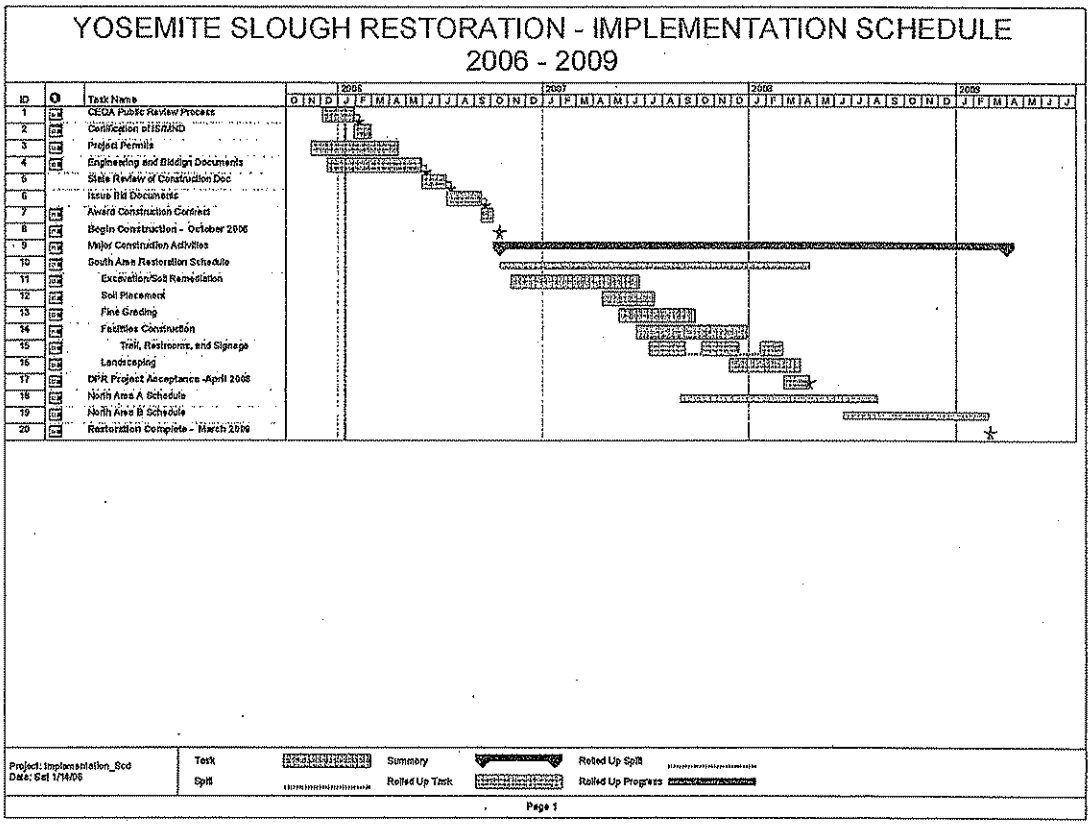
Ruderal vegetation, including pampas grass, fennel, and other non-native grasses and weedy species dominate most of the disturbed upland areas. Removal of this non-native vegetation is necessary to maintain a native plant community after restoration and to reduce competition with planted vegetation. This removal can be accomplished by mechanical means such as mowers or weed whackers.

6.5 Irrigation

The restored tidal marsh wetland areas will not be irrigated. Normal rainfall and daily tidal action will provide the necessary hydrology for tidal marsh plant establishment. Upland buffer shrubs and trees planted in areas adjacent to the marsh will be irrigated until they become established and are self-sufficient. Drip irrigation will be provided by a temporary irrigation system as needed through a three-year establishment period.

6.6 Implementation Schedule

Construction is dependent upon raising sufficient funds for the project. The California State Parks Foundation is pursuing grants for its construction. A proposed construction schedule is as follows:



After construction drawings are approved and a contract is let, the first phase of the project will be the soil remediation. Some soils can be bioremediated on site and this will be initiated along with the removal of debris and concrete in the fill. Soil testing will be done during the excavation process to segregate soils into various treatment options: bioremediation, on-site disposal, on-site cover, and off-site disposal. Once the excavated materials are removed or stored, the final grading will be conducted. It is anticipated that a one to three foot overexcavation will be necessary to remove contaminated soils. Approved cover soil will then be placed to reach the final grades. After the grading is complete, the planting will be done within one year.

Upland grading, construction of the bay trail, and landscaping will be done after excavation of the tidal marsh areas.

It is possible that, depending upon funding, the project will be divided into phases to be constructed over time as funds become available.

6.7 Construction Drawings

Once this Restoration Plan has been approved, formal construction documents will be prepared and submitted to the Corps, Regional Water Quality Control Board (RWQCB), Bay Conservation and Development Commission (BCDC), and the City of San Francisco. These documents will be of suitable detail for the project contractor to construct the proposed project.

6.8 As-Built Conditions

A letter report outlining the as-built conditions of the restored tidal marsh wetlands will be prepared and submitted to the Corps and other interested agencies within three months of completing the construction of the restored marsh.

7.0 MONITORING AND SUCCESS CRITERIA

Monitoring of the restored wetlands will occur annually over a period of five years to document habitat development and determine if restoration performance criteria have been met. Monitoring will begin after one full rainy season following completion of construction. Data will be collected each year immediately following the rainy season to assess the successful creation of hydrology and establishment of native wetland and upland vegetation. The proposed monitoring methods and final success criteria are discussed below.

7.1 Restoration Success Criteria

Following implementation of the Restoration Plan, a five-year monitoring program will be conducted to determine whether the proposed restoration site has achieved functions of typical San Francisco Bay tidal marsh habitat, and whether modifications of the site design or implementation procedure are necessary. The criteria that will be used to determine the success of the restoration site will be:

YEAR 1

- Tidal inundation will occur over all portions of the created tidal wetland.
- Survival of transitional upland buffer plantings will exceed 80 percent.
- Invasive exotic plant species within the transitional upland buffer will not exceed five percent cover.

YEAR 3

- Vegetation percent cover in the restored mid and high marsh wetland should average at least 45 percent cover.
- Vegetation percent cover in the restored low marsh wetland should average at least 20 percent cover.
- Survival of transitional upland buffer plantings will exceed 80 percent.
- Invasive exotic plant species within the transitional upland buffer will not exceed five percent cover.

YEAR 5

- Vegetation percent cover in the restored mid high marsh wetland should average at least 80 percent cover, excluding marsh panne habitat.
- Vegetation percent cover in the restored low marsh wetland should average at least 40 percent cover.
- The restoration site should be dominated by target tidal wetland plant species.
- All restored tidal areas should meet the Army Corps of Engineers' 1987 manual wetland definition.
- Survival of transitional upland buffer plantings will exceed 80 percent.
- Invasive exotic plant species within the transitional upland buffer will not exceed five percent cover.

7.2 Monitoring Methods

Three variables will be monitored over the five-year monitoring period to assess progress in the restored wetlands. Monitoring may be performed by Park staff and volunteers; however, a qualified biologist with experience in wetland monitoring will supervise the effort. Methods for monitoring the performance of the restored wetlands with regards to the success criteria are described below.

7.2.1 Hydrology

Each year of the monitoring period, site hydrology will be monitored to ensure that the restored areas are functioning hydrologically as wetlands. Based on methodologies outlined in the 1987 Army Corps of Engineers Wetlands Delineation manual (Environmental Laboratory 1987), the wetland will be monitored to ensure that soils are either inundated (visual observation of tidal inundation) or saturated within the root zone (1.0 foot from the soil surface). Observations of tidal inundation of the entire restored site will be conducted on a semi-annual basis during the winter and spring growing season.

7.2.2 Soils

Soil profiles will be examined to confirm development of redoximorphic features such as oxidized rhizospheres, gleying or mottling. Any sedimentation or erosion occurring will also be noted, and remediation measures will be recommended if the problem becomes severe.

7.2.3 Vegetation

Vegetation monitoring involves three components: (1) assessing survival of planted upland shrubs, (2) assessing plant species occurrence and percent cover at random quadrats along transects in the restored marsh area, and (3) surveying for the presence of invasive exotics such as pampas grass and fennel.

Survival of the planted shrubs serving as a buffer for the restoration site will be assessed six months and one year after planting. Any shrubs not surviving will be replanted as part of a remedial planting during the first fall following initial planting. In subsequent years, planted upland shrubs will be assessed annually and replaced as needed.

During years one to five, overall wetland plant establishment will be examined through monitoring of species occurrence and percent cover along transects and at monitoring stations. Permanent transects will be set up within all three restored embayments. The transects will extend from the high marsh to the upper limit of low marsh habitat. Transects will not be used in the low marsh habitat. Instead, visual estimates of percent cover will be performed from permanent monitoring stations. Results of this sampling will be used to compare plant establishment with vegetation success criteria outlined in Section 7.1. Photographs will be taken at selected permanent photopoints for year-to-year visual comparison during each monitoring year. Monitoring will be conducted at the end of the growing season for these wetland plant species, typically late summer (August).

Surveying for the presence of invasive exotic plant species will occur annually during the monitoring visit. Removal by hand will occur if possible wherever these species are observed on the restoration site. If non-native or hybrid cordgrass becomes a problem within the restoration area, remedial actions will be initiated following the Spartina eradication EIR approved by the Coastal Conservancy.

7.3 Annual Reports to Agencies

Annual reports that discuss monitoring methodology and results will be submitted to the Corps, RWQCB, and BCDC. Reports may be prepared by Park staff; however a qualified biologist with experience in vegetation monitoring will supervise the report preparation. These reports will assess progress in meeting success criteria and identify any problems with flooding, sedimentation, vandalism, and/or other general causes of poor survival or wetland degradation. If necessary, recommendations to improve success in achieving criteria will be made. After five years, or less if final success criteria are achieved sooner, a final report describing the success of the restoration project in meeting the success criteria will be prepared and submitted to the Corps, RWQCB, and BCDC along with an evaluation of the success of any necessary corrective measures undertaken.

8.0 CONTINGENCY MEASURES

If annual or final success criteria are not met, the applicant will prepare an analysis of the cause(s) of failure and, if determined necessary by the Corps, propose remedial action for approval. The applicant will be responsible at that time for reasonably funding the contingency procedures necessary for completion of the restoration project.

9.0 COMPLETION OF RESTORATION

9.1 Notification of Completion

Upon completion of five years of monitoring a final report will be sent to the Corps, RWQCB, and BCDC that details the results of the final year of monitoring. In addition, a Notice of Completion will be prepared, signed by the applicant, and submitted to the Corps, RWQCB and BCDC to confirm successful completion of the restoration effort.

9.2 Corps Confirmation

The Corps may require a site visit to confirm successful completion of the restoration effort. They may wish to review the restoration areas to determine if all success criteria have been met. If a site visit is requested, the Corps shall contact the Applicant prior to visiting the site.

10.0 LONG-TERM MANAGEMENT PLAN

10.1 Property Ownership

The State of California currently owns the proposed restoration area. As a result, the California State Department of Parks and Recreation is responsible for ensuring that the long-term management plan of the restored marsh is fulfilled.

10.2 Resource Manager

The Candlestick Point State Recreation Area staff will be responsible for implementing the long-term management plan described in Section 10.3 below. Management and maintenance funding will be from the State Parks budget.

10.3 Management Plan

The purpose of the management program is to ensure the restored tidal marsh and adjacent areas function effectively and that the ecological values are not compromised by human disturbance, pest species invasions, or erosion. Maintenance and inspections shall take place in accordance with the schedule in Table 4.

10.3.1 Debris Removal

Trash and other refuse shall be removed from the restored marsh and associated buffer areas. Inspections should be conducted minimally at least once a year. However, the marsh habitat should be inspected immediately following large storm events.

10.3.2 Sign Inspection

The educational signs posted in the restoration area should be inspected annually and immediately after storm events. If the signs become illegible they should be cleaned. Damaged signs should be repaired and missing signs replaced.

10.3.3 Erosion Control

Visual monitoring for structural integrity of the restored marsh, especially along the transitional buffer areas, shall be conducted following storm events. In the event that large flow volumes or tidal action cause excessive erosion or accretion, the impacted area will be repaired and revegetated immediately.

10.3.4 Non-Native Plants

Maintenance of the restoration area will include removal of problematic non-native wetland and upland plant species from the marsh and associated buffer. Removal of non-native species may be conducted by a qualified biologist or by maintenance personnel as directed by a qualified biologist. If non-native or hybrid cordgrass becomes a problem within the restoration area, remedial actions will be initiated following the Spartina eradication EIR approved by the Coastal Conservancy.

10.3.5 Trail Maintenance and Access

Access to the restoration area, including trail condition, should be assessed annually and following large storm events. If site access is hindered or trail conditions deteriorate, repairs will be made immediately.

10.3.6 Record Keeping

Records of all inspections and maintenance activities performed shall be retained by the Candlestick State Parks Foundation. The records shall include the date, name of inspector, what was observed, and the maintenance activities performed.

Table 4. Restoration Area Maintenance Schedule

TASKS	TIDAL MARSH HABITATS	MARSH BUFFER AREA	SCHEDULE
INSPECT FOR AND REMOVE DEBRIS (DEAD VEGETATION AND TRASH)	X	X	MINIMUM: ANNUALLY AND AFTER MAJOR STORM EVENTS
INSPECT SIGNS TO ENSURE LEGIBILITY AND PRESENCE		X	MINIMUM: ANNUALLY AND AFTER MAJOR STORM EVENTS
INSPECT FOR EROSION ON BANKS		X	MINIMUM: ANNUALLY AND AFTER MAJOR STORM EVENTS
ASSESS NEED TO REMOVE NON-NATIVE SPECIES	X	X	MINIMUM: ANNUALLY DURING VEGETATION MONITORING OR AS NEEDED
SITE ACCESS AND TRAIL MAINTENANCE		X	MINIMUM: ANNUALLY AND AFTER MAJOR STORM EVENTS
RETAIN ALL RECORDS OF INSPECTION AND MAINTENANCE	X	X	ANNUALLY

11.0 REFERENCES

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APPENDIX A - PROJECT FIGURES

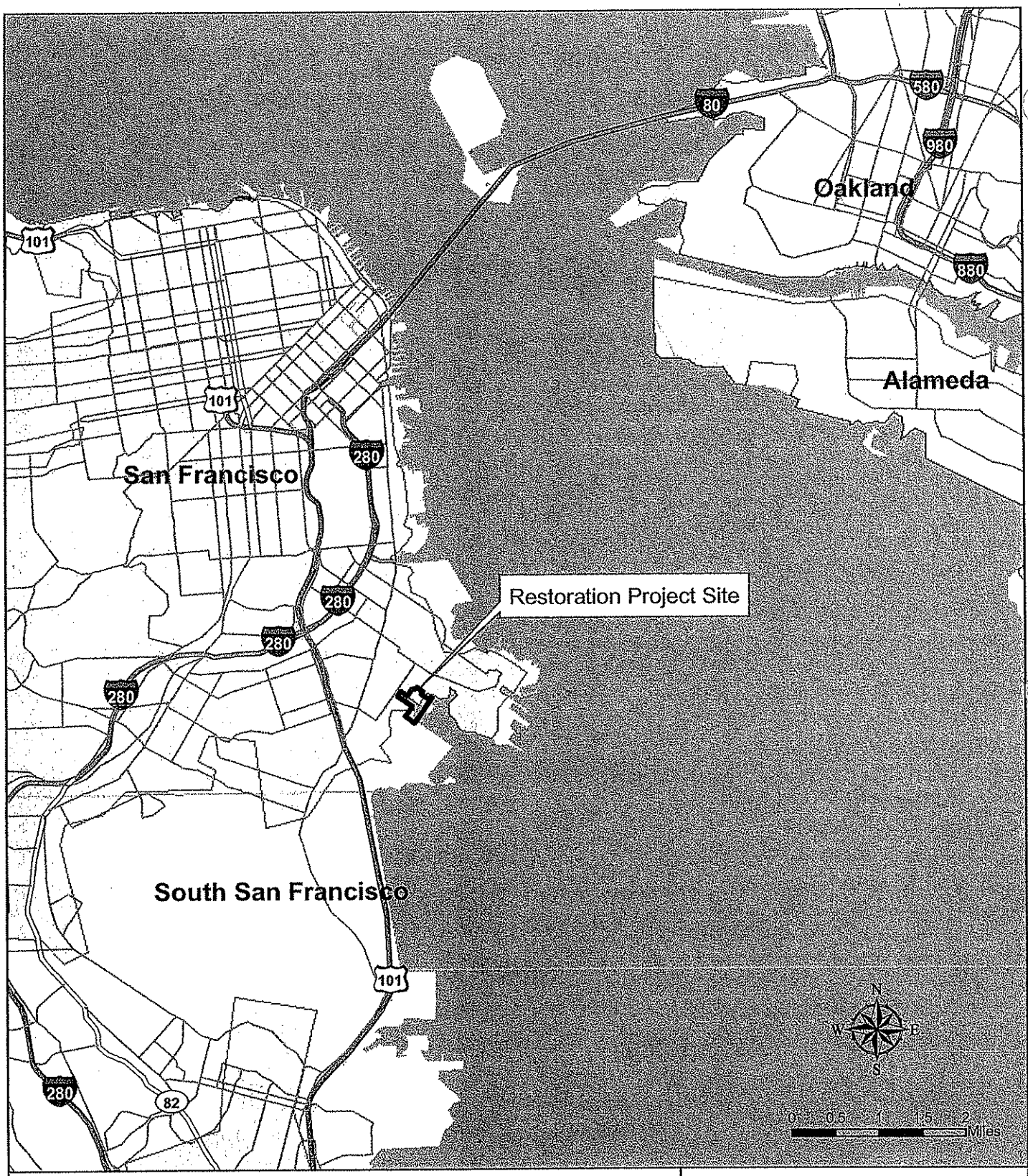

Figure 1.

Location of Yosemite Slough
in the San Francisco Bay Area, California

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ENVIRONMENTAL CONSULTANTS

Date: June 2005
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Map By: GO
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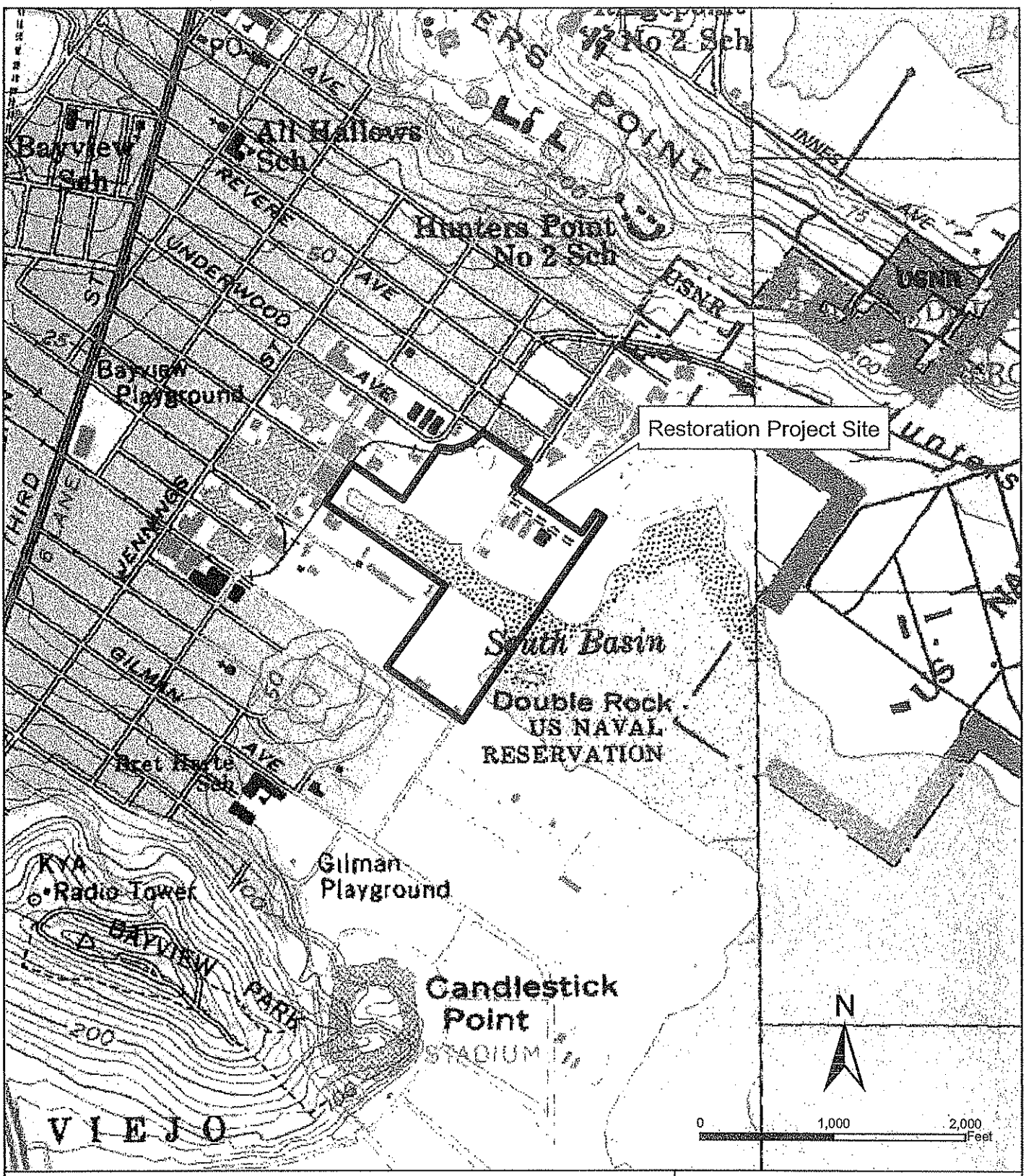

Figure 2.

Yosemite Slough Project Site Location Map

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ENVIRONMENTAL CONSULTANTS

Date: June 2005
Data Source: USGS Topo Quad, San Francisco
Map By: GO
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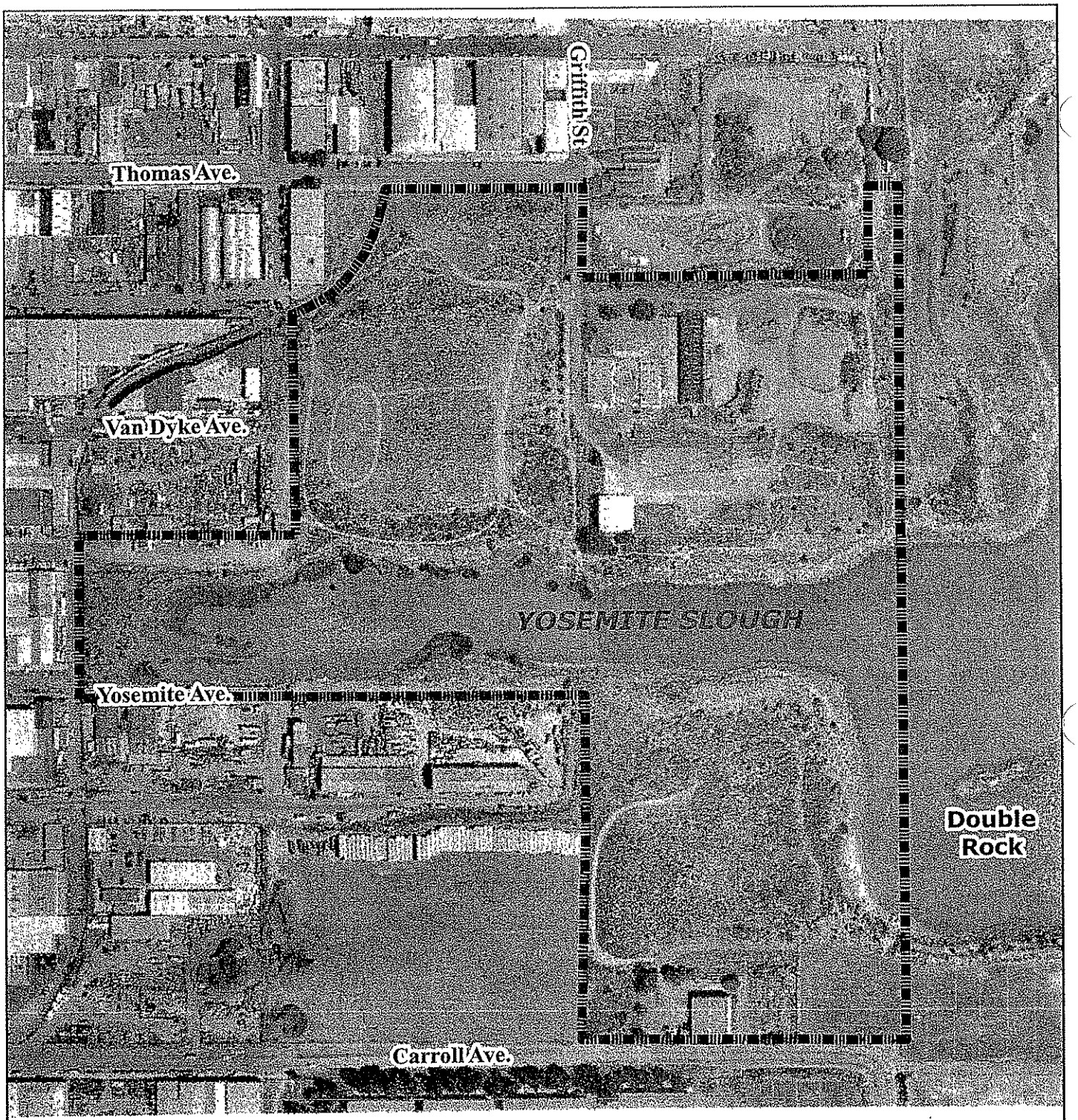

Figure 3.

Aerial Photograph of Restoration Project Site

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Date: June 2005
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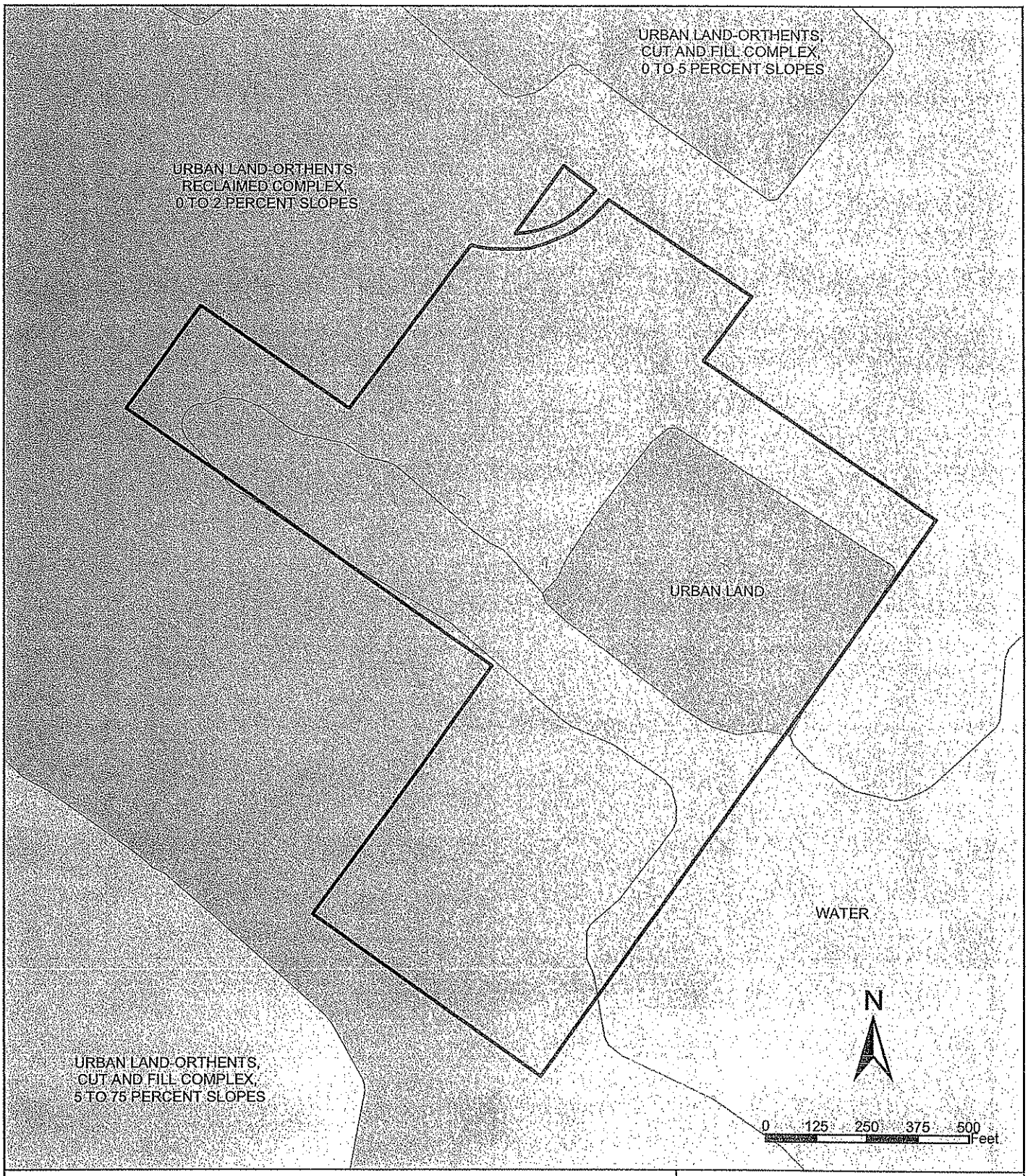

Figure 4.

Project Area Soils Map

Wetlands Research Associates, Inc.

Date: April 2004
Data Source: US SURRGO Soils Data
Map By: GO
Filepath: Acad2000/12124/GIS/ArcMap/SoilsMap.mxd

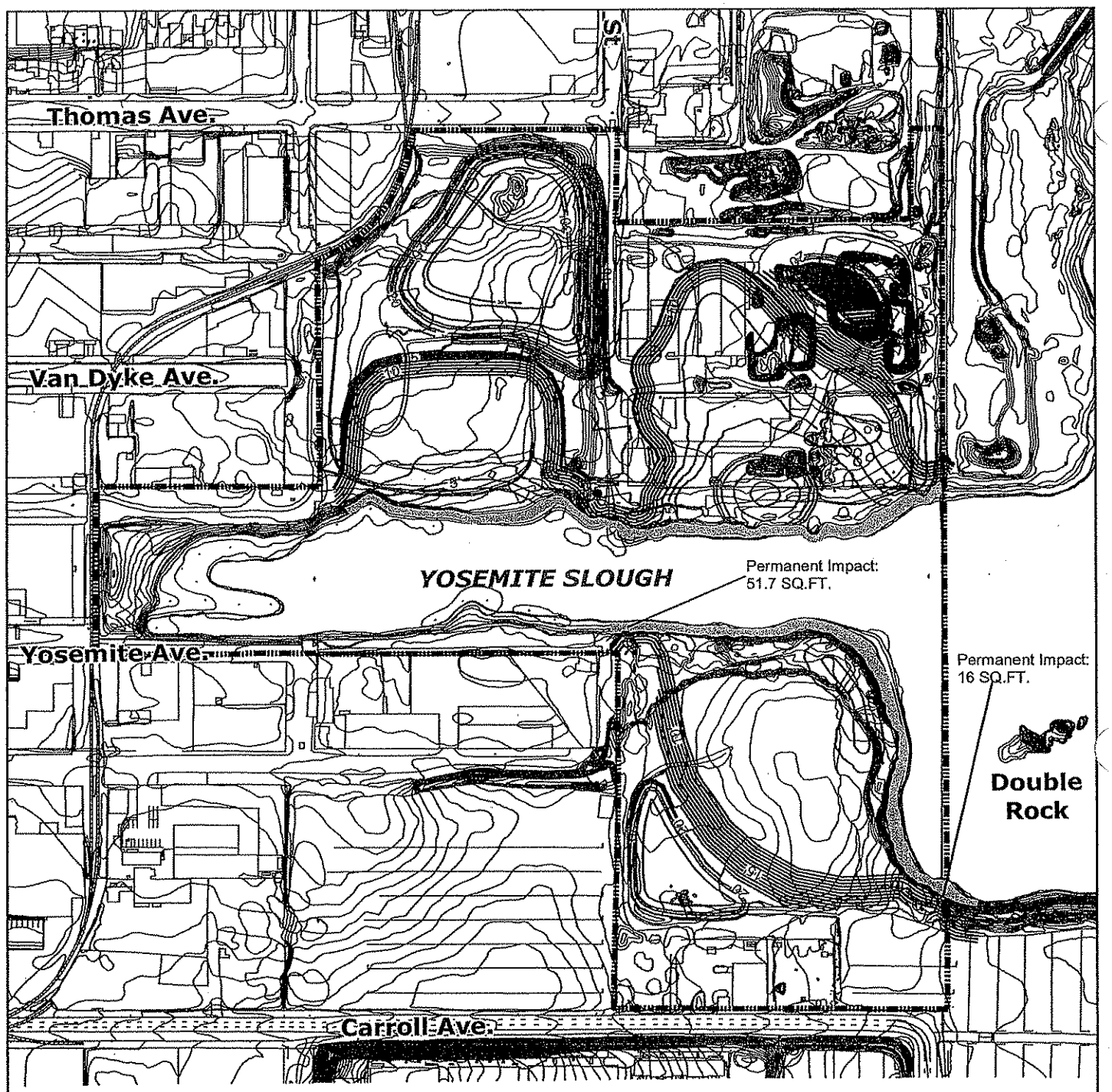

Figure 5.
Limit of Disturbance within Section 404 Jurisdiction

Yosemite Slough,
San Francisco, California

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ENVIRONMENTAL CONSULTANTS

Date: Dec 2005
Data Source: HJW 1998
Map By: GO
Filepath: Acad2000/12124/GIS/DisturbanceFigs/Section404.mxd

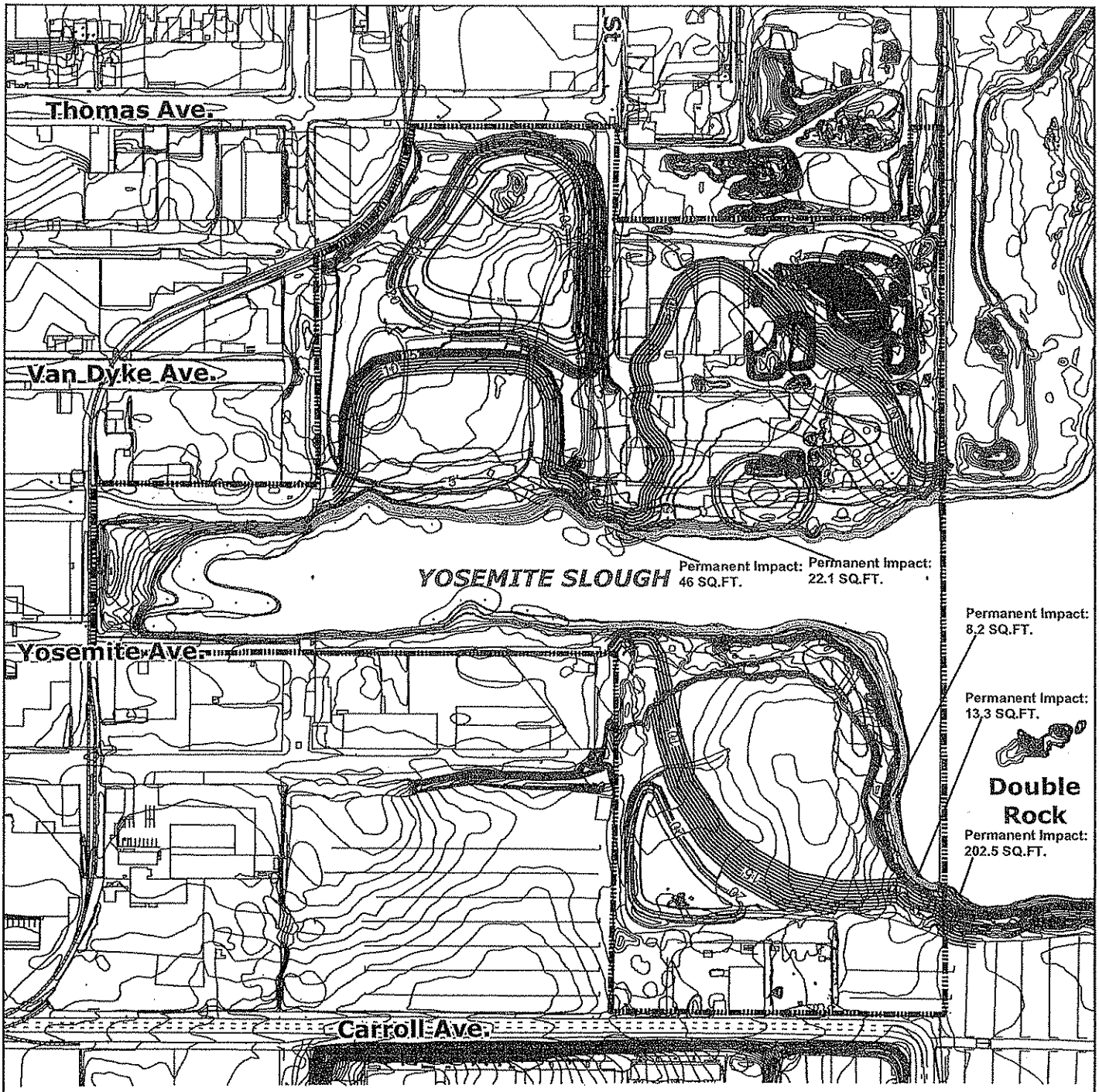

Figure 6.
Limit of Disturbance within Section 10 Jurisdiction

Yosemite Slough,
San Francisco, California

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ENVIRONMENTAL CONSULTANTS

Date: Dec 2005
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Map By: GO
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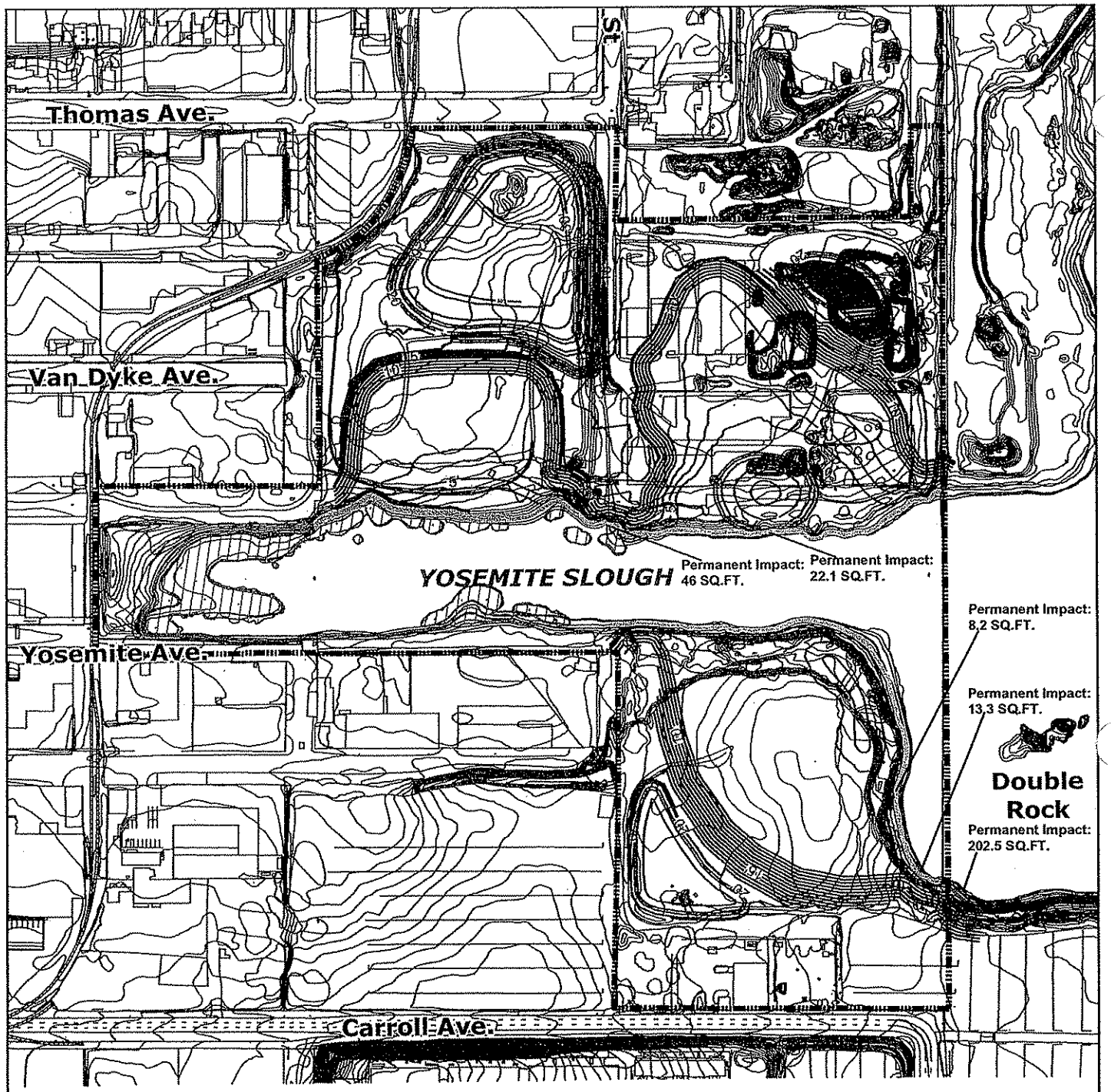

Figure 7:
Limit of Disturbance within
BCDC Waterward Jurisdiction

Yosemite Slough,
San Francisco, California

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ENVIRONMENTAL CONSULTANTS

Date: Dec 2005
Data Source: HJW 1998
Map By: GO
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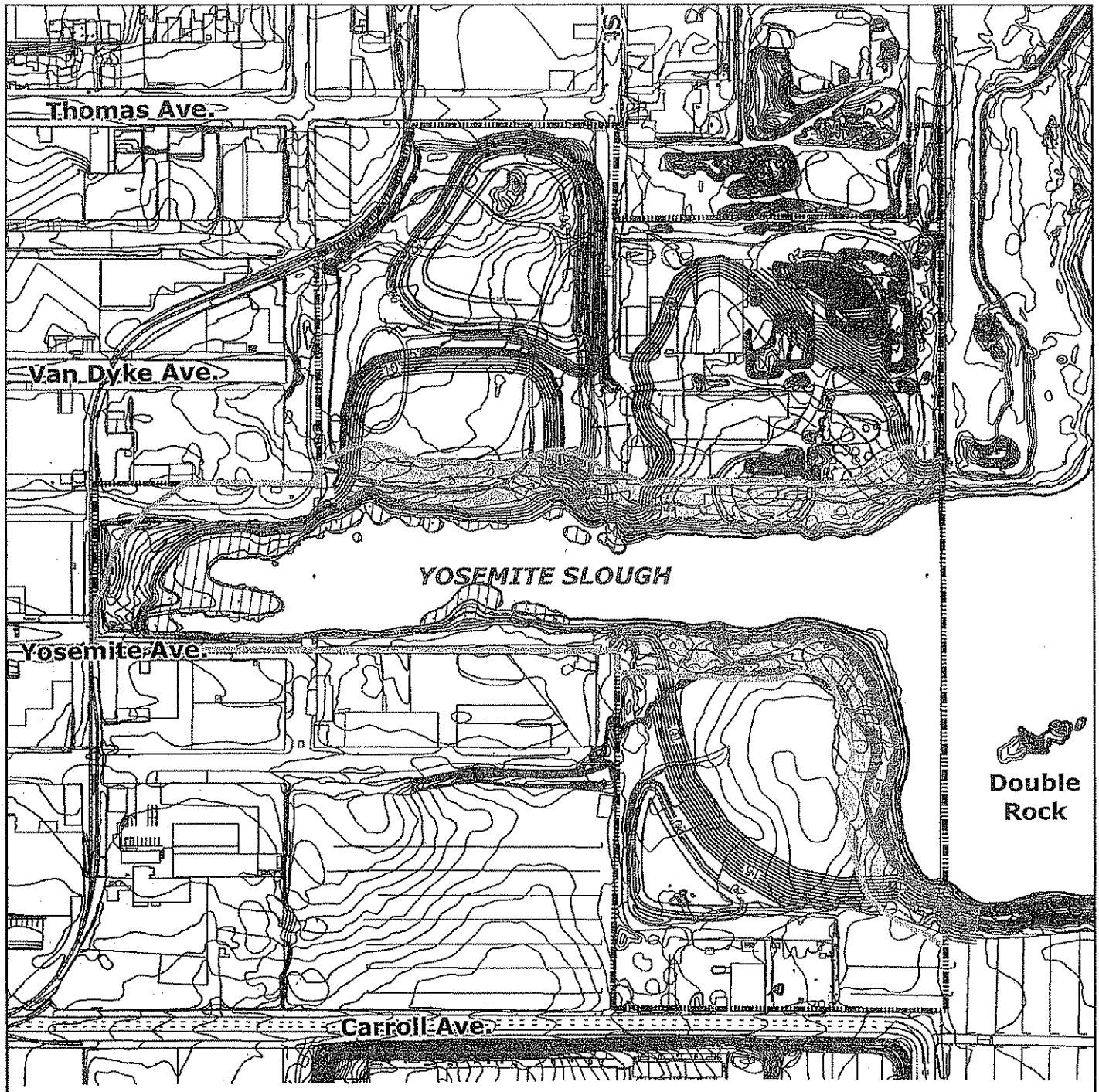

Legend

- Project Boundary
- Mean High Water
- Tidal Marsh
- BCDC Band Temp Impact: 247,506.3 sq.ft.
- BCDC 100ft. Shoreline Band
- New Grading

N E S W

150 75 0 150 300 450 Feet

1 inch equals 300 feet

Figure 8
Limit of Disturbance within BCDC
Shoreline Band Jurisdiction

Yosemite Slough,
San Francisco, California

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ENVIRONMENTAL CONSULTANTS

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Data Source: HJW 1998
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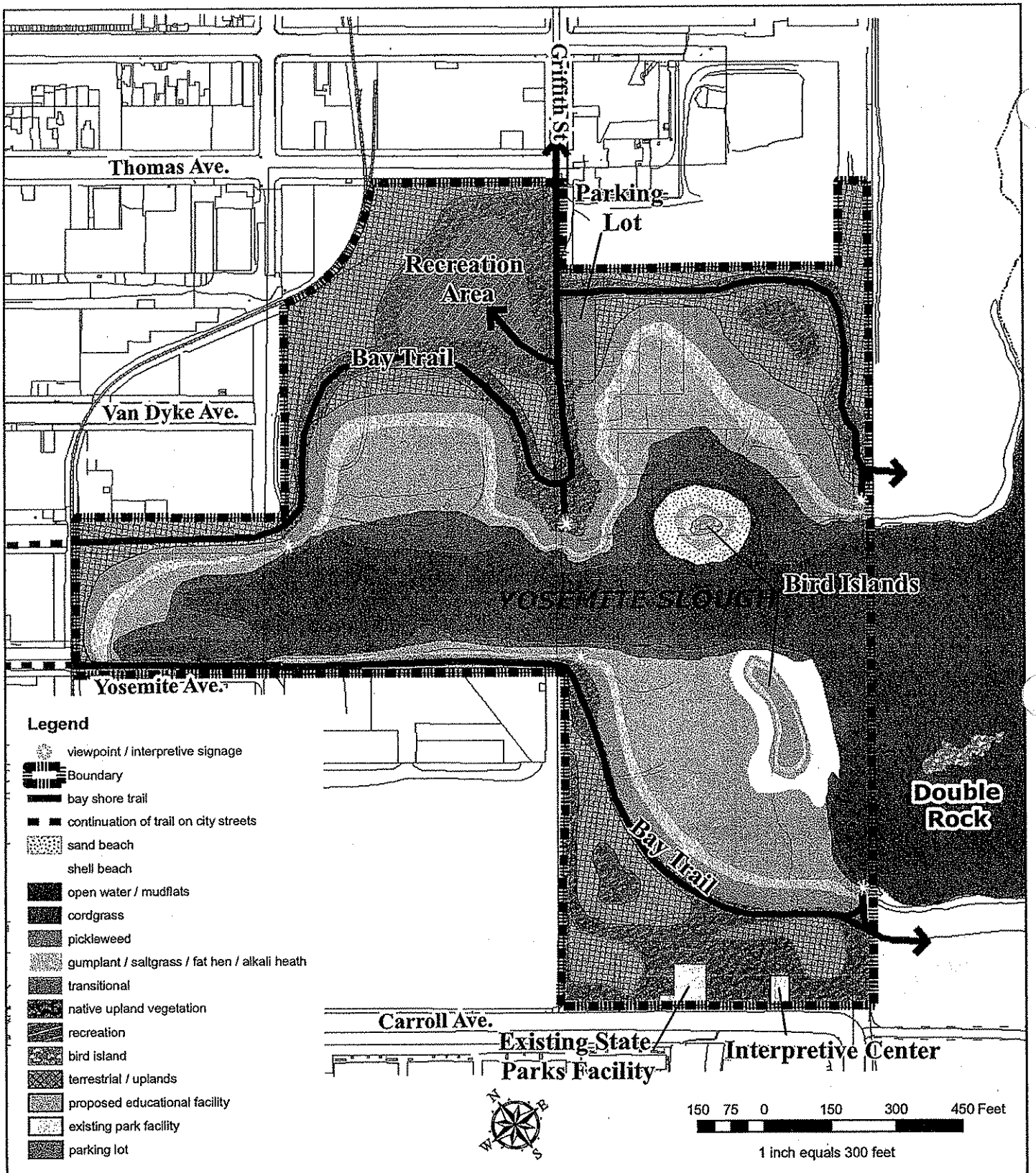

Figure 9.

Illustrative Figure Showing Proposed Restoration Project

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ENVIRONMENTAL CONSULTANTS

Date: June 2005
Data Source: ESRI Digital Atlas
Map By: GO
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Final Project Desc Figures\Fig9_IllustrativeProjectPlan_2008.mxd



Legend

- Candlestick Point State Recreation Area
- State Lands Commission
- Restoration Site
- Potential Spoils Disposal Area (18 acres)
- BCDC Line
- BCDC Buffer Line

N
W E
S

350 175 0 350 700 1,050 Feet

1 inch equals 491.013333 feet

Figure 10.

Proposed Soils Disposal Area

wra
ENVIRONMENTAL CONSULTANTS

Date: Jan 2006
Data Source: ESRI Digital Atlas
Map By: Sundaran Gillespie
Filepath: Acad2000/12124/GIS/FinalFigures/Fig7.mxd

APPENDIX B - APPROVED JURISDICTIONAL DETERMINATION

DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
333 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105-2197

OCT 0 8 2004

Regulatory Branch

SUBJECT: File Number 28439S

Ms. Victoria Seidman
California Department of Parks and Recreation
125 University Avenue
Berkeley, California 94710

Dear Ms. Seidman:

This letter is in regard to a request for confirmation of the extent of Corps of Engineers jurisdiction, submitted by Wetland Research Associates on your behalf on June 22, 2004, for Yosemite Slough and the surrounding project area. The study area is located between Thomas Avenue and Cameron Way southeast of Ingalls Street, in the City and County of San Francisco, California.

Enclosed is a map showing the extent and location of Corps of Engineers jurisdiction on the project site. We have based this jurisdictional delineation on the current conditions of the site as confirmed during a site visit by Holly Costa of our Regulatory Branch on September 21, 2004. A change in those conditions may also change the extent of our jurisdiction. This jurisdictional delineation will expire in five years from the date of this letter. However, if there has been a change in circumstances that affects the extent of Corps jurisdiction, a revision may be done before that date.

All proposed work and/or structures extending bayward or seaward of the line on shore reached by: (1) mean high water (MHW) in tidal waters, or (2) ordinary high water in non-tidal waters designated as navigable waters of the United States, must be authorized by the Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403). Additionally, all work and structures proposed in unfilled portions of the interior of diked areas below former MHW must be authorized under Section 10 of the same statute.

All proposed discharges of dredged or fill material into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. Section 1344). Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.

You are advised that the Corps has established an Administrative Appeal Process, as described in 33 C.F.R. Part 331 (65 Fed. Reg. 16,486; Mar. 28, 2000), and outlined in the enclosed flowchart and "Notification of Administrative Appeal Options, Process, and Request for Appeal" form (NAO-RFA). If you do not intend to accept the approved jurisdictional

determination, you may elect to provide new information to the District Engineer for reconsideration or submit a completed NAO-RFA form to the Division Engineer to initiate the appeal process. You will relinquish all rights to appeal, unless the Corps receives new information or a completed NAO-RFA form within sixty (60) days of the date of the NAO-RFA.

If you have any questions, please contact Holly Costa of our Regulatory Branch at 415-977-8438 or by email: Holly.N.Costa@spd02.usace.army.mil. Please address all correspondence to the Regulatory Branch and refer to the File Number at the head of this letter.

Sincerely,

ORIGINAL SIGNED
BY
CHIEF, SOUTH SECTION
FOR

Calvin C. Fong
Chief, Regulatory Branch

Enclosure

Copies Furnished (w/ map):

Wetlands Research Associates, Inc., Attn: Michael Josselyn
Jones and Stokes, Attn: Mike Davis

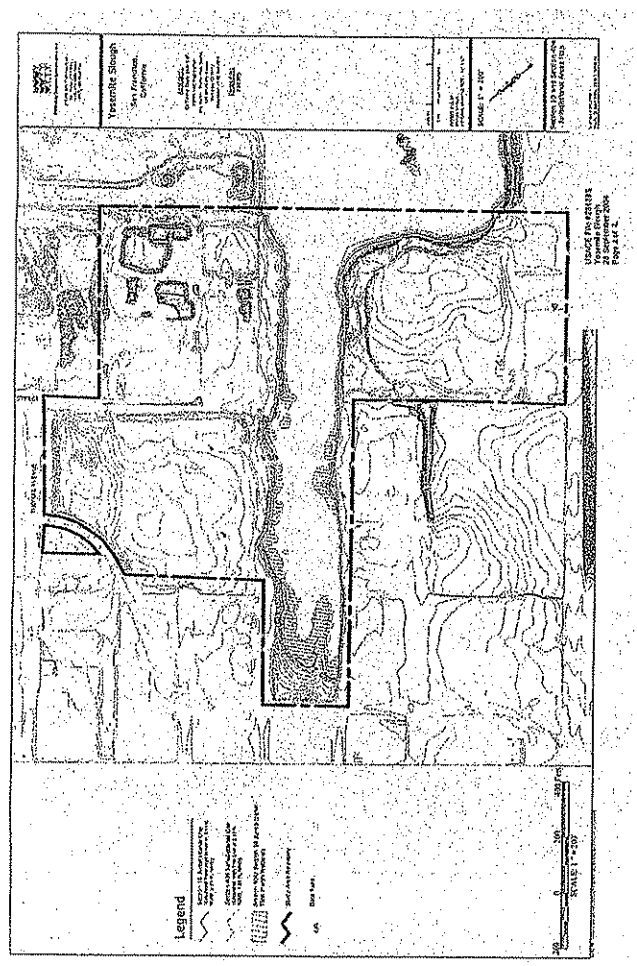
Yosemite Slough
Legend

EXHIBIT B

Expert Letter from Tom Brohard

Submitted by the California State Parks Foundation
Regarding Comments to the FEIR for the
Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project

Tom Brohard and Associates

June 2, 2010

Mr. James Birkelund
Law Offices of James Birkelund
840 California St., Suite 45
San Francisco, CA 94108

SUBJECT: Review of the Final Environmental Impact Report (Final EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan in the City of San Francisco – Yosemite Slough Bridge Traffic Issues and Project Alternatives Analysis

Dear Mr. Birkelund:

Tom Brohard, P.E., has reviewed various portions of the May 2010 Final Environmental Impact Report (Final EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan in the City of San Francisco. This review focused on the responses to my January 7, 2010 letter (Comments 47-102 through 47-115) that were enclosed with your January 12, 2010 letter.

After reviewing the responses to my comments in the Final EIR, opening the four reversible auto lanes on only National Football League ("NFL") game days will be difficult to continue to restrict during other sell-out secondary events at the stadium and at the arena. Once opened for traffic access to the stadium and the arena, it will not be possible to keep the four lanes closed at all other times as traffic and transit conditions continue to deteriorate in the area with construction and occupancy of the Proposed Project.

In sum, the Yosemite Slough Bridge is not required to accommodate "game day" traffic and all four of the "game day" lanes should be deleted. Transit forecasts do not justify BRT on the bridge, let alone constructing the bridge as "rail-ready" for future light rail service. A tunnel under Yosemite Slough was dismissed without proper analysis. Bicycle and pedestrian access to the California State Parks will be significantly impacted with the bridge. Because the issues and concerns in this letter have not been fully considered, the EIR for the Proposed Project does not meet the requirements of the California Environmental Quality Act.

Yosemite Slough Bridge Issues

My review of the EIR indicates the following continuing traffic issues regarding the proposed Yosemite Slough Bridge component of the Proposed Project:

1) Yosemite Slough Bridge Is Not Necessary to Accommodate Project Traffic

   a) Eleven Exiting Game Day Traffic Lanes Can Be Provided in Other Ways – Comment 47-104 stated the two contra-flow lanes proposed on surface

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streets to provide access to the area in the opposite direction during the 2 two-hour periods of peak demand to and from the new stadium "provide a convenience" and "are not required for other purposes such as providing emergency services." The Response questioned how residents of the 2,650 residential units would access their homes if these lanes were not available, and dismissed this as "infeasible."

