



# SAN FRANCISCO PLANNING DEPARTMENT

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## DRAFT Planning Commission Motion NO. M-XXXXX

HEARING DATE: OCTOBER 5, 2017

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*Hearing Date:* October 5, 2017  
*Case No.:* **2013.0208E**  
*Project Title:* **Seawall Lot 337 and Pier 48 Mixed-Use Project**  
*Zoning:* MB-OS (Mission Bay-Open Space) and M-2 (Heavy Industrial)  
Mission Rock Height and Bulk District  
*Block/Lot:* Assessor's Block 8719/Lot 006, and Block 9900/Lot 048.  
*Project Sponsor:* Phil Williamson  
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Pier 1, The Embarcadero  
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### ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2013.0208E, the "Seawall Lot 337 and Pier 48 Mixed-Use Project" (hereinafter "Project"), based upon the following findings:

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

- A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on December 11, 2013.
  - B. The Department held a public scoping meeting on January 13, 2014, in order to solicit public comment on the scope of the Project's environmental review.
  - C. On April 26, 2017, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
  - D. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site on April 26, 2017.
  - E. On April 26, 2017, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.
  - F. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on April 26, 2017.
2. The Commission held a duly advertised public hearing on said DEIR on June 1, 2017, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on June 12, 2017.
  3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 47-day public review period for the DEIR, prepared revisions to 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 September 20, 2017, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
  4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, 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 Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
6. On October 5, 2017, the Commission reviewed and considered the information contained in 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.
7. The Commission hereby does find that the FEIR concerning File No. 2013.0208E reflects the independent judgement 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 that would require recirculation of the document pursuant to CEQA Guidelines Section 15088.5, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31.
8. The Commission, in certifying the completion of said FEIR, hereby does find that the project described in the EIR would have the following significant unavoidable environmental impacts, which cannot be mitigated to a level of insignificance:
  - A. **TR-4:** The proposed Project would result in an adverse impact by increasing ridership by more than 5 percent on two individual Muni routes that exceed 85 percent capacity utilization under baseline conditions.
  - B. **TR-6:** The proposed Project would result in an adverse impact related to a substantial increase in transit delays on Third Street between Channel Street and Mission Rock Street.
  - C. **TR-9:** The proposed Project would have significant impacts on pedestrian safety at the unsignalized intersections of Fourth Street/Mission Rock Street and Fourth Street/Long Bridge Street.
  - D. **C-TR-4:** The proposed Project would contribute considerably to a significant cumulative transit impact because it would increase ridership by more than 5 percent on one individual Muni route that would exceed 85 percent capacity utilization.
  - E. **C-TR-6:** The proposed Project would contribute considerably to significant cumulative impacts related to transit delays.

- F. **C-TR-7:** The proposed Project would contribute considerably to significant cumulative pedestrian impacts.
- G. **NOI-1:** Construction of the proposed Project would generate noise levels in excess of standards or result in substantial temporary increases in noise levels.
- H. **NOI-2:** Operation of the proposed Project could result in the exposure of persons to or generation of noise levels in excess of the San Francisco Noise Ordinance or a substantial temporary, periodic or permanent increase in ambient noise levels in the Project vicinity, above levels existing without the Project.
- I. **NOI-3:** Construction of the proposed Project would expose persons to or generate excessive ground-borne vibration or ground-borne noise levels related to annoyance. Construction of the proposed Project could expose persons to or generate excessive ground-borne vibration or ground-borne noise levels related to damage to buildings.
- J. **C-NOI-1:** Construction activities for the proposed Project, in combination with other past, present, and reasonable future projects in the city, would result in a substantial temporary increase in noise or noise levels in excess of the applicable local standards.
- K. **C-NOI-2:** Construction activities associated with Project-related development, in combination with other past, present, and reasonable future projects in the city, would expose sensitive receptors to excessive ground-borne vibration related to annoyance and could result in similar impacts related to damage to buildings. (Significant and Unavoidable for Annoyance).
- L. **C-NOI-3:** Operation of the proposed Project, in combination with other past, present, and reasonable future projects in the city, would result in the exposure of persons to noise in excess of the applicable local standards or a substantial permanent ambient noise level increase in the Project vicinity.
- M. **AQ-1:** Construction of the proposed Project would generate fugitive dust and criteria air pollutants, which for criteria air pollutants but not fugitive dust, would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants. (Significant and Unavoidable with Mitigation for Criteria Air Pollutants).
- N. **AQ-2:** During Project operations, the proposed Project would result in emissions of criteria air pollutants at levels that would violate an air quality standard,

contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.

- O. **AQ-3:** During combined Project construction and operations, the proposed Project would result in emissions of criteria air pollutants at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.
  - P. **C-AQ-1:** The proposed Project's construction and operation, in combination with other past, present, and reasonable future projects, would contribute to cumulative regional air quality impacts.
  - Q. **WS-1:** The proposed Project would alter wind in a manner that would substantially affect public areas.
  - R. **C-WS-1:** The proposed Project, in combination with past, present, and reasonably foreseeable future projects, would alter wind in a manner that would substantially affect public areas.
9. The Commission reviewed and considered the information contained in the FEIR prior to approving the proposed Project.

I hereby certify that the foregoing Motion was ADOPT by the Planning Commission at its regular meeting of October 5, 2017.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 5, 2017



# RESPONSES TO COMMENTS

## Seawall Lot 337 and Pier 48 Mixed-Use Project EIR

PLANNING DEPARTMENT  
CASE NO. 2013.0208E

STATE CLEARINGHOUSE NO. 2013122024

Draft EIR Publication Date:	April 26, 2017
Draft EIR Public Hearing Date:	June 1, 2017
Draft EIR Public Comment Period:	April 26, 2017 through June 12, 2017
Final EIR Certification Hearing:	October 5, 2017



SAN FRANCISCO  
PLANNING  
DEPARTMENT



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

DATE: September 21, 2017  
TO: Members of the Planning Commission and Interested Parties  
FROM: Lisa Gibson, Environmental Review Officer  
Re: **Attached Responses to Comments on Draft Environmental Impact Report, Case No. 2013.0208E, Seawall Lot 337 and Pier 48 Mixed-Use Project EIR**

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Attached for your review, please find a copy of the Responses to Comments document for the Draft Environmental Impact Report (EIR) of the above-referenced project. **This document, along with the Draft EIR, will be before the Planning Commission for Final EIR certification on October 5, 2017.** The Planning Commission will receive public testimony on the Final EIR certification at the October 5, 2017 hearing. Please note that the public review period ended on June 12, 2017. Any comments provided orally or in writing at the Final EIR certification hearing will not be responded to in writing.

The Planning Commission does not conduct a hearing to receive comments on the Responses to Comments document, and no such hearing is required by the California Environmental Quality Act. Interested parties, however, may always write to commission members or to the president of the commission at 1650 Mission Street and express an opinion on the responses-to-comments document or the commission's decision to certify completion of the Final EIR for this project.

Please note that if you receive the Responses to Comments document in addition to the Draft EIR, you technically have the Final EIR. If you have any questions concerning the Responses to Comments document or the environmental review process, please contact Tania Sheyner 415-575-9127.

Thank you for your interest in this project and your consideration of this matter.

# RESPONSES TO COMMENTS

## Seawall Lot 337 and Pier 48 Mixed-Use Project EIR

PLANNING DEPARTMENT  
CASE NO. 2013.0208E

STATE CLEARINGHOUSE NO. 2013122024



SAN FRANCISCO  
PLANNING  
DEPARTMENT

Draft EIR Publication Date:	April 26, 2017
Draft EIR Public Hearing Date:	June 1, 2017
Draft EIR Public Comment Period:	April 26, 2017 through June 12, 2017
Final EIR Certification Hearing	October 5, 2017

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# 1. INTRODUCTION

## A. PURPOSE OF THIS RESPONSES-TO-COMMENTS DOCUMENT

The purpose of this Responses To Comments (RTC) document is to present comments submitted on the Draft Environmental Impact Report (Draft EIR) for the proposed Seawall Lot 337 and Pier 48 Mixed-Use Project (Mission Rock Project or proposed project), respond in writing to comments on environmental issues, and revise the Draft EIR as necessary to provide additional clarity. Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21091(d)(2)(A) and (B), the San Francisco Planning Department (Planning Department), which has considered the comments received and evaluated the issues raised, is providing written responses to each substantive environmental issue raised by the commenters. In accordance with CEQA, the responses to comments focus on clarifying the project description and addressing physical environmental issues associated with the proposed project. In addition, this RTC document includes text changes to the Draft EIR initiated by the Planning Department.

None of the comments received or text changes provided new information that warrants recirculation of the Draft EIR. The comments and text changes did not identify new significant impacts or a substantial increase in the severity of previously identified impacts. Furthermore, the comments and text changes did not identify feasible project alternatives or mitigation measures that are considerably different from those that were analyzed in the Draft EIR and/or alternatives or mitigation measures that the project sponsor has not agreed to implement.

Together, the Draft EIR and this RTC document constitute the Final Environmental Impact Report (Final EIR) for the proposed project, in fulfillment of CEQA requirements and consistent with CEQA Guidelines Section 15132. If the City and County of San Francisco (City) approves the proposed project, it would be required to adopt CEQA findings and a mitigation monitoring and reporting program (MMRP) to ensure that the mitigation measures identified in the Final EIR are implemented.

## B. ENVIRONMENTAL REVIEW PROCESS

The EIR process provides an opportunity for the public to review and comment on the proposed project's potential environmental effects and further inform the environmental analysis. As a first step in complying with the procedural requirements of CEQA, a Notice of Preparation (NOP) was used to determine whether any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment.

## **NOTICE OF PREPARATION**

The Planning Department is the lead agency and responsible for administering the environmental review of projects within the city and county of San Francisco under CEQA. On December 11, 2013, the Planning Department released the NOP (included as Appendix 1 of the Draft EIR) to notify the public that it intended to prepare an EIR for the proposed project. In addition to providing a project description, a map with the project location, and a summary of potential environmental issues related to project implementation, the NOP provided information about the public scoping meeting, which was held on January 13, 2014, in the Bayside Room at the Port of San Francisco, Pier 1, The Embarcadero. The purpose of this meeting and publication of the NOP was to solicit comments regarding the scope of the EIR.

The NOP requested agencies and other interested parties to comment on environmental issues that should be addressed in the EIR. The comment letters received in response to the NOP, as well as the scoping meeting transcript, are available for review as part of Case File No. 2013.0208E at the Planning Department offices at 1650 Mission Street, Suite 400, San Francisco. Comments received during the scoping process were considered in preparation of the Draft EIR (see page 1-4 of the Draft EIR for a summary of the comments received on the NOP).

## **DRAFT EIR PUBLIC REVIEW**

The Planning Department published the Draft EIR for the proposed project on April 26, 2017, and circulated the Draft EIR to local, state, and federal agencies as well as interested organizations and individuals for a period of 48 days (until June 12, 2017). Copies of the Draft EIR were made available for public review at the following locations: (1) San Francisco Planning Department, Planning Information Counter, 1650 Mission Street; (2) San Francisco Main Library, 100 Larkin Street; (3) San Francisco State University Library, 1630 Holloway Avenue; (4) Hastings College of the Law, Library, 109 Moses Hall; (5) Institute of Governmental Studies Library, 109 Moses Hall; and (6) Stanford University Libraries Jonsson Library of Government Documents, State and Local Division, 557 Escondido Mall. Electronic copies were also available for review or download on the Planning Department's web page (<http://sf-planning.org/environmental-impact-reports-negative-declarations>).

On April 26, 2017, the Planning Department also distributed notices of availability regarding the Draft EIR, published notification of its availability in a newspaper of general circulation in San Francisco, posted the notice of availability at the San Francisco County Clerk's office, and posted notices at locations near the project sites. The distribution list for the Draft EIR and all documents referenced in the Draft EIR are also available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, California 94103.

During the Draft EIR public review period, the Planning Department received written comments from four public agencies and six individuals (or groups of individuals). Multiple submissions were provided by some of these commenters. Attachment A of this RTC document includes copies of the comment letters submitted during the Draft EIR public review period.

During the public review period, the Planning Department conducted a public hearing to receive verbal comments on the Draft EIR. Verbal comments were received from one Planning Commission member, two non-governmental organizations, and one individual. The public hearing was held before the San Francisco Planning Commission on June 1, 2017, at San Francisco City Hall. A court reporter at the public hearing transcribed the oral comments verbatim and prepared a written transcript (see Attachment B of this RTC document).

## **RESPONSES-TO-COMMENTS DOCUMENT AND FINAL EIR**

The comments received during the public review period for the Draft EIR are the subject of this RTC document, which addresses all substantive written and oral comments on the Draft EIR. Under CEQA Guidelines Section 15201, the public may comment on any aspect of the proposed project. Further, CEQA Guidelines Section 15204(a) states that the focus of public review should be “on the sufficiency of the Draft EIR in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.” In addition, “when responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.” CEQA Guidelines Section 15088 specifies that the lead agency is required to respond to comments on the major environmental issues raised during the public review period. Therefore, this RTC document focuses on the sufficiency and adequacy of the Draft EIR with respect to the significance of the environmental impacts of the proposed project that were evaluated in the Draft EIR.

The Planning Department will distribute this RTC document to the San Francisco Planning Commission as well as agencies, neighborhood organizations, and persons who commented on the Draft EIR. The Planning Commission will consider the adequacy of the Final EIR—consisting of the Draft EIR and the RTC document—with respect to complying with the requirements of CEQA and Chapter 31 of the San Francisco Administrative Code. If the Planning Commission finds that the Final EIR complies with CEQA requirements, it will certify the Final EIR and then consider the associated MMRP.

Consistent with CEQA Guidelines Section 15097, the MMRP is designed to ensure implementation of the mitigation measures identified in the Final EIR and adopted by decision-makers to reduce or avoid the proposed project’s significant environmental effects. CEQA also requires the adoption of findings prior to approval of a project for which a certified EIR identifies significant environmental effects (CEQA Guidelines Sections 15091 and 15092). If the EIR identifies significant adverse impacts that cannot be mitigated to less-than-significant levels, the

findings must include a Statement of Overriding Considerations for those impacts (CEQA Guidelines Section 15093[b]) if the proposed project is approved. The project sponsor would be required to implement the MMRP as a condition of project approval.

## C. DOCUMENT ORGANIZATION

This RTC document consists of the following chapters, plus supplemental attachments, as described below:

- *Chapter I: Introduction* – This chapter includes a discussion of the purpose of the RTC document, the environmental review process for the proposed project, and the organization of the RTC document.
- *Chapter II: List of Persons Commenting* – This chapter provides a list of the agencies, organizations, and individuals who submitted written comments during the public review period or spoke at the public hearing for the Draft EIR. The list is organized into the following groups: federal, state, regional, and local agencies and boards and commissions; organizations; and individuals. The list identifies whether the persons submitted comments in writing (letter, email, or fax), verbally at the Draft EIR public hearing, or both.
- *Chapter III: Comments and Responses* – This chapter contains substantive comments on the Draft EIR made verbally during the public hearing or received in writing during the public comment period. The comments are organized by topic and, where appropriate, by subtopic. Comments are coded as follows:
  - Comments from agencies are designated by “A-” and an acronym for the agency’s name.
  - Comments from non-governmental organizations are designated by “O-” and an acronym for the organization’s name.
  - Comments from individuals are designated by “I-” and the commenter’s last name.

In cases where a commenter has spoken at the public hearing and submitted written comments, or has submitted more than one comment letter or email, the commenter’s last name, or an acronym or abbreviation for the organization represented by the commenter, is followed by a sequential number by date of submission.

Following each comment or group of comments on a topic are the Planning Department’s responses. The responses generally provide clarification of the Draft EIR text. They may also include revisions or additions to the Draft EIR. Such changes are shown as indented text, with new text underlined and deleted text shown with ~~striketrough~~.

- *Chapter IV: Draft EIR Revisions* – This section includes all changes to the Draft EIR text and graphics noted in the responses to the comments. Staff-initiated changes to clarify information presented in the Draft EIR are also included, as applicable, and highlighted by an asterisk (\*) in the margin to distinguish them from text changes in response to comments. These changes and minor errata do not result in significant new information with respect to the proposed project, including the level of significance of project impacts or any new significant impacts.

RTC document appendices (called “attachments” to distinguish them from the Draft EIR appendices) include the Draft EIR Comment Letters (Attachment A), the June 1, 2017, Draft EIR Hearing Transcript (Attachment B), and the updated Appendix 1, Notice of Preparation, Summary of Scoping Comments, and Comments Received (with Attachments) of the Draft EIR (Attachment C). The comment letters are organized in the order presented in the List of Persons Commenting (see Chapter II).

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## 2. LIST OF PERSONS COMMENTING

This chapter presents the agencies, organizations, and individuals who submitted written comments during the public review period or spoke at the public hearing on the Draft EIR. Table 2-1 lists the commenters' names, along with the corresponding commenter codes used in Chapter 3, *Responses to Comments*, to denote each set of comments; the comment format; and the comment date. This RTC document codes the comments in the following way:

- Comments from agencies are designated by "A-" and an acronym for the agency's name.
- Comments from organizations are designated by "O-" and an acronym for the organization's name.
- Comments from individuals are designated by "I-" and the commenter's last name.

Within each category, commenters are listed in alphabetical order. In cases where commenters provided oral testimony at the public hearing and submitted written comments, or submitted more than one letter or email, comment codes end with a sequential number (e.g., comment codes O-LOS (1), O-LOS (2), O-LOS (3), and O-LOS (4) are used to denote multiple written and verbal comments submitted by the same organization). Comment letters and emails received are included as Attachment A. The Planning Commission hearing transcript is included as Attachment B. The example below has been constructed to show a breakdown of the comment code components for the fourth comment received from an individual commenter, code I-Stokus (4). In this example, the commenter submitted multiple comments.

*Individual Commenter  
Designation of "I"*

— I-Stokus (4)-1 —

|  
*Individual Last Name  
"Stokus"*

*Multiple comment letters, emails,  
or verbal comments were  
submitted; in this example, "4"  
represents the code for the fourth  
submittal received from this  
particular individual and "1"  
denotes the first of several  
comments in this individual's letter.*

**Table 2-1: Commenters on the Draft EIR**

<b>Commenter Code</b>	<b>Name of Person and Title</b>	<b>Agency/ Organization</b>	<b>Comment Format</b>	<b>Date</b>
<b>Federal, State, Regional, and Local Agencies, Boards, and Commissions</b>				
A-BAAQMD	Jean Roggenkamp	BAAQMD	Letter	6/7/2017
A-BCDC	Ethan Lavin	BCDC	Letter	6/12/2017
A-Caltrans	Patricia Maurice	Caltrans	Letter	6/8/2017
A-CDFW	Craig Schuman	CDFW	Letter	6/9/2017
A-SFPC	Commissioner Moore	SFPC	Transcript	6/1/2017
<b>Organizations</b>				
O-NA	Katy Liddell	South Beach, Rincon, Mission Bay Neighborhood Association	Transcript	6/1/2017
O-SF Parks	Amanda Montez	San Francisco Parks Alliance	Transcript	6/1/2017
<b>Individuals</b>				
I-Clark	Laura Clark		Transcript	6/1/2017
I-Garfinkle	Deborah Garfinkle		Email	5/5/2017
I-Hong	Dennis Hong		Email	7/12/2017
I-Kutay	John Kutay		Email	5/5/2017
I-Stokus (1)	Lawrence Stokus		Email	5/5/2017
I-Stokus (2)	Lawrence Stokus		Email	5/5/2017
I-Stokus (3)	Lawrence Stokus		Email	5/5/2017
I-Stokus (4)	Lawrence Stokus		Email	5/5/2017
I-Stokus (5)	Lawrence Stokus		Email	5/21/2017
I-Stokus (6)	Lawrence Stokus		Email	5/31/2017
I-Stokus (7)	Lawrence Stokus		Email	6/25/2017
I-Stokus (8)	Lawrence Stokus		Email	7/12/2017
I-Stokus (9)	Lawrence Stokus		Email	8/8/2017
I-Stokus (10)	Lawrence Stokus		Email	8/30/2017
I-Wong	Howard Wong		Email	6/12/2017
I-Zaks	Julia Zaks		Email	5/5/2017
BAAQMD = Bay Area Air Quality Management District, BCDC = San Francisco Bay Conservation and Development Commission, Caltrans = California Department of Transportation, CDFW = California Department of Fish and Wildlife, SFPC = San Francisco Planning Commission				

### 3. COMMENTS AND RESPONSES

This chapter of the RTC document summarizes the substantive environmental comments received on the Draft EIR and presents responses to those comments. This chapter begins with a description of the overall organization of the RTC, followed by the comments and responses.

#### A. ORGANIZATION OF RESPONSES TO COMMENTS

The comments in this chapter are organized by environmental topic area and presented in the same order as in the Draft EIR. General comments not related to substantive environmental issues, including comments pertaining to the proposed project's merits, are addressed in the concluding section of this chapter, the General Comments section. Prefixes related to the abbreviated environmental topic areas are used to group responses, as shown below.

PD	Project Description	PS	Public Services and Recreation
PO	Plans and Policies	BI	Biological Resources
LU	Land Use	GE	Geology
AE	Aesthetics	HY	Hydrology
TR	Transportation and Circulation	VR	Variants
AQ	Air Quality	AL	Alternatives
WS	Wind and Shadow	GC	General Comments

Each comment is presented verbatim, except for minor typographical corrections, and concludes with the commenter's name and, if applicable, title and affiliation, the comment source (i.e., public hearing transcript or letter), the comment date, and the comment code. For the full text of each comment in the context of the public hearing transcript or each comment letter, the reader is referred to RTC Attachments A and B.

Following each comment or group of comments, a comprehensive response is provided to address issues raised in the comments and clarify or augment information in the Draft EIR, as appropriate. The responses provide clarification of the Draft EIR text and may also include revisions or additions to the Draft EIR. Revisions to the Draft EIR are shown as indented text, with new text underlined and deleted material shown with strikethrough. Corrections and/or clarifications to the Draft EIR presented in the responses are repeated in Section 4, Draft EIR Revisions.

## B. PROJECT DESCRIPTION

The comments and corresponding responses in this section cover topics in Chapter 2, *Project Description*, of the Draft EIR. These include topics related to:

- PD-1: Shoreline Public Access
- PD-2: Shoreline Protection
- PD-3: Parking Capacity
- PD-4: Design of Parking Structures
- PD-5: Water-Oriented Recreational Uses
- PD-6: Residential Units Compared to Parking Spaces
- PD-7: Community Use Spaces
- PD-8: Site Design

### COMMENT PD-1: SHORELINE PUBLIC ACCESS

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-8
- A-BCDC-11
- A-BCDC-13

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“The DEIR indicates that the proposed project is to be developed in several distinct development phases. In areas of the shoreline that will not be improved as part of the initial phases) of the proposed project, please discuss the anticipated condition of the shoreline during in the interim, and identify if there are any plans or the potential to provide or enhance shoreline access during this time.” (*Ethan Lavine, June 12, 2017, [A-BCDC-8]*)

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“Bay Plan Public Access Policy No. 6 requires that, wherever appropriate, public access required as a condition of development is to be permanently guaranteed ‘by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are dedicated to the public as part of the subdivision process in cities and counties.’ Please indicate in the FEIR those areas of the project site that are to be permanently guaranteed as public access, and the method by which those areas are to be guaranteed.” (*Ethan Lavine, June 12, 2017, [A-BCDC-11]*)

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“The FEIR should indicate whether the public access areas are designed to permit barrier-free access for persons with disabilities to the maximum extent feasible. Public Access Design Guidelines Objective No. 2 is to make public access usable, which can be accomplished by, among other actions ‘[i]ncorporating accessibility improvements into public access areas.’ Plan Recreation Policy No. 1 states, in part: ‘Diverse and accessible water-oriented recreational facilities...should be provided to meet the needs of a growing and diversifying population’ (emphasis added).” (*Ethan Lavine, June 12, 2017, [A-BCDC-13]*)

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### **RESPONSE PD-1**

The comments request information regarding shoreline access during construction, the areas within the project site that would be permanently guaranteed public access, the method by which public access would be guaranteed, and access for persons with disabilities.

The existing condition of the project site generally allows for unrestricted shoreline access, along the northern and eastern boundaries of the project site, including existing parks, walkways, bicycle paths, hardscape outlooks, and sidewalk/paved areas. The existing access opportunities do not include the Pier 48 aprons, which are currently red-tagged,<sup>1</sup> vacant, and not actively used for any purpose. As the comment mentions, the project is proposed to be developed in phases. Under the current phasing plan, the shoreline areas along the northern and immediately adjacent eastern boundaries of the site and China Basin Park would be improved as part of Phase 1 (2017–2020). Existing access would continue to be available in other shoreline areas until the open space and shoreline areas, including Channel Wharf, Blue Greenway, and Pier 48, are enhanced and augmented in later phases, as described in Chapter 2, *Project Description*. Access in these areas will not be restricted at any time during construction of earlier phases. The current phasing plan, as described in Chapter 2, *Project Description*, of the Draft EIR, anticipates that the other shoreline areas would be improved in Phase 4 (2020–2023).

Public right-of-ways, public access, and open space are described in Chapter 2, *Project Description*, and illustrated in Figure 2-4, Proposed Site Plan and Height Ranges, on page 2-21. With respect to areas of the site that are to remain public access areas permanently, the project site, including all existing and proposed street right of ways, public access areas, and open space areas, is on Port of San Francisco (Port) or City property and would remain under Port control. All street right of ways, public access areas, and public open space areas would be

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<sup>1</sup> Structures that have been red-tagged are severely damaged, to the degree that the structure is too dangerous to occupy; public access to red-tagged areas is prohibited.

accessible to the public through the life of the project. Open space would be zoned accordingly in the zoning controls for the project. Improvements would be accepted for public use by the City or Port. Maintenance would be either the responsibility of the City or the project sponsor, or its successors, through recorded obligations under the proposed project's transaction documents and project approvals.

The project sponsor would comply with the public access requirements pursuant to its BCDC permits for the project site and Pier 48 as well as public access requirements applicable to rehabilitation of Pier 48 pursuant to the Secretary of Interior's Standards of Rehabilitation and Port of San Francisco Historic Preservation Review Guidelines for Pier and Wharf Substructures.<sup>2</sup> The public trust study<sup>3</sup> submitted by the Port to the State Lands Commission is, among other things, based on the proposed project's increased public access and opportunities to enjoy the waterfront, including the expansion of China Basin Park, new public spaces (including the proposed Mission Rock Square), the rehabilitation of Pier 48, improved public access on the aprons, the improved wharf area between Piers 48 and 50, and the expansion of the Blue Greenway and pedestrian-oriented street system. The public trust study was submitted in accordance with the Exclusive Negotiating Agreement between the Port and Seawall Lot 337 Associates.

The proposed project contemplates that pathways and park areas would comply with all applicable legal requirements, including the Americans with Disabilities Act (ADA). Primary circulation routes to and within the parks would be universally accessible, and ADA-compliant means of access would be provided to all park uses. In addition, the Development Controls and Design Guidelines (Design Controls) (Appendix 2 of the Draft EIR) also require certain open spaces/dedicated public access areas along significant circulation routes to be universally accessible. This would include, for example, important pedestrian connections, such as the Bay Trail and Park Promenade.

No components of the project, including the waterfront launch, would cross the riprap. The proposed watercraft launch at Pier 48, as described in Chapter 2, *Project Description*, does not contemplate full accessibility, given the existing apron height, tidal changes, and other water conditions (wind, waves, etc.).

The comments do not present any evidence that the information in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

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<sup>2</sup> Seawall Lot 337 Associates LLC. 2017. *Data Needs*. July.

<sup>3</sup> Port of San Francisco and Seawall Lot 337 Associates, LLC. 2013. *Public Trust Study*. July 15.

**COMMENT PD-2: SHORELINE PROTECTION**

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BCDC-21

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“It is unclear to us if any work is proposed for the existing riprap shoreline protection system installed along the site's northern edge adjacent to McCovey Cove. If such work is proposed as part of the project, please describe this work and any resulting Bay fill. The Bay Plan establishes criteria by which new shoreline protection projects may be authorized and which existing shoreline protection may be maintained or reconstructed. Bay Plan Shoreline Protection Policy No. 1 establishes a number of criteria against which the Commission will examine the necessity for shoreline armoring and the appropriateness of the proposed method of armoring. For each of the proposed shoreline protection elements of the proposed project, please discuss: (1) the erosion and/or flood protection considerations necessitating shoreline protection; (2) why the type of protective structure proposed is the most appropriate for each area, given the use it is protecting, flood or erosion considerations, or other factors; (3) if the shoreline protection structure would be properly engineered to provide erosion control and flood protection for the life of the proposed project based on a 100-year flood event that takes future sea level rise into account; (4) how the shoreline protection structure would be designed to prevent significant impediments to physical and visual public access; and (5) how the shoreline protection structures on the north and south ends of the project site would be integrated with current or planned shoreline protection measures on adjacent properties.” (*Ethan Lavine, June 12, 2017, [A-BCDC-21]*)

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**RESPONSE PD-2**

The comment requests additional detail regarding any work that would affect the existing riprap shoreline protection adjacent to China Basin. The proposed project would not affect the riprap for shoreline protection along the project site's northern edge. Therefore, no new shoreline protection structures or elements are included as part of the proposed project. One of the variants, Variant 1, District Energy/Bay-Source Energy Capture, would involve work that would require the installation of piping that would transect the shoreline area; however, the piping would be slant drilled to enter San Francisco Bay (Bay) below the riprap. The drilling methodology would allow the pipes to be installed from along the southwestern edge of China Basin Park to the shoreline to the north without disturbing the existing riprap. Potential impacts from erosion are discussed in the Draft EIR in Section 4.M, *Geology and Soils*, on page 4.M-31; flood protection and sea-level rise are discussed in the Draft EIR in Section 4.N, *Hydrology and*

*Water Quality*, on pages 4.N-61 through 4.N-64; and public access is discussed in Chapter 2, *Project Description*, on pages 2-23, 2-40, 2-42, and 2-44. These comments do not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR, and no revisions to the Draft EIR are required. Therefore, recirculation of the EIR or a section of the EIR is not required. The comments will be transmitted to and may be considered by the decision-makers as part of their deliberations on the proposed project.

### **COMMENT PD-3: PARKING CAPACITY**

This response addresses the comments from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-Caltrans-5

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**“Multimodal Planning:** Caltrans encourages the project developer to reduce the proposed parking supply. We recommend referring to the *Reforming Parking Policies to Support Smart Growth*, an MTC study funded by Caltrans, for sample parking ratios and strategies that support compact growth: [http://www.mtc.ca.gov/planning/smart\\_growth/parking](http://www.mtc.ca.gov/planning/smart_growth/parking). Reducing parking supply can encourage alternate forms of transportation, reduce regional VMT, and lessen future traffic impacts on I-80, I-280 and the STN.” (Patricia Maurice, June 8, 2017, [A-Caltrans-5])

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### **RESPONSE PD-3**

The comment encourages the project sponsor to reduce the parking capacity proposed. *Reforming Parking Policies to Support Smart Growth*, a Metropolitan Transportation Commission (MTC) study referenced in the comment, identifies a range of parking strategies and representative parking requirements by location type. Many of the parking strategies identified in the MTC study are included in the Mission Rock Transportation Demand Management (TDM) Program, including the following: transit incentive programs, transit supportive zoning (i.e., land use), car-sharing, walkability and wayfinding, shared parking, variable-rate pricing for parking, unbundled parking, and parking payment technology.

The proposed project's parking garages would serve the entire project site as well as AT&T Park and other nearby facilities. Under the currently anticipated phasing, the Block D2 garage would be developed in Phase 2 (2018–2021) of the proposed project. Prior to development of the proposed Block D2 garage, the City and project sponsor would be required by the proposed project's transaction documents (e.g., Development and Disposition Agreement, Vertical Development and Disposition Agreement, and parcel lease) to meet and confer regarding plans for development and operation of the proposed garage (e.g., to consider possible financially

feasible refinements to garage capacity; event and nonevent parking management plans, including pricing plans; and features that would allow for adaptability of portions of the garage). This process would be informed by monitoring the implementation of TDM measures and evaluating parking demand as the proposed project develops, as discussed in the Draft EIR in Section 4.G, *Air Quality*, on pages 4.G-63 through 4.G-67. For additional information on parking impacts, see Draft EIR Section 4.E, *Transportation and Circulation*, on pages 4.E-152 through 4.E-155. These comments do not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR, and no revisions to the Draft EIR are required. Therefore, recirculation of the EIR or a section of the EIR is not required.