The two contra-flow lanes are a convenience for four hours, 20 days a year, not a necessity. Residents near other stadiums across the country face access limitations on game days, and the two contra-flow lanes here are not required. The EIR has not analyzed removal of the two contra-flow lanes for 2 two-hour periods on game days together with conversion of these two lanes to provide two additional reversible lanes for NFL fans.

Comment 47-104 indicated the existing 10 AM to 6 PM game day parking restrictions on the north side of Carroll Avenue, Gilman Avenue, Ingerson Avenue, and Paul Avenue could be reduced to only 3 PM to 6 PM on game days to ease the impact on the adjacent properties. The Response incorrectly indicates additional parking restrictions were suggested to add a directional NFL game day lane on Carroll Avenue or other streets.

While additional lanes could be provided on other streets, the Response indicates the constraint as Crisp Road, proposed to have five traffic lanes and 12' and 13' wide sidewalks at Griffith Street as shown on Figure C1. While the Response indicates "severe reductions in sidewalk width" would be contrary to the City's Draft Better Streets Plan, sidewalks on other streets in Figure C1 are only 8' wide and the sidewalk on the Yosemite Slough Bridge is only 4' wide. An additional traffic lane can be provided on Crisp Road by using narrower but still adequate sidewalk widths.

Master Response 4 provides additional analysis of other alternate routes to provide four game day traffic lanes without construction of the Yosemite Slough Bridge. Alternate Route 1 provides two additional exiting lanes on Fitch Street and other east/west streets and Alternate Route 2 adds two lanes in the rail right of way around Yosemite Slough, nearly providing an equivalent to the four lanes on the Yosemite Slough Bridge. Alternative Route 2 plus the other opportunities in my comments provide more than 11 reversible lanes for egress from the stadium.

b) Eleven Game Day Traffic Lanes Are Not Necessary - While the Response to Comment 105 acknowledges 11 lanes are not required for ingress as fans arrive over an extended period of time, the Response states the additional capacity is warranted to maximize ingress. Without analysis supporting this recommendation, operating 11 reversible lanes inbound to the stadium for two hours before 1 PM on NFL game days is not justified.

The Response takes a quote from the Transportation Study out of the context of my prior comments, attributing it as my acknowledgment that the four game day lanes on Yosemite Slough Bridge provide a quicker clearance time. While my comment indicated the parking lots will clear quicker at the new stadium with more parking lot gates, traffic congestion at intersections and freeways in the area will continue long after the parking lots clear. Even with the current lower exiting capacity at the stadium that meters traffic leaving the existing facility, congestion continues long after the event has ended as acknowledged in the EIR. In the absence of any analysis to the contrary in the EIR, traffic leaving the stadium will experience about the same overall travel times to reach their destination when an additional 3,300 vehicles per hour are released and try to access facilities already operating at LOS "F".

2) Reasonably Foreseeable Future Conditions Include Opening the Yosemite Bridge to Private Automobiles Year Round - Comments 47-106, 47-107, and 47-108 indicated there will be intense pressure to open the four game day lanes on the Yosemite Slough Bridge, initially for 20 annual secondary events at the Stadium and for events at the proposed arena. Traffic to all these events will occur in the weekday PM peak hour when many area intersections operate at grid-locked conditions. The EIR also indicates mitigation measures are not feasible at half of the impacted study intersections. Once exceptions are made for opening the traffic lanes on the bridge to facilitate traffic for special events at the stadium and for the arena, it is reasonably foreseeable that there will be intense pressure from the public to open the traffic lanes on the Yosemite Slough Bridge at all times. The Response to my comments and Comment 17-1 indicates additional environmental review would be required to open the four traffic lanes at times other than on NFL game days. While true, there are no enforceable mechanisms for ensuring the bridge will not be opened for use by private automobiles at all times. On the other hand, game day lanes on the bridge cannot be opened on other days if they are not built.

3) No Justification Is Provided for Constructing the Bridge to be "Rail Ready" – Comment 47-109 stated the EIR fails to provide any evidence that conversion of the BRT lanes to light-rail will be needed in the future. My comment also provided technical information regarding the carrying capacity of various different transit modes including BRT and light rail transit. The comment also questioned why BRT would be needed across the Yosemite Slough Bridge for only 800 passengers in the peak hour per direction before and after the NFL football games and for 1,100 passengers in the weekday peak hour (only one-third of the theoretical BRT directional capacity of 3,600 passengers in the peak direction). The Response referred to the Response to Comment 47-15 which did not include the technical information presented in my comment. In addition, my further review indicates the transit needs of the area in Year 2030 with full development including the stadium can easily be met with

standard busses, and that BRT will not be needed. The EIR must analyze transit access for the Project without BRT.

Comment 47-109 also indicated structural support for future light rail carried by the bridge would be greatly enhanced in comparison to providing a bridge designed to carry only BRT lanes. As such, more structural members and their bulk that are designed for light rail create additional aesthetic impacts as well as significant unnecessary cost for the Yosemite Slough Bridge. Response to Comment 47-15 does not respond to this concern.

4) The Bridge is Not Necessary for the BRT System - Comment 47-110 stated the EIR failed to consider or analyze the use of a tunnel for the two BRT lanes under Yosemite Slough. Without specific analysis, the Response indicated "It would be prohibitively expensive to tunnel under the neck of the slough..." Since cost alone cannot be used to dismiss this alternative, the generalized response continues that a tunnel would require "more extensive approaches" and these "could create additional environmental impacts or increase the severity of impacts identified for the Project." The speculative response does not provide information that supports why it is necessary to increase the approach lengths by 700' or 800' with a tunnel, which would put the top of the tunnel at least 60' (five stories or more) below the water surface. The Response also fails to address conflicts with Policy 2 of the San Francisco Bay Plan which states "If any additional bridge is proposed across the Bay, adequate research and testing should determine whether feasible alternative route, transportation mode or other operational improvement could overcome the particular congestion problem without placing an additional route in the Bay and, if not, whether a tunnel beneath the Bay is a feasible alternative."

5) Joint Use Bicycle/Pedestrian Lane on Bridge Violates Caltrans Guidelines – Comment 47-112 indicated the proposed bicycle/pedestrian facility on the Yosemite Slough Bridge violates the Highway Design Manual published by Caltrans, specifically "...if significant pedestrian use is anticipated, separate facilities for pedestrians are necessary to minimize conflicts. Dual use by pedestrians and bicycles is undesirable, and the two should be separated wherever possible." While the Response states the Yosemite Slough Bridge would provide a 12' wide Class I bicycle path and 7' wide sidewalk, Figure C&R-17 shows a combined 12' wide "Class I ped/bike facility" on the bridge itself and the 12' wide Class I bicycle path and 7' wide sidewalk on the bridge approaches.

The multi-use path across the bridge barely meets the Caltrans requirements of minimum 8-foot wide two-way bicycle facility and minimum 4-foot wide area for pedestrians. However, the Response states pedestrian crowding and conflicts with bicyclists will occur on the Yosemite Slough Bridge where "pedestrian volumes would be heavy before and after games." Concurrently,

significant pedestrian and bicycle use can be expected on this recreational facility, especially with turnouts for viewing. The EIR fails to address and analyze the conflicts that will occur in the proposed combined facility which has each component designed to barely meet the Caltrans minimum widths for separate bicycle paths and sidewalks.

6) Bicycle/Pedestrian Crossings of Bridge Approaches Have Not Been Analyzed – Comment 47-113 indicated it will be necessary to cross the approaches to the bridge at both ends of this facility to reach the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough from the Bay Trail. The Response indicates these crossings will be made at traffic signals 250' to the south and 150' to the north of the bridge.

   Comment 47-113 also indicated that the bicycle/pedestrian crossings will involve the BRT lanes at all times and will also include the four reversible auto lanes on NFL game days. Crossing of the four reversible auto lanes will be especially challenging, even with traffic signals installed at both ends of the bridge, and traffic signals will also impede the BRT operation as well as the auto traffic in the four reversible lanes. The Response fails to address this portion of Comment 47-113. Without analyzing these conditions, the EIR cannot conclude that the Project has "less than significant" impacts to bicyclists and pedestrians trying to connect between the Bay Trail and the California State Parks Bay Trail, particularly during NFL game days at the proposed stadium. Only with the elimination of the Yosemite Slough Bridge in Alternative 2 can the Draft EIR conclude that there are "less than significant" impacts to bicyclists and pedestrians for the state park access.

In conclusion, my review disclosed several significant comments in my January 7, 2010 letter remain unaddressed regarding the Yosemite Slough Bridge, a major component of the Candlestick Point-Hunters Point Shipyard Phase II Development Plan. The various concerns outlined throughout this letter have not been considered in the EIR. The EIR therefore does not meet the statutory requirements of the California Environmental Quality Act, and does not provide sufficient basis for a decision on the Project. If you have questions regarding these comments, please call me at your convenience.

Respectfully submitted,

Tom Brohard and Associates

Tom Brohard

Tom Brohard, PE
Principal





EXHIBIT B

Comments to Draft EIR

Submitted by the California State Parks Foundation

CALIFORNIA STATE PARKS FOUNDATION

January 12, 2010

Via Email and U.S. Mail

Environmental Review Officer
San Francisco Redevelopment Agency
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Candlestick Point-Hunters Point Shipyard Phase II Draft Environmental Impact Report; SCH No. 2007082168

Dear Mr. Muraoka and Mr. Wycko,

On behalf of the California State Parks Foundation ("CSPF") and our 115,000 members statewide, we write to comment on the Draft Environmental Impact Report ("DEIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"). Our comments consist of this cover letter and the attached legal comment letter with exhibits from experts. CSPF is concerned primarily with the Project's impacts to the Candlestick Point State Recreation Area ("CPSRA") and the Yosemite Slough Wetlands Restoration Project.

The California State Parks Foundation

The California State Parks Foundation is the only statewide non-profit membership organization dedicated to protecting, enhancing and advocating for California's 278 natural, cultural and historic state parks. Through programs that help restore park properties, educate teachers and students about environmental resources in parks, build volunteerism and stewardship in our state parks, and promote sound public policy, we work to protect countless natural, cultural and historical treasures found within our parks, as well as the 280 miles of coastline, 625 miles of lake and river frontage, 18,000 campsites and 3,000 miles of hiking, biking and equestrian trails. On behalf of our members, we are committed to ensuring that state parks continue to provide recreation, adventure, renewal, and inspiration to all Californians.

Statewide Advocacy to Protect State Parks

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Your Voice for Parks

In recent years, it has become clear that California's 278 state parks are vulnerable to proposals to use these lands for purposes inconsistent with their acquisition and development as parks. Each year we monitor parkland for these proposed "non-mission" uses. Almost 25% of our state parks are confronting non-conforming uses. These proposals, individually and collectively, are a significant threat to the California State Park system. Heated public dialogue and litigation resulted from proposals to construct a toll road through San Onofre State Beach and a power line through Anza Borrego Desert State Park, for instance.

Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project and CSPF

Before commenting generally on the DEIR, I want to comment on the nature of the dialogue that has taken place between CSPF and the City regarding this project. I think it is fair to say that we have received the level of respectful, proactive dialogue that you would hope for in a project as complex and far-reaching as this one. This dialogue has given us a high level of confidence that the issues raised in our comments on the DEIR will be resolvable with further dialogue.

We have chosen to send the detailed comment letters that you will find in this package because we also respect the formal nature of this moment in the development of any project and wish to be forthright about our concerns. However, we hope that many of these concerns will be dealt with outside the environmental review process.

I would also like to comment on our view of the project overall. Although you will see many concerns raised about specific aspects of the project, overall we feel that the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project will provide substantial benefits to the system of both state and city parks in the area and provide the level of residential and commercial development appropriate to the site. It is ultimately the policy makers who must opine on whether this is true. However, it is essential to us to express this more balanced view of the project. It may be too easy to read into the concerns expressed in the following pages an opposition to the overall project which does not exist. We write with the intent to address flaws in the DEIR in furtherance of a better disclosure of the impacts of the project, better analysis of alternatives, and our desire to improve it to its full potential.

The DEIR

CPSRA is a unique and valuable recreational resource, and like all our state parks, merits the utmost protection from any surrounding development. The Project, however, does not recognize and protect the full recreational value of CPSRA.

The Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project DEIR does not

convince us that CPSRA will be sufficiently protected. Notwithstanding the Project's planned improvements to certain areas of CPSRA, which CSPF recognizes and appreciates, we remain unconvinced the damage that would occur elsewhere to the park is necessary.

Yosemite Slough and the Bridge

Frankly this is the area of our biggest concern. The DEIR overlooks impacts to Yosemite Slough – a critically important and valuable part of the state park – are evident.

First, the environmental documentation appears to cloak the true nature of the proposed Yosemite Slough Bridge. Simply put, Yosemite Slough Bridge is a road proposal that runs through a park. However, nowhere in the environmental documentation is the bridge presented as exactly that: a road through a park. Instead, the Project seems intentionally designed to avoid this conclusion. For example, the state park is oddly divided with the Yosemite Slough area being excluded from the project site and treated disparately while the remainder of the park is included as part of the project.

Second, the Project fails to recognize the importance of the Yosemite Slough Wetlands Restoration Project. No analysis is provided on how the project will affect the California Department of Parks and Recreation's ("DPR") and CSPF's multi-million dollar efforts to revitalize the Slough.

Finally, the impacts from the Yosemite Slough Bridge remain largely unexamined. This manmade infrastructure will impose a significant change to the park setting anticipated both in the parks General Plan and in the Yosemite Slough Wetlands Restoration Project. The DEIR needs to fully examine these impacts. Further, CSPF is concerned that the bridge itself is unnecessary. Our traffic expert concludes that the DEIR does not contain sufficient justification for the bridge. Additionally, the Project does not advance a no-bridge option if the 49ers Stadium is built elsewhere. If the fundamental purpose of the bridge is to meet game-day traffic needs, an alternative proposal for traffic should be presented in the event no stadium is built.

Impacts to Candlestick State Recreation Area as a Whole

CSPF also is concerned more generally with the Project's impacts to the entire state park. The DEIR repeatedly asserts that improving the state park in some areas justifies degradation and the take of the park elsewhere, and therefore significant impacts to park resources are minimal. This turns the California Environmental Quality Act ("CEQA") on its head. Significant impacts must be analyzed and fully disclosed prior to any form of mitigation.

Development projects should avoid encroachments on parklands if at all possible, and we are not convinced that this Project is configured in a manner that sufficiently protects our parklands. This project

contemplates the take of existing parklands and negative impacts to the remainder. Compensation is presented in the form of replacing or improving upon certain parklands via a reconfiguration deal with DPR. The DEIR, however, fails to clearly analyze the details of this scenario or recognize the severity of park impacts. As a result, we do not believe that the environmental documentation fulfills its legal mandate under CEQA to fully evaluate and inform decision makers and the public as to the merits of the Project.

We look forward to the continued dialogue regarding this important project.

Yours Truly,

Elizabeth Goldstein
President

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San Francisco, CA 94108
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California State Parks Foundation
Legal Comment Letter on the Draft Environmental Impact Report
for the Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project;
SCH #2007082168

We write on behalf of the California State Parks Foundation ("CSPF") to comment on the Draft Environmental Impact Report ("DEIR") for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"), a joint proposal of the San Francisco Redevelopment Agency ("Agency") and San Francisco Planning Department ("Planning Department").

As explained in detail below, the DEIR for the Project does not comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code §§ 21000 *et seq.* ("CEQA") and the CEQA Guidelines, California Code of Regulations, Title 14, §§ 15000 *et seq.* ("Guidelines"). Approval of the Project also threatens to violate several other state and federal laws. The Agency and Planning Department should not approve the Project or grant any permits for the Project until a revised DEIR is prepared and re-circulated for public review and comment.

These comments are prepared with the assistance of two technical experts, WRA, Inc. and Tom Brohard, P.E. The comments of each of these two experts are appended hereto as Exhibit A and Exhibit B, respectively. Please note that these expert comments supplement the issues addressed below and should be addressed and responded to separately.

I. INTRODUCTION

The California State Parks Foundation is a nonprofit organization whose mission is to protect, enhance, and advocate for California's 278 magnificent State Parks. CSPF is therefore concerned with the Project's negative impacts to the Candlestick Point State Recreation Area ("CPSRA" or "State Park") and to ongoing efforts to revitalize the Yosemite Slough area of this park.

The massive scope of this project – over 10,000 residential units, over 1 million gross square feet (gsf) of retail and offices space, 2.5 million gsf of research and development uses, a new 49ers stadium, a 900-foot bridge, and a 19-year construction period – would have tremendous impacts on the State Park. Much of the Project's development, including the Yosemite Slough Bridge, would occur on, or immediately adjacent to, existing state parklands. Despite this development's obvious inconsistencies with park purposes, the DEIR consistently underestimates the full scope of significant recreational, visual, biological, and other impacts to CPSRA.

Yosemite Slough Bridge is of major concern. Its imposing nature and surrounding landscaping will reduce CPSRA's attractiveness to the public. This bridge would decrease the recreational value of the state park by introducing unnatural and discordant visual elements intruding upon previously open vistas of the bay. The DEIR largely ignores these impacts.

Traffic justifications for the Yosemite Slough Bridge also are not persuasive. Our traffic expert finds that the bridge will not significantly alter traffic congestion, and that alternative transportation plans have not been adequately studied and considered. Moreover, if the new 49ers stadium is not built, which is a real possibility, the political impetus for the bridge evaporates. But the Project contains no contingencies for no-bridge alternatives if a new stadium never materializes. Equally disturbing, the DEIR fails to provide any legally enforceable mechanisms to ensure the Yosemite Slough Bridge will not be opened for automobile use on a year-round basis.

The DEIR's flaws extend to its treatment, more generally, of the Yosemite Slough – an integral part of the State Park. Most notably, the DEIR does not provide any analysis of Project inconsistencies with the Yosemite Slough Wetlands Restoration Project. Sponsored by the California Department of Parks and Recreation ("DPR") in collaboration with CSPF, this wetlands plan will enhance and restore Yosemite Slough's recreational and biological values. The DEIR's failure to consider significant inconsistencies with the wetlands restoration plan violates fundamental CEQA principles, and forecloses the possibility of adopting environmentally superior and feasible alternatives that would allow for the Project to move forward in concert with the wetlands restoration plan, rather than threaten its recreational and biological improvements.

The DEIR is replete with omissions and legal deficiencies with respect to impacts to other areas in CPSRA as well. For example, the DEIR operates under the flawed premise that improving the State Park in some areas justifies degradation elsewhere; and, as a result, the DEIR truncates its analysis of significant impacts to park resources. This violates CEQA requirements to fully disclose impacts.

Ultimately, the environmental documentation fails to achieve its fundamental purpose of informing the public under CEQA and its Guidelines. The project description is incomplete and misleading; a thorough analysis of significant environmental impacts separate from proposed mitigations is still needed; inconsistencies with other plans remain unidentified; a full discussion of alternatives has yet to be performed; and mitigation measures are insufficient, unenforceable, and often missing altogether. The ability of CSPF, decisionmakers, and the rest of the public to fully understanding Project impacts is therefore severely compromised.

II. THE DEIR IS INADEQUATE AND FAILS TO COMPLY WITH CEQA

The DEIR fails to realize two of the essential purposes of CEQA. First, CEQA is designed to inform decisionmakers and the public about potential, significant environmental effects of a project. Guidelines § 15002(a)(1). The EIR process is the "heart" of this requirement. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84. The EIR has been

described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. Guidelines § 15002(a)(2) and (3); *see also Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400.

As discussed below, the DEIR falls short of these mandates by failing to inform the public or decision makers about the Project's significant impacts, examine an adequate range of alternatives, and propose adequate mitigation measures.

A. THE DEIR MUST DESIGNATE *ONE* LEAD AGENCY

The DEIR lists both the City's Planning Department and the City's Redevelopment Agency as essentially "co-lead" agencies for the Project. *See, e.g.,* DEIR, I-10. This violates CEQA's requirement that the EIR designate a single lead agency for a project. "If two or more agencies are involved in implementing or approving a proposed project, only one agency can be the lead agency. Guidelines § 15051(a). The Guidelines establish criteria for selecting a single lead agency amongst two or more contenders." Remy, Thomas, *Guide to CEQA* (11th Ed.), 2007, p. 54. Although the Redevelopment Agency takes on projects exclusively within the City and County of San Francisco, it is a separate legal entity from the City and County. As explained on its website, "[t]he San Francisco Redevelopment Agency, incorporated August 10, 1948, is authorized and organized under the provisions of the California Community Redevelopment Law ("CCRL"). The Agency is an entity legally separate from the City and County of San Francisco, but existing solely to perform certain functions exclusively for and by authorization of the City and County of San Francisco." *See* http://www.sfredevelopment.org/index.aspx?page=22. The Redevelopment Agency has its own Commissioners and is charged with its own mandate.

Failure to properly designate a single lead agency poses significant and unnecessary procedural burdens to the public and results in administrative waste for the relevant agencies. For instance, the DEIR states that there will be a separate EIR certification by the Redevelopment Agency and the Planning Commission. *See, e.g.,* DEIR, ES-4 and Table ES-4. This creates confusion and additional procedural hurdles for the public in making its comments and for purposes of understanding the public's exhaustion responsibilities and attendant appeal rights. The DEIR must be revised to repair this legal defect. One agency should be designated as lead with the other agency designated as a responsible agency. The lead agency must give the responsible agency the opportunity to comment on the project and provide the responsible agency with any and all procedural considerations to which any other responsible agency is entitled under CEQA. A revised DEIR must then be re-circulated for public review and comment.

B. THE DEIR IS A PROGRAM-LEVEL EIR, NOT A PROJECT-LEVEL EIR

CEQA mandates the use of programmatic EIRs for individual projects with significant environmental effects that are implemented in phases. Guidelines § 15165. Program EIRs serve a vital function by allowing decisionmakers the opportunity to consider the wisdom in pursing a project in its proposed form as early in the process as possible. *See Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271 (City of Los Angeles was required to prepare a tiered EIR to address any new impacts related to Port of Los Angeles project in its more recent and detailed form.)

In this instance, the massive scope of the Project, its preliminary nature, and its phased 19-year construction period, make it inappropriate for project-level analysis. *See*, DEIR, Figure II-16 (timing for different phases). The uncertain nature of the Project is evident. For example, widely divergent plans for a new 49ers stadium include the possibility that the stadium may not be built at all, or that the stadium may be opened for expanded use by the Oakland Raiders. Uncertainties also exist with the Candlestick Point Tower Variants, which offer divergent configurations that could have notably different impacts on CPSRA (e.g., shade, wind, aesthetic impacts). DEIR, Figures IV-13 to IV-16. If the present DEIR is not treated as a programmatic EIR, these ambiguities in the scope of the Project would result in future phases of development avoiding environmental review as they take form.

As but one example of the anemic analysis of Project variants, the 49ers/Raiders shared stadium scenario entails almost double the number of game days (from 12 to 20 games) and up to 20 secondary smaller events, yet the DEIR provides no meaningful analysis of the impact of doubling the NFL use of the stadium to recreational values in CPSRA. *See* Exhibit B, p. 3; DEIR, IV-238 (less than two pages of analysis of recreational impacts states that "[i]n summary, impacts from the Shared Stadium Variant would be substantially similar to the Project").

The DEIR cannot be a project-specific, comprehensive document aimed at full disclosure of impacts and mitigation while the Project is still conceptual in its present form. Either the DEIR must disclose the nature of the Project with greater specificity, or the present DEIR must be treated as a programmatic document that will be supplemented by tiered environmental review as the Project details unfold.

Ultimately, the public needs to understand how the Project will differ, including its environmental impacts, if the 49ers stadium is expanded in use, if the 49ers stadium is not built. The DEIR, as a project-level document, does not serve this function. The DEIR must be revised to make clear that it is a programmatic document that must be analyzed for sufficiency at each phase of Project development at which major decisions are ripe for review.

C. THE DEIR FAILS TO ADEQUATELY DESCRIBE THE PROPOSED PROJECT

An accurate, stable, and finite project description is an indispensable prerequisite to a legally adequate EIR. *See County of Inyo, supra,* at 192 ("A curtailed or distorted project description may stultify the objectives of the reporting process."). As one analyst notes:

> "The adequacy of an EIR's project description is closely linked to the adequacy of the EIR's analysis of the project's environmental effects. If the description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake."

Kostka and Zischke, "Practice Under the California Environmental Quality Act," p. 580 (2/09 update).

Here, the DEIR provides a project description that is unclear and inconsistent. The DEIR provides no explanation for excluding Yosemite Slough from the Project site and boundaries; no clear description of project objectives related to Yosemite Slough Bridge and the proposed 49ers stadium; no consistent and comprehensive listing of related laws and regulations that the Project must comply with; and no identification or description of reasonable foreseeable future activities. As a result of the DEIR's failure to discuss key Project components, as well as the exclusion of Yosemite Slough from the Project site, potentially significant environmental impacts are not adequately analyzed or addressed.

1. Project Boundaries Are Inappropriately Designed to Exclude Yosemite Slough

Consistent with the DEIR's many attempts to downplay impacts to Yosemite Slough, the Project boundaries, inexplicably, exclude the Yosemite Slough area, even though the rest of the State Park is included. The result is that the majority of CPSRA (120 acres) is included in Project boundaries, while Yosemite Slough, consisting of 34 acres (22% of the park), is excluded. This contradicts CEQA's mandate to accurately describe the project. Lead agencies may not artificially narrow project descriptions to minimize project impacts and undercut public review. *Santiago County Water Dist. v. County of Orange* (1981) 118 CA3d 818, 829-830 (a project description that omits integral components of the project may result in an EIR that fails to disclose all of the impacts of the project); *see also Laurel Heights Improvement Ass'n, supra,* at 253.

The DEIR minimizes impacts to the State Park by fragmenting it for disparate treatment. In effect, the DEIR removes form the project site the area that may be most affected – Yosemite Slough – and then claims park impacts are less than significant. *See Orinda Ass'n v. Board of*

Supervisors (1986) 182 CA3d 1145, 1171 (lead agency may not split a single large project into small pieces so as to avoid environmental review of the entire project). Park users are intended to recreate throughout the entire park, walking, hiking, and moving from one area to the next. The State Park's value is as a whole unit. Thus, the DEIR's oft-cited conclusion that Project improvements to the State Park will offset or somehow mitigate negative impacts is baseless if the State Park is artificially divided, or illegally "piecemealed," into segments for analysis.

Moreover, substantial portions of Yosemite Slough Bridge will be built on State Park property. Exhibit A, Figures 1 and 2. Land-based portions of the bridge, both on the north and south side, are located within CPSRA, and no justification exists to exclude Yosemite Slough from project boundaries. Guidelines § 15124. Ultimately, the public and decision makers are not fully informed that this is a bridge to be built on state park lands.

Excluding Yosemite Slough from the Project site also is inappropriate and nonsensical because Project road development would surround Yosemite Slough in all directions. *See* DEIR, Figure II-16. The DEIR categorizes transportation improvements to Carroll Avenue, Ingalls Street, Thomas Avenue, and Griffith Street – arterial routes that surround Yosemite Slough – as "offsite" improvements. *Id.* Treating Yosemite Slough as distinct from the rest of the park when it is surrounded by development is misleading and undercuts public review. *Santiago County Water Dist., supra, at* 829-830.

Deficiencies in the DEIR stemming from the exclusion of Yosemite Slough from Project boundaries include:

- Inconsistent Methodologies. The DEIR's treatment of Yosemite Slough is inconsistent. The DEIR's analytical methodology fluctuates in maps and diagrams between including and excluding Yosemite Slough as part of the State Park and/or other study areas. *See, e.g.,* Figure III.N-1 (Yosemite Slough included in watershed study area); Figure III.N-3 (only a portion of Yosemite Slough included in habitat study area); Figure III.P-1 (Yosemite Slough included with CPSRA); and Figure III.P-2 (Yosemite Slough excluded from park areas); *see also* Exhibit A, pp. 4-5. An EIR's project description and analysis must be consistent, otherwise public participation is stymied. *County of Inyo, supra,* at 197.

- Confusing Implications. The *Yosemite Slough* bridge – as the name itself denotes – runs across Yosemite Slough; yet the DEIR only includes the bridge and not the slough as part of the Project Site. Exhibit A, Figure 1. No logical reason exists to exclude the remainder of the Yosemite Slough area. Construction of the bridge will include abutments, footings, piers, bridge approaches, and revetment construction – all of which will affect and be intricately tied with the slough itself.

Simply put, the Project proposes to build a roadway through Candlestick State Recreation Area dividing Yosemite Slough from the balance of the park. Manipulating project boundaries to avoid this conclusion is fundamentally misleading to the public and decision-makers; wrongly

implies that the Project and its impacts are not closely tied to Yosemite Slough; and flaunts the basic requirements of CEQA to fully inform the public. A revised DEIR must include Yosemite Slough in the project site.

2. The DEIR Sets Forth Project Objectives That Are Inconsistent and Vague

The DEIR's project description fails to adequately discuss fundamental features of the Project with regard to the newly proposed 49ers stadium, related traffic plans, project variants, and the configuration of development in Candlestick Point. A revised and re-circulated DEIR is required to correct these deficiencies. *Mountain Lion Coalition v. California Fish and Game Comm'n* (1989) 214 Cal.App.3d 1043, 1052 (an agency cannot simply release a draft report "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review").

The DEIR is unclear as to whether the 49ers Stadium will be built and the impacts and changes to the Project that would result if not. Rather than state clear Project objectives, the DEIR sets forth the vague goal of "encouraging the 49ers" to remain in San Francisco, including by providing the necessary transportation structure. DEIR, II-7. The result is a project that imparts no clear guidance on what is required, especially from a transportation perspective. Guidelines § 15124(b); *see also City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406 (DEIR must contain a clear and comprehensive project description).

The DEIR is inconsistent in its treatment of the 49ers stadium. While the Project objectives describe the 49ers stadium as merely a possibility, elsewhere in the DEIR the 49ers stadium is treated as a foregone conclusion. *See, e.g.*, DEIR, II-7 (project characteristics include 69,000-seat 49ers stadium); DEIR, Table II-3.

The inadequate treatment of the 49ers stadium is particularly troubling with respect to Yosemite Slough Bridge. The DEIR's assertion that a bridge is necessary to accommodate game-day traffic is unjustified even if a new 49ers stadium is built. Exhibit B, pp. 1 and 3-4. Moreover, given the uncertainty of a new stadium, the need for the Yosemite Bridge is even more attenuated.

Even more misleading, the DEIR's project description contains no mention of the scenarios listed as "project variants" elsewhere in the document. *See* DEIR, Chapter II, Project Description; IV-214 to IV-248. Such "variants," which find no basis in CEQA, include: the possibility of a stadium being jointly used by the 49ers and Oakland Raiders, and increased levels of development for housing or research and development should a stadium not be built. *Id.* The existence of these "variants" are a per se violation of CEQA's requirement that the project description be accurate, stable and finite. *See County of Inyo, supra,* at 192.

The Executive Summary suffers from the same flaws and exclusions. *See* DEIR, Volume I, Executive Summary. No discussion of Project variants is presented in the Executive Summary.

Moreover, the DEIR's discussion of "Project Variants," when it does occur, is perfunctory and incomplete. For example, the DEIR devotes a mere 34 pages of analysis (in an enormous six-volume DEIR with thousands of pages) to specifically address the potential environmental effects should a new stadium be built for two NFL football teams, instead of just one. DEIR, IV-214 to IV-248.

The DEIR's description of project objectives does not comply with CEQA disclosure law. A revised DEIR must be re-circulated to the public that clearly, comprehensively, and consistently describes project objectives relative to the 49ers stadium and associated traffic, and to project variants. If these critical future decisions and uncertainties cannot be ascertained in more detail, the DEIR must address them on a programmatic-EIR level, as discussed above.

3. The DEIR Minimizes the Extent of the Project By Failing to Describe and Analyze Reasonably Foreseeable Future Activities

The DEIR fails to analyze several reasonably foreseeable aspects of the Project. Before undertaking a project, the lead agency must assess the environmental impacts of all reasonably foreseeable future activities that are a consequence of project approval. *Laurel Heights Improvement Ass'n, supra,* at 396. CEQA mandates that foreseeable future activities not be piecemealed, each only being analyzed for minimal potential impacts, but which cumulatively together may have disastrous consequences. *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283-84; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1452; *see also Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268 ("CEQA process is intended to be a careful examination, fully open to the public, of the environmental consequences of a given project, covering the entire project, from start to finish"). The court in *Laurel Heights* set forth a two-part test to determine whether an EIR must include an analysis of the environmental effects of future expansion or other action: "(1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." *Laurel Heights Improvement Ass'n, supra,* at 396.

One reasonably foreseeable consequence of approving the Project would be heavy use of the Yosemite Slough Bridge by private automobiles during secondary game events and on a full-time basis by private automobiles, buses, and rail as population and transportation pressures grow. Exhibit B, pp. 5-8. The DEIR in fact identifies no legally enforceable restrictions in its transportation analysis that would prevent the Yosemite Slough Bridge from being used full-time, year-round by automobiles; and the DEIR admits that the bridge is designed to be "rail ready," but fails to analyze likely future impact from new rail infrastructure. *Id.*; *see also* DEIR, III.D-46. Greater use of the bridge by automobiles, buses, and rail would result in significant Project impacts to the environment and CSPRA.

This is precisely the type of situation CEQA cautions lead agencies against. Environmental problems should be considered at a point in the planning process "where genuine flexibility remains." *Mount Sutro Defense Committee v. Regents of University of California* (1978) 77 Cal.App.3d 20, 34. A revised DEIR must consider the masked environmental impacts that would result from foreseeable uses of the Yosemite Slough Bridge, as well as any associated mitigation measures and cumulative environmental impacts.

4. The DEIR Fails to Identify Necessary Federal Approvals

Under CEQA, a project description must include "[a] list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements." Guidelines § 15124(d)(1)(C). The DEIR fails to appropriately identify and integrate the required approvals and environmental reviews for the Project.

Under Table ES-1, "Major Project Approvals," there is no mention of the need for permits, approvals, and compliance with the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* ("NEPA"), the Endangered Species Act, 16 USC §§1533, *et seq.* ("ESA"), Marine Mammal Protection Act, 16 USC §§ 1631 *et seq.* ("MMPA"), or the Magnuson–Stevens Fisheries Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.* ("MSA"). But under the heading "Regulatory Framework" for biological resources, the DEIR recognizes the need to comply with the ESA, MMPA, and MSA. DEIR, III.N-38-III.N-40. This is inconsistent. An accurate project description in the DEIR demands that all federal approval processes be clearly and comprehensively listed for major environmental laws.

5. The DEIR Fails to Describe the Project's Connection to Mitigation Measures for SFO Airport Improvements and the BART Extension

The Yosemite Slough Wetlands Restoration Project fulfills mitigation obligations for (1) the various project and improvements by the San Francisco Airport ("Airport Improvements") and (2) the San Francisco Bay Area Rapid Transit District ("BART") San Francisco Airport Extension Project ("BART Extension"). Both of these projects required permits, certifications, and approvals from numerous public agencies, including the U.S. Army Corps of Engineers ("USACE"), and the California Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB"). The wetlands restoration plan fulfills mitigation obligations related to a USACE Permit and RWQCB Waiver by providing mitigation offsets and credits for wetlands creation by the Airport Improvements and BART Extension.

The DEIR fails to identify the Project's connection to these mitigation efforts, and whether they would be frustrated, diminished, or altogether nullified by the Project. Particularly disturbing is the possibility that the City of San Francisco is filling in wetlands related to Airport

Improvements, while weakening attendant mitigation efforts with superceding projects. Without any acknowledgement in the DEIR of these potential impacts, the legal status of the mitigation measures for both the Airport Improvements and BART Extension is unknown. The DEIR must be revised to address this deficiency.

D. THE DEIR IS INCONSISTENT WITH THE YOSEMITE SLOUGH WETLANDS RESTORATION PROJECT

The DEIR fails to analyze and disclose Project inconsistencies with the Yosemite Slough Wetlands Restoration Project ("Wetlands Restoration Plan"). Avoiding conflicts with other land-use plans *before* development proposals are approved is one of CEQA's principle purposes. *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296, 307 (1988) (CEQA requires that environmental problems be considered at a point in the planning process where "genuine flexibility remains."); Guidelines §§ 15125(d) and (e) (DEIR must discuss any inconsistencies with other plans and any such analysis must discuss "potential future conditions discussed in the plan.") As discussed below, the Project is inconsistent with both the biological and recreational goals of the Wetlands Restoration Plan.

Proposed by the California Department of Parks and Recreation and administered in collaboration with California State Parks Foundation, the Wetlands Restoration Plan already has been approved and obtained funding. DPR prepared a Final Initial Study and Mitigated Negative Declaration (April 2006, SCH# 2005122023). To date, over $13 million has been raised to execute the wetlands and park improvements under the plan. All draft working drawings have been completed and reviewed by DPR, as well as supporting documentation. The project has also received Section 401 Water Quality Certification and Waste Discharge Requirements (July 2007), and San Francisco Bay Conservation and Development Commission Permit Amendments (March 2005 and September 2009). Only a few approvals remain before the Yosemite Slough restoration project is ready for construction.

The Wetlands Restoration Plan will transform Yosemite Slough both recreationally and biologically, but absolutely no analysis is provided in the DEIR of how the Project will significantly impact these efforts.[1] The massive development proposed by the Project – including the fragmentation of the slough by the Yosemite Slough Bridge – would undermine this multi-million dollar restoration effort and the values, resources, and recreational opportunities this plan was designed to enhance and protect. In consequence, the lead agencies are poised to approve a Project that will conflict with the Wetlands Restoration Plan. Exhibit A, pp. 2-4.

[1] The DEIR recognizes the existence of the Restoration Plan, and even some of the goals and objectives, but then fails to analyze or describe Project impacts to these goals and objectives. *See* DEIR III.N-46.

As discussed below, the Project's inconsistencies with the Wetlands Restoration Plan constitute separate, undisclosed significant impacts under CEQA which must be disclosed in a revised DEIR that is re-circulated for public review and comment.

1. The Project Conflicts with the Biological Goals of the Yosemite Slough Wetlands Restoration Plan

The DEIR omits any discussion of Project inconsistencies with the biological goals of the Wetlands Restoration Plan. A non-exhaustive list of biological benefits to be provided by the plan include:

- establishing the largest contiguous wetland area in the County of San Francisco, increasing existing tidally influenced area from 9 to 20 acres, restoring essential wildlife habitat, improving water quality, and preventing erosion along the shoreline of the City of San Francisco;

- creating two isolated bird nesting islands (including one designed specifically for special status species, e.g. western snowy plover and double-crested cormorants);

- providing nursery areas for fish and benthic organisms, as well as transitional and upland areas to buffer sensitive habitats;

- designing restoration to address soil contamination issues, arising from previous fill activities, that could affect human and wildlife health.

The DEIR omits any discussion of the significant biological impacts that inevitably will result from the Project's inconsistency with the wetlands plan. The Project, for example, would hinder the creation of restored wetlands, adversely impact improved habitat and newly planted wetlands vegetation, and impede or alter currents entering and existing Yosemite Slough that sustain fisheries and other wildlife. Exhibit A, pp. 2-4. These inconsistencies (and others that remain unanalyzed) would have a significant impact on biological resources and must be fully disclosed and analyzed in a revised DEIR.

2. The Project Conflicts with the Recreational Goals of the Yosemite Slough Wetlands Restoration Plan

The DEIR omits any discussion of Project inconsistencies with the recreational goals of the Wetlands Restoration Plan. A non-exhaustive list of recreational benefits to be provided by the plan include:

- providing park visitors with public access to Yosemite Slough, including by serving Bayview Hunters Point, a community unfairly impacted by environmental degradation;

- building more than 5,000 feet of new interpretive trails, including connections between the restored wetlands area and the remainder of CPSRA;
- creating five vista points;
- constructing an approximately 1,200 square foot multi-use interpretive center;
- adding 2.5 acres of passive public use areas; and
- providing additional amenities including fencing, lighting, benches and drinking fountains.

The Project is inconsistent with these recreational elements. The Yosemite Slough Bridge, for example, would be built directly on two scenic vista sites under the plan. Exhibit A, Figure 1. The bridge also would significantly impede other views of the Bay from the newly created recreational areas. *Id.*, p.3. And proposed trail improvements under the Project directly conflict with those of the Wetlands Restoration Plan. *Id.*, p. 8. These inconsistencies (and others that remain unanalyzed) would have a significant impact on recreational resources under the Wetlands Restoration Plan and must be fully disclosed and analyzed in a revised DEIR.

Analyzing inconsistencies with the Wetlands Restoration Plan also necessitates a revised DEIR that includes Yosemite Slough within the Project boundaries. In its current form, the DEIR gives disparate treatment to areas within CPSRA by excluding the slough from the project site, and as a result, the DEIR underestimates significant recreational impacts to planned improvements under the Wetlands Restoration Plan. As but a few examples, the DEIR (1) fails to provide adequate photos depicting views from Yosemite Slough and (2) fails to analyze the effects of the Yosemite Slough Bridge on boaters' ability to utilize the slough. Exhibit A, pp. 4 and 8. A revised DEIR therefore must fully reanalyze recreational impacts with Yosemite Slough as part of the Project Site.

3. The DEIR Treats Yosemite Slough Wetlands Restoration Plan In a Different Manner Than Other Plans

The DEIR's treatment of the Wetlands Restoration Plan is inconsistent with the DEIR's treatment of other plans. Specifically, the DEIR considers how the Project will affect future improvements planned by the U.S. Navy on lands located within the project site. Exhibit A, p. 3; DEIR, III.N-49. No explanation is given as to why a similar analysis was not provided for the Restoration Plan.

E. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S SIGNIFICANT AND POTENTIALLY SIGNIFICANT IMPACTS

1. Biological Impacts Are Not Fully Addressed

The DEIR fails to fully analyze the Project's significant impacts to biological resources. The attached expert report, prepared by WRA, Inc. details but a few of the flaws in the Project's treatment of biological impacts. *See* Exhibit A. Among the conclusions of WRA are that the DEIR: (i) failed to identify numerous significant and potentially significant biological impacts; (ii) underestimated the extent of many of the biological impacts that were identified; (iii) incorrectly analyzed and overestimated the extent to which mitigation would render impacts less-than-significant; and (iv) failed to incorporate feasible mitigation measures to protect biological impacts.

a. The DEIR Uses Inconsistent, Vague, and Flawed Methodology to Analyze Biological Impacts

The DEIR is inconsistent in its treatment of impacts to biological resources. An EIR must be "organized and written in a manner that will be meaningful and useful to decisionmakers and to the public." Pub. Res. Code § 21003(b). The DEIR downplays impacts to the State Park and Yosemite Slough by using inconsistent study areas. Yosemite Slough is only partially included in the H.T. Harvey study (2009)[2]; yet the entire Yosemite Slough area is included in the Yosemite Slough Watershed Wildlife Study (2004).[3] *See* Figures III.N-1 and III.N-2. The DEIR's failure to include the entire Yosemite Slough area in the H.T. Harvey study precludes a meaningful evaluation of biological impacts to the State Park.

The DEIR also excludes from its analysis of off-site aquatic resources the "area of construction" within Yosemite Slough. DEIR, III.N- 1 ("[t]he off-site aquatic resources discussed include Yosemite Slough (except the area of construction)..."). No explanation is given for the exclusion of this "area of construction" from the Yosemite Slough analysis. By refusing to define, or justify this area of exclusion, the DEIR fails to adequately inform the public and analyze the full scope of impacts to biological resources in Yosemite Slough.

The above flaws preclude the public and decisionmakers from properly responding to the DEIR.

b. The DEIR Fails to Analyze Biological Impacts to Yosemite Slough

Yosemite Slough, even in its presently unimproved condition, is a special area as part of a state park and due to its biological importance to wildlife. *See, e.g.,* Exhibit A, pp. 4-7 (discussing Project impacts to biologically important resources in Yosemite Slough). Under CEQA, "[s]pecial emphasis should be placed on environmental resources that are rare or unique

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[2] H.T. Harvey & Associates, Hunters Point Shipyard and Candlestick Point State Recreation Area Final Delineation of Wetlands and Other Waters, San Francisco, California, February 2009 and revised July 13, 2009 and October 13, 2009.

[3] Golden Gate Audubon Society, *Final Report Yosemite Slough Watershed Wildlife Survey 2003–2004*, prepared by LSA, July 27, 2004.

to that region and would be affected by the project." Guidelines § 15125(c); *Bozung v. Local Agency Formation Comm'n* (1975) 13 Cal.3d 263, 283 (an EIR must describe "environmental resources peculiar to the region.") Rather than give special attention to Yosemite Slough, however, the DEIR does the opposite and glosses over impacts. *See* Exhibit A, pp. 4-7.

2. Recreational Impacts from the Project Are Significantly Underestimated

The DEIR fails to adequately analyze and mitigate impacts to recreational facilities. The DEIR's recreational analysis violates the basic CEQA requirement that EIRs be "organized and written in a manner that will be meaningful and useful to decision makers." Pub. Res. Code § 21003(b). The DEIR glosses over and minimizes the impacts to recreational resources without providing sufficient detail for a meaningful analysis, and ignores other significant impacts altogether.

a. The DEIR Underestimates Potentially Significant and Significant Impacts to the State Park from the Yosemite Slough Bridge

CSPF is particularly concerned with the lack of consideration given to impacts from the proposed Yosemite Slough Bridge to CPSRA. Yosemite Slough Bridge is undeniably a proposal to build a road through a park. It carries with it all the negative recreational impacts that roads have on parks. The sense of place and park experience in CPSRA would be drastically altered by a massive intrusion of steel and concrete – carrying buses and cars, and possibly rail – all of which will diminish park connectivity and forever alter the presently open vistas to the Bay.

The DEIR offers no justification for concluding that potentially significant or significant impacts would not result to the recreational resources of the State Park where the bridge would be located. The analysis is incomplete and uninformative, especially as to those areas of the park that will be directly taken for bridge construction or are immediately adjacent to the proposed bridge. *See* Exhibit A, Figure 1 (showing areas of park directly occupied by and adjacent to proposed bridge). It violates commonsense to conclude that a bridge running through a park would not significantly diminish its recreational worth. Much of CPSRA's value and extraordinary significance lies in its location abutting the open Bay, an increasingly rare resource for urban settings. The proposed Yosemite Slough Bridge would unquestionably and significantly diminish the quality of this park experience. *Id.*, pp. 4 and 8 (discussing aesthetic and recreational impacts to State Park).

b. The DEIR Must Analyze Impacts to Various Recreational Users

The DEIR fails to analyze the impacts of the Project to specific park users, including bicyclists, kayakers, canoeists, water-dependent recreators, picknickers, beach goers, hikers,

walkers, bird watchers, and other recreational enthusiasts (with the exception of impacts to windsurfers), all of whom will be adversely affected by the Project. An EIR may conclude that impacts are insignificant *only* if it provides an adequate analysis of the magnitude of the impacts and the degree to which they will be mitigated. *See Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d. 296, 306-07. Thus, if an agency fails to investigate a potential impact, its finding of insignificance simply will not stand.

The Project is massive and involves, among other things, new residential towers, expanded and new roadways, a 81-foot wide and 900-foot long bridge, vegetation and tree removal, and construction activities with building demolitions, pile driving, heavy trucks, ground disturbance, and grading. The massive scope of the project, with buildings in Candlestick Point as high as 420 feet (or 42 stories), and its development encroaching on parklands presently slated for recreational use, will undoubtedly have significant impacts to recreational users.

The DEIR must be revised and re-circulated to analyze Project impacts to different user groups within CPSRA.

c. The DEIR Fails to Adequately Analyze Impacts Resulting from the Loss of Parklands

The DEIR fails to provide substantial evidence for the conclusion that the loss of 29.2 acres of CPSRA parklands, albeit currently underutilized, is less than significant.

First, the standards of significance adopted by the DEIR related to recreational resources are vague and lack any objective criteria. The DEIR states, for example, that an impact is significant if it is to "adversely affect existing recreational resources." DEIR, III.P-11. The DEIR's application of this criteria to the loss of 29.2 acres is too vague to have any import; in fact, under this meaningless standard, the take of any number of parkland acres could be deemed insignificant. The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. The DEIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." *Santiago County Water Dist., supra,* at 831.

Second, the DEIR confuses significant impacts and mitigation. In effect, the DEIR argues the take of 29.2 acres is not significant because the remainder of CPSRA would be improved. This turns the CEQA analysis on its head by using proposed mitigation as the basis for avoiding a significant impact finding. Indeed, the proposed improvements to the park, if anything, are mitigation for the DEIR's implied significant impact associated with the take of parklands. Taking parklands for development has a significant impact on recreational resources, and the DEIR must be revised to disclose the significant recreational impact of taking 29.2 acres of the CPSRA. Exhibit A, p. 8. If the DEIR is proposing to mitigate that impact by improving the remaining parkland, the DEIR must propose this improvement as a mitigation measure that is subject to public review and comment.

d. The DEIR Fails to Adequately Analyze Impacts from Increased Park Visitation

The DEIR omits any meaningful analysis of the impacts of increased park users on CPSRA. The DEIR simply concludes that "[i]ncreased visitation to CPSRA would not significantly and adversely affect the park's existing recreational facilities and opportunities," and that "while the number of additional visitors cannot be accurately predicted at this time, the Project's improvement will increase the amount of land at CPSRA that provides recreational opportunities (as discussed above), and will thus enable the park to accommodate the new demand." DEIR, III.P-32. These bare conclusions are insufficient. *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568 (DEIR must contain facts and analysis). The Project's impacts resulting from the increased use of parklands must be analyzed and considered for protecting parklands and providing necessary infrastructure. This analysis should recognize the number of acres of the State Park currently in use, those that will be brought into use, and the impacts of increased users on both.

More generally, the DEIR criteria for what constitutes a significant increase in the use of parklands is unjustified. The DEIR selects 5.5 acres of parkland per 1,000 residents as a baseline condition from which to evaluate impacts. DEIR, III.P-11. But the San Francisco General Plan states that *the City should increase the per capita supply of public open space* from the parkland-population ratio at the time of the General Plan's adoption in 1986, which back then was 5.5 acres per 1,000 residents. *Id.* There is no justification for *decreasing* the Project area's current ratio of 108 acres of parkland per 1,000 residents back to the City General Plan's baseline level in 1986. A revised DEIR must recognize significant impacts from a decrease in available parklands per resident.

e. The DEIR's Recreational Analysis Is Inconsistent, Contradictory, and Vague

The DEIR's recreational analysis section is contradictory. The DEIR initially concludes that there will be "no potentially significant or significant impacts and therefore no mitigation measures are included," DEIR, III.P-1; but later in the section the DEIR identifies significant impacts and mitigation measures. *See,* DEIR, III.P-12 (potentially significant impacts from construction purportedly analyzed and referenced throughout other sections of DEIR); DEIR, III.P-31 (mitigation measure identified for recreational impacts). This is inconsistent and confusing for the public and decisionmakers.

Further, the analysis of construction impacts to recreational resources is flawed with numerous incorrect references to other sections of the DEIR. The DEIR claims to analyze noise impacts from construction in the "Section III.I (Noise)," DEIR III.P-12; however, the referenced section contains *absolutely no analysis of noise impacts to recreational resources.* (*See* detailed discussion on noise analysis below). Another example is Figure 11-21, erroneously cited in the recreational section as the location of new marshland, which actually depicts flood zones and

potential sea level rises. These flaws must be remedied.

3. The DEIR Fails to Adequately Analyze and Mitigate Impacts to Transportation and Traffic

The DEIR's traffic analysis is flawed and fails to justify the conclusion that Yosemite Slough Bridge is necessary to meet project objectives. The attached expert report, prepared by Tom Brohard, P.E., details the flaws in the transportation analysis. Exhibit B. As outlined in this report, the bridge would be ineffective at alleviating traffic congestion and transportation alternatives to constructing a bridge have not been adequately explored. Accordingly, a revised DEIR must be prepared to fully evaluate and disclose the necessity for the bridge and fully examine feasible alternatives for transportation.

As detailed in Mr. Brohard's report, the DEIR fails to substantiate the basis for its conclusions regarding the need for, and impacts from, the Yosemite Slough Bridge. Specifically including:

- the bridge is not necessary to accommodate Project traffic, with or without the new 49ers stadium;
- the project description is too vague to support the traffic analysis relative to the bridge (including with regard to the bridge's relationship with future foreseeable conditions and Project variants);
- the bridge is not necessary for the BRT System; and
- the DEIR fails to analyze bridge impacts on bicyclists and pedestrians, attendant Caltrans safety standards, and conflicts with already planned bicycle and pedestrian trails.

See Exhibit B.

One of the justifications for the Yosemite Slough Bridge is to facilitate efficient handling of game day traffic for the newly proposed 49er's Stadium. But building a proposed 81-foot wide, 900-foot long bridge through a park – especially through and over Yosemite Slough – should be a measure of last resort. The DEIR fails to justify the conclusion that traffic from game days could not be served as well, if not better, with non-bridge alternatives. *Id.*, pp. 3-5. The DEIR is remiss in not analyzing and determining the degree to which traffic could be routed around the CPSRA and Yosemite Slough, rather than build a bridge through a state park. *Id.*

4. The DEIR Fails to Disclose All Potentially Significant and Significant Aesthetic Impacts of the Project

Aesthetic impacts to CPSRA from the Project are clear-cut, significant, and unmitigable. The DEIR's analysis of aesthetic impacts is glaringly deficient and violates the intent of CEQA to fully disclose environmental impacts.

The park offers stunning views of San Francisco Bay, including from picnic areas, fishing areas (including two fishing piers), and hiking trails (including a fitness course for seniors and a bike trail). CPSRA is a unique resource, being the first state parkland purposely acquired to bring the State Park System into an urban setting. Yet, the DEIR underplays the park's significance and fails to treat CPSRA as the rare and unique resource it is. Candlestick is the largest park in the Bayview Hunters Point area by far, even in its current configuration. When fully built out, it will dwarf all other park resources in the area. Guidelines §15125(c) ("Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context"); *Kings County Farm Bureau, supra, at* 720 (guidelines are to be interpreted broadly in order to "afford the fullest possible protection to the environment").

a. Simulations of Yosemite Slough Bridge Are Uninformative and Inadequate

Yosemite Slough Bridge, as currently envisioned, will be a visual blight on the State Park. Yosemite Slough Bridge is a massive new structure – 81 feet wide and 900 feet long – across a previously open vista, and the new bridge will forever alter the panoramic vistas, as well as the visual character and scenic value of the State Park. The DEIR, however, provides only two simulations of the bridge, both of which are deficient. *See* Figure III.E-20 and III.E-24. The limited information presented in the DEIR on the bridge's aesthetic impacts is grossly inadequate to allow a meaningful evaluation by the public.

CEQA requires that an EIR be detailed, complete, and reflect a good-faith effort at full disclosure. Guidelines § 15151. Yet, the primary simulation depicting the bridge, Figure III.E-24, fails to provide a level of information necessary to analyze or comment on its aesthetic impacts. First, the depiction of the bridge is too far away to give a sense of its size. The bridge frame, truss, and/or beam are indiscernible; only three of the supporting legs (of the more than 10) are displayed; and the simulation gives absolutely no sense of the bridge's width of 81 feet. Second, the Bay View depicted is hazy, failing to present the Oakland skyline, one of the more stunning aspects on a clear day. Finally, the bridge simulation is unrealistic because it is devoid of any typical activities; there are no buses, cars, bicyclist, or pedestrians shown on the bridge, which will significantly affect aesthetics.

The other primary simulation of the Yosemite Slough Bridge, Figure III.E-20, is even

less informative. The simulation is at such as distance as to render the bridge less than a ½" x ½" depiction on the page, a minor part of the 6" x 3.5" simulation, which fails to convey any sense of bridge's massive structure and imposition on the park. Both depictions of the bridge are at long-range. *See* Figure III.E-20 and III.E-24. Mid- and short-range depictions are necessary to analyze aesthetic impacts, especially considering the bridge runs through the State Park, imposing itself within a few feet of recreational users.

Other simulations of Yosemite Slough Bridge were produced by the project applicant, Lennar Urban, and by consultants; however, these other simulations were not included in the analysis of aesthetics or elsewhere in the DEIR. *See* Exhibit A (reference to and attachment of various simulations and graphics that were produced but not included or discussed in the DEIR). These undisclosed simulations show the bridge is greater detail. Two of these simulations depict panoramic views from the southside bay trail and northside plaza; several show the bridge width and use of lanes for buses, cars, and pedestrians from a birds-eye view; others appear to depict the bridge at mid- to short-range distances. An EIR must disclose all potentially significant adverse environmental impacts of a project. Pub. Res. Code § 21100(b)(1); Guidelines § 15126(a). The DEIR must be revised and re-circulated to include these more accurate simulations.

To provide an accurate sense of the visual impacts to the State Park, the DEIR must include additional photo surveys (along with those noted above that are known to have been produced by Lennar Urban and consultants but not provided in the DEIR) to demonstrate the magnitude of the bridge by depicting the Bay view clearly from the Yosemite Slough area. A full analysis of aesthetic impacts requires depicting a view of the bridge from short-distances in the immediately adjacent State Park, both within Yosemite Slough and along the Candlestick Point shoreline. The DEIR must be revised and re-circulated to include all such relevant information.

b. The DEIR Selects an Deficient Number and Range of Viewpoints of the State Park

Consistent with ongoing attempts to downplay impacts to Yosemite Slough, the DEIR selects a limited number of views of and into Yosemite Slough. *See, e.g.,* Exhibit A, p. 4.

c. The DEIR Erroneously Concludes that Aesthetic Impacts from Construction Will Be Less Than Significant to the State Park

The DEIR admits that "construction of the Yosemite Slough Bridge would change the appearance of the Slough," including with bulldozer, trenching equipment, generator, truck, etc. DEIR, III.E-51. But the DEIR concludes without any explanation that the impact would be less than significant to scenic vistas and scenic resources because the equipment is "not tall enough to interfere with views" and "the overall view of the Slough would remain as a scenic resource." *Id.* This conclusion has no support. *Citizens of Goleta Valley, supra, at* 568 (DEIR must contain both facts and analysis, not just an agency's bare conclusions.) Construction of major

infrastructure in a state park is highly significant to recreational users, would change the scenic resource value of Yosemite Slough, and would impede views of the Bay.

Similarly, the DEIR glosses over potential significant impacts from construction light and glare to the State Park. As but one example, the DEIR admits the need for security lighting after hours without analyzing impacts to the State Park from having the Yosemite Slough Bridge illuminated. DEIR, III.E-52. The DEIR must be revised to show potentially significant and significant aesthetic impacts to CPSRA associated with construction of the bridge, and to include mitigation measures for such impacts.

d. The DEIR Erroneously Concludes that Aesthetic Impacts from Operations Will Be Less Than Significant to the State Park

The DEIR's analysis of aesthetic impacts from operations is replete with errors and fails to identify, analyze, or support with substantial evidence, its conclusions. The DEIR must contain both facts and analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley, supra, at* 568. Below is a non-exhaustive list of the most glaring deficiencies:

- No meaningful analysis is provided to address the effect Yosemite Slough Bridge will have on scenic vistas. DEIR, 111.E-53 (Impact A-4).

- The DEIR admits that Yosemite Slough Bridge would change the appearance of the Slough and replace views of open water. DEIR, III-E-58. But the DEIR sites Figure III.E-8, two photographs of Yosemite Slough's existing conditions that do nothing to show how the appearance of the Slough would change or views of open water would be obstructed. The DEIR then erroneously concludes, without any pertinent analysis, that the "bridge would not substantially damage a resource that contributes to a scenic public setting." *Id.* This conclusion has no support, let alone the foundational substantial evidence required by CEQA.

- The DEIR admits that "Yosemite Slough bridge would limit some foreground views of the Slough," but no simulations are provided to show the limited foreground impacts. DEIR, III.E-61. The DEIR then dismisses these impacts as insignificant by concluding that "however, overall views of the Bay would remain." *Id.* The Project's significant impact on foreground views must be disclosed and mitigated in a revised DEIR. Furthermore, claimed preservation of "overall views" is not mitigation for significant impacts to foreground views.

- The DEIR admits that "[s]hort- and mid-range views of the Slough would be somewhat altered with the inclusion of the proposed bridge," and states the obvious: that "short- and mid-range views of the remainder of the Slough would remain as under current conditions." *Id.* The DEIR then erroneously concludes that the Project would not substantially degrade the existing visual character or

quality of the State Park and Yosemite Slough. This conclusion fails CEQA's substantial evidence test for the sufficiency of an EIR's analysis.

- The DEIR admits "[t]he Project would alter the scenic nature of the Project site in that it would create a dense urbanized setting where one does not currently exist." Then, with no explanation or quantitative or qualitative analysis, it concludes that "this change in character would not represent a degradation of scenic quality." DEIR, III.E-64. The DEIR contains no evidence to support this bare conclusion. To clarify, CSPF does not object to parks in urban settings; to the contrary. However, in the context of a DEIR, all impacts that will result in a change in character must be fully analyzed.

- The DEIR admits that "Yosemite Slough bridge would change the open water character along the bridge route across a relatively narrow portion of the Slough" but erroneously concludes that "[t]his would not be considered a substantial adverse change in the overall visual character of Yosemite Slough, as the bridge would occupy only a small footprint relative to the entire Slough." DEIR, III.E-64. No analysis is provided as to the nature of and how adverse the change in the open water character would be. *Santiago County Water Dist., supra,* at 831 (an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be").

A revised DEIR must be re-circulated to address the foregoing deficiencies.

e. The DEIR Fails to Adequately Analyze and Mitigate Impacts of Light and Glare to the State Park

The DEIR fails to analyze the impacts of light and glare to the State Park. The State Park – as open space area for recreating and with minimal artificial lighting – is not strictly urban in character, though it is located in an urban area. The Project will change an area of low-level illumination into an area of moderate- to high-illumination and will result in a substantial increase in the ambient light from structures and vehicle headlights. *See* DEIR, III-E-58. But the DEIR makes no effort analyze the impact of light and glare specific to *parklands.* Fundamental information such as the hours the State Park is open and will have visitors is missing. The DEIR also fails to analyze the impact of headlights from buses and other vehicles on the Yosemite Slough Bridge, as well as impacts from general operational lighting on the bridge. "[A]n agency must use its best efforts to find out and disclose all that it reasonably can." Guidelines § 15144. The light and glare from vehicle headlights, and the urbanization of Candlestick point, will have significant impacts to biological resources as well as aesthetics in the Project area.

5. The DEIR Fails to Adequately Examine Potentially Significant and Significant Impacts from Noise and Vibration

The DEIR's evaluation of potential noise impacts is seriously flawed on three counts: (1) the selection of sensitive noise receptors does not include areas within the State Park; (2) Yosemite Slough Bridge is not analyzed as a source of noise; and (3) no potentially significant or significant impacts from noise to recreational users are identified.

a. Sensitive Noise Receptors Must Include Locations in the State Park

The DEIR does not provide the legally required disclosure on noise and vibrational impacts to the State Park. Not a single noise measurement location is selected within the State Park. DEIR, Figures III.1-1 and III.1-2. The DEIR categorizes parks and open space as noise-sensitive land areas. *See* Figure III.I-5. However, the DEIR provides no significance threshold and absolutely no quantitative or qualitative analysis for measuring the Project's noise impacts to these noise-sensitive land uses.

An EIR must disclose all potentially significant adverse environmental impacts of a project. Pub. Res. Code § 21100(b)(1); Guidelines § 15125(c); *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 874 (EIR's analysis of significant effects, under CEQA Guidelines § 15125(c), must be as accurate as possible). The DEIR must be revised to include an analysis of the impacts of noise and vibration, both from construction and operation of the Project, to the State Park, including Yosemite Slough. Should the revised analysis show a potentially significant or significant impact associated with noise to the State Park, the DEIR must be further revised to include enforceable mitigation to prevent those impacts.

b. Yosemite Slough Bridge Is Not Analyzed in Traffic Noise Modeling

The DEIR inappropriately excludes Yosemite Slough Bridge from the analysis of roadway noise levels. DEIR, Figure III.I-7. This oversight is especially troubling considering that the bridge is likely to have numerous and significant noise impacts to the immediately adjacent Yosemite Slough and State Park areas, including from bus and automobile traffic on a long-term basis, as well as noise impacts from constructing the bridge (e.g. pile driving). And such activities would diminish the recreational value of these areas. A revised DEIR must be re-circulated to analyze traffic noise impacts from the proposed Yosemite Slough Bridge.

c. Significant Noise Impacts to Parklands Are Underestimated

The DEIR's significance thresholds include any permanent increases in the ambient noise levels in the Project vicinity above levels existing without the Project. DEIR, III.I-21 (Significance Criteria I.d). Additionally, the San Francisco Noise Ordinance, which also

contains significance thresholds, relies on and incorporates World Health Organization ("WHO") guidelines that require existing quiet outdoor areas to be preserved and that the ratio of intruding noise to natural background sound to be kept low.[4] DEIR, Table III.I-2. Under both these significance thresholds, noise impacts to the State Park would be significant, assuming they are similar to projected noise levels identified in the DEIR to surrounding neighborhoods of the State Park and Yosemite Slough. *See* DEIR, III.I-10. Noise impacts to the park from the construction and operation of Yosemite Slough Bridge will be significant, and a revised DEIR must be re-circulated to analyze these impacts.

6. The DEIR Fails to Adequately Analyze Project Impacts to Air Quality

a. The DEIR Fails to Quantify and Properly Mitigate Significant Fugitive Dust Emissions Due to Construction

The DEIR erroneously concludes that the Project's fugitive dust emissions during construction are less than significant without identifying any significance thresholds or explaining the basis for this conclusion. DEIR, III-H-16. This violates CEQA. "[A]n agency must use its best efforts to find out and disclose all that it reasonably can." Guidelines § 15144. The DEIR then defers mitigation to a "site-specific dust control plan" and concludes that these yet-to-be disclosed mitigated emissions are not significant, again, without referring to any significance thresholds or other bases for this conclusion and without any supporting calculations, e.g., mitigated emissions. DEIR, III-H-17. The DEIR thus reaches contradictory conclusions; namely, that these emissions are not significant, yet will require mitigation in the form of a site-specific dust control plan. *Id.* Without any significance thresholds and post-mitigation quantification, it is impossible to determine if the deferred mitigation will reduce construction emissions of fugitive dust to insignificance.

The DEIR attempts to find refuge in the lack of significance thresholds in BAAQMD's outdated 1999 CEQA Guidelines and in the City's Health Code. BAAQMD's significance thresholds (or lack thereof) do not save the lead agency from conducting an impact analysis that complies with CEQA. Indeed, the lead agency is fully authorized to develop its own threshold. Guidelines § 15064.7. ("Each agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects"); Pub. Res. Code § 21082 (directing agencies to adopt procedures and criteria for evaluating projects). There are a number of approaches the DEIR could have taken to determine the significance of the Project's construction emissions. The DEIR must be revised to provide an analysis of air quality impacts that complies with CEQA's basic disclosure requirements.

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[4] Claimed compliance with the San Francisco Noise Ordinance does not excuse the DEIR from a fully analysis of the Project's noise impacts to the park. Consistency with local standards or general plans is not enough, by itself, to demonstrate that noise impacts will not be significant. *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882 (compliance with 50 dB county general plan standard does not necessarily mean noise impacts are insignificant).

The DEIR's deferral of mitigation, in contradiction of CEQA, is particularly troublesome in this case in light of the high levels of contamination known to exist in the soil in the Project area. DEIR, III-H-17. The DEIR must be revised to specifically describe the mitigation measures that will be employed to reduce the Project's fugitive dust emissions.

b. The DEIR Cannot Rely on Outdated Significance Criteria that The BAAQMD has Replaced

For purposes of determining the air quality impacts from construction and operation of the Project, the DEIR relies on the outdated BAAQMD CEQA Guidelines published in December 1999. The BAAQMD recently updated its CEQA guidelines in a publicly-available document that is readily accessible on the BAAQMD's website.[5] The new guidelines will be in effect within the next few months and are therefore applicable to this Project. The DEIR's failure to use the appropriate significance thresholds for air quality has resulted in a failure to disclose the full extent of the Project's impacts. As the DEIR admits, under the new, relevant BAAQMD CEQA guidelines, the Project's construction-related emissions of ROG and NOx will be potentially significant and unavoidable. DEIR, III.H-40. Additionally, the DEIR admits that "it is possible that the Project will contribute considerably to a cumulative impact" in the zone of influence of the Project. DEIR, III.H-41. Yet, the DEIR does not attempt to quantify this impact, let alone mitigate it. This violates CEQA's disclosure requirements. The DEIR must be revised to disclose these significant impacts. And, as a consequence of any significant, unavoidable impacts, the lead agency must first identify all possible mitigation for these impacts and prepare a statement of overriding considerations before it may approve the Project.

c. The DEIR's Analysis of DPM from Construction Must Be Revised to Provide Full Disclosure to the Public

The DEIR claims that DPM emissions from construction activities "were estimated assuming the following mitigation were in place: Construction equipment used for the Project will utilize a phased-in emission control technology in advance of a regulatory requirement such that 50 percent of the fleet will meet USEPA ***Tier 4*** engine standards for particulate matter control (or equivalent) during 2010 and 2011 construction activities..." DEIR, III.H-24 (emphasis added). The document then states that as mitigation for the significant DPM emissions from construction, the Project Applicant shall require construction equipment used for the Project to utilize "emission control technology such that 50 percent of the fleet will meet USEPA ***Tier2*** standards . . . for particulate matter control (or equivalent) during 2010 and 2011 construction activities. . ." DEIR, III.H-25 (emphasis added). These statements contradict each

[5] These new guidelines are scheduled for approval by the BAAQMD Board of Directors on April 7, 2010, long before project construction would commence. *See* http://www.baaqmd.gov/Divisions/Planning-and-Research/Planning-Programs-and-Initiatives/CEQA-GUIDELINES.aspx.

other (one claims USEPA Tier 4 engine standards will be used, the other claims that US EPA Tier 2 engine standards will be used.) *Id.*

Furthermore, the DEIR may not "assume" any type of mitigation in making its initial significance determination. In so doing, the DEIR, in violation of CEQA, "double counts" the same mitigation measure (first by using it to artificially reduce the initial DPM emission estimate from construction, then by counting it as mitigation to claim that the impact is less than significant). The DEIR plainly admits that if it did not double-count this mitigation "the impacts would be potentially significant." DEIR, III.H-25. The DEIR makes precisely the same mistake in analyzing DPM emissions from construction on Alice Griffith Public Housing. DEIR, III.H-26. The DEIR also makes the same mistake in analyzing DPM emissions from operation of the Project. DEIR, III.H-34. The DEIR must be revised to correct these deficiencies.

d. The DEIR Illegally Avoids Any Quantification of Toxic Air Contaminant Impacts from Construction

Instead of quantifying the cancer risk associated with TACs from construction, the DEIR states that an "analysis was not conducted to determine the impact of Project construction activities without the dust control mitigation measures described [above]. However, due to the scale of the construction activities and proximity to adjacent receptors, without these dust control measure[s], the impacts from TACs bound to soil PM10 would likely be above the BAAQMD's significance threshold and would therefore be potentially significant." *See, e.g.*, DEIR, III.H-30. As noted above, this discussion turns CEQA's requirements on their head. Instead of quantifying the impact, then comparing it to a significance threshold, making a significance determination, and finally proposing mitigation to reduce the impact to less than significant, the DEIR uses proposed mitigation as the basis to avoid all of the preceding analytical steps. This fails to comply with CEQA.

7. The DEIR Fails to Adequately Examine Impacts to Cultural and Paleontological Resources

As WRA, Inc. notes, Double Rock is culturally significant to the local community, and the proposed project, including the bridge, would disrupt views of Double Rock from CPSRA and areas within the surrounding community. Exhibit A, p. 4. A revised DEIR must analyze these cultural impacts.

8. The DEIR Fails to Adequately Examine the Project's Hydrological Impacts

The DEIR omits analysis of whether the construction of the proposed bridge pilings may impede or alter currents entering and exiting Yosemite Slough, thereby impacting the function of Yosemite Slough and its biological habitats. Exhibit A, p. 7. These impacts must be addressed in a revised DEIR.

9. The DEIR Fails to Adequately Examine Impacts to the State Park from Shadows

Shadow studies indicate that during the winter months CPSRA would be impacted by shadows from noon onward. But the DEIR erroneously fails to identify this impact as significant.

The significance of shadow impacts is informed by the City of San Francisco planning ordinances. *See* City of San Francisco Planning Code 295 (shadow allowance not to exceed 1% for large City parks).[6] The DEIR should adopt a significance threshold for examining shadow impacts to CPSRA with standards equally as rigorous as those provided by the City in Planning Code 295. But regardless, even under existing significance standards, the DEIR should recognize that exceeding a shadow allowance of 1% for CPSRA will substantially affect outdoor recreational activities in the park. The DEIR should fully analyze this issue and disclose significant shadow impacts. Additionally, the DEIR should analyze steps to minimize these impacts through modified residential tower locations and designs.

Shading impacts from the Yosemite Slough Bridge to biological resources also are inadequately analyzed in the DEIR. Exhibit A, pp. 4-7. A revised DEIR must fully analyze negative impacts to Yosemite Slough's biological resources from the bridge's shading.

F. THE DEIR FAILS TO IDENTIFY AND INCORPORATE EFFECTIVE MITIGATION MEASURES

CEQA requires that an EIR propose and describe mitigation measures sufficient to minimize the significant adverse environmental impacts of a project. Pub. Res. Code §§ 21002.1(a), 21100(b)(3); *see also* Guidelines § 15370 (mitigation measures must be designed to minimize, reduce or avoid an identified environmental impact or to rectify or compensate for that impact). Lead agencies must adopt feasible mitigation measures that will substantially lessen or avoid the Project's potentially significant environmental impacts. Pub. Res. Code §§ 21002, 21081(a). "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. Guidelines § 15364. Mitigation measures also must be fully enforceable through permit conditions, agreements, or other legally binding instruments. Guidelines § 15126.4(a)(2); *Kings County Farm Bureau, supra,* 727 (a public agency may not rely on mitigation measures of uncertain efficacy or feasibility).

The DEIR identifies numerous significant and potentially significant environmental impacts of the Project. DEIR, Table ES-2. However, the DEIR lacks effective mitigation for virtually all categories of impacts related to the State Park. Many of the mitigation measures are

[6] If this standard is applied to CPSRA, the park would fall into the large park category with less than a 20% shadow loading factor currently. That would allocate a 1% increase allowance to CPSRA.

ineffective, deferred, or unenforceable, and feasible mitigation measures are overlooked for several significant impacts. Numerous defective mitigation measures are identified in the attached expert letters. *See* Exhibit A and Exhibit B. Defective mitigation measures include:

> MM BI-4a.1: "Wetlands and Jurisdictional/Regulated Waters Mitigation for Temporary and/or Permanent Impacts." The DEIR states that wetlands and jurisdictional waters shall be avoided to "the maximum extent possible." DEIR, III.N-59. This criteria is vague, unenforceable, and ineffective. The mitigation measure further states that where avoidance of existing wetlands and drainages is not possible such impacts will be mitigated by compliance with other environmental laws. DEIR, III.N-59 to III.N-60. Merely citing compliance with other laws is insufficient as a mitigation measure. *Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 CA4th 1, 38 (EIR defective because it simply presumed compliance with California Department of Pesticide Regulation would prevent adverse impacts from pesticide use.) The DEIR must independently analyze impacts to wetlands and not simply rely on compliance with other laws. The DEIR must be revised to recognize that the impacts MM BI-4a.1 purports to mitigate will be significant and unavoidable, even with mitigation.
>
> MM B1-4c: "Mitigation for Shading Impacts to Jurisdictional/Regulated Waters." This mitigation measure is not sufficiently detailed to allow the public to review its effectiveness. DEIR, III.N-68. Further, the creation or restoration of mitigation for permanent shading from the Yosemite Slough Bridge is not specifically identified and deferred to the future. *Id.*
>
> MM RE-2: "Phasing of parkland with respect to residential and/or employment generated uses." This mitigation measure strives to keep the parkland-to-population ratio at 5.5 acres per 1,000 residents. DEIR, III.P-31. As discussed above (analysis of significant impacts to recreational resources), the provision of 5.5 acres per 1,000 residents is not less than significant; and therefore this mitigation measure fails.

More generally, all DEIR mitigation measures related to limiting the use of Yosemite Slough Bridge by private automobiles are ineffective and unenforceable. Exhibit B, pp. 5-8. No legally enforceable restrictions are identified in the DEIR to prevent the bridge from ultimately being used year round by private automobiles.

The DEIR also fails to identify feasible mitigation measures for Project impacts. For example, the DEIR fails to identify mitigation measures to offset the numerous operational impacts, as discussed above, to recreational facilities in the State Park. *See* DEIR, Section III.P.

G. THE DEIR FAILS TO ADEQUATELY ANALYZE CUMULATIVE IMPACTS

An EIR must discuss significant "cumulative impacts." Guidelines § 15130(a). To be legally adequate, the cumulative impacts analysis must examine the project over time and in

conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Guidelines § 15355(b).

Here, the DEIR fails to analyze the Project's numerous cumulative impacts, including, but not limited to:

- cumulative recreational impacts with the Yosemite Slough Wetlands Restoration Project. Exhibit A, pp. 2-3; and
- cumulative impacts with the Mitigation Measures for SFO Airport Improvements and the BART Extension. As discussed above, the Yosemite Slough Restoration Project fulfills mitigation obligations for Airport Improvements and the BART Extension. The DEIR fails to analyze the cumulative impacts of the Project and the Project's impediments to these mitigation efforts.

A revised DEIR must fully address all cumulative impacts from the Project.

H. THE DEIR DOES NOT ADEQUATELY ANALYZE PROJECT ALTERNATIVES

A proper alternatives analysis is critical for achieving CEQA's goal of fostering informed decision-making. Pub. Res. Code § 21061; Guidelines § 15126.6(a). An EIR must evaluate the comparative merits of the alternatives. Guidelines § 15126.6(d). And project objectives under CEQA must not be defined overly narrowly so as to preclude a meaningful analysis of alternatives. *See City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438.

The serious flaws in the DEIR's project objectives and treatment of potentially significant impacts to CPSRA, as discussed above, preclude a proper analysis of Project alternatives. A comparative analysis of alternatives is impossible unless the Project's vague objectives to "encourage" the 49ers to build a stadium are clarified – including the attendant need for the Yosemite Slough Bridge – and until the full scope of impacts to Yosemite Slough and CPSRA are examined. The entire alternatives section needs to be reexamined after the DEIR's numerous other deficiencies are rectified.

1. The DEIR Fails to Provide Substantial Evidence to Reject Project Alternatives without Yosemite Slough Bridge

If alternatives are rejected, an EIR must explain in meaningful detail why such alternatives do not satisfy the goals of the proposed project, do not offer substantial environmental advantages, or cannot be accomplished. *Laurel Heights Improvement Assn., supra,* at 405; *see also City of Santee, supra,* at 1438.

Our traffic expert concludes that the DEIR (1) contains serious flaws and fails to consider all reasonable and viable alternatives and (2) fails to justify the traffic need for the bridge, regardless of whether a new 49ers stadium is constructed. Exhibit B, pp. 3-5. A revised DEIR therefore must reanalyze and fully consider the Project alternatives without the Yosemite Slough Bridge.

2. The DEIR Fails to Consider A Reasonable Range of Alternatives to Minimize Environmental Impacts

An EIR must analyze a reasonable range of alternatives to the project that would feasibly attain most of the basic project objectives. The consideration of alternatives must be judged against a rule of reason to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by responsible officials. Guidelines § 15126.6(f); *Citizens of Citizens of Goleta Valley v. Bd. of Supervisors* (1990) *52 Cal.3d 553, 564* (citing, *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197*; Laurel Heights at* 399). Alternatives must be adequately discussed, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." Guidelines § 15126.6(b).

The DEIR should consider less environmentally damaging options to building the Yosemite Slough Bridge, which would significantly impact CPSRA, presents inconsistencies with the Yosemite Slough Wetlands Restoration Project, and significantly impact irreplaceable marsh lands and other waters of the United States. *See* DIER, Table III.N-4. A reasonable range of alternatives for the Project is informed by the scope of the project, its location next to CPSRA and Yosemite Slough, and concerns expressed by the public. Significant environmental impacts that are overlooked in the DEIR are attributable, in many instances, to the Yosemite Slough Bridge. The DEIR therefore should examine the following alternatives to the bridge:

- a tunnel under Yosemite Slough;
- a no bridge alternative if the newly proposed 49ers Stadium is not built; and
- improvements to arterial routes as a traffic alternative to accommodate any game-day traffic.

See Exhibit B (DEIR fails to fully examine alternatives to the Yosemite Slough Bridge that would be equally or more effective at meeting transportation needs).

I. THE DEIR IS INCONSISTENT WITH NUMEROUS OTHER LAND PLANS AND POLICIES

In addition to inconsistencies with the Yosemite Slough Wetlands Restoration Project (discussed above), the DEIR fails to identify inconsistencies with other plans. Avoiding conflicts with other land-use plans *before* development proposals are approved is one of CEQA's

fundamental purposes. *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296, 307 (1988) (CEQA requires that environmental problems be considered at a point in the planning process where "genuine flexibility remains."); Guidelines §§ 15125(d) and (e) (DEIR must discuss any inconsistencies other plans and any such analysis must discuss "potential future conditions discussed in the plan.")

1. The Project Is Inconsistent with the Candlestick Point State Recreation Area General Plan

The DEIR does not disclose the Project's many inconsistencies with the CPSRA General Plan. The CPSRA plan states:

> "It is the policy of the department to protect the scenic values and to enhance, manage, and protect the biotic and natural resources of the area, while fully realizing the potential of the area for fulfillment of outdoor recreation needs."

See DEIR, III.N.44. However, as discussed above, the Project would degrade scenic values, threaten natural resources, and, in many ways that could be avoided, reduce the recreational value of the park. These inconsistencies are significant.

The DEIR is not forthright in its analysis. The DEIR vaguely asserts that "[t]o the extent that the final improvements to the reconfigured CPSRA would be inconsistent with the CPSRA General Plan, these improvements would be addressed through the State Parks General Plan amendment process." DEIR, III.B-12. This is not full disclosure. No analysis is provided disclosing the extent to which the Project is actually inconsistent with the CPSRA General Plan. The Project's proposed land swap and reconfiguration agreement with DPR must be described and analyzed in more detail to fully inform the public of impacts to the park.

A revised DEIR needs to fully describe and identify inconsistencies with the CPSRA General Plan to comply with CEQA.

2. The DEIR Must Identify All Inconsistencies with Senate Bill 792

The DEIR must identify all inconsistencies with Senate Bill 792, including conflicts with provisions designed to protect CPSRA. Section 26(a)(3), for example, requires that any agreement to reconfigure the State park will "provide an overall benefit to the state recreation area and will further the objective of preserving the park's natural, scenic, cultural and ecological values for present and future generations." The Project's significant impacts to CPSRA, as discussed herein, raise inconsistencies with SB 792. The DEIR must provide a direct analysis of the Project's inconsistencies with all park-protective provisions within S.B. 792.

3. The Project Is Inconsistent with the San Francisco Bay Plan and Violates the McAteer-Petris Act

The McAteer-Petris Act of 1965, Government Code §§ 66600, *et seq.*, and the San Francisco Bay Plan ("Bay Plan") set forth policies to protect the shoreline of the Bay and minimize Bay fill. The San Francisco Bay Conservation and Development Commission ("BCDC") is authorized to issue or deny permit applications for placing fill, extracting materials, or changing the use of any land, water, or structure within the area of its jurisdiction, in conformity with the provisions and policies of both the McAteer-Petris Act and the Bay Plan. Projects inconsistent with the Bay Plan may not be approved. *See* Gov. Code § 66632(f).

The Project would violate the McAteer-Petris Act requirement that Bay fill only be authorized by BCDC if there is no feasible upland location to the project. Gov. Code § 66605. As discussed herein, the DEIR did not adequately discuss feasible traffic alternatives to constructing the Yosemite Slough Bridge that would involve improvements to upland locations. Exhibit B, pp. 3-5.

The Project is inconsistent with Bay Plan policies on "Appearance, Design, and Scenic Views." These policies state:

- "all bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay";
- "maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore";
- "towers, bridges or other structures near or over the Bay should be designed as landmarks that suggest the location of the waterfront when it is not visible especially in flat areas"; and
- "additional bridges over the Bay should be avoided, to the extent possible, to preserve the visual impact of the large expanse of the Bay."

Bay Plan, pp. 61-63. The DEIR fails to fully analyze and disclose the visual impacts from the Yosemite Slough Bridge that would violate these policies. Exhibit A, p. 4.

The Project also is inconsistent with Bay Plan policies protecting wildlife, wetlands, and other biological resources. These policies state:

- "to the greatest extent possible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased." Bay Plan, p. 16 ("Fish, Other Aquatic Organisms, and Wildlife");
- "[t]idal marshes and tidal flats should be conserved to the fullest possible extent," and

projects that substantially harm tidal marshes or tidal flats are allowed "only if there is no feasible alternative." Bay Plan, p. 23 ("Tidal Marshes and Tidal Flats"); and

- "[s]ubtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife... should be conserved," and "[f]illing, changes in use, and dredging projects in these areas should therefore be allowed only if... there is no feasible alternative." Bay Plan, p. 27 ("Subtidal Areas").

The DEIR must analyze inconsistencies with these policies that would result from the Project's significant impacts to biological resources. *See* Exhibit A, p. 7.

Finally, the proposal to build the Yosemite Slough Bridge is inconsistent with Bay Plan Transportation policies because (1) the bridge would not provide adequate clearance for vessels that normally navigate the waterway beneath the bridge, Bay Plan, p. 47 (policy 3b); *see* Exhibit A, p. 8; and (2) the DEIR does not adequately explore other feasible traffic alternatives (discussed above) to a building a bridge. Bay Plan, p. 47 (policy 2); *see* Exhibit B, p. 9. The DEIR must be revised to recognize these transportation inconsistencies with the Bay Plan.

4. The Project Is Inconsistent with the Bayview Hunters Point Redevelopment Plan

The Bayview Hunters Point Redevelopment Plan sets forth the explicit policy to create a "restored and redeveloped Yosemite Slough on CPSRA land." DEIR, III.B-24. Yet, the DEIR erroneously concludes that "[a]lthough the construction of the Yosemite Slough bridge would change this area, it would not detract from its use in the CPSRA or its biological and other resource utility." *Id.* As discussed above, the Project threatens to impede the restoration and redevelopment of Yosemite Slough, and therefore is also significantly inconsistent with the objectives of the Bayview Hunters Point Redevelopment Plan to support restoration of the Slough. A revised DEIR must recognize this inconsistency.

J. THE DEIR MUST BE REVISED AND RE-CIRCULATED

A supplemental or revised DEIR must be prepared and re-circulated for public review. CEQA requires a lead agency to re-circulate an EIR when significant new information is added to the EIR following public review but before certification. Pub. Res. Code § 21092.1. CEQA Guidelines clarify that new information is significant if "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" including, for example, "a disclosure showing that ... [a] new significant environmental impact would result from the project." Guidelines § 15088.5. Lead agencies cannot rely on an DEIR "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review." *Mountain Lion Coalition v. California Fish and Game Comm'n* (1989) 214 Cal.App.3d 1043, 1053. As explained by a recent CEQA decision:

> "The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context." (Guidelines, § 15125(c)) We interpret this Guideline broadly in order to 'afford the fullest possible protection to the environment.' (*Kings County Farm Bureau, supra*, 221 Cal.App.3d 692, 720) In so doing, we ensure that the EIR's analysis of significant effects, which is generated from this description of the environmental context, is as accurate as possible. (See also Remy et al., *Guide to the California Environmental Quality Act* (CEQA) (10th ed. 1999), pp. 374-376.)

Friends of the Eel River v. Sonoma County Water Agency, (2003) 108 Cal. App. 4th 859, 874.

Here, the DEIR is fundamentally inadequate and precludes a meaningful public review of Project impacts, including impacts related to the State Park, the Yosemite Slough Wetlands Restoration Project, recreational users, and biological resources. Substantial new information will be needed to adequately assess the proposed Project's environmental impacts, re-examine feasible alternatives, and identify effective mitigation. A revised DEIR is required to provide the public and decisionmakers with meaningful opportunity to understand the full scope of Project impacts, mitigation measures, and alternatives. Guidelines § 15088.5(b)(4).

III. THE PROJECT MUST COMPLY WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

The Project has a "federal nexus" that demands review under the National Environmental Policy Act. A federal nexus attaches to a CEQA project when it requires major federal action, including discretionary permits, entitlements, or authorizations. All agencies of the federal government must, to the fullest extent possible, comply with NEPA. *See* 42 U.S.C. § 4332. In particular, if a federal agency's actions may affect wetlands and other important habitats, including critical habitat under the Federal Endangered Species Act the federal agency must comply with NEPA and further produce an Environmental Impact Statement ("EIS"). *See* 40 C.F.R. § 1508.27.

Here, federal approvals or permits are required from the U.S. Navy, Army Corps of Engineers, Department of the Interior, Coast Guard, and Department of Housing and Urban Development, *see* DEIR, ES-6, and the Project proposes to fill wetlands and potential impact critical habitat under the FESA. The DEIR, however, omits any discussion of NEPA requirements. Under CEQA, when a project also is subject to NEPA review, lead agencies should try to prepare a combined environmental review document and, "[t]o avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the joint document." Guidelines § 15222.

The Project must comply with NEPA, and the DEIR must be revised to comply with the CEQA Guidelines by listing NEPA among the Project's necessary environmental review processes.

IV. THE PROJECT CONFLICTS WITH SECTION 404 OF THE CLEAN WATER ACT

As currently configured, the Project does not meet the requirements of Section 404 of the Federal Clean Water Act, 33 U.S.C. §§ 1344, *et seq.* ("CWA"). Under Section 404, a permit must be obtained from the USACE prior to the discharge of dredged or fill materials into any "waters of the United States or wetlands." *Id.* § 1344(b).

The DEIR concedes that a permit from the USACE would be required for the Project. DEIR, III.N-37. However, there is no meaningful discussion regarding the standards for obtaining such a permit or whether the Project can meet those standards. Under the CWA, no permit to fill or discharge into U.S. waters is permitted if there is a "practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." 40 C.F.R. § 230.10(a). A "practicable" alternative is one that is "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes." *Id.* at § 230.10(a)(2).

A "practicable alternative" exists to building the proposed Yosemite Slough Bridge that would avoid impacts from the bridge to Section 404 waters. *See* Figure III.N-3 and III.N-5 (impacts to wetlands and other waters). As discussed above, the DEIR fails to adequately consider project alternatives that would avoid construction of the Yosemite Slough Bridge, *see also* Exhibit B, and therefore the Project falls short of Section 404 permit requirements to demonstrate that no "practicable alternative" exists to constructing a through the sensitive waters of Yosemite Slough.

V. THE PROJECT POTENTIALLY CONFLICTS WITH NUMEROUS OTHER PROVISIONS OF LAW

A. THE PROJECT POTENTIALLY VIOLATES THE LAND AND WATER CONSERVATION FUND ACT OF 1965

Pursuant to the Land and Water Conservation Fund Act of 1965 ("LWCFA"), DPR received three grants between 1979 and 1981 to assist with the development of trails, picnic areas, and other amenities on the CPSRA. The DEIR, however, fails to demonstrate how development and the take of lands on the CPSRA would comply with LWCFA. Instead, the DEIR summarily concludes that the "reconfiguration of the CPSA, discussed below, would comply with LWCFA." DEIR, III.P-6. This bare conclusion is insufficient to demonstrate compliance.

B. THE PROJECT POTENTIALLY VIOLATES THE CALIFORNIA PUBLIC PARK PRESERVATION ACT

The Public Park Preservation Act, Pub. Res. Code § 5400 *et seq.*, restricts the ability of public agencies to use parklands for other purposes. The Act provides that a public agency that acquires public parkland for non-park use must either pay compensation sufficient to acquire substantially equivalent substitute parklands or provide substitute parklands of comparable characteristics. Pub. Res. Code § 5401. The DEIR should assess the applicability of this provision of State Code given the Project proposes transfers of parklands between public agencies.

C. THE PROJECT POTENTIAL VIOLATES CALIFORNIA PUBLIC RESOURCES CODE SECTION 5096.516

Public Resources Code ("PRC") section 5096.516 prohibits the transfer of any land being used as a public park unless: the selling or transferring agency prepares a detailed report and specific finding that the land no longer serves a needed conservation purpose; a public hearing is held; and the transfer gains Legislative approval. Pub. Res. Code § 5096.516(a). Several exceptions apply, including for the sale or transfer of property with less than $1 million in fair market value; however, parklands with high scenic values, like areas in CPSRA, likely have market values in excess of this minimum requirement. (The general rule in California for establishing just compensation is the market value of the property determined by the highest and most profitable use for which the property is adaptable.)

To date, CSPF is not aware of any efforts to ensure the Project meets the requirements of PRC 5096.516. The DEIR should identify PRC 5096.516 as a pertinent state law and disclose the time and schedule for Project compliance.

VI. CONCLUSION

Development projects should avoid impacting State parklands if at all possible, and we are not convinced that this Project, in its present iteration, is designed in a park-friendly manner. CPSRA is a unique resource meriting the utmost protection of our environmental laws.

For the reasons set forth above, the DEIR violates CEQA's fundamental mandates of informing the public and decisionmakers of significant environmental impacts, fails to identify

all feasible mitigation measures, and fails to analyze a reasonable range of alternatives to the Project. To comply with CEQA and rectify these deficiencies, we request that a revised DEIR be re-circulated for public review.

Sincerely,

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California State Parks Foundation
Hunters Point Shipyard Phase II Development Plan Project; SCH #2007082168

EXHIBIT A

WRA

wra
ENVIRONMENTAL CONSULTANTS

January 5, 2010

Sara Feldman
Vice President for Programs
California State Parks Foundation
714 W. Olympic Boulevard, Suite 717
Los Angeles, CA 90015

Re: Technical Comment on the Candlestick Point-Hunter's Point Shipyard Phase II DEIR

Dear Sara,

At the request of the California State Parks Foundation, WRA is preparing this technical review of the Candlestick Point-Hunter's Point Shipyard Phase II DEIR. The purpose of this letter is two-fold:

1.) To provide an analysis of potential impacts the Candlestick Point-Hunter's Point Shipyard Phase II Project ("project") may have on the current conditions within Yosemite Slough and impacts the project may have to the Yosemite Slough Wetlands Restoration Project; and

2.) To provide technical review of the DEIR from a CEQA compliance and biological resources perspective.

WRA has been involved in the Yosemite Slough Restoration Project since 2003, providing restoration site design, biological resources surveys, and permitting assistance. At the date of this letter the Yosemite Slough restoration Project has completed a Final Initial Study and Mitigated Negative Declaration (California Department of Parks and Recreation, April 2006, SCH# 2005122023). The project has also received Section 401 Water Quality Certification and Waste Discharge Requirements (July 2007), and San Francisco Bay Conservation and Development Commission Permit Amendments (March 2005 and September 2009). Only a few approvals remain before the Yosemite Slough Restoration Project is ready for construction.

Aspects of the proposed Candlestick Point-Hunter's Point Shipyard Phase II redevelopment project, in particular, the Yosemite Slough Bridge, will have significant impacts to restored wetlands and to recreational values of the Yosemite Slough Restoration Project. These significant impacts could result in the need to at least partially revise the already completed and almost fully permitted Restoration Project design, causing significant delays and at least partial re-application for permits that have already been granted for the project. These potential design and permit revisions would come at great cost to this California State Parks project at a time of limited funding availability.

In addition, much of the cost for the Yosemite Slough Restoration Project was funded by wetland impact in-lieu fee funds provided by Bay Area Rapid Transit (BART) and City and County of San Francisco Airport Commission as mitigation for wetlands that have been impacted as part of permitted projects undertaken by these public agencies. If the proposed Candlestick Point-Hunter's Point Shipyard Phase II redevelopment project would impact the

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wetlands to be created as part of the Yosemite Slough Restoration Project, the wetland impacts could affect both the regulatory permits of these public agencies and the funding agreements that have been made with the California State Parks Foundation to provide wetland mitigation in Yosemite Slough.

In addition to these potential impacts on the Yosemite Slough Restoration Project, the Yosemite Slough bridge has the potential to impact current conditions within the State Park and especially to Yosemite Slough. Based on overlays of the proposed bridge using topographic maps and GIS technology, the proposed Yosemite Slough bridge overlaps with the California State Parks operating boundary, with portions of Parks-owned property, and with significant portions of the planned restoration, including planned viewpoints and created wetlands (see Figures 1 and 2, attached). These impacts were not analyzed in the DEIR. More specific comments on the proposed Candlestick Point-Hunter's Point Shipyard Phase II DEIR are described in detail below in relation to the Yosemite Slough Restoration and current conditions within the DEIR Study Area.

A) Significant and Potentially Significant Impacts of the Candlestick Point-Hunter's Point Shipyard Phase II Redevelopment Project on the Yosemite Slough Restoration

Comment A1. A comment letter dated September 12, 2007 from the California Department of Parks and Recreation (DPR) was submitted in response to the circulated Notice of Preparation (NOP) for the Candlestick Point-Hunter's Point Shipyard Phase II redevelopment project (Appendix A of the DEIR, NOP Comment Letters). The DPR comment letter on the NOP raised concerns that the proposed redevelopment project (especially the Yosemite Slough bridge) could compromise the Yosemite Slough Restoration. The DEIR failed to analyze these impacts, which were raised by the DPR in its role as a Responsible Agency under CEQA. The potential impacts of the Yosemite Slough Bridge, raised by the DPR as a Responsible Agency under CEQA, should have been analyzed in the DEIR as required by Section 21080.4(a) of the Public Resources Code. The DEIR made every effort to *exclude* an analysis of these potential impacts to Yosemite Slough, repeatedly stating that Yosemite Slough was excluded from the project site and failing to analyze direct, indirect, and cumulative impacts that the bridge could have on the restoration project particularly with regard to Recreation, Aesthetics, and Biological Resources.

Comment A2. The DEIR fails to acknowledge inconsistencies with the Yosemite Slough Restoration Plan as a pertinent local plan and policy in the Recreational, Land Use, and Aesthetics sections, among others, and fails to analyze the potential conflicts of the project with the established goals of the restoration plan as required by Section 15125(d) of the Public Resources Code. The DEIR recognizes the Yosemite Slough Restoration Plan as a pertinent local plan in the Biological Resources section, but does not include any analysis of inconsistencies with the Yosemite Slough Restoration Plan, including the project's physical impacts to the planned environment and related mitigation. The Candlestick Point-Hunter's Point Shipyard Phase II project would have potential significant impacts because it is inconsistent with the Yosemite Slough Restoration Plan.

Comment A3. A portion of the DEIR Study Area in the vicinity of the Yosemite Slough bridge overlaps with the Yosemite Slough Restoration Plan, and therefore would have direct impacts to the restoration (see Figure 2, attached). In addition, the Yosemite Slough bridge would conflict with many of the goals of the Yosemite Slough Restoration

Plan, blocking scenic vistas, affecting recreational opportunities, and impacting portions of the restored wetlands. These impacts and potential impacts were not discussed in the DEIR.

Comment A4. The DEIR does not analyze inconsistencies that would be caused by direct, indirect, and cumulative impacts of the project on wetlands that have been designed as part of the Yosemite Slough Restoration Project (Figure 2).

Comment A5. Additionally, the DEIR's treatment of the Yosemite Slough Restoration Project is inconsistent with the methodology used in the DEIR to analyze potential impacts of the redevelopment on Navy remediation efforts. On pages III.N-48 and 49 of the DEIR an analysis methodology is discussed for the Navy remediation efforts in which impacts to baseline conditions as they existed at the time of the NOP as well as impacts to baseline conditions as they will exist after completion of the Navy remediation efforts and mitigation planned as part of the remediation. This analysis is appropriate for the Navy remediation efforts because the planned and approved remediation efforts effectively alter the baseline conditions that the Candlestick Point-Hunters Point Shipyard redevelopment project are likely to impact. This methodology is further supported in section III.A-2 which states "*While the baseline condition is generally the physical conditions that existed at the time the NOP is published, which was August 2007, there may be reasons why a different baseline condition should be used for the analysis*". We agree with the above methodology and it should be applied evenly and consistently to other approved projects within and adjacent to the proposed redevelopment area. The Yosemite Slough Restoration Plan is set to begin construction prior to implementation of the Hunters Point redevelopment. The analysis of impacts should specifically address impacts of the redevelopment project on the baseline conditions that would be present at the time of completion of the approved Yosemite Slough Restoration Plan.

Comment A6. Based on the extent of the DEIR Study Area, the project will cause significant impacts to wetlands created as part of the Yosemite Slough Restoration. These potential impacts should be considered in the same way the Navy mitigation wetland impacts have been considered. These potential impacts should be addressed in sections III.B and III.N of the DEIR.

Comment A7. The Yosemite Slough Bridge will have noise related impacts on the users of the Yosemite Slough Restoration area. The potential impacts to Yosemite Slough Restoration park users from introducing new sources of noise on the Yosemite Slough Bridge should be analyzed in section III.I of the DEIR.

Comment A8. The Yosemite Slough Bridge will have aesthetic impacts on the users of the Yosemite Slough Restoration area in the form of blocking viewpoints of Double Rock, the East Bay skyline, and open water of the Bay from the planned Vista Points. The bridge would also have a potential significant impact on views of the restored Yosemite Slough from open water areas and land-based viewpoints to the east of the proposed bridge. These are potential significant impacts, and should therefore be addressed in section III.E of the DEIR.

Comment A9. Shading as a result of the Yosemite Slough Bridge has the potential to significantly impact the establishment of wetland vegetation to be planted as part of the

Yosemite Slough Restoration. These potential impacts should be analyzed in sections III.F and III.N of the DEIR.

The following comments are not related to the consideration of the completed Yosemite Slough Restoration Project in the baseline conditions for the DEIR. These comments stand alone and should be addressed regardless of inconsistencies with the wetlands restoration plan.

B) <u>Technical review of the DEIR from a CEQA compliance and biological resources perspective</u>

1) Aesthetics, Section III.E

Comment B1a) The analysis of impacts to aesthetics did not adequately address impacts of the Yosemite Slough Bridge on views from Yosemite Slough and the State Park. Yosemite Slough and other areas of the park provide views of Double Rock, the East Bay Skyline, and open water of the Bay. The viewshed analysis should have included viewpoints, for example, from Yosemite Slough looking east toward the Bay. The only viewpoint that was analyzed in the DEIR from within Yosemite Slough did not incorporate the views of Double Rock, San Francisco Bay, or the East Bay skyline. The proposed Yosemite Slough Bridge will have potentially significant impacts on the views from Yosemite Slough and other areas of the state park out onto the San Francisco Bay, Double Rock, and East Bay skyline. These significant impacts should be analyzed in section III.E of the DEIR. Examples of views from within Yosemite slough that will be significantly impacted due to the Yosemite Slough bridge are shown in the photographs attached to this letter. Two viewpoint graphics developed by Lennar Urban are also attached showing the impact the bridge would have on views from Yosemite Slough. These viewpoints were not included in the aesthetics analysis in the DEIR.

Comment B1b) Double Rock is a defining element of the local community, with many businesses, churches and housing developments bearing the name Double Rock. The proposed project, including the proposed bridge, could limit or entirely block views of Double Rock from portions of the surrounding community (see Figure III.E-20). The blocking of views of Double Rock may be considered a potentially significant impact from an aesthetics well as from a cultural resources perspective. These potential significant impacts should be analyzed in sections III.E and III.J of the DEIR.

Comment B1c) Blocking the aesthetic viewpoint from Yosemite Slough with the proposed Yosemite Slough bridge is inconsistent with BCDC San Francisco Bay Plan Appearance, Design, and Scenic Policies 2, 4, 6, and 10 (pp 62-63 of the Bay Plan). This inconsistency with the Bay Plan was not disclosed or analyzed as part of the DEIR.

2) Biological Resources, Section III.N

Comment B2a) Figure III.N-2 does not indicate any mapped habitat types within the portion of the Study Area that overlaps with the Yosemite Slough Restoration Project area. Therefore, it is unclear if this area was included in the analysis of potential impacts to biological habitats. All habitat types located within the Study

Area should be identified and impacts should address all of these habitat types affected by the proposed project. Figure III.N-2 should be revised to show the habitat types that exist within this portion of the Yosemite Slough Restoration Area, as the project could have significant impacts to biological habitats in this area.

Comment B2b) The Study Area for the Biological Resources analysis is not clearly defined and not clearly maintained throughout the analysis. As an example see the following unclear sentence from page III.N-1: "*The off-site aquatic resources discussed include Yosemite Slough (except the area of construction), the open water area between Candlestick Point and HPS Phase II (known as South Basin), and adjacent open waters that would be impacted by Project components (i.e., breakwaters, gangways, floats, etc.).*" This sentence appears to state that aquatic impacts in the area proposed for construction at Yosemite Slough are not analyzed. The Study Area needs to be clearly defined and all impacts within the Study Area need to be adequately addressed. This is especially true of areas where construction is proposed.

Comment B2c) The regulatory setting does not discuss NMFS regulation of eelgrass as Essential Fish Habitat. The NMFS does consider eelgrass Essential Fish Habitat (EFH).

Comment B2d) Table III.N-4 is referred to as a reference point for viewing potential self mitigating impacts that are discussed as part of the impacts to wetlands and waters in Impact BI-4a through BI-4c. This table does not clearly show which impacts were determined to be self mitigating, and there is also no figure that shows which impacts have been determined to be self-mitigating. Therefore, the impacts that have been identified as self mitigating are not adequately disclosed. It should be clearly shown which areas of wetland and the extent of wetlands impacted that are considered to be self mitigating and those that will require compensatory mitigation.

Comment B2e) The wetland mitigation and monitoring plan requirements (MM BI-4a.1) are inadequate and not consistent with standard wetland mitigation and monitoring plans based on Corps San Francisco District regulatory policy (Corps 2004). There is no requirement for a long term management component of the mitigation and monitoring plan, which is clearly required in Corps guidance. Also, the requirement that mitigation wetlands contain at least 65 percent cover by native species leaves open the possibility that as much as 35 percent of the created mitigation wetlands could be comprised of non-native or invasive species, if the total vegetative cover was 100 percent. This poses a direct conflict with the monitoring requirements of the Yosemite Slough Restoration by allowing higher cover of invasive species in areas directly adjacent to the restoration area. This requirement should be changed to allow no more than 5 percent cover by non-native invasive plant species, independent of the total vegetative cover, to be consistent with commonly applied requirements for invasive species cover in mitigation wetlands.

Comment B2f) In the Impact BI-4c it is stated that the proposed bridge would be 81 feet wide by 902 feet long and that 0.94 acres of open water/mudflat habitats would be impacted as a result. A bridge of these dimensions would cover an area approximately 1.7 acres. The DEIR does not clearly identify which other habitat types would be directly shaded by the remaining 0.8 acres of the proposed bridge.

The DEIR should identify and analyze the potential impacts to all habitat types shaded by the bridge.

Comment B2g) Shading impacts associated with construction of the new bridge (Impact BI-4c) were not analyzed consistently with the methods that were utilized for impacts from buildings. The shade from the proposed bridge will impact areas adjacent to the bridge in addition to the aerial footprint of the bridge. Solar aspect was considered in the analysis for buildings and should also have been considered in analyzing impacts caused by the bridge. These shading impacts would affect subtidal and intertidal areas in Yosemite Slough, with potential impacts to subtidal and tidal marsh vegetation. Impacts from shading on subtidal and tidal marsh vegetation have been well documented (Kelty and Bliven 2003). Therefore the project would have significant and potentially significant impacts on subtidal habitats due to the proposed bridge.

Comment B2h) Though no eelgrass was observed in the area of the Yosemite Slough bridge, this area has been identified as habitat that could potentially support eelgrass (Merkel and Associates 2004), and therefore should be identified as an area for application of eelgrass mitigation measures as part of mitigation measures MM BI-5b.1 through MM BI-5b.4. The previously known locations of eelgrass were identified and analyzed as part of the DEIR, but the evaluation did not account for the fact that the location, aereal coverage, and density of shows extremely wide variation from year to year in San Francisco Bay. Therefore, the location, aereal coverage, and density of eelgrass in the DEIR Study Area may have changed since the time of the baywide eelgrass survey. No new eelgrass survey of the area was performed to evaluate how the eelgrass distribution may have changed since the time of the baywide eelgrass survey. Given the established tendency of eelgrass to vary widely in location, aereal coverage, and density in San Francisco Bay, and the fact that the area of Yosemite Slough has been identified as an area with suitable habitat conditions for eelgrass, the DEIR should require surveys and mitigation as needed for the construction of the Yosemite Slough Bridge. There is potential that eelgrass could occur in the Yosemite Slough bridge area, and therefore potential significant impacts may occur.

Comment B2i) The DEIR Impact BI-6 does not consider potentially significant noise impacts of the Yosemite Slough Bridge on potential bird roost and nest sites on Double Rock. Double Rock was identified as an area of potential nesting habitat as part of the *Yosemite Slough Watershed Wildlife Survey*, which was specifically referenced as background documentation in the DEIR. Therefore, there could be significant impacts to the use of Double Rock by birds as a result of noise on the Yosemite Slough bridge.

Comment B2j) Potential impacts to Western Red Bat (Impact BI-8), including displacement, injury, or kill of live individuals, are identified but then determined to be less than significant with no mitigation. Western Red Bat has been identified as a California Species of Special Concern and "High Priority" species by the Western Bat Working Group. Based on this designation, impacts to Western red bat, including displacement, injury, or kill of an individual are considered significant under Section 15380(d) of the Public Resources Code, and mitigation should be proposed for this significant impact.

Comment B2k) The noise from construction equipment is cited as being sufficient to rouse Western Red Bat in time for this species to vacate the area of construction (Impact BI-8). However, low frequency noise emitted by machinery is often not detectable to bats. Therefore, the noise related to removal of potential roost sites may not be sufficient to alert the bats to the disturbance in sufficient time to flee the area. The project could therefore result in potential significant impacts to Western Red Bat during construction.

Comment B2l) Temporal loss of Oyster habitat was not analyzed as part of Impact BI-10 in the DEIR. New hard substrate material takes time to become suitable for oyster establishment so there will be significant temporal impacts to oysters while the hard substrate develops sufficient biotic material coverage to allow oyster attachment. Additional mitigation is necessary to compensate for these significant temporal impacts.

Comment B2m) The potential impacts on EFH and special status fish species of shading from the Yosemite Slough bridge were not discussed as part of the discussion in Impact BI-11 or BI-12. Several studies have demonstrated that shaded structures can have significant impacts on fish behavior, affecting EFH (see Southard, et al. 2006 and Hanson 2003). These significant impacts should be discussed and mitigation proposed as part of the DEIR.

Comment B2n) Mitigation measure BI-4a.1, referenced for EFH impacts (Impct BI-12), which includes creation of EFH as a potential mitigation measure, has not been demonstrated to be feasible. Creating EFH habitat in San Francisco Bay is complicated and not well established as a feasible mitigation measure. Most attempts to accomplish creation of EFH within San Francisco Bay have not been successful. This mitigation has not been proven feasible.

Comment B2o) Long term impacts on EFH as a result of the operation of the marina that are not related to maintenance dredging are not discussed as part of Impact BI-12b. All potentially significant long term operational impacts of the marina on EFH, such as fuel spillage, motorized boat use, and other factors, should be analyzed in the DEIR.

Comment B2p) The project is inconsistent with the BCDC San Francisco Bay Plan Fish, Other Aquatic Organisms, and Wildlife Policies 2 and 4 (pg 16 of the Bay Plan), with Bay Plan Tidal Marshes and Tidal Flats Policies 1 and 3 (pg 23 of the Bay Plan), and with Subtidal Areas Policies 1 and 2 (pg 27 of the Bay Plan). These inconsistencies were not disclosed or analyzed as part of the DEIR.

3) *Hydrology, Section III.M, and Biological Resources, Section III.N*

Comment B4a) The DEIR does not address whether the construction of the proposed bridge pilings may impede or alter currents entering and exiting Yosemite Slough, thereby impacting the functioning of the Slough and the biological habitats within Yosemite Slough. Potential impacts from altered currents within Yosemite Slough should be analyzed in the DEIR to determine whether or not the impacts would be significant.

4) *Recreation, Section III.P*

Comment B4a) There is no discussion as to whether construction of the bridge will impede the ability of small boat traffic, such as kayaks and zodiacs, to travel between Yosemite Slough and the Bay. Yosemite Slough is a Traditional Navigable Waterway and the proposed bridge over the slough will have a low overhead clearance during high tides and may impede navigation into or out of Yosemite Slough during the tides when this slough would be accessible to boaters. The DEIR should discuss and analyze potentially significant impacts associated with the restricted use of this area. The bridge is inconsistent with BCDC San Francisco Bay Plan Transportation Policy 3(b) if it does not provide adequate clearance for vessels that normally navigate the waterway beneath the bridge. Based on the bridge specifications, the bridge allows a minimum of 4 feet of clearance, which may not allow small watercraft adequate clearance.

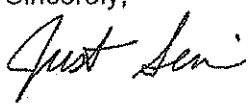
Comment B4b) Impact RE-3 in the DEIR discusses the fact that 29 acres of park land would be lost, but dismisses this as a less than significant impact with no mitigation because of the assumption that use of the remaining parks after the redevelopment project implementation would be improved. This appears to be a mixture of an impact and mitigation measure, with the decrease in park land being the impact, and increased use as the mitigation measure. The analysis does not differentiate between these two aspects. The loss of parkland is a significant impact that must be recognized and should have a complete associated mitigation measure.

Comment B4c) The project would have significant impacts on recreational trails in the State Park. Figure III.B-3 and the respective sections of the Land Use Chapter show the proposed Bay Trail crossing the proposed Yosemite Slough Bridge, thereby bypassing the portion of the trail that is planned for construction as part of the Yosemite Slough Restoration Plan. This divergence from the Bay Trail Plan and the Yosemite Slough Restoration Plan would realign the trail away from the natural shoreline and may be inconsistent the intent of the bay trail. The recreational analysis in the DEIR does not adequately address the new trail alignment's significant impact on adjacent park lands.

Our review disclosed serious flaws and several significant unaddressed issues regarding the Yosemite Slough Bridge.

The analysis above provides a non-comprehensive list of defects in the DEIR. WRA's analysis was necessarily limited given the massive scope of the Candlestick Point-Hunter's Point Shipyard Phase II Project and DEIR and given the time constraints that are part of this CEQA review process. Please let me know if you have any questions or comments regarding the above analysis.

Sincerely,



Justin Semion
Associate Aquatic Ecologist
WRA, Inc.