#### **COMMENT PD-4: DESIGN OF PARKING STRUCTURES**

This response addresses the comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-29
- I-Wong-8
- I-Wong-12
- I-Wong-16

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“Please elaborate upon the proposed berm or flood gate to protect the belowground parking area, including the location and possible design.” (*Ethan Lavine, June 12, 2017, [A-BCDC-29]*)

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“**Page 1-2:** For a greater chance of success for the project, there should be no parking under Mission Rock Square. For this size of park, ramps and car entrances would be obvious. Psychologically, a sense of place is stronger when the park is on terra firma.” (*Howard Wong, June 12, 2017, [I-Wong-8]*)

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“**Page 2-5:** Ensure that parking facilities are “concealed” —masked by ground-floor retail, green walls and/or art—or embedded in mid-blocks.” (*Howard Wong, June 12, 2017, [I-Wong-12]*)

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“**Figure 2-4:** In the site map, parking facilities would be best ‘concealed’ —masked by ground-floor retail, green walls and/or art—or embedded in mid-blocks. Also, in order to achieve ground-level activation, all ground-floor spaces should be flex uses, allowing for retail/ commercial particularly along major streets (inside the project and Third Street). Think of typical San Francisco neighborhoods, like North Beach.” (*Howard Wong, June 12, 2017, [I-Wong-16]*)

**RESPONSE PD-4**

One comment concerns the location and design of the berm or flood gate to protect the below-ground parking area. Several comments also state that there should be no parking under Mission Rock Square; parking facilities should be concealed or embedded in mid-blocks. A commenter also states that all ground-floor spaces should flexibly allow for ground-level activation with retail and commercial uses; a response to this comment is provided under Comment PD-8 on page 3-14.

The Mission Rock Square garage would have ingress/egress points on Channel Street at Third Street and Channel Lane at Terry A. Francois Boulevard. At this time, projected mid-century sea-level rise could be accommodated with upward-sloped driveways and permanent or temporary water-resistant vertical barriers on Channel Street and Channel Lane.<sup>4</sup> The specific design details regarding the most feasible and appropriate solution(s) to protect the Mission Rock Square garage ingress/egress points from sea-level rise would be determined during the approval of detailed designs for the garage and applicable infrastructure. Each of these elements would also be required to be consistent with the Mission Rock Design Controls. Chapter 2, *Project Description*, under “Design Controls” on page 2-25 of the Draft EIR, describes how the Design Controls would guide the physical development of the project site. The Block D2 parking garage would be subject to Design Controls that would require it to have a design that would complement surrounding and proposed onsite buildings. Residential uses would wrap the Third Street façade of the Block D2 parking garage. Thus, the Block D2 parking garage would not appear as a parking garage from Third Street. The upper levels of the Block D2 parking garage would be visible as a parking garage from Mission Rock Street, Bridgeview Street, and Long Bridge Street. The parking facilities would be located underground at the Mission Rock Square garage or, in the case of the Block D2 parking garage, at the southwestern boundary of the project site, facing the similarly scaled Public Safety Building. The first floor of the Block D2 parking garage, including along Third Street, would include approximately 14,000 gsf of active/retail uses to activate the street edges.

As explained on pages 2-28 and 2-30 in Chapter 2, *Project Description*, of the Draft EIR, the lower floors of residential and commercial buildings throughout Seawall Lot 337 would, depending on which zone applies (High Retail Zone, Parkfront Zone, Working Waterfront Zone, Neighborhood Street Zone), be permitted for active/retail, production, commercial, or residential uses; active/retail/production space would total approximately 241,000 to 244,800 gsf. Thus, the lower-floor areas of the proposed onsite development on Seawall Lot 337 would contain shops, restaurants, cafes, regional- and neighborhood-serving retail uses, community spaces, and production uses. In addition, active/retail uses may be provided

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<sup>4</sup> Seawall Lot 337 Associates LLC. 2017. *Data Needs*. July.

in potential rooftop lounges on Blocks A, G, and K and in a limited number of permanent retail kiosks and small stand-alone retail spaces in China Basin Park and Mission Rock Square.

As described in Chapter 6, *Variants*, Variant 3, Reconfigured Parking, evaluates an option that would not include the parking garage under Mission Rock Square. Variant 3 would relocate the 700 spaces from the garage under Mission Rock Square to the Block D2 garage. This variant will be available for selection by the project sponsor and decision-makers as part of an approval action for the proposed project (refer to Chapter 6, *Variants*, for a full description and analysis of this variant). The comments do not present any evidence that the information in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

### **COMMENT PD-5: WATER-ORIENTED RECREATIONAL USES**

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BCDC-14

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“The proposed project includes a launch for human-powered boats from the Pier 48 apron. The FEIR should also consider the potential for facilities related to a variety of other water-oriented recreational uses to be accommodated at the site, including but not limited to, swimming and fishing. The project sponsors have previously informed BCDC staff that certain facilities of this sort may be incompatible with the site because of water contamination or the potential for conflicts with nearby marine industrial uses. Where such conflicts exist to the extent that they preclude or would require limited public access to the water, they should be analyzed as part of the FEIR. In the discussion, please consider the following policies and guidelines:

- Bay Plan Recreation Policy No. 1 states, in part: ‘Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels.’”
  - Public Access Design Guidelines Objective No. 2 is to make public access usable, which can be accomplished by, among other actions, ‘[t]aking advantage of existing site characteristics and opportunities, such as fishing, viewing, picnicking, swimming or boating.’” (*Ethan Lavine, June 12, 2017, [A-BCDC-14]*)
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**RESPONSE PD-5**

The comment suggests that the project should consider the potential for facilities related to a variety of other water-oriented recreational uses.

CEQA calls for discussion of any inconsistencies with local and regional plans (CEQA Guidelines Section 15125(d)). The Draft EIR discusses BCDC Bay Plan Recreation Policies and Public Access Design Guidelines in Chapter 3, *Plans and Policies* (see Response PO-4 for text changes to the Draft EIR regarding conflicts with the Bay Plan). The BCDC policies cited by the commenter call for diverse and accessible water-oriented facilities, such as marinas, launch ramps, beaches, and fishing piers, and public access to accommodate such activities as fishing, viewing, picnicking, swimming, or boating. As described on page 2-40 of Chapter 2, *Project Description*, a floating dock for personal watercraft, or carry-down boat launch, would be constructed at the northwest portion of Pier 48, along the northern apron, as part of the Blue Greenway system. The boat launch would be designated for public access to launch human-powered watercraft (such as kayaks) into the Bay. This location is sheltered from wave action and close to Terry A. Francois Boulevard, which would include time-limited loading spaces for watercraft drop-off. Components of the boat launch would float and would not require the installation of piles. Through these features, the project would accommodate some of the uses and activities called for by the cited policies.

The proposed project would not include swimming or fishing facilities at the boat launch area or elsewhere. The proposed water-oriented recreational facilities would be consistent with existing and projected uses in the adjacent bay, channel waterway, and pier areas, which similarly accommodate recreational, industrial, and/or transportation watercraft but do not provide, and are not currently contemplated to provide, swimming or related facilities in proximity to these other uses. The proposed project does not anticipate fishing from existing and projected elevated hardscape areas.

There is no indication of any unique water contamination issues in the project area, other than that related to the sediment below the water in the channel and pier areas. These areas would not be excavated or dredged by proposed project construction activities, except for the new piles that would be installed at Pier 48. BCDC will have an opportunity to assess consistency with its policies as part of the BCDC permitting process, as applicable to the project. The comment does not present any evidence that the information in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

### COMMENT PD-6: RESIDENTIAL UNITS COMPARED TO PARKING SPACES

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-Caltrans-3

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**“Project Description:** The estimate for the number of parking spaces with the proposed develop[ment] is 3,100 spaces. Is there an estimate for the number of residential units proposed?” (*Patricia Maurice, June 8, 2017, [A-Caltrans-3]*)

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### RESPONSE PD-6

The comment asks about the number and mix of proposed residential units compared to parking spaces.

As shown in Table 2-3 on page 2-22 in Chapter 2, *Project Description*, the number of residential units proposed is between 1,000 and 1,600, depending on which land use assumption is selected (High Commercial Assumption or High Residential Assumption). The number of proposed parking spaces per block is provided in Table 2-4 on page 2-23 in Chapter 2, *Project Description*.. The project sponsor would determine the primary land uses for the three flexible zoning blocks above the lower floor (i.e., residential or commercial) at the time of filing for design approvals for block development proposals. The comment does not present any evidence that the information in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

### COMMENT PD-7: COMMUNITY USE SPACES

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- I-Wong-19

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**“Figure 2-4:** Consider adding a variety of community-use spaces. There’s a need for community meeting rooms and gathering places. Multipurpose facilities activate other uses.” (*Howard Wong, June 12, 2017, [I-Wong-19]*)

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**RESPONSE PD-7**

The comment requests consideration of adding a variety of community-use spaces and multipurpose facilities.

As noted on page 2-28 of the Draft EIR, the lower-floor areas of the proposed development on Seawall Lot 337 would contain community spaces, in addition to shops, restaurants, cafes, regional- and neighborhood-serving retail uses, and production uses. The project would include approximately 8 acres of open space uses that would be available for members of the community to gather. As explained on pages 2-38 and 2-39 of the Draft EIR, the eastern portion of China Basin Park would include the Great Lawn, which would accommodate large outdoor gatherings, and the 1.1-acre Mission Rock Square, located in center of Seawall Lot 337, would include a multi-use lawn, plaza, café pavilion, and special event/assembly area that would be able to accommodate assembly and special-event uses for up to approximately 2,000 people. As stated on page 2-40, gathering spaces within Channel Lane would be provided on either side of a ramp that would serve as egress/ingress for the Mission Rock Square parking garage. In addition, as stated on page 2-30 of the Draft EIR, stoops and steps on residential and commercial buildings in the Neighborhood Street Zone could create informal seating and gathering spaces. The comment does not present any evidence that the information in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

**COMMENT PD-8: SITE DESIGN**

This response addresses the comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- I-Kutay-1
  - I-Wong-10
  - I-Wong-11
  - I-Wong-13
  - I-Wong-14
  - I-Wong-15
  - I-Wong-17
  - I-Wong-18
  - I-Wong-20
-

“As a life long San Francisco resident and current Mission Bay resident (living on Long Bridge Street), I fully support the Mission Rock project and the life/retail/restaurants it will bring the area. However, it's no secret that the underwhelming, mid-rise architecture in the area has drawn a lot of criticism to the area as being sterile and unattractive.

Mission Bay also has about 40% affordable housing, meaning the area has even more of a responsibility to be an example of how great a new, economically diverse neighborhood can be—in ways that are both aesthetic and communal.

Mission Rock by itself has enough mass to pull Mission Bay out of it's status as a sterile area full of nothing but architectural boiler plate and 'dorms' for tech workers (as some call it today).

I would recommend that SF Planning and the Board of Supervisors push the Mission Rock developers to build something attractive, modern, and inspiring enough to pull people from all over the region to spend time in Mission Bay for things outside of sports games. It has an opportunity to be a modern Union Square, but in order to do that, we need better architecture.

Thank you for considering my feedback.” (*John Kutay, May 05, 2017 [I-Kutay-1]*)

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“**Page 2-3:** With more international design firms, there is a growing ‘sameness’ in architecture and parks—much easier to tweek designs already in computer files. So, ‘distinctive design’ should be expanded upon—by unique and distinctive design that draws from the character of the neighborhood and San Francisco. Ideally, from a photo, one can identify San Francisco—not Boston, Melbourne or Hamburg. And unique design does not mean faux historicism.” (*Howard Wong, June 12, 2017, [I-Wong-10]*)

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“**Page 2-3:** Two other urban design goals that have been emphasized over the years include:

- Activation of the entire ground level and streets of the project.
- Integrating seamlessly with adjoining streets and neighborhoods—by design and character.” (*Howard Wong, June 12, 2017, [I-Wong-11]*)

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“**Figure 2-4. Proposed Site Plan:** The plans should show a complex mix of flex uses at ground-level and streets, which assure activation of the entire site and all its uses.

To increase the chances of social and economic vibrancy, a certain degree of ‘chaos’ should happen at the ground. Mixed-use should be shown vertically as well as horizontally, by example, housing above retail, commercial, services, art studios, light manufacturing....” (*Howard Wong, June 12, 2017, [I-Wong-13]*)

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**“Figure 2-4:** Generally, given the recent emphasis for much more housing, other variables to be added are residential sizes and types. This large project can work with neighborhoods, housing advocates, Board, Mayor and Planning to create a flexible plan, allowing for many more housing units within the same envelope. Throughout the world, housing innovations include micro-units, cooperative housing, shared housing, prefabricated dwellings, floating units...” (Howard Wong, June 12, 2017, [I-Wong-14])

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**“Figure 2-4:** Emphasize that streets themselves are vital open space. Well-designed and unique streetscapes seamlessly connect people, stores, homes, architecture, neighborhoods, waterfronts...” (Howard Wong, June 12, 2017, [I-Wong-15])

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**“Figure 2-4:** In the site map, I assume street names are place-holders. Does ‘Bridgeview Street’ really have a view of the bridge? ‘Shared Public Way’ could be a San Francisco name, like ‘Emperor Joshua Norton Way.’” (Howard Wong, June 12, 2017, [I-Wong-17])

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**“Figure 2-4:** Consider site design as 3-dimensional. Create a sense of hills—ups and downs. Generally, sloped streets and spaces could create a San Francisco hill-like ambience.” (Howard Wong, June 12, 2017, [I-Wong-18])

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**“Figure 2-6:** There is the danger of street frontages looking like retail suck into the bottom of high-rises, like King Street and Los Angeles. Maps, diagrams and design guidelines need to foster “chaos” and complexity—spatially in three dimensions. Different neighborhoods can be unique with colors, details, individual spontaneity.... No strip malls here. Think Paris, Venice and Bangkok.” (Howard Wong, June 12, 2017, [I-Wong-20])

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#### **RESPONSE PD-8**

The comments encourage distinctive designs and attractive, modern, and inspiring architecture, along with a flexible mix of uses, at the project site. One comment asks if the street names are placeholders. One comment also encourages considering the site design in three dimensions.

The proposed project is intended to have a diversity of building forms as well as diverse architecture, as reflected in the Design Controls, included as Appendix 2 of the Draft EIR.

Diverse designs would be encouraged by, for example, seeking to use different design architects for each building and open space area.<sup>5</sup> The Design Controls would also require that each building include active ground floors on the majority of street frontages, as discussed on page 2-26 of Chapter 2, *Project Description*. Further, on the Shared Public Way, for example, a shared street would be designed with spill-out spaces and “street rooms,” which could be activated by adjacent shops and restaurants. The promenade within China Basin Park would include “spill-out” space for restaurants and outdoor dining with views of the waterfront. The proposed project's onsite internal street network would introduce a variety of smaller walkable blocks that would enhance connections to the waterfront and integrate with surrounding streets. This street network would ensure easy connections to the existing neighborhood, with additional connections to the waterfront.

The Special Use District (SUD) and Design Controls anticipate flexible uses at ground/street level, allowing the buildings to be mixed use. As shown in Table 2-4 on page 2-23 of Chapter 2, *Project Description*, three blocks are proposed with flexible zoning and land uses, Blocks H, I, and J. These three blocks on Seawall Lot 337 would be designated for either residential or commercial as the predominant use above the lower-floor active/retail uses. The project sponsor would determine the primary land uses of the three flexible zoning blocks above the lower floor (i.e., residential or commercial) at the time of filing for design approvals for block development proposals. However, as discussed above, ground-floor retail, production uses, and active uses would be included across the project site, not solely on these three blocks.

Chapter 4 of the Design Controls outlines the standards and guidelines for the design of streets and emphasizes their importance as a significant component of the open space experience of the site. Of particular note are the Shared Public Way and Terry A. Francois Boulevard, which are shared streets that prioritize pedestrians but would still allow access for slow-moving vehicles. Formal street names would be determined at a later time, such as during subdivision mapping.

The project site would be designed to adapt to rising sea levels. As described on pages 4.O-65 and 4.O-66 in Section 4.O, *Hazards and Hazardous Materials*, because the center of the site would be raised, the streets and open spaces leading to the center of the site would have a gradual incline from the edges of the site to the interior of the site.<sup>6</sup> China Basin Park would have grade changes across the park in a variety of ways, from amphitheater-like steps to ramps to a sloping lawn. Along Terry A. Francois Boulevard, grade changes would be expressed as an elevated sidewalk or loading-dock-like connection, which would support the production activities of the working waterfront along this street. Additionally, as described in Section 2.B *Aesthetics*, the proposed project would create new landscaped open space areas and construct buildings that would reflect an architectural design that would be generally compatible with that of the

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<sup>5</sup> Seawall Lot 337 Associates LLC. 2017. *Data Needs*. July.

<sup>6</sup> Seawall Lot 337 Associates LLC. 2017. *Data Needs*. July.

surrounding development. The proposed buildings would provide a visual continuation of these features by adding new buildings to the project site. In addition, the proposed project would continue existing streets and right of ways (Channel Street, Long Bridge Street, and Bridgeview Street) through the project site, preserving existing views and the street grid in the Mission Bay South Redevelopment Plan area. As described above, the proposed project would adhere to the Design Controls, which would guide physical development on the project site. Implementation of the Design Controls would ensure that the proposed buildings would be visually consistent with their setting. They would have a scale, proportion, and level of detail that would relate to the fabric of the existing neighborhood.

These comments related to site design do not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required. The comments will be transmitted to and may be considered by the decision-makers as part of their deliberations on the proposed project.

## **C. PLANS AND POLICIES**

The comments and corresponding responses in this section cover topics in Chapter 3, *Plans and Policies*, of the Draft EIR. These include topics related to:

- PO-1: Public Trust – General
- PO-2: Public Trust Related to BCDC Jurisdiction
- PO-3: BCDC Regulatory Jurisdiction and Authority
- PO-4: Consistency with Bay Plan and Other Related Plans

### **COMMENT PO-1: PUBLIC TRUST – GENERAL**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- I-Stokus (1)-1
- I-Stokus (1)-2
- I-Stokus (1)-3
- I-Stokus (1)-5
- I-Stokus (1)-6
- I-Stokus (1)-7
- I-Stokus (1)-8

- I-Stokus (1)-9
- I-Stokus (2)-2
- I-Stokus (4)-2
- I-Stokus (4)-3
- I-Stokus (4)-4
- I-Stokus (5)-1
- I-Stokus (5)-2
- I-Stokus (7)-1
- I-Stokus (7)-2
- I-Stokus (7)-3
- I-Stokus (8)-1
- I-Stokus (9)-1

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“1. The Giants Mission Rock project would be built on public trust waterfront land where residential and general purpose office construction is not allowed under Federal and State public trust waterfront law.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-1]*)

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“2. The Giants Mission Rock project would be built on public trust waterfront land which cannot be given up to private interests.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-2]*)

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“3. The Giants Mission Rock project would be built on a site set aside decades ago after intensive negotiations by the previous Waterfront Plan Working Group and subsequently zoned for open space park.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-3]*)

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“5. Public operation of an open space park site is a significant liability in itself, however, allowing the building of (especially tall and/ or heavy) private structures on public trust waterfront land puts the public in an extremely risky liability position.

The public (taxpayers), as owners of the land, could be held responsible (in the case of a natural disaster, which is most likely inevitable) for damage to private property (the structures, etc., think Millennium Tower) and for injury or death of individuals.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-5]*)

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“6. The Port of San Francisco, acting as the manager for the trustee for the public, is promoting this project as in the best interests of the public (the land owners under public trust waterfront law). It is not in the best interests of the public.

- a. It is construction that is not an allowed use under State and Federal public trust waterfront law.
- b. It is an unlawful giving up to private interests of public trust waterfront land.
- c. It does not honor previous planning agreements and zoning.
- d. It is not being built on a stable geological site and the public would be asked to spend approximately \$150 million to stabilize the site.

The public would be exposed to great future liability.

This is a project that the public should not be involved in.

Leave this type of project to private developers who develop on private land, put up 100% private capital, and take all of the profits and all of the liability without their hand in the public’s pocket.

It is time for the Giants owners to put on their ‘developer big pants’ on and start acting like other developers that take big risks and earn big profits.

The Warriors are doing it, so can the Giants.

It is also time for the Port of San Francisco to deal with the reality that the land they manage under the public waterfront land trust is not suitable for tall and/ or heavy structures. That is because it is either underwater (under piers) or is water saturated bay fill subject to liquefaction during an earthquake, and to tsunami and to sea level rise.

The public trust waterfront law was put in place in 1892 to prevent politicians and developers from pushing through waterfront projects that history has proven are not suitable for the waterfront.

The waterfront—the meeting of the land and the sea—has always been one of the most dangerous places on earth to build anything.

Throughout history ‘Nature bats last.’” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-6]*)

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“7. The Mission Rock project is nothing more than a ‘land grab’ of public trust waterfront land by the owners the San Francisco Giants who will take the development profits and leave the public with most of the liability and the problems. You have heard this story before.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-7]*)

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“8. If the Giants’ owners want to get into the real estate development business, they should do what the owners of the Golden State Warriors did in San Francisco.

- a. Get off public trust waterfront land that has been set aside mainly for maritime and public open space use since 1892.
- b. Buy a piece of private land.
- c. Take out a permit.
- d. Build their project.

Yes, the Giants owners have a lot of ‘political juice’ in San Francisco, but the Port of San Francisco and the Giants owners have to obey State and Federal law just like the President of the United States.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-8]*)

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“9. Will the attempts to privatize public lands only stop when “they have it all”? Have they no shame?” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-9]*)

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“1. Under State and Federal public trust waterfront law, hotels are allowed on public trust waterfront land.

2. However, San Francisco passed an ordinance many years ago that says that hotels are not allowed on San Francisco’s waterfront.

3. San Francisco also passed Prop B recently which gives San Francisco a ‘say’ in waterfront height limits. This ordinance is now being challenged by the State of California in court.

4. The legal question is whether the State (the trustee of public trust waterfront lands) can be ‘told what they can do’ by the citizens of San Francisco. That court decision might affect whether San Francisco’s ‘no hotels on the waterfront’ ordinance is enforceable.

5. Confusing? Yes? But keep this concept in mind:

The general idea of public trust waterfront law is that the waterfront belongs to EVERYONE in the State of California. As a result, construction on the waterfront that only benefits a few select local people like residential and general purpose office is NOT allowed.

The Giants Mission Rock project is a good example of what is NOT allowed.

Hotels, on the other hand, benefit visitors from out of town and locals and thus are allowed.

6. Read more about what is allowed and what is not allowed on public trust waterfront land: *Public Trust Waterfront Law.*” (*Lawrence Stokus, May 05, 2017 [I-Stokus-2-2]*)

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“The Giants Yard and restaurants, etc. can still be built on the site (under public trust waterfront law) as low rise tourist serving facilities and would bring plenty of life to an area that can act as a grand open space park just like the northern shore of San Francisco and the eastern shore of Chicago (see pictures below).

You do not have to build megamillion dollar residential (luxury/ affordable) and office high rises on LOT A (submarginal bay fill subject to earthquake, tsunami and flood) to have tourist serving retail and restaurants built on the site. That argument is just the way the Giants are trying to get control of this incredibly valuable piece of public trust waterfront land. It is a ‘for profit public land grab’, pure and simple, with the public taking on huge liability.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-4-2]*)

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“Having the Port do a land swap between LOT A and the Warriors Salesforce site and moving the Warriors arena to LOT A would have been a better option with shared parking (summer baseball, winter basketball) and much less future liability for the public (Where was Mayor Lee?).

However, the Giants owners did not want to give up ‘their land,’ which of course is public trust waterfront land that does not belong to the Giants, the Port or the State of California.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-4-3]*)

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“It is a unique ownership. It belongs to the PEOPLE OF CALIFORNIA (in their totality), is held in trust for them, and has VERY restrictive land use controls that only allow certain types of uses. What the Giants want to build is not allowed under public trust waterfront law.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-4-4]*)

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“1. Public trust waterfront land is a very unique type of ownership. It is owned by the People of California (NOT the City of SF, nor the Port of SF, nor the State of California). It is held in trust for the People of California, and the State of California (California State Land Commission) is the trustee (and NOT the owner).

2. Since public trust waterfront land is owned by EVERYONE in California, public trust waterfront land use is restricted to uses that benefit EVERYONE and not just a few select private individuals. Therefore land uses that benefit only a few select private individuals are not permitted. For example, the Giants Mission Rock proposal to build general purpose office and residential (luxury and affordable) high rises on the LOT A site is not allowed under public trust waterfront law: Public Trust Waterfront Law.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-5-1]*)

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“3. Enter the politicians, who can turn a simple legal matter into a complex political issue:

POLITICAL FORCE #1

The real estate developers who would like to develop every square inch of public trust waterfront land for profit. And the politicians who back them and like the idea of some of those profits flowing into their coffers where they can put them to ‘good use.’ Gavin Newsom seems to be backing this group these days.

POLITICAL FORCE #2

The progressive politicians (think left) who want to stop (or at least slow down) people from being economically pushed out of the city (an often shared concern). These politicians would like to ‘get their share of public trust waterfront land’ and would like to see some of those profits put into ‘affordable housing’ on public trust waterfront land. Ex-Mayor Agnos and John Burton seem to be backing this group.

4. KEY POINT:

This political debate will play out eventually, but on land other than public trust waterfront land because NEITHER political force has the right (under State and Federal public trust waterfront) to take the public trust waterfront land away from the public and give it to few select private individuals because they think it is a good idea.

And it may take the intervention of the Federal Courts (as in the proposed George Lucas Museum public trust waterfront land case in Chicago) to make the politicians in California understand that they must abide by State and Federal public trust waterfront law.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-5-2]*)

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“Possible court decision regarding San Francisco’s waterfront soon.” (*Lawrence Stokus, June 25, 2017 [I-Stokus-7-1]*)

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“1. Remember that even if the State court says that the City of San Francisco has no say in its public trust waterfront land development, the State of California (acting as the public’s trustee with the public as owner of the land): Still must abide by all State and Federal public trust waterfront law as to legal use of that land (which is highly restricted). That is, the State of California (Legislature and Governor) are not free to do whatever they want (for example the Giants Mission Rock project).” (*Lawrence Stokus, June 25, 2017 [I-Stokus-7-2]*)

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“2. Note that our local newspaper, the San Francisco Chronicle, never seems to discuss these important public trust waterfront issues. Why? Only when the public is educated and well informed can a true democracy exist.” (*Lawrence Stokus, June 25, 2017 [I-Stokus-7-3]*)

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“Below is a link to a worthwhile article that the BCDC (Bay Conservation and Development Commission) has been distributing.

The article points out how much people do not understand about the waterfront or have forgotten or just ignore.” (*Lawrence Stokus, July 12, 2017 [I-Stokus-8-1]*)

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“Both sides in this dispute (plus the *San Francisco Chronicle*) are ignoring state and federal public trust waterfront law, which imposes:

1. “Control restrictions” on public trust waterfront land, which prohibit turning over control of the lands to select private individuals (like the Giants or Forest City).
2. “Use restrictions” on public trust waterfront lands, which prohibit residential and general purpose office construction.

Prop B speaks only to “height restrictions.”

To date, Prop B has been used mainly by politicians to leverage affordable housing deals out of the Giants Mission Rock proposed project and Forest City’s Pier 70 proposed project.

San Francisco (and state) politicians and real estate developers have the entire city of San Francisco in which to continue their political/real estate development dance. However, they will have to confine their dance steps within the “rule of law” and not just dance to the drum beat of political expediency.

San Francisco’s public trust waterfront is a separate legal entity from the City and has its own laws as to control and use of public trust waterfront lands. In a democracy, under the rule of law, those laws govern.

Both the Giant’s Mission Rock proposed project and Forest City’s Pier 70 proposed project violate the “control restrictions” and “use restrictions” of state and federal public trust waterfront law. That is, no residential (luxury or affordable) or general purpose office construction is allowed on public trust waterfront land.

Regardless of the outcome of this state court case, it appears that federal courts will be asked to intervene into the administration of public trust waterfront lands in the state of California.” (*Lawrence Stokus, August 8, 2017 [I-Stokus-9-1]*)

#### **RESPONSE PO-1**

The comments raised questions and concerns over public trust policies and development of public trust land along the waterfront. The comments state that the proposed project would be built on public trust waterfront land where residential and general purpose office construction are

not allowed under federal and state public trust law, land that cannot be given up to private interests. One comment states that the proposed project would be built on land that is zoned for open space park use.

SB 815 and AB 2797 are discussed on page 2-10 in Chapter 2, *Project Description*, and pages 3-25 and 3-26 in Chapter 3, *Plans and Policies*, of the Draft EIR. As discussed, the state legislature adopted Senate Bill (SB) 815 in 2007. SB 815 specifically authorized the development of land uses at the project site that might not otherwise be permitted under the Public Trust Doctrine (e.g., residential and commercial office uses). SB 815 does not apply to Pier 48, and therefore, any use of Pier 48 would be subject to the Public Trust Doctrine. In 2016, SB 815 was amended by Assembly Bill (AB) 2797, as described below.

The primary purpose of SB 815 was to provide revenues to preserve historic Port piers, wharves, and other historic structures and develop new public open space by lifting the land use restrictions imposed by the Public Trust Doctrine and the Burton Act over designated seawall lots (former tidelands that were filled after the construction of the seawall), including Seawall Lot 337, in favor of nontrust uses that could generate higher rents. Port revenues from nontrust leases must be used for historic preservation and other public trust uses. The legislation authorizes the seawall lots, including Seawall Lot 337, to be leased for nontrust purposes for periods of up to 75 years.

AB 2797 allows for the lifting of the public trust restrictions on Parcel P20 (a parcel immediately adjacent to Seawall Lot 337) and its incorporation into the project site. As explained on page 4.A-10 in Section 4.A, *Land Use and Land Use Planning*, of the Draft EIR, AB 2797 authorizes the San Francisco Office of Community Investment and Infrastructure and the Board of Supervisors to amend the Mission Bay South Redevelopment Plan to remove Parcel P20 from the Mission Bay South Redevelopment Plan area and redefines the boundaries of Seawall Lot 337 to extend to the edge of China Basin Park, as expanded, to the north; realigned Terry A. Francois Boulevard to the east; and Mission Rock Street to the south. Once the actions authorized by AB 2797 have been taken (as defined by Section 4.5 of AB 2797), the California State Lands Commission is authorized to lift the public trust restrictions from the portions of Parcel P20 and all other areas within the project site that are included within the redefined boundaries of Seawall Lot 337.

There is no separate federal public trust law that applies to public trust land within California. As explained on pages 3-25 and 3-26 in Chapter 3, *Plans and Policies*, of the Draft EIR, the Public Trust Doctrine is not a codified set of laws but a common law doctrine that was established in federal and state court decisions. All of the public trust lands in California are state property and subject to any applicable public trust restrictions under state, not federal, law. Consequently, the state has the authority to lift public trust restrictions if it chooses to do so, as has been done pursuant to SB 815 and AB 2797.

The project site remains under the jurisdiction of the Port and will be leased to private interests. It is not being sold to private interests. Under the proposed project, the Port is and will remain the property owner. Seawall Lot 337 Associates is the developer selected by the Port to develop the property, following an extensive request-for-proposal and exclusive negotiating agreement process. Special state legislation (SB 815, as amended by AB 2797) allows the Port to lease Seawall Lot 337 (as reconfigured to include Parcel P20) for nontrust uses for a period of up to 75 years. AB 2797 further expressly contemplates this arrangement for Seawall Lot 337 and Pier 48.

As stated on page 2-74 in Chapter 2, *Project Description*, of the Draft EIR, project approvals would include a master lease of Seawall Lot 337 between the Port and the project sponsor, which would include a form of ground lease between the Port and developers of individual buildings at Seawall Lot 337. The Port would retain ownership of the project site. Additionally, as stated on pages 2-2 and 2-20 in Chapter 2, *Project Description*, of the Draft EIR, Pier 48 is proposed to be rehabilitated and reused by the Pier 48 tenant under a separate lease with the Port. Pier 48 would also remain under Port ownership.

As stated on page 2-10 in Chapter 2, *Project Description*; page 3-15 in Chapter 3, *Plans and Policies*; and page 4.A-16 in Section 4.A, *Land Use and Land Use Planning*, of the Draft EIR, the Seawall Lot 337, Parcel P20, and China Basin Park portions of the project site (i.e., the entire project site, with the exception of Pier 48) were rezoned to the Mission Bay Open Space (MB-OS) Use District in 1991 as part of an earlier Mission Bay Redevelopment Plan, which was superseded by the current Mission Bay Redevelopment Plan.