References Cited:

Hanson, Jeanne, M. Helvey, and R. Strach, eds. *Non-Fishign Impacts to essential Fish Habitat and Recommended Conservation Measures.* National Marine Fisheries Service (NOAA Fisheries) Alaska Region, Northwest Region, Southwest Region. August 2003.

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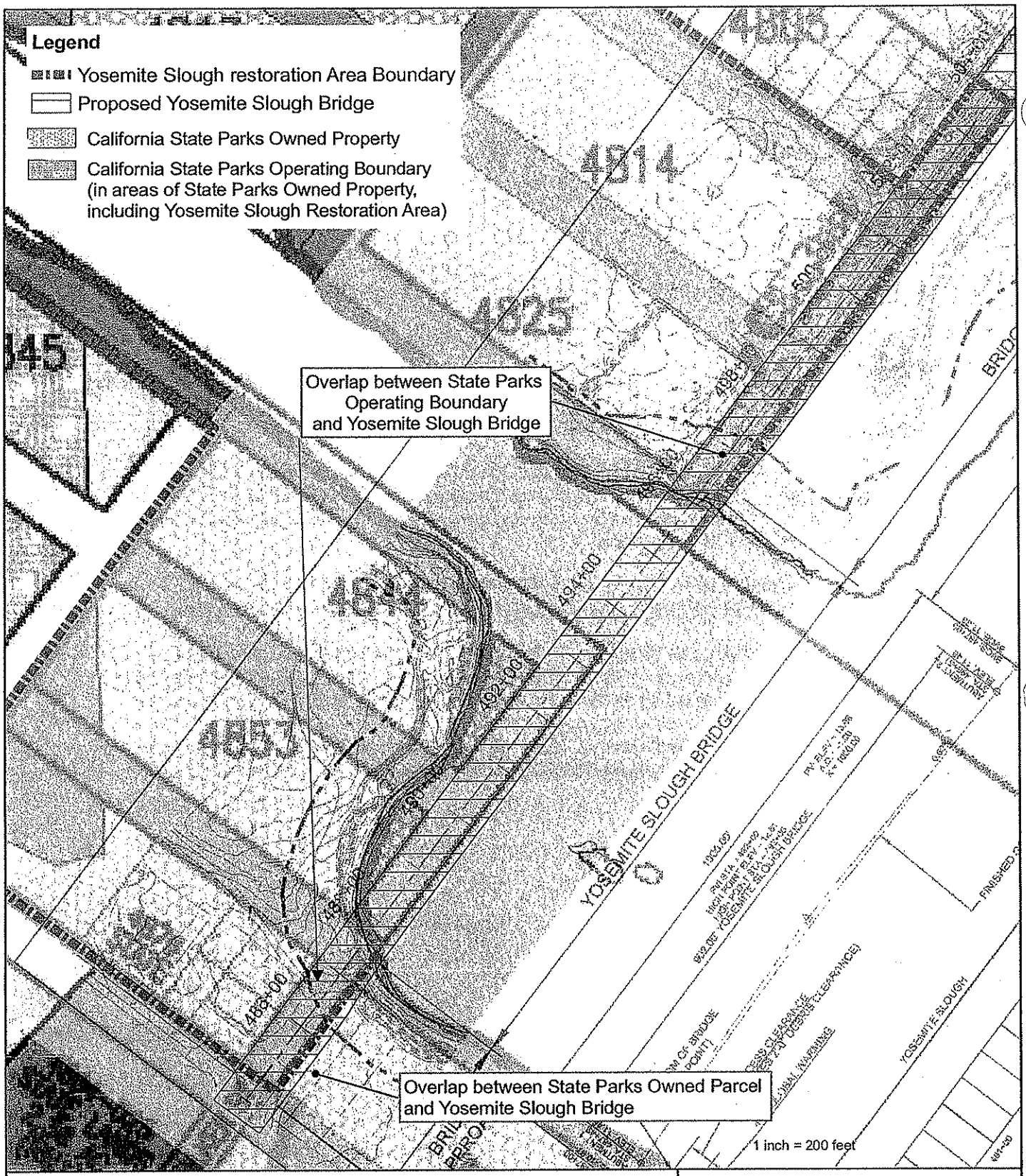

Figure 1. Proposed Yosemite Slough Bridge in Relation to the California State Parks Yosemite Operating Boundary and Parks Owned Parcels

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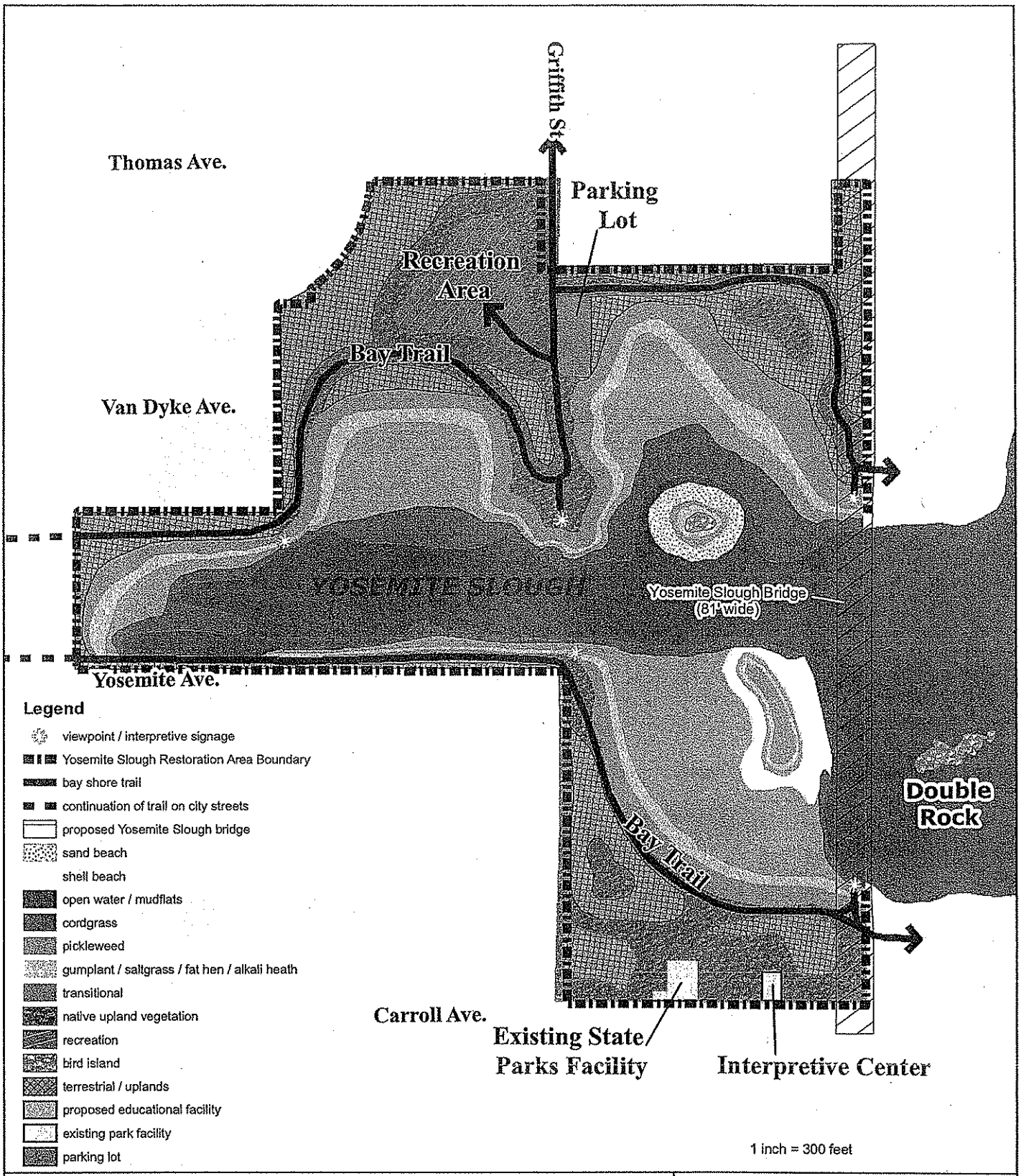

Figure 2. Proposed Yosemite Slough Bridge in Relation to the Yosemite Slough Restoration Project

300 150 0 300 Feet

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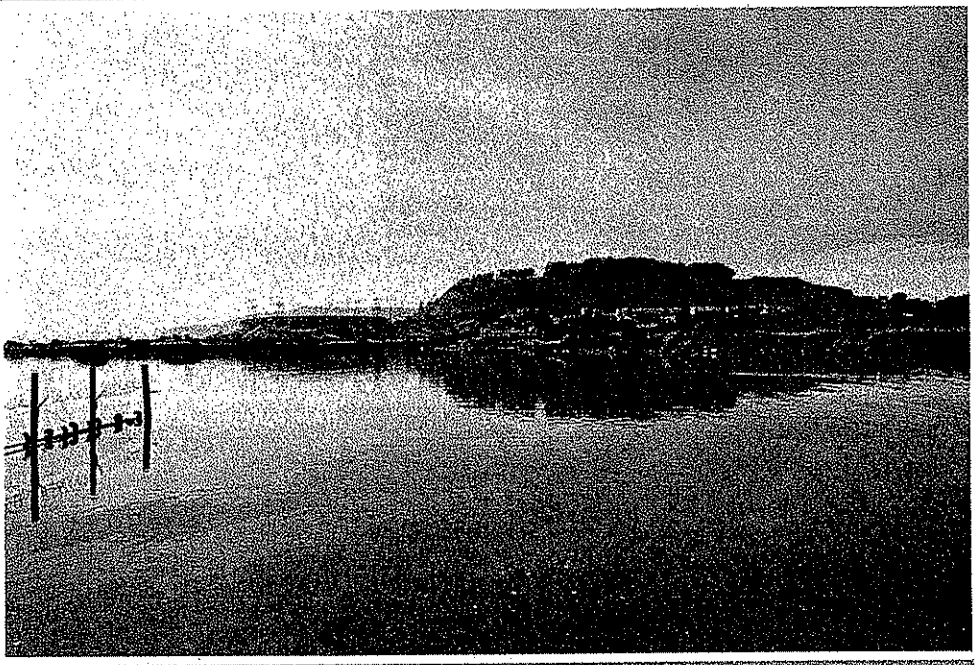

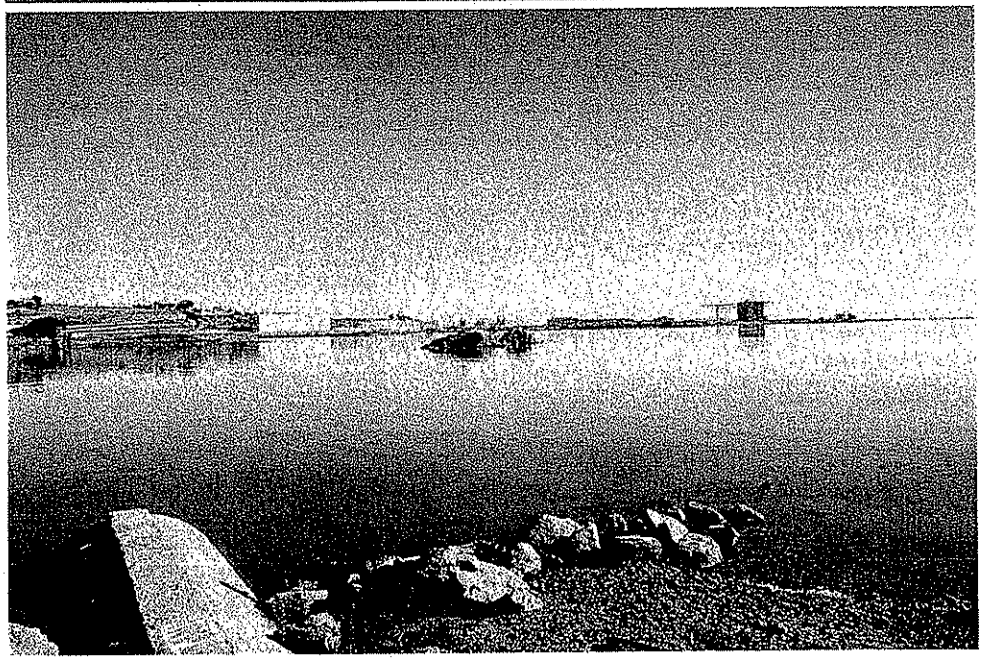

Top: View looking south from a viewpoint planend as part of the Yosemite Slough Restoration, near north side of proposed bridge.
Bottom: View looking northeast from a viewpoint planned as part of the Yosemite Slough Restoration, with Double Rock visible in background.

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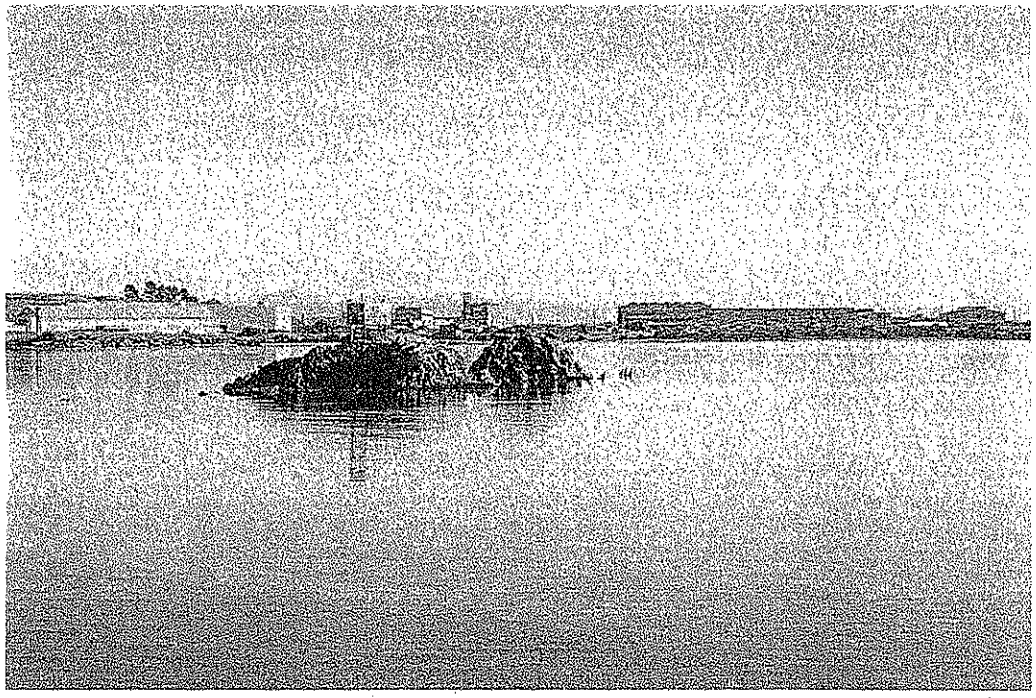

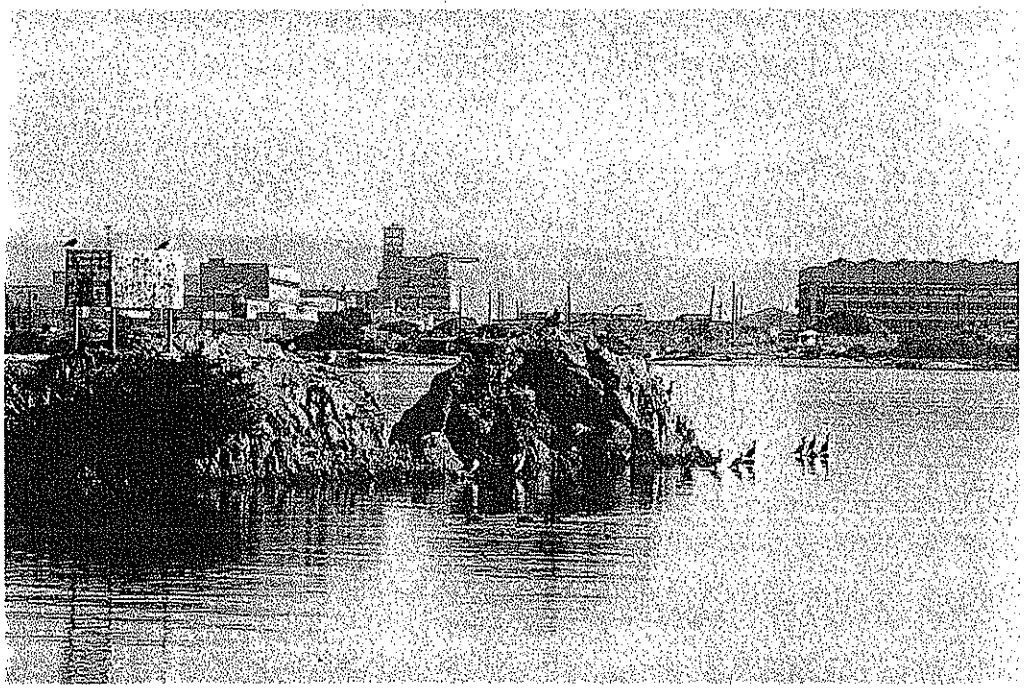

Top: View of Double Rock from planned Yosemite Slough viewpoint near existing parks facility, west of the proposed bridge.
Bottom: Wildlife Viewing at Double Rock from Yosemite Slough planned viewpoint near existing Park Facility. The Proposed Bridge would directly block this viewpoint.

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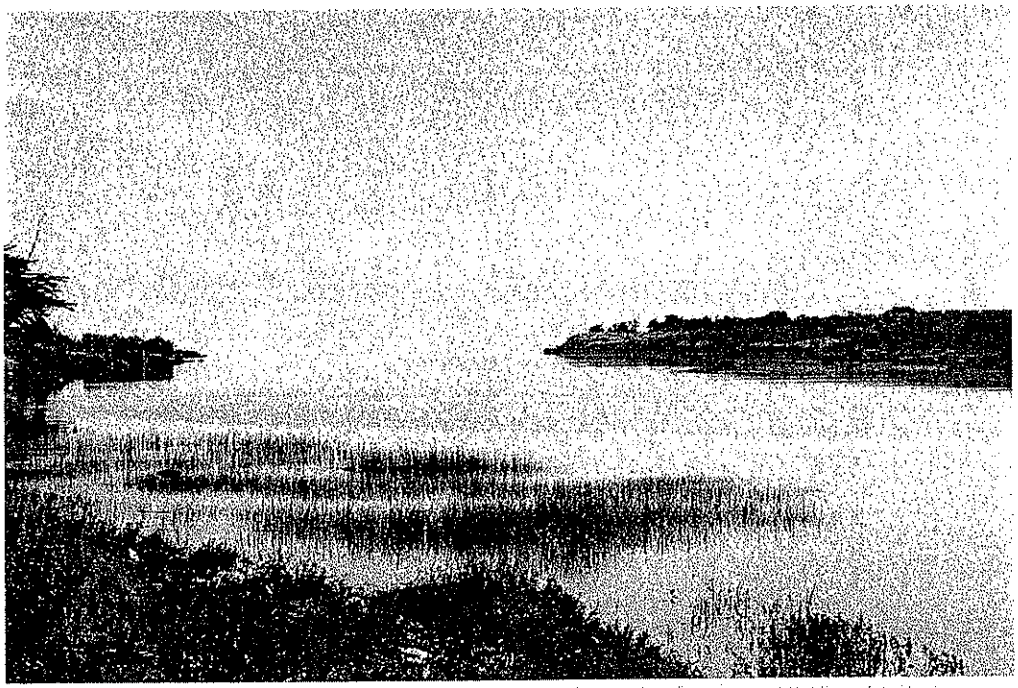

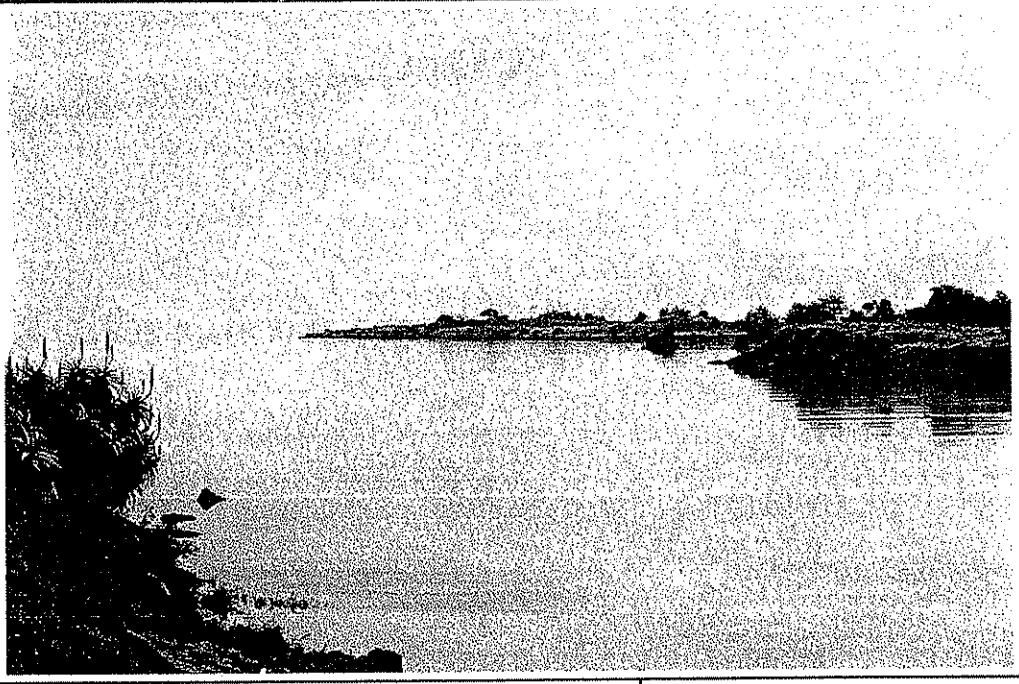

Top: View looking east from Yosemite Slough planned viewpoint near Van Dyke Ave..
Bottom: View looking west from Yosemite Slough planned viewpoint near end of Griffith St. The proposed bridge would block both of these viewpoints.

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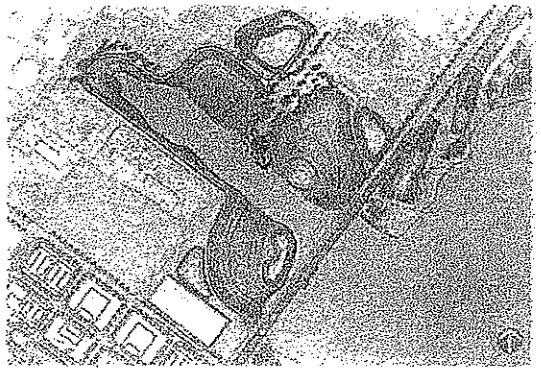

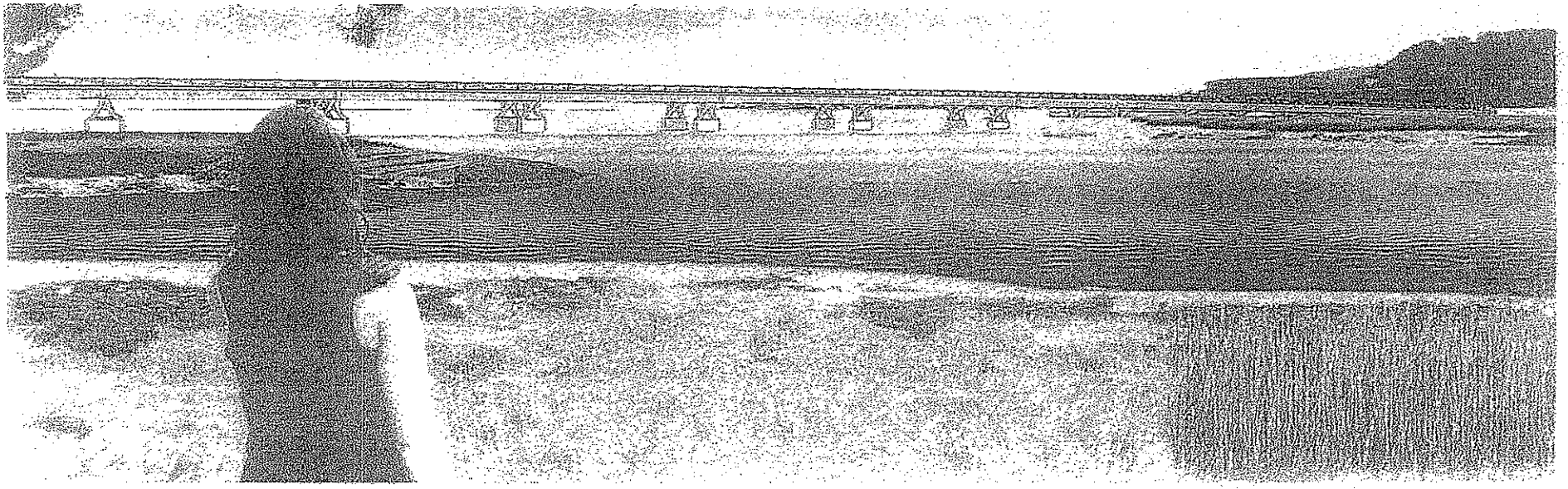

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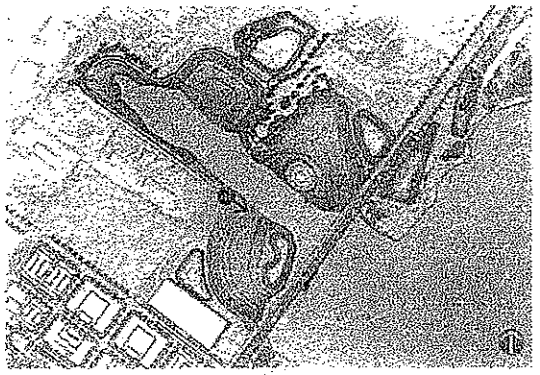
LENNAR

YOSEMITE SLOUGH BRIDGE: Panoramic view from northside plaza

January 26, 2009

RHAA





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YOSEMITE SLOUGH BRIDGE: Panoramic view from southside bay trail

January 28, 2009

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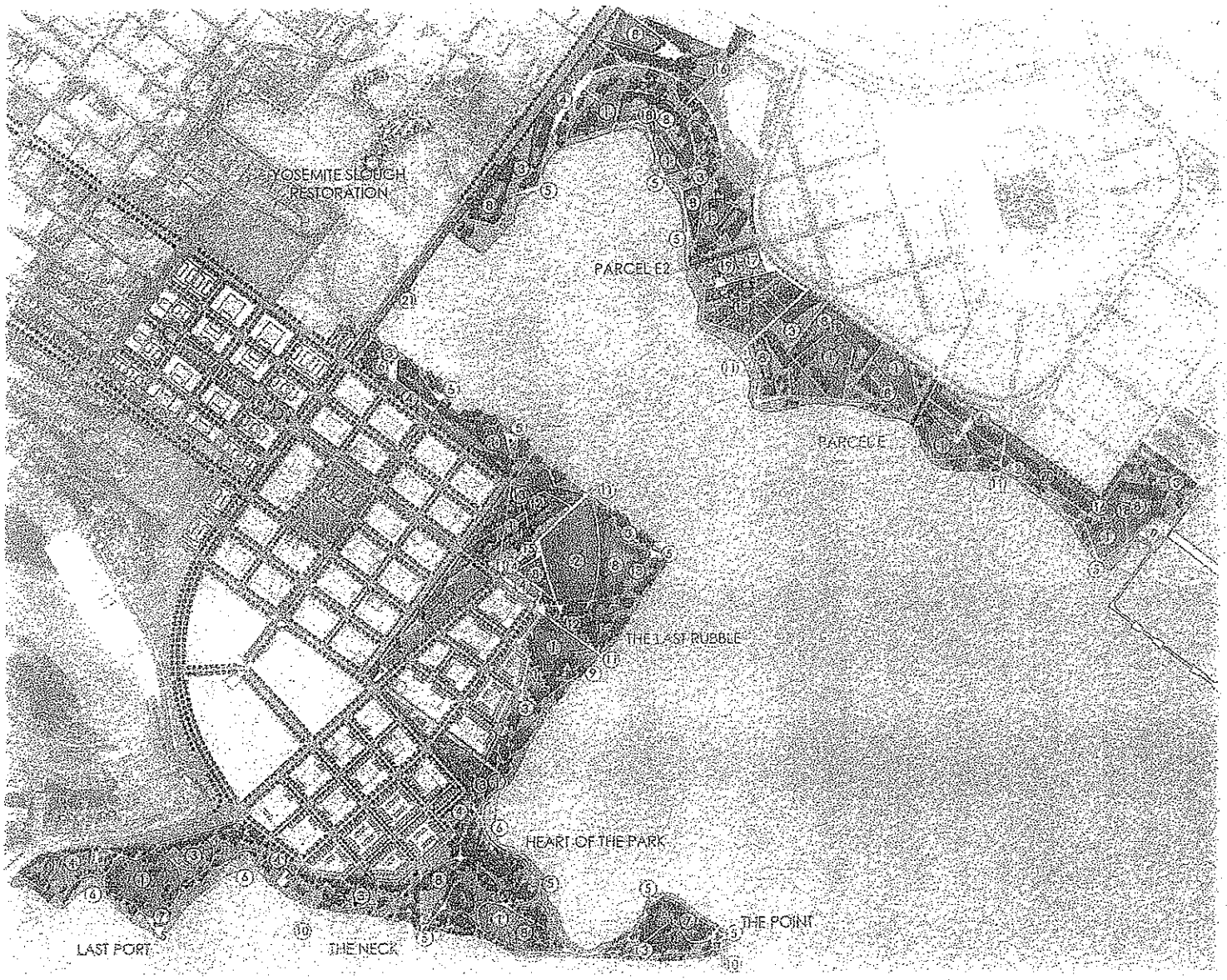
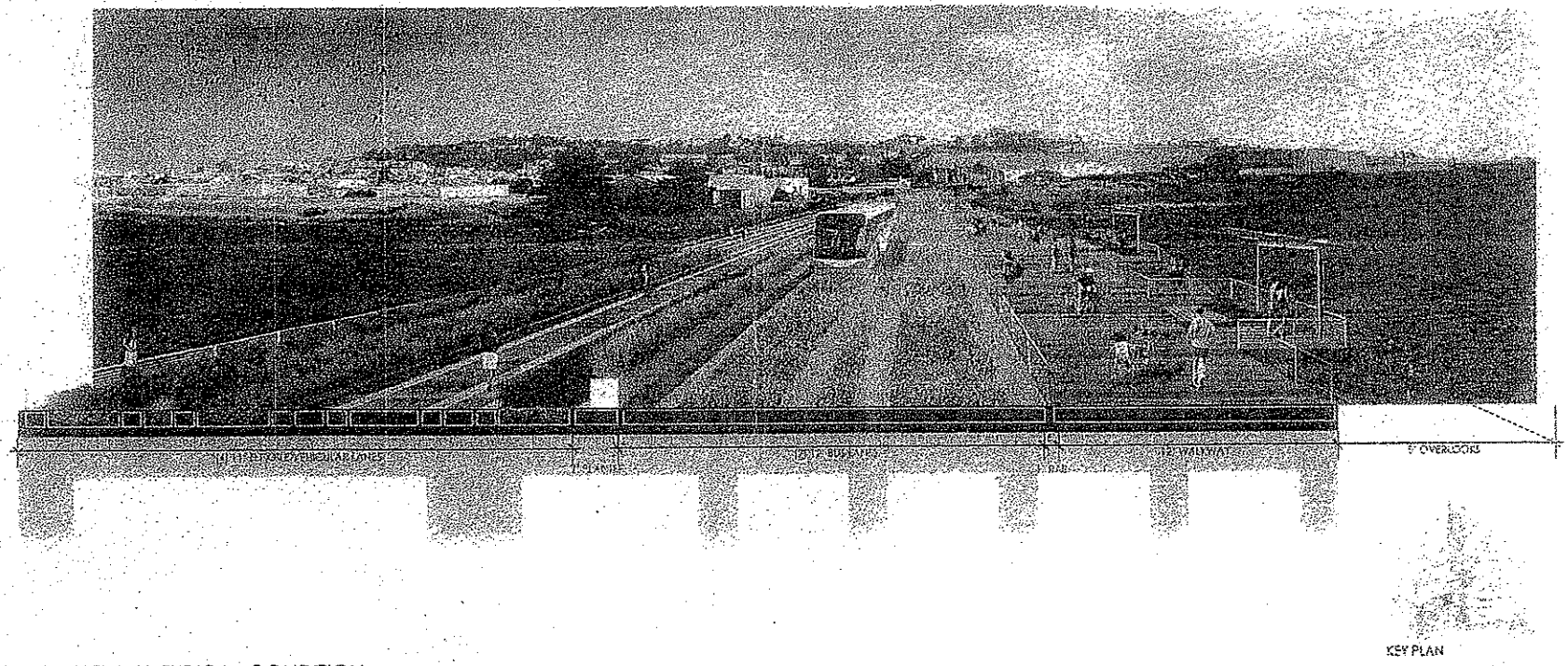


KEY

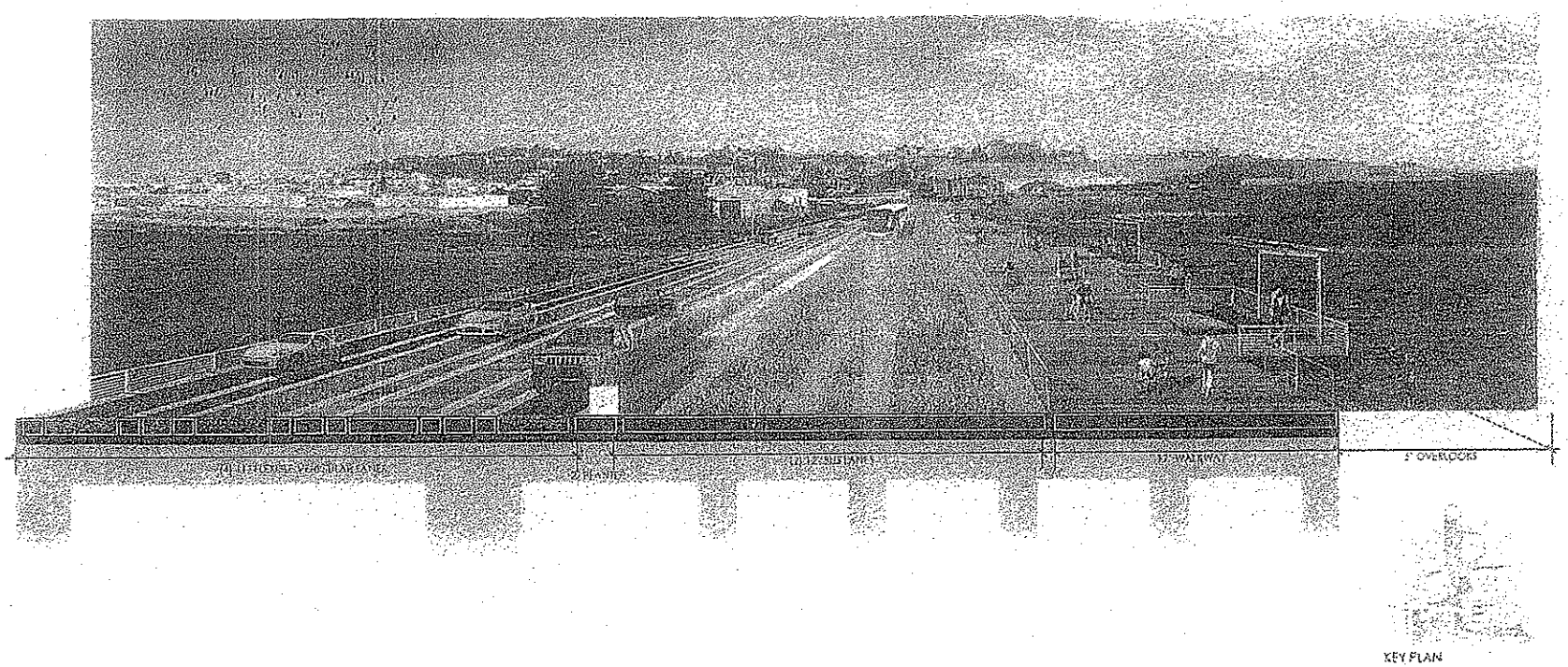
1. OPEN PICNIC LAWN
2. GREAT KITE LAWN
3. NATIVE GRASSLANDS
4. PARKING
5. OVERLOOK TERRACE
6. BEACH/KAYAK AND WINDSURF LAUNCH
7. VIEWING TOWER
8. VIEWING WINDBREAK MOUND
9. "GET DOWNS"
10. FISHING PIER
11. VIEWING PIER
12. BIO-FILTRATION POND
13. NATIVE ECO GARDENS
14. RANGER STATION
15. RESTAURANT/CAFE
16. INTERPRETIVE PLAY
17. INTERPRETIVE MEADOW
18. AMPHITHEATER
19. INTERPRETIVE CENTER
20. SHADED PROMENADE
21. CAUSEWAY

LEGEND

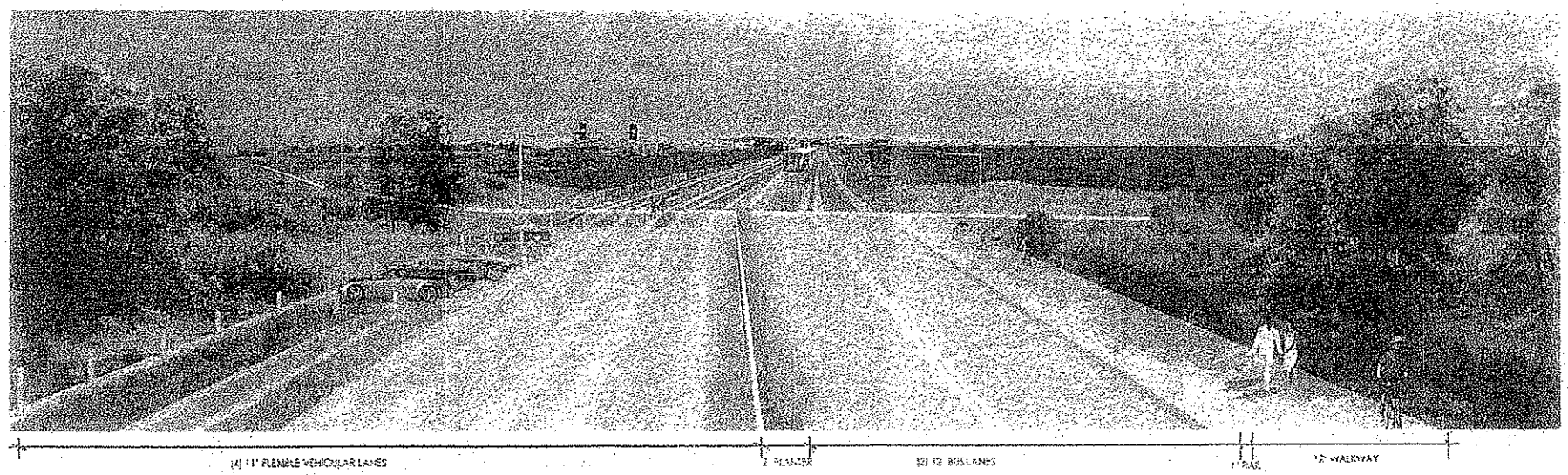
- PICNIC "POD" AND SHELTERS
- RESTROOM



YOSEMITE SLOUGH CAUSEWAY- TYPICAL CONDITION



YOSEMITE SLOUGH CAUSEWAY- GAME DAY



YOSEMITE SLOUGH CAUSEWAY

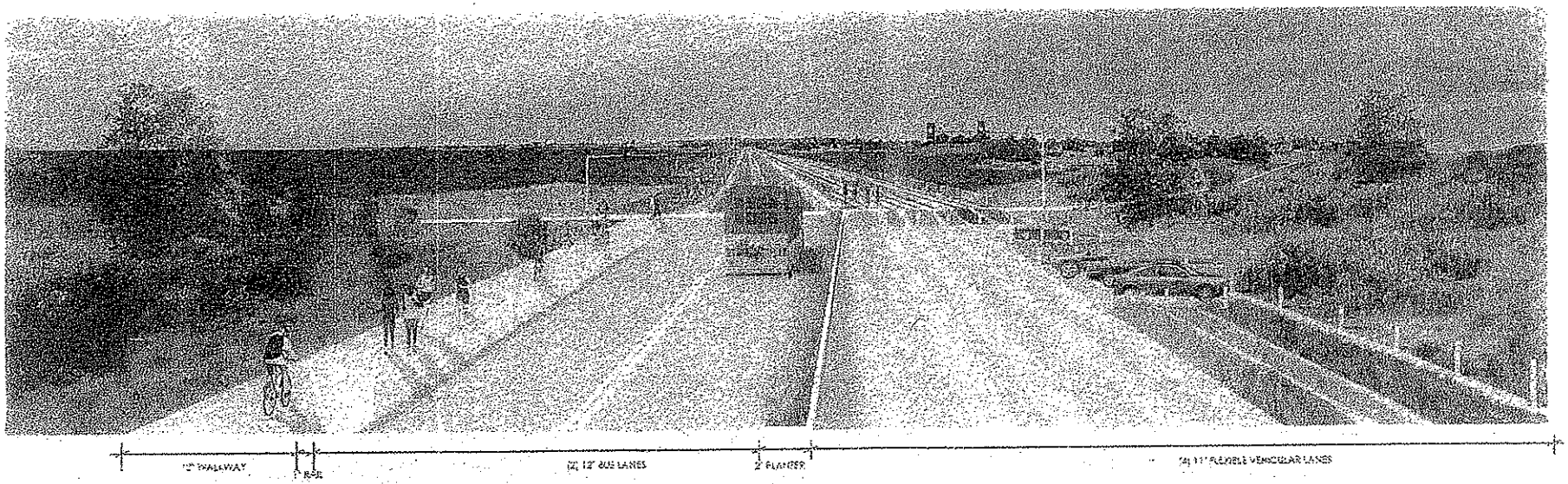

KEY PLAN





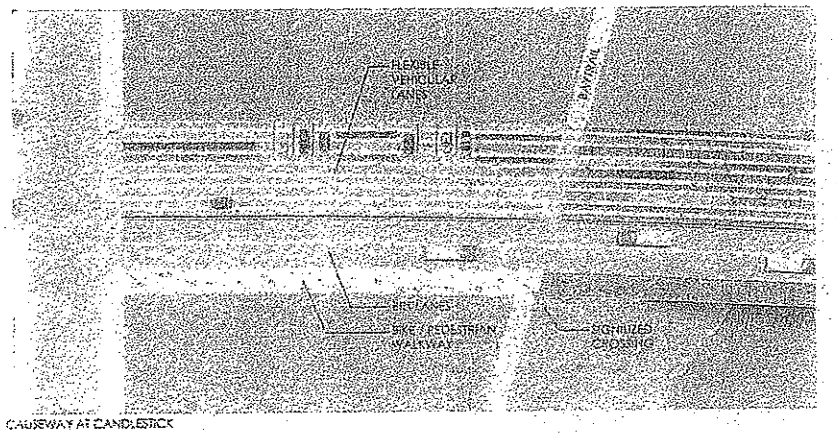
KEY PLAN

YOSEMITE CAUSEWAY- AT YOSEMITE SLOUGH

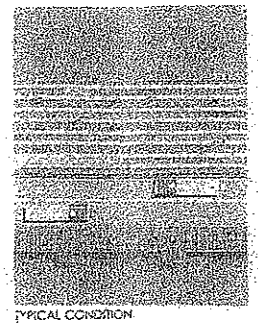




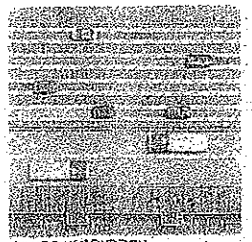
YOSEMITE SLOUGH CAUSEWAY



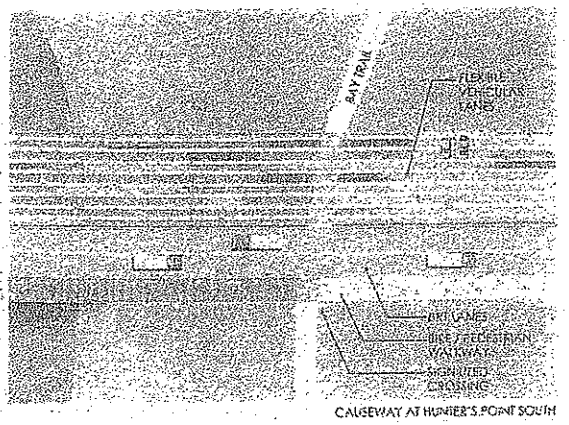
CAUSEWAY AT CANDLESTICK



TYPICAL CONDITION



GAME DAY CONDITION

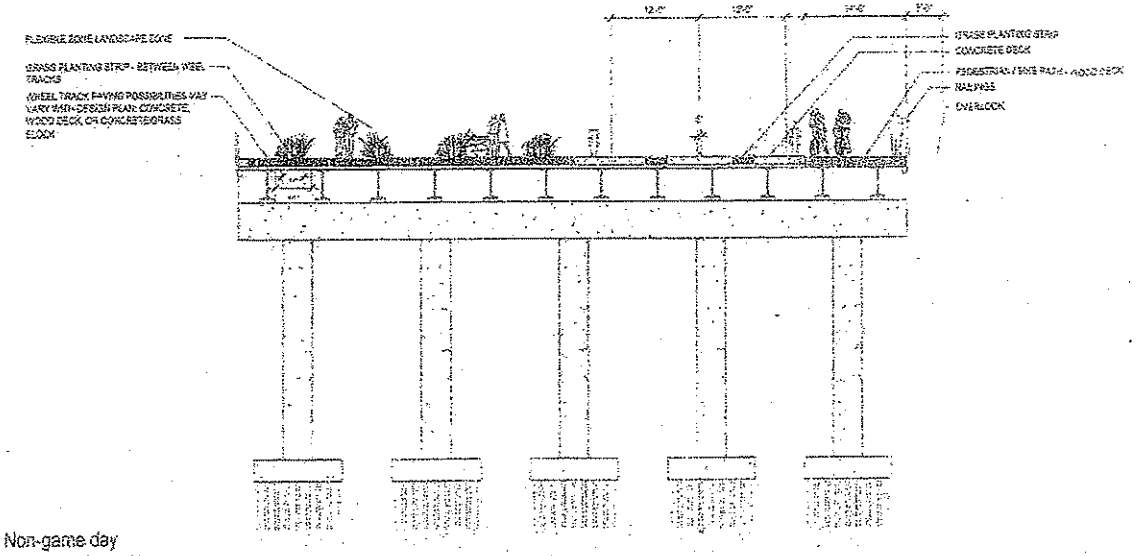


CAUSEWAY AT HUNTER'S POINT SOUTH

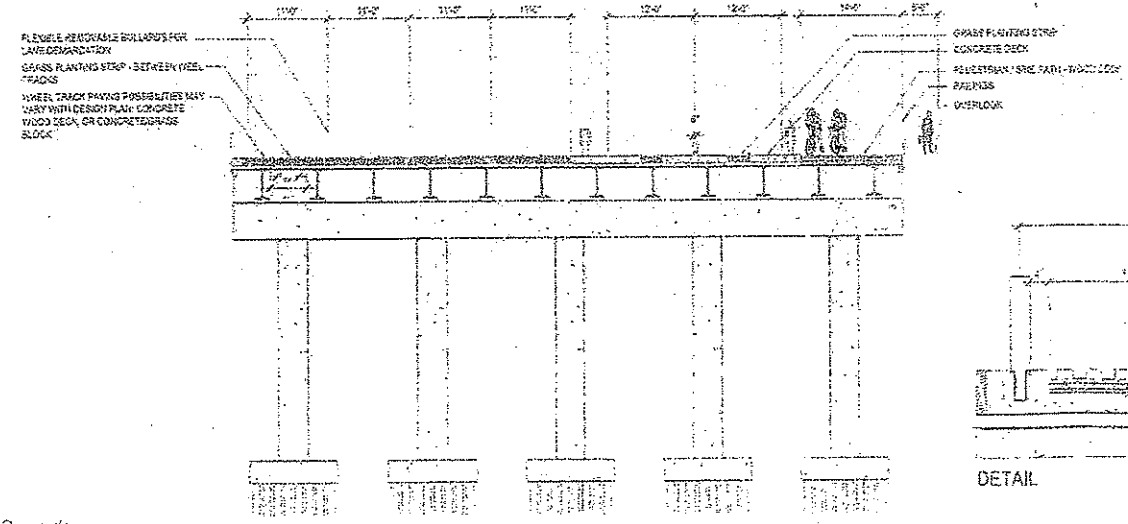


KEY PLAN

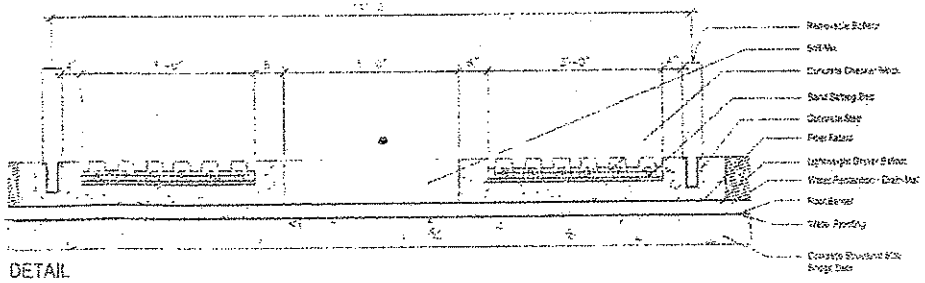
YOSEMITE SLOUGH CAUSEWAY



Non-game day
scale 1/16" = 1'-0"



Game day
scale 1/16" = 1'-0"



DETAIL

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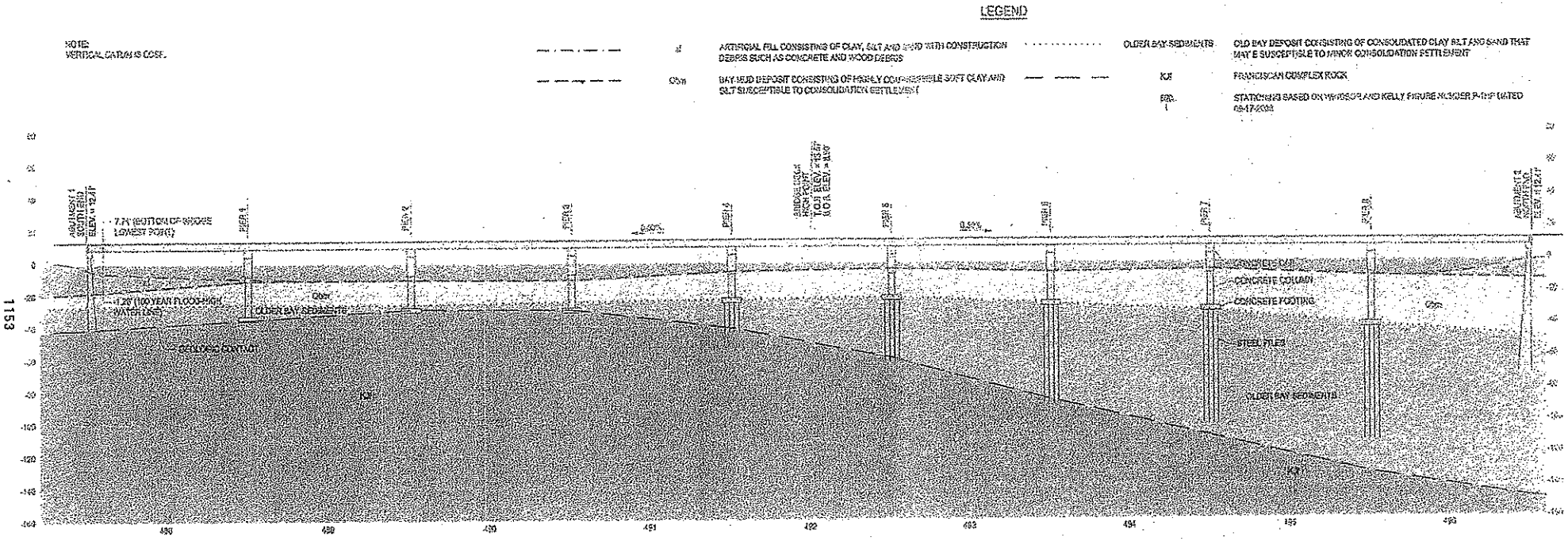
Candlestick Point
Hunters Point Shipyard

Yosemite Slough Bridge Concept Sections

01/06/2006-DRAFT



Note:
Clearance at lowest point of the bridge is 9' from the 100 year flood high water line. This 9' accounts for 3'-0" for global warming and 2'-0" debris clearance, with an additional 4' of clearance.

YOSEMITE SLOUGH BRIDGE PROFILE - PRELIMINARY DRAFT
Source: MACTEC, December 2008

California State Parks Foundation

Hunters Point Shipyard Phase II Development Plan Project; SCH #2007082168

EXHIBIT B

Tom Brohard, P.E.

Tom Brohard and Associates

January 7, 2010

Mr. James Birkelund
Law Offices of James Birkelund
840 California St., Suite 45
San Francisco, CA 94108

SUBJECT: Review of the Draft Environmental Impact Report (Draft EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan in the City of San Francisco – Yosemite Slough Bridge Traffic Issues

Dear Mr. Birkelund:

Tom Brohard, P.E., has reviewed various portions of the November 2009 Draft Environmental Impact Report (Draft EIR) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan in the City of San Francisco. Other documents including Appendix D, the November 2009 Hunters Point Shipyard Development Plan Transportation Study as well as various appendices to the Transportation Study, have also been reviewed. My review of these documents has focused on the transportation analysis of the seven-lane Yosemite Slough Bridge that has been proposed as part of the Project

The analysis presented in Chapter VI of the Draft EIR for "No Bridge" (Alternative 2) concludes the seven lanes and various transportation modes proposed on the Yosemite Slough Bridge can be provided elsewhere with no additional impacts. While I generally concur, construction of the bridge creates a number of other issues. As examples, opening the four reversible auto lanes on only 49ers game days will be difficult to continue to restrict during other sell-out secondary events at the stadium and at the arena. Once opened for traffic access to the stadium and the arena, it will not be possible to keep the four lanes closed at all other times as traffic and transit conditions continue to deteriorate in the area with construction and occupancy of the Proposed Project.

The Draft EIR contains serious flaws and fails to consider all reasonable and viable alternatives. The Yosemite Bridge is not required to accommodate "game day" traffic. Other vehicle access opportunities on surface streets on game days have not been analyzed, and all four of the "game day" lanes may be deleted. No justification is provided to construct the bridge as "rail-ready" to accommodate future light rail service. The Draft EIR fails to analyze a tunnel under Yosemite Slough in lieu of the two bus rapid transit lanes on the bridge. Impacts on bicycle and pedestrian access to the California State Parks with the bridge have not been properly assessed. The issues and concerns in this letter must be carefully considered in a recirculated EIR for the Proposed Project.

81905 Mountain View Lane, La Quinta, California 92253-7611
Phone (760) 398-8885 Fax (760) 398-8897
Email tbrohard@earthlink.net

Mr. James Birkelund
Candlestick Draft EIR – Yosemite Slough Bridge Issues
January 7, 2010

Education and Experience

Since receiving a Bachelor of Science in Engineering from Duke University in Durham, North Carolina in 1969, I have gained over 40 years of professional engineering experience. I am licensed as a Professional Civil Engineer both in California and Hawaii and as a Professional Traffic Engineer in California. I formed Tom Brohard and Associates in 2000 and now serve as the City Traffic Engineer for the City of Indio and as Consulting Transportation Engineer for the City of Big Bear Lake and City of San Fernando. I have extensive experience in traffic engineering and transportation planning. During my career in both the public and private sectors, I have reviewed numerous environmental documents and traffic studies for various projects. Several recent assignments are highlighted in the enclosed resume.

Description of the Proposed Yosemite Slough Bridge

Page II-38 of the Project Description in the Draft EIR describes the proposed 81-foot wide, 900-foot long Yosemite Slough Bridge as having "...two dedicated 11-foot wide BRT lanes and a separate 12-foot wide Class I bicycle and pedestrian facility which would be open at all times. The bridge would also have a 40-foot wide greenway which would be converted to four peak direction auto travel lanes on 49ers game days only. Those four lanes would be open on game days to vehicle traffic in the peak direction of travel. The roadway would be planted with grass and would serve as an open space amenity on all non-game days."

Page III.D-46 of the Transportation and Circulation Section of the Draft EIR provides further information regarding this facility by stating:

- "The Yosemite Slough Bridge would not be used for vehicular traffic at any other time, including secondary events at the new stadium."

- "The Yosemite Slough Bridge is a fundamental component of the proposed BRT service between Hunters Point Shipyard and points to the west including Candlestick Point, the Bayshore Caltrain station, and the Balboa Park BART station. It... is designed to be "rail ready" (not to preclude possible conversion to light-rail)."

- "The bridge sidewalk and Class I bicycle path would provide a direct connection between Candlestick Point and Hunters Point Shipyard for pedestrians and bicyclists at all times, and would reduce the potential conflicts between BRT vehicles and motorists, pedestrians and bicyclists."

- During game days, the 40-foot wide landscaped median would serve as the primary and most direct route between the stadium parking areas and US-101. This would... reduce the duration of post-game congestion."

This project description, as discussed further below, is inadequate as it (i) fails to indicate that the alleged traffic need for the bridge would change if the new 49ers stadium is not built; (ii) omits reasonably foreseeable future uses of the bridge; and (iii) fails to indicate that the bridge might be used for two NFL teams or otherwise change under project variants.

Yosemite Slough Bridge Issues

Based on the information provided in the Draft EIR and the Transportation Study, my review indicates the following traffic issues and areas of concern regarding the proposed Yosemite Slough Bridge component of the Proposed Project:

1) Yosemite Slough Bridge Is Not Necessary to Accommodate Project Traffic

   a) Eleven Exiting Game Day Traffic Lanes Can Be Provided in Other Ways - In addition to the 11 reversible lanes shown on Figure II.D-13, two contra-flow lanes are proposed on surface streets to provide access to the area in the opposite direction during the 2 two-hour periods of peak demand to and from the new stadium. While the contra-flow lanes provide a convenience, they are not required for other purposes such as providing emergency services.

   On 49ers game days, emergency vehicle access in to and out of the area is planned to occur in the two transit lanes on Palou Avenue. Localized police and fire/emergency medical services within the Project are also proposed. According to Page VI-49 of the Draft EIR analysis of "No Bridge" (Alternative 2), additional police facilities would be funded by the applicant and "...the SFPD would maintain acceptable levels of police service... This impact is considered less than significant, similar to the project." According to Page VI-49 of the Draft EIR analysis of "No Bridge" (Alternative 2), additional fire and emergency medical facilities would be funded by the applicant and "...access strategies for game day and non-game day scenarios would be required pursuant to the SFFD's plan review requirements. Therefore, development under Alternative 2 would not require new or physically altered fire protection facilities to maintain acceptable response times. Additionally, compliance with all applicable provisions of the *San Francisco Fire Code* would ensure that this impact is considered less than significant."

   The Draft EIR has not analyzed removal of the two contra-flow lanes for 2 two-hour periods on game days from the Stadium Game Day Traffic Control Plan together with conversion of these two lanes to provide two additional reversible lanes. Eliminating the two contra-flow lanes and using the space for two more reversible lanes would improve the exiting time significantly over conditions at the existing stadium and would achieve 50

percent of the parking lot exiting time reduction from the proposed traffic control plan.

Other opportunities also exist to provide additional lanes on surface streets. While most of the 10 AM to 6 PM game day parking prohibitions in the vicinity of Candlestick Park shown in Table 24 on Page 92 of the Transportation Study would be eliminated, restrictions should continue on Carroll Avenue, Gilman Avenue, and Ingerson Avenue between 3rd Street and Ingalls Street as well as on the north side of Paul Avenue from San Bruno Avenue to 3rd Street. To ease the impact on the adjacent properties, only restrictions on the north side of these streets would be needed to facilitate game day exiting conditions, and the hours could be reduced to only 3 PM to 6 PM on game days. It may also be possible to add a directional 49ers game day lane on Carroll Avenue and other portions of the route that will be improved to a "Modified" four-lane roadway as shown in Figure II-16 on Page II-51 of the Draft EIR. Additionally, there could certainly be similar opportunities on other streets that the Draft EIR has not evaluated or analyzed.

When discussing the elimination of all four reversible lanes on the Yosemite Slough Bridge, Page 342 of the Transportation Study concludes that "... the lower exit capacity would likely render the proposed new stadium site infeasible as a desirable option for an NFL football team." No evidence is presented to support this broad statement.

It appears feasible to provide at least nine of the 11 proposed reversible lanes, and there are other opportunities to spread exiting traffic to other streets. At the same time, the impacts that the adjacent properties have experienced with the existing stadium can be significantly reduced by prohibiting parking only from 3 PM to 6 PM rather than from 10 AM to 6 PM. The Draft EIR must evaluate the viable alternatives presented above before concluding that 11 reversible lanes are required for egress from the stadium.

b) Eleven Game Day Traffic Lanes Are Not Necessary - Figure III.D-13 of the Draft EIR provides an illustration of the Stadium Game Day Traffic Control Plan. As shown on this plan and as described in the Draft EIR, 11 reversible lanes for vehicles are proposed to access the stadium, with these lanes operating inbound for about two hours before the game begins and then operating outbound for about two hours after the game ends.

In describing Pre-Game Conditions, Page II.D-22 of the Draft EIR states that "For a typical Sunday football game starting at 1:00 PM, vehicle arrival is spread over about six hours with approximately 40 percent of the

vehicles arriving between one and two hours prior to the game start time, and 60 percent within the other five hours prior to the game. Since the arrival is spread out over a period of time, the game-related traffic does not substantially affect traffic flow... some localized congestion... The vehicles accessing the stadium from Third Street contribute to congestion and queues on the local residential streets..."

While conditions are analyzed after 4 PM following the end of a 49ers game, the Draft EIR does not analyze conditions before the 49ers game starts at 1 PM. The Draft EIR recommends 11 reversible game day vehicle lanes operating inbound to the stadium for two hours before the game begins. Without analysis supporting this recommendation, operating 11 reversible lanes inbound to the stadium for two hours before 1 PM on 49ers game days does not appear to be justified.

Page 331 of the Transportation Study states that "One result of providing additional egress routes for the proposed new stadium is that traffic congestion is expected to clear the area quicker." Table 94 on Page 332 indicates the existing stadium has a clearance capacity of 7,700 vehicles per hour. The table assumes the new stadium would have a clearance capacity of 11,000 vehicles per hour with a new US101 Interchange at Geneva Avenue/Harney Way. The new stadium's clearance capacity would only be constrained by the parking lot exit gates. Table 94 provides clearance times for the existing and new stadiums, with clearance times under various attendance and departure scenarios reduced by about 40 percent.

While the parking lots will clear quicker at the new stadium, traffic congestion at intersections and freeways in the area will continue long after the parking lots clear. The lower exiting capacity at the existing stadium tends to meter traffic exiting the facility. Even with this metering effect at the existing stadium, congestion continues long after the event has ended, particularly on the US101 Freeway to the north as noted on Page III.D-23 of the Draft EIR. Unless the freeway is widened (and that is not planned), traffic leaving the stadium will experience about the same overall travel times to reach their destination when an additional 3,300 vehicles per hour are released and try to access facilities already operating at LOS "F" as shown in the Draft EIR.

2) Reasonably Foreseeable Future Conditions Include Opening the Yosemite Bridge to Private Automobiles Year Round

   a) Secondary Events Will Create Intense Pressure to Open Bridge to Vehicles - While the Draft EIR proposes to open the four vehicle lanes across the bridge only to expedite traffic to and from up to 12 49ers

football games during the year, Page III.D-61 states "It is anticipated that other types of events, such as soccer games or concerts, may also be scheduled at the stadium. A typical secondary event at the new stadium could occur at any time of day and on any day of the week, with an expected crowd ranging from 15,000 (e.g., monster truck rally) to sell-out conditions. For purposes of the transportation analysis, an event with 37,500 spectators was analyzed, which reflects events such as a Metallica concert... Secondary events would be limited to 20 total occurrences per year."

For a sell-out secondary event at 7 PM on a weekday, the Draft EIR assumes there would be a small percentage of private charter busses and that most of the 25% transit mode share would be accommodated by Muni with its regularly scheduled service. According to the Draft EIR, this leaves nearly 4,700 private vehicles attempting to reach the stadium between 5 PM and 6 PM during the peak of the normal weekday afternoon commute hour.

Page III.D-145 of the Draft EIR indicates the one-way transit demand in the weekday PM peak hour when a special event is being held at the stadium could be up to 5,725 riders. At the same time, the one-way transit capacity serving the stadium site would be only 3,100 passengers per hour, leaving 2,625 riders that would not be accommodated. While MM TR-47 requires an increase in transit frequency to the maximum with five-minute headways, only an additional 828 passengers to the stadium can be carried, leaving a shortfall of almost 1,800 passengers in the weekday PM peak hour. From the bus loading data on Page III.D-66 of the Draft EIR, on the order of 40 50-passenger busses would be needed during the weekday PM peak hour to accommodate the shortfall. Page III.D-145 indicates that "Generally, the capacity of the express service should compensate for the shortfall..."

Traffic impacts caused by the additional 4,700 vehicles trying to reach the stadium between 5 PM and 6 PM during the peak of the normal weekday afternoon commute will be significant. According to Page III.D-142 of the Draft EIR, special event traffic will add trips to three freeway segments and two off-ramps already operating at LOS "E" or "F" and will cause one additional off-ramp to operate at LOS "F". Special event traffic will also add trips to eleven intersections already operating at LOS "E" or "F" and will cause nine more intersections to operate at LOS "E" or "F".

MM TR-47 requires implementation of a stadium transportation systems plan similar to that developed for game-day operations, and restates that "the Yosemite Slough Bridge shall not be available for private automobiles." However, with special events during the weekday PM peak

hour causing grid-locked vehicle traffic together with inadequate transit capacity as an alternative to driving, it is reasonably foreseeable that there will be significant pressure to open the traffic lanes on the Yosemite Slough Bridge before and after many of the 20 annual special events.

b) Arena Events Will Create Further Pressure to Open Bridge to Vehicles - Once exceptions are made for opening the traffic lanes on the bridge to facilitate traffic for many of the special events at the stadium, other interests will call for opening the lanes for other causes such as events at the proposed arena.

According to Page III.D-147 of the Draft EIR, one-half of the vehicle trips generated by a weekday evening sell-out event at the 10,000 seat arena would arrive between 5 PM and 6 PM during the peak of the normal weekday afternoon commute hour. These additional 1,333 vehicles will add arena trips to three freeway segments and one off-ramp already operating at LOS "E" or "F". Arena traffic will also add trips to eleven intersections already operating at LOS "E" or "F" and will cause one more intersection to operate at LOS "F".

MM TR-51 requires implementation of an arena transportation systems plan. With arena events causing additional significant traffic impacts during the weekday PM peak hour, it is reasonably foreseeable that there will be further pressure to open the traffic lanes on the Yosemite Slough Bridge before and after many of the arena events.

c) Project Traffic Will Create Additional Pressure to Open Bridge to Vehicles - Once exceptions are made for opening the traffic lanes on the bridge to facilitate traffic for special events at the stadium and events at the arena, the public will call for opening the lanes on the bridge at all times.

According to Page III.D-72 in the Draft EIR, the Proposed Project will cause 39 of the 60 intersections studied to operate at unacceptable levels during at least one of the peak traffic hours studied. No feasible mitigation measures have been identified in the Draft EIR for nine of the ten intersections where specific project-related impacts are forecast to occur. Page III.D-83 of the Draft EIR indicates no feasible mitigation measures have been identified for 16 of the 20 intersections where specific project-related cumulative impacts are forecast. The streets in the area will experience severe congestion.

With so many intersections in the project area forecast to operate at grid-locked conditions during peak hours together with the lack of feasible mitigation measures at nearly half of the impacted study intersections, it is

reasonably foreseeable that there will be additional pressure from the public to open the traffic lanes on the Yosemite Slough Bridge at all times.

The Draft EIR, moreover, lacks any enforceable mechanisms for ensuring the bridge is not opened for use by private automobiles at all times.

3) No Justification Is Provided for Constructing the Bridge to be "Rail Ready" – Page III.D-46 of the Draft EIR states that the two BRT lanes on the Yosemite Slough Bridge are "...designed to be 'rail ready' (not to preclude possible conversion to light-rail)."

The Draft EIR fails to provide any evidence that conversion of the BRT lanes to light-rail will be needed in the future. According to Table 16-20 on Page 756 of the Transportation Planning Handbook published by the Institute of Transportation Engineers, BRT has a vehicle capacity of 120 persons in seats plus standees. With 60 seconds headway between vehicles, a total of 7,200 persons in both directions can be accommodated each hour. With light rail running with 40 seconds headway between vehicles, 14,400 persons in both directions can be accommodated each hour if two vehicles per train unit are used, and 21,600 persons in both directions can be accommodated each hour if three vehicles per train unit are used.

Page 288 of the Transportation Study states: "If the Yosemite Slough Bridge were not in place, only one transit route (the 28L-19th Avenue/Geneva BRT route) would be affected." Under game-day conditions, Table III.D-24 on Page III.D-134 of the Draft EIR indicates the BRT lanes carrying transit line 28L across the Yosemite Slough Bridge will carry only 800 passengers in the peak hour per direction before and after the 49ers football games. From Footnote a) to Table III.D-24, the Sunday peak hour capacity is 75 percent of the weekday peak hour capacity, and the weekday peak hour capacity in the peak direction would be about 1,100 passengers. With this, only one-third of the theoretical BRT directional capacity of 3,600 passengers in the peak direction will be utilized in 2030 with full development of the area including the stadium. With parallel rail service nearby provided by Caltrain and Bart, conversion of the BRT lanes to light rail across the Yosemite Slough Bridge will not be needed.

Certainly, the structural support for future light rail carried by the bridge will need to be greatly enhanced in comparison to providing a bridge designed to carry only the BRT lanes. As such, more structural members and their bulk that are designed for light rail create additional aesthetic impacts as well as significant unnecessary cost for the Yosemite Slough Bridge.

4) The Bridge is Not Necessary for the BRT System - Alternatives to BRT Lanes on the Bridge have not been fully analyzed. In discussing Alternative 2 (No

Bridge), Page 288 of the Transportation Study states: "Although the alternate route around Yosemite Slough would be technically feasible, it would not be the optimal configuration for a BRT system... BRT travel times, particularly between major development and the regional transit connections (e.g., Caltrain and BART) would increase by approximately five minutes. As a result, BRT ridership to and from the Hunters Point Shipyard would decrease by approximately 15 percent to the forecasts presented for the Project. However, because this represents a relatively small portion of the overall transit ridership, the additional traffic generated by the Project Alternative 2 would be minimal... As with the Project, Alternative 2 impacts on transit capacity would be *less than significant.*"

In lieu of BRT lanes on the Yosemite Slough Bridge (and assuming the other proposed lanes on the bridge can be adequately accommodated elsewhere as indicated throughout this letter), the Draft EIR fails to consider or analyze the use of a tunnel for the two BRT lanes under Yosemite Slough. Policy 2 of the San Francisco Bay Plan states "If any additional bridge is proposed across the Bay, adequate research and testing should determine whether feasible alternative route, transportation mode or other operational improvement could overcome the particular congestion problem without placing an additional route in the Bay and, if not, whether a tunnel beneath the Bay is a feasible alternative." The Draft EIR is flawed as it fails to analyze a tunnel as an alternative to BRT lanes on the bridge deck.

5) Bicycle/Pedestrian Lane on Bridge Duplicates Bay Trail Facility – Page III.D-19 of the Draft EIR states: "The San Francisco Bay Trail is designed to create recreational pathway links to the various commercial, industrial, and residential neighborhoods that surround San Francisco Bay." Figure III.D-10 on Page III.D-51 of the Draft EIR, Project Bicycle Network and Bay Trail Improvements, shows a proposed Class I multi-use path across the bridge as part of the Project as well as the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough. Figure III.D-11 on Page III.D-53 of the Draft EIR, Project Pedestrian Circulation Plan, shows a proposed pedestrian multi-use path across the bridge as part of the Project as well as pedestrian facilities on the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough.

The San Francisco Bay Trail is intended to provide recreational opportunities rather than to be a facility designed to accommodate bicycle commuters. While providing an amenity on the Yosemite Slough Bridge with turnouts for viewing, the need to accommodate bicyclists and pedestrians is well served by the planned California State Parks Bay Trail Yosemite Slough Project that is planned around the perimeter of the slough.

As concluded on Page VI-34 of the Draft EIR in the discussion of the "No Bridge" alternative, "The Alternative 2 bicycle trips would be accommodated within the proposed street and network... impacts on bicycle circulation would be less than significant." As concluded on Page VI-35 of the Draft EIR in the discussion of the "No Bridge" alternative, "The Alternative 2 pedestrian trips would be accommodated within the proposed sidewalk and pedestrian network... impacts on pedestrian circulation would be less than significant."

6) Joint Use Bicycle/Pedestrian Lane on Bridge Violates Caltrans Guidelines – Page 1000-4 of the Highway Design Manual published by the California Department of Transportation (Caltrans) states "Class I bikeways (bike paths) are facilities with exclusive right of way, with cross flows by motorists minimized. Section 890.4 of the Streets and Highways Code describes Class I bikeways as serving 'the exclusive use of bicycles and pedestrians'. However, experience has shown that if significant pedestrian use is anticipated, separate facilities for pedestrians are necessary to minimize conflicts. Dual use by pedestrians and bicycles is undesirable, and the two should be separated wherever possible."

   The multi-use path across the bridge is proposed to be 12 feet wide, barely enough for a minimum 8-foot wide two-way bicycle facility and a minimum 4-foot wide area for pedestrians. While the Draft EIR does not quantify the number of bicyclists and pedestrians expected to use the multi-use facility on the bridge, certainly significant pedestrian and bicycle use can be expected on this recreational facility, especially with turnouts for viewing. The Draft EIR fails to address and analyze the conflicts that will occur in the proposed combined facility which has each component designed to barely meet the minimum guidelines for separate bicycle paths and sidewalks.

7) Bicycle/Pedestrian Crossings of Bridge Approaches Have Not Been Analyzed – To reach the proposed California State Parks Bay Trail Yosemite Slough Project around the perimeter of the slough from the Bay Trail, it will be necessary to cross the approaches to the bridge at both ends of this facility. Crossings will involve the BRT lanes at all times and will also include the four reversible auto lanes on 49ers game days. While the BRT crossing could be signalized in a conventional fashion, the crossing of the four reversible auto lanes will be especially challenging, even with traffic signals installed at both ends of the bridge. Traffic signals will also impede the BRT operation as well as the auto traffic in the four reversible lanes.

   Page III.D-137 of the Draft EIR states "...during game days, access to state park facilities for vehicles, bicyclists, and pedestrians would be constrained, and heavy traffic congestion could discourage use of the park. However, access for vehicles, bicyclists, and pedestrians would be maintained." The

conclusion that this condition results in a "less than significant" impact is not supported by evidence in the Draft EIR.

The Draft EIR fails to analyze bicycle and pedestrian crossings from the Bay Trail across the bridge approaches to and from the proposed California State Parks Bay Trail Yosemite Slough Project. There would be no safe way to connect these facilities without either a traffic signal for the at-grade crossings or via a grade separated facility with bicyclists and pedestrians going under the bridge approaches. Without analyzing these conditions, the Draft EIR cannot conclude that the Project has "less than significant" impacts to bicyclists and pedestrians trying to connect between the Bay Trail and the California State Parks Bay Trail, particularly during 49ers game days at the proposed stadium. Only with the elimination of the Yosemite Slough Bridge in Alternative 2 can the Draft EIR conclude that there are "less than significant" impacts to bicyclists and pedestrians for the state park access.

8) Incomplete Analyses of Post Football Game Conditions – With the sole exception of traffic conditions following a 49ers football game, each of the other analyses in the Draft EIR utilizes standard transportation planning methodology to identify the intersection levels of service during the peak hour as well as the locations that will be significantly impacted.

The Draft EIR did use traditional methodology for the analyses of all other scenarios including a secondary event at the new stadium beginning at 7 PM on a weekday as well as a weekday evening event at the proposed arena. After quantifying the additional significant traffic impacts that will occur during these scenarios, the Draft EIR includes identical mitigation as will be used after 49ers football games such as the preparation of a Transportation Management Plan including "...deploying traffic control officers in the Project vicinity to increase efficiency of pre- and post- event traffic..." In each of these cases, the Draft EIR was able to calculate intersection levels of service.

In attempting to justify why the traditional approach was not used for conditions following 49ers games, Page III.D-131 of the Draft EIR states: "...due to the unique circumstances following a football game, including manual and dynamic control of intersections by traffic control officers and complex travel patterns, traditional methods of calculating intersection levels of service are not appropriate. Instead, for post-game conditions, traffic impacts associated with the new stadium are described in terms of the magnitude, duration, and expected locations of congestion."

The Draft EIR fails to explain why it is inappropriate to calculate levels of service and determine significant traffic impacts after 49ers games. By only listing "Locations of Congestion following San Francisco 49ers Football Games" in Table III.D-23 on Page III.D-132, the Draft EIR then fails to

disclose, quantify, analyze, and mitigate the significant traffic impacts that will occur following 49ers football games.

My review disclosed serious flaws and several significant unaddressed traffic issues regarding the Yosemite Slough Bridge, a major component of the Candlestick Point-Hunters Point Shipyard Phase II Development Plan. The various concerns outlined throughout this letter must be carefully considered in a recirculated environmental impact report. If you have questions regarding these comments, please call me at your convenience.

Respectfully submitted,

Tom Brohard and Associates

Tom Brohard

Tom Brohard, PE
Principal

Enclosures





Tom Brohard, PE

Licenses:	1975 / Professional Engineer / California – Civil, No. 24577 1977 / Professional Engineer / California – Traffic, No. 724 2006 / Professional Engineer / Hawaii – Civil, No. 12321
Education:	1969 / BSE / Civil Engineering / Duke University
Experience:	39 Years
Memberships:	1977 / Institute of Transportation Engineers – Fellow, Life 1978 / Orange County Traffic Engineers Council - Chair 1982-1983 1981 / American Public Works Association - Member

Tom is a recognized expert in the field of traffic engineering and transportation planning. His background also includes responsibility for leading and managing the delivery of various contract services to numerous cities in Southern California.

Tom has extensive experience in providing transportation planning and traffic engineering services to public agencies. Since May 2005, he has served as Consulting City Traffic Engineer three days a week to the City of Indio. He also currently provides "on call" Traffic and Transportation Engineer services to the Cities of Big Bear Lake and San Fernando. In addition to conducting traffic engineering investigations for Los Angeles County from 1972 to 1978, he has previously served as City Traffic Engineer in the following communities:

- Bellflower ..... 1997 - 1998
- Bell Gardens ..... 1982 - 1995
- Huntington Beach ..... 1998 - 2004
- Lawndale ..... 1973 - 1978
- Los Alamitos ..... 1981 - 1982
- Oceanside ..... 1981 - 1982
- Paramount ..... 1982 - 1988
- Rancho Palos Verdes ..... 1973 - 1978
- Rolling Hills ..... 1973 - 1978, 1985 - 1993
- Rolling Hills Estates ..... 1973 - 1978, 1984 - 1991
- San Marcos 1981
- Santa Ana ..... 1978 - 1981
- Westlake Village ..... 1983 - 1994

During these assignments, Tom has supervised City staff and directed other consultants including traffic engineers and transportation planners, traffic signal and street lighting personnel, and signing, striping, and marking crews. He has secured over $5 million in grant funding for various improvements. He has managed and directed many traffic and transportation studies and projects. While serving these communities, he has personally conducted investigations of hundreds of citizen requests for various traffic control devices. Tom has also successfully presented numerous engineering reports at City Council, Planning Commission, and Traffic Commission meetings in these and other municipalities.

In his service to the City of Indio since May 2005, Tom has accomplished the following:

- Oversaw preparation and adoption of the Circulation Element Update of the General Plan including development of Year 2035 buildout traffic volumes, revised and simplified arterial roadway cross sections, and reduction in acceptable Level of Service criteria under certain constraints

- Oversaw preparation of plans and provided assistance during construction of a $1.5 million project to install traffic signals and widen three of four ramps at the I-10/Jackson Street Interchange under a Caltrans encroachment permit issued under the Streamlined Permit Process

- Oversaw preparation of traffic impact analyses for Project Study Reports evaluating different alternatives for buildout improvement of the I-10/Monroe Street and the I-10/Golf Center Parkway Interchanges

- Oversaw preparation of plans and provided assistance during construction of 10 new traffic signal installations

- Reviewed and approved temporary traffic control plans as well as for signing and striping for all City and developer funded roadway improvement projects

- Oversaw preparation of a City wide traffic safety study of conditions at all schools

- Prepared over 300 work orders directing City forces to install, modify, and/or remove traffic signs, pavement and curb markings, and roadway striping

- Reviewed and approved traffic impact studies prepared for more than 15 major development projects

Since forming Tom Brohard and Associates in 2000, Tom has reviewed many traffic impact reports and environmental documents for various development projects. He has provided expert witness services and also prepared traffic studies for public agencies and private sector clients. Significant accomplishments during the last eight years include the following:

- Prepared critique of traffic and parking impacts identified in the Initial Study and Traffic Study for the 1960-1998 Market Street Project in the City of San Francisco for Adams Broadwell Joseph & Cardozo (12/2008)

- Prepared critique of traffic and circulation impacts identified in the Supplemental Draft EIR for the US Gypsum Wallboard Plant Project in the Port of Stockton for Lozeau/Drury LLP (11/2008 to 12/2008)

- Prepared critique of traffic and parking impacts identified in the Draft EIR for the Bentley School Major Conditional Use Permit in the City of Oakland for Veneruso & Moncharsh (11/2008 to 12/2008)

- Prepared critique of the traffic impacts identified in the Addendum to the Master EIR and Initial Study for the Lane Field Development Project in the City of San Diego for Adams Broadwell Joseph & Cardozo (12/2007); prepared critique of parking and transit impacts for the Project's Coastal Development Permit Amendment (11/2008)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Delta Shores Project in the City of Sacramento for Adams Broadwell Joseph & Cardozo (10/2008)

- Served as an expert witness regarding work area traffic control during roadway construction at a traffic signal on State Route 111 in the City of Palm Desert for Workman Law Office (9/2008)

- Prepared Data Requests for traffic issues associated with the Application for Certification from the California Energy Commission for the Avenal Energy Power Plant in the City of Avenal for Adams Broadwell Joseph & Cardozo (9/2008)

- Prepared critique of traffic and parking impacts identified in the Initial Study and Traffic Study for the 5050 Mission Street Mixed Use Project in the City of San Francisco for Lozeau/Drury LLP (8/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft EIR for the Altamont Motorsports Park Rezoning Project in the County of Alameda for Mark R. Wolfe & Associates (8/2008)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Fulcrum Property Development Project in the City of West Sacramento for Adams Broadwell Joseph & Cardozo (7/2008 to 8/2008)

- Conducted studies for STOP signs on Plumley Road at two intersections for the City of Cathedral City (5/2008 to 8/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft EIR for the Concord Community Reuse Plan Project in the City of Concord for Lozeau/Drury LLP (6/2008 to 7/2008)

- Prepared critique of the Traffic Impact Study for the Sky Harbor Ranch Project for the Town of Yucca Valley (6/2008 to 7/2008)

- Prepared critique of the traffic impacts identified in the Revised Draft EIR and Traffic Impact Analysis for the Chula Vista Bayfront Master Plan in the City of Chula Vista for Adams Broadwell Joseph & Cardozo (7/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft and Final EIRs for the River Oaks Crossing Specific Plan Project in the City of Oakley for Mark R. Wolfe & Associates (10/2007 to 5/2008)

- Prepared critique of the Traffic Impact Study for the Downtown Revitalization Project (Bisno Development) for the City of Baldwin Park (4/2008 to 5/2008)

- Prepared critiques of traffic and circulation impacts identified in the Draft EIR, Final EIR and various supporting technical studies for the Bakersfield Winco in the City of Bakersfield for Mark R. Wolfe & Associates (4/2007 to 3/2008)

- Prepared critique of traffic and circulation impacts identified in the Draft and Final EIRs and Traffic Study for the Soledad Shopping Center Project in the City of Soledad for Weinberg, Roger & Rosenfeld (3/2008)

- Prepared critique of the traffic impacts identified in the Initial Study for the Columbus Salami Manufacturing Plant Project in the City of Fairfield for Adams Broadwell Joseph & Cardozo (3/2008)

- Prepared critique of traffic and parking impacts identified in the Draft EIR and Traffic Impact Study for the Sherwin Project in the Town of Mammoth Lakes for Shute, Mihaly, & Weinberger (1/2008 to 2/2008)

- Prepared critiques of traffic and parking impacts identified in the Draft EIR and various supporting technical studies for the Solana Beach Train Station Mixed Use Project in the City of Solana Beach for area residents; presented findings to area property owners and to City Council; prepared rebuttal to responses to comments in the Final EIR for the project (6/2006 to 1/2008)

- Provided technical assistance for the Santa Monica Growth Limitation Ballot Initiative to Shute, Mihaly, & Weinberger (1/2008)

- Prepared critique of the traffic impacts identified in the Initial Study for the United Spiral Pipe Manufacturing Plant Project in the City of Pittsburg for Adams Broadwell Joseph & Cardozo (10/2007 to 11/2007)

- Prepared critique of traffic and parking impacts identified in the Traffic Impact Study for the Initial Study for the Wilshire Parkview Hotel and Residences Project in the City of Los Angeles for Shute, Mihaly, & Weinberger (8/2007 to 9/2007)

- Prepared critique of the traffic impacts identified in the Initial Study with Proposed Mitigated Negative Declaration prepared by Caltrans for the widening of State Route 74, Lower Ortega Highway, in the City of San Juan Capistrano for Shute, Mihaly, & Weinberger (8/2007)

- Prepared critique of traffic and parking impacts identified in the Traffic Impact Analysis for the Providence Medical Center Expansion Project in the City of Los Angeles for Weinberg, Roger & Rosenfeld (11/2006 to 8/2007)

- Prepared critique of the traffic impacts identified in the Draft and Final EIRs for the Rockville Trails Estates Project in Solano County for Shute, Mihaly, & Weinberger (7/2007)

- Prepared critique of traffic and parking impacts identified in the Draft EIR for the La Bahia Hotel Expansion in the City of Santa Cruz for Mark R. Wolfe & Associates (6/2007 to 7/2007)

- Prepared preliminary critique of the traffic impacts identified in the Draft EIR for the Delano Marketplace Project in the City of Delano for Mark R. Wolfe & Associates; prepared rebuttal to responses in Final EIR (5/2006 to 7/2007)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Live Oak Master Plan Project in the City of Hanford for Adams Broadwell Joseph & Cardozo (5/2007)

- Prepared critique of the traffic impacts identified in the Draft EIR and the supporting traffic study for the La Floresta Development Project in the City of Brea for the City of Yorba Linda (1/2007 to 4/2007)

- Prepared critique of the traffic impacts identified in the Addendum to the Program EIR and Transportation Analysis for the Davidon Homes Project in the City of Antioch for Adams Broadwell Joseph & Cardozo (1/2007)

- Prepared critique of the traffic and circulation impacts identified in the Monterey County 2006 General Plan Final EIR for Mark R. Wolfe & Associates (12/2006)

- Provided expert witness evaluation of traffic and circulation impacts identified in the EIS, Traffic Impact Report, and Updates for the Turtle Bay Resort Expansion Project on the North Shore of Oahu for Alston Hunt Floyd & Ing (9/2006 to 11/2006)

- Prepared trip generation study for a bank and separate drive through bank facility in Century City in the City of Los Angeles for Tract No. 7260 Association (11/2006)

- Prepared preliminary critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Rio Vista Riverwalk Project in the City of Rio Vista for Adams Broadwell Joseph & Cardozo (11/2006)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Analysis for the Chula Vista Bayfront Master Plan (Gaylord Resort Project) in the City of Chula Vista for Adams Broadwell Joseph & Cardozo (10/2006 to 11/2006)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Impact Study for the Antioch Wal-Mart Expansion Project in the City of Antioch for Mark R. Wolfe & Associates (6/2006 to 8/2006); prepared rebuttal to responses to comments in the Final EIR (9/2006 to 10/2006)

- Prepared critique of the traffic and circulation impacts identified in the Revised Partial Draft EIR and the Traffic Study for the Gregory Canyon Landfill Project in San Diego County (7/2006 to 8/2006)

- Prepared critique of the traffic and circulation impacts identified in the Conditional Use Permit Application for Altamont Motorsports Park in Alameda County for Mark R. Wolfe & Associates (6/2006)

- Prepared response to Initial Study/Notice of Preparation of a Draft EIR for 483 condominiums proposed in three high rise towers in Century City in the City of Los Angeles for Tract No. 7260 Association (6/2005); prepared critique of the Draft EIR for the 10131 Constellation Boulevard Project proposed by JMB (12/2005 to 1/2006); reviewed responses to comments in the Final EIR (5/2006)

- Conducted study which developed traffic engineering measures as well as potential enforcement and legislative actions to deter excessive speeding on Stunt Road adjacent to Calabasas in Los Angeles County for area residents (9/2005 to 4/2006)

- Prepared critique of the Draft EIR and Traffic Impact Analysis for the Rancho Santa Fe Elementary School Project in San Diego County for Coast Law Group (9/2005); prepared rebuttal to responses to comments in the Final EIR (2/2006 to 3/2006)

- Prepared critique of the traffic, circulation, and parking impacts identified in the Traffic Impact Analysis for Los Angeles Unified School District Valley Elementary School #8 in the City of San Fernando (1/2006)

- Prepared critique of the traffic impacts identified in the Focused EIR and Traffic Impact Analysis for the Temecula Regional Hospital Project in the City of Temecula for Adams Broadwell Joseph & Cardozo (10/2005); prepared rebuttal to responses to comments in the Final EIR (1/2006)

- Prepared critiques of the traffic impacts identified in the Draft EIR and in the Revised Draft EIR for the Central Larkspur Specific Plan in the City of Larkspur and prepared responses to comments in the Final EIR for Shute, Mihaly, & Weinberger (7/2002 to 8/2002, 12/2003 to 2/2004, 1/2005 to 3/2005, and 12/2005 to 1/2006)

- Conducted Traffic Impact Analyses for the Sacred Heart Church and School Master Plan in the City of Palm Desert including presentations to community residents and testimony at Public Hearings before the City Council (3/2005 to 12/2005)

- Prepared critique of traffic impacts identified in the Final EIR and Traffic Study for the Preserve at San Marcos Project in Santa Barbara County for the San Marcos Foothill Coalition (10/2005 to 11/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR and the Traffic Impact Analysis for the Borden Ranch Surface Mining Project in Sacramento County for Weinberg, Roger & Rosenfeld (11/2005)

- Prepared critiques of the Mitigated Negative Declaration and Traffic Impact Analysis and of these documents as revised for the Providence Center Specific Plan in the City of Fullerton for Shute, Mihaly, & Weinberger (6/2005 to 7/2005; 11/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Blue Rock Quarry Expansion near the Town of Forestville in Sonoma County for Weinberg, Roger & Rosenfeld (10/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR and Traffic Study for the Oak to Ninth Project in the City of Oakland for Mark R. Wolfe & Associates (9/2005 to 10/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR for the East Cypress Corridor Specific Plan Project adjacent to the City of Oakley in Contra Costa County for Adams Broadwell Joseph & Cardozo (9/2005 to 10/2005)

- Prepared critique of the Mitigated Negative Declaration for the Providence Medical Center Expansion Project in the City of Los Angeles for Shute, Mihaly, & Weinberger (9/2005)

- Prepared critique of the traffic impacts identified in the Draft EIR for the University District Specific Plan Project adjacent to the City of Rohnert Park in Sonoma County for Mark R. Wolfe & Associates (9/2005)

- Prepared preliminary critique of the traffic impacts identified in the Draft Subsequent EIR for the Mare Island Specific Plan Project in the City of Vallejo for Adams Broadwell Joseph & Cardozo (9/2005)

- Prepared critique of the traffic portions of the Revised EIR and the traffic study of the Deer Creek Park 2 Project in the County of Nevada for Shute, Mihaly, & Weinberger and the City of Nevada City (8/2005 to 9/2005)

- Prepared preliminary critique of the traffic impacts identified in the Draft EIR and traffic study for the Prewett Ranch Project in the City of Brentwood for Adams Broadwell Joseph & Cardozo (7/2005)

- Prepared critique of the traffic and circulation sections of the Draft Subsequent EIR of the County of Ventura Focused General Plan Update and prepared rebuttal to responses for Shute, Mihaly, & Weinberger and the Community of Somis (12/2004 to 1/2005; 6/2005)

- Prepared critique of the traffic and parking impacts identified in the Draft EIR and Traffic Impact Analysis for the Long Beach Memorial Medical Center Expansion in the City of Long Beach for Weinberg, Roger & Rosenfeld (2/2005 to 5/2005)

- Prepared critique of the Draft EIR and traffic study for the Villages at Fairfield Project in the City of Fairfield for Adams Broadwell Joseph & Cardozo (4/2005 to 5/2005)

- Prepared critique of the traffic, circulation, and parking impacts identified in the Traffic Impact Analysis for Los Angeles Unified School District Valley High School #5 in the City of San Fernando (4/2005)

- Prepared critique of the transportation, circulation, and parking impacts identified in the Draft EIR and the Final EIR for the Wood Street Project in the City of Oakland for the East Bay Community Law Center (3/2005)

- Conducted City wide engineering and traffic surveys confirming enforceable speed limits on 31 street segments for the City of San Fernando (1/2005 to 3/2005)

- Checked plans for traffic signal installations and modifications as well as signing and striping revisions for various projects for Engineering Resources of Southern California and the Cities of Hemet and Palm Springs (12/2003 to 3/2005)

- Prepared critique of the Initial Study and traffic study prepared for the Hidden Canyon (Greenfield) Quarry Use Permit and Reclamation Plan in Monterey County for Weinberg, Roger & Rosenfeld (2/2005)

- Prepared critiques of the traffic impacts identified in the Los Angeles International Airport Master Plan Draft EIS/EIR for Alternatives A, B, and C and in the Supplement Draft EIS/EIR for Alternative D, prepared responses to comments in the Final EIS/EIR, and reviewed Addendum #3 for Shute, Mihaly, & Weinberger and the City of El Segundo (2/2001 to 7/2001, 7/2003 to 10/2003, 11/2004, and 12/2004)

- Prepared critique of the Traffic Study for the 450-460 North Palm Drive Senior Housing Residential Project in the City of Beverly Hills for Luna & Glushon (11/2004)

- Prepared critique of the Draft EIR and traffic study and provided testimony at a public hearing regarding the West Los Angeles College Facilities Master Plan in Los Angeles County for Culver Crest Neighborhood Association (10/2004 to 12/2004)

- Prepared critique of the Draft EIR and the associated traffic impact analysis as well as subsequent rebuttal to responses to these comments in the Final EIR for The Ranch Plan in the County of Orange for the Endangered Habitats League (6/2004 to 7/2004 and 10/2004)

- Prepared preliminary critique of the Draft EIR and traffic study for the Chandler Ranch Specific Plan Project in the City of Paso Robles for Adams Broadwell Joseph & Cardozo (9/2004)

- Prepared critique of the Draft EIR and traffic report associated with the Magnolia Park Project in the City of Oakley for Adams Broadwell Joseph & Cardozo (9/2004)

- Prepared critique of the traffic impacts identified in the Recirculated Draft EIR and traffic study for the McKean Road Sports Complex in Santa Clara County for Shute, Mihaly, & Weinberger (9/2004)

- Prepared critique of the Environmental Assessment for Robie Ranch Reclamation Project in Calaveras County for Weinberg, Roger & Rosenfeld (9/2004)

- Provided expert assistance to residents in the City of La Mirada during settlement negotiations regarding litigation involving the Big T Residential Development Project in the City of Buena Park (6/2004 to 9/2004)

- Prepared critique of the traffic impacts identified in the Recirculated Draft EIR and the associated traffic study for the Lake Jennings Ralph's Shopping Center in San Diego County for SOFAR and Shute, Mihaly, & Weinberger (8/2004)

- Reviewed Traffic Impact Study prepared for the San Fernando Corridors Specific Plan for the City of San Fernando (7/2004 to 8/2004)

- Prepared critique of the Negative Declaration for the Brisbane Recycling Project in the City of Brisbane for Weinberg, Roger & Rosenfeld (6/2004)

- Reviewed various alternative alignments for the extension of Lexington Drive from Cerritos Avenue to Katella Avenue, a proposed secondary highway, for the City of Los Alamitos; provided expert assistance to the City of Los Alamitos during settlement negotiations regarding litigation of the proposed Cottonwood Christian Center Project in the City of Cypress (4/2004 to 6/2004)

- Prepared critique of the Draft EIR and the associated traffic impact study for the Jaxon Enterprises Mine and Reclamation Expansion Project in the County of Merced for Weinberg, Roger & Rosenfeld (5/2004)

- Prepared critique of the Environmental Secondary Study for the Santa Fe Parcel 6 Mixed Use Project in the City of San Diego for Adams Broadwell Joseph & Cardozo (4/2004 to 5/2004)

- Prepared critique of the Draft EIR and the associated traffic impact analysis for the for the San Mateo Rail Corridor Plan & Bay Meadows Specific Plan Amendment in the City of San Mateo for Adams Broadwell Joseph & Cardozo (3/2004 to 5/2004)

- Reviewed the Edinger Corridor Specific Plan Traffic Analysis for the proposed redevelopment and intensification of adjacent land uses for the City of Huntington Beach (12/2003, 4/2004, and 5/2004)

- Conducted the Traffic Impact Study of the San Fernando Regional Pool Facility Project and the associated street improvements for the City of San Fernando (3/2004 to 4/2004)

- Prepared critique of the Initial Study/Mitigated Negative Declaration and the associated traffic study for the Pixar Headquarters Expansion in the City of Emeryville for Shute, Mihaly, & Weinberger (3/2004 to 4/2004)

- Prepared critique of the Draft EIR and the associated traffic impact analysis for the Lower Lagoon Valley Specific Plan in the City of Vacaville for Adams Broadwell Joseph & Cardozo (3/2004 to 4/2004)

- Conducted the Traffic Study of Two Parking Alternatives for the City of San Dimas to provide on street parking to complement potential retail/residential development on the east side of San Dimas Avenue north of Arrow Highway (12/2003 to 4/2004)

- Prepared trip generation calculations for various retail and "Big Box" stores in conjunction with a March 2004 ballot measure in Contra Costa County for Mark R. Wolfe & Associates (1/2004 to 2/2004)

- Prepared critique of the Initial Study/Mitigated Negative Declaration and the associated transportation impact analysis for the S&S Farms and Hancock Property Residential Development Plan in the City of Brentwood for Adams Broadwell Joseph & Cardozo (2/2004)

- Prepared critiques of the traffic impacts identified in the Mitigated Negative Declarations as well as subsequent rebuttal to responses to these comments for the Bayfront Live Work Project in the City of Hercules for Adams Broadwell Joseph & Cardozo (4/2003, 10/2003, and 2/2004)

- Conducted the City Wide Traffic Calming Study of Residential Streets in the City of San Fernando including development of traffic calming guidelines and specific recommendations addressing over 70 "Hot Spots" throughout the City including monthly presentations at Transportation & Safety Commission meetings and a presentation of the Final Report to the City Council (5/2003 to 1/2004)

- Prepared critique of the Initial Study/Mitigated Negative Declaration and the associated transportation analysis for the Cottonwood Christian Center in the City of Cypress for the City of Los Alamitos (1/2004)

- Prepared critique of the Recirculated Draft EIR and the associated transportation analysis for the Sand Creek Specific Plan in the City of Antioch for Adams Broadwell Joseph & Cardozo (1/2004)

- Prepared critique of the Initial Study and the associated traffic impact studies for the West Dublin Transit Village in the City of Dublin for Adams Broadwell Joseph & Cardozo (11/2003 to 1/2004)

- Prepared critiques of the Initial Study and the Recirculated Initial Study/General Plan Amendment and Rezoning for the Jack Parker Trucking Site in the City of San Pablo for Adams Broadwell Joseph & Cardozo (9/2003 and 11/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR and rebuttal to responses to comments in the Final EIR for the proposed Wal-Mart in the City of Fremont for Mark R. Wolfe & Associates (7/2002 to 10/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR, rebuttal to responses in the Final EIR, and testimony at a public hearing regarding the Alpine Village Shopping Center in San Diego County for Shute, Mihaly, & Weinberger (6/2002 to 10/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR, rebuttal to responses in the Final EIR, testimony at public hearings, and assistance during settlement negotiations regarding the 2000 Avenue of the Stars Project in Century City in the City of Los Angeles for Tract No. 7260 Association (9/2002 to 10/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Glen Loma Ranch Project in the City of Gilroy for Adams Broadwell Joseph & Cardozo (9/2003)

- Prepared critique of the traffic impacts identified in the Initial Study and the Traffic Impact Analysis for the Ryder Homes Project in the City of Oakley for Adams Broadwell Joseph & Cardozo (9/2003)

- Prepared critique of the traffic impacts identified in the Initial Study and the Traffic Impact Analysis for the Ravenswood Residential Project in Contra Costa County for Adams Broadwell Joseph & Cardozo (8/2003 to 9/2003)

- Prepared critique of the traffic impacts identified in the Draft Subsequent EIR for the proposed Boronda Crossing Commercial Project in the City of Salinas for Mark R. Wolfe & Associates (8/2002 to 9/2003)

- Prepared four grant applications to Caltrans for $1,115,000 of Hazard Elimination Safety funding to modify traffic signals and to upgrade regulatory, warning, and street name signs in the City of Santa Ana (3/2003 to 8/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR and the Traffic Impact Analysis for the Bluerock Business Center Project in the City of Antioch for Adams Broadwell Joseph & Cardozo (8/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Clark Road Residential Project in the City of Richmond for Adams Broadwell Joseph & Cardozo (8/2003)

- Prepared critique of the traffic impacts identified in the Initial Study and the Traffic Impact Analysis for the Sky Ranch Residential Project in the City of Antioch for Adams Broadwell Joseph & Cardozo (7/2003 to 8/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Cal Poly Student Housing North Project in the City of San Luis Obispo for Adams Broadwell Joseph & Cardozo (7/2003)

- Prepared critique of the traffic impacts identified in the Final EIR for the Lake Jennings Ralph's Shopping Center in San Diego County for SOFAR and Shute, Mihaly, & Weinberger (3/2003 to 7/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Cypress Grove Residential Project in the City of Oakley for Adams Broadwell Joseph & Cardozo (6/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the McKean Road Sports Complex in Santa Clara County for Shute, Mihaly, & Weinberger (5/2003)

- Prepared grant application to Caltrans for $448,000 of Safe Route to School funding to upgrade all school signs at 68 public and private schools in the City of Santa Ana (3/2003 to 5/2003)

- Prepared critique of the traffic impacts identified in the Traffic Impact Analysis for the Blossom Valley Middle School for the Dunbar Lane Task Force in San Diego County (4/2003 to 5/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR and the Traffic Impact Analysis for the Bettencourt Ranch Aggregate Mining Project in Merced County for Weinberg, Roger & Rosenfeld (4/2003)

- Conducted a complete review of the General Plan Circulation Element for the City of Huntington Beach including comparisons to the Orange County Transportation Authority's Master Plan of Arterial Streets and drafted a Request for Proposal to update the City's Circulation Element (8/2002 to 4/2003)

- Prepared critique of the traffic impacts identified in the Traffic Impact Analysis for the proposed Wal-Mart in the City of Gilroy for Mark R. Wolfe & Associates (2/2003 to 3/2003)

- Prepared critique of the traffic impacts identified in the Draft EIR for the Waterfront/Downtown Mixed Use Project in the City of Vallejo for Adams Broadwell Joseph & Cardozo (2/2003)

- Provided expert witness evaluation of the traffic impacts caused by simultaneous construction of various Alameda Corridor Transportation Authority projects for Sullivan, Workman, & Dee (12/2002 to 2/2003)

- Conducted 12 training sessions in Urban Street Design Fundamentals for the Engineering Department staff in the City of Torrance (4/2001 to 4/2002 and 10/2002 to 12/2002)

- Prepared critique of the traffic impacts identified in the Transportation Impact Study for the Western Research Campus in the City of Richmond in Contra Costa County for Adams Broadwell Joseph & Cardozo (11/2002)

- Evaluated Conditions of Approval for the proposed intersection of Mulholland Highway and Hazel Nut Court in Los Angeles County and provided testimony to the Board of Supervisors for Seminole Springs Mobile Home Park (11/2002)

- Reviewed the Traffic Impact Analysis prepared for the Pacific City Project for the City of Huntington Beach (9/2002)

- Prepared critique of the traffic impacts identified in the Draft EIR for North Yorba Linda Estates in the City of Yorba Linda for Shute, Mihaly, and Weinberger (9/2002)

- Conducted the Hacienda Road Traffic Calming Study and presented the final report at locally televised meetings of the Traffic Committee and the City Council in the City of La Habra Heights (10/2001 to 9/2002)

- Prepared critique of the traffic impacts identified in Initial Studies with Traffic Impact Analyses for three residential subdivisions in the City of Pittsburg for Adams Broadwell Joseph & Cardozo (8/2002)

- Conducted the City Wide Traffic Safety Study and presented the final report at meetings of the Traffic Committee and the City Council in the City of Rolling Hills Estates (4/2001 to 5/2002)

- Prepared critique of the traffic impacts identified in the Draft EIR, rebuttal to responses, and testimony at a public hearing regarding extensions of Corona and Valley View Avenues in the City of Norco for C. Robert Ferguson (1/2002 to 4/2002)

- Prepared critique of the traffic impacts identified in the Draft Initial Study and Environmental Assessment, rebuttal to responses, and testimony at public hearings before the Ventura County Board of Supervisors regarding intersection improvements proposed by Caltrans at State Route 118/State Route 34 in Ventura County for the Community of Somis (12/2000 to 10/2001)

TRANSPORTATION PLANNING HANDBOOK

3RD EDITION

Institute of Transportation Engineers

Table 16-20 Typical Vehicle and Line Capacities of Different Modes

Mode	TU size n [veh/TU]	Vehicle capacity C_v [sps/veh]	Minimum headway h_{min} [s]	Maximum frequency f_{max} [TU/h]	Max offered line capacity C [sps/h]
1. Standard bus, single stops	1	75	70 – 50	51 – 72	3,800 - 5,400
2. Articulated bus, single stops	1	120	80 – 60	45 – 60	5,400 - 7,200
3. 50% standard, 50% articulated bus, 4-lanes and multiple berthing	1	75 - 120	40 – 20	90 – 180	8,800 - 17,500
4. Streetcar, ROW C, double stops	2	180	60	60	10,800
5. BRT, North America	1	120	60	60	7,200
6. BRT, developing countries	1	180	30	120	21,600
7. Light rail transit, ROW B, single track, double stops	2 - 3	180	90	40	14,400 - 21,600
8. AGT, rubber-tired - Siemens, Bombardier	2	100	90 – 60	40 – 60	8,000 - 12,000
9. AGT – Rail	6	100	100 - 75	36 – 48	21,600 - 28,800
10. Rapid Transit	8	180	100 - 90	36 – 40	51,800 - 57,600
11. Rapid Transit	10	240	150 - 120	24 – 30	67,200 - 72,000
12. Regional rail, diesel	10	200	240 - 180	15 – 20	30,000 – 40,000
13. Regional rail, electric	10	200	180 - 120	20 – 30	40,000 - 60,000

Source: Vuchic, V.R. *Urban Transit Operations Planning and Economics*. Hoboken, NJ, USA: John Wiley & Sons, 2005.

Transit Impacts on the Communities Served

As discussed earlier, transit systems influence a region's mobility, accessibility, economic vibrancy and character. The following considerations influence how well transit systems achieve their regional goals.

Passenger attraction and service quality. The main goal for a transit operator, providing service to passengers, is also the most direct impact of transit on the community or city served. Ridership in a region may be measured by mode split (the percent of trips by transit), which can be further differentiated by peak or off-peak periods. Additional measures of transit ridership are unlinked trips or passenger-miles (-km) traveled. High passenger volumes and high riding habits in a city (measured by the average number of annual trips per resident) reflect the role transit has in providing high population mobility and reducing the pressures of highway congestion and parking requirements, thus, improving quality of life in the city.

Economic, social and environmental impacts on population. The role of transit in supporting regional economies, promoting social objectives (accessibility) and enhancing the environmental health of the city is a direct result of attracting many passengers. Often, these impacts are measured qualitatively, described by the phrase "livability of cities." However, certain quantitative measures exist, including the following.

- Congestion is a measure of overall transportation system performance and can be correlated to regional competitiveness.
- The ratio of the composite cost of travel by transit compared to other modes (walking, private auto) for certain origin destination pairs (low income residences to high employment growth areas, for example) can measure how well transit service provides accessibility.
- Regional air quality (ozone levels, for example) is a measure of transportation impacts on environmental health.

Topic 1003 - Design Criteria

1003.1 Class I Bikeways

Class I bikeways (bike paths) are facilities with exclusive right of way, with cross flows by motorists minimized. Section 890.4 of the Streets and Highways Code describes Class I bikeways as serving "the exclusive use of bicycles and pedestrians". However, experience has shown that if significant pedestrian use is anticipated, separate facilities for pedestrians are necessary to minimize conflicts. Dual use by pedestrians and bicycles is undesirable, and the two should be separated wherever possible.

Sidewalk facilities are not considered Class I facilities because they are primarily intended to serve pedestrians, generally cannot meet the design standards for Class I bikeways, and do not minimize motorist cross flows. See Index 1003.3 for discussion relative to sidewalk bikeways.

By State law, motorized bicycles ("mopeds") are prohibited on bike paths unless authorized by ordinance or approval of the agency having jurisdiction over the path. Likewise, all motor vehicles are prohibited from bike paths. These prohibitions can be strengthened by signing.

(1) *Widths.* **The minimum paved width for a two-way bike path shall be 8 feet. The minimum paved width for a one-way bike path shall be 5 feet. A minimum 2-foot wide graded area shall be provided adjacent to the pavement (see Figure 1003.1A).** A 3-foot graded area is recommended to provide clearance from poles, trees, walls, fences, guardrails, or other lateral obstructions. A wider graded area can also serve as a jogging path. Where the paved width is wider than the minimum required, the graded area may be reduced accordingly; however, the graded area is a desirable feature regardless of the paved width. Development of a one-way bike path should be undertaken only after careful consideration due to the problems of enforcing one-way operation and the difficulties in maintaining a path of restricted width.

Where heavy bicycle volumes are anticipated and/or significant pedestrian traffic is expected, the paved width of a two-way path should be greater than 8-feet, preferably 12 feet or more. Another important factor to consider in determining the appropriate width is that bicyclists will tend to ride side by side on bike paths, necessitating more width for safe use.

Experience has shown that paved paths less than 12 feet wide sometimes break up along the edge as a result of loads from maintenance vehicles.

Where equestrians are expected, a separate facility should be provided.

(2) *Clearance to Obstructions.* **A minimum 2-foot horizontal clearance to obstructions shall be provided adjacent to the pavement (see Figure 1003.1A).** A 3-foot clearance is recommended. Where the paved width is wider than the minimum required, the clearance may be reduced accordingly; however, an adequate clearance is desirable regardless of the paved width. If a wide path is paved contiguous with a continuous fixed object (e.g., block wall), a 4-inch white edge line, 2 feet from the fixed object, is recommended to minimize the likelihood of a bicyclist hitting it. **The clear width on structures between railings shall be not less than 8 feet.** It is desirable that the clear width of structures be equal to the minimum clear width of the path (i.e., 12 feet).

The vertical clearance to obstructions across the clear width of the path shall be a minimum of 8 feet. Where practical, a vertical clearance of 10 feet is desirable.

(3) *Signing and Delineation.* For application and placement of signs, see the Manual on Uniform Traffic Control Devices (MUTCD), Section 9B.01 and the MUTCD and California Supplement Section 9B.01 and Figure 9B-101. For pavement marking guidance, see the MUTCD, Section 9C.03.

(4) *Intersections with Highways.* Intersections are a prime consideration in bike path design. If alternate locations for a bike path are available, the one with the most favorable intersection conditions should be selected.

EXHIBIT C

Planning Commission Certification

SAN FRANCISCO
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Planning Commission Motion No. 18096

HEARING DATE: June 3, 2010

Date:	May 20, 2010
Case No.:	2007.0946E
Project:	**Candlestick Point-Hunters Point Shipyard Phase II Development Plan**
Location:	**Candlestick Point and Hunters Point Shipyard**
Staff Contact:	Lisa Gibson – (415) 575-9032 lisa.gibson@sfgov.org
Recommendation:	**Adopt the EIR Certification Findings**

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN.

MOVED, that the San Francisco Planning Commission (hereinafter "Planning Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2007.0946E, Candlestick Point-Hunters Point Shipyard Phase II Development Plan (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department"), together with the San Francisco Redevelopment Agency (hereinafter "Agency"), acting as a joint lead agencies, 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 and the Agency determined that an Environmental Impact Report (hereinafter "EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007.

   B. On September 1, 2007, the Department and the Agency mailed the NOP to local, state, and federal agencies and other interested parties, initiating a 30-day public comment period that extended through September 2007.

   C. The Department and the Agency filed a Notice of Completion of the NOP with the State Secretary of Resources via the State Clearinghouse on August 31, 2007.

   D. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to 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.

E. On November 12, 2009, the Department and the Agency 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 and Redevelopment Agency Commission (hereinafter "Agency Commission") public hearings on the DEIR.

F. On November 10 and 11, 2009, notices of availability of the DEIR or copies of the DEIR were mailed or otherwise delivered to a list of persons requesting such items, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.

G. Notice of Completion of the DEIR was filed with the State Secretary of Resources via the State Clearinghouse on November 12, 2009.

H. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsors on November 18, 2009.

2. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. At each of the aforementioned public hearings, opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments on the DEIR ended January 12, 2010.

3. The Department and the Agency prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-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 May 13, 2010 and mailed or otherwise delivered to the Planning Commission, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices.

4. A FEIR has been prepared by the Department and the Agency, consisting of the DEIR, 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. Project EIR files have been made available for review by the Planning Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, Suite 400, and are part of the record before the Planning Commission.

6. On June 3, 2010, the Planning Commission reviewed and considered the FEIR and hereby does find that the contents of said report 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.

7. The project sponsors have indicated that the Project identified in Chapter II of the FEIR, as modified by Variant 3D (hereinafter "the Candlestick Tower Variant D") and Variant 5 (hereinafter "the 49ers/Raiders Shared Stadium Variant") as described in Chapter IV of the FEIR, constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either Variant 1 (hereinafter "the R&D Variant") or Variant 2A (hereinafter "the Housing/R&D Variant") constitute the Project. In addition, if the stadium is not constructed, the Project includes Subalternative 4A (hereinafter "CP-HPS Phase II Development Plan with Historic Preservation") as described in Chapter VI of the FEIR; the developer will determine the ultimate feasibility of its implementation at a later time.