Currently, the project site is used as a parking lot; it is not used for recreational or open space purposes. In 2015, the voters approved Proposition D, the Mission Rock Affordable Housing, Park, Jobs, and Historic Preservation Initiative. This measure called for rezoning the project site to allow for the development of housing, commercial office, and other uses.

As explained in Chapter 2, *Project Description*, on pages 2-10 and 2-70, and Chapter 3, *Plans and Policies*, on page 3-4 of the Draft EIR, Proposition D amended the height and bulk restrictions for the project site by establishing the Mission Rock Height and Bulk District (Planning Code Section 291), which allows buildings to be constructed within the proposed project's contemplated development blocks at the heights and bulk contemplated for the proposed project.

With the exception of Parcel P20, which would be removed from the current Mission Bay Redevelopment Plan under the proposed project, as authorized by AB 2797 (see discussion above in this response to Comment PO-1), the current Mission Bay Redevelopment Plan, adopted in 1998, does not include the project site.

Pier 48 was not included within the MB-OS Use District. As explained in Chapter 3, *Plans and Policies*, on page 3-15 of the Draft EIR, Pier 48 is located in a Heavy Industrial (M-2) Use District; the proposed uses at Pier 48 would be allowed within the existing M-2 Use District.

The project approvals sought by the project sponsor include rezoning the project site from the existing MB-OS and M-2 Use Districts to a new SUD that would permit the proposed project, including hotel uses. Those approvals, including the proposed Mission Rock SUD, would be consistent with the previous amendments to the San Francisco Planning Code (Planning Code) and zoning map, pursuant to Proposition D, as approved by the voters on November 3, 2015.

The comments regarding earthquake risk are addressed in Response GE-1 on page 3-79, and the comments regarding the suitability of the site are addressed in Response AL-2 on page 3-89. Potential impacts from liquefaction are discussed in the Draft EIR in Section 4.M, *Geology and Soils*, on page 4.M-29; the impacts were determined to be less than significant. Sea-level rise is discussed in the Draft EIR in Section 4.N, *Hydrology and Water Quality*, on pages 4.N-61 through 4.N-64; the impacts were determined to be less than significant.

The comments do not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required. The comments will be transmitted to and may be considered by the decision-makers as part of their deliberations on the proposed project.

## **COMMENT PO-2: PUBLIC TRUST RELATED TO BCDC JURISDICTION**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-4
- A-BCDC-5
- A-BCDC-6

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**“Public Trust.** The Public Trust Doctrine holds that navigable waters and tidelands are the property of the state and must be protected for public use and enjoyment. The Bay Plan has policies to guide its permitting actions on any lands subject to the Public Trust Doctrine, as well as policies specific to filling for public trust uses on publicly owned property granted in trust to a public agency by the legislature. The policies of the San Francisco Waterfront SAP also provide that within the Northeastern Waterfront geographic area, ‘permitted uses’ at piers not designated for removal, such as Pier 48, would be only those ‘consistent with the Public Trust Doctrine and the Port’s Legislative Trust Grant.’

AB 2797 relaxed certain use restrictions on Seawall Lot 337 in order to allow nontrust leases on the seawall lot for a period of 75 years, and thus the Commission would not consider these policies in its review of the portion of the proposed project at Seawall Lot 337. Pier 48 is unchanged by the legislation insofar as uses at Pier 48 must be consistent with the Public Trust Doctrine and the terms of the Port's Legislative Trust Grant, the Burton Act. Thus, the Commission will consider the relevant policies for the proposed uses and Bay fill at Pier 48." (*Ethan Lavine, June 12, 2017, [A-BCDC-4]*)

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"As part of its discussion of the public trust, the FEIR should reference and consider the policies in the Bay Plan related to public trust (page 88) and fill for public trust uses on publicly owned property granted in trust to a public agency by the legislature (page 84). These policies require that the Commission, in taking actions on such land, 'assure that the action is consistent with the public trust needs for the area and, in the case of lands subject to legislative grants, would also assure that the terms of the grant are satisfied and the project is in furtherance of statewide purposes.' Public trust uses cited in the Bay Plan include commerce, navigation, fisheries, wildlife habitat, recreation and open space. Fill of land subject to the Public Trust Doctrine is allowable if 'necessary to the health, safety, and welfare of the public in the entire Bay Area,' and if it '[p]rovides for major shoreline parks, regional public access facilities, removal of existing pile-supported fill, open water basins, increased safety of fills, mechanisms for implementation, enhance public views of the Bay, and other benefits to the Bay, all of which exceed the benefits that could be accomplished through BCDC's permit authority for individual projects through the application of other Bay Plan policies.'" (*Ethan Lavine, June 12, 2017, [A-BCDC-5]*)

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"The FEIR should indicate that the Commission's determination regarding a project's consistency with the Public Trust Doctrine is done independently and in consultation with the State Lands Commission." (*Ethan Lavine, June 12, 2017, [A-BCDC-6]*)

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## **RESPONSE PO-2**

The comment outlines policies in the BCDC's Bay Plan that guide BCDC permitting actions. The comment also requests that the EIR reference certain policies in the Bay Plan related to the public trust and state BCDC's procedures for determining project consistency with policies.

As noted by the commenter, public trust restrictions on Seawall Lot 337 (the boundaries of which would be revised to conform to the proposal realigned or reconfigured park or street boundaries and include Parcel P20) were revised by state legislation (i.e., SB 815, as modified by AB 2797) to, among other things, allow nontrust leases on Seawall Lot 337. This legislation did not affect Pier 48, except that AB 2797 amended the Seaport Plan and the special area plan

to allow Pier 48 to be treated similarly to other finger piers in the Embarcadero Historic District; remove the port priority use area designation from Pier 48, the wharf area between Piers 48 and 50, and portions of Seawall Lot 337; and amend the special area plan to include Pier 48 in the northeastern waterfront. AB 2797 also provides that BCDC's replacement fill policy will not apply to Pier 48 if it is rehabilitated consistent with the Secretary of the Interior's Standards of Rehabilitation. A discussion of consistency with Bay Plan policies is included in Draft EIR Chapter 3, *Plans and Policies*, on pages 3-21 through 3-23. Additional information about SB 815 can be found under Response PO-1 on page 3-22. Further consideration would be given to the proposed project's consistency with policies as part of the BCDC permitting process.

To clarify BCDC's role related to the public trust, the underlined text below has been added to Draft EIR Chapter 3, *Plans and Policies*, on page 3-23. These revisions do not change any of the analyses or conclusions of the EIR. Therefore, recirculation of the EIR or a section of the EIR is not required.

BCDC reviews permits for proposed projects in the shoreline band for consistency with the McAteer-Petris Act, the Bay Plan, and the Special Area Plan,<sup>7</sup> as amended by AB 2797. BCDC also determines a project's consistency with the Public Trust Doctrine independently and in consultation with the State Lands Commission. BCDC does this through consideration of policies in the Bay Plan related to public trust and fill for public trust uses on publicly owned property granted in trust to a public agency by the legislature. When BCDC considers a project that would affect lands subject to the public trust, it ensures that the action is consistent with the public trust needs for the area and, in case of lands subject to legislative grants, that the terms of the grant are satisfied and the project is in furtherance of statewide purposes. AB 2797 addresses the application of the public trust to the Project Site.

### **COMMENT PO-3: BCDC REGULATORY JURISDICTION AND AUTHORITY**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-1
  - A-BCDC-2
  - A-BCDC-3
  - A-BCDC-24
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“On May 1, 2017, the San Francisco Bay Conservation and Development Commission (‘BCDC’ or ‘the Commission’) staff received the Draft Environmental Impact Report (‘DEIR’) prepared by the City and County of San Francisco Planning Department for the Seawall Lot 337 and Pier 48 Mixed-Use District Project (‘proposed project’), also known as the Mission Rock Project. The proposed project would involve the development of a project at Seawall Lot 337, consisting of: 1,000-1,600 residential units for approximately 2,350 to 3,760 residents; a combined 1.2- to 1.6-million gross square feet of commercial, production, and active/retail uses, providing for employment of 3,270 to 5,820 people; 3,100 aboveground and belowground parking spaces; construction or improvements to approximately 8 acres of open space; rehabilitation of Pier 48 to provide 242,500 gross square feet of industrial, restaurant, active/retail, tour, exhibition, and/or meeting space; geotechnical and shoreline protection improvements; and, new and upgraded utilities and infrastructure. As a responsible agency with discretionary approval authority over the project, BCDC will rely on the DEIR in evaluating the proposal, as well as other required information.

The Commission's staff has reviewed the DEIR and is submitting its comments regarding the document. Although the Commission itself has not reviewed the DEIR, the staff comments are based on the McAteer-Petris Act, the Commission's San Francisco Bay Plan (‘Bay Plan’)<sup>1</sup>, the Commission's San Francisco Waterfront Special Area Plan (‘San Francisco Waterfront SAP’), the Commission's San Francisco Bay Area Seaport Plan (‘Seaport Plan’), the Commission's federally-approved management program for the San Francisco Bay, and the federal Coastal Zone Management Act (‘CZMA’).

**BCDC's Jurisdiction and Authority.** The following paragraphs provide information about BCDC's jurisdiction and authority to clarify and provide additional context to the information provided in the DEIR.

*Jurisdiction.* As indicated in the DEIR, the Commission has ‘Bay’ jurisdiction over all areas of the Bay subject to tidal action up to the shoreline. At the project site, the shoreline is located at the mean high tide line. Additionally, the Commission has ‘shoreline band’ jurisdiction over an area 100 feet landward of and parallel to the shoreline.

In accordance with the provisions of the McAteer-Petris Act, the Commission has designated certain areas within the 100-foot shoreline band for specific priority uses for ports, water-related industry, water-oriented recreation, airports and wildlife refuges. The Commission is authorized to grant or deny permits for development within these priority use areas based on the appropriate Bay Plan development policies pertaining to the priority use. As indicated in the DEIR, approval of Assembly Bill 2797 (AB 2797) by the governor on September 23, 2016, removed the Port Priority Use designation that previously applied to portions of Seawall Lot 337 and Pier 48. Therefore, the proposed project is not governed by Bay Plan policies specific to Ports or the policies of the Seaport Plan, which would otherwise restrict development of the site to marine terminals and directly-related or compatible ancillary activities. Instead, per the Bay

Plan policies on Other Uses of the Bay and Shoreline, the project site may be ‘used for any purpose...that uses the Bay as an asset and in no way affects the Bay adversely. This means any use that does not adversely affect enjoyment of the Bay and its shoreline by residents, employees, and visitors with the site area itself or within adjacent areas of the Bay or shoreline.’

As identified in the DEIR, the project site is also subject to certain policies found within the Commission's San Francisco Waterfront SAP, which applies the requirements of the McAteer-Petris Act and the provisions of the Bay Plan to the San Francisco waterfront in greater detail, and which should be read in conjunction with both the McAteer-Petris Act and the Bay Plan. The San Francisco Waterfront SAP includes both general and geographic-specific policies that guide BCDC's regulatory decisions on permit applications, consistency determinations, and related matters. AB 2797 amended the San Francisco Waterfront SAP to apply geographic-specific policies related to the Northeastern Waterfront to Pier 48.” (Ethan Lavine, June 12, 2017, [A-BCDC-1])

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*“Authority.* As identified in the DEIR, a portion of the project would occur within the Commission's jurisdiction and thus requires Commission authorization. Within the Commission's jurisdiction, permits are required for certain activities, including construction, changes of use, many land divisions, dredging, and dredged material disposal. Permits are issued if the Commission finds the activities to be consistent with the McAteer-Petris Act and the policies and findings of the Bay Plan, and at this project site, the San Francisco Waterfront SAP.

Pursuant the CZMA, the Commission also reviews federal projects for effects on the coastal zone, whether or not the projects are located within the Commission's coastal zone as defined by state law, and is required to concur with or object to the federal agency's determination or federal permit applicant's certification that a project is consistent with the Commission's laws and policies. Based on the inclusion of a number of federal permits in the "Project Approvals" section of the DEIR, the project is likely subject to the Commission's regulatory authority under the CZMA. Any non-federal activity that requires either a federal permit or license or is supported by federal financial assistance that affects BCDC's coastal zone must be conducted in a manner that is fully consistent with the enforceable policies of BCDC's federally approved Coastal Management Program. Where a project is subject to both the Commission's state law and federal jurisdictions, the Commission's Coastal Management Program provides that issuance of a permit under the McAteer-Petris Act will be deemed to be a concurrence with a consistency certification under the CZMA.” (Ethan Lavine, June 12, 2017, [A-BCDC-2])

“In the FEIR, please identify BCDC's regulatory obligation to review project elements inside and outside its jurisdiction that require a federal permit or licenses or that are supported by federal funding, and that affect any land or water use or natural resources of BCDC's coastal zone. Identify any elements of the project that require a federal permit or license, or that are supported by federal financial assistance.” (*Ethan Lavine, June 12, 2017, [A-BCDC-3]*)

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“The FEIR's discussion on Hydrology and Water Quality and Hazards and Hazardous Materials should reference the role of the Commission and other resource agencies established in Bay Plan Water Quality Policy No. 4, which states in part, ‘[w]hen approving a project in an area polluted with toxic or hazardous substances, the Commission should coordinate with appropriate local, state and federal agencies to ensure that the project will not cause harm to the public, to Bay resources, or to the beneficial uses of the Bay.’” (*Ethan Lavine, June 12, 2017, [A-BCDC-24]*)

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### RESPONSE PO-3

The comments describe BCDC's regulatory authority and jurisdiction over portions of the project site. The comment asks that the EIR identify BCDC's regulatory obligation to review project elements inside and outside its jurisdiction that require a federal permit or license or that are supported by federal funding and affect any land or water use or natural resources of BCDC's coastal zone. The City and project sponsor acknowledge the jurisdiction and authority of BCDC over portions of the project site. No federal funding is sought or anticipated to be provided for the proposed project. The BCDC's Coastal Management Program provides that issuance of a permit under the McAteer-Petris Act will be deemed to be concurrence with a consistency certification under the CZMA. The project will apply for and need to obtain a BCDC major permit, which is discussed in further detail in Section 4.N, *Hydrology and Water Quality*, on page 4.N-38 of the Draft EIR. The role of BCDC is fully discussed in Section 4.N, *Hydrology and Water Quality*, and additional duplicative discussion is not warranted in Section 4.O, *Hazards and Hazardous Materials*, of the Draft EIR.

In response to the comment regarding BCDC's role related to hazardous materials potentially affecting water quality, the following text has been added to page 4.N-38 in Section 4.N, *Hydrology and Water Quality*. These revisions do not change any of the analyses or conclusions of the EIR. Therefore, recirculation of the EIR or a section of the EIR is not required.

**San Francisco Waterfront Special Area Plan.** BCDC completed and adopted the Bay Plan in 1968. The plan has been periodically amended since its adoption, most recently in 2011, to address climate change and shoreline protection issues. In 1975, after a collaborative planning process with the San Francisco Planning Department, BCDC

adopted the San Francisco Waterfront Special Area Plan (Special Area Plan). The Special Area Plan was substantially amended in 2000. This plan, together with the McAteer-Petris Act and the Bay Plan, as well as subsequent amendments to all three documents, prescribes a set of rules for shoreline development along the San Francisco waterfront. Several policies of the Bay Plan are aimed at protecting San Francisco Bay's water quality, ensuring the safety of fills, and guiding dredging of the Bay's sediment. In addition, when approving a project in an area polluted with toxic or hazardous substances, BCDC will coordinate with appropriate local, state, and federal agencies to ensure that the project will not cause harm to the public, to Bay resources, or to the beneficial uses of the Bay.

#### **COMMENT PO-4: CONSISTENCY WITH BAY PLAN AND OTHER RELATED PLANS**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-7
- A-BCDC-10
- A-BCDC-22
- A-BCDC-23
- A-BCDC-25

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**“Public Access.** The proposed project includes approximately 8 acres of new or improved open space areas, including, within the Commission's jurisdiction, an expanded China Basin Park, the marginal wharf between Piers 48 and 50, and the apron of Pier 48. China Basin Park would be expanded from 2.2 to 4.4 acres, and would include a large lawn area, active recreation areas for children and adults, stormwater treatment gardens, food kiosks, a plaza, and possibly Bay overlooks, boardwalks, and waterfront picnic areas. The DEIR anticipates that special events or assembly uses could on a year-round basis for up to 5,000 people, including small concerts, picnics in the park, Sunday Streets, and other cultural events. The marginal wharf open space area, called Channel Wharf, would consist of a 0.5 acre paved plaza with sitting areas and a public art component. The Pier 48 apron, 1.1 acres in area, would serve as open space except in the event that maritime uses presented a safety conflict, in which case, access would be restricted. A personal watercraft boat launch is discussed at the northern edge of the apron, and a drop-off area and time-limited parking would be provided at an adjacent location on land.

The Bay Plan policies on Public Access state, in part, that ‘in addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible public access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use.’

The San Francisco Waterfront SAP states that public access should be open and free, and connected physically and visually to the Bay. The San Francisco Waterfront SAP also includes public access policies specific to major projects involving use and reuse of piers in the Northeastern Waterfront. Policy No. 6 states that for work on major piers, 35 percent of the project area is generally considered maximum feasible public access. The policy states further that ‘[p]rojects on finger piers, where there is no change to the pier shed footprint, particularly when projects preserve historic structures, should provide to the maximum extent feasible, public access on the entire apron, the Bayside History Walk, and an additional public access feature consistent with the project and size of the pier, and with the Secretary of the Interior’s Standards.’ The policy further provides that ‘[o]n-pier, open spaces may be located at pier-end, mid-pier or adjacent to a bulkhead building, and could be provided as an exterior or interior atrium or gallery with significant views to the Bay...’” (*Ethan Lavine, June 12, 2017, [A-BCDC-7]*)

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“In the FEIR, please discuss the consistency of the proposed public access elements proposed at Pier 48 with the San Francisco Waterfront SAP policies specific to the reuse of piers for major projects discussed above.” (*Ethan Lavine, June 12, 2017, [A-BCDC-10]*)

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The FEIR should discuss and analyze the proposed project’s consistency with Bay Plan Subtidal Areas Policy No. 1, which requires that for any fill project, local and baywide effects are to be evaluated as to: ‘(a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay’s bathymetry.’ The FEIR should also discuss the requirement in the same policy that, ‘[p]rojects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.’” (*Ethan Lavine, June 12, 2017, [A-BCDC-22]*)

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“The FEIR should discuss and analyze the proposed project’s consistency with Bay Plan policies on Fish, Other Aquatic Organisms and Wildlife, which state, in part, that ‘specific habitats are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered...[and that] any species that provides substantial public benefits should be protected. Furthermore, the Commission cannot ‘authorize projects that would result in the ‘taking’ of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal endangered species acts, or the federal Marine

Mammal Protection Act, or species that are candidates for listing under the California Endangered Species Act, unless the project applicant has obtained the appropriate 'take' authorizations from the U.S. Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Game.' '[p]rojects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.'" (Ethan Lavine, June 12, 2017, [A-BCDC-23])

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"The DEIR indicates that the proposed rehabilitation of Pier 48 would require a seismic upgrade consisting of extensive work to the pier, including replacement of supporting piles, the perimeter deck, and other structural components. Non-structural work is proposed for the interior of the pier shed. The Bay Plan policies on Safety of Fills state, in part, that 'the Commission has appointed the Engineering Criteria Review Board consisting of geologists, civil engineers specializing in geotechnical and coastal engineering....to: (a) establish and revise safety criteria for Bay fills and structures thereon; (b) review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions; (c) prescribe an inspection system to assure placement and maintenance of fill according to approved designs... These activities would complement the functions of local building departments and local planning departments.... Even if the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the Engineering Criteria Review Board...' The FEIR should discuss and analyze whether the proposed rehabilitation work to Pier 48 as well as any work to shoreline protection structures would be consistent with the Bay Plan policies on the safety of fills." (Ethan Lavine, June 12, 2017, [A-BCDC-25])

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#### **RESPONSE PO-4**

The comments describe policies from the Bay Plan that would apply to the proposed project. It requests that the Final EIR discuss the consistency of public access elements proposed at Pier 48 with San Francisco Waterfront Special Area Plan policies specific to the reuse of piers for major projects. The comments also note that the Final EIR should discuss and analyze the proposed project's consistency with Bay Plan Subtidal Areas Policy No. 1; Bay Plan policies on fish, other aquatic organisms, and wildlife; and Bay Plan policies on the safety of fills.

As stated in Response PD-5, CEQA asks for a discussion of any inconsistencies between the proposed project and local and regional plans. Chapter 3, *Plans and Policies*, discusses this issue. To more fully describe the policies that apply to the proposed project and the proposed project's consistency with them, the following text has been added in Chapter 3, *Plans and Policies*, on page 3-22 of the Draft EIR. These revisions do not change any of the analyses or conclusions of the EIR. Therefore, recirculation of the EIR or a section of the EIR is not required.

Bay Plan policies call for the preservation of scenic Bay views; the provision of diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, around the Bay; and encouragement for the development of water-oriented commercial recreational establishments, such as restaurants, specialty shops, private boatels, recreational equipment concessions, and amusements in urban areas adjacent to the Bay. ~~In addition,~~ The Bay Plan encourages the preservation of historic structures and districts, including public access to the exterior and, where appropriate, the interior of these structures. The Bay Plan also calls for public access to waterfront parks, beaches, marinas, and fishing piers, including maximum feasible public access to and along the waterfront and on any permitted fills through every new development in the Bay or on the shoreline. This also includes free and open public access specific to major projects involving use and reuse of piers.

The proposed project is not in conflict with these Bay Plan policies. The proposed project would be designed to accommodate both maritime operations and public access on the aprons and maritime operations and public access onto Channel Wharf. The proposed open space area at Channel Wharf would be constructed in the location of the current marginal wharf between Piers 48 and 50, east of Terry A. Francois Boulevard. Channel Wharf would be a 0.5-acre paved plaza with public art, seating, and a drop-off area leading to the recreational uses at the project site. It would offer direct public access to the bayfront and serve as an access point to the Bay for industrial activities occurring at Pier 48, Channel Wharf, and at Pier 50. In addition, a waterfront promenade would be constructed on the Pier 48 aprons, which would be improved for public access and maritime operations. The northern apron of Pier 48 would be prioritized for public access and accessible for maritime uses, and the eastern and southern aprons would be prioritized for maritime uses and open to the public. The northern apron would connect to the publicly accessible Blue Greenway. The northern apron could also include boat mooring capabilities for potential water taxis or excursion vessels. Publicly accessible picnicking space would connect Pier 48 to China Basin Park's waterfront promenade. A personal watercraft floating dock, or carry-down boat launch, would be located at the northwest portion of Pier 48, along the northern apron, as part of the Blue Greenway system. The boat launch would be designated for public access to launch human-powered watercraft (such as kayaks) into the Bay. Lastly, the Pier 48 sheds and bulkhead wharf would be rehabilitated consistent with the SOI Rehabilitation Standards, the SOI Guidelines, and the Port Historic Guidelines. Therefore, the proposed project would not conflict with the Bay Plan policies related to public access.

The Bay Plan also includes policies related to fill and potential impacts on biological resources. This includes Bay Plan Subtidal Areas Policy No. 1, which requires local and baywide effects to be evaluated for any fill project; policies on fish, other aquatic

organisms, and wildlife, which state the need to protect biological resources; and policies on the safety of fills, which outline safety policies for the placement and maintenance of fill in the Bay.

The proposed project is also not in conflict with these Bay Plan policies. Section 4.L, *Biological Resources*, of the Draft EIR analyzes potential local or baywide significant environmental effects associated with proposed fill activity from rehabilitation of Pier 48 and the potential environmental effects of the proposed project on the aquatic environment, including, without limitation, potential take of plant, fish, or other aquatic organisms and impacts on threatened or endangered species or other protected species. This section proposes, where appropriate, feasible mitigation measures to reduce impacts, thereby avoiding significant impacts on biological resources. Additionally, the proposed project would not include any work on or to existing shoreline protection structures or facilities. Chapter 2, *Project Description*, and Section 4.L, *Biological Resources*, of the Draft EIR describe the proposed rehabilitation work at Pier 48, including structural rehabilitation of the pier deck, the placement of new piers, and replacement of creosote-treated wooden piers and aprons. This work would be completed safely and would reduce environmental impacts to less-than-significant levels, consistent with Bay Plan policies. Therefore, the proposed project would not conflict with Bay Plan policies related to fill or biological resources.

## D. LAND USE

The comment and corresponding response in this section cover topics in Section 4.A, *Land Use and Land Use Planning*, of the Draft EIR.

### COMMENT LU-1: LAND USE COMPATIBILITY

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BCDC-12

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“The proposed project includes a ‘Working Waterfront’ zone along Terry A. Francois Boulevard, which would contain a mix of maritime, industrial, and active/retail land uses. The same zone contains portions of the Bay Trail/Blue Greenway and access to the open space areas located along the Pier 48 apron and the marginal wharf. The proposed project also includes the rehabilitation of the Pier 48 apron to provide for maritime and public access uses of the apron. Please discuss in the FEIR the compatibility of industrial and maritime uses at these locations with the proposed public access, and any measures that are or will be

necessary to ensure the safety of the public in its use of such areas. Please indicate any limitations on public access that may be imposed in the event that use conflicts do occur.” (Ethan Lavine, June 12, 2017, [A-BCDC-12])

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#### **RESPONSE LU-1**

The comment requests a discussion of the compatibility of industrial and maritime uses along Pier 48 and Terry A. Francois Boulevard with the proposed public access.

As stated on page 2-2 in Chapter 2, *Project Description*, public access would be provided on the rehabilitated aprons, with the potential for expanded maritime uses for recreational/boat launch and other Port maritime tenants. As further described in Chapter 2, *Project Description*, on page 2-40, the northern apron would be prioritized for public access and accessible for maritime uses; the eastern and southern aprons would be prioritized for maritime uses and open to the public where there are no safety conflicts among uses and the configuration of the apron can accommodate them. The northern apron could also include boat mooring capabilities for water taxis or excursion vessels.

The northern apron would connect to the 16-foot-wide, minimum, Blue Greenway, a multi-use trail facility. The Blue Greenway (and Channel Wharf) would be east of and separated from vehicles on Terry A. Francois Boulevard, a shared, working-waterfront street, thereby prioritizing bicycle and pedestrian access to the waterfront, with some vehicle access for drop-off and loading. Protected, pedestrian-only areas along Terry A. Francois Boulevard would be a maximum of 24 feet wide adjacent to Blocks H, I and J. Adjacent to the Bay and Piers 48 and 50, bicycle and pedestrian access, a minimum of 22 feet wide, would be provided, inclusive of the Bay Trail/Blue Greenway. In addition, as part of Mitigation Measure M-TR-10, described in the Draft EIR Section 4.E, *Transportation and Circulation*, on page 4.E-144, “the project shall construct a highly visible crossing treatment across the driveway as well as bollards and detectable warning pavers that satisfy ADA requirements at the Pier 48 driveway’s beginning and end locations along the Blue Greenway path to warn cyclists and pedestrians of the upcoming driveway crossing. The project shall provide a traffic control staff at the junction of the Blue Greenway and the driveway to the Pier 48 valley during deliveries to manage bicycle and truck traffic. A flagger shall be provided to manage bicycle and pedestrian travel along the Blue Greenway at the Pier 48 valley driveway whenever trucks back into Pier 48.” Therefore, no conflict would be expected on the northern apron between industrial and maritime uses and proposed public access. On the southern apron of Pier 48, where maritime uses are prioritized, pedestrian access would be limited, restricted, or halted if an industrial use activity creates a conflict.

The comment does not present any evidence that the land use compatibility analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

## E. AESTHETICS

The comments and corresponding responses in this section cover topics in Section 4.B, *Aesthetics*, of the Draft EIR. These include topics related to:

- AE-1: Scenic Views
- AE-2: Visual Simulations

### COMMENT AE-1: SCENIC VIEWS

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-15
- A-BCDC-19

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**“Scenic Views.** The Bay Plan policies on Public Access and Appearance, Design and Scenic Views state, in part, that and that ‘[a]ll 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.’

The San Francisco Waterfront SAP characterizes the Northeastern Waterfront, which pursuant to AB 2797 now includes Pier 48, as ‘a regional recreation and scenic resource.’ Generally, the San Francisco Waterfront SAP provides that waterfront development should provide maximum feasible public access—of which visual access is ‘a critical part,’ preserve important Bay views, have a low scale height and bulk, and reflect the historic character of the waterfront, and improve transportation access and efficient movement of people.” (*Ethan Lavine, June 12, 2017, [A-BCDC-15]*)

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“Please consider the possible use of the basin between Piers 48 and 50 for marine industrial uses in your discussion of Bay views from the Pier 48 apron and the Channel Wharf open space area. If used for berthing, and depending on the size of the berthed vessels and the location of the viewer, there will not be unimpeded Bay views from this location at all times.” (*Ethan Lavine, June 12, 2017, [A-BCDC-19]*)

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**RESPONSE AE-1**

The comment explains that providing visual access to scenic views, waterfront development, and public access areas is a critical part of preserving Bay views. A comment also implies that berthing vessels near Channel Wharf could impede views of the Bay.

The Draft EIR contains a detailed discussion of potential impacts on views. Impact AE-1 in Section 4.B, *Aesthetics*, describes the proposed project's impacts on scenic vistas. As stated in Section 4.B, *Aesthetics*, on page 4.B-34, "the proposed project would result in additional height, bulk, and massing from development of the proposed buildings on the project site. However, the increased development would represent a small portion of the overall urban scenic vista, as viewed from the Potrero Hill neighborhood, Potrero Hill Recreation Center, Twin Peaks, and Interstate (I) 80." "The proposed buildings would be highly visible from AT&T Park/Bay Trail looking southwest and block views of Potrero Hill and Twin Peaks. The silos at Pier 48 would also be visible from this location but would not block views. However, viewers in this vista are more likely to focus on views to the north and east, areas where the views encompass the Bay, the East Bay Hills, and the Bay Bridge. Views to the southwest from this location are of a fairly flat terrain, with buildings in the distance across from China Basin and hills in the city still farther away."

The proposed project buildings would be consistent with the height and bulk requirements set forth in Section 291 of the Planning Code for the Mission Rock Height and Bulk District. The Design Controls would serve as a guide to proposed development with respect to bulk, massing, setbacks, and other physical design and use aspects of the development. Implementation of the Design Controls would ensure that the proposed buildings would be appropriately scaled within the context of the existing neighborhood. For example, the height of the streetwall along the Third Street portion of the proposed project would match the height of the streetwall on the western side of Third Street; buildings along the waterfront would step down to 40 feet in height to match the height of Piers 48 and 50. Although the proposed project would add new buildings at the project site, building locations were guided, in part, by eye-level visual access through the site. For example, the alignment of buildings along China Basin Park would be set at an angle between Mission Bay's Block 1 and Pier 48 so that no buildings would impede the existing view from the Lefty O'Doul Bridge to Pier 48. Similarly, the alignment of Channel Street would continue through the site to preserve the view between Pier 48 and Pier 50. The proposed project would also increase open space at the waterfront, providing opportunities for greater enjoyment of views from within parks and wharves. Therefore, the proposed project would not result in a significant impact on a scenic vista, as concluded in the Draft EIR on page 4.B-35, and no additional analysis is required.

Regarding the comment about affected views from new uses at Channel Wharf, the project would not increase the frequency of vessel berthing compared with existing conditions because the project would not include vessel berthing facilities, nor would it permanently affect views.