8. The Planning Commission hereby does find that the FEIR concerning File No. 2007.0946E 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 FEIR in compliance with CEQA and the CEQA Guidelines.

9. The Planning Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR and the Project preferred by the project sponsors, described above under Finding 7, above:

   A. Will have project-specific significant effects on the environment including:[1]

      a. **Impact TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System.** The Project would impact the transportation system through construction vehicle traffic and roadway construction and contribute to cumulative construction impacts in the vicinity of the Project.

      b. **Impact TR-2: Effect of Project on Traffic Volumes.** The Project would cause an increase in traffic that would be substantial relative to the existing and proposed capacity of the street system.

      c. **Impact TR-3: Effect of Project Traffic at Certain Area Intersections.** The Project would have significant impacts on nine intersections in the Project vicinity, and would contribute to cumulative traffic conditions at these intersections: Third Street at Oakdale, Revere, Carroll, Jamestown, Jerrold and Williams/Van Dyke; and Bayshore Boulevard at Paul, Cortland and US 101 Northbound Off-ramp/Cesar Chavez.

      d. **Impact TR-4: Effect of Project Traffic at Tunnel/Blanken.** The Project would result in significant Project AM peak hour traffic impacts and contribute to cumulative PM peak hour traffic impacts at the intersection of Tunnel/Blanken.

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[1] Impacts listed under Finding 9A are project-specific impacts, with the exception of impacts related to transportation and circulation (denoted with the alpha-numeric code "TR-"), which, as described, include both project-specific and cumulative impacts.

e. **Impact TR-5: Project Contribution to Traffic at Degraded Intersections.** The Project would contribute significant traffic to intersections in the Project vicinity that would operate at LOS E or LOS F under 2030 No Project conditions. The Project contributions to cumulative traffic conditions would be significant in twenty intersections in the Project vicinity, and at sixteen of these intersections no feasible mitigation measures were identified. These sixteen intersections are: Third Street at 25th Street, Cesar Chavez Street, Cargo Way, Evans Avenue, Palou Avenue and Paul Avenue; Bayshore Boulevard at Visitacion Avenue, Alemany Boulevard/Industrial Street, Blanken, Bacon Street and Sunnydale Avenue; San Bruno Avenue at Paul Avenue, Silver Avenue and Mansell Avenue/US 101 Southbound Off-ramp; Cesar Chavez Street at Pennsylvania/I 280; and Evans Avenue at Napoleon Avenue/Toland Street. (The other four intersections are discussed below, under Impacts TR-6, TR-7 and TR-8.).

f. **Impact TR-6: Project Traffic at Freeway Ramps.** The Project would contribute significant traffic at the intersections of Geneva/US 101 Southbound Ramps and Harney/US 101 Northbound Ramps, which would operate at LOS F under 2030 No Project conditions.

g. **Impact TR-7. Project Traffic at Amador/Cargo/Illinois.** The Project would contribute significant traffic to the intersections of Amador/Cargo/Illinois, which would operate at LOS E under 2030 No Project conditions;

h. **Impact TR-8: Project Traffic at Bayshore/Geneva.** The Project would contribute significant traffic to the intersection of Bayshore/Geneva, which would operate at LOS F under 2030 No Project conditions.

i. **Impact TR-10: Project Traffic Effects.** The Project would result in increased traffic volumes on area roadways, and most substantially on key north/south and east/west streets, which would also experience cumulative traffic growth. As a result, the existing residential streets could be used as "cut-throughs," shortcuts, or bypasses by non-neighborhood traffic. Substantial amounts of cut-through traffic can result in impacts such as noise, safety impacts to pedestrians, impaired driveway access, interference with emergency vehicle access, increased dust, exhaust, and litter, and similar annoyances that adversely affect neighborhood character.

j. **Impact TR-11: Project Traffic at Freeway Segments.** The Project would contribute cumulatively considerable amounts of traffic to four freeway segments expected to operate at LOS E or LOS F under 2030 No Project conditions, specifically, US 101 northbound from Sierra Point to Alana/Geneva/Harney; US 101 southbound from the I 80 Merge to Cesar Chavez; US 101 southbound from Third/Bayshore to Alana/Geneva/Harney; and US 101 southbound from Alana/Geneva/Harney to Sierra Point.

k. **Impact TR-12: Project Traffic Impact at Freeway Ramps.** The Project would cause four ramp junctions to deteriorate from acceptable LOS D or better to LOS E or F conditions or

from LOS E to LOS F conditions, specifically, the US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Harney Way/Geneva Avenue.

l. **Impact TR-13: Project Traffic Contribution to Cumulative Impacts at Freeway Ramps.** The Project would contribute to significant cumulative traffic impacts at 12 freeway ramp locations. The Project would contribute cumulatively significant traffic increases at ramp junctions projected to operate at LOS E or LOS F under 2030 No Project conditions, specifically: US 101 northbound on-ramp from Sierra Point Parkway; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound off-ramp to Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Third Street/Bayshore Boulevard; US 101 southbound on-ramp from Harney Way/Geneva Avenue; US 101 southbound on-ramp from Sierra Point Parkway; I 280 northbound off-ramp to Cesar Chavez Street; I 280 northbound on-ramp from Indiana Street/25th Street; I 280 southbound off-ramp to Pennsylvania Avenue/25th Street; and I 280 southbound on-ramp from Pennsylvania Avenue/25th Street.

m. **Impact TR-14: Project Traffic Impact to Diverge Queue Storage at Harney/US 101 Northbound Off-ramp.** The Project would result in significant impacts related to freeway diverge queue storage at the Harney/US 101 Northbound Off-ramp. The Project would result in increases in traffic volumes that would cause the US 101 northbound off-ramp to Harney Way to experience queues that may extend back to the upstream freeway mainline segment which could result in unsafe conditions on the freeway mainline, resulting in significant traffic impacts at this location.

n. **Impact TR-15: Project Traffic Contribution to Diverge Queue Storage Impacts.** The Project could contribute to significant cumulative traffic impacts related to freeway diverge queue storage at some off-ramp locations: US 101 northbound off-ramp to Harney Way and Bayshore/Cesar Chavez; US 101 southbound Off-ramp to Harney Way/Geneva Avenue and Sierra Point/Lagoon; and I-280 northbound off-ramp at Cesar Chavez.

o. **Impact TR-21: Project Traffic Impacts to 9-San Bruno Transit Line.** The Project would increase congestion and contribute to cumulative conditions at intersections along San Bruno Avenue, which would increase travel times and impact operations of the 9-San Bruno. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 9-San Bruno, which would add up to 8 minutes of delay per bus during peak hours.

p. **Impact TR-22: Project Traffic Impacts to 23-Monterey, 24-Divisadero, 44-O'Shaughnessy Transit Lines.** The Project would contribute traffic to cumulative conditions at intersections along Palou Avenue, which would increase travel times and

impact operations of the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy. Project-related transit delays due to traffic congestion and passenger boarding delays associated with increased ridership would result in significant impacts on the operation of the 23-Monterey, 24-Divisadero, and 44-O'Shaughnessy along Palou Avenue, which would add up to 7 minutes of delay per bus during peak hours.

q. **Impact TR-23: Project Traffic Impacts to 29-Sunset Transit Line.** The Project would increase congestion at intersections along Gilman Avenue and Paul Avenue, which would increase travel times and would impact operations of the 29-Sunset. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 29-Sunset, particularly at Third Street and Bayshore Boulevard. Overall, the Project-related congestion would add up to 17 minutes of delay per bus during peak hours.

r. **Impact TR-24: Project Traffic Impacts to 48-Quintara-24th Street Transit Line.** The Project would increase congestion at intersections along Evans Avenue, which would increase travel times and impact operations of the 48-Quintara-24th Street. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 48-Quintara-24th Street along Evans Avenue, particularly at intersections of Third Street, Napoleon/Toland Streets and at Cesar Chavez Street. Overall, the Project-related congestion would add up to 3 minutes of delay per bus during peak hours.

s. **Impact TR-25: Project Traffic Impacts to 54-Felton Transit Line.** The Project would increase congestion at several intersections in the area, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the 54-Felton. The Project would create traffic congestion resulting in significant impacts to the operations of the 54-Felton, adding up to 6 minutes of delay per bus, particularly during the PM peak hour.

t. **Impact TR-26: Project Traffic Impacts to T-Third Transit Line.** The Project would increase congestion at intersections along Third Street, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the T-Third. Project-related transit delays due to traffic congestion on Third Street and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the T-Third, particularly in the segment between Thomas Avenue and Kirkwood Avenue, resulting in overall delays of up to 3 minutes per bus during peak hours.

u. **Impact TR-27: Project Traffic Impacts to 28L-19th Avenue/Geneva Limited Transit Line.** The Project could increase congestion at the intersection of Geneva Avenue and Bayshore Boulevard, increasing travel times and impacting operations of the 28L-19th Avenue/Geneva Limited. Increased congestion associated with Project vehicle trips would impact the operations of the 28L-19th Avenue/Geneva Limited, resulting in delays of 4 minutes per bus during peak hours.

v. **Impact TR-28: Project Traffic Impacts to 9X, 9AX, 9BX-Bayshore Expresses and 14X-Mission Express Transit Lines.** The Project would increase congestion on US 101 mainline and ramps, which would increase travel times and impact operations of the 9X, 9AX, 9BX-Bayshore Expresses, and 14X-Mission Express. The Project would also contribute to cumulative impacts on these transit routes on US 101.

w. **Impact TR-30: Project Traffic Impacts to SamTrans Bus Lines.** The Project would increase congestion and contribute to cumulative congestion on US 101 and on Bayshore Boulevard, which would increase travel times and adversely affect operations of SamTrans bus lines on these facilities.

x. **Impact TR-32: Project Traffic Impacts to Bicycle Routes.** Implementation of the Project's proposed transit preferential treatments and significant increases in traffic volumes on Palou Avenue could result in impacts on bicycle travel on Bicycle Routes #70 and #170 between Griffith Street and Third Street. The combination of the proposed transit preferential treatment and the substantial increase in traffic volumes and congestion would result in potentially significant impacts on bicycle travel on Bicycle Route #70 and Bicycle Route #170 on Palou Avenue.

y. **Impact TR-38: 49ers Game Site Access and Traffic Impacts.** Implementation of the proposed 49ers stadium would result in significant impacts on study area roadways and intersections, for as many as 12 times a year.

z. **Impact TR-39: Stadium 49er Game Transit Impacts.** Implementation of the Project with existing game day service and Project transit improvements would not be adequate to accommodate projected transit demand. It is estimated that there would be a capacity shortfall of approximately 3,640 passengers per hour during game days.

aa. **Impact TR-46: Stadium Secondary Event Site Access and Traffic Impacts.** Weekday evening secondary events at the stadium would result in increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without a secondary event, and result in significant impacts at nine additional intersections and one additional freeway off-ramp.

bb. **Impact TR-47: Stadium Secondary Event Transit Impacts.** With implementation of the Project, the existing transit service and Project improvements would not be adequate to accommodate projected transit demand during secondary events with attendance of 37,500 spectators. In addition, transit lines serving the area would experience additional delays due to traffic generated by the secondary event.

cc. **Impact TR-51: Project Site Access and Traffic Impacts from Arena Uses.** With implementation of the Project, weekday evening events at the arena would exacerbate congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without an arena event, and result in significant traffic impacts at Harney Way and Jamestown Avenue, which would

operating acceptably under Project conditions without an arena event. Overall, since local streets and freeway facilities would experience increased congested without an arena event, traffic impacts associated with the new arena would be significant.

dd. **Impact TR-52: Transit Impacts from Arena Uses.** With implementation of the Project, the existing and proposed transit service would be affected by sell-out weekday evening events at the arena. With the stadium use at HPS Phase II, transit capacity would be adequate to accommodate projected transit demand, but because of traffic congestion in the area, impacts to transit would result. With the implementation of Variants 1 or 2A at the stadium site, traffic congestion would impact transit service and in addition, events at the arena might cause transit capacity impacts.

ee. **Impact AQ-4: Criteria Pollutants from Project Operations.** Operation of the Project would violate the Bay Area Air Quality Management District (BAAQMD)'s CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources, and contribute substantially to an existing or projected air quality violation at full build-out in the year 2029. Project emissions of ROG, NOx and PM_{10} would exceed the BAAQMD CEQA thresholds and the ROG, NOx, PM_{10} and $PM_{2.5}$ proposed BAAQMD CEQA thresholds.

ff. **Impact NO-2: Groundborne Vibration Impacts from Construction.** Construction activities associated with the Project would create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the Project site and at proposed on-site residential uses should the latter be occupied before Project construction activities on adjacent parcels are complete.

gg. **Impact NO-3: Increase in Ambient Noise Levels from Construction.** Construction activities associated with the Project would result in a substantial temporary or periodic increase in ambient noise levels. Construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would involve demolition, grading, and excavation activities, followed by construction and external finishing of the proposed facilities and associated parking areas, as well as roadway and landscaping improvements. These activities would involve the use of heavy equipment.

hh. **Impact NO-6: Noise Impacts from Project Traffic.** Operation of the Project would generate increased local traffic volumes that would cause a substantial permanent increase in ambient noise levels in existing residential areas along the major Project site access routes. The increase in traffic resulting from implementation of the Project and ambient growth over the next 20 years would increase the ambient noise levels at noise-sensitive locations along the major vehicular access routes to the Project site, particularly along sections of Jamestown Avenue, Carroll Avenue, and Gilman Avenue.

ii. **Impact NO-7: Noise Impacts from Stadium Events.** Noise during football games and concerts at the proposed stadium would result in temporary increases in ambient noise levels that could adversely affect surrounding residents for the duration of a game or

concert. There would be significant noise impacts during football game days and concert days on the existing residential uses closest to the proposed stadium and possibly for the new residential uses closest to the proposed stadium.

jj. **Impact CP-1b: Impacts to Historic Resources from Construction Activities.** Construction at HPS Phase II could result in a substantial adverse change in the significance of an historical resource. Implementation of the Project could result in the demolition of Buildings 211, 224, 231, and 253, which have been identified as historic resources in the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District.

kk. **Impact SH-1a: New Shadow on Gilman Park from Tower Variants 3C and 3d.** Under Tower Variants 3C and 3D, new shadows on Gilman Park are conservatively considered significant; and

B. Will have significant cumulative effects on the environment including:[2]

a. **Cumulative Contribution of Criteria Pollutants from Project Operation.** Operation of the Project would violate BAAQMD CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources and contribute substantially to an existing or projected air quality violation at full build-out.

b. **Cumulative Contribution to TAC and $PM_{2.5}$ Impact Under the Proposed Bay Area Air Quality Management District CEQA Guidelines.** The Project may result in a considerable contribution to a cumulative air quality impact regarding TACs and $PM_{2.5}$ emissions under proposed BAAQMD CEQA Guidelines.

c. **Cumulative Contribution to Noise from Construction Activities.** Construction activities such as use of heavy equipment and pile driving associated with development of cumulative projects could contribute to a cumulative impact from increased noise levels for both off-site and on-site sensitive receptors.

d. **Cumulative Contribution to Pile-Driving Activities.** Construction of the Project would include pile-driving activities that may overlap with other nearby construction activities during Project development and make a considerable contribution to cumulative construction-related temporary increases in ambient noise levels.

e. **Cumulative Contribution to Traffic Noise Levels.** Project operation would make a considerable contribution to a substantial, permanent increase in cumulative traffic noise levels that would affect existing and future residential uses along all Project site access roads.

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[2] Finding 9B lists cumulative impacts of the project, with the exception of cumulative impacts related to transportation and circulation, which are reflected under Finding 9A (see impacts listed therein denoted with the alpha-numeric code "TR-").

f. **Cumulative Contribution to Ambient Noise During Stadium Events.** Project operation would make a considerable contribution to a substantial increase in cumulative noise during stadium events.

g. **Cumulative Contribution to Vibration Effects During Construction Activities.** Pile-driving activities during construction could make a considerable contribution to cumulative vibration effects if pile driving would occur and/or heavy construction equipment would operate on multiple sites and collectively result in vibration impacts in excess of 85 VdB at nearby sensitive receptors.

h. **Cumulative Contribution to Impacts on Historic Resources.** The Project would make a considerable contribution to a cumulative impact on significant historical resources, including residential, commercial, and civic properties that are listed or eligible for listing on national, state, or local registers.

i. **Cumulative Contribution to Demand for Police Services.** Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for police protection. While the Police Department considers population growth projections in its annual budgeting process to determine equipment and staffing needs for the coming year, it is possible that cumulative growth in the City could exceed the capacity of existing or planned staffing and facility improvements, and could require construction of one or more stations, resulting in a significant impact. Because the Project would require new or physically altered police facilities in order to maintain acceptable police services, the Project would make a cumulatively considerable contribution to a potential significant cumulative impact on police services.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 3, 2010.

Linda Avery
Commission Secretary

AYES: 4 - Miguel, Antonini, Borden, and Lee

NOES: 3 - Olague, Moore, Sugaya

ABSENT: 0

ADOPTED: June 3, 2010

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June 23, 2010

San Francisco Board of Supervisors
Office of the Clerk
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City Hall, Room 244
San Francisco, CA 94102-4689

Re: Appeal of Planning Commission's June 3 Certification of the Candlestick Point - Hunters Point Shipyard Phase II Development Plan EIR and Comments regarding the Merits of the EIR

Dear President Chiu and Members of the Board:

On behalf of CAlifornians for Renewable Energy ("CARE"), we bring this appeal of the San Francisco Planning Commission's June 3 certification of the Candlestick Point - Hunters Point Shipyard Phase II Development Plan EIR ("EIR"), and comment upon the merits of the EIR. We reserve the right to submit supplemental comments pursuant to Public Resources Code section 21177, prior to or during the Board of Supervisor's public hearing on this appeal.

Contrary to the Commission's findings that the EIR complied with the requirements of the California Environmental Quality Act ("CEQA"), the EIR does not adequately address the environmental impacts of the proposed Project, and does not comply with CEQA for the following reasons.

I. THE PROJECT DESCRIPTION IS INADEQUATE.

"An 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. This is because "incessant shifts among different project descriptions . . . vitiate the . . . EIR process as a vehicle for intelligent public participation." *Id.* at 197. In its findings, the Commission describes the proposed Project as follows:

> The Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D, and the 49ers/Raiders Shared Stadium Variant as described in Chapter IV of the FEIR constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either the R&D Variant or the Housing/R&D variant constitute the Project. In addition, under the circumstances explained in Section I.A.3, below, the Project would include Subalternative 4A.

Resolution 59-2010, at 2. Such a description makes it impossible for the public to determine what the actual Project will consist of, and significantly hinders the public's ability to comment on the proposed Project. As set forth above, the approved Project could consist of any one of the following combinations:

- The Project described in Chapter II, together with Tower Variant D, and the 49ers/Raiders Shared Stadium Variant.
- The Project described in Chapter II, together with Tower Variant D, and the R&D Variant.
- The Project described in Chapter II, together with Tower Variant D, the R&D Variant, and Subalternative 4A.
- The Project described in Chapter II, together with Tower Variant D, and the Housing/R&D variant.
- The Project described in Chapter II, together with Tower Variant D, and the Housing/R&D variant., and Subalternative 4A.

Because these various potential Projects have different environmental impacts, the public's ability to comment on the EIR is significantly hindered by the failure of the Commission to describe a single Project. For example – and for illustrative purposes only – the EIR states on page IV-32 that "criteria pollutant emissions associated with the operation and uses under the R&D Variant would be greater than the Project" described in Chapter II of the EIR.[1] The R&D Variant would increase the Project's daily criteria pollutants "by 6 to 12 percent" over the Project described in Chapter II of the EIR. EIR, p. IV-30. (The Project would already exceed BAAQMD's CEQA thresholds, even without these increased emissions. Resolution 59-2010, p. 101.) Because the public is unable to determine whether or not the R&D Variant will be implemented, the public is unable to determine whether or not the Project's criteria pollutant emissions will be "6 to 12 percent" greater than assumed.[2]

The Commission's failure to provide a "stable and finite" project description violates CEQA, and for this reason the Commission's certification of the EIR should be set aside.

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[1] The Housing/R&D Variant would also have greater criteria pollutant emissions than the Project. EIR, p. C&R-2412.

[2] The EIR erroneously states that the R&D Variant's Air Quality impacts are "equal to" the Project's impacts, notwithstanding these increased emissions. EIR, p. IV-3 (Table IV-2). No support is given for this naked conclusion. The fact that both impacts may be "*significant*" under CEQA does not mean that they are *equal*.

II. THE COMMISSION'S FINDINGS VIOLATE CEQA.

A. BY PERMITTING THE PROJECT APPLICANT TO CHOOSE AMONG VARIOUS FUTURE DEVELOPMENT PLANS WITH VARYING ENVIRONMENTAL IMPACTS, THE COMMISSION FAILED TO SATISFY ITS OBLIGATION TO MITIGATE OR AVOID THE PROJECT'S IMPACTS TO THE MAXIMUM EXTENT FEASIBLE.

CEQA contains a "substantive mandate" that agencies "mitigate or avoid significant environmental effects wherever feasible." *Mountain Lion Found'n v. Fish & Game Comm'n* (1997) 16 Cal.4th 105, 134. The Legislature emphasized this substantive mandate by repeating it in both Public Resources Code section 21002, which provides, "The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of such projects," and section 21002.1(b), which directs that "[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out of approves whenever it is feasible to do so." The Commission has violated these crystal-clear commands by confusing and conflating its environmental review with a multiplicity of potential projects, with varying degrees of potential impacts and mitigations, without providing clarity as to which potentially significant impacts would be reduced to insignificance and how.

As discussed above, the Project may or may not include a stadium, and if it does not, it could consist of any one of four potential combinations of developments. Because CEQA requires the Commission to mitigate or avoid the Project's impacts to the *maximum extent feasible*, allowing this unwieldy variety of potential developments would only be proper if the various potential developments' impacts were clearly identified relative to each other. In other words, if one potential development – for example, 'the Project described in Chapter II, together with Tower Variant D, and the R&D Variant' – has greater impacts than another – perhaps 'the Project described in Chapter II, together with Tower Variant D, and the Housing/R&D variant' – the Commission could make an informed choice between the two. And under CEQA's substantive mandate, the Commission would have to select the feasible alternative with the least impacts. But because the EIR fails to clearly identify which alternatives pose the least overall impacts, the Commission violated CEQA.

The Commission abdicated its responsibility to identify and select the least impactful alternative. It allowed the Applicant to select between two alternatives even though one will have much greater impacts than the other. The R&D Variant has greater environmental impacts than the Project, and the other variants, in five areas: transportation and circulation, noise, hydrology and water quality, public services, and greenhouse gas emissions. EIR, p. IV-3, Table IV-2.[3] For illustrative purposes, this

[3] Although the Housing/R&D Variant is confusedly *not* included in the table because it was not analyzed in the Draft EIR (and its portion of the Final EIR does not include such a table), the Commission found in Resolution 59-2010 (on page 15) that the Housing/R&D Variant's impacts are "bookend[ed]" by the Housing and R&D Variants. Therefore, because the Housing Variant's impacts to the five areas just

discussion focuses solely on transportation and circulation impacts, but the Commission has violated CEQA with respect to *each* of these five areas.

"At six locations, the R&D Variant would have significant project-level or cumulative impacts on intersection conditions *that would not occur with the Project.*" EIR, p. IV-19, *as modified by* C&R-2382. Impacts to at least four of these six intersections were found to be significant and unavoidable.[4] *Id.* By contrast, although the Housing/R&D Variant would also have "a project-level significant impact that does not occur under the Project" on at least two[5] of these intersections, the R&D Variant would have "greater levels of delay . . . when compared to the Housing/R&D Variant." EIR, p. C&R-2405. Implementing the Housing/R&D Variant in lieu of the R&D (only) Variant would thus at least partially mitigate these significant transportation impacts. Nonetheless, the Commission elected to permit *either* Variant to be constructed *at the Applicant's option.* By doing so, the Commission failed to mitigate or avoid the Project's impacts to the maximum extent feasible, and thus violated CEQA.

B. THE COMMISSION VIOLATED CEQA BY FAILING TO IDENTIFY THE PROJECT'S SIGNIFICANT IMPACTS IN ITS FINDINGS.

As discussed above, the Project may or may not include the R&D Variant or the Housing/R&D Variant. The Project's environmental review is apparently – and impermissibly – intended to be sufficient to allow for the approval of either of these alternatives to the stadium. *See, e.g.,* EIR, p. IV-1. CEQA requires agencies to make specific findings about *each* of a Project's significant or potentially significant impacts. CEQA Guidelines [14 C.C.R.; "Guidelines"] § 15091. However, as discussed

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discussed are all either "less than" or "equal to" the Project's impacts while the R&D Variant's impacts are "greater," and the Housing/R&D Variants impacts are somewhere between the two (being "bookend[ed] by them), the R&D Variant will have greater impacts than the Housing/R&D Variant in each of these five areas. EIR, p. IV-3, Table IV-2; *see also* EIR, pp. C&R-2405 (R&D Variant would have greater traffic impacts than Housing/R&D Variant), C&R-2419 (Housing/R&D Variant's impacts to public services is somewhere between the Project's and the R&D Variant's, the latter of which would have larger impacts, as specified on EIR, pp. IV-48 through 52), C&R-2423 ("R&D Variant would emit . . . 14,488 tonnes more" GHGs than the Housing/R&D Variant, which in turn would emit "7,013 tonnes" more GHGs than the Project) *compare* EIR, p. IV-35 (R&D Variant would have significant impacts on noise levels along five streets) *with* EIR, p. C&R-2417 (Housing/R&D Variant would only impact two streets).

[4] The DEIR claims that the R&D Variant's impacts to the Crisp/Palou intersection can be mitigated to a less-than-significant level (EIR, p. IV-19), but the FEIR specifically states that "the R&D Variant . . . was identified to have a significant and unavoidable impact" at this intersection, so it is unknown whether or not this impact can actually be mitigated to a less-than-significant level. As such, there may be significant and unavoidable impacts at five of the six intersections.

[5] *See* previous footnote. It is unclear whether or not the Housing/R&D Variant's impacts to the Crisp/Palou intersection are significant and unavoidable.

below,[6] the Commission failed to address the significant impacts of the R&D Variant and the Housing/R&D Variant in its findings. Consequently, the Commission's findings violate CEQA.

As discussed above, the R&D Variant would have *significant and unavoidable* traffic and circulation impacts on at least four[7] intersections: Cesar Chavez/Evans Bayshore/Oakdale, Ingalls/Carroll, and Evans/Jennings. EIR, p. IV-18 though IV-21. The Housing/R&D Variant would have *significant and unavoidable* traffic and circulation impacts on at least two[8] of these intersections: Bayshore/Oakdale, and Cesar Chavez/Evans. The Commission was required by Guidelines section 15091 to make findings about these significant impacts. However, the Commission's Resolution 59-2010 fails to include these environmental impacts among the other significant and potentially significant environmental impacts identified. *See generally* Resolution 59-2010, pp. 87-100. By failing to make findings about the Project's significant environmental effects, the Commission violated CEQA.

III. THE PROJECT CONTRAVENES THE INTENT OF PROPOSITION P.

In November 2000, the voters of the City and County of San Francisco approved Proposition P, expressing their desire that the Navy remediate the pollution at Hunters Point Shipyard to a level that will enable unrestricted use of the site. The next year, the Board of Supervisors approved Resolution 0634-01, adopting Proposition P as the official city policy regarding the Navy's remediation of the shipyard. Together, Proposition P and Resolution 0634-01 allow less than full remediation "only when other solutions are *technically impractical*" (emphasis added).

Instead of responding to citizens' concerns regarding Proposition P's policy goals, the comment response document states that the specific remedial actions taken are outside the scope of the EIR. EIR p. C&R-138. Further, the comment response states that it is not the goal of the EIR to address the adequacy of the Navy's remediation. EIR p. C&R-138. It states that whether or not the remediation is consistent with the goals of Proposition P is a matter for the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") process. EIR p. C&R-138. Further, the Redevelopment Agency position regarding Proposition P is that it has no obligation to consider the policy goals of Proposition P outside of the Navy's remediation plans. EIR p. C&R-138-39.

The EIR does not reflect Proposition P's strict standard of remediation, and instead embraces as given that the Navy will relinquish control over some parcels of the Hunters Point Shipyard after implementing less stringent remediation efforts. The EIR includes Project areas with restricted uses, limited because the remaining contaminated soils will be covered with a few feet of clean soil and barriers. *See, e.g.*, p. C&R-112. This level of remediation is insufficient for the seismically active area,

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[6] We reference these transportation and circulation impacts as an illustrative example; the Commission has also failed to make findings about a number of other significant impacts identified in the EIR.

[7] *See* footnote 4. There may also be a significant and unavoidable impact to the Crisp/Palou intersection.

[8] *See* footnote 5.

limits the use and marketability of the land, and places the burden of maintenance upon the future land-owners. The history of California is replete with examples of these types of barriers failing to prevent the leaching and migration of hazardous materials and gasses.

The Navy has not completed remediation on Parcel G, which is being considered for early transfer out of Navy control. EIR p. C&R-129. This early transfer will shift the cleanup and remediation responsibilities to the San Francisco Redevelopment Agency, with funding assistance from the Navy. *Id.* As currently described, the Project allows housing to be built at this location if the Stadium does not move forward. *See, e.g.* EIR p. C&R-135. At the same time, the land is so contaminated that any such construction will require special approval from the U.S. Environmental Protection Agency. In 2008, the Navy removed over 32,000 cubic yards of soil from this parcel because of radiological contamination. U.S. Dep't of Navy, *Second Five-Year Review of Remedial Actions Hunters Point Shipyard San Francisco, California*, August 2008, p. 14. Yet the EIR does not properly address the environmental impacts associated with the Redevelopment Agency's remediation actions that would arise under this Project Alternative, even though such actions are clearly "reasonably foreseeable" consequences of Project approval. Guidelines § 150649d).

Although remediation plans are part of the CERCLA process, CERCLA "requires the selected remedy to be protective of human health and the environment in light of planned future land use." EIR p. C&R-120. By presenting the future uses and the development plans for the Shipyard, the Project embraces the Navy's remediation plans, even though more stringent remediation *is technically practical*. This violates the official policy of the City and County of San Francisco as embodied in Proposition P and defies the will of the voters. CEQA requires examination of this conflict. Contrary to CEQA, the EIR ignores this conflict.

IV. THE NAVY RETAINS JURISDICTION OVER PROJECT LANDS.

The EIR is incomplete because its analysis relies on assumptions of the Navy's planned actions. The Navy retains jurisdiction over the Hunters Point Shipyard and is currently implementing remediation to remove the contamination caused by the Navy's years of misuse. While remediation is ongoing, the site remains part of the National Priorities List and is not ready for reuse. Although the City and County have prepared this EIR, the Navy has not prepared an EIS or completed a supplemental EIS that details the environmental impacts of its actions as they relate to the planned land transfer, and has not yet approved a final course of action to relinquish its property. The City and County declined to jointly prepare an environmental document with the Navy, citing the Navy's past failure to cooperate with the document preparation schedule.

Much of the EIR purports to address the impacts of putting remediated land to new uses. At the same time, however, the Navy has yet to finalize its remediation plans for the lands in question. For example, the EIR states "The Navy will also consider sea level rise when developing remedial designs for the Parcel E-2 landfill." EIR p. C&R-124. The degree of remediation and method of containment for contaminated lands within the parcel has yet to be determined, yet the EIR purports to address environmental effects of redeveloping and reusing these parcels. Since the Navy's final plans are not yet

known, the EIR cannot purport to fully present the environmental outcomes of actions that affect these lands.

V. THE PRE-SET GOAL OF MAINTAINING THE 49ERS IN SAN FRANCISCO HAS COLORED THE ENVIRONMENTAL ANALYSIS OF THIS DECISION.

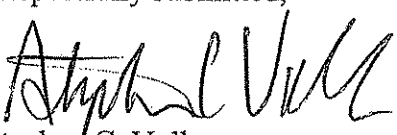
The City's goal of wooing the 49ers to stay in San Francisco has improperly skewed the City's examination of the Project's impacts. As the inclusion of the Stadium relocation is contingent upon the 49ers and the NFL, the City has not independently analyzed whether the stadium relocation alternatives are environmentally superior or inferior to the no-stadium alternatives.

The voters' June 2008 approval of Measure G set the stage for the Project's inclusion of the relocated stadium. Measure G encouraged such a relocation without any prior evaluation of the environmental impacts it created. As the voters pushed for the stadium construction before the construction could be evaluated under CEQA, the City's evaluation of the stadium has improperly occurred *after* the stadium has gained momentum from the City and its voters.

VI. CONCLUSION.

For the above reasons, the Board of Supervisors should overturn the Commission's Certification of the EIR. EIR's failure to adequately address the impacts of the proposed Project violates CEQA.

Respectfully submitted,



Stephan C. Volker
Attorney for CARE

cc: Environmental Review Officer, San Francisco Planning Department
Client

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Planning Commission Motion No. 18096

HEARING DATE: June 3, 2010

Date:	May 20, 2010
Case No.:	2007.0946E
Project:	Candlestick Point-Hunters Point Shipyard Phase II Development Plan
Location:	Candlestick Point and Hunters Point Shipyard
Staff Contact:	Lisa Gibson – (415) 575-9032 lisa.gibson@sfgov.org
Recommendation:	Adopt the EIR Certification Findings

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN.

MOVED, that the San Francisco Planning Commission (hereinafter "Planning Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2007.0946E, Candlestick Point-Hunters Point Shipyard Phase II Development Plan (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department"), together with the San Francisco Redevelopment Agency (hereinafter "Agency"), acting as a joint lead agencies, 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 and the Agency determined that an Environmental Impact Report (hereinafter "EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007.

   B. On September 1, 2007, the Department and the Agency mailed the NOP to local, state, and federal agencies and other interested parties, initiating a 30-day public comment period that extended through September 2007.

   C. The Department and the Agency filed a Notice of Completion of the NOP with the State Secretary of Resources via the State Clearinghouse on August 31, 2007.

   D. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to 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.

E. On November 12, 2009, the Department and the Agency 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 and Redevelopment Agency Commission (hereinafter "Agency Commission") public hearings on the DEIR.

F. On November 10 and 11, 2009, notices of availability of the DEIR or copies of the DEIR were mailed or otherwise delivered to a list of persons requesting such items, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.

G. Notice of Completion of the DEIR was filed with the State Secretary of Resources via the State Clearinghouse on November 12, 2009.

H. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsors on November 18, 2009.

2. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. At each of the aforementioned public hearings, opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments on the DEIR ended January 12, 2010.

3. The Department and the Agency prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-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 May 13, 2010 and mailed or otherwise delivered to the Planning Commission, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices.

4. A FEIR has been prepared by the Department and the Agency, consisting of the DEIR, 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. Project EIR files have been made available for review by the Planning Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, Suite 400, and are part of the record before the Planning Commission.

6. On June 3, 2010, the Planning Commission reviewed and considered the FEIR and hereby does find that the contents of said report 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.

7. The project sponsors have indicated that the Project identified in Chapter II of the FEIR, as modified by Variant 3D (hereinafter "the Candlestick Tower Variant D") and Variant 5 (hereinafter "the 49ers/Raiders Shared Stadium Variant") as described in Chapter IV of the FEIR, constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either Variant 1 (hereinafter "the R&D Variant") or Variant 2A (hereinafter "the Housing/R&D Variant") constitute the Project. In addition, if the stadium is not constructed, the Project includes Subalternative 4A (hereinafter "CP-HPS Phase II Development Plan with Historic Preservation") as described in Chapter VI of the FEIR; the developer will determine the ultimate feasibility of its implementation at a later time.

8. The Planning Commission hereby does find that the FEIR concerning File No. 2007.0946E 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 FEIR in compliance with CEQA and the CEQA Guidelines.

9. The Planning Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR and the Project preferred by the project sponsors, described above under Finding 7, above:

   A. Will have project-specific significant effects on the environment including:[1]

      a. **Impact TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System.** The Project would impact the transportation system through construction vehicle traffic and roadway construction and contribute to cumulative construction impacts in the vicinity of the Project.

      b. **Impact TR-2: Effect of Project on Traffic Volumes.** The Project would cause an increase in traffic that would be substantial relative to the existing and proposed capacity of the street system.

      c. **Impact TR-3: Effect of Project Traffic at Certain Area Intersections.** The Project would have significant impacts on nine intersections in the Project vicinity, and would contribute to cumulative traffic conditions at these intersections: Third Street at Oakdale, Revere, Carroll, Jamestown, Jerrold and Williams/Van Dyke; and Bayshore Boulevard at Paul, Cortland and US 101 Northbound Off-ramp/Cesar Chavez.

      d. **Impact TR-4: Effect of Project Traffic at Tunnel/Blanken.** The Project would result in significant Project AM peak hour traffic impacts and contribute to cumulative PM peak hour traffic impacts at the intersection of Tunnel/Blanken.

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[1] Impacts listed under Finding 9A are project-specific impacts, with the exception of impacts related to transportation and circulation (denoted with the alpha-numeric code "TR-"), which, as described, include both project-specific and cumulative impacts.

e. Impact TR-5: **Project Contribution to Traffic at Degraded Intersections.** The Project would contribute significant traffic to intersections in the Project vicinity that would operate at LOS E or LOS F under 2030 No Project conditions. The Project contributions to cumulative traffic conditions would be significant in twenty intersections in the Project vicinity, and at sixteen of these intersections no feasible mitigation measures were identified. These sixteen intersections are: Third Street at 25th Street, Cesar Chavez Street, Cargo Way, Evans Avenue, Palou Avenue and Paul Avenue; Bayshore Boulevard at Visitacion Avenue, Alemany Boulevard/Industrial Street, Blanken, Bacon Street and Sunnydale Avenue; San Bruno Avenue at Paul Avenue, Silver Avenue and Mansell Avenue/US 101 Southbound Off-ramp; Cesar Chavez Street at Pennsylvania/I 280; and Evans Avenue at Napoleon Avenue/Toland Street. (The other four intersections are discussed below, under Impacts TR-6, TR-7 and TR-8.).

f. Impact TR-6: **Project Traffic at Freeway Ramps.** The Project would contribute significant traffic at the intersections of Geneva/US 101 Southbound Ramps and Harney/US 101 Northbound Ramps, which would operate at LOS F under 2030 No Project conditions.

g. Impact TR-7. **Project Traffic at Amador/Cargo/Illinois.** The Project would contribute significant traffic to the intersections of Amador/Cargo/Illinois, which would operate at LOS E under 2030 No Project conditions;

h. Impact TR-8: **Project Traffic at Bayshore/Geneva.** The Project would contribute significant traffic to the intersection of Bayshore/Geneva, which would operate at LOS F under 2030 No Project conditions.

i. Impact TR-10: **Project Traffic Effects.** The Project would result in increased traffic volumes on area roadways, and most substantially on key north/south and east/west streets, which would also experience cumulative traffic growth. As a result, the existing residential streets could be used as "cut-throughs," shortcuts, or bypasses by non-neighborhood traffic. Substantial amounts of cut-through traffic can result in impacts such as noise, safety impacts to pedestrians, impaired driveway access, interference with emergency vehicle access, increased dust, exhaust, and litter, and similar annoyances that adversely affect neighborhood character.

j. Impact TR-11: **Project Traffic at Freeway Segments.** The Project would contribute cumulatively considerable amounts of traffic to four freeway segments expected to operate at LOS E or LOS F under 2030 No Project conditions, specifically, US 101 northbound from Sierra Point to Alana/Geneva/Harney; US 101 southbound from the I 80 Merge to Cesar Chavez; US 101 southbound from Third/Bayshore to Alana/Geneva/Harney; and US 101 southbound from Alana/Geneva/Harney to Sierra Point.

k. Impact TR-12: **Project Traffic Impact at Freeway Ramps.** The Project would cause four ramp junctions to deteriorate from acceptable LOS D or better to LOS E or F conditions or

from LOS E to LOS F conditions, specifically, the US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Harney Way/Geneva Avenue.

l. **Impact TR-13: Project Traffic Contribution to Cumulative Impacts at Freeway Ramps.** The Project would contribute to significant cumulative traffic impacts at 12 freeway ramp locations. The Project would contribute cumulatively significant traffic increases at ramp junctions projected to operate at LOS E or LOS F under 2030 No Project conditions, specifically: US 101 northbound on-ramp from Sierra Point Parkway; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound off-ramp to Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Third Street/Bayshore Boulevard; US 101 southbound on-ramp from Harney Way/Geneva Avenue; US 101 southbound on-ramp from Sierra Point Parkway; I 280 northbound off-ramp to Cesar Chavez Street; I 280 northbound on-ramp from Indiana Street/25th Street; I 280 southbound off-ramp to Pennsylvania Avenue/25th Street; and I 280 southbound on-ramp from Pennsylvania Avenue/25th Street.

m. **Impact TR-14: Project Traffic Impact to Diverge Queue Storage at Harney/US 101 Northbound Off-ramp.** The Project would result in significant impacts related to freeway diverge queue storage at the Harney/US 101 Northbound Off-ramp. The Project would result in increases in traffic volumes that would cause the US 101 northbound off-ramp to Harney Way to experience queues that may extend back to the upstream freeway mainline segment which could result in unsafe conditions on the freeway mainline, resulting in significant traffic impacts at this location.

n. **Impact TR-15: Project Traffic Contribution to Diverge Queue Storage Impacts.** The Project could contribute to significant cumulative traffic impacts related to freeway diverge queue storage at some off-ramp locations: US 101 northbound off-ramp to Harney Way and Bayshore/Cesar Chavez; US 101 southbound Off-ramp to Harney Way/Geneva Avenue and Sierra Point/Lagoon; and I-280 northbound off-ramp at Cesar Chavez.

o. **Impact TR-21: Project Traffic Impacts to 9-San Bruno Transit Line.** The Project would increase congestion and contribute to cumulative conditions at intersections along San Bruno Avenue, which would increase travel times and impact operations of the 9-San Bruno. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 9-San Bruno, which would add up to 8 minutes of delay per bus during peak hours.

p. **Impact TR-22: Project Traffic Impacts to 23-Monterey, 24-Divisadero, 44-O'Shaughnessy Transit Lines.** The Project would contribute traffic to cumulative conditions at intersections along Palou Avenue, which would increase travel times and

impact operations of the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy. Project-related transit delays due to traffic congestion and passenger boarding delays associated with increased ridership would result in significant impacts on the operation of the 23-Monterey, 24-Divisadero, and 44-O'Shaughnessy along Palou Avenue, which would add up to 7 minutes of delay per bus during peak hours.

q. **Impact TR-23: Project Traffic Impacts to 29-Sunset Transit Line.** The Project would increase congestion at intersections along Gilman Avenue and Paul Avenue, which would increase travel times and would impact operations of the 29-Sunset. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 29-Sunset, particularly at Third Street and Bayshore Boulevard. Overall, the Project-related congestion would add up to 17 minutes of delay per bus during peak hours.

r. **Impact TR-24: Project Traffic Impacts to 48-Quintara-24th Street Transit Line.** The Project would increase congestion at intersections along Evans Avenue, which would increase travel times and impact operations of the 48-Quintara-24th Street. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 48-Quintara-24th Street along Evans Avenue, particularly at intersections of Third Street, Napoleon/Toland Streets and at Cesar Chavez Street. Overall, the Project-related congestion would add up to 3 minutes of delay per bus during peak hours.

s. **Impact TR-25: Project Traffic Impacts to 54-Felton Transit Line.** The Project would increase congestion at several intersections in the area, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the 54-Felton. The Project would create traffic congestion resulting in significant impacts to the operations of the 54-Felton, adding up to 6 minutes of delay per bus, particularly during the PM peak hour.

t. **Impact TR-26: Project Traffic Impacts to T-Third Transit Line.** The Project would increase congestion at intersections along Third Street, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the T-Third. Project-related transit delays due to traffic congestion on Third Street and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the T-Third, particularly in the segment between Thomas Avenue and Kirkwood Avenue, resulting in overall delays of up to 3 minutes per bus during peak hours.

u. **Impact TR-27: Project Traffic Impacts to 28L-19th Avenue/Geneva Limited Transit Line.** The Project could increase congestion at the intersection of Geneva Avenue and Bayshore Boulevard, increasing travel times and impacting operations of the 28L-19th Avenue/Geneva Limited. Increased congestion associated with Project vehicle trips would impact the operations of the 28L-19th Avenue/Geneva Limited, resulting in delays of 4 minutes per bus during peak hours.

v. Impact TR-28: Project Traffic Impacts to 9X, 9AX, 9BX-Bayshore Expresses and 14X-Mission Express Transit Lines. The Project would increase congestion on US 101 mainline and ramps, which would increase travel times and impact operations of the 9X, 9AX, 9BX-Bayshore Expresses, and 14X-Mission Express. The Project would also contribute to cumulative impacts on these transit routes on US 101.

w. Impact TR-30: Project Traffic Impacts to SamTrans Bus Lines. The Project would increase congestion and contribute to cumulative congestion on US 101 and on Bayshore Boulevard, which would increase travel times and adversely affect operations of SamTrans bus lines on these facilities.

x. Impact TR-32: Project Traffic Impacts to Bicycle Routes. Implementation of the Project's proposed transit preferential treatments and significant increases in traffic volumes on Palou Avenue could result in impacts on bicycle travel on Bicycle Routes #70 and #170 between Griffith Street and Third Street. The combination of the proposed transit preferential treatment and the substantial increase in traffic volumes and congestion would result in potentially significant impacts on bicycle travel on Bicycle Route #70 and Bicycle Route #170 on Palou Avenue.

y. Impact TR-38: 49ers Game Site Access and Traffic Impacts. Implementation of the proposed 49ers stadium would result in significant impacts on study area roadways and intersections, for as many as 12 times a year.

z. Impact TR-39: Stadium 49er Game Transit Impacts. Implementation of the Project with existing game day service and Project transit improvements would not be adequate to accommodate projected transit demand. It is estimated that there would be a capacity shortfall of approximately 3,640 passengers per hour during game days.

aa. Impact TR-46: Stadium Secondary Event Site Access and Traffic Impacts. Weekday evening secondary events at the stadium would result in increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without a secondary event, and result in significant impacts at nine additional intersections and one additional freeway off-ramp.

bb. Impact TR-47: Stadium Secondary Event Transit Impacts. With implementation of the Project, the existing transit service and Project improvements would not be adequate to accommodate projected transit demand during secondary events with attendance of 37,500 spectators. In addition, transit lines serving the area would experience additional delays due to traffic generated by the secondary event.

cc. Impact TR-51: Project Site Access and Traffic Impacts from Arena Uses. With implementation of the Project, weekday evening events at the arena would exacerbate congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without an arena event, and result in significant traffic impacts at Harney Way and Jamestown Avenue, which would

operating acceptably under Project conditions without an arena event. Overall, since local streets and freeway facilities would experience increased congested without an arena event, traffic impacts associated with the new arena would be significant.

dd. **Impact TR-52: Transit Impacts from Arena Uses.** With implementation of the Project, the existing and proposed transit service would be affected by sell-out weekday evening events at the arena. With the stadium use at HPS Phase II, transit capacity would be adequate to accommodate projected transit demand, but because of traffic congestion in the area, impacts to transit would result. With the implementation of Variants 1 or 2A at the stadium site, traffic congestion would impact transit service and in addition, events at the arena might cause transit capacity impacts.

ee. **Impact AQ-4: Criteria Pollutants from Project Operations.** Operation of the Project would violate the Bay Area Air Quality Management District (BAAQMD)'s CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources, and contribute substantially to an existing or projected air quality violation at full build-out in the year 2029. Project emissions of ROG, NOx and PM_{10} would exceed the BAAQMD CEQA thresholds and the ROG, NOx, PM_{10} and $PM_{2.5}$ proposed BAAQMD CEQA thresholds.

ff. **Impact NO-2: Groundborne Vibration Impacts from Construction.** Construction activities associated with the Project would create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the Project site and at proposed on-site residential uses should the latter be occupied before Project construction activities on adjacent parcels are complete.

gg. **Impact NO-3: Increase in Ambient Noise Levels from Construction.** Construction activities associated with the Project would result in a substantial temporary or periodic increase in ambient noise levels. Construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would involve demolition, grading, and excavation activities, followed by construction and external finishing of the proposed facilities and associated parking areas, as well as roadway and landscaping improvements. These activities would involve the use of heavy equipment.

hh. **Impact NO-6: Noise Impacts from Project Traffic.** Operation of the Project would generate increased local traffic volumes that would cause a substantial permanent increase in ambient noise levels in existing residential areas along the major Project site access routes. The increase in traffic resulting from implementation of the Project and ambient growth over the next 20 years would increase the ambient noise levels at noise-sensitive locations along the major vehicular access routes to the Project site, particularly along sections of Jamestown Avenue, Carroll Avenue, and Gilman Avenue.

ii. **Impact NO-7: Noise Impacts from Stadium Events.** Noise during football games and concerts at the proposed stadium would result in temporary increases in ambient noise levels that could adversely affect surrounding residents for the duration of a game or

concert. There would be significant noise impacts during football game days and concert days on the existing residential uses closest to the proposed stadium and possibly for the new residential uses closest to the proposed stadium.

jj. **Impact CP-1b: Impacts to Historic Resources from Construction Activities.** Construction at HPS Phase II could result in a substantial adverse change in the significance of an historical resource. Implementation of the Project could result in the demolition of Buildings 211, 224, 231, and 253, which have been identified as historic resources in the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District.

kk. **Impact SH-1a: New Shadow on Gilman Park from Tower Variants 3C and 3d.** Under Tower Variants 3C and 3D, new shadows on Gilman Park are conservatively considered significant; and

B. Will have significant cumulative effects on the environment including:[2]

a. **Cumulative Contribution of Criteria Pollutants from Project Operation.** Operation of the Project would violate BAAQMD CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources and contribute substantially to an existing or projected air quality violation at full build-out.

b. **Cumulative Contribution to TAC and $PM_{2.5}$ Impact Under the Proposed Bay Area Air Quality Management District CEQA Guidelines.** The Project may result in a considerable contribution to a cumulative air quality impact regarding TACs and $PM_{2.5}$ emissions under proposed BAAQMD CEQA Guidelines.

c. **Cumulative Contribution to Noise from Construction Activities.** Construction activities such as use of heavy equipment and pile driving associated with development of cumulative projects could contribute to a cumulative impact from increased noise levels for both off-site and on-site sensitive receptors.

d. **Cumulative Contribution to Pile-Driving Activities.** Construction of the Project would include pile-driving activities that may overlap with other nearby construction activities during Project development and make a considerable contribution to cumulative construction-related temporary increases in ambient noise levels.

e. **Cumulative Contribution to Traffic Noise Levels.** Project operation would make a considerable contribution to a substantial, permanent increase in cumulative traffic noise levels that would affect existing and future residential uses along all Project site access roads.

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[2] Finding 9B lists cumulative impacts of the project, with the exception of cumulative impacts related to transportation and circulation, which are reflected under Finding 9A (see impacts listed therein denoted with the alpha-numeric code "TR-").

f. **Cumulative Contribution to Ambient Noise During Stadium Events.** Project operation would make a considerable contribution to a substantial increase in cumulative noise during stadium events.

g. **Cumulative Contribution to Vibration Effects During Construction Activities.** Pile-driving activities during construction could make a considerable contribution to cumulative vibration effects if pile driving would occur and/or heavy construction equipment would operate on multiple sites and collectively result in vibration impacts in excess of 85 VdB at nearby sensitive receptors.

h. **Cumulative Contribution to Impacts on Historic Resources.** The Project would make a considerable contribution to a cumulative impact on significant historical resources, including residential, commercial, and civic properties that are listed or eligible for listing on national, state, or local registers.

i. **Cumulative Contribution to Demand for Police Services.** Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for police protection. While the Police Department considers population growth projections in its annual budgeting process to determine equipment and staffing needs for the coming year, it is possible that cumulative growth in the City could exceed the capacity of existing or planned staffing and facility improvements, and could require construction of one or more stations, resulting in a significant impact. Because the Project would require new or physically altered police facilities in order to maintain acceptable police services, the Project would make a cumulatively considerable contribution to a potential significant cumulative impact on police services.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 3, 2010.

Linda Avery
Commission Secretary

AYES: 4 - Miguel, Antonini, Borden, and Lee

NOES: 3 - Olague, Moore, Sugaya

ABSENT: 0

ADOPTED: June 3, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

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EIR Certification Appeal

Candlestick Point-Hunters Point Shipyard Phase II FEIR

DATE: July 6, 2010
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Bill Wycko, Environmental Review Officer – (415) 575-9048
Joy Navarrete, Case Planner – Planning Department (415) 575-9040
RE: BOS File No. 10-0861 [Planning Case No. 2007.0946E]
Appeal of Environmental Impact Report Candlestick Point-Hunters Point Shipyard Phase II
HEARING DATE: July 13, 2010
ATTACHMENTS:
A. Planning Commission Motion No. 18086 (Certifying FEIR)
B. Memo to Planning Commission from Lisa Gibson May 20, 2010 and Memo to Redevelopment Commission from Fred Blackwell June 3, 2010
C. Appeal Letters

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2010 JUL -6 PM 1:13
BY

PROJECT SPONSOR: Lennar Urban, on behalf of CP Development Company LP
APPELLANTS:
No. 1: Golden Gate Audubon Society, California Native Plant Society Yerba Buena Chapter, Sierra Club San Francisco Bay Chapter, San Francisco Tomorrow (SC)
No. 2: Law Offices of Steven Volker, representing Californians for Renewable Energy (CARE)
No. 3: Jaron Browne, People Organized to Win Employment Rights (POWER)
No. 4: Law Offices of James Birkelund, representing California State Parks Foundation (CSPF)

INTRODUCTION

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors (the "Board") regarding the Planning Commission's certification of a Final Environmental Impact Report ("FEIR") for the proposed Candlestick Point Hunters Point Shipyard Phase II project (the "Project"), Case No. 2007.0964E, under the California Environmental Quality Act ("CEQA"). The Appeals to the Board were filed by June 23, 2010. The FEIR has been provided to the Board separately. The FEIR consists of the Draft EIR ("DEIR") and the Comments and Responses ("C&R") document.

The decision before the Board is whether to uphold the Commission's decision to certify the FEIR, or to overturn the Commission's decision to certify the FEIR and return the project to the Planning Department for additional environmental review.

SITE DESCRIPTION & PRESENT USE

The Project site is located on approximately 702 acres in the southeastern portion of San Francisco and includes both Candlestick Point and Hunter Point Shipyard Phase II (HPS). The site is bordered by major features, such as India Basin to the north; the Executive Park area and San Mateo County line to and the south; Bayview Hill, the Bayview neighborhood, Yosemite Slough, and Hunters Point Hill to the west; and San Francisco Bay on the north and the east. Candlestick Point is immediately east of Executive Park, with the Bayview neighborhood to the north, HPS Phase II to the northeast, and the Candlestick Point State Recreation Area (CPSRA) along the Bay frontage generally to the east. Candlestick Point is generally bounded by Hawes Street to the northwest and Harney Way to the southwest, and the Candlestick Cove and South Basin areas of the Bay are to the south and east, respectively. HPS Phase II is located to the southeast of the Bayview Hunters Point (BVHP) neighborhood. HPS Phase II is generally bounded by San Francisco Bay to the north, east, and south. The south end of the western boundary extends from Yosemite Slough along Arelious Walker Drive to approximately Crisp Road where the boundary is adjacent to the HPS Phase I site. The northernmost end of HPS Phase II is contiguous with Earl Street.

Hunters Point Shipyard, once a United States Navy base, closed in 1974 and the Navy officially included the Shipyard on the Department of Defense's 1991 Base Realignment and Closure (BRAC) list. The base is now largely vacant, except for a few hundred artists. The Navy is undertaking environmental remediation at the Shipyard and intends to offer parcels to the Redevelopment Agency as the remediation process proceeds. In 2004 the Navy transferred Parcel A to the Redevelopment Agency, which the Agency is in the process of redeveloping.

Candlestick Point includes, among other things: (a) the City-owned stadium, currently named Candlestick Park, which is home to the San Francisco 49ers and is nearing the end of its useful life; (b) the Alice B. Griffith Housing Development, also known as Double Rock, and (c) the Candlestick Point State Recreation Area.

PROJECT DESCRIPTION

The San Francisco Redevelopment Agency ("Agency") together with CP Development Company LP (the "Project Sponsors") are proposing to assemble and redevelop the Project area with (a) 10,500 residential units, approximately 32 percent of which (3,345) will be offered at below market rates, (b) approximately 327 to 336 acres of new and improved public parks and open space, (c) 885,000 square feet of regional and neighborhood-serving retail space, (d) 255,000 square feet of new and renovated studio space for Shipyard artists, including an arts education center within a new "Arts District" supporting the vibrant artist community, (e) 2,650,000 square feet of commercial, light industrial, research and development and office space, including space for the United Nations Global Compact Center, (f) 100,000 square feet of community uses, (g) new public and community facilities on the Shipyard and Candlestick Point, (h) improved land and supporting infrastructure for a new football stadium for the San Francisco 49ers, including necessary parking areas and transportation improvements, with alternative uses that either shift some residential uses from Candlestick Point to the Shipyard and expand by up to 500,000 square feet commercial uses on some of the areas of the Shipyard currently reserved for stadium uses or

expand research and development uses by 2,500,000 square feet on the Shipyard if the 49ers do not avail themselves of the opportunity to build a new stadium on the Shipyard, (i) a 10,000 seat arena on Candlestick Point, (j) a hotel, (k) a 300 slip Marina, and (l) a bicycle and pedestrian bridge over Yosemite Slough that can be used for game day automobile travel in the event the stadium is constructed.