The comment does not present any evidence that the analysis of impacts on scenic views in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

### **COMMENT AE-2: VISUAL SIMULATIONS**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-16
- A-BCDC-17
- A-BCDC-18

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“The DEIR discusses visual resources and aesthetics in Section 4.B, and provides narrative descriptions as well as visual simulations of the proposed project from various locations of interest. The figures do not include important views from Third Street, some of which are mentioned in the text on Page 4.B-8. Existing and proposed view opportunities that should be included in the baseline for the project evaluation should include (1) one or more from the perspective of a viewer on Third Street, particularly from those locations where the Bay is currently visible, such as in the gap between Piers 48 and 50 and at China Basin Park, and (2) one or more from the perspective of a viewer standing across Mission Creek at the location of the promenade adjacent to AT&T Park, looking in the direction of China Basin Park and Pier 48.” (*Ethan Lavine, June 12, 2017, [A-BCDC-16]*)

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“The visual simulations of Pier 48 included in the DEIR (see Figure 4.B-2) appear to show at least nine large (approximately 3-story-tall) structures, presumably holding tanks associated with the reuse of the pier shed as a brewery, including on the apron of Pier 48 and north of the pier shed along the shoreline. Please clarify if the potential reuses of Pier 48 included in this assessment would include large freestanding structures outside the footprint of the existing pier shed, and if so discuss their potential impacts on Bay views and whether or not these structures might alternatively be sited within the footprint of the pier shed to avoid associated visual impacts.” (*Ethan Lavine, June 12, 2017, [A-BCDC-17]*)

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“The FEIR should describe and would ideally illustrate views of the proposed public view corridors to the Bay and shoreline from relevant locations within and surrounding the project site. If views are partial or reduced from what is currently provided, this should be indicated as well.” (*Ethan Lavine, June 12, 2017, [A-BCDC-18]*)

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## **RESPONSE AE-2**

The comment states that additional visual simulations should be included in the analysis, showing views from Third Street and across Mission Creek at the location of the promenade adjacent to AT&T Park, looking through or toward the project. The comment also requests clarification about the proposed silos of Pier 48 and whether those structures would result in visual impacts.

The views and photosimulations provided in Section 4.B, *Aesthetics*, are adequate for the purposes of CEQA for the reasons discussed below. View 1, View 7, and View 8 are close to the commenter’s suggested locations for additional simulations. These views show the project site from various locations. View 1 is from AT&T Park/Bay Trail looking southwest, View 7 is from Third Street (at Mission Rock Street) looking north, and View 8 is from Third Street (at Mission Bay Boulevard South) looking north. Although these views do not show views exactly from Third Street and across Mission Creek at the location of the promenade adjacent to AT&T Park, the project is designed to retain visual access to the Bay from Third Street, at Third Street adjacent to China Basin Park, and at Third Street at Channel Street. As discussed in Section 4.B, *Aesthetics*, on page 4.B-20, designs and aesthetics are, by definition, subjective and open to interpretation by decision-makers and the public. However, as with all CEQA impacts, the effects of a project must be considered in the physical context of the project site and compared with existing conditions. A proposed project would, therefore, be considered to have a significant adverse effect on visual quality under CEQA only if it were to cause a substantial and demonstrable negative change in the physical environment that affects the public in one or more ways, as outlined in the significance criteria in Section 4.B, *Aesthetics*, on page 4.B-20. The project site was photographed from a range of publicly accessible vantage points. Eight representative viewpoints are included in the Draft EIR to show the project site and the surrounding visual context. Photosimulations were used to depict proposed project conditions. These vantage points are representative viewer locations and include parks, sidewalks, and roads that offer a view of the urban and natural landscapes that make up the viewsheds. Therefore, the photosimulations in the Draft EIR are adequate.

Views to the Bay and other public shoreline areas are discussed throughout Section 4.B, *Aesthetics*, of the Draft EIR. View 1 (pages 4.B-24 and 4.B-25) shows potential visual impacts on the shoreline from the vantage point of AT&T Park, and View 2 (pages 4.B-24 through 4.B-26) shows potential visual impacts on the shoreline at Mission Creek from the vantage point of I-

280. As explained on page 4.B-34 of the Draft EIR, impacts on these scenic vistas were concluded to be less than significant because the proposed project buildings would be consistent with the height and bulk requirements set forth in Section 291 of the Planning Code for the Mission Rock Height and Bulk District, and the Design Controls would serve as a guide to proposed development with respect to bulk, massing, setbacks, and other physical design and use aspects of the development.

The proposed project's visual access from Third Street to the Bay at Channel Street was presented to the BCDC's Design Review Board in December 2016. Views to the Bay have been carefully considered for this corridor, as demonstrated through the Design Controls. The proposed grade change as part of the proposed project, and the addition of trees and other design elements, is not anticipated to impede this visual access. The proposed grade change would improve views to the water from the center of the project site. See Response AE-1 for additional information on scenic views.

As discussed on page 4.B-35 of Section 4.B, *Aesthetics*, the proposed project would include the installation of approximately 10 removable grain and yeast silos, up to 50 feet tall, within the valley and north of Shed A at the north apron. An outdoor picnic area is also proposed but would not exceed the height of the existing Pier 48 structure and would not be expected to block views. No other large, freestanding structures are proposed outside the footprint of Pier 48 that would have the potential to affect views. The Draft EIR concludes (refer to page 4.B-24) that impacts from the Bay Trail would not be significantly affected because views from the Bay Trail (Viewpoint 1, as shown in Figure 4.B-2) focus on areas away from the project site and more to the north and east where the views encompass the panoramic and expansive scenery of the Bay, Bay Bridge, and East Bay Hills. Because of flat terrain, distance, and development in Mission Bay, south-facing views toward the project site are not as remarkable as those facing north and east. The project sponsor has determined that the proposed location for these structures is the only feasible location due to site constraints, and an alternative configuration is not possible.

These comments do not present substantial evidence of significant impacts on visual resources, nor do they change any of the conclusions reached in the Draft EIR. Therefore, the analysis in the Draft EIR is adequate, and no revisions to the Draft EIR are required. Recirculation of the EIR or a section of the EIR is not required.

## **F. TRANSPORTATION AND CIRCULATION**

The comments and corresponding responses in this section cover topics in Section 4.E, *Transportation and Circulation*, of the Draft EIR. These include topics related to:

- TR-1: Mitigation Measures
- TR-2: Traffic Volumes and Vehicle Congestion

- TR-3: Impacts on Transit
- TR-4: Impacts on Bicyclists and Pedestrians
- TR-5: Bicycle Parking

### **COMMENT TR-1: MITIGATION MEASURES**

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-Caltrans-2

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*“Lead Agency:* As the Lead Agency, the City and County of San Francisco is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project’s fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.” *(Patricia Maurice, June 8, 2017, [A-Caltrans-2])*

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### **RESPONSE TR-1**

The comment reiterates the City and County of San Francisco’s (City’s) responsibility for project mitigation and states that details regarding the project’s fair-share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be discussed for all mitigation measures. The City acknowledges and accepts this responsibility. The Draft EIR discloses the fair-share contribution and financing information for the proposed project, its variants, and alternatives, while the mitigation monitoring and reporting program prepared with the Final EIR discloses the scheduling, implementation responsibilities, and lead agency monitoring for all mitigation measures. The comment does not present any evidence that the transportation analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

### **COMMENT TR-2: TRAFFIC VOLUMES AND CONGESTION**

This response addresses the comment from the commenters listed below; each comment on this topic is quoted in full below this list.

- I-Garfinkle-1
- I-Wong-2
- I-Wong-3

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“I am very concerned about these plans on several levels—the traffic and transportation congestion and pollution that this massive project will generate, especially given the Warriors Arena project that has already broken ground.” (*Deborah Garfinkle, May 05, 2017 [I-Garfinkle-1]*)

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“**Quantify Existing Traffic Volumes:** Generally, existing traffic congestion needs to be quantified—because 2-hour traffic gridlock is now normal. Quantify existing traffic jams and project future traffic jams—even without additional projects in the area.” (*Howard Wong, June 12, 2017, [I-Wong-2]*)

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“**Quantify Projected Traffic Volumes with MTC Data:** Introduce MTC traffic data, which projects over a hundred thousand new daily car trips in a decade or so. MTC data would help set a baseline of projected traffic volumes. Then, the traffic impact of new projects can be added, including the Warriors Arena, Pier 70, Hunters Point and other projects.” (*Howard Wong, June 12, 2017, [I-Wong-3]*)

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## RESPONSE TR-2

The comments are concerned with traffic congestion, traffic volumes, and cumulative traffic impacts. The commenter’s concern regarding air quality is addressed in Response AQ-4 on page 3-60. As noted in Section 4.E, *Traffic and Circulation*, of the Draft EIR, on pages 4.E-70 through 4.E-77, the City determined that vehicular congestion is not, by itself, to be used to determine whether a project would have a significant effect on the environment. The Draft EIR considers the secondary effects of congestion, in terms of safety, delays to transit, air pollutant emissions, noise, and other environmental topic areas. To the extent that the proposed project would generate automobile trips, the Draft EIR described and evaluated the effects of that traffic in the discussion of vehicle miles traveled (VMT) as part of Impact TR-2 (pages 4.E-103 through 4.E-108) and Cumulative Impact C-TR-2 (pages 4.E-156 and 4.E-157) in Section 4.E, *Traffic and Circulation*; these impacts were found to be less-than-significant. The Draft EIR explains the basis for the City’s adoption of new metrics for traffic analysis in Section 4.E, *Traffic and Circulation*, of the Draft EIR, on pages 4.E-70 through 4.E-76 (see Planning Department staff memorandum to the Planning Commission on March 3, 2016, as cited in Footnote 26 of the Draft EIR on page 4.E-72; see also the Governor’s Office of Planning and Research revised draft CEQA Guidelines, as cited in Footnote 30 on page 4.E-75 of Section 4.E, *Traffic and Circulation*).

Comments related specifically to the amount of vehicular traffic generated by the proposed project, as well as the associated effects on quality of life and convenience, are, in fact, comments on the merits of the proposed project and not related to the environmental impacts. Detailed

information regarding operation of the roadway system is provided for informational purposes in the *Mission Rock (Seawall Lot 337 and Pier 48) Mixed-Use Project Transportation Impact Study (TIS)* in Section 7, Intersection and Freeway Operations Analysis (for informational discussion only), Appendix 4-1 to the Draft EIR. This information is provided for the public and decision-makers to inform the discussion of the merits of the proposed project; it is not used for evaluating traffic impacts for CEQA purposes. Insofar as vehicular traffic volumes and delay information are needed to provide technical analyses of air quality, noise, and safety effects, the data from the TIS were used and are accounted for in the results presented in these sections of the Draft EIR.

The Draft EIR evaluates VMT impacts consistent with recommendations from the Governor's Office of Planning and Research and Planning Commission Resolution No. 19579; specifically, the Draft EIR relied on screening criteria to conclude that the proposed project would not have a significant impact under the VMT metric. The Draft EIR concluded that the project would have a less-than-significant impact on VMT because (1) the proposed project sits within 0.5 mile of an existing major transit stop or a stop along an existing high-quality transit corridor<sup>7</sup> and (2) the proposed project would be located in an area where the average VMT per capita generated by existing land uses is more than 15 percent below regional averages; therefore, the proposed project would also be expected to generate average VMT per capita that would be more than 15 percent below regional averages.<sup>8</sup>

The VMT per capita metric and threshold have been designed to evaluate the proposed project itself, in the context of the land use and transportation surroundings, to determine whether it would generate an acceptable level of VMT per capita (defined as 15 percent or more below the regional average). As noted above, the VMT per capita metric is the rate of vehicle travel, as explained in Section 4.E, *Traffic and Circulation*, of the Draft EIR on pages 4.E-11 through 4.E-14, not a measurement of total VMT generated by a proposed project.

Evaluation of cumulative impacts associated with the proposed project was conducted in a similar fashion. The analysis evaluated the VMT per capita expected to be generated by uses at and in the vicinity of the Mission Rock site in 2040 using the City's SF-CHAMP travel demand forecasting model and comparing that rate to the VMT per capita expected to be generated within the nine-county Bay Area. The Draft EIR found that the proposed project would generate VMT per capita at a rate of more than 15 percent below the regional VMT per capita in 2040 as well; therefore, it concludes that the proposed project's cumulative VMT impacts would be less than significant.

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<sup>7</sup> Governor's Office of Planning and Research, *Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA*, p. II:7.

<sup>8</sup> San Francisco Planning Department, *Executive Summary, Resolution Modifying Transportation Impact Analysis*, Attachment F: Methodologies, Significance Criteria, Thresholds of Significance, and Screening Criteria for Vehicle Miles Traveled and Induced Automobile Travel Impacts, which includes an appendix from the San Francisco County Transportation Authority (SFCTA), Appendix A: SFCTA Memo, Attachments 1-6, March 3, 2016.

The Draft EIR, specifically the “Travel Demand Analysis” and “Cumulative Impact Methodology” sections (Draft EIR Section 4.E, *Traffic and Circulation*, pages 4.E-81 through 4.E-99), includes a detailed analysis of the level of transportation activity likely to be generated by the proposed project as well as other reasonably foreseeable development projects and planned transportation improvements in the study area. The cumulative conditions analysis includes forecast growth in jobs and employment in San Francisco by 2040. A list of “Cumulative Development Projects for Operational Impacts” is provided on pages 4.E-95 and 4.E-96 in Section 4.E, *Traffic and Circulation*. It includes the Mission Bay Redevelopment Plan, Pier 70, Candlestick Point-Hunters Point Shipyard Development Plan, Golden State Warriors Event Center and Mixed-Use Development at Mission Bay Blocks 29–32, and India Basin projects. The cumulative transportation analysis is projection-based rather than list-based; therefore, the projects listed above are examples of projects that have been accounted for in the growth forecasts used in the SF-CHAMP model, which is the basis for the 2040 cumulative traffic volume and transit ridership forecasts included in the Draft EIR. The SF-CHAMP land use forecasts are consistent with the long-range forecasts that are included in the MTC regional travel model. This approach is consistent with California Environmental Quality Act (CEQA) Guidelines Section 15130(b)(1)(B).

The Draft EIR includes a localized circulation impact analysis that assesses the effects of added project vehicle traffic on transit delay, bicycle and pedestrian safety, and emergency vehicle access (Draft EIR Section 4.E, *Traffic and Circulation*, pages 4.E-108 through 4.E-151). Significant impacts are identified as a result of queues from the proposed Block D2 aboveground garage as well as the effect of trucks accessing Pier 48. Mitigation Measures M-TR-3 (page 4.E-109), M-TR-6 (pages 4.E-132 to 4.E-134), M-TR-9 (page 4.E-142), and M-TR-10 (page 4.E-144) address these impacts. Implementation of Mitigation Measures M-TR-3 (page 4.E-109) and M-TR-10 (page 4.E-144) would result in impacts being reduced to less-than-significant levels. Implementation of Mitigation Measures M-TR-6 (pages 4.E-132 to 4.E-134) and M-TR-9 (page 4.E-142) would resolve impacts, but due to current uncertainty of full implementation of the measures, the impacts would be considered to remain significant and unavailable with mitigation.

The comments do not present any evidence that the transportation analysis in the Draft EIR is inadequate. No new information has been presented either in the comments or in this response; therefore, recirculation of the Draft EIR or a section of the EIR is not required.

### **COMMENT TR-3: IMPACTS ON TRANSIT**

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- I-Wong-4

**“Extrapolate Transit Impacts Due to Projected Traffic Volumes:** Massive increases in car trips will require massive transit mitigations. Buses alone will face major delays and unreliability, even with dedicated transit lanes. Light rail will require extraordinary increases in capacity, frequency and technology, like traffic signal synchronization and digital schedules. A massive increase in ferry service should be a mitigation measure. A funding plan for transit mitigations should be mandated.” (Howard Wong, June 12, 2017, [I-Wong-4])

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### RESPONSE TR-3

The comment states that transit mitigation will be required to avoid delays and unreliability, requests a massive increase in ferry service as a mitigation measure, and states that a funding plan for transit mitigation should be mandated. The Draft EIR takes into account a number of expected improvements to transit in the vicinity of the project site. Many of those improvements have been planned in response to the general regional growth, both within the Central Waterfront area and Citywide, that is expected to occur over the next 25 years or so. Specifically, the following transit improvements are expected to be in place within the next few years and were therefore assumed in the baseline conditions analysis (as described in Section 4.E, *Traffic and Circulation*, of the Draft EIR on pages 4.E-44 and 4.E-45):

- **Central Subway:** This project is currently under construction and expected to be completed by 2019. This will re-route the T-Third light-rail line such that it continues from Fourth and King Streets directly north along Fourth Street and Stockton Street to Chinatown, primarily in a new underground subway. Trains would increase to two-car trains, and frequencies would be every 4 minutes north of the 18<sup>th</sup> Street Station and 8 minutes south of the Mariposa Street station, with every other car turning around at the Mission Bay Loop.
- **T-Third Short Line Loop:** This loop is a component of the T-Third line and the Central Subway Project, located on a loop that includes 18<sup>th</sup> Street, Illinois Street, 19<sup>th</sup> Street, and Third Street. The loop will allow some trains on the T-Third line to turn around in the Central Waterfront area instead of traveling to the end of the line in Hunters Point.
- **16<sup>th</sup> Street Transit-Only Lanes/22 Fillmore Extension:** This project will convert one existing travel lane in each direction on 16<sup>th</sup> Street into a transit-only lane between Mission and Third Streets. Additionally, the 22 Fillmore trolley bus line will be modified to continue along 16<sup>th</sup> Street to Third Street, then travel on Third Street to terminate at Mission Bay Boulevard. When these improvements are implemented, they will replace the 55 16<sup>th</sup> Street line, which was a temporary solution to provide improved service between Mission Bay and the 16<sup>th</sup> Street BART station.

- **Near-Term Muni Forward Capacity Improvements:** Capacity improvements will be implemented on the existing 10 Townsend, 12 Folsom, 22 Fillmore, and 30 Stockton lines as well as a new 11 Downtown Connector route (e.g., the 11 Downtown Connector is a new route that is one of the future transit service changes planned as part of Muni Forward), as stated on page 4.E-44 of the Draft EIR.

Furthermore, the analysis also assumed that a variety of citywide transportation improvements that have been approved, such as Muni Forward and projects in other parts of the city (e.g., Geary Boulevard BRT and Van Ness Avenue BRT), will be implemented between 2020 and 2040. As part of these improvements near the project site, the following specific improvements were assumed in the cumulative analysis, as described in the Draft EIR (page 4.E-95):

- **T-Third Capacity Enhancements:** Between initial implementation of the Central Subway in 2019 and cumulative conditions by 2040, capacity on the T-Third line would increase such that the line would operate with 2-minute frequencies during peak periods north of the Mission Bay Loop.
- **Re-route 10 Townsend:** The 10 Townsend line would be re-routed to extend south of Townsend Street through Mission Bay and travel along Mission Bay Boulevard instead of Townsend Street west of Fourth Street, then return to its existing route south of the intersection of 17<sup>th</sup> Street and Connecticut Street. Service would be improved from 20-minute frequencies to 6-minute frequencies during peak periods. The route would be renamed 10 Sansome.

In addition to these transit improvements, the Draft EIR evaluated impacts on transit service from delays caused by traffic congestion and from crowding. Draft EIR Section 4.E, *Traffic and Circulation*, on pages 4.E-129 through 4.E-134, states that the proposed project would result in an adverse impact related to a substantial increase in transit delays on Third Street, between Channel Street and Mission Rock Street, due to vehicle queues where drivers would wait to enter the proposed project's Block D2 parking garage. Implementation of Mitigation M-TR-6 would reduce transit delay impacts to less than significant. Because several of the strategies identified in Mitigation Measure M-TR-6 would require San Francisco Municipal Transportation Agency (MTA) approval, and such approval is currently considered uncertain, the Draft EIR conservatively considers the proposed project's transit delay impacts along the segment of Third Street between Channel Street and Mission Rock Street to be significant and unavoidable with mitigation.

The Draft EIR identified significant impacts on transit related to crowding on two lines. Specifically, the Draft EIR identified in Impact TR-4 that the proposed project would cause the 10 Townsend line (inbound during the am peak hour and outbound during the pm peak hour, for both High Commercial Assumption and High Residential Assumption scenarios) and the 30 Stockton line (outbound during the pm peak hour, for High Commercial Assumption scenario

only) to exceed their capacity utilization threshold during peak periods. In response, the Draft EIR calls for the implementation of Mitigation Measure M-TR-4, Provide Fair-Share Contribution to Improve 10 Townsend Line Capacity (Draft EIR Section 4.E, *Traffic and Circulation*, pages 4.E-121 through 4.E-123), and Mitigation Measure M-TR-4.2, Provide Fair-Share Contribution to Improve 30 Stockton Line Capacity (Draft EIR Section 4.E, *Traffic and Circulation*, pages 4.E-124 through 4.E-126). These mitigation measures involve increasing the frequency of buses along the routes, increasing the capacity of existing buses along the route (i.e., switching from 40-foot coaches to 60-foot articulated coaches), improving the travel time of buses along the route, and/or creating a new route altogether with service similar to the 10 Townsend and 30 Stockton lines. Although, under the mitigation, the project sponsor would make a fair-share contribution to improvements on these lines, the project sponsor cannot guarantee that these mitigation measures would be implemented because they require actions from another City agency, MTA. Although MTA has reviewed these mitigation measures and agrees in concept with their content, MTA cannot, at this point, commit to having these additional buses operating along the specified routes for the long term. MTA approval is required for annual operating budgets, and some funding is needed beyond the project sponsor's contribution. It would be inappropriate to presume the future action of this decision-making body. Therefore, there is uncertainty regarding implementation of this mitigation measure and its effectiveness. These impacts are considered significant and unavoidable with mitigation.

The Draft EIR also identified Cumulative Impact C-TR-4, Draft EIR Section 4.E, *Traffic and Circulation*, pages 4.E-169 through 4.E-171, which notes that the proposed project, in combination with other reasonably foreseeable development by 2040, would contribute considerably to significant cumulative impacts on the 10 Townsend line. Mitigation Measure M-C-TR-4A, Provide Fair-Share Contribution to Improve 10 Townsend Line Capacity, calls for additional capacity along this route for the long term and requires the project sponsor to pay its fair share toward implementing the long-term improvements. As with Impact TR-4, the City cannot guarantee that Mitigation Measure M-C-TR-4 will be implemented because MTA cannot guarantee that these additional buses will be operated along the specified routes for the long term. Therefore, the cumulative impact is considered significant and unavoidable with mitigation.

As described above and in the Draft EIR, a number of specific transit service improvements are planned and programmed for the foreseeable future to accommodate the transit service needs of residents, employees, and visitors in the study area as well as expected growth in the area, including growth from the additional residents and employees who are expected to occupy the project site. The Draft EIR describes the extent to which the proposed project would contribute to additional service demand in both the near term and long term as well as the extent to which the proposed project would be responsible for mitigating its impacts.

The project's fair-share contributions to transit Mitigation Measures M-TR-4.1, M-TR-4.2, and M-C-TR-4A (i.e., for capacity increases) are mandated. Additionally, the project would be required to pay transportation impact fees that would provide capital funds for other transit improvement projects.

The Draft EIR's discussion of Impact TR-5 on pages 4.E-126 through 4.E-129 and Impact C-TR-5 on pages 4.E-172 through 4.E-177 concluded that the proposed project would have less-than-significant project-level and cumulative impacts on regional transit capacity, and therefore, the Draft EIR concluded that no mitigation measures were necessary to address such impacts. Increased ferry service could reduce the number of riders added to regional transit services, but would have minimal to no effect on impacts to local transit services. Therefore, additional ferry service does not need to be considered as a mitigation measure under CEQA. This comment has been noted and it will be passed along to decision makers and relevant transportation and transit agencies for consideration.

The EIR adequately discloses the extent to which the proposed project, both individually and cumulatively, would contribute to significant transportation impacts. The comment does not provide any evidence to suggest the Draft EIR analysis is inadequate or challenge the findings within the analysis. Therefore, no further analysis is necessary, and recirculation of the EIR or a section of the EIR is not required.

#### **COMMENT TR-4: IMPACTS ON BICYCLISTS AND PEDESTRIANS**

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- I-Wong-5

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**“Project Deters Bicycles and Pedestrians:** With increased traffic congestion, with or without the project, the region becomes less attractive and safe for bicycles and pedestrians. Mitigations necessitate leveling the playing field for bicycles and pedestrians—on par with motorized vehicles.” (*Howard Wong, June 12, 2017, [I-Wong-5]*)

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#### **RESPONSE TR-4**

The comment states that additional mitigation measures are needed for bicyclists and pedestrians. The changes to roadway, bicycle, and pedestrian facilities that would be constructed by the proposed project are described in Section 4.E, *Traffic and Circulation*, of the Draft EIR on pages 4.E-59 through 4.E-69. The changes would include a new section of the Blue Greenway between Mission Rock Street and China Basin Park, a raised two-way cycle track along the east side of Bridgeview Street between Mission Rock Street and Exposition Street, a

multimodal north-south street that prioritizes pedestrian movement between the proposed Block D2 parking garage and China Basin Park (i.e., Shared Public Way), pedestrian paseos linking internal north-south streets with the planned China Basin Park, and 12- to 15-foot-wide sidewalks on all internal project streets. The proposed project network is designed primarily with low-volume, low-speed streets that are consistent with the Better Streets Plan. Other planned improvements in the immediate vicinity of the project, which would enhance pedestrian and bicycle travel, include an extension of the Blue Greenway south of the project along Terry A. Francois Boulevard as well as a Class II bike lane on the 16<sup>th</sup> Street extension between Illinois Street and Terry A. Francois Boulevard. The Draft EIR evaluates the impacts of the proposed project on these proposed facilities and existing facilities in the surrounding study area.

The effects of additional traffic and traffic congestion on pedestrian circulation are discussed in Section 4.E, *Traffic and Circulation*, of the Draft EIR on pages 4.E-134 through 4.E-142 as part of Impacts TR-7 through TR-9. Generally, the pedestrian network within and near the project site was found to be adequate with respect to accommodating pedestrian circulation in a setting with increased traffic volumes; however, potential pedestrian conflicts would be created by vehicle queuing as drivers wait to access the proposed Block D2 garage. Implementation of Mitigation Measures M-TR-3 and M-TR-6 would reduce vehicle impacts on pedestrians from vehicle queues at the proposed project's Block D2 parking garage to less than significant. Implementation of Mitigation Measure M-TR-9 (installation of two traffic signals) would reduce vehicle impacts on pedestrians along Fourth Street, at the intersections of Mission Rock Street and Long Bridge Street, to less-than-significant impacts.

The proposed project's impacts on bicycles are discussed in Section 4.E, *Traffic and Circulation*, of the Draft EIR on pages 4.E-142 through 4.E-145 as part of Impact TR-10. The discussion describes new bicycle facilities within the Mission Rock site, such as a segment of the planned Blue Greenway, that would be included in the proposed project. The proposed project would also include an alternate route, a cycle track on Bridgeview Street, for cyclists who do not wish to travel on the planned Blue Greenway. Implementation of Mitigation Measure M-TR-10 would reduce impacts on cyclists who use Blue Greenway by providing traffic control personnel at the junction of Blue Greenway and the driveway to Pier 48 when trucks make deliveries. By managing bicycle and truck traffic, impacts would be reduced to a less than significant impact.

The comment does not present any evidence that the impact analysis on bicyclists and pedestrians in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

### COMMENT TR-5: BICYCLE PARKING

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-Caltrans-4

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“Under the *Bicycle Circulation and Parking* section of the Transportation and Circulation element, the DEIR specifies it would provide a total 2,782 bicycle parking spaces under the High Residential Assumption and a total of 2,390 spaces under the High Commercial Assumption (page 4.E-65). However, the *Bicycle Impacts* section lists a total of 2,648 bicycle spaces under the High Residential Assumption and 2,256 spaces the High Commercial Assumption. Please clarify the number of bicycle parking spaces proposed for the project.”  
(Patricia Maurice, June 8, 2017, [A-Caltrans-4])

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### RESPONSE TR-5

The commenter asks for the number of bicycle parking spaces to be clarified. The proposed project would provide 2,648 bicycle parking spaces under the High Residential Assumption and 2,256 bicycle parking spaces under the High Commercial Assumption, as described in the “Bicycle Impacts” section on page 4.E-145 of Section 4.E, *Transportation and Circulation*.

The “Project Features” section, on page 4.E-65, incorrectly states that the proposed project would provide 2,390 bicycle parking spaces under the High Commercial Assumption and 2,782 bicycle parking spaces under the High Residential Assumption, based on a conservative assumption in the TIS that open space areas would be subject to Planning Code requirements for the provision of bicycle parking spaces; however, this assumption was incorrect because there are no planning code requirements for bicycle parking spaces for open spaces or parks. To correct the error, as shown in Chapter 4, *Draft EIR Revisions*, of this RTC document (page 4-7), the text in the last full paragraph on page 4.E-65 in Section 4.E, *Traffic and Circulation*, is revised as shown below. These revisions do not change any of the analyses or conclusions of the EIR. Therefore, recirculation of the EIR or a section of the EIR is not required.

The project would provide bicycle parking facilities, including a network of spaces in public areas and secure spaces inside the site’s residential and office buildings. The project may also include Bay Area Bike Share pods on the site. The High Residential Assumption would provide ~~2,045~~ 2,090 Class I bicycle parking facilities and ~~603~~ 692 Class II bicycle racks. The High Commercial Assumption would provide ~~1,670~~ 1,715 Class I bicycle parking facilities and ~~586~~ 675 Class II bicycle racks. Bike parking facilities could be located on the ground-floor or basement level of project buildings, as

well as scattered throughout the district (e.g., in plaza areas, building entries, open space), in accordance with the Mission Rock Special Use District (SUD) and Design Controls. Lockers and showers would also be provided to encourage cycling.

## G. AIR QUALITY

The comments and corresponding responses in this section cover topics in Section 4.G, *Air Quality*, of the Draft EIR. These include topics related to:

- AQ-1: Mitigation Measure M-AQ-1.5
- AQ-2: Mitigation Measure M-AQ-2.2
- AQ-3: Authority to Construct Permit
- AQ-4: Air Quality Impacts

### COMMENT AQ-1: MITIGATION MEASURE M-AQ-1.5

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BAAQMD-2

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“However, even with these Project design features and on-site mitigation measures, air quality impacts from the Project still exceed the City’s thresholds of significance. Therefore, Mitigation Measure M-AQ-1.5 Emissions Offsets for Construction and Operational Ozone Precursor Emissions (M-AQ-1.5) commits the Project sponsor to provide funds to achieve additional emission reductions to reduce air pollution below the thresholds of significance. To this end, M-AQ-1.5 states that the Project sponsor would provide funding, currently estimated by the City to be approximately \$18,030 per weighted ton, with an upper limit not to exceed \$35,000 per weighted ton of ozone precursors, to the Air District to fund emissions reductions projects.

As Air District staff previously has discussed with the City, the current cost for these types of emission offset projects is approximately \$35,000 a ton, and staff anticipates that costs will rise in future years. Therefore, Air District staff recommended that the City revise M-AQ-1.5 to remove the upper limit of \$35,000 per ton in order for this Project to participate in the Air District’s offset mitigation projects.” (*Jean Roggenkamp, June 7, 2017, [A-BAAQMD-2]*)

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### RESPONSE AQ-1

The comment states that the cost for emission offset projects is currently approximately \$35,000 per ton but is anticipated to rise in future years; therefore, the commenter requests that Mitigation Measure M-AQ-1.5 be revised to remove the upper limit of \$35,000 per weighted ton.

A mitigation measure must have an “essential nexus” (i.e., connection) to a legitimate government interest (CEQA Guidelines Section 15126.4(a)(4)(A), citing *Nollan v. California Coastal Commission* (1987) 483 U.S. 825). Mitigation measures must also bear a “rough proportionality” to the project’s adverse impacts, and if the mitigation measure is an ad hoc exaction, it must be “roughly proportional” to the impacts of the project (CEQA Guidelines Section 15126.4(a)(4)(B), citing *Dolan v. City of Tigard* [1994] 512 U.S. 374 and *Ehrlich v. City of Culver City* [1996] 12 Cal.4<sup>th</sup> 854).

The nexus between Mitigation Measure M-AQ-1.5, Emissions Offsets for Construction and Operational Ozone Precursor Emissions, and a legitimate government interest is outlined in Section 4.G, *Air Quality*, on pages 4.G-48 and 4.G-49 as well as 4.G-54 and 4.G-55 of the Draft EIR. Mitigation Measure M-AQ-1.5 is required (the nexus) as a result of the proposed project’s combined construction and operational emissions of ROG and nitrogen oxides (NO<sub>x</sub>), which exceed significance thresholds, with a required offset of 10.5 tons per year for 2023 (see Table 4.G-16 on page 4.G-70 of the Draft EIR). Mitigation Measure M-AQ-1.5 is identified to offset the proposed project’s construction and operational emissions of ROG and NO<sub>x</sub> to the extent they exceed significance thresholds by funding implementation of one or more emissions reduction projects within the air basin.

The estimated mitigation offset fee per ton of \$18,262, included in Mitigation Measure M-AQ-1.5, is based on and approximately the same as the Carl Moyer Program cost-effectiveness criterion that was in effect at the time when the Draft EIR was prepared. Mitigation Measure M-AQ-1.5 on page 4.G-55 in Section 4.G, *Air Quality*, of the Draft EIR erroneously cited the lower range of the offset fee as \$18,030. The correct value at the time the Draft EIR was published was \$18,260 which has been corrected below. As explained on page 4.G-23 of the Draft EIR, in Section 4.G, *Air Quality*, the Carl Moyer Program establishes cost-effectiveness criteria for funding emissions reduction projects as well as guidelines for such projects. The BAAQMD administers the Carl Moyer Program within the San Francisco Bay Area Air Basin (SFBAAB).

As stated above, the Carl Moyer Program’s cost-effectiveness criterion was \$18,262 per weighted ton of ROG, NO<sub>x</sub>, and particulate matter 10 microns in diameter or less as of December 18, 2015, which was the latest update to the Carl Moyer Program at the time when the Draft EIR was published. On April 27, 2017, shortly after publication of the Draft EIR, the California Air Resources Board approved an update to the Carl Moyer Program guidelines. The 2017 update, effective on July 1, 2017, established an increased cost-effectiveness level, increasing from \$18,260 to \$30,000 per ton of emissions.<sup>9</sup> This updated limit is \$5,000 per ton below the \$35,000 maximum established by Mitigation Measure M-AQ-1.5 and, thus, well within the range of the potential costs anticipated in the Draft EIR.

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<sup>9</sup> California Air Resources Board. 2017. *Carl Moyer Program Guidelines*. June 20. Available: <https://www.arb.ca.gov/msprog/moyer/guidelines/current.htm>. Accessed August 24, 2017.

Under CEQA, a lead agency can impose mitigation on the project sponsor only to the extent necessary to reduce an impact to a less-than-significant level. Among other constraints, a lead agency's authority to impose mitigation is limited, as explained in CEQA Guidelines Section 15041(a): "[a] lead agency for a project has authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as the 'nexus' and 'rough proportionality' standards established by case law" (citing *Nollan v. California Coastal Commission* [1987] 483 U.S. 825, *Dolan v. City of Tigard* (1994) 512 U.S. 374, and *Ehrlich v. City of Culver City* [1996] 12 Cal.4<sup>th</sup> 854; see also CEQA Guidelines Section 15126.4(a)(4)(A) and (B)).

The "rough proportionality" standard means that the type and amount of mitigation must roughly correspond in size, degree, and intensity to the project impact. In other words, an agency may not impose mitigation (including mitigation fees) on a project that is greater than necessary to mitigate a particular impact of the project to a less-than-significant level (*Dolan v. City of Tigard*, supra, 512 U.S. 374; see also *Ehrlich v. City of Culver City* [1996] 12 Cal.4<sup>th</sup> 854, [\$280,000 "recreation fee" assessed against a property owner as a condition of approving a residential project did not satisfy the "rough proportionality" standard of *Dolan*]).

The proportionality of the mitigation to the air quality impact is based on the Carl Moyer Program's cost-effectiveness criterion (and no more than a 5 percent administrative fee). Using this criterion, the Draft EIR determined the appropriate fee payment was between approximately \$18,262 and \$35,000 per weighted ton of ozone precursors per year. The payment would be made to the BAAQMD Bay Area Clean Air Foundation to implement emissions reduction projects within the SFBAAB and offset the regional criteria pollutant emissions generated by construction and operation of the proposed project that would be in excess of the applicable thresholds. As noted, the estimated fee is intended to fund emission reduction projects to achieve a reduction totaling 10.5 tons per year of combined construction and operational emissions of ozone precursors in excess of significance thresholds (for 2023, the year of maximum combined construction and operational emissions). This has a clear and essential nexus between the proposed project's construction and operational air quality impacts and the BAAQMD's current authority to implement emissions reduction projects as part of the Carl Moyer Program. Therefore, the fee identified in Mitigation Measure M-AQ-1.5 is "roughly proportional" to the proposed project's estimated construction and operational air quality impacts, using the offset funding equation estimate of \$18,262 per weighted ton of ROG and NO<sub>x</sub> emissions and a 5 percent administrative fee, with the potential for this amount to be adjusted upward to a maximum of \$35,000 per weighted ton, as determined prior to the estimated first year of exceedance.

Although BAAQMD has suggested that a higher fee may be warranted because of the possibility of future increases in offset fees, the maximum fee of \$35,000 per weighted ton (plus up to 5 percent administrative fee) under Mitigation Measure M-AQ-1.5 exceeds the recently

updated Carl Moyer Program criterion of \$30,000 per ton. Providing for an increased rate beyond that of the existing Carl Moyer Program, with no cap or ceiling, would not meet the "rough proportionality" standard required under CEQA or land use law. Further, the offset costs cited in Mitigation Measure M-AQ-1.5 are consistent with or higher than those of the California Air Resources Board and other operating California air districts with offset programs comparable those for the SFBAAB. For example, currently, in the San Joaquin Valley Air Pollution Control District, the Indirect Source Review program requires that an offsite reduction fee of \$9,350 per ton plus a 4 percent administration fee be applied for NO<sub>x</sub> emissions reductions that cannot be achieved through onsite emission reduction measures. In order to account for anticipated increases in fees associated with the offset program in future years, as stated by the commenter, the mitigation measure has been revised, as shown below, to reflect California Consumer Price Index adjustments to the fee between 2015 and 2017 and to allow for the future increases of the fee at the time that it would be paid, to reflect annual California Consumer Price Index adjustments at that time.

Moreover, providing funds to the BAAQMD Bay Area Clean Air Foundation, as described above, is only one of the options for offsetting emissions under Mitigation Measure M-AQ-1.5. The measure provides that, alternatively, the project sponsor may "directly implement a specific offset project or program to achieve emission reductions of 10.5 tons ozone precursors," provided that the specific emissions reduction project will result in emissions reductions within the SFBAAB that are real, quantifiable, and enforceable and will not otherwise be achieved through compliance with existing regulatory or legal requirements. Prior to implementation of such an offset project, the project sponsor must obtain the Planning Department's approval of the proposed offset project by providing documentation of the estimated amount of emissions of ROG and NO<sub>x</sub> to be reduced (tons per year) within the SFBAAB from the emissions reduction project(s).

Based on the foregoing information and the options available for implementing the required emissions reduction offsets, Mitigation Measure M-AQ-1.5 is a reasonable and feasible measure to substantially lessen or avoid the identified significant effect.

As shown in Chapter 4, *Draft EIR Revisions*, of this RTC document (page 4-3), Mitigation Measure M-AQ-1.5. Emissions Offsets for Construction and Operational Ozone Precursor Emissions, on pages 4.G-54 and 4.G-55 as well as S-40 and S-41, has been slightly revised to provide clarification and to respond to the portion of the comment that states that the costs of the mitigation offset fee are anticipated to rise in future years, which does not alter the analysis or conclusions of the Draft EIR. Therefore, recirculation of the EIR or a section of the EIR is not required.

Prior to the estimated first year of exceedance of criteria air pollutant thresholds, the project sponsor, with oversight of the Planning Department, shall elect to either:

1. Directly implement a specific offset project(s) or program(s) to achieve emission reductions of up to 10.5 tons of ozone precursors to offset the combined emissions from construction and operations remaining above significance levels after implementation of identified mitigation measures. To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emissions reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. Prior to implementation of the offset project(s), the project sponsor must obtain the Planning Department's approval of the proposed offset project(s) by providing documentation of the estimated amount of emissions of ROG and NO<sub>x</sub> to be reduced (tons per year) within the SFBAAB from the emissions reduction project(s). The project sponsor shall notify the Planning Department within 6 months of completion of the offset project(s) for Planning Department verification.

2. Pay a mitigation offset fee to the BAAQMD Bay Area Clean Air Foundation (Foundation) in installments, as further described below, with each installment amount to be determined prior to the estimated first year of exceedance. This fee is intended to fund emissions reduction projects to achieve reductions totaling up to 10.5 tons of ozone precursors per year, the estimated maximum tonnage of operational and construction-related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NO<sub>x</sub> (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NO<sub>x</sub> emissions offsets required.

The fee shall be paid in up to 12 installments, each installment payable at the time of application for a site permit for each development block, representing the portion of the 10.5 tons of ozone precursors per year attributable to each development block, as follows: (a) Blocks A, G, and K: 6.6% or 0.70 tons per each development block; (b) Pier 48: 18.6% or 1.95 tons; (c) Blocks B, C, and D: 9% or 0.95 tons per each development block; (d) Blocks E and F: 10.3% or 1.08 tons per each development block; and (e) Blocks H, I, and J: 4.6% or 0.49 tons per each development block. The mitigation offset fee, currently estimated at approximately ~~\$18,030~~18,262 per weighted ton, ~~and shall not to exceed \$35,000 per weighted ton of ozone precursors per year requiring emissions offsets~~ plus an administrative fee of no more than 5 percent of the total offset to fund one or more emissions reduction projects within the SFBAAB. The not to exceed amount of \$35,000 will be adjusted to reflect annual California Consumer Price Index adjustments between 2017 and the estimated first year of exceedance. The fee will be determined by the Planning Department, the project sponsor, and the BAAQMD and be based on the type of projects

~~available at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions totaling 10.5 tons of ozone precursors per year, the estimated maximum tonnage of operational and construction related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NOx (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction related ROG and NOx emissions offsets required. Documentation of payment shall be provided to the Planning Department.~~

Unless directly implementing a specific offset project (or program), as described above, the project sponsor would enter into a Memorandum of Understanding (MOU) with the BAAQMD Foundation in connection with each installment payment described above. The MOU will include details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the BAAQMD shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the Planning Department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tons per year) within the SFBAAB from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement.

## **COMMENT AQ-2: MITIGATION MEASURE M-AQ-2.2**

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BAAQMD-3

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“Mitigation Measure M-AQ-2.2, Reactive Organic Gases (ROG) Emissions Reduction Measures, requires the Project sponsor to implement ethanol/ROG emission reduction technologies from the microbrewery operations if “available and practical.” Air district staff recommend that the City clarify how the Project sponsor would demonstrate to the City whether technologies to reduce ethanol/ROG emissions are “available and practicable” and specify what information the Project sponsor is required to submit to support this determination.” (*Jean Roggenkamp, June 7, 2017, [A-BAAQMD-3]*)

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**RESPONSE AQ-2**

A comment regarding Mitigation Measure M-AQ-2.2 requests clarification on how the project sponsor would demonstrate to the City that technologies to reduce ethanol/ROG emissions are “available and practicable” and what information the project sponsor is required to submit to support this determination.

Mitigation Measure M-AQ-2.2, Reactive Organic Gases Emissions Reductions Measures, requires the project sponsor to provide education for residential and commercial tenants to help reduce area-source (e.g., architectural coatings, consumer products, landscaping) emissions associated with residential and building operations. It states:

While microbreweries do not typically implement emission control devices, to further reduce ROG (primarily ethanol) emissions associated with Pier 48 industrial operations, the project sponsor shall employ technologies to reduce ethanol emissions if available and practicable. Such measures could include wet scrubbers, ethanol recover and capture (e.g., carbon absorption), or incineration.

The Draft EIR did not quantify reductions that could be achieved by the use of ROG emissions reduction technology for industrial operations, analyzed as a brewery, at Pier 48 under the proposed project. The Pier 48 industrial use would meet Best Available Control Technology standards established by the BAAQMD. At the time when specific designs for the Pier 48 use are submitted to the City for approval, the project sponsor will provide an analysis that quantifies the emissions, based on the specific design proposal, and evaluates emission control technologies. The Pier 48 developer will also request that BAAQMD staff review plans for the brewery/industrial process and identify applicable Best Available Control Technology that would apply to the Pier 48 project at the time applications with specific plans for the Pier 48 portion of the proposed project are submitted. To clarify, as shown in Chapter 4, *Draft EIR Revisions*, of this RTC document (page 4-12), the text in Section 4.G, *Air Quality*, on pages 4.G-62 and 4.G-63, has been modified, as follows. This change does not alter the analysis or conclusions in the Draft EIR. Therefore recirculation, of the EIR or a section of the EIR is not required.

*M-AQ-2.2: Reactive Organic Gases Emissions Reduction Measures*

To reduce ROG emissions associated with the project, the project sponsor shall provide education for residential and commercial tenants to help reduce area source (e.g., architectural coatings, consumer products, and landscaping) emissions associated with residential and building operations. Prior to receipt of any building permit and every 5 years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develop electronic correspondence, which will be distributed by email annually to tenants of the project that encourages the purchase of consumer products that are better for the environment and generate fewer VOC

emissions. The correspondence shall encourage environmentally preferable purchasing and include contact information and links to SF APPROVED. While microbreweries do not typically implement emission control devices, to further reduce ROG (primarily ethanol) emissions associated with Pier 48 industrial operations, the project sponsor shall implement technologies to reduce ethanol emissions if available and practicable. Such measures could include wet scrubbers, ethanol recovery and capture (e.g., carbon absorption) or incineration. At the time when specific designs for the Pier 48 use are submitted to the City for approval, the project sponsor shall provide an analysis that quantifies the emissions, based on the specific design proposal, and evaluates ROG emission control technologies.

### **COMMENT AQ-3: AUTHORITY TO CONSTRUCT PERMIT**

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-BAAQMD-4

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“Air District staff recommend that the Project sponsor submit an Authority to Construct permit application prior to beginning construction of the microbrewery, and that the proposed microbrewery owner/operator apply for an Air District Permit to Operate for any equipment that may cause air pollution (boilers, diesel engines, grain handling/storage equipment, etc.). Please contact Barry Young, Senior Advanced Projects Advisor at 415-749-4721 or byoung@baaqmd.gov with any questions about how to apply for an Air District permit.

Air District staff is available to assist the City to address these comments. If you have any Questions, please contact Alison Kirk, Senior Planner, at (415) 749-5169 or akirk@baaqmd.gov.”  
*(Jean Roggenkamp, June 7, 2017, [A-BAAQMD-4])*

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### **RESPONSE AQ-3**

The comment recommends that the project sponsor submit an Authority to Construct permit application prior to beginning construction of the microbrewery and that the proposed microbrewery owner/operator apply for an air district Permit to Operate for any equipment that may cause air pollution. The project sponsor would fully comply with all permitting requirements associated with implementation of the project. The comment does not present any evidence that the analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

**COMMENT AQ-4: AIR QUALITY IMPACTS**

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- I-Garfinkle-1

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“I am very concerned about these plans on several levels—the traffic and transportation congestion and pollution that this massive project will generate, especially given the Warriors Arena project that has already broken ground.” (*Deborah Garfinkle, May 05, 2017 [I-Garfinkle-1]*)

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**RESPONSE AQ-4**

The commenter is concerned about air quality impacts from the proposed project. The commenter’s concern about traffic and traffic congestion is addressed in Response TR-2 on page 3-43. Section 4.G, *Air Quality*, of the Draft EIR analyzes the proposed project’s impacts on air quality. Construction of the proposed project has the potential to create air quality impacts through the use of heavy-duty construction equipment, construction workers’ vehicle trips, and truck hauling trips. In addition, fugitive dust emissions would result from site disturbance, whereas fugitive ROG emissions would result from application of architectural coatings and paving. ROG and NO<sub>x</sub> thresholds would be exceeded during some years of construction, particularly when construction phases would overlap. This is identified as a significant impact. Mitigation Measures M-AQ-1.1 through M-AQ-1.5 would be implemented to reduce air quality impacts. These mitigation measures would reduce NO<sub>x</sub> and ROG emissions and require the project sponsor to pay an offset mitigation fee for NO<sub>x</sub> and ROG emissions in excess of the BAAQMD thresholds. However, even with implementation of these mitigation measures, impacts related to criteria air pollutants are conservatively assumed to be significant and unavoidable because, although the project sponsors would be required to implement the mitigation measures, not all measures are completely within the project sponsors’ control, and the effectiveness of the measures to fully reduce air quality impacts remains uncertain.

During project operations, the proposed project would result in emissions of criteria air pollutants at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants. Additional mitigation measures would be implemented to address these air quality impacts associated with project operations. These mitigation measures would require use of recent-year emergency diesel generators, would require the project sponsor to educate residential tenants and encourage commercial tenants to purchase products that are safer and better for the environment, and would require implementation of a Transportation Demand Management (TDM) Plan with a goal of reducing estimated one-way vehicle trips by 20 percent

and mobile-source ROG and NO<sub>x</sub> emissions by 20 percent. However, even with implementation of Mitigation Measures M-AQ-1.1 through M-AQ-1.5 and M-AQ-2.1 through M-AQ-2.3, impacts would remain significant and unavoidable, as previously explained.

As discussed in Section 4.G, *Air Quality*, on pages 4.G-86 and 4.G-87, cumulative impacts related to toxic air contaminants, including diesel particulate matter, and exposure of sensitive receptors to substantial pollutant concentrations would be less than significant with mitigation with implementation of Mitigation Measures M-AQ-1.1 through M-AQ-1.5 and M-AQ-2.1 through M-AQ-2.3, for the reasons previously provided. All other impacts associated with air quality would be less than significant or mitigated to less than significant (see Section 4.G, *Air Quality*, of the Draft EIR for additional details on air quality impacts).

The comment does not present any evidence that the air quality analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

## H. WIND AND SHADOW

The comments and corresponding responses in this section cover topics in Section 4.I, *Wind and Shadow*, of the Draft EIR.

### COMMENT WS-1: REDUCING SHADOW IMPACTS

This response addresses the comment from the commenter listed below; each comment on this topic is quoted in full below this list.

- I-Wong-7
- I-Wong-9

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**“New Shadow:** The location of tall buildings determines shadow impacts on key areas, like onto historic Lefty O’Doul Bridge, onto open space within the project, onto commercial streets within & outside the project.... To assure the vitality of such spaces, the exact location of tall buildings should be guided by shadow charts—included in the EIR. In design, the shape of tall buildings is also important in terms of shadows cast onto key features.” (*Howard Wong, June 12, 2017, [I-Wong-7]*)

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**“Page 1-2:** Penthouse enclosures of 20-40 feet height seem excessive, and would cast more new shadows. Evaluate low-penthouse elevators and mechanical equipment.” (*Howard Wong, June 12, 2017, [I-Wong-9]*)

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**RESPONSE WS-1**

The comments express concern regarding impacts related to shadows. The proposed project has been designed to minimize shading to the extent possible, as discussed in Appendix 7-2, Shadow Study. The proposed project's building massing would allow periods of sunlight on all open spaces, especially China Basin Park and Mission Rock Square, during the active hours of the day throughout the year (i.e., during daylight hours), including during the winter months. The massing of buildings and the placement of taller portions of buildings have been considered in order to achieve this goal. For example, for two of the taller buildings on Blocks D and F, the towers would be situated in the middle to southern side of the Seawall Lot 337 parcel to minimize offsite shadows that could affect open spaces. In the cases of all towers, the Design Controls provide maximum dimensions that limit the profile of the tower so that, where they do cast shadows, they are narrow and sweep quickly across public spaces. The building envelopes that achieve these objectives are included in the Design Controls, part of the proposed Mission Rock development, and expected to be made a condition of project approvals.

The shadow study considered the penthouse enclosures in the analysis; those impacts have been disclosed in Draft EIR Section 4.I, *Wind and Shadow*. This represents a worst-case scenario; therefore, there would be no additional impact beyond what was disclosed in the Draft EIR. The penthouse enclosures would be designed and located on building rooftops in such a way that shadows would not increase beyond the shadows caused by the buildings themselves upon which the enclosures would sit.

The buildings modeled in the Shadow Study reflect conceptual forms; these represent the largest building profiles contemplated. The final design and massing of the project buildings would stay within the building envelopes analyzed by the Shadow Study (Appendix 7-2 of the Draft EIR); therefore, the shadow impacts of the project, once constructed, would not exceed the impacts disclosed in the Draft EIR. For further information regarding the Design Controls as they relate to building envelopes, refer to Chapter 7 of the Mission Rock Design Controls (Appendix 2 of the Draft EIR).

The Draft EIR discusses the methodology used to determine shadow impacts, beginning in Section 4.I, *Wind and Shadow*, on page 4.I-40. To evaluate the shadow impact of the proposed project, a 3D virtual model of the project area was prepared. The massing model considered the project site, the affected open spaces (based on their lot boundaries, per City records), the surrounding urban and natural environment, and other development in the project vicinity. The Planning Department has determined that Section 295 analysis times, square-foot-hour shadow calculations, and the usage observation methodology would be adequate and appropriate for evaluating the shading impacts of the proposed project, even though the affected open spaces are not subject to Section 295. The models were used to simulate and calculate both existing amounts of shading and the levels of shading that would be present with the addition of the proposed project, starting 1 hour after sunrise through 1 hour before sunset. Between these

times, the model performed snapshot analyses at 15-minute intervals and repeated this process for every 7 days between the summer solstice and winter solstice. This half-year period is referred to as a “solar year,” and the data taken from the 27 sample dates throughout the course of the solar year are mirrored with extrapolated interim times and dates to arrive at the full-year shading calculation.

Existing shadow patterns and shadow patterns associated with the proposed project are shown in Draft EIR Section 4.I, *Wind and Shadow*, in Figures 4.I-11 through 4.I-19. These figures provide representative snapshots of shadow patterns at the times of the day and seasons selected for the analysis. The figures illustrate the worst-case hours of day for the summer solstice, vernal/autumnal equinox, and winter solstice. The Shadow Study (Appendix 7-2 of the Draft EIR) contains additional diagrams for various times of day during these particular times of year. Thus, impacts related to shading have been fully disclosed in the Draft EIR.

As explained on pages 4.I-41 and 4.I-42 of the Draft EIR, the Planning Department does not consider project shading on open spaces and parks created by a project to be an impact under CEQA because such shading is not part of the existing physical environment. Therefore, with the exception of the existing China Basin Park, which is proposed for modification, shading on open spaces created by the project (e.g., Mission Rock Square, Channel Lane, Channel Wharf) is discussed in the Draft EIR only for informational purposes. Draft EIR Section 4.I, *Wind and Shadow*, concluded that shadow impacts would be less than significant because the new net shadow would not adversely affect the use of existing and proposed offsite parks or future public open spaces on the project site. The comment does not present any evidence that the wind and shadow analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

## I. PUBLIC SERVICES AND RECREATION

The comment and corresponding response in this section cover topics in Section 4.J, *Public Services and Recreation*, of the Draft EIR.

### COMMENT PS-1: DEMAND FOR SHORELINE PUBLIC ACCESS

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BCDC-9

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“A project that would add 2,350 to 3,760 residents and 3,270 to 5,820 employees will by definition bring more people to the site. The FEIR should discuss the anticipated demand for shoreline public access given the addition of new residents, workers, customers and other users

expected at the site, and consider whether the proposed new public access areas are likely sufficient to accommodate these new users. The FEIR should also discuss nearby public shoreline areas, including the proposed Mission Bay P22 Bayfront Park, and consider the impacts the proposed project may have on public access at these locations. This information will be useful to the Commission in its evaluation of the adequacy of the public access proposed with the proposed project." (*Ethan Lavine, June 12, 2017, [A-BCDC-9]*)

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**RESPONSE PS-1**

The comment states that the Final EIR should discuss increased demand for shoreline public access and impacts on nearby parks and public access areas. Anticipated demand for public shoreline access is discussed in Section 4.J, *Public Services and Recreation*, under Impacts PS-4 and PS-5, beginning on page 4.J-47. As discussed, an increase in population, and therefore an increase in the number of park users, is expected as a result of the proposed project; however, such an increase would not result in the capacity of existing and proposed parks and recreational facilities to be exceeded. The area currently contains the 2.2-acre China Basin Park. The proposed project would construct approximately 8 acres of new and expanded open spaces, including a 4.4-acre expanded China Basin Park, which would offset demand on other facilities in the project area, such as Mission Creek Park, Mission Bay Commons, and other facilities that could otherwise experience additional patrons. In addition, common usable open space areas, such as courtyards, rooftop terraces, and public passages, would be provided at a ratio of 48 square feet per residential unit and private usable open space at a ratio of 36 feet per residential unit. Overall, compared to existing conditions, existing and future residents would have more opportunities to engage in recreational activity in their neighborhood with the range of open spaces that would be developed as part of the proposed project. Thus, given the recreational opportunities at the project site, it is not anticipated that shoreline areas would be inadequate with respect to accommodating users.

Potential impacts on existing neighborhood parks, including the proposed Bayfront Park, is discussed under Impact PS-5 in Section 4.J, *Public Services and Recreation*, beginning on page 4.J-49. Operations under the High Residential Assumption would increase the number of residents by 7,720, which would degrade slightly the existing parkland-to-resident service ratio of 6.9 acres per 1,000 residents to 6.8 acres per 1,000 residents with the current inventory of parkland. In addition to offsite open space areas, residents and workers would use the private and shared onsite open spaces that would be provided by the proposed project, which are discussed in Impact PS-4. Because the proposed project would provide the required square footage for open space within the project site, as discussed in Impact PS-4, it is not anticipated that residents would need to seek open space opportunities elsewhere within the city to such a degree that overuse of existing facilities would result.

Given the provision of adequate area on the project site for diverse open spaces and streets, as well as the wide variety and quantity of nearby public parks, plazas, and recreational opportunities, the anticipated increase in demand generated by the proposed project would not increase the use of adjacent or nearby recreational facilities such that substantial physical deterioration of existing facilities would occur or be accelerated. Therefore, as concluded on page 4.J-51, this impact was found to be less than significant. The comment does not present any evidence of a new significant impact with respect to increased demand on shoreline public access and impacts on nearby parks and public access areas; therefore, no additional analysis or change to the Draft EIR conclusions is required, and recirculation of the EIR or a section of the EIR is not required.

## J. BIOLOGICAL RESOURCES

The comments and corresponding responses in this section cover topics in Section 4.L, *Biological Resources*, of the Draft EIR. These include topics related to:

- BI-1: Impacts on Bay Resources from Fill
- BI-2: Species at the Project Site
- BI-3: Impacts on Species
- BI-4: Impacts on Pacific Herring

### COMMENT BI-1: IMPACTS ON BAY RESOURCES FROM FILL

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-BCDC-20

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“Fill and Impacts to Bay Resources. The DEIR anticipates the need for filling of Bay waters for work to Pier 48 and rehabilitation of the seawall adjacent to Pier 48. Minor fill for public access is also anticipated on the Pier 48 apron, which is generally consistent with the Commission's policies on Bay fill. The DEIR indicates that the proposed project has the potential to impact special status marine species and their habitat, including longfin smelt, green sturgeon, Central California coast steelhead, Chinook salmon, as well as other species of concern.

Section 66605 of the McAtter-Petris Act sets forth the criteria necessary to authorize placing fill in the Bay and certain waterways. It states, among other things, that further filling of the Bay should only be authorized if it is the minimum necessary to achieve the purpose of the fill and if harmful effects associated with its placement are minimized. According to the Act, fill should be authorized only when no alternative upland location is available for such purpose.” (*Ethan Lavine, June 12, 2017, [A-BCDC-20]*)

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**RESPONSE BI-1**

The comment describes potential impacts from fill on biological resources in the Bay and refers to Section 66605 of the McAteer-Petris Act, which sets forth the criteria necessary to authorize placing fill in the Bay and certain waterways. Impacts resulting from changes in the amount of fill in the Bay are discussed under Impact BI-2 in Section 4.L, *Biological Resources*, beginning on page 4.L-36. As part of the rehabilitation of Pier 48, the project would remove approximately 675 24-inch-diameter rounded creosote-treated wooden piles and replace them with 62 18- or 24-inch-wide square precast concrete piles and 44 steel-cased concrete-filled piles, which are anticipated to be approximately 120 feet in length and either 4 or 6 feet in diameter. As shown in Table 4.L-5, with the change in piles at Pier 48, the project would result in a net decrease in fill, from 6,519 cubic yards to 4,423 cubic yards, and an increase in the amount of subtidal habitat surface area. As a result, the project would increase the amount of useable habitat for special-status fish and/or marine mammals under the pier. This would benefit special-status fish and/or marine mammals and be consistent with Section 66605 of the McAteer-Petris Act because the overall amount of fill in the Bay would be reduced. BCDC will have an opportunity to assess consistency with Section 66605 of the McAteer-Petris Act as part of the BCDC permitting process.

As explained in Section 6, *Variants*, of the Draft EIR, on pages 6-28 and 6-29, construction of the bay source heating/cooling system under Variant 1, District Energy/Bay-Source Energy Capture, would result in a change in habitat for green sturgeon and Essential Fish Habitat (EFH) for Pacific salmonids, coastal pelagic species, and groundfish. The system would include installation of intake and outfall pipelines on the seabed or under the seabed. It is anticipated an area of approximately 6,000 square feet would be needed to accommodate the pipes, piles, and any other related infrastructure. This would result in replacement of approximately 6,000 square feet of Bay substrate with the pipes, piles, and related infrastructure. The replacement of this small area of the Bay floor under Variant 1 would result in the loss of invertebrates that utilize soft Bay-bottom sediments but would introduce areas of hard substrate that would be colonized by invertebrate species that prefer hard substrates. This change may affect some fish species negatively and others positively, with a neutral effect overall on special-status species and EFH. The placement of piles would be adjacent to Pier 48 under Variant 1, which is considered a relatively disturbed environment in comparison to other open water portions of the Bay. All of the EFH species spawn in or around San Francisco Bay and coastal ocean waters. Habitat loss would be minimal because other areas in the Bay would be available, and the project area serves as a transient migration and rearing area. Because the effect of replacement of the soft bottom substrate with hard substrate would be neutral overall on special-status and non-special-status fish species, this impact is considered less than significant under Variant 1. The change in substrate would not

have adverse population effects on Pacific salmonids, coastal pelagic species, or groundfish. This impact would occur only under Variant 1 and would not occur under the proposed project.

The comment does not present any evidence that the analysis of impacts from fill in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

## **COMMENT BI-2: POTENTIALLY AFFECTED SPECIES**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-CDFW-2
- A-CDFW-3

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**“Biological Significance:** The San Francisco Bay-Delta is the second largest estuary in the United States and supports numerous aquatic habitats and biological communities. It encompasses 479 square miles, including shallow mudflats. This ecologically significant ecosystem supports a number of state and federally threatened and endangered species, and sustains important commercial and recreational fisheries. Protected marine species under the State and Federal Endangered Species Acts that could potentially be impacted by Project activities include:

- Chinook Salmon (*Oncorhynchus tshawytscha*), state and federally threatened (spring-run), state and federally endangered (winter-run)
  - Steelhead (*Oncorhynchus mykiss*), federally threatened (Central California Coast and Central Valley ESUs)
  - Green Sturgeon (*Acipenser medirostris*), federally threatened (southern DPS)
  - Longfin Smelt (*Spirinchus thaleichthys*), state-threatened
  - Southern Sea Otter (*Enhydra lutris nereis*)
  - Peregrine Falcon (*Falco peregrinus anatum*)
  - Brown Pelican (*Pelecanus occidentalis californicus*)
  - California Least Tern (*Sterna antillarum browni*).” (Craig Shuman, June 9, 2017, [A-CDFW-2])
-

“Several species with important commercial and recreational fisheries value that could potentially be impacted by project activities include:

- Dungeness Crab (*Cancer magister*),
- Pacific Herring (*Clupea pallasii*),
- Rockfish (*Sebastes* spp.),
- California Halibut (*Paralichthys californicus*)
- Surfperches (*Embiotocidae*).” (Craig Shuman, June 9, 2017, [A-CDFW-3])

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## RESPONSE BI-2

The comments list protected marine species under the state and federal Endangered Species Acts as well as species with important commercial and recreational fisheries value that the project could affect. All of the state and federally protected species listed in the comment are included in Table 4.L-1 as species with potential to occur in the study area, except for the southern sea otter (*Enhydra lutris nereis*) and the Central Valley steelhead. Southern sea otter was not specifically addressed in the Draft EIR because this species is found from Pigeon Point, along coastal San Mateo County, to Santa Barbara County.<sup>10</sup> San Francisco Bay is out of the species' documented range and does not contain important rocky kelp forest habitat utilized by the species.<sup>11</sup> Occasional and incidental sightings of southern sea otter have been reported within the Bay. However, the Bay does not provide the conditions necessary for breeding, feeding, and foraging, and take (as defined by the California Fish and Game Code) of this species is not anticipated.