As reflected in the above description, the Project as approved by the Redevelopment Agency and the Planning Commission includes the Project with the stadium as described in the FEIR as well as Variant 1 (R&D Variant) or Variant 2A (Housing/R&D Variant) uses in the event that the stadium is not constructed. The Project as approved also includes Variant 3D (Tower Variant D), Variant 4 (Utilities Variant) and Variant 5 (Shared Stadium Variant). Finally, the Project as approved includes implementation of Subalternative 4A (CP-HPS Phase II Development Plan with Historic Preservation) if either Variant 1 or Variant 2A are constructed in lieu of the stadium.

The land uses that will be implemented under the Project with the stadium or, without the stadium are shown in Table A on page 4.

BACKGROUND

2007 Environmental Review Application

On August 27, 2007, Lennar Urban, on behalf of CP Development Company LP, filed Environmental Review Application No. 2007.0946E with the Planning Department (hereinafter "Department"). On January 11, 2010, the Redevelopment Agency submitted requests to the Department for General Plan Amendments, Planning Code Text Amendments and Planning Code Map Amendments in support of the Project.

2008 Notice of Preparation of an Environmental Impact Report

The Department determined that an Environmental Impact Report ("EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007, that solicited comments regarding the content of the proposed EIR for the Project. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to receive public input regarding the proposed scope of the EIR analysis.

2009-10 Draft Environmental Impact Report

The Department published the DEIR on November 12, 2009, on which comments were accepted until January 12, 2010. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. Following the close of the public review and comment period, the Department prepared written responses that addressed all of the substantive written and oral comments on the DEIR, and the EIR was revised accordingly.

Table A – Comparison of Land Use Development Scenarios (Stadium and Non-Stadium Options)						
Land Use Plan Components	**Project with stadium and Candlestick Tower Variant D, Utility Variant, 49ers/Raiders Shared Stadium Variant**		**Project without stadium, with R&D Variant, Candlestick Tower Variant D, Utility Variant**		**Project without stadium, with Housing/R&D Variant, Candlestick Tower Variant D, Utility Variant**	
	Candlestick Point	*HPS*	*Candlestick Point*	*HPS*	*Candlestick Point*	*HPS*
Residential units	7,850	2,650	7,850	2,650	6,225	4,275
Office (gsf)	150,000		150,000		150,000	
Hotel (gsf)	150,000		150,000		150,000	
Research & Development (gsf)		2,500,000		5,000,000		3,000,000
Regional Retail (gsf)	635,000		635,000		635,000	
Neighborhood Retail (gsf)	125,000	125,000	125,000	125,000	125,000	125,000
Artists' Studios/Art Center (gsf)	N/A	255,000	N/A	255,000	N/A	255,000
Community Services (gsf)	50,000	50,000	50,000	50,000	50,000	50,000
Football Stadium (seats)		70,000		0		0
Arena (seats)	10,000		10,000		10,000	
Marina (slips)	N/A	300	N/A	300	N/A	300
Yosemite Slough Bridge	Auto/BRT/Ped		BRT/Ped		BRT/Ped	
Parking (spaces)	18,917		22,912		20,062	
- Residential	7,850	2,650	7,850	2,650	6,225	4,275
- Commercial	2,346	4,028	2,346	7,028	2,346	4,428
- General and Commercial (on-street)	1,360	683	1,360	1,678	1,360	1,428
Total Park & Rec Space	104.8	231.6	104.8	222.2	104.8	221.8
- New Parks	8.1	140	8.1	152.4	8.1	150.9
- Active Recreation	N/A	91.6	N/A	69.8	N/A	70.9
- State Parkland (acres)	96.7	N/A	96.7	N/A	96.7	N/A

2010 Comments & Responses Document

The Department and the Agency prepared responses to comments on environmental issues received at the public hearings and in writing during the 60-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 C&R document, published on May 13, 2010 and mailed or otherwise delivered to the Board, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices. The comments and responses did not substantially revise the DEIR and therefore no recirculation was required under the State CEQA Guidelines Section 15073.3.

2010 Environmental Impact Report Certification

On June 3, 2010, the Planning Commission and Redevelopment Commission reviewed and considered the FEIR and found that the contents of said report 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.

CEQA GUIDELINES

The Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA), as established under the Public Resources Code 21000 et seq., the *CEQA Guidelines* (a part of the California Code of Regulations), and local CEQA procedures under Chapter 31 of the San Francisco *Administrative Code*. The purpose of this EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed project, and allow a time for public review and comment, before decision makers decide to approve or deny the project.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the June 21-23, 2010 Appeal Letters are cited in a summary below and are followed by the Department's responses.

1. PROJECT DESCRIPTION

Concern 1.a. The project description is inadequate, because the approved project includes several options incorporating certain Variants and an Alternative, which were included in the FEIR. (CARE)

Response 1.a. The issue on appeal before the Board of Supervisors is the Planning Commission's certification of the FEIR, not the project approval actions taken by the Planning Commission. But, CEQA does not preclude approval of a Project that incorporates certain development options for certain aspects of the Project. The FEIR examines various development options and project alternatives consistent with CEQA principles and requirements that encourage informed decision making and consideration of alternatives and variants that would reduce project impacts and respond to public concerns. The FEIR does not "shift among different project descriptions" in its analysis. The primary Project is consistently and fully described and

analyzed throughout Chapter III of the FEIR. The Variants are fully described and analyzed in Chapter IV of the FEIR. The Alternatives are fully described and analyzed in Chapter VI of the FEIR. This organization fulfills the CEQA requirement for a stable Project description, which is intended to ensure that the environmental analysis of the project is accurate and complete and does not artificially limit the ability of a public agency to approve a complex project that responds to a multitude of long-term environmental and public policy goals.

The Project elements, including the Variants and Alternatives adopted as part of the Project are described in this memorandum under "Project Description."

Concern 1.b. The project description is misleading given that the 49ers have indicated that they prefer not to relocate to the Shipyard. (POWER)

Response 1.b. The Project description is not misleading. A proposal to include an option for the San Francisco 49ers to remain in San Francisco and relocate to a new stadium on the Shipyard has been part of the vision for the Shipyard for several years. (FEIR I-5). Proposition G, passed by the voters in 2008, encouraged a Project that included a new stadium on the Shipyard as an option should the 49ers and the City determine that the stadium is feasible. Proposition G also called for additional "green" office, science and technology, research and development, industrial space and housing on the Shipyard in the event a stadium is not built. A new stadium at the Shipyard remains a potential option as the 49ers have not made a final decision about the location of a new stadium.

Consequently, it is appropriate for the Project to include both a stadium and options for other development should a final decision be made in the future that a new stadium at the Shipyard is not feasible. Because both the stadium and non-stadium options are potential development scenarios for the Shipyard area designated as HPS South, CEQA requires that the FEIR analyze the potential impacts of both options. Moreover, nothing in CEQA precludes the analysis or approval of optional elements of a development plan so long as the environmental analysis of these options complies with CEQA. Thus, the FEIR properly includes the stadium in the Project description and analyzes three development variants in a non-stadium scenario: Variant 1, the R&D Variant; Variant 2, the Housing Variant; and Variant 2a, the Combined Housing, R&D variant. The Project proposed for approval allows the stadium and, in the event that a final decision is made not to proceed with the stadium, either Variant 1 or Variant 2a. Given that the final decision on the stadium is unknown at this time, this approach is appropriate.

Concern 1.c. The project site fails to include the Yosemite Slough. (CSPF)

Response 1.c. As explained in the FEIR, the Yosemite Slough is not a part of the Project site. (C&R-732-734). That the Project includes a bridge spanning one end of the slough does not mandate inclusion of the entire slough within the Project site. The Project proposes several off-site transportation improvements, including the bridge, the widening of Harney Way, and various improvements to Palou Avenue, Carroll Avenue, Ingalls Street, Innes Avenue, Gilman Avenue, and Third Street, among others. These transportation improvements, while a part of the Project and fully described and analyzed in the FEIR, are considered off-site Project elements. The slough is not part of the Project site because (1) another project proposed by other parties has been approved for the slough (i.e., the Yosemite Slough Restoration Project); (2) the Project does

not propose any improvements in the slough, except for the bridge; (3) the Project Applicant will have no interest in, control over, or management or other responsibility for the slough; and (4) proposed Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement (State Parks Agreement) does not include the slough in the property to be conveyed to the Agency and to be improved as part of this Project. Consequently, it is appropriate to characterize the bridge as an "off-site" Project element. Distinguishing between on-site and off-site Project improvements does not violate CEQA. The FEIR provides a detailed description of the bridge and its location, and provides an extensive analysis of the potential impacts associated with the bridge, including the potential impacts on the slough and the proposed restoration project. In fact, as required by CEQA, every section of the FEIR describes the Project's potential impacts on the areas surrounding the Project site as well as the potential impacts that would occur on the Project site. In this way, the FEIR fulfills the CEQA mandate to inform the decision-makers and the public of the Project's environmental consequences, wherever those consequences occur, whether on-site or off-site.

The State Parks Agreement approved by the Redevelopment Agency recognizes the Yosemite Slough Restoration Project as a joint project of the California State Parks Foundation and State Parks and includes provisions to ensure that the design and construction of the Bridge is coordinated with the implementation of the Restoration Project so that design elements of the Bridge are consistent with the objectives of the Restoration Project.

2. TRAFFIC AND TRANSPORTATION

Concern 2.a. **The FEIR fails to adequately analyze an alternative Bus Rapid Transit (BRT) route around Yosemite Slough. (SC)**

Response 2.a. An alternative bus rapid transit route around Yosemite Slough was analyzed in the FEIR. Alternative 2 analyzed the impacts of a no-bridge scenario with the stadium at a similar development intensity as the Project with a portion of the BRT route generally following the route along an abandoned Navy railroad right-of-way (C&R-1394-98, Response to Comment [RTC] 82-27 through 82-30,). It was concluded that because this route would require a number of right angle turns and additional signalized intersections, it would not provide a comparably direct route as compared to the route provided across the bridge. Alternatives 4 and 5 examined alternative development scenarios, one with a reduced development envelope compared to the Project and the other with the same development program, but different distribution of uses, as the Project, both without a stadium and without the inclusion of the Yosemite Slough bridge

As discussed in detail in Master Response 4 (C&R-57-67), a no-bridge scenario would not meet three key Project and Proposition G objectives: (1) to provide automobile, public transportation, and pedestrian connections between the Shipyard and Candlestick Point; (2) to create an appealing walkable urban environment served by transit; and (3) to provide the necessary transportation infrastructure, including automobile, public transit and pedestrian connections between Candlestick Point, the Hunters Point Shipyard, and the larger neighborhood to facilitate the handling of game day traffic in conjunction with the proposed new 49ers stadium.

Due to geography, topography, and the current condition of infrastructure, Candlestick Point and the Hunters Point Shipyard are comparatively isolated from the transit and roadway

networks serving the City and region, and are not easily accessible by pedestrians and bicyclists. These deficiencies have been identified as top community concerns during the extensive local and citywide planning efforts for the Project and across southeastern San Francisco. (C&R-55-56.) As part of the City's transportation goals and plans, and to serve the increased travel demands from the Project, a new BRT network has been proposed. BRT service generally provides faster more reliable service than traditional local bus routes using a variety of strategies to reduce conflicts with other vehicles. (C&R-56.) For the Project, BRT service would provide an internal link between the two Project areas, would link the Project with the surrounding developments and neighborhoods, and would connect to Caltrain, BART, the T-Third light rail, and numerous Muni bus lines. A key element of the Project's overall transportation system would involve providing the most direct route of travel for the BRT, as well as bicycles and pedestrians, between Hunters Point Shipyard, Candlestick Point, and destinations to the west. (C&R-56.) Thus, the planned BRT is a critical component in the promotion of public transit use by the Project residents, visitors, and employees consistent with the City's Transit-First policy and the Project's Transportation Plan.

Another key goal of the Project's Transportation Plan is to provide effective ingress and egress for the proposed new stadium. The NFL has stated that an essential feature of any stadium access plan is the ability to clear the stadium parking lots within an hour or less. (C&R-56.) In doing so, the City is concerned that surrounding residential area streets not be unduly affected by stadium traffic. (C&R-56.)

The FEIR concluded that the Yosemite Slough Bridge would best achieve three primary transportation functions consistent with the Project objectives and overall City goals and policies. First, the Bridge's BRT lanes allow a more direct route (approximately ⅔ mile shorter) between the Project neighborhoods and to and from BART, Caltrain, Muni light rail and local buses than an alternative route around the slough. Second, the Bridge provides pedestrians and cyclists a direct connection between Hunters Point Shipyard and Candlestick Point, avoiding a diversion through or near the industrial area around Yosemite Slough, which is not well suited for other types of traffic. Third, the bridge provides automobile access between the stadium site and US-101, via a planned reconstructed interchange at Harney Way, which is the only route that can meet NFL standards for traffic egress; other routes would create substantial risks that the NFL would not approve a stadium in the area. [1]

For each of these three transportation functions, the FEIR analysis determined that the Yosemite Slough Bridge would provide a superior and necessary function compared to alternatives without the bridge. (C&R-54-67.) For the BRT service, the analysis demonstrated that in terms of travel time and associated ridership, reliability, safety, operating costs, adaptability to possible future light rail, and minimizing impacts on local industrial businesses, the BRT route across the Yosemite Slough Bridge would be substantially superior to alternative routes around the Slough and would provide a quality of service associated with bus rapid transit. (C&R-57-61.) Based on these findings, SFMTA has stated that the additional travel time, cost, reduced ridership, and

[1] Letter from Neil Glat, Senior Vice President, National Football League, to Stanley Muraoka, Environmental Review Officer, San Francisco Redevelopment Agency, January 12, 2009.

overall effect on route reliability associated with a route around the Slough would likely affect Muni's ability operate the service to the Hunters Point Shipyard. (C&R-61.)

To evaluate accommodating game day traffic, the analysis examined two alternative egress routes without a bridge and concluded that: (1) Alternative Route 1 would have a stadium exit capacity substantially below what would be necessary to accommodate a new NFL stadium at the Shipyard; and (2) Alternative Route 2 would closely approximate the required egress clearance capacity, but would have negative drawbacks, including elimination of BRT service from the Balboa Park BART station and the Bayshore Caltrain Station and serious conflicts with the operation of the T-third light rail service. (C&R-62-66.) These drawbacks would conflict with the City's Transit-First policy.

The bridge would enable walking and cycling between Candlestick Point and the Hunters Point Shipyard, thereby enhancing the connection between these two Project areas and reducing automobile use and the demand for parking. Without the bridge, walking and cycling distance between the center of Candlestick Point and the center of Hunter Point Shipyard would increase by 2/3 mile or 50 percent compared to conditions with the bridge. Without the bridge, pedestrians and cyclists would travel through an industrial area with heavy truck traffic, several intersections, and few amenities. Some of these differences may be reduced with the construction of the Bay Trail around Yosemite Slough. The trail, however, would be open only during park hours from 8:00 A.M. to sunset. The bridge lighting would provide security in the evening hours, when recreational fields at the Shipyard would be in use. (C&R-66-67.)

In addition, the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement provides that the bridge will serve as a part of the open space network. The bridge would be required to function primarily for public transit, bicycle, and pedestrian use, and would be closed to private motor vehicle traffic except on days when football games are held at the stadium on the Shipyard. Without the bridge, the unique recreational and viewing benefits provided for pedestrians and cyclists using the bridge would not occur.

Concern 2.b. **The FEIR fails to adequately address impacts to eight MUNI lines, which would increase transit times, increase delays during peak hours, potentially dissuade ridership, and/or require increased service, buses, or drivers. (SC)**

Response 2.b. The commenter does not specify to what eight MUNI lines it refers. Pages III.D-12 through –15 of Section III.D (Transportation) of the EIR contain descriptions of all MUNI lines that service the Project area. Fourteen separate MUNI lines were identified. Impacts of the Project on each of these lines and on regional transit were comprehensively analyzed in Section III.D of the EIR. (Impacts TR-17 through TR-30). See also RTCs 90-3 and 43-1 through 43-20 of the C&R document.

Concern 2.c. **The FEIR fails to adequately assess and mitigate the Project's traffic impacts. (POWER)**

Response 2.c. Other than a bullet point on the first page of the appeal letter, this comment appears to incorporate comments made in prior comment letters dated June 12, 2010 from POWER, to which responses were provided in the C&R. See RTCS 50-1 through 50-37. No new comments have been provided with regard to traffic impacts.

Concern 2.d. **The FEIR does not provide substantial evidence to justify construction of the bridge, particularly if the stadium is not built. (CSPF)**

Response 2.d. Please see response 2.a.

Concern 2.e. **The FEIR fails to analyze the impacts of cars on the bridge other than on game-day. (CSPF)**

Response 2.e. The State Parks Agreement provides that cars will not be allowed on the bridge except for 20 days per year (to accommodate National Football League traffic). In addition, as explained in Response to Comment 17-1 the use of the bridge is in the legislative control of the Board of Supervisors (Board), and prior to the City's acceptance of the bridge, the Agency and City staff intend to request that the Board restrict use of the bridge by designating the bridge as a public right-of-way for transit only, except as specified in the State Parks Agreement. The Infrastructure Plan, which is part of the Interagency Cooperation Agreement and is pending before the Board , requires a bridge design that controls access.

3. AESTHETICS

Concern 3.a. **The FEIR does not respond to the comments on the FEIR regarding the aesthetic impacts of the bridge on the Yosemite Slough and the Candlestick Point State Recreation Area (CPSRA), especially the impact to scenic resources, scenic vistas and the visual character and quality of Yosemite Slough. (CSPF)**

Response 3.a. The FEIR fully responds to the comments on the DEIR regarding the aesthetic impacts of the bridge on the Yosemite Slough and the surrounding area, including the CPSRA. Moreover, the FEIR thoroughly analyzes the potential for significant aesthetic impacts from the overall Project, including the bridge. The following discussion summarizes the information, evidence, and analysis included in the FEIR demonstrating that the bridge would not result in any significant adverse aesthetic impacts based on the applicable thresholds of significance.

Overview of Analysis: The FEIR includes the 82-page Section III.E (Aesthetics), analyzing the Project's potential impacts on scenic resources, scenic vistas, and visual character. Yosemite Slough, the Bay, and the CPSRA shoreline are described in the setting section and are acknowledged as scenic resources in the Project area. (EIR pages III.E-2, -3, and -12). The FEIR specifically describes the existing slough and Candlestick Point shoreline conditions (EIR page III.E-13) and includes photographs depicting these existing conditions (EIR Figures III.E-8 and -9). Twenty viewpoints are analyzed in the FEIR (EIR Figure E-10), including views from CPSRA (Views 9, 11, 13, 14 and 17 in Figures III.E-19, -21, -23, -24, and - 27) and three views of the bridge from the open space around Yosemite Slough (Views in Views 10, 14, and 16 in Figures III.E-20, -24, and - 26). In response to comments on the DEIR from CSPF, four additional viewpoints of the bridge from the area around the slough are included in the Comments and Responses, for a total of seven viewpoints in the FEIR showing the bridge. See Response to Comment 47-47, pages C&R-772 to 775 with C&R Figures 10, 11, 12, and 13. The FEIR uses this information to evaluate the potential for the Project, including the bridge, to have a substantial adverse impact on scenic vistas, cause substantial damage to scenic resources, or cause substantial degradation of the existing visual character or quality of the Project site and its surroundings.

Potential for Substantial Adverse Impact on Scenic Vistas: As shown in the FEIR, the bridge would not be prominent in any panoramic views of the site and would not obstruct, alter, or degrade the

quality of these scenic vistas. (EIR pages III.E-53 to -57) Views of the Bay and the slough would be retained from numerous vantage points, including from the shoreline, from view corridors within the Project site, and from certain areas in CPSRA. Additionally, new scenic vistas would be available from the bridge and from the substantial improvements to the CPSRA, which will enhance the public accessibility of the shoreline and provide greater opportunities for the public to take advantage of the scenic resources at CPRSA and the Bay (Response to Comment 31-14, pages C&R-351 to 352; Response to Comment 47-76, page C&R-789).

Potential for Substantial Damage to Scenic Resources: The FEIR acknowledges that the bridge would change the appearance of a portion of the slough and would replace views of open water from some locations around the slough. (EIR page III.E-58) Because the slough would continue to be a prominent scenic resource surrounded by open space and visible from many locations, the FEIR concludes that the bridge would not cause substantial damage to this scenic resource (See Figures III.E-20, 24, and 26; see C&R Figures 10, 11, 12, and 13). Additionally, the bridge has a low profile design with green design elements and would be integrated into the open space on either side of the slough. Moreover, the Project, including the bridge, would improve access to the CPSRA allowing a greater number of people to take advantage of the scenic resources along the CPSRA shoreline and the slough (page C&R-351). The Project's proposed shoreline improvements (e.g., debris removal, marsh plantings) would improve the aesthetic quality of the shoreline along Candlestick Point, thereby benefiting this scenic resource (EIR page III.E-58).

Potential for Substantial Degradation of the Existing Visual Character: Inclusion of a bridge in a natural setting does not inherently degrade the character or quality of the setting or substantially block views. Both the slough and the CPSRA shoreline would continue to be prominent features in the area available for viewing from many locations. The bridge would cross a relatively narrow portion of the slough and its small footprint relative to the remainder of the slough would not constitute a substantial degradation of the overall visual character of the slough. Except for the bridge route, the slough would remain visible as an open space and open water area (EIR page III.E-64). Additionally, the CPSRA shoreline would be substantially improved, including enhanced access to the shoreline. The bridge has been designed with a low profile that would not protrude significantly above grade. Views of the slough and the Bay would be offered from the bridge, as well as from the improved shoreline areas included as part of the Project, which would provide viewing opportunities not currently available (page C&R-351). Traffic along the bridge would interrupt views of the Bay only from certain vantage points along the slough. Interruptions in views from operation of Bus Rapid Transit (BRT) vehicles would occur intermittently for brief periods of time. Automobile traffic on the bridge would be restricted to game days (page C&R-352). Pedestrians and cyclists would be able to take advantage of the views from the bridge and these users would not represent significant, permanent obstructions to Bay views from the slough. Given these factors, the bridge would not substantially degrade the visual character of the Project site and vicinity.

Thus, the FEIR fully considers the potential aesthetic impacts of the bridge on scenic vistas, scenic resources, and the visual character and quality of the Project area including the Yosemite Slough.

4. AIR QUALITY

Concern 4.a. **The FEIR underestimates the extent to which the Project exceeds air quality standards, because it fails to consider the cumulative traffic increases on Highway 101 and Interstate 280 that will force more traffic onto surface street. (SC)**

Response 4.a. The air quality analysis reflects conditions in the traffic report and, therefore, considers all traffic changes on local streets resulting from congestion on Highway 101 and Interstate 280 to the same extent that these traffic changes are considered in the traffic analysis. The traffic analysis evaluates future year 2030 No Project conditions via a two-step process that utilized (1) the San Francisco County's travel demand model (SF-CHAMP) to determine background traffic growth on study area roadways, and (2) traffic volume overlays to reflect traffic volume turning movement increases associated with nearby developments that are not fully reflected in the SF-CHAMP model output. The SF-CHAMP model forecasts both the amount of new traffic associated with new regional development and the routes that this traffic is likely to use. The routes are determined by comparing relative travel times, which include increases in travel time due to congestion. The propensity for traffic to divert from regional freeways, including US 101 and I-280, onto local streets because of congestion on the freeways is accounted for in the traffic forecasts. Because the air quality analysis for mobile emissions is based on the cumulative traffic modeling of the traffic study, the air quality analysis includes an analysis of emissions from cumulative traffic increases on Highway 101 and Interstate 280, as well as the surrounding streets.

5. NOISE AND VIBRATION

Concern 5.a. **The FEIR does not adequately analyze noise and vibration impacts on park users. (CSPF)**

Response 5.a. The City of San Francisco General Plan's "Land Use Compatibility Chart for Community Noise" indicates that new construction of parks should generally not be undertaken in areas where ambient noise levels exceed 75 dBA. As shown in the Draft EIR and further explained in Response to Comment 47-41, implementation of the project would result in an increase in 24-hour noise levels to the areas adjacent to the CPSRA; however, the future ambient noise levels are estimated to be well below the 70 dBA noise exposure that is considered satisfactory by the General Plan.

Under CEQA, noise-sensitive receptors are generally considered to be those individuals for whom a long-term exposure to excessive noise could be detrimental to their health or welfare. Uses with noise-sensitive receptors in San Francisco are considered to be uses such as residences, schools, hospitals, and rest homes. This definition of noise-sensitive receptors is consistent with Federal Transit Administration (FTA) Impact Criteria for Noise-Sensitive Uses, which identifies noise-sensitive uses based on nighttime sensitivity to noise and the need to avoid interference with certain activities such as speech, meditation, and concentration on reading material (FEIR Table III.I-9). Consequently, park users are not considered noise-sensitive receptors for the purpose of a CEQA analysis. CEQA does not mandate the use of the World Health Organization (WHO) thresholds for noise impacts to recreational users. The Project's construction and operational noise and vibration impacts are identified in the FEIR Chapter I.

6. CULTURAL RESOURCES

Concern 6.a. The FEIR fails to adequately protect historic Ohlone sites. (POWER)

Response 6.a. The FEIR includes an extensive analysis of potential cultural resource impacts related to Native American sites and extensive mitigation measures designed to reduce any potential impacts to a less than significant level. (FEIR III.J) The FEIR describes the potential occurrence of Native American sites within the Project boundaries. (FEIR III.J-2-4) The FEIR identifies the expected archaeological sites located in, or within a quarter-mile of, the Project site. (DEIR III.J-17-19) Potential significant archaeological impacts, including impacts to Native American resources, are identified in the FEIR (Impacts CP-2a, 2b, 2c; FEIR III.J-36-41). Mitigation Measure CP-2a provides for an extensive mitigation program, including archaeological testing to identify resources that could be affected by the Project, archaeological monitoring during construction activities that have the potential to affect resources, and data recovery pursuant to an Archaeological Data Recovery Plan. The mitigation program must be implemented in accordance with the requirements of the Project Archaeological Research Design and Treatment Plan, the specific requirements of MM CP-2a, and the direction of the City's Environmental Review Officer. (FEIR III.J-36-39) Additionally, MM CP-2a includes provisions for the treatment of human remains and associated or unassociated funerary objects in compliance with all applicable state and federal laws, including notification of the Coroner and, if the remains are determined to be Native American, the California State Native American Heritage Commission, which shall appoint a Most Likely Descendant to participate in determining the treatment of the human remains and funerary objects. Consequently, this mitigation measure will ensure that an archaeological testing program will be performed, construction monitoring undertaken, and any discovered resources appropriately handled and documented.

Additionally, Master Response 1 in the Comments and Responses describes the City's February 19, 2010 meeting with Native American/Ohlone representatives who responded to the Planning Department's January 26, 2010 offer of consultation. At the meeting, the parties agreed to certain actions: (1) allowing time for representatives from additional Native American groups to respond to the request for consultation; (2) providing more information regarding prehistoric archaeological sites to interested Ohlone representatives, to the extent permitted by law; and (3) agreeing that the parties would meet again to consult. The Planning Department did not receive any additional responses to the January 26, 2010 letter. On May 11, 2010 the Planning Department sent a follow up letter to the contact person designated by the Native American Heritage Commission (NAHC) who attended the February 19, 2010 meeting. This letter contained: (1) contact information for the Navy staff; (2) the notice of the June 3, 2010 joint meeting of the Planning Commission and Redevelopment Agency Commission; (3) added language proposed by the department to be included in the Candlestick Point Subarea Plan and Hunters Point Area Plan related to the treatment of archeological resources and (4) a request for availability to meet again and continue the consultation efforts. In late May 2010, an individual, who attended the February 19, 2010 meeting, contacted the Planning Department to inquire about the status of consultation efforts. This individual is not listed as a designated Native American contact by NAHC; however, Planning staff forwarded him a copy of the May 11, 2010 letter for his information. Since that time, the Planning Department has continued to meet and

communicate with Native American groups regarding a process for addressing their issues pertaining to the site during development activities.

Having received no response from the official Native American contact to the May 11, 2010 letter, on June 15, 2010 the Planning Department sent a follow up letter to the contact individual restating the offer to continue consultation discussions. A copy of this letter was also provided to two other Native American individuals pursuant to the request of Randall Dean, Archeological Planner for the Department.

As of the date of this Report, the Department has received no response to either the May 11, 2010 or June 15, 2010 letters offering to continue consultation efforts.

7. HAZARDOUS MATERIALS

Concern 7.a. **The FEIR fails to adequately assess impacts resulting from the landfill cap on Parcel E-2. (SC)**

Response 7.a. As explained in the FEIR in Section III.K Hazards and Hazardous Materials, all of the property at the Hunters Point Shipyard that remains in Navy ownership is subject to the requirements of the Comprehensive Environmental Remediation Compensation and Liability Act (CERCLA), both because all federal property is subject to Section 120 of CERCLA, which requires that federal property meet certain conditions before it is transferred out of federal ownership, and because the Shipyard is a listed superfund site under CERCLA. To guide the remediation of the Shipyard, the Navy has entered into a Federal Facilities Agreement (FFA) with U.S. EPA, and Cal-EPA (through the Department of Toxics Substances Control (DTSC) and the San Francisco Bay Regional Water Quality Control Board (SFRWQCB)). The FFA establishes a schedule and process for regulatory oversight of the remediation and public participation in the remediation process. Section 120 of CERCLA precludes the Navy from transferring the property at the Shipyard to another party until the property either has been remediated sufficient to protect human health and the environment given the intended future uses, or, the Administrator of U.S. EPA and the Governor of the State of California determine that the transfer of property before it is completely remediated will not result in an unacceptable risk to human health and the environment. See also FEIR Master Response 9, Status of the CERCLA Process (C&R-107).

Given the stringent and complex legal requirements that apply at the Shipyard, the FEIR necessarily takes into account this regulatory structure in determining any possible impacts that could occur from the Project. In regards to Hazardous Materials, the impacts that could occur from the Project are those impacts that could occur during the development and use of the Shipyard property for the Project. The FEIR thoroughly examines all impacts that could occur at Parcel E-2 from exposure to hazardous materials. It specifically identifies that to the extent the Shipyard property contains hazardous materials at the time of construction activities, these construction activities could disturb contaminated soil and groundwater and that activity could result in significant impacts to workers, occupants and visitors if controls are not in place to manage the risks from such exposure. See FEIR, Section III.K at pages 53 through 109. Further, the FEIR recognizes that even after Project construction is complete, ongoing actions that might

result in disturbance of subsurface areas containing residual hazardous materials could impact residents and visitors to the Shipyard. See FEIR, Section III.K at pages 110 and 111.

No decision has been made by the Navy and regulators overseeing the CERCLA remediation as to the condition under which the regulators will authorize the Navy to transfer the property at Parcel E-2. A landfill cap may be part of the remedial solution for a portion of this parcel of the Shipyard but a landfill cap is not the only solution under consideration under the CERCLA process. Further, other partial remedial solutions already have been implemented and are continuing to be implemented at Parcel E-2, as explained in the FEIR Master Response 11, Parcel E-2 Landfill (C&R-117). Remedial actions that have been taken at Parcel E-2 include:

- From the Metal Slag area, removal of 8,200 cubic yards of soil, metal slag and debris, including 74 cubic yards of low-level radioactive waste, 32 radiological devices, 15 cubic yards of radiological debris (primarily fire bricks) and 30 cubic yards of metal debris.
- From the PCB Hot Spot area, removal of approximately 44,500 cubic yards of soil and debris, including 533 cubic yards of soil and fire brick debris identified as low-level radiological material, 40 radiological devices, 78 cubic yards of metal debris and 19 pieces of other radioactively contaminated debris and two drums of mixed waste.
- In a 14.5 area of Parcel E-2 containing the landfill, installation of an interim engineered cap to reduce water infiltration, stabilize surface soils and limit erosion; the interim cap also prevents future fires until a decision has been made as to a long-term remedial solution for this portion of Parcel E-2. The Navy installed a landfill gas control system that includes a subsurface gas cutoff wall, passive and active landfill gas extraction wells, and three tiers of gas-monitoring probes, which are sampled monthly and results reported quarterly. In the 50 to 100 times the various probes have been sampled, there has been no detection of methane or landfill gases in the Crisp Avenue probes, indicating that the cutoff wall installed around the landfill is effective in preventing offsite migration of landfill gas including methane.

The Navy is planning on taking additional remedial actions to address remaining radiological contamination at Parcel E-2, and these include:

- Removal and remediation of the sanitary sewer, storm drain and septic sewer lines that extend into the East Adjacent Area of Parcel E-2.
- Removal and remediation of the ship-shielding berm in the Panhandle area.
- Preparation of final status surveys of the excavated subgrade of Parcel E-2 to locate and remove any radiological anomalies and backfilling with soils that meet radiological acceptance criteria.

Prior to transfer of Parcel E-2 to the Agency, the Navy will need to complete the CERCLA remedial process as the Agency does not intend to accept Parcel E-2 from the Navy until the regulators have determined that the Navy has completed remediation of Parcel E-2. In other words, the Agency will not accept Parcel E-2 as an early transfer parcel. At this point, the Navy has issued a draft final remedial investigation/feasibility study (RI/FS) for Parcel E-2. The draft

RI/FS identifies possible remedial solutions for the contamination that remains at Parcel E-2. These remedial solutions include the following options:

- Excavate all solid waste, contaminated soil and contaminated sediment from Parcel E-2; hazardous materials encountered would be screened for radionuclides, segregated, characterized and radiological material would be disposed off-site.
- Cap the solid waste landfill and excavate the solid waste, contaminated soil and contaminated sediments from the other areas of Parcel E-2; hazardous materials encountered would be screened for radionuclides, segregated, characterized and radiological material would be disposed off-site.
- Cap the solid waste landfill and excavate the solid waste, contaminated soil and contaminated sediments from the other areas of Parcel E-2; install a slurry wall along the shoreline to limit groundwater flow to the Bay; hazardous materials encountered would be screened for radionuclides, segregated, characterized and radiological material would be disposed off-site.

As summarized here, the Navy's solution for Parcel E-2 is not to simply cap the landfill area. The Navy already has removed the most hazardous materials known to be present at Parcel E-2 and will continue to remove materials at Parcel E-2 as part of its radiological remediation program.

The FEIR takes into account the possibility that the Navy may place an engineered landfill cap in a portion of Parcel E-2 in determining the kinds of impacts that could result during the redevelopment and use process. As explained in detail in Section III.K, if Parcel E-2 or any other portion of the Shipyard is transferred with residual contamination remaining, any development work done in those portions of the Shipyard will be subject to stringent restrictions that will be enforced by U.S. EPA and Cal-EPA. Although the federal regulatory process itself is designed to assure that there will be no unacceptable exposure to hazardous materials during the development and use of the property, the FEIR nevertheless, in an abundance of caution, identifies a series of mitigation measures that are layered on top of the federal regulatory process to assure that no unacceptable exposures occur as a result of the Project. The mitigation measures require that anyone who wishes to disturb any subsurface area of the Shipyard must go through a review process that will be conducted by the San Francisco Department of Public Health ("SFDPH"). This review process will assure that in addition to the federal and state oversight agencies, the SFDPH will also make certain that restrictions imposed through the CERCLA process are fully complied with during any subsurface work. See Mitigation Measures HZ1b, HZ 2a.1, HZ 2a.2, HZ 5a, HZ9, HZ10b, HZ12, and HZ15.

Concern 7.b. The FEIR fails to analyze the conflict between Proposition P and the Project's embrace of the Navy's remediation plans, which are not consistent with Proposition P. (CARE)

Response 7.b. As explained in Response 7.a, the Navy is still in the process of determining final remediation plans for some parcels including Parcel E-2. As explained in FEIR Master Response 9, Status of the CERCLA Process (C&R-107) the Navy has decided on remedial plans by issuing a final record of decision for Parcels B, D-1, G, UC-1 and UC-2. It is still working on remedial plans for Parcels C, D-2, E, E-2 and F. The Project does not favor or disfavor any of the Navy remediation plans or draft remedial plans or draft or final feasibility studies, which identify

possible remedial options. Instead, the FEIR does what is required by CEQA – it evaluates any possible impacts that could occur from exposure to hazardous materials, taking into account reasoned assumptions about the impacts that could occur during the development process. In determining what impacts could occur the FEIR evaluates the range of conditions under which the property could transfer from the Navy to the Agency. This is an appropriate analytical approach for CEQA, because CEQA requires an analysis of impacts that could occur with the project and in the case of hazardous materials exposures, it is appropriate to consider a worse case exposure analysis. This is precisely the approach used in the FEIR analysis. If the Navy ultimately decides to transfer the property with no residual contamination present, so that no exposure to hazardous materials could occur during the development process, the FEIR will have overestimated, not underestimated, the impacts of development.

Proposition P is discussed in detail in FEIR Master Response 15, Proposition P and the Precautionary Principle (C&R-136). Proposition P, which calls for the Navy to remediate the Shipyard for unrestricted residential uses, has no bearing on the analytical approach required by CEQA, which calls for a reasoned analysis of impacts that could occur with the development proposed. Further, the FEIR does not preclude the City from continuing to encourage the Navy to implement the principles identified by Proposition P. Thus, there is no conflict between Proposition P and the FEIR.

Concern 7.c. **The FEIR does not properly address the environmental impacts associated with the early transfer of Parcel G and the Agency's remediation actions under this alternative particularly with housing at this location. (CARE)**

Response 7.c. The FEIR recognizes that if Parcel G is used entirely for housing, portions of Parcel G could require additional remediation beyond the remediation required of the Navy by the record of decision for Parcel G. (See FEIR at page IV-106; FEIR Master Response 14, Unrestricted Use Alternative (C&R-135)). The Navy completed the record of decision for Parcel G based on the uses allowed in this area under the Hunters Point Shipyard Redevelopment Plan approved in 1997. The 1997 Redevelopment Plan provides that some portions of Parcel G will be used for industrial purposes. Consequently, and in accordance with the CERCLA process, the Navy is remediating Parcel G to satisfy these reuse criteria. The amendments to the 1997 Redevelopment Plan that are before the Board of Supervisors at this time, will allow for housing in portions of Parcel G that are currently zoned for industrial use. The property is expected to transfer from the Navy with a legally enforceable restriction on those portions of the property that are not designated as residential use. If the Agency wishes to place residential uses in these areas, it will need to obtain approval to do so from the U.S. EPA, the Navy, and Cal-EPA. To obtain such approval, it is possible that the Agency may need to undertake some additional soil removal or similar remedial action as is recognized in the FEIR at pages IV-106. (The Navy remediation project managers have verbally informed City staff that they believe it is likely that the Navy groundwater treatment in Parcel G will result in the Parcel being suitable for residential use even though the groundwater treatment system was not specifically designed to a achieve a residential use standard.) Thus, the FEIR considered the impacts associated with remedial action that could be required at this location in the event it is used for housing.

Concern 7.d. **The Navy has not finalized its remediation plans and as a result, the EIR cannot adequately address the impacts of development on these parcels. (CARE)**

Response 7.d. The FEIR takes into account all possible conditions under which the property could transfer to the Agency as allowed by CERCLA. See Response 7.b.

Concern 7.e. **The FEIR does not include an alternative that allowed for clean up of the Hunters Point Shipyard to a standard of residential use/unrestricted use under Proposition P. (POWER)**

Response 7.e. The FEIR takes into account the possible conditions under which the property could transfer to the Agency. If the Navy were to choose to remediate the property to a residential use/unrestricted use condition, then it is expected that fewer impacts associated with hazardous materials would occur during the development process. However, the FEIR assumes that the property could transfer with residual contaminants remaining and identifies the impacts that could occur under this scenario. If the Navy instead transfers the property in a condition that does not require use restrictions, impacts would be reduced as compared to those identified in the FEIR.

Further, there is nothing in the FEIR that would preclude a developer, instead of the Navy, from remediating the property beyond the remediation that is required by a record of decision. The impacts associated with remediation of hazardous materials are identified in the FEIR, because it assumes that some of the property could be developed while some remediation remains to be completed. Thus, should a developer or the Agency choose to remediate any portion of the Shipyard beyond what is required by the CERCLA process in order to achieve the Proposition P objective of remediating the entirety of the Shipyard to a residential, unrestricted use (even though the Redevelopment Plan would not allow residential use in all areas of the Shipyard), the FEIR does not preclude this extra remedial action. Instead, the FEIR identifies impacts associated with remediation activities and identifies mitigation measures to address those possible impacts. While the FEIR does not specifically foresee that substantial remediation would occur beyond that required by the CERCLA process, the impacts associated with voluntary, extra remediation actions would be the same as the impacts identified that would be associated with remediation activities that are foreseen by the FEIR and discussed in particular in Impacts HZ 8, HZ 9, HZ 10, HZ 12, HZ 14.

Concern 7.f. **The FEIR does not include an adequate remediation of the toxic contamination at parcel E-2. (POWER)**

Response 7.f. Remediation of Parcel E-2 is not part of the Project, with minor exception (such as the installation of a road right of way on the edge of Parcel E-2). Rather, as explained in Response 7.a, the Project assumes that Parcel E-2 will not transfer from the Navy to the Agency until Parcel E-2 is determined by the regulators to meet the criteria for transfer with the CERCLA covenant that all remedial actions required to protect human health and the environment has been completed. Nevertheless, the FEIR does evaluate impacts associated with remediation activities as explained in Response 7.e, and the FEIR would not preclude further voluntary remediation of the Shipyard in the future beyond that currently envisioned by the Project as described in the FEIR.

Concern 7.g. **The FEIR fails to provide for adequate oversight and enforcement of the Early Transfer Cooperative Agreement, Administrative Orders on Consent, and the Records of Decisions (RODs) and Remedial Designs for each parcel on the Candlestick Point and HPS Phase II sites. (POWER)**

Response 7.g. As explained in Response 7a, the FEIR necessarily assumes compliance with applicable regulatory processes in evaluating both impacts and mitigation measures associated with hazardous materials and it would not be reasonable to assume otherwise given the legally enforceable and complex CERCLA process that is in place at the Shipyard. Although it would have been reasonable to rely entirely upon the CERCLA process to conclude in the FEIR that there would not be any impacts associated with exposure to hazardous materials, given the detailed nature of that process and its health protective mandates, the FEIR nevertheless takes an extremely cautious approach to hazardous materials impacts and instead assumes that the Agency and City cannot simply rely on the complex federal and state processes to make absolutely certain that no impacts will occur as a result of exposure to hazardous materials at the Shipyard that may remain at the time of Project implementation. Consequently, in MM HZ-12, the FEIR requires that all developers who wish to develop in areas that are subject to an early transfer cooperative agreement between the Agency and the Navy and administrative orders on consent between the Agency and U.S. EPA and Cal-EPA, must demonstrate to SFDPH that their proposed subsurface activities will fully comply with the requirements of the Early Transfer Cooperative Agreement (ETCA), Administrative Orders on Consent (AOC) and the ROD and Remedial Design (RD) documents. The effect of this mitigation measure will be to assure that no development activity occurs that is inconsistent with any restrictions on use that are contained in these documents. Thus the FEIR provides for an extra layer of oversight and enforcement above and beyond the layers of enforcement that will be in place and overseen by U.S. EPA and Cal-EPA as a result of the Agency entering into an ETCA with the Navy and an AOC with U.S. EPA and Cal-EPA.

Proposed amendments to Health Code Article 31 pending before the Board of Supervisors at this time provide a system for enforcement of the hazardous materials mitigation measures that SFDPH will have responsibility for enforcing under the FEIR. The proposed amendments require a developer seeking a permit for development from the City to submit proof to SFDPH "that it is complying with all environmental documents and restrictions, including without limitation as applicable, the AOC, ETCA, Covenant to Restrict Use of Property (CRUP), Land Use Control Remedial Design (LUC RD), Pre-Remedial Action Closeout Report (Pre-RACR) Risk Management Plan (RMP), Post-RACR RMP and Operations and Maintenance Plan (OMP)."

Concern 7.h. **The FEIR fails to adequately mitigate for the potential lack of adequate oversight for remediation activities conducted by the Agency and the developer. (POWER)**

Response 7.h. See Response 7.g. The FEIR identifies the SFDPH as the enforcement entity to assure compliance with hazardous materials mitigation measures. The SFDPH role is proposed to be formally put in place by amendments to Health Code Article 31, the Building Code and the Public Works Code that are proposed for approval by the Board as part of the Project approval actions. As provided in the proposed amendments, anyone seeking a permit from the City for development activities at the Shipyard would need to provide evidentiary support to SFDPH that the work will be done in a manner that is consistent with restrictions on the use of the property

that will have been imposed by the Navy through recorded deed restrictions at the time the property was transferred from the Navy to the Agency.

In addition, the Navy will enter into a covenant with Cal-EPA that will give Cal-EPA enforcement authority over the property with respect to enforcement of environmental restrictions. The covenant will run with the land and be binding on all subsequent owners, giving Cal-EPA the ability to bring enforcement actions against anyone who violates any of the restrictions placed on the property. See also Master Response 17, Enforcement of Environmental Restrictions and Mitigation Measures, C&R-144.

Concern 7.i. The FEIR fails to adequately analyze and mitigate for health risks related to chemical of concern in concentrations above risk levels at the Shipyard. (POWER)

Response 7.i. The EIR Section III.K provides a detailed summary of the status of contamination and remediation actions that have been taken at the Shipyard. This summary is further updated in the FEIR Master Response 9, Status of the CERCLA Process (C&R-107). As that summary indicates, the Navy has made substantial progress in remediating the Shipyard and further progress is anticipated to be made before more property transfers to the Agency. Upon transfer of property to the Agency, the property will either be fully remediated such that no exposure to chemicals of concern would occur above risk levels established by the regulators through the CERCLA process, or, the regulators would approve an early transfer in which the Agency agrees to complete some minimal additional remediation. Parcels B and G are under discussion at present for transfer as early transfer parcels and they provide a good illustration on the possible type of remaining remediation that may need to be completed before development can proceed. In the case of Parcel B, the property may transfer requiring the installation of a final cover to assure no long-term exposure to elevated levels of metals that are found in fill at the Shipyard (and are similar to fill at Mission Bay, for example). Also, there may be the need to install vapor barriers in some locations; these would be installed as part of the foundation work for buildings located in these areas. Finally, some further monitoring or remediation of groundwater plumes may be required. FEIR Master Response 13, Post Transfer Shipyard Cleanup (C&R-127) explains the nature of contaminants expected to remain at the Shipyard after transfer. The FEIR has taken into account the possibility that property may transfer with these sorts of remediation activities remaining to be completed and has identified mitigation measures to assure that no unacceptable exposures to any chemicals of concern would occur during and after completion of the remediation process.

The early transfer of Parcel B would exclude Installation Restoration (IR) sites IR-07 and IR-18 as indicated in Master Response 9: Status of the CERCLA Process (C&R-107). The ROD for Parcel B proposes a restricted use designation for IR-07 and IR-18 because the Navy has determined that the presence of radionuclides in the fill cannot be ruled out. See Master Response 13: Post-transfer Shipyard Conditions (C&R 127) for more details. Consequently, IR-07 and IR-18 will not transfer under an early transfer. Prior to transfer of IR-07 and IR-18 to the Agency, the Navy will complete the CERCLA remedial process and will support the transfer to the Agency with a Finding of Suitability to Transfer and will provide all of the covenants required by CERCLA that the property remediation is complete.

Concern 7.j. **The FEIR fails to evaluate and assess the cumulative impacts of exposure to human and ecological receptors and the environment as a result of exposure to hydrocarbons, volatile and semi-volatile organic compounds, PCBs, pesticides, heavy metals, asbestos and radionuclides. (POWER)**

Response 7.j. The FEIR evaluated cumulative impacts to human and ecological receptors and the environment from possible hazardous materials exposures in Section III.K at pages 118 through 124. As explained in the FEIR, risks associated with hazardous materials impacts are generally localized and site-specific with the exception of those resulting from transportation of hazardous materials. Although a number of different projects are identified in the FEIR as reasonably foreseeable development in this general area of the Project, all of the development projects are subject to a complex set of local, state and federal regulatory schemes that would serve to control releases of hazardous materials that might occur during the development process. As a result, it is anticipated that the laws and regulations that pertain to the handling of hazardous materials would be sufficient to minimize health and safety risks and would control the use, transport and disposal of hazardous materials during development activities. Therefore, it is not expected that the Project would make a considerable contribution to a cumulative hazardous materials impact.

Concern 7.k. **The FEIR fails to adequately mitigate for exposure of various populations to toxins during remediation activities. (POWER)**

Response 7.k. The FEIR thoroughly analyzes the possibility that some limited remediation activity could be undertaken by the Agency or its developer as part of the Project and identifies mitigation measures to address the possibility of exposure to hazardous materials by residents, workers or visitors. See in particular Section III.K at pages 53 through 109 and in particular the discussion of Impacts HZ 8, HZ 9, HZ 10, HZ 11, and HZ 12.

Concern 7.l. **The FEIR fails to establish a mechanism for notification and education of community members and school population occupying property adjacent to the site about precautions and procedures to avoid and reduce exposure to hazardous materials from remedial and redevelopment activities at the Project site. (POWER)**

Response 7.l. Master Response 16: Notification Regarding Environmental Restrictions and Other Cleanup Issues (C&R-141) provides a detailed summary of the various legal mechanisms in place to provide notification to and communication with owners and residents of the Project site, owners and residents of adjacent property, and residents and schoolchildren on neighboring properties regarding hazardous materials issues. In addition, the FEIR provides clarification in the text of several mitigation measures in response to comments received on the draft EIR regarding notifications to nearby areas.

In addition to notices that are required by the CERCLA process (for example, the Navy must provide detailed notices in the property deeds of all hazardous materials releases that have occurred and all remedial actions that have been taken) the FEIR includes mitigation measures that require various types of notices related to hazardous materials issues. MM HZ-2a.1, concerning the requirement to prepare contingency plans to address unknown contaminants, requires the plans to include appropriate notification to nearby property owners, schools and residents in the event of the discovery of unknown contaminants during construction activities.

MM HZ 15, concerning asbestos dust mitigation plans and dust control plans requires the establishment of appropriate protocols for notification of nearby schools, property owners and residents when monitoring results indicate asbestos levels have exceeded the standard set forth in the plan.

Concern 7.m. The FEIR fails to provide for dissemination of information on institutional controls and exposure avoidance mechanisms for Project occupants, visitors, and workers. (POWER)

Response 7.m. If institutional controls are required as part of the hazardous materials remediation plan for any parcel, the record of decision for the parcel is expected to set forth in detail the requirements for maintaining the institutional controls. Master Response 16: Notification Regarding Environmental Restrictions and Other Cleanup Issues (C&R-140) provides a further explanation of the CERCLA process and notices that will be provided through that process. For purposes of providing a clear description of how institutional controls will be enforced, the following provides a detailed summary of an example of what will be contained in the record of decision for each parcel where institutional controls are part of the remedy. The record of decision of Parcels D-1 and UC-1 is used here to illustrate this process. The final record of decision for those parcels (July 24, 2009) states as follows (at pages 47 and 48):

> "ICs [institutional controls] will be implemented to prevent exposure to areas where potential unacceptable risk is posed by COCs [chemicals of concern] in soil and groundwater. ICs are legal and administrative mechanisms used to implement land use restrictions that are used to limit the exposure of future landowners or users of the property to hazardous substances present on the property, and to ensure the integrity of the remedial action. ICs are required on a property where the selected remedial cleanup levels result in contamination remaining at the property above levels that allow for unlimited use and unrestricted exposure. ICs will be maintained until the concentrations of hazardous substances in soil and groundwater are at such levels to allow for unrestricted use and exposure. Implementation of ICs includes requirements for monitoring and inspections and reporting to ensure compliance with land use or activity restrictions.
>
> The Navy has concluded that it will rely on propriety controls in the form of environmental restrictive covenants as provided in the "Memorandum of Agreement Between the United States Department of the Navy and the California Department of Toxic Substances Control" and attached covenant models (Navy and DTSC 2000) (hereinafter referred to as the "Navy/DTSC MOA").
>
> More specifically, land use and activity restrictions will be incorporated into two separate legal instruments as provided in the Navy/DTSC MOA:
>
> 1. Restrictive covenants included in one or more Quitclaim Deeds from the Navy to the property recipient.
>
> 2. Restrictive covenants included in one or more "Covenants to Restrict Use of Property" entered into by the Navy and DTSC as provided in the Navy/DTSC

MOA and consistent with the substantive provisions of the *California Code of Regulations* (Cal. Code Regs) tit. 22 § 67391.1.

The Covenant(s) to Restrict Use of Property will incorporate the land use restrictions into environmental restrictive covenants that run with the land and that are enforceable by DTSC and EPA as a third party beneficiary against future transferees and users. The Quitclaim Deed(s) will include the identical land use and activity restrictions in environmental restrictive covenants that run with the land and that will be enforceable by the Navy against future transferees.

The activity restrictions the "Covenant(s) to Restrict Use of the Property" and Deed(s) shall be addressed in the Land Use Control Remedial Design (LUC RD) Report that would be reviewed and approved by the FFA signatories. The LUC RD shall be referenced in the applicable Covenant to Restrict Use of Property and Deed. The LUC RD shall be submitted in accordance with the FFA schedule. The LUC RD shall specify soil and groundwater management procedures for compliance with the remedy selected in the Parcels D-1 and UC-1 ROD. The LUC RD shall identify the roles of local, state, and federal government in administering the LUC RD and shall include, but not be limited to, procedures for any necessary sampling and analysis requirements, worker health and safety requirements, and any necessary site-specific construction and/or use approvals that may be required.

Land use restrictions will be applied to specific portions of the facility and described in findings of suitability to transfer, findings of suitability for early transfer, "Covenant(s) to Restrict Use of Property" between the Navy and DTSC, and any Quitclaim Deed(s) conveying real property containing Parcels D-1 and UC-1 at HPS.

A Risk Management Plan (RMP) may be prepared by the City and County of San Francisco and approved by the FFA signatories that may set forth certain requirements and protocols for implementing the activity restrictions specified in the ROD."

The Navy shall address and describe IC implementation and maintenance actions including but not limited to frequency and requirements for periodic inspections during development and post development, monitoring, and reporting in the preliminary and final LUC RD reports to be developed and submitted to the FFA signatories for review and approval pursuant to the FFA (see "Navy Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions attached to January 16, 2004 Department of Defense memorandum titled "Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] Record of Decision [ROD] and Post-ROD Policy").

The Navy is responsible for implementing, maintaining, reporting on, and enforcing land use controls. Although the Navy may later transfer these

> procedural responsibilities to another party by contract, property transfer agreement, or through other means, the Navy shall retain ultimate responsibility for remedy integrity."

In sum, the ICs will be subject to a complex web of enforcement provisions. Property owners will be informed of the requirements in the deed and in the Covenant to Restrict Use of the Property that will be legally binding on all subsequent owners. The Covenant will set forth IC maintenance, inspection, and reporting requirements that the property owner will be responsible for completing and providing to the Navy, DTSC and U.S. EPA. The FEIR imposes mitigation measures that add an additional layer of enforcement to this already complex scheme by requiring that anyone who undertakes development activities must also satisfy SFDPH that the work will be done in strict conformance with the requirements in the deed and Covenant to Restrict Use of the Property.

Concern 7.n. The FEIR fails to incorporate adequate toxic dust mitigation based on the ineffectiveness of the measures used in Phase I. (POWER)

Response 7.n. Master Response 12: Naturally Occurring Asbestos (C&R-124) provides a detailed explanation of how the draft EIR addresses the issue of impacts associated with and mitigation measures to address dust that may contain toxic contaminants. As indicated on pages III.K-98 through 101 and MM -15, impacts related to asbestos exposure during construction activities would include enforcing and properly implementing dust control and monitoring procedures both through the Health Department's requirements to prepare a Dust Control Plan and through BAAQMD requirements to prepare an Asbestos Dust Mitigation Plan. Specific control measures would be required throughout the construction process. Depending on the particular site and work these controls could include operating particulate monitoring; sampling air for asbestos; controlling traffic and limiting vehicle speeds; limiting construction areas; wetting ground surfaces; minimizing soil stockpiles; washing down equipment before moving onto paved public roads; covering, wetting and hydroseeding soil stockpiles; covering trucks carrying soil; installing dust curtains and windbreaks; cleaning visible track out from paved public roads; and stabilizing disturbed areas. A hotline will be established for surrounding community members who may be potentially affected by Project-related dust and a contact person shall respond and take corrective action within 48 hours. For areas covered by the BAAQMD requirements, public visible signs would be posted around the site with the hotline number as well as the phone number of the BAAQMD and the numbers would be give to adjacent residents, schools and businesses.

The FEIR recognizes that there is community concern about the implementation of asbestos and dust control measures arising from the fact that during Phase I the Project Applicant's former asbestos air monitoring contractor failed to ensure proper operation of the air monitoring stations for several months of grading activities. However, the incident has been thoroughly reviewed by BAAQMD, UCSF experts, the Center for Disease Control, the Agency for Toxic Substances and Disease Registry, California Department of Public Health and most recently U.S. EPA Region 9. All of these reviews concluded that there was no significant health risk created by the grading activities at the Shipyard during Phase I work.