The Draft EIR Section 4.L, *Biological Resources*, has been revised to include reference to the Central Valley steelhead on the pages indicated below. Impacts on central California coast steelhead and Central Valley steelhead would be the same. These revisions do not change any of the analyses or conclusions of the EIR. Therefore, recirculation of the EIR or a section of the EIR is not required.

The following row has been added into Table 4.L-1 on page 4.L10, below Central California coast steelhead:

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<sup>10</sup> U.S. Fish and Wildlife Service. 2015. *Southern Sea Otter (Enhydra lutris nereis) 5-year Review: Summary and Evaluation*. Ventura, CA.

<sup>11</sup> Ibid.

Common and Scientific Name	Status	California Distribution	Habitats	Potential Occurrence in Study Area
Central Valley steelhead <i>Oncorhynchus mykiss</i>	T/--	Sacramento and San Joaquin Rivers and tributary Central Valley rivers	Occurs in well-oxygenated, cool, riverine habitat with water temperatures from 7.8 to 18°C (Moyle 2002). Habitat types are riffles, runs, and pools.	<b>Moderate.</b> Species may migrate through the study area.

## Page 4.L-14:

Special-status fish species with the potential to occur in the study area include the green sturgeon southern distinct population segment (DPS) (*Acipenser medirostris*), which is federally listed as threatened; longfin smelt (*Spirinchus thaleichthys*), a federal, candidate, and state-listed threatened species; the central California coast steelhead DPS (*Oncorhynchus mykiss*); the Central Valley steelhead DPS (*Oncorhynchus mykiss*); and several Chinook salmon (*Oncorhynchus tshawytscha*) runs, which are federally listed as threatened and endangered (Table 4.L-1, page 4.L-6). All of these species could forage in the Bay.

## Page 4.L-15:

Central California coast steelhead includes populations from the Russian River south to Aptos Creek in Santa Cruz County, including streams that are tributaries to San Francisco and San Pablo Bays. Central Valley steelhead includes populations from the Sacramento and San Joaquin Rivers, including tributaries to Central Valley rivers. Adults migrate upstream to freshwater from December to March, and juveniles emigrate downstream to the Bay in late winter and spring.<sup>12</sup> The study area could provide rearing and migratory habitat for both adult and juvenile steelhead.

Of the species with important commercial and recreational fisheries value, Pacific herring and rockfish are discussed in Section 4.L, *Biological Resources*. The comment lists species with important commercial and recreational fisheries value that could be affected by project activities. Dungeness crab, California halibut, and surfperches are species that are not regulated in California outside of commercial and recreational fishing programs; therefore, they are not required to be addressed specifically in the Draft EIR. Only a minimal amount of project work would occur in potential habitat for these species, and no population-level effects are anticipated as a result of the proposed project.

<sup>12</sup> Center for Biological Diversity. No date. *Natural History*. Central California Coast Steelhead Trout, *Oncorhynchus mykiss*. Available: [http://www.biologicaldiversity.org/species/fish/central\\_california\\_coast\\_steelhead\\_trout/natural\\_history.html](http://www.biologicaldiversity.org/species/fish/central_california_coast_steelhead_trout/natural_history.html). Accessed: August 8, 2016.

Although Dungeness crab, California halibut, and surfperches are not included as Essential Fish Habitat– (EFH-) managed species, the analysis of EFH on pages 4.L-14 through 4.L-16, 4.L-55, and 6-27 and 6-28 of the Draft EIR would apply to these species. The analysis of EFH requirements and potential project impacts is applicable to Dungeness crab, California halibut, and surfperches. The analysis of project impacts related to EFH would be considered less than significant and less than cumulatively considerable. This conclusion would apply to Dungeness crab, California halibut, and surfperches if CEQA analysis of these species were to be required. However, these species are not special-status species under CEQA, and no population-level effects would occur. The comment does not provide any information contrary to or inconsistent with this conclusion. Therefore, no changes to the conclusions presented in the Draft EIR would result, and no revisions to the Draft EIR are required. Recirculation of the EIR or a section of the EIR is also not required.

### **COMMENT BI-3: IMPACTS ON SPECIES**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-CDFW-4
- A-CDFW-5
- A-CDFW-6
- A-CDFW-7
- A-CDFW-10
- A-CDFW-11

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**“Potential Take of State Listed Species:** The pile driving associated with the Pier 48 seismic upgrade has the potential to impact state listed species. As specified in the DEIR, pile driving 18” to 24” concrete piles with an impact hammer will exceed the hydroacoustic thresholds for injury to fish. Specifically, the accumulated sound exposure level (SEL) of 183 decibels (dB) for fish under 2 grams and the 187 dB SEL threshold for fish over 2 grams. Additionally, the DEIR discusses the potential need to use an impact hammer for the large diameter, 48” or 72”, steel pipe piles in the event that a vibratory hammer cannot get the pile to the necessary depth. Driving piles of this diameter with an impact hammer, even with sound attenuation measures in place and for short durations of time, may still exceed the 206 dB peak SEL threshold that is associated with fish mortality.” (Craig Shuman, June 9, 2017, [A-CDFW-4])

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“Additionally, the Project Variant 1(District Energy/Bay-Source Energy Capture), mentioned in volume 2 of the EIR, has the potential to entrain state listed species through the proposed water intake structure and screen. The intake screen approach velocities specified within the variant description are consistent with Department recommendations. However, the ultimate design and application of any fish screen may still pose a risk of take. Screen designs and tests both need to be reviewed and approved by Department screen engineers and scientists prior to implementing any fish screen design within the waters of the state.” (Craig Shuman, June 9, 2017, [A-CDFW-5])

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“The project has multiple components that pose a risk of take to state listed species. The Department recommends that the applicant consult with the Department regarding the need for incidental take coverage, in the form of a 2081(b) Incidental Take Permit (ITP) (Fish and G. Code § 2081), for all components and/or phases of the Project that may result in take.” (Craig Shuman, June 9, 2017, [A-CDFW-6])

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“**Fully Protected Species:** The Department has jurisdiction over fully protected species pursuant to Fish and Game Code Sections 3511, 4700, 5050, and 5515. Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and certain relocation situations. Therefore take of any fully protected animal species is prohibited and must be avoided by the Project. Fully protected marine species in the Project area include: the Brown Pelican, Peregrine Falcon, and the California Least Tern. There is also potential for the Southern Sea Otter to be present within the Project area. The Department recommends including the fully protected species status in the biological discussion for species in the Project area. Additionally, the Department recommends discussing the potential impacts on fully protected species in the Final EIR. The Department maintains a list of fully protected species on the Department's web site: [http://www.dfg.ca.gov/wildlife/nongame/t\\_e\\_spp/fully\\_pro.html](http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/fully_pro.html).” (Craig Shuman, June 9, 2017, [A-CDFW-7])

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“For all components and/or phases of the Project that may potentially take state listed species, the applicant should consult with the Department regarding incidental take coverage.” (Craig Shuman, June 9, 2017, [A-CDFW-10])

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“The Final EIR should be very specific regarding potential impacts to state fully protected species and the minimization and avoidance measures that will be implemented.” (Craig Shuman, June 9, 2017, [A-CDFW-11])

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**RESPONSE BI-3**

The comments describe potential impacts on fish species from pile driving proposed as part of the project and from Variant 1 and suggest the project sponsor consult with CDFW regarding the need for an Incidental Take Permit. The comments also request a discussion of potential impacts on fully protected species.

Comment A-CDFW-4 on page 3-70, which describes potential noise impacts from pile driving on fish species, is correct. Page 4.L-42 in Section 4.L, *Biological Resources*, of the Draft EIR states that “peak sound levels generated by impact pile driving would exceed the thresholds for the protection of fish only within areas that are less than 2 to 3 meters from pile driving; such sound levels would be unlikely to result in fish injury. However, accumulated sound levels<sup>13</sup> from impact pile driving could cause injury to fish of all sizes within 28 to 51 meters of the source of pile driving (without attenuation). This is based on the conservative assumption that fish remain in the potential zone of injury for an entire day of pile-driving operations. As noted above, vibratory pile driving and extraction are not expected to result in injury to fish.” However, as further described in Section 4.L, *Biological Resources*, on page 4.L-47, implementation of Mitigation Measures M-BI-3.1 and M-BI-3.2 would reduce noise impacts on special-status fish species related to project pile-driving activities by prioritizing vibratory pile driving wherever feasible, employing a “soft start” technique that allows fish the opportunity to leave the impact area, implementing noise attenuation measures, and limiting impact pile driving to a season when special-status fish species are unlikely to be in the area. With implementation of Mitigation Measures M-BI-3.1 and M-BI-3.2, peak and accumulated sound levels would be below injury threshold levels, except in the immediate area around the pile driver itself (i.e., 2 meters for peak levels and 13 to 24 meters for accumulative sound levels). It is unlikely that fish would be exposed to accumulated sound levels over a full day of pile driving, and the likelihood of affecting special-status species would be remote. This impact would be mitigated to a less-than-significant level. Therefore, no changes to the conclusions presented in the Draft EIR would result, and no revisions to the Draft EIR are required.

The potential impacts on fish species, including state-listed species, from entrainment within the water intake under Variant 1 (District Energy/Bay-Source Energy Capture) of the proposed project are discussed in Chapter 6, *Variants*, on pages 6-27 and 6-28 of the Draft EIR. Based on the screen mesh size, required intake velocity at the screen, and the life stages of state-listed fish species potentially present in the area surrounding the screen, it was determined that the project would avoid the potential to affect state-listed species. The comment does not provide any information in dispute of that finding.

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<sup>13</sup> The underwater sound pressure level that a fish may experience during pile driving over a day.

If Variant 1 (District Energy/Bay-Source Energy Capture) is implemented, a National Pollutant Discharge Elimination System (NPDES) permit would be required from the Regional Water Quality Control Board (RWQCB). To issue the NPDES permit, the RWQCB would be required to comply with the antidegradation provisions of 40 Code of Federal Regulations Section 131.12 and State Water Resources Control Board Resolution 68-16. Impingement and entrainment of fish are included in the antidegradation analysis. CDFW will have an opportunity to review and comment on the screen design during the public comment period required as part of the NPDES permit approval process or as part of informal inter-agency consultation, as initiated by the RWQCB when seeking guidance for the antidegradation findings of the NPDES permit.

The comments related to impacts on state-listed species do not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR or state a specific question regarding the sufficiency of the analysis or mitigation measures contained in the Draft EIR. As discussed above, the Draft EIR evaluates the potential impacts of the proposed project as well as the mitigation measures as they pertain to potential impacts on state-listed species. Page 2-76 in Chapter 2, *Project Description*, of the Draft EIR lists CDFW as an agency that may issue a separate project-specific approval related to the California Endangered Species Act. CDFW would be consulted, as requested in this comment, regarding components of the proposed project that may reasonably result in the take of state-listed species.

Section 4.L, *Biological Resources*, of the Draft EIR, page 4L-21, paragraph 3, includes the following information on the California Fish and Game Code:

**California Fish and Game Code.** The California Fish and Game Code provides protection from take for a variety of species, referred to as fully protected species. Section 3511 lists fully protected birds, Section 3515 lists fully protected fish, Section 4700 lists fully protected mammals, and Section 5050 lists fully protected amphibians and reptiles. The California Fish and Game Code, Section 86, defines take as any action to “hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill.” Except for take related to scientific research, all take of fully protected species is prohibited.

Information on the status of fully protected species is provided in Table 4.L-1, Special-Status Species with Potential to Occur in the Study Area, in Section 4.L, *Biological Resources*, pages 4.L-6 through 4.L-12 of the Draft EIR. In response to this comment, the third paragraph on page 4.L-5 in Section 4.L, *Biological Resources*, of the Draft EIR has been revised as follows. The revision does not change any of the analyses or conclusions of the EIR, and recirculation of the EIR or a section of the EIR is not required.

Special-status bird species with the potential to occur in the study area include American peregrine falcon (*Falco pererinus anatum*), brown pelican (*Pelecanus occidentalis californicus*), black skimmer (*Rynchops nigers*), and California least tern (*Sternula*

*antillarum*). American peregrine falcon, brown pelican, and California least tern are fully protected species under the California Fish and Game Code, and take of these species, as defined in the California Fish and Game Code, is prohibited. The project site does not provide potential nesting habitat for these species; however, these avian species may forage in or over the Bay near the project site.

In addition, the acronym “FP” is used in Table 4.L-1 (pages 4.L-6 through 4.L-12) to identify fully protected species. “FP” is used in the “status” column for peregrine falcon and California least tern; however, the acronym was omitted for California brown pelican. To correct the error, the text in the first row of Table 4.L-1 (page 4.L-6) in Section 4.L, *Biological Resources*, has been revised. The revision does not change any of the analyses or conclusions of the EIR.

Common and Scientific Name	Status
	Federal/State
<b>Birds</b>	
California brown pelican <i>Pelecanus occidentalis californicus</i>	FD/SD/FP

Potential impacts on brown pelican, peregrine falcon, and California least tern are addressed in Impact BI-5, on page 4L-52 in Section 4.L, *Biological Resources*, of the Draft EIR. However, in response to this comment, the impact evaluation for these species in the last paragraph on page 4.L-52 in Section 4.L, *Biological Resources*, has been revised as follows:

Bird species ~~which~~ that forage in the Bay (including the fully protected species brown pelican, peregrine falcon, and California least tern) would not be adversely affected by construction activities at the project site and could avoid construction that ~~will~~ would occur in the Bay. Construction noise would have very little impact on foraging activities ~~since~~ because birds in this area are acclimated to high levels of urban activity and noise. Therefore, the proposed project would not result in take of fully protected species.

Potential project impacts on brown pelican, peregrine falcon, and California least tern would consist of a limited degree of effect on foraging habitat, which would not constitute take, as defined in the California Fish and Game Code. No take of these fully protected species would occur.

Southern sea otter (*Enhydra lutris nereis*) was not specifically addressed in the Draft EIR because this species is found from Pigeon Point, along coastal San Mateo County, to Santa Barbara County.<sup>14</sup> San Francisco Bay is out of the species' documented range and does not contain the

<sup>14</sup> Ibid.

important rocky kelp forest habitat utilized by the species.<sup>15</sup> Occasional and incidental sightings of southern sea otter have been reported within the Bay. However, the Bay does not provide the conditions necessary for breeding, feeding, and foraging, and take (as defined by the California Fish and Game Code) of this species is not anticipated.

#### **COMMENT BI-4: IMPACTS ON PACIFIC HERRING**

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- A-CDFW-8
- A-CDFW-9
- A-CDFW-12

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**“Pacific Herring:** Pacific herring are an important forage species for ocean and bay food webs. Forage fish are defined as species that contribute significantly to the diets of larger organisms during some part of their life history. Herring eggs, larvae, young-of-the-year, and adults provide a food source for a variety of birds, mammals, fishes, and invertebrates. In 2012, the California Fish and Game Commission adopted a Forage Species Policy, (<http://www.fgc.ca.gov/policy/>), which recognizes the importance of forage species to the California Current Large Marine Ecosystem. This policy intends to provide adequate protection for forage species through precautionary and informed management, and by identifying and progressively incorporating Essential Fishery Information needed for ecosystem-based management.

Within San Francisco Bay, herring spawn during the winter months from November through March. The approximate area from the Bay Bridge south through the Central Basin, which includes the entirety of the Project area, has been highlighted by the Department as 1 of 2 critical herring spawning areas within San Francisco Bay. The Department recommends that all in-water work activities remain within the proposed work window of June 1 through November 30. In the event that working within the proposed work window is not feasible, the applicant shall consult with the Department on how to proceed.” (*Craig Shuman, June 9, 2017, [A-CDFW-8]*)

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“Project Variant 1 poses a significant risk of entrainment and/or impingement of Pacific herring eggs and larvae during the winter months. Since the Project area is within a sensitive spawning location, the risk of impacting larval herring is significantly higher than in surrounding areas.

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<sup>15</sup> Ibid.

Additionally, the Department's screen criteria discussed in the DEIR is protective of juvenile smelt and salmonids but may not be protective of much smaller herring larvae and eggs. There is high likelihood that the screening criteria would not be sufficient in protecting these sensitive life stages of herring." (*Craig Shuman, June 9, 2017, [A-CDFW-9]*)

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"All in-water construction activities should be scheduled within the proposed work window of June 1 through November 30 to avoid impacts to state listed species and sensitive Pacific herring spawning habitat." (*Craig Shuman, June 9, 2017, [A-CDFW-12]*)

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#### **RESPONSE BI-4**

The comment explains the importance of Pacific herring and requests that all in-water work remain within the proposed work window of June 1 through November 30. The comment also states that, under Variant 1, the screening criteria most likely would not be adequate with respect to protecting smaller herring larvae and eggs.

Mitigation Measure M-BI-3.1 in Section 4.L, *Biological Resources*, on page 4L-47 of the Draft EIR states, in part, that:

In-water pile installation using impact hammers shall occur within the work window of June 1 to November 30, which has been established for dredging in San Francisco Bay to reduce potential effects on special-status fish species.

The analysis in the Draft EIR is consistent with this comment. By limiting in-water work to the window of June 1 to November 30 (when Pacific herring are unlikely to be in the area), as specified in Mitigation Measure M-BI-3.1, potential impacts on spawning herring would be avoided.

Impacts on Pacific herring larvae under Variant 1 (District Energy/Bay-Source Energy Capture) are discussed under the "Entrainment" section of pages 6-26 through 6-28 in Chapter 6, *Variants*, of the Draft EIR. Page 6-27 of the Draft EIR acknowledges that there is potential for impingement or entrainment of Pacific herring larvae as a result of this variant. The Draft EIR concludes that this would be a less-than-significant impact, as stated in the second paragraph on page 6-28:

The volume of water pumped and the numbers of eggs and larvae that may be affected represents a very small fraction of the total pelagic habitat and spawning distribution of these species, which includes the coast of California, not just the San Francisco Bay. In addition, these species have high fecundity and support major commercial fisheries because of their abundance. With the limitations on screen velocity and mesh size, entrainment and impingement of eggs and/or juveniles from the pump would not have a population effect on these species. This impact is considered *less than significant* under Variant 1.

Pacific herring lay adhesive eggs on natural and manmade structures, including eelgrass, rock riprap, and pilings, in the intertidal zone. As stated in Chapter 6, *Variants*, on page 6-4 of the Draft EIR, if a bottom-mounted subtidal intake structure is used for the bay-source energy capture solution under Variant 1, the structure would extend approximately 600 to 1,400 feet into the Bay, and the protective intake screen would be subtidal. If the other option for bay-source energy capture, horizontally directionally drilled (HDD) pipes, is used, the pipes would be under the riprap and subtidal intake screen, similarly located approximately 600 to 1,400 feet into the Bay, and in the water column during periods of herring spawning. The location and subtidal nature of the intake structure for either the bottom-mounted or the HDD pipe intake screen would make it less likely for herring to spawn directly on the fish screen. Because herring eggs are adhesive, once they are attached to intertidal substrate, the subtidal intake structure would not entrain the eggs. The fish screen's mesh size and approach velocity would comply with CDFW guidance for Delta smelt and longfin smelt, which are sensitive protected species. There is no specific guidance from CDFW for Pacific herring that recommends a more conservative mesh size and approach velocity than those provided for smelt. Variant 1 would comply with the best available technical standards. Pacific herring is not a listed or sensitive fish species, and the potential area of effect for impingement and entrainment is very small relative to the area available for spawning and larval rearing in the Bay. The analysis in the Draft EIR was based on these factors, and the finding of less-than-significant impact reflects the conclusion that no measureable population-level effect is anticipated as a result of Variant 1. The comment does not provide any factual information contrary to or inconsistent with this conclusion; therefore, no revisions to the Draft EIR analysis or conclusions are required. Recirculation of the EIR or a section of the EIR is not required.

## K. GEOLOGY

The comments and corresponding responses in this section cover topics in Section 4.M, *Geology and Soils*, of the Draft EIR.

### COMMENT GE-1: EARTHQUAKE RISK

This response addresses comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- I-Garfinkle-2
- I-Stokus (1)-4
- I-Stokus (1)-6
- I-Wong-6

“I worry about the potential for devastating earthquake damage in an area that is all landfill and is already showing signs of buckling sidewalks and construction in projects that have been built. But most of all, I am skeptical of the planning for sea level rise in the location.” (*Deborah Garfinkle, May 05, 2017 [I-Garfinkle-2]*)

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“4. The Giants Mission Rock project would be built on a site of approximately 270 feet of submarginal water saturated bay fill subject to earthquake, tsunami, and sea level rise. The public would be asked to foot an approximately \$150 million bill to (hopefully) stabilize the site so that the Giants can build their private development.

The Warriors asked the public for approximately \$150 million to build a new Pier 30-32 on which to build a new Warriors Arena. The answer was a resounding NO.

Now the Giants want the public to spend approximately \$150 million to stabilize (the Giants hope) a water saturated bay fill site so that they can build private high rises. The answer should be the same: NO.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-4]*)

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“6. The Port of San Francisco, acting as the manager for the trustee for the public, is promoting this project as in the best interests of the public (the land owners under public trust waterfront law). It is not in the best interests of the public.

- e. It is construction that is not an allowed use under State and Federal public trust waterfront law.
- f. It is an unlawful giving up to private interests of public trust waterfront land.
- g. It does not honor previous planning agreements and zoning.
- h. It is not being built on a stable geological site and the public would be asked to spend approximately \$150 million to stabilize the site.

The public would be exposed to great future liability.

This is a project that the public should not be involved in.

Leave this type of project to private developers who develop on private land, put up 100% private capital, and take all of the profits and all of the liability without their hand in the public’s pocket.

It is time for the Giants owners to put on their “developer big pants” on and start acting like other developers that take big risks and earn big profits.

The Warriors are doing it, so can the Giants.

It is also time for the Port of San Francisco to deal with the reality that the land they manage under the public waterfront land trust is not suitable for tall and/ or heavy structures. That is because it is either underwater (under piers) or is water saturated bay fill subject to liquefaction during an earthquake, and to tsunami and to sea level rise.

The public trust waterfront law was put in place in 1892 to prevent politicians and developers from pushing through waterfront projects that history has proven are not suitable for the waterfront.

The waterfront—the meeting of the land and the sea—has always been one of the most dangerous places on earth to build anything.

Throughout history ‘Nature bats last.’” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-6]*)

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“**Seismic Mitigations for Streets, Sidewalks and Utilities:** With large-scale construction, the opportunity exists to design streets, sidewalks and utilities for earthquakes—for a larger area leading to the site. A regional perspective is a good investment, allowing future access to the entire region in the aftermath of a major earthquake.” (*Howard Wong, June 12, 2017, [I-Wong-6]*)

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## **RESPONSE GE-1**

The comments concern constructing buildings in the project area in light of earthquake risks and fill at the project site. Responses to comments pertaining to sea-level rise are addressed in Response HY-1 on page 3-83 and responses regarding the public trust are addressed in Response PO-1 on page 3-22. The commenters are correct in stating that earthquake hazards exist at the project site.

Draft EIR Section 4.M, *Geology and Soils*, analyzed the proposed project's potential impacts related to earthquakes and concluded that the impacts would be less than significant (see discussions of Impacts GE-1a through GE-1c, GE-3, and C-GE-I on pages 4.M-27 through 4.M-33, 4.M-36, and 4.M-37 in Section 4.M, *Geology and Soils*). The Draft EIR acknowledges that the project would be built on fill, as described in detail on pages 4.M-3 and 4.M-4 of the Draft EIR. As discussed on pages 4.M-28 and 4.M-29 in Section 4.M, *Geology and Soils*, of the Draft EIR, development of the proposed project would involve construction and occupancy of new buildings in a location where strong seismic ground shaking can be expected to occur over the life of the project. Buildings would be constructed on piles, with foundations that would be designed to withstand seismic activity. Proper designs and construction methods, as outlined in the design-level geotechnical reports prepared in accordance with the Seismic Hazards Mapping Act, California Geological Survey Special Publication 117A, 2016 Port Building Code, and 2016 California Building Code, which would be monitored and enforced through the building permit process, would minimize the effects of seismically induced ground shaking. For

example, the streets and sidewalks for the proposed project would be pile supported. Furthermore, the preliminary geotechnical reports prepared for the proposed project did not identify any seismic or geologic hazards that are unique to the project site or otherwise uncharacteristic of the project area that cannot be mitigated by compliance with standard building code requirements.

In terms of analyzing impacts under CEQA, no components of the proposed project would alter the existing seismic environment or the risk of seismically induced ground shaking that already is present at the project site. The project would not worsen earthquake-related risks from seismic ground shaking that currently exist for any persons or structures at the project site. Therefore, project implementation would not exacerbate the existing vulnerability to seismically induced ground shaking at the project site. Thus, as explained in the Draft EIR, the impact would be less than significant under CEQA.

The comment about a cost of \$150 million for site stabilization does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR. However, the comment apparently misinterprets AB 2797 by suggesting that the public would be requested to spend approximately \$150 million to stabilize the project site. Section 2 of AB 2797 includes legislative findings, a portion of which is excerpted in the comment letter. Section 2(e) of AB 2797 finds that the costs for new infrastructure and public facilities (not site stabilization costs) are expected to exceed \$150 million, based on estimates presented to the Port Commission when it endorsed a term sheet for the project in 2013.

With respect to financing, the state legislature found in Section 2(e) of AB 2797 that:

The development proposal provides for the Seawall Lot 337 developer to construct the necessary infrastructure and public facilities, which would be funded by developer equity to the extent that Port land value is unavailable. Project-based public financing would be used to pay directly or to reimburse the Seawall Lot 337 developer for its equity advances for infrastructure costs under CFD law, IFD law, and other applicable laws.

Further, the findings in Section 2(f) state that:

Project-based public financing, which includes special taxes, property tax increments, and other nontrust funding sources arising from the project, may not become available until after the Port receives nontrust lease revenues from development parcels in Seawall Lot 337. The Port may have the opportunity to loan nontrust lease revenues for Seawall Lot 337 infrastructure costs for the purpose of reducing financing costs and maximizing the land value to the Port to generate additional revenue that can be used for preservation of the Port's historic piers and structures and for other public trust uses.

The term sheet for the proposed project, which was endorsed by Port Resolution No. 13-40 and Board of Supervisors Resolution No. 142-13 and fully executed on June 7, 2013, provides additional details regarding financing for the proposed project.<sup>161718</sup>

The comment does not present any evidence that the earthquake risk analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

## L. HYDROLOGY

The comments and corresponding responses in this section cover topics in Section 4.N, *Hydrology and Water Quality*, of the Draft EIR. These include topics related to:

- HY-1: Sea Level Rise
- HY-2: Naturally Resilient Communities

### COMMENT HY-1: SEA LEVEL RISE

This response addresses comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- A-BCDC-26
- A-BCDC-27
- A-BCDC-28
- I-Garfinkle-2
- I-Stokus (1)-4
- I-Stokus (3)-1
- I-Stokus (3)-2

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**“Climate Change.** The DEIR considers the potential for inundation of Seawall Lot 337 during a 100-year storm event, assuming sea-level rise of 11 to 24 inches by 2050, and 36 to 66 inches by 2100. Buildings and internal streets and sidewalks would be elevated to avoid inundation in the event of a 100-year storm through 2100. China Basin Park would be partially inundated during such an event by the end of the century. It would be regraded to slope upward from the shoreline and serve in part as a buffer for flood waters during such an event, however

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<sup>16</sup> Port of San Francisco. 2013. *Term Sheet between the City and County of San Francisco, Acting by and through the San Francisco Port Commission and Seawall Lot 337 Associates, LLC*. May 14.

<sup>17</sup> Port Commission, City and County of San Francisco. 2013. *Resolution No. 13-10*. March 12.

<sup>18</sup> City and County of San Francisco. 2013. *Resolution 142-13*. May 14.

permanent structures (e.g., kiosks), the Bay Trail, and certain other elements would be placed at an elevation where they would not be inundated under these projections. The DEIR also states that the parking garage under Mission Rock Square would be protected by a berm or flood gate.

An adaptation approach for elements of the proposed project along the eastern edge of the project site, including Pier 48, the marginal wharf area and Terry A. Francois Boulevard, is not discussed in detail, however, according to the DEIR strategies have been developed for the project site, the shoreline, and the pier. The DEIR indicates that 'Pier 48 sits at a higher surface elevation, and no part of the pier is within an anticipated future flood zone. However at the mid-century level of the SLR scenario, pier decks on Pier 48 may be affected where utility infrastructure is currently located beneath the pier decks. In addition, the structural integrity of the pier's substructure can be threatened, and wave action underneath the piers can create uplift.'" (*Ethan Lavine, June 12, 2017, [A-BCDC-26]*)

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"The FEIR should discuss and consider the proposed project's consistency with BCDC policies related to Climate Change. Climate Change Policy No. 3 states that where an assessment of a project shows vulnerability to public safety, the project 'should be designed to be resilient to a mid-century sea level rise projection,' and for a project that 'will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise....' Please provide additional discussion regarding any measures in the proposed project's design that have been incorporated to achieve resiliency to a midcentury sea level rise projection along the Terry A. Francois Boulevard and Pier 48, as well as possible adaptation approaches identified to address the long-term impacts." (*Ethan Lavine, June 12, 2017, [A-BCDC-27]*)

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"Please provide additional detail on those elements within China Basin Park would be inundated either permanently or periodically for the life of the proposed project, and calculate the area that would be subject to such inundation on a regular or periodic basis." (*Ethan Lavine, June 12, 2017, [A-BCDC-28]*)

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"I worry about the potential for devastating earthquake damage in an area that is all landfill and is already showing signs of buckling sidewalks and construction in projects that have been built. But most of all, I am skeptical of the planning for sea level rise in the location." (*Deborah Garfinkle, May 05, 2017 [I-Garfinkle-2]*)

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“The Giants Mission Rock project would be built on a site of approximately 270 feet of submarginal water saturated bay fill subject to earthquake, tsunami, and sea level rise. The public would be asked to foot an approximately \$150 million bill to (hopefully) stabilize the site so that the Giants can build their private development.

The Warriors asked the public for approximately \$150 million to build a new Pier 30-32 on which to build a new Warriors Arena. The answer was a resounding NO.

Now the Giants want the public to spend approximately \$150 million to stabilize (the Giants hope) a water saturated bay fill site so that they can build private high rises. The answer should be the same: NO.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-1-4]*)

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“A city-commissioned environmental study that detailed how the Mission Bay neighborhood would be inundated by rising seas in coming decades went unpublished for more than a year while two showcase waterfront developments won key approvals from city officials and voters, a Public Press review of records shows.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-3-1]*)

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“Fran Weld, the Giants’ vice president of development, said the team was “able to learn from the process.” She said the 28-acre Mission Rock site would be re-engineered and could function as a levee. The Giants’ plan to raise the buildings to 5.5 feet above today’s mean high tide, surrounded with graded parks that drain to the streets and the bay. She said a Mello-Roos tax – a special neighborhood-based real estate surcharge – would help pay for future sea rise protections.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-3-2]*)

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#### **RESPONSE HY-1**

The comments note that Pier 48 may be affected by sea-level rise and that projects should be designed to be consistent with BCDC policies that call for projects to be resilient to mid-century sea-level rise projections and incorporate adaptive management. In addition, one comment states that the structural integrity of Pier 48's substructure could be adversely affected by sea-level rise. One comment also requests additional detail on elements within China Basin Park. Other comments question the location of the proposed project because of concerns over sea-level rise, the city-commissioned study on sea-level rise, and the proposed engineering at the project site to address sea-level rise. Responses to comments pertaining to earthquake risk are addressed in Response GE-1 on page 3-78.

Draft EIR Section 4.N, *Hydrology and Water Quality*, analyzed the proposed project's potential impacts related to sea-level rise and tsunamis and concluded that these impacts would be less than significant (see discussion of Impacts HY-6 through HY-8 and C-HY-4 on pages 4.N-64

through 4.N-68 and 4.N-72 in Section 4.N, *Hydrology and Water Quality*). Mid-century sea-level rise projections under existing conditions at the project site, including Pier 48, are discussed on page 4.N-23 of the Draft-EIR. Mid-century sea-level rise projections under the proposed project, including at Terry A. Francois Boulevard and Pier 48, are discussed on pages 4.N-64 through 4.N-66 of the Draft EIR.

As explained on page 4.N-65 in Section 4.N, *Hydrology and Water Quality*, of the Draft EIR, development of the proposed project would raise the minimum elevation of the development footprint (i.e., the locations of the proposed buildings) to the base flood elevation (BFE) plus an allowance of 66 inches (5.5 feet) for future sea-level rise. As explained on page 4.N-3 in Section 4.N, *Hydrology and Water Quality*, of the Draft EIR, grades across China Basin Park would transition between the lower areas at the existing grade or in the bio-retention areas and the raised or sloped landscape areas between the Bay Trail and the promenade. The Bay Trail would be elevated to approximately 13.3 feet NAVD88 through the center of the park to provide 6 feet of freeboard from the 2016 King Tide elevation of 7.3 feet NAVD88. The promenade, located on the south side of the park along the northernmost development blocks, would be elevated to approximately 14.8 to 15.3 feet NAVD88 in relationship to the ground floors of adjacent buildings. These elevated areas in the park would preserve public access and help ensure that accessible paths of travel remain free of flood water, except in extreme storm events, according to sea-level rise projections for 2100. Future adaptations would be implemented as required to maintain flood protection for existing public access features. These actions ensure the proposed project is not in conflict with BCDC Climate Change Policy 3.

With respect to Pier 48, there are two principal elements affecting responses to sea-level rise. First, the rehabilitation of Pier 48 is proposed to be consistent with the Secretary of the Interior's Standards of Rehabilitation. Second, the proposed interim use of Pier 48 would be limited to approximately a 30-year lease. Accordingly, the currently proposed rehabilitation of Pier 48 would not be reflective of adaptation to projected mid-century sea-level rise beyond this term because the lease would terminate before 2100 and because of the constraints on rehabilitation of Pier 48 that result from the proposal to be consistent with the Secretary of the Interior's Standards of Rehabilitation.

The Draft EIR analyzes a conceptual plan for China Basin Park. The final design for the park would be further developed during the permitting process, including during the process of obtaining a BCDC major permit. It would be speculative to attempt to calculate the area within China Basin Park that would be inundated because this cannot be determined until final designs have been approved. However, the portions of China Basin Park that would be anticipated to be inundated either permanently or periodically, based on the conceptual plan analyzed in the Draft EIR, are described below and on page 4.N-66 of the Draft EIR in Section 4.N, *Hydrology and Water Quality*.

China Basin Park would maintain shoreline elevations close to the existing grade of approximately 11.3 feet NAVD88. Grades across the park would transition between lower areas at existing grade and bio-retention areas and raised or sloped landscape areas between the Bay Trail and the promenade. The Bay Trail would be elevated to approximately 13.3 feet NAVD88 through the center of the park to provide 6 feet of freeboard from the 2016 King Tide elevation of 7.3 feet NAVD88. The promenade, located on the south side of the park along the northernmost development blocks, would be elevated to an elevation of approximately 14.8–15.3 feet NAVD88 in relationship to the ground floors of adjacent buildings. These elevated areas in the park would preserve public access and help ensure that accessible paths of travel remain free of flood water except in extreme storm events, according to sea-level rise projections for 2100. Future adaptations would be implemented as required to maintain flood protection for existing public access features.

Additionally, as further explained on page 4.N-64 of the Draft EIR in Section 4.N, *Hydrology and Water Quality*:

The Project would review adaptive management strategies in the future and determine the feasibility of solutions if and when the need for such strategies arises. Strategies have been developed for the project site, the shoreline, and the pier. Strategies include setting minimum grades and raising the Promenade and Bay Trail within China Basin Park to provide protection from inundation... When the effects of SLR are considered with both the projected 2050 (12 inches of SLR) and 2100 (36 inches of SLR), only the perimeter of the site is vulnerable to flooding. But, when the effects of 100-year storm surge are considered, more than half of the site east of Pier 48 would be vulnerable to flooding at the midcentury level of the SLR scenario, and the entire site west of Pier 48 would be vulnerable to flooding with projected end-of-century SLR.

Thus, adaptive management strategies would be considered in the future, and feasible solutions would be determined if and when needed, including adaptive management strategies for China Basin Park. Such adaptive management strategies could reduce the area of China Basin Park, which could be periodically or permanently inundated over the life of the proposed project. Specific long-term adaptation strategies are too speculative to determine at this time because there are too many variables as to what solutions might be used, in part because adaptive management strategies for the proposed project would need to be coordinated with the sea-level rise adaptive strategies the City and Port determine to implement on other sites in the vicinity and citywide and because future global circumstances related to sea-level rise are unknown at this time. These project features would be paid for by the project sponsor, not the City of San Francisco or its taxpayers. The City and the project sponsor are complying with all regulatory laws and processes for project approvals, as described in Chapter 2, *Project Description*, Section G, beginning on page 2-74.

Regarding the city-commissioned environmental study, this comment does not identify any particular deficiencies in the analysis and conclusions of the Draft EIR regarding the physical environmental impacts of the proposed project. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required. The concerns raised in these comments will be transmitted to City decision-makers for their consideration during the proposed project's approval process.

## **COMMENT HY-2: NATURALLY RESILIENT COMMUNITIES**

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-SFPC-2

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"The second point I'd like to make is that in the chapter of sea level rise, which is a very well-documented chapter in the lengthy EIR, by 2020, there are apparently significant impacts on the sea and where it would be if we don't do anything about it. There is an organization called Naturally Resilient Communities, [nrcsolutions.org](http://nrcsolutions.org), and I would like the EIR team to look at what they're doing. At this moment, the eight acres of open space—although there is a hydrology diagram—does not quite fit into what many other communities in the United States are already doing called naturally resilient solutions, and I would appreciate if you would take a look at that. (*Commissioner Moore, June 1, 2017, [A-SFPC-2]*)

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## **RESPONSE HY-2**

The comment requests that the project team look into naturally resilient communities to see if any of their solutions can be incorporated into the proposed project. One of the solutions the Naturally Resilient Communities suggests, waterfront parks, is currently incorporated into the proposed project as the expansion of China Basin Park.<sup>19</sup> Many of the other suggestions for addressing coastal flooding and erosion, such as oyster reefs, beaches and dunes, mangroves, and coral reefs, are not possible at the project site because of the former industrial nature of the project site and lack of suitable habitat.

The comment does not present any evidence that the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required.

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<sup>19</sup> Naturally Resilient Communities. 2017. *Explore the Different Types of Nature Based Solutions*. Available: <http://nrcsolutions.org/>. Accessed August 25, 2017.

## M. VARIANTS

The comment and corresponding response in this section cover topics Chapter 6, *Variants*, of the Draft EIR.

### COMMENT VR-1: HOUSING UNITS UNDER VARIANTS

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- I-Wong-21

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“**Page 6-1:** It would be clearer if a chart shows how Variants affect the total number of residential units and affordable units-especially in comparison to agreed-upon percentage of affordable units.” (*Howard Wong, June 12, 2017, [I-Wong-21]*)

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### RESPONSE VR-1

The comment requests information regarding the residential unit count for the project variants. Only Variant 4, Hotel Use, would affect the number of residential units proposed; the number of residential units proposed under Variants 1 through 3 (i.e., the District Energy/Bay-Source Energy Capture, Entertainment Venue, and Reconfigured Parking variants) would include the same number of residential units as under the proposed project. As shown in Chapter 4, *Draft EIR Revisions*, of this RTC document (page 4-7), the text below has been added to page 6-76, paragraph 2, of the Draft EIR in Chapter 6, *Variants*, to clarify the reduction in residential units that would occur under Variant 4, Hotel Use. These revisions do not change any of the analyses or conclusions of the EIR, and recirculation of the EIR or a section of the EIR is not required.

However, this variant would result in approximately 200,000 gsf less residential space than the proposed project, which equates to approximately 200 units.<sup>22</sup> This would lead to the construction of between 800 and 1,400 residential units under Variant 4, depending on the land use assumption. The same percentage of affordable units, 40 percent of all units, would be provided under Variant 4 as under the proposed project. All other project features under this variant would remain the same as the proposed project.

## N. ALTERNATIVES

The comment and corresponding response in this section cover topics Chapter 7, *Alternatives*, of the Draft EIR. These include topics related to:

- AL-1: 3D Depictions
- AL-2: Alternative Sites

### COMMENT AL-1: 3D DEPICTIONS

This response addresses the comment from the commenter listed below; the comment on this topic is quoted in full below this list.

- A-SFPC-1

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**Commissioner Moore:** “The EIR is complicated and lengthy. What I am missing in comparison to the Bio Digester Facilities Project we just heard an hour or two ago is a three-dimensional depiction of alternatives. I do not see them, they may be somewhere. I looked very carefully. It would be easier to understand them if there was a depiction of how these new development masses as a whole—not just as a photo-simulation, which is kind of bland, but as a isometric in the way that it’s typically done.” (*Commissioner Moore, June 1, 2017, [A-SFPC-1]*)

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### RESPONSE AL-1

The comment requests 3D depictions of the alternatives. As requested, 3D depictions of the alternatives have been created. For comparison purposes, a 3D diagram of the proposed project has been included. As shown in Chapter 4, *Draft EIR Revisions*, of this RTC document (pages 4-23 through 4-27), these additional diagrams have been added to Chapter 7, *Alternatives*, of the Draft EIR as Figures 7-1 through 7-4. Draft EIR Figure 7-1 has been changed to Figure 7-5. These revisions do not change any of the analyses or conclusions of the EIR; recirculation of the EIR or a section of the EIR is not required.

### COMMENT AL-2: ALTERNATIVE SITES

This response addresses the comments from the commenter listed below; each comment on this topic is quoted in full below this list.

- I-Stokus (4)-3
  - I-Stokus (4)-5
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“Having the Port do a land swap between LOT A and the Warriors Salesforce site and moving the Warriors arena to LOT A would have been a better option with shared parking (summer baseball, winter basketball) and much less future liability for the public (Where was Mayor Lee?).

However, the Giants owners did not want to give up “their land,” which of course is public trust waterfront land that does not belong to the Giants, the Port or the State of California.” (*Lawrence Stokus, May 05, 2017 [I-Stokus-4-3]*)

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“San Francisco Waterfront (Proposed Crissy Field)—double click to enlarge (would the City dare to propose that the Giants project be built on this site?).” (*Lawrence Stokus, May 05, 2017 [I-Stokus-4-5]*)

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## **RESPONSE AL-2**

The comments suggest that the Port should do a land swap between Lot A (i.e., Seawall Lot 337) and the Warriors Salesforce site and ask if the project could be built at Crissy Field. The comment could be construed as requesting analysis of alternatives to the proposed project that involve construction of the proposed project at the Warriors Event Center site and the Warriors arena at the project site or construction of the proposed project at Crissy Field rather than the project site. However, CEQA does not require such analysis. Section 15126.6(a) of the State CEQA Guidelines provides that “[a]n EIR need not consider every conceivable alternative to a project.” Under the “rule of reason” governing the selection of the range of alternatives, an EIR is required “to set forth only those alternatives necessary to permit a reasoned choice” (State CEQA Guidelines, Section 1513.6(f)). Although an EIR must consider a reasonable range of potentially feasible alternatives, it does not have to identify and analyze alternatives that would not meet most of a project sponsor’s basic objectives, nor does it have to discuss every possible variant or permutation of alternatives or alternatives that do not further reduce or eliminate significant impacts of the project.

Among the other reasons why analysis of an alternative that involves construction of a Warriors arena on the project site and the proposed project on the current Warriors Event Center site is not required is the fact that such an alternative would be infeasible because the Warriors have already purchased the site and have started construction, making it unavailable. The Warriors have also obtained approvals for a new arena on that site and begun construction. In addition, the commenter has not provided any evidence that development of the project at Crissy Field would be feasible, and such an alternative would not be capable of achieving most or all of the proposed project’s basic objectives.

The comments do not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required. The comment will be transmitted to and may be considered by the decision-makers as part of the deliberations on the proposed project.

## O. GENERAL COMMENTS

The comments and corresponding responses in this section cover general subjects not directly related to a specific section of the Draft EIR. These include topics related to:

- GC-1: General Comments Describing the Project, the Commenter’s Role, or Expressing Appreciation
- GC-2: General Concerns Not Related to Project Impacts or the Adequacy of the Draft EIR
- GC-3: General Comments in Support of Project and Project Sponsor

Portions of some of the comments addressed in this section also relate to other resource topics and are therefore responded to more fully in those sections.

### **COMMENT GC-1: GENERAL COMMENTS DESCRIBING THE PROJECT, THE COMMENTER’S ROLE, OR EXPRESSING APPRECIATION**

This response addresses comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- A-BAAQMD-1
- A-BCDC-30
- A-Caltrans-1
- A-CDFW-1
- A-CDFW-13

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“Bay Area Air Quality Management District (Air District) staff has reviewed the City and County of San Francisco’s (City) Draft Environmental Impact Report (DEIR) prepared for the Seawall Lot 337 and Pier 48 Mixed-Use Project (Project). The Project would include development of a mixed-use, multi-phase project at Seawall Lot 337, rehabilitation and reuse of Pier 48, and construction of approximately 5.4 acres of new open space. The Project would include up to 2.8 million gross square feet (gsf) of mixed uses, including approximately 1.1 to 1.6 million gsf of residential uses (estimated at 1,000 to 1,600 units, consisting of both market-rate and affordable housing), approximately 972, 000 to 1.5 million gsf of commercial uses, and 241,000 to 245,000 gsf of active/retail uses. Additionally, the Project would include approximately 3,1000 parking spaces and rehabilitation of 242,500 gsf of Pier 48 for industrial,

restaurant, active/retail, tour, exhibition, and meeting space use. The Project also includes an approximately 4,000-seat entertainment venue and an on-site hotel. Construction is projected to begin in 2017 and would be phased over a six-year period, concluding in 2023.

Air District staff greatly appreciates the opportunity to work with the City to address the potentially significant air quality impacts estimated for this Project. Project design features and mitigation measures identified in the DEIR will substantially lessen the local and regional air quality impacts from construction and operation of the Project." (*Jean Roggenkamp, June 7, 2017, [A-BAAQMD-1]*).

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"Thank you for providing the staff with an opportunity to review the DEIR for the proposed project. We recognize the scope of this project and hope these comments aid you in preparation of the FEIR. We look forward to working with you and the project sponsors as the project is developed and through the permitting stage. If you have any questions regarding this letter or the Commission's policies and permitting process, please do not hesitate to contact me at (415) 352-3618 or ethan.lavine@bcdc.ca.gov.

Finally, we would greatly appreciate receiving a print copy of the FEIR in our office upon its publication." (*Ethan Lavine, June 12, 2017, [A-BCDC-30]*)

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"Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), the Caltrans Strategic Management Plan 2015-2020 includes targets to reduce Vehicle Miles Travelled (VMT), in part, by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Draft Environmental Impact Report (DEIR).

**Project Understanding:** The project sponsor proposes a mixed use, multi-phase development at Seawall Lot 337, including the rehabilitation and reuse of Pier 48. The project would construct approximately 5.4 acres of net new open space, for a total of 8.0 acres of open space on the project site. In addition, approximately 1.1 million gross square feet (gsf) of parking would be provided in two public parking garages (approximately 3,100 parking spaces), one above grade and one underground. The proposed project would also include public access areas, assembly areas, and an internal grid of public streets, shared streets, and utility infrastructure. Overall, the proposed project would involve the construction of up to 2.7 to 2.8 million gsf of residential, commercial, production, active/retail, and parking uses on 11 proposed development blocks on Seawall Lot 337, plus rehabilitation of approximately 261,000 gsf of Pier 48. The project is regionally accessed via the Interstate (I-) 280 and King Street on-ramp, located 0.5 miles from the project site, and from the I-80 and Harrison Street on-ramp, located 0.7 miles from the project site." (*Patricia Maurice, June 8, 2017, [A-Caltrans-1]*)

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“The California Department of Fish and Wildlife (Department) has reviewed the draft Environmental Impact Report (DEIR) for the Seawall Lot 337 and Pier 48 Mixed-Use Project (Project) proposed by Seawall Lot 337 Associates, LLC (applicant). The Project would entail development of a mixed-use, multi-phase project at Seawall Lot 337, rehabilitation and reuse of Pier 48, and construction of approximately 5.4 acres of net new open space. As a trustee for the State’s fish and wildlife resources, the Department has jurisdiction over the conservation, protection and management of fish, wildlife, and habitats necessary for biologically sustainable populations of those species (Fish and G. Code §1802). In this capacity, the Department administers the California Endangered Species Act, the Native Plant Protection Act, and other provisions of the California Fish and Game Code that afford protection to the State’s fish and wildlife resources. The Department is also responsible for marine biodiversity protection under the Marine Life Protection Act (Fish and G. Code, § 2850) in coastal marine waters of California and is recognized as a “Trustee Agency” under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; hereafter CEQA; Cal. Code Regs., §15000 et seq.; hereafter CEQA Guidelines). As a Trustee Agency, the Department is responsible for providing biological expertise to review and comment upon environmental documents and impacts arising from the Project activities (CEQA Guidelines, § 15386; Fish and G. Code, § 1802).

The Department is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381) and may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, the Project may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

To enable the Department to adequately review and comment on the proposed project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR. The Department has the following comments and recommendations:” (*Craig Shuman, June 9, 2017, [A-CDFW-1]*)

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“**Conclusion:** The Department appreciates the opportunity to comment on the DEIR to assist the San Francisco Planning Department in identifying and mitigating Project impacts on biological resources. As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for discussion, please contact Arn Aarreberg, Environmental Scientist, California Department of Fish and Wildlife, 5355 Skylane Blvd., Suite B, Santa Rosa, CA 95403, phone (707) 576-2889, email Arn.Aarreberg@wildlife.ca.gov.” (*Craig Shuman, June 9, 2017, [A-CDFW-13]*)

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## RESPONSE GC-1

The comments generally describe the proposed project and the commenter's role in the environmental process. They express the commenter's appreciation for the opportunity to comment on the Draft EIR and work with the City to address impacts and mitigation measures. Specific comments that relate to the adequacy of the information and analysis in the Draft EIR are addressed in the responses under each topical subsection. Air quality impacts are addressed in Response AQ-4 on page 3-60, and impacts on biological resources are addressed in Response BI-3 on page 3-72 and Response BI-4 on page 3-76. Please see Response PO-1 on page 3-22 regarding the 1991 rezoning of the Seawall Lot 337, Parcel P20, and China Basin Park portions of the project site to the Mission Bay Open Space (MB-OS) Use District as part of an earlier Mission Bay Redevelopment Plan, which was superseded by the current Mission Bay Redevelopment Plan. The comments do not present any evidence that the analysis in the Draft EIR is inadequate. No additional analysis or change to the Draft EIR conclusions is required; therefore, recirculation of the EIR or a section of the EIR is not required. The concerns raised in these comments will be transmitted to City decision-makers for their consideration during the proposed project's approval process.

## COMMENT GC-2: GENERAL CONCERNS NOT RELATED TO PROJECT IMPACTS OR THE ADEQUACY OF THE DRAFT EIR

This response addresses comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- I-Wong-1
- I-Clark-1
- I-Garfinkle-3
- I-Stokus (2)-1
- I-Stokus (4)-1
- I-Stokus (6)-1
- I-Stokus (10)-1

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**“General Comment:** For the average citizen, DEIR and EIRs are too difficult to understand—voluminous with much 'boilerplate' information that overwhelm key issues. It is important to summarize and simplify the most contentious issues at the beginning of the DEIR—with great clarity that includes charts, diagrams, simplicity....

Also, at the beginning of the DEIR and EIRs, the essential premises need to be outlined. Otherwise, the conclusions are weak.” (*Howard Wong, June 12, 2017, [I-Wong-1]*)

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**Laura Clark:** “Just, anytime there's an EIR up, I want to remind everyone that the EIRs take devastatingly too long, and we need to look for ways to speed this process up. Thank you.”  
(*Laura Clark, June 1, 2017, [I-Clark-1]*)

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“Such large projects just don’t seem rational for the location at all, especially since SF taxpayers will probably have to pay for the damage, especially if it’s shown that our planning department has side-stepped the necessary approval process for the sake of developers who don’t live and work in the area. My husband and I live in South Beach and anyone who sees the Bay on a daily basis or reads about the environment that this project probably doesn’t make either good environment or fiscal sense.” (*Deborah Garfinkle, May 05, 2017 [I-Garfinkle-3]*)

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“Here it is. A Perfect Example of How the Port of San Francisco Operates.

1. First, the Port of San Francisco says: please email us all of your public comments and we will distribute those comments to all members of the Waterfront Plan Working Group. In other words, rather than just a highly controlled meeting with limited time to explain a complex issue, you can send us your more complex ideas in an email (taking advantage of the modern internet). This is how the BCDC operates and it feels more like a democracy.
2. Then when the Port does not like your opinions, the Port refuses to distribute them.
3. This is exactly how the Port operated during the opposition to the Warriors arena on Pier 30-32.
4. No democracy with Port projects on public trust waterfront land, just edicts.
5. ‘Pretend you are listening, but push the projects through the process (especially the Giants Mission Rock Project)’.
6. ‘Legally, we have to listen to the public, but then we can just do what we want’.” (*Lawrence Stokus, May 05, 2017 [I-Stokus2-1]*)

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“ATT Park was sold to the public as a “street car ballpark”. Where most people would arrive at the ballpark in street cars.

LOT A was going to be a big open space park for everyone to enjoy. And that made sense since LOT A was then known as the Mission Bay swamp, one the most unbuildable sites in the city.

The Giants made a deal with the Port and made LOT A a parking lot. The fact that LOT A was set aside as open space park was IGNORED.

Now, the Giants are saying: Better to build offices and residences than leaving it a parking lot.

That is a lot of hypocrisy. LOT A is a parking lot because the Port and the Giants wanted it to stay a parking lot. And LOT A is not an open space park as it was set aside for because the Port wants to privatize and commercialize it." (*Lawrence Stokus, May 05, 2017 [I-Stokus-4-1]*)

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"Stay Within the Law." (*Lawrence Stokus, May 05, 2017 [I-Stokus-6-1]*)

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"San Francisco Echos Houston (you reap what you sow)." (*Lawrence Stokus, August 30, 2017 [I-Stokus-10-1]*)

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## **RESPONSE GC-2**

One comment asks for a summary of the project and most important issues. Other comments relate to general concerns regarding the proposed project or the analysis in the Draft EIR but do not identify any particular deficiencies in the analysis or conclusions of the Draft EIR regarding the physical environmental impacts of the proposed project. Other comments are introductory in nature or do not address the proposed project or the Draft EIR. Specific comments that relate to the adequacy of the information and analysis in the Draft EIR are addressed in the responses under each topical subsection. Please see Response PO-1 on page 3-22 for a discussion of the public trust. The concerns raised in these comments will be transmitted to City decision-makers for their consideration during the proposed project's approval process.

The Draft EIR includes a summary chapter that is meant to provide a simplified overview of the whole EIR. It provides an overview of the proposed project, a summary of impacts and mitigation measures, a list of significant and unavoidable impacts, areas of known controversy and issues to be resolved, summaries of the variants and alternatives, the environmentally preferred alternative, and summary tables. Table S-1, starting on page S-11, includes the impacts and mitigation measures identified in the EIR for the proposed project; Table S-2, starting on page S-65, includes a comparison of the significant impacts of the proposed project to the impacts of the alternatives. It also determines if the sponsor's objectives would be met by the proposed project and the alternatives. This summary chapter meets CEQA requirements (see CEQA Guidelines Sec. 15123).

**COMMENT GC-3: GENERAL COMMENTS IN SUPPORT OF PROJECT AND PROJECT SPONSOR**

This response addresses comments from the commenters listed below; each comment on this topic is quoted in full below this list.

- O-NA-1
- O-SF-1
- I-Hong-1
- I-Zaks-1

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**Ms. Liddell:** “Good afternoon, Commissioners. My name is Katy Liddell, and I’ve lived over in the South Beach Mission Bay area since 1995, so that’s before the ballpark was built. I am a cofounder and the current president of the local neighborhood association. So, I’ve been there for a long time; I’ve known the Giants for a long time.

I did take a look at the Draft EIR. I, in particular, looked at transportation and circulation because that is of primary importance to all of us over there. That part of the City is congested and will continue to be congested as it gets further developed. But one of the many things I like about this project is that the Giants are truly investing in our neighborhood and that they, as good neighbors, care as much about the area as we local residents, including transportation/congestion.

The Giants have always reached out to us as the 10 neighborhood to keep us in the loop of their plans and events. They have held numerous workshops over the years to show us the buildings and the design for Seawall Lot 337. I know I’ve personally attended several, along with many of my neighbors. The Giants also circulate calendars with their special events listed as to date, time, and how many people they think will attend so that we are aware of what’s going on in the neighborhood. Yes, there have been times when there are problems with congestion, litter, quality-of-life issues, but the Giants are always willing to sit down with us, to talk to us about those issues, and to look at mitigations.

In fact, this is an ongoing process and will remain so as congestion, safety, cleanliness, and other quality-of-life issues continue to be our biggest neighborhood challenges. But the Giants are good neighborhoods, and I have the upmost faith that they will work with us to ensure adequate services and funding for those services to make our neighborhood cleaner and safer. I personally like having the Giants as neighbors, and I like their plans for Seawall Lot 337 and Pier 48. I look forward to seeing the Mission Rock Project take form on this empty parking lot. Thank you.” (*Katy Liddell, June 1, 2017, [O-NA-1]*)

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**Ms. Montez:** “Good afternoon, Commissioners. My name is Amanda Montez, and I serve as the Associate Director over at the San Francisco Parks Alliance, and the Parks Alliance is the largest nonprofit organization serving San Francisco's diverse city parks and serves both as a fiscal sponsor for over 200 small community park partners or friends group and works with the City to develop new and innovative recreational spaces in underserved community. Together, with our park partner organizations, the San Francisco Parks Alliance raises millions annually to improve our parks, playgrounds and open spaces, and today I am speaking to support the Draft EIR before you.

Since 2005, when Mayor Newsom assembled the Blue Greenway Task Force, the Parks Alliance has served as a public convener and partner with the City to realize the Blue Greenway vision of an expanded Bay trail and connected open space and recreation areas along the 13 miles spanning from AT&T Park to Candlestick Point State Recreation Area. Mission Block's development plan with eight much-needed acres of new parks is a vital step in realizing this vision for San Francisco's residents.

For too long, the City's southern waterfront has been disconnected from the central and northern waterfront areas with a lack of pedestrian access or trail connectivity exacerbating the need for parks among some of the City's historically-underserved communities. The San Francisco Giants are investing in smart, pedestrian-centric planning for our community, and they've been responsive in addressing the City's needs for more active recreation opportunities. Opening eight acres for public access is a game changer.

This project's completion is a major priority for the Park's Alliance, and we hope that you will join us in supporting the Draft EIR and the project as a whole. Thank you for your time.”  
(*Amanda Montez, June 1, 2017, [O-SF Parks-1]*)

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“This email is a follow up to today's phone conversation. Hello, my name is Dennis Hong and I am a resident of San Francisco and have been for over 70+ years. As requested, I trust my comment/s and this email format address my comments. Here are my comments on the proposed Project, Case Number 2013.0208E, Mission Rock. I am in strong support of this Project. It will be an enhancement to both the City and this area. Over the years, both the Sponsor/Developer, the Planning Department and the community has done a great job working together on this project and DEIR. I had a chance to partially review this DEIR on line. Because of the size of this Document and from what I had seen in the online-DEIR, I find it well documented and in concert with this project the adjacent projects, especially the Mission Bay Project/s. I'm in full support of this project. I feel that this Project will add additional benefits to both the City, the community. Please include me in full support of this wonderful project. If at all possible, I'm also in favor of expediting this project and putting it on a fast track schedule.

If for some reason I had left anyone off this list, please share this email with them. Thanking all of you in advance for your attention to this Project. Please include my comments to the Final EIR and place me on the distribution list for the RTC to this DEIR.

I appreciated the opportunity to review and comment on this Project. If you have any question to my comments, I can be reached at [dennisj.gov88@yahoo.com](mailto:dennisj.gov88@yahoo.com)." (*Dennis Hong, July 12, 2017 [I-Hong-1]*)

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"I'm writing to voice my strong support of the Mission Rock project. Building a vibrant community on what is currently a parking lot is an excellent idea from many perspectives (environmental, economic, justice/equity), and as a long-time Mission Bay resident I look forward to seeing the project come to fruition." (*Julia Zaks, May 05, 2017 [I-Zaks-1]*)

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### **RESPONSE GC-3**

The comments express the commenters' support for the proposed project and the project sponsor. These comments do not address the adequacy of the information or analysis presented in the Draft EIR, and therefore, no response is required. However, the points raised in these comments will be transmitted to City decision-makers and will be considered during the proposed project's approval process.

## 4. DRAFT EIR REVISIONS

This chapter presents specific revisions to the text of the Draft EIR that are being made in response to comments or to amplify and clarify material in the Draft EIR. Where revisions to the main text are called for, the page and paragraph are set forth, followed by the appropriate revision. Added text is indicated with underline text. Deletions to the text are shown with ~~striketrough~~ text. Page numbers correspond to the page numbers of the Draft EIR. The revisions to the Draft EIR derive from two sources: 1) comments raised in one or more of the comments letters received by the City and County of San Francisco regarding the Draft EIR and 2) staff-initiated changes that correct minor inaccuracies and typographical errors or clarify material found in the Draft EIR subsequent to its publication and circulation. Staff-initiated changes to clarify information presented in the Draft EIR are highlighted by an asterisk (\*) in the margin to distinguish them from text changes associated with responses to comments.

### A. TABLE OF CONTENTS

The text on page iii of the Table of Contents has been revised. Appendix 1 has been modified to include a summary matrix of scoping comments and any attachments included as part of emailed comments. These additions are included as Attachment C to this RTC document. New pages are indicated with an asterisk in the top right hand corner.

#### 9 Appendices – *Included on CD attached to Volume 1*

- \* Appendix 1: Notice of Preparation, Summary of Scoping Comments, and Comments Received (with Attachments)

### B. SUMMARY

The last sentence of the first paragraph of the Final Archeological Resources Report section of Mitigation Measure M-CP-2, Archaeological Testing, has been modified on page S-16 the *Summary* as follows:

- \* The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. ~~Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.~~ A separate, brief, non-confidential summary of findings that can be made available to the public shall be submitted with each FARR.

Mitigation Measure M-CP-3, Treatment of Human Remains or Unassociated Funerary Objects, has been modified on page S-17 23 in the *Summary* as follows:

M-CP-3: Treatment of Human Remains, 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 Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The ERO will also be immediately notified.

Mitigation Measure M-TR-3, Parking Garage and Intersection Queue Impacts, has been modified on page S-19 in the *Summary* as follows:

- \* The easternmost driveway on Long Bridge Street (i.e., closest to Bridgeview Street) shall be restricted to right-in, right-out access during all times. Restricted access could be accomplished by placing signage (i.e., on Long Bridge Street to direct westbound traffic to the westernmost garage driveway, and within the parking garage for exiting traffic to indicate outbound right turn movement only allowed) as well as delineators of a sufficient length in the middle of Long Bridge Street to block left-turn access to the driveway.

Mitigation Measure M-TR-4.1, Provide Fair-Share Contribution to Improve 10 Townsend Line Capacity, has been modified on page S-20 in the *Summary* as follows:

- \* SFMTA will determine whether adding bus(es) or other measures are more desirable to increase capacity along the route and will use the funds provided by the project sponsor to implement the most desirable measure(s), which may include but is not limited to the following measures:

Mitigation Measure M-TR-4.2, Provide Fair-Share Contribution to Improve 30 Stockton Line Capacity Proposed Project, has been modified on page S-22 in the *Summary* as follows:

- \* SFMTA will determine whether adding bus(es) or other measures are more desirable to increase capacity along the route and will use the funds provided by the project sponsor to implement the most desirable measure(s), which may include but is not limited to the following measures:

Mitigation Measure M-TR-6, Parking Garage and Intersection Queue Impacts on Transit Delay, has been modified on page S-22 in the *Summary* as follows:

- \* A. The westernmost driveway on Mission Rock Street (i.e., closest to Third Street) shall be restricted to right-in, right-out access and closed during large AT&T Park events. Restricted access could be accomplished by placing signage as well as delineators of a sufficient length on the center line between the westbound through and left-turn lanes on Mission Rock Street, east of Third Street, to block left-turn access to the driveway.
- B. A “keep clear” zone shall be provided in front of the easternmost driveway on Mission Rock Street (i.e., closest to Bridgeview Street) to prevent westbound queues at the Third Street/Mission Rock traffic signal from blocking inbound access to the driveway. The Keep Clear pavement markings shall be placed in the westbound lane immediately in front of the easternmost driveway for the Block D2 parking garage.