Concern 7.o. **The FEIR relies on institutional controls that are neither safe nor enforceable. (POWER)**

Response 7.o. See Response 7.m.

Concern 7.p. **The FEIR fails to include mitigation to address a pattern of regulatory failure related to the politically charged nature of this development. (POWER)**

Response 7.p. See Responses 7.g, 7.h, 7.l, and 7.n.

Concern 7.q. **The FEIR fails to incorporate mitigation based on the poor environmental track record of Lennar. (POWER)**

Response 7.q. See Response 7.n. See also Response to Comment 69-4 (C&R-1002).

8. LIQUEFACTION

Concern 8.a. **The FEIR fails to assess and mitigate for potential liquefaction of the contaminated landfill at the Shipyard in the event of an earthquake. (POWER)**

Response 8.a. As explained in Response 7.a, remediation of the landfill at Parcel E-2 is not part of the Project and the Agency has indicated that it does not intend to accept the transfer of Parcel E-2 from the Navy until the Navy has completed remediation of this parcel. As stated in Response 7.a, no decision has been made by the Navy and regulators as to the final remedial plan for Parcel E-2, but the range of possible remedial options identified in the draft feasibility study for the parcel include removal of the landfill, installation of an engineered cap at the landfill, or some combination of these options. As explained in Master Response 7: Liquefaction (C&R 83) if an engineered landfill cap is installed at the Parcel E-2 landfill, site-specific geotechnical studies, which would evaluate maximum potential earthquake and liquefaction potential, would be used in the design of the cap to minimize potential breaches or damage to the cap during a seismic event. An operation and maintenance plan would be carried out to monitor and repair any damage that occurs to the cap as a result of a seismic event. Additionally, emergency response plans would be carried out following major flooding and seismic events, at which time the cap would be investigated for potential breaches and repaired.

9. SEA LEVEL RISE

Concern 9.a. **The FEIR fails to adequately mitigate for the impact of sea level rise based on a potential rise of 5 meters. (POWER)**

Response 9.a. It is assumed that 5 meters is a typographical error, as there are no estimates from any source known to the EIR preparers that predict a sea level rise of 5 meters. The highest estimate in the literature thus far indicates a maximum SLR of 59 inches by the National Research Council. The subject of sea level rise is exhaustively addressed in Master Response 8 of the C&R document, which provides a comprehensive review of the literature. And, as noted in that Master Response, Section II.F.2, pages II-69 to -70, MM HY-12a.1 and MM HY-12a.2, pages III.M-100 to -103, of the Draft EIR discusses the measures planned to address sea level rise. In response to comments on the Draft EIR, an expanded discussion of the adaptive management strategy that would be used for this Project and specific mitigation measures that would be used for the development areas, storm drainage system, and shoreline protection are presented here. Based on the coastal study, literature review, and numerous discussions with other City agencies

(including SFPUC and DPW), the following strategy for protection against sea level rise has been incorporated into the project. It is comprised of four separate components:

Construction of a shoreline protection system that is initially built to accommodate a mid-term rise in sea level of 16 inches, with a design that is adaptable to meet higher than anticipated values in the mid term, as well as for the long term;

Construction of a storm drainage system that is initially built to accommodate a mid-term rise in sea levels of 16 inches, with a design that is adaptable to meet higher than anticipated sea level rise values (similar to the first bullet);

Construction of buildings and vital transportation infrastructure at elevations that would not be exceeded by flood waters, even if the shoreline protection does not function, for existing conditions and over a longer-term as compared to the two above;

Formation of an Adaptation Strategy that would include preparing an Adaptive Management Plan that outlines an institutional framework, monitoring triggers, a decision-making process, and creates an entity with taxing authority that would pay for infrastructure improvements necessary to adapt to higher than anticipated sea levels; and

Project features to accommodate sea level rise are described in Chapter II (Project Description) of the EIR, beginning on page II-70. These strategies and Project features will adequately protect for a sea level rise up to the currently predicted maximum.

10. BIOLOGICAL RESOURCES

Concern 10.a. The FEIR does not adequately address the Yosemite Slough Restoration Plan as an approved and ongoing plan; though Master Response 3 claimed that the Restoration Plan was one of the "planned and in progress wetland restoration projects" considered, the footnote accompanying the FEIR statement about these projects did not specifically mention the Yosemite Slough Restoration Plan.

Response 10.a. The Yosemite Slough Restoration Project is considered in the FEIR in the cumulative context and as one of the "planned and in-process wetland restoration projects within the Bay area" in the cumulative impact analysis on page III.N 118 of the FEIR. Additional, much more detailed analysis of the Project's effects on the Restoration Project and its intended biological resources is contained in the FEIR, particularly in Master Response 3. Collectively, the DEIR, the revisions to the DEIR that were made and incorporated as part of the FEIR, and the C&R portion of the Final EIR (particularly Master Response 3) adequately address this comment.

Concern 10.b. The Navy's mitigation wetlands and the Yosemite Slough Restoration Project should have been addressed similarly by the EIR, yet the responses to WRA's comment on the FEIR pertaining to this issue are inadequate.

Response 10.b. Neither the Navy's wetland mitigation nor the Yosemite Slough Restoration Project is currently in place, and thus neither project comprises part of the existing CEQA baseline. They are future potential impacts that are likely or foreseeable impacts, and are assessed based on the likelihood and timing of occurrence. Revisions to the DEIR that are incorporated into the FEIR, and the C&R portion of the FEIR (particularly Master Response 3), adequately assess impacts to future biological resources of the Yosemite Slough Restoration Project.

Concern 10.c. **The bridge will impact the planned restoration of wetlands in Yosemite Slough, necessitating redesign of the Restoration Plan to ensure that the Plan fulfills its wetland mitigation responsibilities to BART and SFO projects.**

Response 10.c. The FEIR analyzes the impacts of the Project on existing wetlands and aquatic habitat. This includes approximately 0.10 acres that would be permanently filled by the bridge, 0.99 acres that would be temporarily impacted during bridge construction, and 1.33 acres that would be indirectly impacted by shading within the proposed Yosemite Slough Restoration Project area. Mitigation measure BI-4a requires the replacement of the permanently filled and shaded areas with new or restored habitat at a 1:1 ratio, and mitigation measure BI-4c requires the replacement of permanently shaded aquatic habitats at a 0.5:1 ratio. Accordingly, if the bridge is constructed, the existing, degraded wetland habitat at the slough would be replaced with new or restored habitat elsewhere.

In response to public comment, the FEIR additionally analyzes the effect of the Project on the new or restored habitat that is proposed as part of the Yosemite Slough Restoration Project. Based on the plans for the Yosemite Slough Restoration Project provided to the City and Lennar as of the June 3, 2010 FEIR hearing date for the CPHPS Project, the Yosemite Slough bridge would not result in the fill of any areas proposed to be created as new/restored wetlands as part of the Yosemite Slough Restoration Project, and would not preclude the restoration of any new/restored tidally influenced habitat by the Restoration Project. As a result, the Yosemite Slough bridge would not preclude the ability of the Restoration Project to fulfill its wetland mitigation obligations or to achieve its goal of restoring approximately 12 acres of wetlands. With respect to indirect impacts, 0.007_acre of new wetlands to be restored by the Restoration Project would be permanently impacted by shading as a result of being located directly under the bridge. This impact would be mitigated to less than significant levels via implementation of Mitigation Measure BI-4a as explained in Master Response 3 of the FEIR (C&R-28-54).

Subsequent to the deadline for filing appeals, WRA, the consultants for the Yosemite Slough Restoration Project, submitted a new map identifying the projected limits of jurisdictional wetlands on the Restoration Project site following restoration. This map is substantially consistent with what was previously analyzed in the FEIR, with the only difference being an additional 0.0003 acres of new/restored wetland permanently filled by the northern bridge abutment, and an additional shading impact of 0.005 acres. Assuming these figures are accurate, they represent an extremely small area and have no effect on the impact analysis or conclusions of the FEIR.

Concern 10.d. **The depiction of impacts in Figure III-N.7 of the FEIR is inaccurate because it does not show indirect impacts of noise, vibration, and lighting from the bridge on the islands to be created for breeding birds; the impacts of abutment construction on aquatic, wetland, or mudflat habitats (including future restored wetlands); or shading impacts to waters, mudflats, or vegetated wetlands other than directly beneath the bridge, and the FEIR does not adequately analyze these impacts.**

Response 10.d. Figure III-N.7 depicts all areas in which wetlands, mudflats, and aquatic habitats, both existing and proposed by the Restoration Plan, would be filled either permanently or temporarily as a result of construction of the bridge. As discussed in Response 10.c, the impacts to these areas are fully analyzed in the FEIR, with the exception of the very small additional areas of proposed restoration lands that could be impacted, as described in the FEIR and Response 10.c. It is not feasible to depict on a figure the indirect effects of bridge construction and use on biological resources adjacent to the bridge; however, such impacts are discussed in detail in Master Response 3 of the C&R portion of the

FEIR, and were determined to be less than significant. Master Response 3 contains more detail that adequately responds to this comment.

Concern 10.e. The FEIR does not adequately analyze impacts to the types of habitats to be created by the Yosemite Slough Restoration Project or the species that will use the new/restored habitats.

Response 10.e. The habitats to be restored by the Restoration Project will be more extensive and higher-quality examples of the types of tidally influenced habitats and upland transition habitats that currently exist on the CPHPS Project site, but do not represent entirely new habitats. Further, although the Restoration Project will improve habitat conditions for certain plant and animal species, that new species that are currently absent from the CPHPS Project site are not expected to occur on the site solely as a result of the Restoration Project for the reasons explained in Master Response 3. The potential impacts of the bridge on species that could use the restoration site were thus analyzed in the context of existing conditions, as the species expected to use the restoration site after restoration implementation are species that are currently present at least occasionally on the site. As a result, the FEIR assesses impacts of the CPHPS Project to the types of habitats and species that would be present with or without the Restoration Project. In addition, it should be noted that the wetlands that will be created/restored by the CPHPS Project to compensate for the wetlands impacted by the bridge will be of a higher quality than the existing degraded wetlands, and will thus be of a quality comparable to what is proposed for that site by the Restoration Project. This comment is adequately addressed (and in greater detail) in Master Response 3 of the C&R portion of the FEIR.

Concern 10.f. Because Master Response 3 contains examples of areas where special-status species occur close to high levels of human disturbance, the level of human disturbance in and around Yosemite Slough should not be used as a reason why certain special-status species will not use the restoration site.

Response 10.f. Master Response 3 includes a number of reasons why certain special-status species, such as the double-crested cormorant and western snowy plover, are not expected to nest on the restoration site, even though the Yosemite Slough Restoration Plan proposes to construct nesting islands for those species. Those species are not expected to nest on those islands due to the unsuitability of the islands for nesting and the absence of any San Francisco Bay-area precedent for these species' use of such small, low islands completely surrounded by tidal waters. Master Response 3 of the C&R portion of the FEIR includes more detail regarding why certain special-status species are not expected to use the restoration site.

Concern 10.g. The FEIR does not adequately assess impacts from shading by the proposed Yosemite Slough bridge because it does not incorporate seasonal and hourly differences in shading of habitats that are not directly under the bridge, and thus underestimates the area affected by shading from the bridge; also, the FEIR should consider shading of 1.48 acres of mud flats and open water to be a significant impact.

Response 10.g. The FEIR considers impacts of shading by the bridge on both wetlands and other tidally influenced habitats (e.g., mud flats and aquatic habitats) under the bridge to be potentially significant impacts (in Impact BI-4c). As discussed in the FEIR, these impacts could be mitigated to less than significant levels only with implementation of Mitigation Measures MM BI-4a and MM BI-4c, both of which require restoration of habitat to compensate for lost ecological functions and values resulting from shading. Master Response 3 addresses the potential effects of shading on sensitive habitats that are not directly under the bridge, as shading during early morning hours (when the sun is

east of the bridge) would extend outside the bridge footprint into the restored tidal marsh to some extent, and such indirect shading would vary somewhat by season. However, indirect sunlight during these periods of indirect shading, and direct sun exposure during the afternoon, would allow substantial sunlight to reach these habitats that are not directly under the bridge. As a result, the effects of bridge shading on habitats that are not directly under the bridge are not expected to be substantial. Impacts of shading by the Yosemite Slough bridge on sensitive habitats are discussed in greater detail in the FEIR in Impact BI-4c and Master Response 3.

Concern 10.h. **Whereas the FEIR states that the effects of shading on mud flat and aquatic habitat would be less substantial than on vegetated wetlands due to the differences in export of nutrients and organic material from these habitats, mud flats and aquatic habitats also export some nutrients and organic matter to other habitats. The mitigation ratio of 0.5:1 is thus insufficient and should be higher, and the FEIR should include more evaluation of habitat functional value to support this ratio.**

Response 10.h. Although mud flats and aquatic habitats produce nutrients and organic compounds, the biomass that these habitats produce is considerably lower than that produced by vegetated wetlands. As a result, the loss or reduction in productivity of vegetated wetlands (and thus these wetlands' contributions of organic matter to the Bay as a whole) as a result of shading would be greater than the reduction in productivity of mud flats and aquatic habitats as a result of shading. Further, the loss of vegetation from wetlands as a result of shading would reduce habitat complexity considerably (in the extreme example, by converting well vegetated marsh to unvegetated flats), whereas shading would result in little alteration of habitat complexity in mud flats and aquatic habitats, which in the bridge footprint contain little or no aquatic vegetation. Even with shading, aquatic and intertidal species would be able to continue foraging in and moving through these mud flat and aquatic habitats. Therefore, the effects of shading by the bridge will be substantially less on mud flat and aquatic habitats than on vegetated wetlands, and a lower mitigation ratio is thus appropriate for shading impacts to mud flat and aquatic habitats (0.5:1) as opposed to vegetated wetlands (1:1). Additional discussion of shading impacts to mud flats and aquatic habitats is provided in the FEIR in Impact BI-4c and Master Response 3.

Concern 10.i. **Because the Yosemite Slough Restoration Project specifies creation of habitat designed for special-status species, there is potential for future occurrence of these species on the site, and the FEIR should assess impacts to special-status species in Yosemite Slough and throughout the Restoration Plan area.**

Response 10.i. Impacts of the CPHPS Project, including the Yosemite Slough bridge, on special-status species are assessed in Impacts BI-2 (Common Species and Habitats), BI-3 (Sensitive Plants), BI-6 (Birds), BI-7 (Raptors), BI-8 (Western Red Bat), BI-9 (Marine Fish and Mammals), BI-11 (Special-Status Fish), BI-16 (Sensitive Birds and Marine Mammals), BI-17 (Nesting American Peregrine Falcons), BI-18 (Sensitive Aquatic Species, Mollusks, and Essential Fish Habitat), and BI-22 (Special-Status and/or Legally Protected Species) of the FEIR. All special-status species that occur in the San Francisco Bay area, including those such as the western snowy plover and double-crested cormorant (for which the Restoration Project's bird nesting islands were designed) and the San Francisco common yellowthroat and California clapper rail (which were mentioned in the Restoration Project's Initial Study/Mitigated Negative Declaration as potentially benefiting from the Restoration Project) are considered in the FEIR (as discussed in Table III.N-5). However, it is not expected that the nesting islands will provide suitable habitat for the western snowy plover and double-crested cormorant, and the restored wetlands will be too small and too isolated from larger marshes to provide high-quality habitat for

clapper rails. Therefore, these "new" habitat areas are not expected to attract species other than those which currently use Yosemite Slough and South Basin at least occasionally, and thus the FEIR adequately assesses impacts to special-status species. Additional detail regarding the adequacy of the impact assessment for special-status species in Yosemite Slough is provided in Master Response 3.

Concern 10.j. The FEIR does not adequately analyze the effects of the Yosemite Slough bridge, including the combined effects of lighting, noise, vibration, and other bridge-related factors, on birds using the nesting islands to be created by the Restoration Project, nor does the FEIR cite specific studies indicating how nesting birds would respond to such sources of disturbance.

Response 10.j. As stated above, the two special-status birds for which the Restoration Project's nesting islands are intended, the western snowy plover and double-crested cormorant, are not expected to nest on those islands due to unsuitability of projected habitat conditions. Several other bird species, including regionally abundant ducks (such as mallards) and perhaps western gulls (which currently nest on Double Rock nearby), may nest on these islands, and such species may be affected to some extent by disturbance associated with the bridge. However, (a) such species have habituated to intensive human disturbance in a number of other areas around San Francisco Bay and are likely to do so at Yosemite Slough, and (b) such a small number of individuals of those species, relative to their regional populations, would be affected by bridge-related disturbance that the impacts would be less than significant. As discussed in detail in Master Response 3, studies of the effects of noise or lighting on wildlife conducted in other areas and situations are difficult to apply to the Yosemite Slough bridge project, in part because many wildlife species are known to habituate to stimuli that do not result in obvious harm to them. Master Response 3 contains a detailed discussion of the potential effects of noise, lighting, and other potential sources of disturbance on birds and why the Yosemite Slough bridge is not expected to have a significant impact on bird use of the Restoration Project site.

Concern 10.k. By not identifying specific areas where Essential Fish Habitat (EFH) could be created to compensate for CPHPS Project impacts to EFH, the FEIR inappropriately defers mitigation and did not demonstrate that such mitigation is feasible.

Response 10.k. EFH can be created or restored by removing fill and restoring tidal waters that are used by certain fish species. Such restoration can occur in numerous areas within the Bay where past fill has been placed in tidal waters, and where such fill can be removed. The FEIR does not have to identify the precise site where such restoration will occur. CEQA allows for mitigation measures to set performance standards describing the necessary criteria for mitigation that will be required, and allows for an EIR to provide a menu of potential mitigation options (e.g., on-site restoration, off-site restoration, purchase of mitigation bank credits, or contribution to an off-site restoration project). Nevertheless, for informational purposes some Examples of tidal wetland restoration projects in San Francisco Bay that could potentially be funded by the CPHPS Project as mitigation for Project impacts (subject to approval by the regulatory agencies and agreement between the CPHPS Project and the landowner or entity planning the restoration projects) include the following restoration projects that are currently in the planning stages: Breuner Marsh restoration project in Richmond, Sears Point Restoration Project in Sonoma County, Albany Bulb Lagoon and Albany Salt Marsh Expansion projects in Alameda, and Novato Creek Antenna Field project in Novato. Those projects would include restoration of habitat suitable to compensate for one or more of the aquatic/wetland habitat types for which the CPHPS

Project would need mitigation: EFH, aquatic habitat for listed fish, and jurisdictional wetlands and aquatic habitats. The Newark Slough mitigation bank in Newark, currently in the planning stages, would also provide tidal wetlands that could satisfy mitigation requirements for the CPHPS Project. Other locations providing either diked or muted tidal wetlands that could be converted to fully tidal habitats to mitigate CPHPS Project impacts, or locations that contain fill that could be removed to provide tidal habitats for CPHPS mitigation (again, subject to regulatory concurrence and either acquisition of the property by the CPHPS Project or an agreement with the current landowner), include the Mosely Tract in Menlo Park, Seal Point Park in Foster City, Oyster Bay Regional Shoreline in Alameda, Shoreline Park north of Alameda Municipal Golf Course, and Point Isabel Regional Shoreline. Many of these locations are currently parks, but the owners may be willing to allow wetland restoration as a park/habitat amenity.

MM BI-4a.1 contains adequate detail to describe the required mitigation for CEQA purposes. It is possible that one or more of the many agencies from which approvals for this Project will be required, including the U.S. Army Corps of Engineers, Regional Water Quality Control Board, San Francisco Bay Conservation and Development Commission, or National Marine Fisheries Service, could object to mitigation at a site that is proposed during the CEQA process and require use of a different site. In that case, specifying a particular mitigation site during the CEQA process could complicate permitting by pitting the EIR against the regulatory agencies, if the CEQA document specifies the use of one site and the regulatory agencies require use of another. For that reason, the approach taken in the EIR (specifying the quantity and performance standards of the mitigation, laying out several options for satisfying the mitigation requirement, and stating that the mitigation option will be selected during the permitting process) was the appropriate approach, and the FEIR does not defer mitigation inappropriately. Response to comment 47-94 in the C&R portion of the FEIR adequately responds to this issue.

11. RECREATION

Concern 11.a. The FEIR fails to adequately assess impacts from transferring approximately 20 acres of public shoreline land in Candlestick Point State Recreation Area to the developer for the construction of high end housing. (SC)

Response 11.a. The CPSRA shoreline is over three miles long (approximately 18,103 feet). Only approximately 218 feet will be removed as part of the proposed reconfiguration, leaving the vast majority of the shoreline still part of the park. Most of the land to be removed from the park is separated from the shoreline by a wide area that will remain parkland. The land to be removed thus cannot accurately be called "shoreline land."

As explained in response to comment 47-28 and page III.P-32 of the Draft EIR, the land to be removed provides very little recreational benefit to CPSRA, while the Project will provide substantial improvements to the park. Because the CPSRA will provide more and better recreation opportunities after the Project than it does today, the EIR and the Planning Commission appropriately concluded that the Project would have a less than significant impact related to recreation.

Concern 11.b. **The FEIR's conclusions with respect to the potential impacts from the Yosemite Slough bridge and the CPSRA land transfer are based on false, inaccurate and biased statements as evidence, including the statement that one cannot have an "undisturbed nature experience" in an urban area. (SC)**

Response 11.b. As discussed in responses to comments 47-20 and 47-26, the EIR considers, as CEQA requires, the Project's impact on the existing physical environment. Yosemite Slough does not currently provide any significant recreational benefits or opportunities. Thus, constructing the bridge would not diminish any existing recreational experience or opportunity.

In response to several comments from the public and because the Yosemite Slough Restoration Project will contribute to the open space in the area of the Project, the Final EIR includes a thorough analysis of the Project's impact on future recreational activity at the Slough. This analysis, although not required by CEQA, is supported by substantial evidence in its conclusion that the proposed bridge would have a less than significant impact on future recreational experiences in the Slough. Urban and industrial uses, including equipment storage yards and illegal dump sites, currently surround the Slough as explained in the Bayview-Hunters Point Area Plan at pages 5, 6, and 9. These uses are outside the Project Area and will continue in place following implementation of the Project and the proposed Slough Restoration.

Thus, with or without the Bridge, the Slough will be an area of restored natural habitat surrounded by urban uses. The recreational experience there will not be an undisturbed experience of nature, but will instead be an experience of nature in an urban surrounding. The Candlestick Point Subarea Plan, which is a part of the Project, recognizes the hybrid nature of urban open space and calls for the planning of improvements to Candlestick Point State Recreation area to "to keep in mind characteristics that reflect its urban context in San Francisco."

The Bridge, therefore, would not transform an otherwise-natural experience into an urban one. Instead, it would add a further urban element to a hybrid experience. The aesthetic impact of this added element and its effect on views from the Slough to the Bay, is discussed extensively in the EIR, at responses to comments 31-14, 47-34, 47-36, 47-46 (which includes simulations of views from the Slough with the Bridge), 47-58, 47-73, 47-46, and 47-76. The EIR and the Planning Commission appropriately concluded that the Project, and the Bridge in particular, would have a less than significant impact on recreational opportunities in Yosemite Slough.

Concern 11.c. **The FEIR did not address comments on the DEIR regarding the Project's recreational impacts on the Yosemite Slough. (CSPF)**

Response 11.c. The Project's impacts on potential future recreation in Yosemite Slough are thoroughly discussed in response to comment 47-20. Responses to comments 31-14, 47-34, 47-36, 47-46, 47-58, 47-73, 47-46, and 47-76 provide further discussion aesthetic impacts in the Slough.

12. UTILITIES

Concern 12.a. **The FEIR fails to adequately assess impacts resulting from the construction and maintenance of the Project's underground utilities. (SC)**

Response 12.a. The Infrastructure Plan for the Project is described beginning on page II-45 of the FEIR. Construction activities related to the Project's underground utilities is included in the FEIR's discussion of project related construction impacts in the applicable sections of the FEIR, including Section III.D (Transportation and Circulation), Section III.H (Air Quality), Section III.I (Noise), Section III.J (Cultural Resources and Paleontological Resources), Section III.K (Hazards and Hazardous Materials), and Section III.M (Hydrology and Water Quality). Appropriate mitigation measures are provided in each section. For example, implementation of mitigation measures MM HZ-1a and MM HZ-2a.1 would ensure the safe handling of potentially contaminated materials encountered during improvement or installation of underground utilities. Additionally, MM TR1 requires a construction management traffic program that would mitigate impacts on local traffic, parking and sidewalks related to the construction of underground utilities.

13. GREENHOUSE GASES

Concern 13.a. The greenhouse gas analysis does not comply with CEQA because it does not conclude whether the total amount of Project emissions are a significant cumulative impact; a Project of this size must be a significant cumulative impact. (POWER)

Response 13.a. The FEIR contains a detailed analysis of greenhouse gases associated with the Project and fully complies with CEQA. The analysis follows technical guidance provided by the Governor's Office of Planning and Research (OPR), which is charged with issuing guidance on CEQA compliance. Further, the FEIR compares the results of the analysis to significance criteria for greenhouse gases recently adopted by the BAAQMD, even though as a technical matter, the BAAQMD is recommending that its recently adopted criteria be applied to Projects that issue notice of preparation after the BAAQMD adoption date of June 2, 2010.

Climate change is ultimately a cumulative impact. Emitting greenhouse gases here is San Francisco versus another city or county all contribute to the same cumulative effect of climate change. Therefore, all impact analysis for greenhouse gas emissions are discussed in the cumulative context. (FEIR, Section III.S at 34-35.) The FEIR concludes that the Project would not emit a substantial amount of greenhouse gases to result in a significant cumulative contribution to climate change based on a consideration of several different factors, all of which supported the conclusion that the Project's contribution to the cumulative effect of climate change would be less than significant in light of Project features and mitigation measures that were incorporated into the Project. Before coming to that conclusion, the FEIR analysis, consistent with guidance from OPR: (1) identifies and quantifies the greenhouse gas emissions associated with the Project; (2) assesses the significance of the impact on climate change; and (3) identifies mitigation measures to assure that the total impacts associated with the Project would be reduced to below a significance level.

The quantification of greenhouse gases associated with the Project are contained in FEIR Appendix S, Climate Change Technical Report Candlestick Point Hunters Point Shipyard Phase II, October 22, 2009. To determine whether the quantified amount of greenhouses gases from the Project would result in a significant impact the analysis evaluates the Project's emissions from several perspectives. First, the analysis considers whether the Project would substantially contribute to increasing greenhouse gas emissions in a manner that would conflict with the state goal of reducing greenhouse gas emissions and the City goal of reducing greenhouse gas

emissions as established by the San Francisco 2008 Greenhouse Gas Reduction Ordinance. The analysis concludes that the Project would not conflict with either state or local greenhouse gas reduction goals because the Project is a dense, urban infill project that would provide neighborhood-serving retail along with new residential uses, provide automobile and public transportation and pedestrian connections between the Project area and the larger Bayview neighborhood; provide for transportation and open space corridors, integrate land use patterns with a multimodal street network that facilitates walking and cycling for internal trips and transit for trips of greater distance; and contains landscape plans to reduce carbon emissions and plans related to energy efficiencies in building design. Although all of these features are part of the Project and were assumed in the analysis of greenhouse gas emissions, because those features that are not part of the inherent land use design need to be enforceable to assure their implementation, certain elements of the Project were identified as mitigation measures to assure that they would be implemented. These elements include the requirement to plant up to 10,000 new trees, exceed the 2008 standards for Title 24 Part 6 energy efficiency standards for homes and businesses by at least 15 percent; install Energy Star appliances and use light emitting diode based energy efficient street lighting. In addition to these Project features that would reduce greenhouse gases from the Project, the Project would also comply with and further a number of City policies designed to reduce greenhouse gas emissions, including complying with the green building ordinance, the transit first policy and the bicycle plan. See FEIR, Section III.S-36.

The analysis also looks to the proposed BAAQMD CEQA thresholds of significance (now adopted). BAAQMD has identified 3 possible ways for projects to assess the significance of their greenhouse gas emissions: Are the emissions consistent with a qualified greenhouse gas reduction strategy of the local jurisdiction; are the emissions less than 1,100 metric tons; or are the emissions less than 4.6 metric tons per resident or employee (called the "service population"). The last of these three analytical approaches proposed by BAAQMD allows large projects to potentially show that they will have a less than significant impact from greenhouse gases because the emissions would be consistent with the service population emissions required to meet Assembly Bill (AB) 32 goals. Both the 1,100 metric ton and the 4.6 metric ton per service population (efficiency metric) thresholds are based on BAAQMD's calculation of emissions reductions required to meet AB 32 goals. A large project such as this one has the potential to be much more efficient than a small project, given its ability to address such issues as broad areawide transportation systems, which smaller projects would be in no position to address. When the Project is compared to the BAAQMD's proposed 4.6 metric tons per service population, the results show that with all of the mitigation measures and Project features explained above, the Project would result in 4.5 metric tons per service population. The Housing/R&D Variant would result in similar metric tons per resident with the R&D Variant resulting in slightly greater (4.6 metric tons per service population) Under the Project with the stadium and the Housing/R&D Variant and R&D Variant the impacts from greenhouse gases are less than significant with mitigation.

Further, the FEIR concludes that emissions from construction-related activities would be less than significant because they would be required to comply with ARB's scoping plan and early action measures identified in that plan concerning emissions reduction measures for diesel trucks and diesel off-road equipment. Further, the Project also provides for mitigation to address air quality impacts during construction and the result of this mitigation will be to further reduce greenhouse gas emissions during the construction period because these mitigation further reduce

emissions from diesel trucks and off-road vehicles. MM AQ-2.1 provides that during the first two years of construction, 50% of the construction equipment shall meet U.S. EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies), increasing to 75% of the fleet in the third year and 100% of the fleet starting in the fourth year for the duration of the Project. Further MM AQ-2.2 specifies that for construction activities in the Alice Griffith area, all construction equipment must utilize equipment that meet the U. S. EPA Tier 2 standards outfitted with California ARB Level 3 VDECS.

Concern 13.b. The greenhouse gas analysis impermissibly compares the project emissions to statewide emissions and finds Project emissions very small, fails to consider the incremental contribution of the Project's greenhouse gas emissions and improperly compares Project emissions to a business as usual scenario. Instead, the Project must use the existing environment as the baseline and then determine from that baseline if the Project causes significant environmental effects. (POWER)

Response 13.b. While the FEIR contains information about how the Project's emissions compare to statewide emissions and compares Project emissions to those that would result from a Project such as this were it to pursue a business as usual scenario, this information is provided simply for information purposes and to put the Project greenhouse gas emissions into a broader context. The analysis, thresholds used, and conclusions conclusions reached concerning whether the Project would have a substantial greenhouse gas impact are analyzed as explained in Response 13a. Further, as explained in Section III.S, the analysis of future greenhouse gases is consistent with ARB's Scoping Plan 2020 estimate of greenhouse gas emissions that would occur if no action is taken (the No Action Taken (NAT) scenario). The analysis compares the Project greenhouse gas emissions inventory to the projected future greenhouse gas emissions that would occur from a community that would be built today without Project design features and energy reduction commitments made by the Project Applicant. This NAT baseline comparison follows the regulations considered by ARB in developing its 2020 No Action Taken estimate as part of the Scoping Plan. Although this is one way to view the greenhouse gas emissions from the Project, the analysis also considers greenhouse gas emissions from the Project implementation in relation to total greenhouse gas emissions in the Bay Area and California. It also considers steps that California intends to take to reduce greenhouse gas emissions and actions the City and County of San Francisco is taking to reduce greenhouse gas emissions, including the City's Climate Action Plan and 2008 Greenhouse Gas Reduction Ordinance. This varied approach to greenhouse gas analysis reflects the fact that the analytical approach for analysis of greenhouse gases is evolving, with agencies exploring many different methodologies.

Concern 13.c. The FEIR does not support its conclusion that the greenhouse gases from the Project will be less than significant with mitigation and fails to analyze the reduction in emissions that will result from the mitigation. (POWER)

Response 13.c. As explained in Response 13.a, the analysis and conclusions both compare the Project features to a number of City and state policies that are designed to achieve relatively fewer per service population greenhouse gas reductions and quantifies the Project emissions and compares that quantified amount of emissions to BAAQMD criteria designed to determined whether a Project's emissions will make a significant contribution to greenhouse gases. As the Project's emissions will be less than the BAAQMD criteria, and as the Project contains numerous features designed to achieve City objectives aimed to reduce greenhouse gas reductions, the FEIR properly concludes that the Project will not result in a significant increase in greenhouse gases so as to contribute considerably to cumulative greenhouse gas emissions. The mitigation measures

identified and explained in Response 11a, are assumed as part of the analysis so that it is clear that with the mitigation, the Project will achieve the desired result.

The Project may in fact result in fewer greenhouse gas emissions than assumed in the analysis because the analysis makes a number of conservative assumptions about emissions. For example, the inventory of greenhouse gases assumes that all emissions from the CP-HPS Plan are "new" and that absent this development no emissions would occur except for the existing residences and the emissions associated with the existing stadium. In fact, some emissions might increase in the area of the Project were this Project not to proceed. Also, the inventory assumes that the electricity supply system and transportation system do not change in the future beyond the changes anticipate from the 20% Renewable Portfolio Standard in 2010 and the Pavley vehicle emissions standards. Since AB 32 mandates changes in both of these areas that would be expected to be in place during the life of the Project, the Project doubtless overestimates in greenhouse gas contribution. Finally, the analysis does not assume reductions from implementing a transportation demand management plan, the energy savings from replacing the existing 256 older homes now at Alice Griffith with more energy efficient buildings or the possibility that in the future reclaimed water could be used in the area because the Project will install dual piping for recycled water use, in the event it becomes available. In sum, the greenhouse gas analysis in the FEIR is comprehensive, complete, and conservative and properly concludes that with the mitigation measures described, the Project will not result in a significant contribution to greenhouse gas emissions.

14. VARIANTS

Concern 14.a. The FEIR fails to analyze two proposed heating and cooling plants (which appear to be power plants) to serve at least 10,500 units in the Project and a Project-wide recycling collection system. (SC; POWER)

Response 14.a. The Utilities Variant (Variant 4) analyzes the implementation of additional on-site utility infrastructure, including (1) district heating and cooling, (2) on-site wastewater treatment, and (3) an automated trash collection system. The proposed heating and cooling infrastructure is described in detail in Appendix T1 (District Heating/Cooling System) of the EIR. Under Variant 4, heating and cooling would be provided from a centralized plant, instead of individual systems in each building or facility. One heating and cooling (district) plant would serve Candlestick Point and a second district plant would serve Hunters Point, with hot water (or steam) and chilled water distributed from the district plant to individual buildings via a pipe distribution network located under the streets (refer to Appendix T1 [District Plant Description]). The FEIR analyzes both the construction and operational impacts associated with these utilities.

Under the proposed Redevelopment Plan Amendments, these utilities would be allowed only as secondary uses. In order to approve as secondary use, the Redevelopment Agency would be required to find that the use generally conforms with the redevelopment objectives and the applicable Design for Development, is compatible with principle uses and other nearby uses, is consistent with the Project's mitigation measures, and appropriately mitigates any adverse impacts, and does not materially impede the other planned uses and development of the project area.

Concern 14.b. The variants warrant additional analysis and render a project-level analysis of the Project inappropriate. (CSPF)

Response 14.b. The FEIR includes analysis of five primary development Variants and several Sub-Variants. (DIER, IV; C&R-2374-2451) These Variants and Sub-Variants examine discrete options for an element of the Project and, if approved, would either replace an element of the Project (i.e., the stadium, the location and height of the Towers on Candlestick Point, or certain utilities systems) or add an additional element to the Project (i.e., 49ers/Raiders shared stadium use). Except for these substitutions or additions to the Project, other aspects of the primary Project description remain the same.

As explained above in Responses 1a and 1b, the Project includes options for the development of the proposed stadium site on the Shipyard in the event that the stadium proposal does not proceed. Variant 1, the R&D Variant, Variant 2, the Housing Variant, and Variant 2a, the Housing/R&D Variant are the range of non-stadium development options consistent with the Project objectives that were evaluated in the FEIR. The FEIR also includes Variant 3, the Tower Variant and four sub-variants designated 3A, 3B, 3C and 3D, that analyze different options for the location and heights of Towers in the Candlestick Point area. Variant 4, the Utilities Variant analyzes options for an automated solid waste collection system, decentralized wastewater treatment, and district energy. Variant 5 analyzes the potential shared use of the stadium by the 49ers and the Oakland Raiders.

The FEIR analysis for the Variants/Sub-Variants is extensive, covering 248 pages in the Draft EIR and an additional 52 pages in the Comments and Responses. The approach to the analysis includes a detailed description of the Variant/Sub-Variant, figures depicting the Variant/Sub-Variant, a topic by topic analysis of the potential environmental impacts of the Variants/Sub-Variants, a comparison of the potential impacts with the impacts identified for Project, and identification of applicable and, in some instances, additional or amended mitigation measures. Variant/Sub-Variant specific supporting technical data was prepared as necessary for relevant environmental topics. These Variants/Sub-Variants are discrete, defined optional elements of this specific Project. Thus, as further explained in Response to Comment 47-11 (C&R-741-744), nothing in CEQA mandates preparation of a program EIR instead of a project EIR based on the inclusion of Variants/Sub-Variants.

With regard the Variant 4, the Utilities Variant, although the Redevelop Plan Amendments would allow these utility options as secondary uses, the Infrastructure Plan proposed for approval at this time does not include any of the elements in the Utilities Variant. Should any of these elements be pursued in the future, further review by affected City departments would be required. Additionally, under the Redevelopment Plans, special findings would be required to ensure that any adverse environmental impacts are mitigated.

In any event, all projects, including the CP-HPS Phase II Project, that require additional design or other discretionary approvals over a number of years may require further environmental review if any of the conditions set forth in Public Resources Code section 21166 and CEQA Guidelines section 15162 are implicated. These provisions basically require additional environmental review if substantial project changes, substantial changes in the project circumstances, or significant new

information becomes available that require major revisions of the EIR (e.g., a new significant impact or a substantial increase in the severity of a previously identified significant impact would occur). Even should future approvals require additional CEQA review, this potential does not dictate preparation of a program EIR for a discrete project proposal such as the CP-HPS Phase II Project.

15. ALTERNATIVES

Concern 15.a. The EIR does not independently analyze stadium relocation alternatives, because the evaluation of the stadium relocation occurred after voter adoption of Measure G, which encouraged relocation of the stadium as part of the Project. (CARE)

Response 15.a. CEQA does not prohibit establishing project objectives that encourage certain uses within a project. To the contrary, most projects identify the inclusion of specific uses (e.g., housing, open space, recreational uses, job-generating uses) as fundamental project objectives. Decision makers are not required to approve a project that meets every project objective. In the case of this Project, the City has the authority, independent of any decisions by the NFL or the 49ers, to decide whether to approve the stadium option, approve one or more of the non-stadium options, or approve both a stadium and a non-stadium option(s).

Moreover, Proposition G encouraged both a stadium and a non-stadium development options for the Shipyard and thus cannot be accurately characterized as precluding an independent analysis of relocation options. (See Response 1.b) The FEIR fully evaluates a number of non-stadium Variants and Alternatives. The FEIR includes three non-stadium development options: Variant 1, the R&D Variant; Variant 2, the Housing Variant; and Variant 2A, the Housing/R&D Variant. The FEIR considers several Alternatives that do not include a new stadium Alternative 1, the No Project Alternative; Alternative 3, which would assumes that the 49ers continue to use the existing Candlestick Park stadium; Alternative 4, a reduced development alternative that assumes no stadium would be accommodated in the Project; and Alternative 5, which assumes no new stadium would be accommodated in the Project. Additionally, the FEIR alternatives chapter provides an analysis of the feasibility of several other on-site and off-site locations for the stadium based on a planning study submitted by ArcEcology (FEIR VI-160-170). Alternative sites examined included the Brisbane Baylands South, the Brisbane Baylands North, Pier 80 in San Francisco, and Piers 90-94 in San Francisco. Three alternative locations within the project site, Parcels B, C and G, were also considered. Therefore, in compliance with CEQA, the FEIR analyzes a reasonable range of stadium and non-stadium options and alternatives.

16. SOCIOECONOMIC ISSUES

Concern 16.a. The FEIR fails to analyze and mitigate for displacement that would be triggered in the surrounding neighborhood by the massive increase of market rate housing in the area. (POWER)

Response 16.a. CEQA Guidelines section 15131 provides that economic and social changes do not constitute significant environmental effects unless the evidence shows that physical changes will result from these economic and social changes. The FEIR determines that the Project would not displace any existing housing units or residents (FEIR, III.C-21-22).

The Project includes funding, facilities, and programs intended to benefit the existing Bayview Hunters Point (BVHP) community, which is immediately adjacent to the Project. In addition to the improvements provided as part of the proposed development, such as new parks, transit and roadway improvements, artist replacement space and other public facilities, and the Project's below-market rate housing program, the Project provides funding for additional community benefits including workforce development, jobs, education, and community health and wellness programs that will provide tangible benefits to the adjacent BVHP community. These community benefits, which are set forth in the Disposition and Development Agreement (DDA) between the Agency and CP Development Co., LP, a joint venture between Lennar and Scala Real Estate Partners, Hillwood, and Estein and Associates, USA (the Developer), are further described below.

Below-Market Rate Housing

The Below-Market Rate Housing Plan (Housing Plan) provides for the development of approximately 3,345 affordable and below-market housing units on the Project site. These housing units include a variety of unit types, sizes, and structures, and a wide range of affordability levels subject to necessary governmental approvals. The Project includes the redevelopment of the Alice Griffith public housing site pursuant to the principals and goals of Proposition G and the HOPE SF Principles. To accommodate the needs of families, the market rate, affordable, and below-market housing units average 2.5 bedrooms (excluding those specifically offered to senior or disabled residents).

The Project includes permanently affordable Alice Griffith Replacement Units, Agency Affordable Units and Inclusionary Units. The Project also includes Workforce Units designed for entry-level households that earn too much to qualify for traditional affordable housing, but too little to purchase a home. The breakdown of the below-market rate units is as follows:

Unit Type	Number	Affordability
Alice Griffith Replacement Units	256	Existing affordability levels remain
Agency Affordable Units	1,388	Up to 60% AMI, but goal is <= 50% AMI *($0 to $52,250 for household of 3)*
Inclusionary Units	809	80%-120% AMI *($69,700-$104,500 for household of 3)*
Workforce Units	892	121%-160% AMI *($105,391-$139,350 for household of 3)*
TOTAL	3,345	

The adjacent BVHP community will benefit from the below-market rate housing provided in the Project because members of the adjacent community may qualify for the housing and the extent of below-market rate housing assures that the adjacent development will serve a wide range of income levels and, therefore, not simply create a high-priced adjacent area that may have overflow effects that dramatically alter the affordability of adjacent BVHP area.

Community First Housing Fund

The Project also includes a $28,665,000 contribution towards a Community First Housing Fund to provide assistance to qualifying residents, including residents in the BVHP and greater District 10 area, in the purchase of market rate homes in District 10 through opportunities such as down payment assistance, rent-to-own opportunities, purchase of buildable pads, and/or the purchase of units, inside or outside of the Project, including those specifically designed for senior citizens. The Community First Housing Fund, which will help residents in BVHP and District 10 purchase homes, in combination with the Project's broad range of below-market rate housing opportunities, will benefit the residents of the adjacent BVHP community.

Education

The Project supports the existing BVHP community's youth through a number of educational enhancements and contributions. The Project includes a $3,500,000 contribution toward a scholarship fund to support educational opportunities for youth and adults up to 30 years old living in BVHP. The Project also includes a $10,000,000 contribution for education enhancements within the Bayview Hunters Point community, which may include new facilities or upgrades to existing education resources and health and wellness education in the adjacent BVHP area or within the Project. The use of these funds will be determined through a community-based process that includes representatives of the San Francisco Unified School District, the BVHP community, the Office of Economic and Workforce Development, and the Agency.

Space within the Project will be dedicated to the provision of library services to supplement the expanded Bayview branch of the San Francisco Public Library, including a reading room and automated book-lending machines integrated into community retail and public facilities. As a result, BVHP residents will have expanded access to educational resources through the reading room and book lending facilities that will be provided within the Project.

Community Health and Wellness

The Project provides $2,000,000 in funding to be used to create a center in Bayview Hunters Point focused on the health and well being of children, youth, and their families, which may include the Southeast Health Center. The center would be designed to serve the health and wellness needs of the existing and future residents of the BVHP area. The center will be developed and implemented in conjunction with the San Francisco District Attorney's Office, the San Francisco Department of Public Health, and others with expertise in the field.

Workforce Development

The Project's workforce development programs and local business measures are targeted toward residents and BVHP residents in particular. The Project is expected to create approximately 10,000 permanent jobs across a broad range of income and skill levels, including retail and sales, building and open space maintenance and management and in commercial, office, light industrial and research and development jobs. The Project will also generate significant construction job opportunities per year for the expected build-out of the development across a wide range of building trades.

All of these permanent and construction opportunities will be subject to the existing Bayview Hunters Point Employment and Contracting Policy, which after intensive collaboration with the

Bayview Hunters Point community-and endorsement by the Bayview Hunters Point Project Area Committee, was adopted by the Redevelopment Agency Commission for the Bayview Hunters Point Project Area in 2007. In addition, the Bayview Hunters Point Employment and Contracting Policy requires compliance with the Agency's Small Business Enterprise Policy. Together, these documents will cover the entire Project from construction hiring to contracting for professional services. The Project's employment and contracting requirements establish a 50 percent goal for local contracting, construction and permanent workforce hiring with first consideration in the following order:

1. BVHP residents living within the areas encompassed within the 94124 zip code,
2. BVHP area residents within the areas encompassed within the 94124, 94134 and 94107 zip codes,
3. Residents living in any other active Redevelopment Project Area in the City of San Francisco,
4. All San Francisco residents, and
5. All others.

All permanent employers and construction contractors will work with community based organizations (CBOs) for hires. For permanent workforce jobs, the Project will comply with the City's "First Source Hiring Program" under which the City will have the opportunity to train economically disadvantaged individuals for positions in the Shipyard and Candlestick Point, and Project employers will give first priority to hiring such individuals referred from the City's workforce program. The Project will utilize the City's CityBuild Sector Academies and CBOs to maximize access to professional development opportunities.

In order to ensure that local BVHP residents are prepared to realize these opportunities, the Project includes a $8,925,000 contribution to fund workforce training and placement programs for local BVHP residents. The City's Office of Economic and Workforce Development has committed to matching these funds with compatible programs and services.

Local Business Development/Community Asset Building

The Project also provides a range of additional programs designed to create opportunities for small and local businesses in BVHP, including the following:

- A community builder program designed to support the participation of local BVHP builders in the construction of both market rate and below-market rate housing;
- $2,500,000 for construction assistance programs designed to provide technical assistance and contractor workshops in conjunction with the Project's local hiring, disadvantaged business and other workforce development programs, including a program to assist local BVHP truckers in securing contracts related to the Project;
- $1,000,000 contribution towards the Agency's surety bond program designed to assist local BVHP contractors in obtaining insurance and credit support;

- A community realtor program designed to provide specific opportunities for licensed brokers and salespersons in the BVHP area; and

- Specialized programs including space within the Project for business incubation to jump-start the location and development of innovative business, including cleantech, greentech, biotech, arts and digital media, and space for an International African Marketplace within the Project for the display and sale of arts, crafts, clothing, books, and other goods.

Community Benefits Fund

One-half of one percent from the sale of each market rate home will be deposited into a Community Benefits Fund which will be reinvested in the Project site and the BVHP area to benefit low- and moderate-income families; eliminate blight; and/or meet other community development needs of the BVHP area including those related to social services, affordable housing, education, the arts, public safety, assistance for senior citizens and other community services.

Collectively, the Project's many community benefit components from the below-market rate housing opportunities, housing payment assistance, education enhancements, health and wellness contributions, workforce development and training measures, local business assistance programs, and community benefits fund are all designed to enhance, strengthen and target the needs of the BVHP community that exists adjacent to the Project site.

17. OTHER CONCERNS

Concern 17.a. Planning Commissioner Antonini should have been recused from voting on the Project, because he had pre-judged the Project and publicly advocated inclusion of a football stadium. (POWER)

Response 17.a. Commissioner Antonini made a statement at the Planning Commission hearing on June 3, 2010, to address this issue. He stated in part: "There have allegations by some members of the public that I am biased in favor of the project being considered today and that I cannot act objectively. I would like to respond to these allegations. While it is true that I have been an advocate for keeping the San Francisco Forty Niners playing their National Football League games in San Francisco, I can unequivocally be open-minded, fair and objective in considering the items before the Planning Commission today. The second Proposition G, passed overwhelming by the voters of San Francisco in June 2008, calls for efforts to retain the San Francisco Forty Niners that Proposition G called out as "a source of considerable civil pride." I believe that it is not wrong to be a strong advocate for the preservation of our treasured civic institutions be they the San Francisco Ballet, the San Francisco Opera, our fine art museums, the 12th District Federal Reserve Bank, or the San Francisco Giants. However, despite my personal feelings regarding the Forty-Niners, I am here today to listen, with an open mind, to all of the testimony and I believe that I can act in the City's best interest and that I can be a fair and impartial decisionmaker. I will consider all options – including the no project alternatives and the other proposed alternatives – with an open mind."

Concern 17.b. The FEIR should have been prepared as a joint EIR/EIS and involve the appropriate federal agencies. (POWER)

Response 17.b. As discussed in the FEIR, there is no legal requirement mandating preparation of a joint EIR/EIS. (C&R-784) Instead, Section 15170 of the CEQA Guidelines allows, but does not require, the use of a joint EIR/EIS in circumstances where a project must comply with both CEQA and NEPA. The City/Agency consulted with the Navy in the early stages of preparing this EIR to determine whether to prepare a joint document. The parties agreed that it would be best to proceed with separate documents. The EIR covers a project that is located on both the Hunters Point Shipyard and Candlestick Point, involving amendments to two Redevelopment Plans. The Navy project is geographically limited to the Hunters Point Shipyard and the EIS analysis will be focused on the proposed revisions to the reuse plan for the Shipyard in order to allow for the continuing transfer of the Shipyard parcels to the Agency. This fundamental difference in the scope of the project to be analyzed in the EIR and the EIS rendered a joint document impractical. The Navy is preparing a supplement to the EIS prepared in 1999/2000. The City/Agency has provided the Navy with the background data and studies prepared for the EIR for the Navy's use in preparing the Supplemental EIS. Other federal agencies with approval authority over an aspect of the Project must comply with all applicable federal regulations, including appropriate NEPA review. The preparation of a separate EIR and EIS does not impede the ability of federal agencies to fulfill their regulatory requirements, including any necessary environmental review under NEPA.

18. RE-SUBMITTAL OF DRAFT EIR COMMENT LETTERS

The following letters have been responded to in the C&R document as indicated by the corresponding references:

a. POWER Attachments

- Juana Tello 1/12/10 letter (#66), please see C&R pp 963-969
- Sue Hestor 1/12/10 letter (1st of two letters, #43), please see C&R pp. 590-602
- Sue Hestor 1/12/10 letter (2nd of two letters, #50), please see C&R pp. 825-843
- POWER 1/12/10 letter (#52), please see C&R pp. 857-862
- Technical Assistance Service for Communities, Wilma Subra 1/12/10 letter (#68), please see C&R p. 995 (POWER)

b. CSPF 1/12/10 letter and attachments (#47), please see C&R pp. 731-803. (CSPF)

19. PROJECT APPROVAL FINDINGS

Concern 19.a. The Planning Commission did not identify and select the least impactful alternative. (CARE)

Response 19.a. Appellant CARE objects to the CEQA Findings adopted by the Agency Commission upon its approval of the Project (Resolution 59-2010) because, CARE argues, the CEQA Project Approval Findings of the Agency should have explained how the degree of impact would differ among variants. The CEQA Approval Findings adopted by the Planning Commission and the Agency Commission are not subject to appeal to the Board.

The "Project" as analyzed in the FEIR includes four possible development scenarios at the stadium site in Hunters Point Shipyard: (1) a stadium, (2) a mix of housing and research and development uses (e.g. the "Housing/R&D Variant"), (3) research and development uses (the "R&D Variant"), and (4) housing uses.

The FEIR considers different development scenarios at the stadium site because of the uncertainties associated with the ultimate development that will occur at this location. While Proposition G calls for providing an opportunity for a NFL stadium, the decision as to whether to locate a stadium at this site does not lie solely with the Agency or the City. Further, while the developer has expressed interest in locating housing as an alternative use on the stadium site in the event the stadium does not get developed, allowed uses at this site will be dictated by the Navy and federal and state regulators.

The regulators overseeing the remediation of the Hunters Point Shipyard have approved and the Navy has issued a record of decision (ROD) for Parcel G that identifies a remedial plan for Parcel G. (*Record of Decision for Parcel G, Hunters Point Shipyard, March 2009*) The ROD took into account the uses allowed on Parcel G at the time the Navy finalized the ROD and much of Parcel G at that time was zoned for industrial use under the 1997 Redevelopment Plan for Hunters Point Shipyard. Unless and until the Board of Supervisors agrees to amend the Hunters Point Shipyard Redevelopment Plan, industrial uses are the authorized use on most of Parcel G (proposed Redevelopment Plan amendments authorizing other uses are pending before the Board of Supervisors at this time as part of the proposed Project approval actions, See Board File No. 100659). Accordingly, the Parcel G ROD provides for remediation appropriate to an industrial use and provides for restrictions on residential uses. The Redevelopment Agency does not have the legal authority to remove or ignore those restrictions, which will be enforced, as explained in Response to Concern 11.m through deed restrictions and Covenants to Restrict Use of Property entered into between the Navy and DTSC. The deed restrictions and covenants are binding on all subsequent property owners. Although it is the intention of the Redevelopment Agency to seek authorization to use Parcel G for residential use, in the event that the San Francisco 49ers decline the opportunity to locate a stadium on Parcel G, and although the Agency is reasonably optimistic that such authorization will be granted by the regulatory agencies and the Navy, (see Response to Concern 11.c) the ultimate decision to allow residential use at this location is not within the legal control of the Agency. Although the R&D Variant is not an alternative to the Project but actually part of the Project, a clear legal justification for including the R&D Variant as part of the Project and not rejecting it is because if the stadium is not constructed by the San

Francisco 49ers, the Redevelopment Agency may not be authorized to implement the Housing/R&D Variant, much as it may wish to do so.

Uses analyzed under the variants are being proposed by the project sponsors, and as identified in the FEIR, any of these could be proposed for adoption as part of the Project. In accordance with the requirements of CEQA, the FEIR also considers several alternatives to the project that would reduce or avoid significant impacts identified in the FEIR. CEQA does not require the selection of the least impactful alternative. Rather, CEQA specifies that where an environmental impact report has been prepared that identifies significant impacts, for each impact the public agency shall make findings that either mitigation measures will mitigate or avoid the significant effects, the authority to mitigate the effects is the responsibility of another agency or due to specific economic, legal, social, technological or other considerations, mitigation measures or alternatives identified in the environmental impact report are infeasible. If the public agency finds that mitigation measures or alternatives are infeasible, it shall find that specific overriding economic, legal, social, technological or other benefits of the project outweigh the significant effects on the environment. CEQA Section 21081; CEQA Guidelines Sections 15091, 15093. The Planning Department prepared findings for consideration by the Planning Commission as part of its approval of the Project in accordance with CEQA and the Planning Commission adopted those findings. The Board of Supervisors will adopt its own CEQA findings in support of any approval actions that it takes with respect to the Project.

Concern 19.b. The approval findings failed to identify how significant impacts would differ between the Project with the stadium, the R&D Variant and the Housing/R&D Variant. (CARE)

Response 19.b. Appellant CARE objects to the CEQA Findings adopted by the Agency Commission upon its approval of the Project (Resolution 59-2010) because, CARE argues, the CEQA Project Approval Findings of the Agency should have explained how the degree of impact would differ among variants. The CEQA Approval Findings adopted by the Planning Commission and the Agency Commission are not subject to appeal to the Board.

The FEIR identifies the differences between the project with the stadium and the project with other uses at the stadium site (e.g. R&D Variant, Housing/R&D Variant). Although for some resource areas, impacts are identified as somewhat greater under the R&D Variant or the Housing/R&D Variant as compared to the Project with the stadium, the differences are of a small degree and the significance conclusions are the same under these different development scenarios such as in the case of air quality, greenhouse gases, hydrology and water quality and public services. In the case of transportation impacts, the type of impacts identified under the R&D Variant, Housing/R&D Variant, and the Project with stadium are the same, although the degree of the impact would be somewhat different. The R&D Variant would result in significant impacts at six intersections for which there is not a significant impact with the Project with the stadium. In the case of two of these intersections, the impact can be mitigated to a less-than-significant level. The Housing/R&D Variant would have a significant impact at three intersections not affected by the Project with the stadium. At one of these intersections, the impact could be mitigated to a less-than-significant level. In the case of noise impacts, the R&D Variant would result in a significant noise impact associated with traffic on two streets for which the Project with the stadium would not result in a significant impact. The CEQA approval findings on file for Board consideration reflect these differences.

CONCLUSION

The Department conducted an in-depth and thorough analysis of Candlestick Point-Hunters Point Shipyard Phase II project under the CEQA Guidelines. The Appellants have not provided any substantial evidence to refute the conclusion of the Department.

For the reasons provided in this appeal response, the Department believes that the FEIR complies with the requirements of CEQA and the CEQA Guidelines, provides an adequate, accurate, and objective analysis of the potential impacts of the Project. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission's certification of the FEIR.

File No. 100861*

Attachment A
PC Motion No. 18096

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