The term “TDM coordinator” has been deleted and replaced with “transportation coordinator” on the following pages:

**Page S-23:**

The site’s ~~TDM~~ transportation coordinator shall be a member of the Mission Bay Ballpark Transportation Coordination Committee and provide notification prior to the start of any on-site event that would overlap with an event at AT&T Park or the Warriors arena.

**Page S-43:**

*TDM Plan Monitoring and Reporting:* The ~~TDM~~ transportation coordinator shall collect data, prepare monitoring reports, and submit them to the Planning Department.

**Page S-44:**

- \* **Timing:** The ~~TDM~~ transportation coordinator shall collect monitoring data and shall begin submitting monitoring reports to the Planning Department beginning 18 months after the completion and commencement of operation of the proposed garage on Block D.

**Page S-45:**

Documentation of Plan Implementation: The ~~TDM~~ transportation coordinator shall work in conjunction with the Planning Department to develop a survey (online or paper) that can be reasonably completed by the ~~TDM~~ transportation coordinator and/or Transportation Management Association (TMA) staff members to document implementation of TDM program elements and other basic information during the reporting period.

Assistance and Confidentiality: The Planning Department will assist the ~~TDM~~ transportation coordinator with questions regarding the components of the monitoring report and will assist the ~~TDM~~ transportation coordinator in determining ways to protect the identity of individual survey responders.

Mitigation Measure M-TR-12, Coordinate Final Design of the “Keep Clear” Zone on Mission Rock Street (in front of the Public Safety Building) with Police and Fire, on page S-26 in the *Summary*, has been deleted, and the impact conclusion has been revised. See Section D, *Transportation and Circulation*, for the reasoning behind this deletion.

<p>* Impact TR-12. The proposed project <del>could</del> would not result in significant impacts on emergency access to the project site or adjacent locations.</p>	<p><u>LTS</u></p>	<p><del><b>M-TR-12: Coordinate Final Design of the “keep clear” zone on Mission Rock Street (in front of the Public Safety Building) with Police and Fire Departments.</b> Prior to finalizing the design and dimensions of the “keep clear” zone on Mission Rock Street in front of the police and fire truck access point (in front of the Public Safety Building), the project sponsor shall coordinate this design with the Police and Fire Departments.</del></p> <p><b>I-TR-12: Strategies to Enhance Transportation Conditions during Large Events.</b> The project’s transportation coordinator should participate as a member of the Mission Bay Ballpark Transportation Coordination Committee and provide at least a 1-month notification prior to the start of any large event that would overlap with an event at AT&amp;T Park.</p>	<p><u>NA-LTS</u></p>
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Mitigation Measure M-AQ-1.5: Emissions Offsets for Construction and Operational Ozone Precursor Emissions, on pages S-40 to S-41 in the *Summary*, has been slightly revised to provide clarifications.

Prior to the estimated first year of exceedance of criteria air pollutant thresholds, the project sponsor, with oversight of the Planning Department, shall elect to either:

1. Directly implement a specific offset project(s) or program(s) to achieve emission reductions of up to 10.5 tons of ozone precursors to offset the combined emissions from construction and operations remaining above significance levels after implementation of identified mitigation measures. To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emissions reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. Prior to implementation of the offset project(s), the project sponsor must obtain the Planning Department’s approval of the proposed offset project(s) by providing documentation of the estimated amount of emissions of ROG and NOx to be reduced (tons per year) within the SFBAAB from the emissions reduction project(s). The project sponsor shall notify the Planning Department within 6 months of completion of the offset project(s) for Planning Department verification.

2. Pay a mitigation offset fee to the BAAQMD Bay Area Clean Air Foundation (Foundation) in installments, as further described below, with each installment an amount to be determined prior to the estimated first year of exceedance. This fee is intended to fund emissions reduction projects to achieve reductions totaling up to 10.5 tons of ozone precursors per year, the estimated maximum tonnage of operational and construction-related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NOX (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NOx emissions offsets required.

The fee shall be paid in up to 12 installments, each installment payable at the time of application for a site permit for each development block, representing the portion of the 10.5 tons of ozone precursors per year attributable to each building, as follows: (a) Blocks A, G, and K: 6.6% or 0.70 tons per each development block; (b) Pier 48: 18.6% or 1.95 tons; (c) Blocks B, C, and D: 9% or 0.95 tons per each development block; (d) Blocks E and F: 10.3% or 1.08 tons per each development block; and (e) Blocks H, I, and J: 4.6% or 0.49 tons per each development block. The mitigation offset fee, currently estimated at approximately \$18,03018,262 per weighted ton, and shall not to exceed \$35,000 per weighted ton of ozone precursors per year requiring emissions offsets plus an administrative fee of no more than 5 percent of the total offset to fund one or more emissions reduction projects within the SFBAAB. The not to exceed amount of \$35,000 will be adjusted to reflect annual California Consumer Price Index adjustments between 2017 and the estimated first year of exceedance. The fee will be determined by the Planning Department, the project sponsor, and the BAAQMD and be based on the type of projects available at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions totaling 10.5 tons of ozone precursors per year, the estimated maximum tonnage of operational and construction-related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NOX (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NOx emissions offsets required. Documentation of payment shall be provided to the Planning Department.

Unless directly implementing a specific offset project (or program), as described above, the project sponsor would enter into a Memorandum of Understanding (MOU) with the BAAQMD Foundation in connection with each installment payment described above. The

MOU will include details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the BAAQMD shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the Planning Department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NO<sub>x</sub> reduced (tons per year) within the SFBAAB from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement.

To clarify, the text in the *Summary* on page S-42 has been modified as follows:

*M-AQ-2.2: Reactive Organic Gases Emissions Reduction Measures*

To reduce ROG emissions associated with the project, the project sponsor shall provide education for residential and commercial tenants to help reduce area source (e.g., architectural coatings, consumer products, and landscaping) emissions associated with residential and building operations. Prior to receipt of any building permit and every 5 years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develop electronic correspondence, which will be distributed by email annually to tenants of the project that encourages the purchase of consumer products that are better for the environment and generate fewer VOC emissions. The correspondence shall encourage environmentally preferable purchasing and include contact information and links to SF APPROVED. While microbreweries do not typically implement emission control devices, to further reduce ROG (primarily ethanol) emissions associated with Pier 48 industrial operations, the project sponsor shall implement technologies to reduce ethanol emissions if available and practicable. Such measures could include wet scrubbers, ethanol recovery and capture (e.g., carbon absorption) or incineration. At the time when specific designs for the Pier 48 use are submitted to the City for approval, the project sponsor shall provide an analysis that quantifies the emissions, based on the specific design proposal, and evaluates ROG emission control technologies.

Part 1 of Mitigation Measure M-WS-1, Assessment and Mitigation of Wind Hazards on a Building-by-Building Basis, has been modified on page S-48 in the *Summary* as follows:

1. Prior to or as part of the submittal package for the schematic design of a new building (Proposed Building), the Proposed Building developer shall submit to the Planning Department, for its review and approval, a scope of work and, following approval of the scope, a report from a Qualified Wind Consultant (QWC) that reviews the Proposed Building schematic design, absent landscaping.

\*

The impact conclusion for Impact TR-12 has been revised on page S-68 in the *Summary*.

*	Impact TR-12: The proposed project <del>could</del> would not result in significant impacts on emergency access to the project site or adjacent locations. This impact would be less than significant <del>with mitigation</del> .	NI <	<del>LISM</del> =	<del>LISM</del> =
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## C. PLANS AND POLICIES

The following text has been added in Chapter 3, *Plans and Policies*, on page 3-22:

Bay Plan policies call for the preservation of scenic Bay views; the provision of diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, around the Bay; and encouragement for the development of water-oriented commercial recreational establishments, such as restaurants, specialty shops, private boatels, recreational equipment concessions, and amusements in urban areas adjacent to the Bay. ~~In addition,~~ ~~the~~ Bay Plan encourages the preservation of historic structures and districts, including public access to the exterior and, where appropriate, the interior of these structures. The Bay Plan also calls for public access to waterfront parks, beaches, marinas, and fishing piers, including maximum feasible public access to and along the waterfront and on any permitted fills through every new development in the Bay or on the shoreline. This also includes free and open public access specific to major projects involving use and reuse of piers.

The proposed project is not in conflict with these Bay Plan policies. The proposed project would be designed to accommodate maritime operations on the aprons and public access onto Channel Wharf. The proposed open space area at Channel Wharf would be constructed in the location of the current marginal wharf between Piers 48 and 50, east of Terry A. Francois Boulevard. Channel Wharf would be a 0.5-acre paved plaza with public art, seating, and a drop-off area leading to the recreational uses at the project site. It would offer direct public access to the bayfront and serve as an access point to the Bay for industrial activities occurring at Pier 48, Channel Wharf, and at Pier 50. In addition, a waterfront promenade would be constructed on the Pier 48 aprons, which would be improved for public access and maritime operations. The northern apron of Pier 48 would be prioritized for public access and accessible for maritime uses, and the eastern and southern aprons would be prioritized for maritime uses and open to the public. The northern apron would connect to the publicly accessible Blue Greenway. The northern apron could also include boat mooring capabilities for potential water taxis or excursion vessels. Publicly accessible picnicking space would connect Pier 48 to China Basin Park’s waterfront promenade. A personal watercraft floating dock, or carry-down boat launch, would be located at the northwest portion of Pier 48, along the northern apron, as part of the Blue Greenway system. The boat launch would be designated for public access to

launch human-powered watercraft (such as kayaks) into the Bay. Lastly, the Pier 48 sheds and bulkhead wharf would be rehabilitated consistent with the SOI Rehabilitation Standards, the SOI Guidelines, and the Port Historic Guidelines. Therefore, the proposed project would not conflict with the Bay Plan policies related to public access.

The Bay Plan also includes policies related to fill and potential impacts on biological resources. This includes Bay Plan Subtidal Areas Policy No. 1, which requires local and baywide effects to be evaluated for any fill project; policies on fish, other aquatic organisms, and wildlife, which state the need to protect biological resources; and policies on the safety of fills, which outline safety policies for the placement and maintenance of fill in the Bay.

The proposed project is also not in conflict with these Bay Plan policies. Section 4.L, *Biological Resources*, of the Draft EIR analyzes potential local or baywide significant environmental effects associated with proposed fill activity from rehabilitation of Pier 48 and the potential environmental effects of the proposed project on the aquatic environment, including, without limitation, potential take of plant, fish, or other aquatic organisms and impacts on threatened or endangered species or other protected species. This section proposes, where appropriate, feasible mitigation measures to reduce impacts, thereby avoiding significant impacts on biological resources. Additionally, the proposed project would not include any work on or to existing shoreline protection structures or facilities. Chapter 2, *Project Description*, and Section 4.L, *Biological Resources*, of the Draft EIR describe the proposed rehabilitation work at Pier 48, including structural rehabilitation of the pier deck, the placement of new piers, and replacement of creosote-treated wooden piers and aprons. This work would be completed safely and would reduce environmental impacts to less-than-significant levels, consistent with Bay Plan policies. Therefore, the proposed project would not conflict with Bay Plan policies related to fill or biological resources.

The following text has been added in Chapter 3, *Plans and Policies*, on page 3-23:

BCDC reviews permits for proposed projects in the shoreline band for consistency with the McAteer-Petris Act, the Bay Plan, and the Special Area Plan,<sup>7</sup> as amended by AB 2797. BCDC also determines a project's consistency with the Public Trust Doctrine independently and in consultation with the State Lands Commission. BCDC does this through consideration of policies in the Bay Plan related to public trust and fill for public trust uses on publicly owned property granted in trust to a public agency by the legislature. When BCDC considers a project that would affect lands subject to the public trust, it ensures that the action is consistent with the public trust needs for the area and, in case of lands subject to legislative grants, that the terms of the grant are satisfied and the project is in furtherance of statewide purposes. AB 2797 addresses the application of the public trust to the Project Site.

## D. CULTURAL RESOURCES

The last sentence of the first paragraph of the Final Archeological Resources Report section of Mitigation Measure M-CP-2, *Archaeological Testing*, has been modified on page 4.D-46 in Section 4.D, *Cultural Resources*, as follows:

\* The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. ~~Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report. A separate, brief, non-confidential summary of findings that can be made available to the public shall be submitted with each FARR.~~

Mitigation Measure M-CP-3, *Treatment of Human Remains or Unassociated Funerary Objects*, has been modified on page 4.D-47 in Section 4.D, *Cultural Resources*, as follows:

M-CP-3: *Treatment of Human Remains, 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 Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The ERO will also be immediately notified.

## E. TRANSPORTATION AND CIRCULATION

The text in the last full paragraph on page 4.E-65 in Section 4.E, *Traffic and Circulation*, is revised as follows:

The project would provide bicycle parking facilities, including a network of spaces in public areas and secure spaces inside the site's residential and office buildings. The project may also include Bay Area Bike Share pods on the site. The High Residential Assumption would provide 2,045 ~~2,090~~ Class I bicycle parking facilities and 603 ~~692~~ Class II bicycle racks. The High Commercial Assumption would provide 1,670 ~~1,715~~ Class I bicycle parking facilities and 586 ~~675~~ Class II bicycle racks. Bike parking facilities could be located on the ground-floor or basement level of project buildings, as well as scattered throughout the district (e.g., in plaza areas, building entries, open space), in accordance with the Mission Rock Special Use District (SUD) and Design Controls. Lockers and showers would also be provided to encourage cycling.

Mitigation Measure M-TR-3, Parking Garage and Intersection Queue Impacts, has been modified on page 4.E-109 in Section 4.E, *Traffic and Circulation*, as follows:

- \* The easternmost driveway on Long Bridge Street (i.e., closest to Bridgeview Street) shall be restricted to right-in, right-out access during all times. Restricted access could be accomplished by placing signage (i.e., on Long Bridge Street to direct westbound traffic to the westernmost garage driveway, and within the parking garage for exiting traffic to indicate outbound right turn movement only allowed) as well as delineators of a sufficient length in the middle of Long Bridge Street to block left-turn access to the driveway.

Mitigation Measure M-TR-4.1, Provide Fair-Share Contribution to Improve 10 Townsend Line Capacity, has been modified on page 4.E-122 in Section 4.E, *Traffic and Circulation*, as follows:

- \* SFMTA will determine whether adding bus(es) or other measures are more desirable to increase capacity along the route and will use the funds provided by the project sponsor to implement the most desirable measure(s), which may include but is not limited to the following measures:

Mitigation Measure M-TR-4.2, Provide Fair-Share Contribution to Improve 30 Stockton Line Capacity Proposed Project, has been modified on page 4.E-125 in Section 4.E, *Traffic and Circulation*, as follows:

- \* SFMTA will determine whether adding bus(es) or other measures are more desirable to increase capacity along the route and will use the funds provided by the project sponsor to implement the most desirable measure(s), which may include but is not limited to the following measures:

Mitigation Measure M-TR-6, Parking Garage and Intersection Queue Impacts on Transit Delay, has been modified on page 4.E-132 in Section 4.E, *Traffic and Circulation* as follows:

- \* A. The westernmost driveway on Mission Rock Street (i.e., closest to Third Street) shall be restricted to right-in, right-out access and closed during large AT&T Park events. Restricted access could be accomplished by placing signage as well as delineators of a sufficient length on the center line between the westbound through and left turn lanes on Mission Rock Street, east of Third Street, to block left-turn access to the driveway.
- \* B. A “keep clear” zone shall be provided in front of the easternmost driveway on Mission Rock Street (i.e., closest to Bridgeview Street) to prevent westbound queues at the Third Street/Mission Rock traffic signal from blocking inbound access to the driveway. The Keep Clear pavement markings shall be placed in the westbound lane immediately in front of the easternmost driveway for the Block D2 parking garage.

The term “TDM coordinator” has been deleted and replaced with “transportation coordinator” on page 4.E-133 in Section 4.E, *Traffic and Circulation*:

\* The site's ~~TDM~~ transportation coordinator shall be a member of the Mission Bay Ballpark Transportation Coordination Committee and provide notification prior to the start of any on-site event that would overlap with an event at AT&T Park or the Warriors arena.

The impact conclusion for Impact TR-12 has been modified on page 4.E-148 in Section 4.E, *Traffic and Circulation*. See the following staff-initiated change for the reasoning behind this change:

\* Impact TR-12. The proposed project ~~could~~ would not result in significant impacts on emergency access to the project site or adjacent locations. (Less than Significant ~~with Mitigation~~)

Mitigation Measure M-TR-12: Coordinate Final Design of the "Keep Clear" Zone on Mission Rock Street (in front of the Public Safety Building) with Police and Fire, on page 4.E-151 in Section 4.E, *Traffic and Circulation*, has been deleted. This mitigation measure has been deleted because the Project Sponsor has executed a Non-Binding Letter of Intent<sup>1</sup> between the Project Sponsor, the City of San Francisco, and the Port of San Francisco representing an agreement regarding the development and proposed design of the keep clear zone. The Non-Binding Letter of Intent addresses the provisions outlined in the mitigation measure, negating the need for including this mitigation measure as a means to reduce impacts. The Fire Department was among the City agencies that executed the Non-Binding Letter of Intent, and the Police Department has separately indicated that the proposed design of the keep clear zone is acceptable.<sup>2</sup> The associated text has been modified as follows:

\* For these reasons, the proposed project would not inhibit emergency vehicle access to the project site and nearby vicinity under the event scenario. The proposed project would be designed to provide an adequate "keep clear" zone for ~~P~~Police and ~~F~~Fire ~~D~~Department vehicle access into the Public Safety Building across Mission Rock Street. ~~However, because coordination with police and fire departments on the final street design has not yet concluded, this would conservatively be a significant impact. The mitigation measure below shall be implemented to reduce this significant impact to a less than significant level.~~

~~*M-TR-12: Coordinate Final Design of the "Keep Clear" Zone on Mission Rock Street (in front of the Public Safety Building) with Police and Fire Departments* Prior to finalizing the design and dimensions of the "keep clear" zone on Mission Rock Street in front of the police and fire truck access point (in front of the Public Safety Building), the project sponsor shall coordinate the design with the police and fire departments.~~

<sup>1</sup> Seawall Lot 337 Associates, LLC. 2017. Non-Binding Letter of Intent. April 18.

<sup>2</sup> Moser, Robert. RE: PSB/Mission Rock development. Message to John Updike. 21 April 2017. Email.

~~Implementation of Mitigation Measures M-TR-12~~The project sponsor has coordinated with Police and Fire Departments and they have come to agreement on the design of the “keep clear” zone, which would ensure clear access and ingress/egress for the Police and Fire Departments’ vehicles to the Public Safety Building. Thus, ~~with implementation of Mitigation Measure M-TR-12,~~ the proposed project’s ~~significant~~ impacts on Police and Fire Department vehicles’ clear access to the Public Safety Building would be *less than significant with mitigation*.

Reference to M-TR-12 on page 4.E-181 in Section 4.E, *Traffic and Circulation*, has been deleted as follows:

\* As discussed above, ~~Mitigation Measure M-TR-12 would ensure that~~ the proposed project would be designed to not impede access and to ensure clear ingress/egress for the Police and Fire Departments’ vehicles into the Public Safety Building. Thus, ~~with implementation of Mitigation Measure M-TR-12,~~ there would be no cumulative impacts and no cumulatively considerable contribution to significant cumulative impacts related to the Police and Fire Departments’ vehicles access to the Public Safety Building.

## F. NOISE

The parenthetical conclusion in the bold text impact statement for Impact NOI-2 on page 4.F-40 in Section 4.F, *Noise*, has been revised as follows to correct an error:

\* Impact NOI-2. Operation of the proposed project could result in the exposure of persons to or generation of noise levels in excess of the San Francisco Noise Ordinance or a substantial temporary, periodic or permanent increase in ambient noise levels in the project vicinity, above levels existing without the project. (**Significant and Unavoidable with Mitigation**)

The parenthetical conclusion in the bold text impact statement for Impact C-NOI-3 on page 4.F-66 in Section 4.F, *Noise*, has been revised as follows to correct an error:

\* Impact C-NOI-3. Operation of the proposed project, in combination with other past, present, and reasonable future projects in the city, would result in the exposure of persons to noise in excess of the applicable local standards or a substantial permanent ambient noise level increase in the project vicinity. (**Significant and Unavoidable with Mitigation**)

The last sentence on page 4.F-67 in Section 4.F, *Noise*, has been revised as follows to correct an error:

\* Therefore, the cumulative traffic noise impact and the project’s contribution to this impact would be *significant and unavoidable with mitigation*.

## G. AIR QUALITY

Table 4.G-5 and associated text on page 4.G-21 of Section 4.G, *Air Quality*, has been revised to reflect accurate data regarding air quality index statistics. This revision does not change any conclusions in the Draft EIR.

Typically, the federal standard for these air pollutants corresponds to the number 100 on the AQI scale. Readings below 100 on the AQI scale would not generally affect the health of the general public, although readings in the moderate range of 50 to 100 may affect unusually sensitive people. Levels above 300 rarely occur in the United States; readings above 200 have not occurred in the Bay Area in decades.<sup>3</sup> Historical BAAQMD data indicate that the City San Francisco Bay Area Air Basin experienced air quality in the red range (unhealthy) 0 5 days between 2010 2012 and 2016. As shown in Table 4.G-5, below, the City Air Basin had a total of 3 11 orange-level days in 2010 2012 (unhealthy for sensitive groups), 2 in 2011, 2 in 2012, 2 15 in 2013, 0 11 in 2014, 0 19 in 2015, and 0 13 in 2016.

\*

**TABLE G-1. AIR QUALITY INDEX STATISTICS FOR THE CITY OF SAN FRANCISCO (~~2010~~2012–2016)**

AQI Statistics for City of San Francisco	Number of Days by Year						
	2010	2011	2012	2013	2014	2015	2016
Unhealthy for Sensitive Groups (Orange)	<u>3</u>	<u>2</u>	<u>2 11</u>	<u>2 15</u>	<u>0 11</u>	<u>0 19</u>	<u>0 13</u>
Unhealthy (Red)	<u>0</u>	<u>0</u>	<u>0 1</u>	<u>0 1</u>	<u>0 1</u>	<u>0</u>	<u>0 2</u>

Sources:

Bay Area Air Quality Management District. 2017. Email Communication with Duc Nguyen, Senior Air Quality Meteorologist. August, 31, 2017.

1. U.S. Environmental Protection Agency. 2016. *Download Data Files: Daily Summary Data*. Available: [http://aqsdri1.epa.gov/aqswweb/aqstmp/airdata/download\\_files.html#Daily](http://aqsdri1.epa.gov/aqswweb/aqstmp/airdata/download_files.html#Daily). Accessed: August 10, 2016.
2. U.S. Environmental Protection Agency. 2016. *Air Quality Index Report*. Available: <https://www.epa.gov/outdoor-air-quality-data/air-quality-index-report>. Accessed: September 29, 2016.

Mitigation Measure M-AQ-1.5, Emissions Offsets for Construction and Operational Ozone Precursor Emissions, on pages 4.G-54 to 4.G-55 in Section 4.G, *Air Quality*, has been slightly revised to provide clarifications.

Prior to the estimated first year of exceedance of criteria air pollutant thresholds, the project sponsor, with oversight of the Planning Department, shall elect to either:

1. Directly implement a specific offset project(s) or program(s) to achieve emission reductions of up to 10.5 tons of ozone precursors to offset the combined emissions from

<sup>3</sup> Bay Area Air Quality Management District. 2016. *AQI*. Available: <http://sparetheair.org/stay-informed/todays-air-quality/air-quality-index>. Accessed: August 19, 2016.

construction and operations remaining above significance levels after implementation of identified mitigation measures. To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emissions reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. Prior to implementation of the offset project(s), the project sponsor must obtain the Planning Department's approval of the proposed offset project(s) by providing documentation of the estimated amount of emissions of ROG and NOx to be reduced (tons per year) within the SFBAAB from the emissions reduction project(s). The project sponsor shall notify the Planning Department within 6 months of completion of the offset project(s) for Planning Department verification.

2. Pay a mitigation offset fee to the BAAQMD Bay Area Clean Air Foundation (Foundation) in installments, as further described below, with each installment amount to be determined prior to the estimated first year of exceedance. This fee is intended to fund emissions reduction projects to achieve reductions totaling up to 10.5 tons of ozone precursors per year, the estimated maximum tonnage of operational and construction-related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NOX (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NOx emissions offsets required.

The fee shall be paid in up to 12 installments, each installment payable at the time of application for a site permit for each development block, representing the portion of the 10.5 tons of ozone precursors per year attributable to each building, as follows: (a) Blocks A, G, and K: 6.6% or 0.70 tons per each development block; (b) Pier 48: 18.6% or 1.95 tons; (c) Blocks B, C, and D: 9% or 0.95 tons per each development block; (d) Blocks E and F: 10.3% or 1.08 tons per each development block; and (e) Blocks H, I, and J: 4.6% or 0.49 tons per each development block. The mitigation offset fee, currently estimated at approximately \$18,030,18,262 per weighted ton, and shall not to exceed \$35,000 per weighted ton of ozone precursors per year requiring emissions offsets plus an administrative fee of no more than 5 percent of the total offset to fund one or more emissions reduction projects within the SFBAAB. The not to exceed amount of \$35,000 will be adjusted to reflect annual California Consumer Price Index adjustments between 2017 and the estimated first year of exceedance. The fee will be determined by the Planning Department, the project sponsor, and the BAAQMD and be based on the type of projects available at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions totaling 10.5 tons of ozone precursors per year,

~~the estimated maximum tonnage of operational and construction related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NOX (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction related ROG and NOx emissions offsets required. Documentation of payment shall be provided to the Planning Department.~~

Unless directly implementing a specific offset project (or program) as described above, the project sponsor would enter into a Memorandum of Understanding (MOU) with the BAAQMD Foundation in connection with each installment payment described above. The MOU will include details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the BAAQMD shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the Planning Department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tons per year) within the SFBAAB from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement.

To clarify, the text in Section 4.G, *Air Quality*, on pages 4.G-62 and 4.G-63, has been modified as follows:

*M-AQ-2.2: Reactive Organic Gases Emissions Reduction Measures*

To reduce ROG emissions associated with the project, the project sponsor shall provide education for residential and commercial tenants to help reduce area source (e.g., architectural coatings, consumer products, and landscaping) emissions associated with residential and building operations. Prior to receipt of any building permit and every 5 years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develop electronic correspondence, which will be distributed by email annually to tenants of the project that encourages the purchase of consumer products that are better for the environment and generate fewer VOC emissions. The correspondence shall encourage environmentally preferable purchasing and include contact information and links to SF APPROVED. While microbreweries do not typically implement emission control devices, to further reduce ROG (primarily ethanol) emissions associated with Pier 48 industrial operations, the project sponsor shall

implement technologies to reduce ethanol emissions if available and practicable. Such measures could include wet scrubbers, ethanol recovery and capture (e.g., carbon absorption) or incineration. At the time when specific designs for the Pier 48 use are submitted to the City for approval, the project sponsor shall provide an analysis that quantifies the emissions, based on the specific design proposal, and evaluates ROG emission control technologies.

The term “TDM coordinator” has been deleted and replaced with “transportation coordinator” on the following pages in Section 4.G, *Air Quality*:

**Page 4.G-64:**

*TDM Plan Monitoring and Reporting:* The ~~TDM~~ transportation coordinator shall collect data, prepare monitoring reports, and submit them to the Planning Department.

**Timing:** The ~~TDM~~ transportation coordinator shall collect monitoring data and shall begin submitting monitoring reports to the Planning Department beginning 18 months after the completion and commencement of operation of the proposed garage on Block D.

**Page 4.G-66:**

\* Documentation of Plan Implementation: The ~~TDM~~ transportation coordinator shall work in conjunction with the Planning Department to develop a survey (online or paper) that can be reasonably completed by the ~~TDM~~ transportation coordinator and/or Transportation Management Association (TMA) staff members to document implementation of TDM program elements and other basic information during the reporting period.

Assistance and Confidentiality: The Planning Department will assist the ~~TDM~~ transportation coordinator with questions regarding the components of the monitoring report and will assist the ~~TDM~~ transportation coordinator in determining ways to protect the identity of individual survey responders.

## H. WIND AND SHADOW

Part 1 of Mitigation Measure M-WS-1, Assessment and Mitigation of Wind Hazards on a Building-by-Building Basis, has been modified on page 4.I-21 in Section 4.I, *Wind and Shadow* as follows:

\* 1. Prior to or as part of the submittal package for the schematic design of a new building (Proposed Building), the Proposed Building developer shall submit to the Planning Department, for its review and approval, a scope of work and, following approval of the scope, a report from a Qualified Wind Consultant (QWC) that reviews the Proposed Building schematic design, absent landscaping.

The parenthetical conclusion in the bold text impact statement for Impact C-WS-1 on page 4.I-25 in Section 4.I, *Wind and Shadow*, has been revised to correct an error. This revision does not change any conclusions in the Draft EIR.

\* Impact C-WS-1: The project, in combination with past, present, and reasonably foreseeable future projects, would alter wind in a manner that would substantially affect public areas. (**Significant and Unavoidable with Mitigation**)

## I. BIOLOGICAL RESOURCES

The third paragraph on page 4.L-5 in Section 4.L, *Biological Resources*, of the Draft EIR has been revised as follows:

Special-status bird species with the potential to occur in the study area include American peregrine falcon (*Falco pererinus anatum*), brown pelican (*Pelecanus occidentalis californicus*), black skimmer (*Rynochops nigers*), and California least tern (*Sternula antillarum*). American peregrine falcon, brown pelican, and California least tern are fully protected species under the California Fish and Game Code, and take of these species, as defined in the California Fish and Game Code, is prohibited. The project site does not provide potential nesting habitat for these species; however, these avian species may forage in or over the Bay near the project site.

The text in the first row of Table 4.L-1 (page 4.L-6) in Section 4.L, *Biological Resources*, is revised as follows:

Common and Scientific Name	Status
	Federal/State
<b>Birds</b>	
California brown pelican <i>Pelecanus occidentalis californicus</i>	FD/SD/FP

The following row has been added into Table 4.L-1 on page 4.L-10, below Central California coast steelhead:

Common and Scientific Name	Status	California Distribution	Habitats	Potential Occurrence in Study Area
Central Valley steelhead <i>Oncorhynchus mykiss</i>	T/--	Sacramento and San Joaquin Rivers and tributary Central Valley rivers	Occurs in well-oxygenated, cool, riverine habitat with water temperatures from 7.8 to 18°C (Moyle 2002). Habitat types are riffles, runs, and pools.	<b>Moderate.</b> Species may migrate through the study area.

Page 4.L-14 in Section 4.L, *Biological Resources*, is revised as follows:

Special-status fish species with the potential to occur in the study area include the green sturgeon southern distinct population segment (DPS) (*Acipenser medirostris*), which is federally listed as threatened; longfin smelt (*Spirinchus thaleichthys*), a federal<sub>2</sub> candidate and state-listed threatened species<sub>2</sub>; the central California coast steelhead DPS (*Oncorhynchus mykiss*); the Central Valley steelhead DPS (*Oncorhynchus mykiss*); and several Chinook salmon (*Oncorhynchus tshawytscha*) runs, which are federally listed as threatened and endangered (Table 4.L-1, page 4.L-6). All of these species could forage in the Bay.

Page 4.L-15 in Section 4.L, *Biological Resources*, is revised as follows:

Central California coast steelhead includes populations from the Russian River south to Aptos Creek in Santa Cruz County, including streams that are tributaries to San Francisco and San Pablo Bays. Central Valley steelhead includes populations from the Sacramento and San Joaquin Rivers, including tributaries to Central Valley rivers. Adults migrate upstream to freshwater from December to March, and juveniles emigrate downstream to the Bay in late winter and spring.<sup>4</sup> The study area could provide rearing and migratory habitat for both adult and juvenile steelhead.

The impact evaluation in the last paragraph on page 4.L-52 in Section 4.L, *Biological Resources*, has been revised as follows:

Bird species ~~which~~ that forage in the Bay (including the fully protected species brown pelican, peregrine falcon, and California least tern) would not be adversely affected by construction activities at the project site and could avoid construction that ~~will~~ would occur in the Bay. Construction noise would have very little impact on foraging activities ~~since~~ because birds in this area are acclimated to high levels of urban activity and noise. Therefore, the proposed project would not result in take of fully protected species.

## J. HYDROLOGY AND WATER QUALITY

The following text has been added to page 4.N-38 in Section 4.N, *Hydrology and Water Quality*:

**San Francisco Waterfront Special Area Plan.** BCDC completed and adopted the Bay Plan in 1968. The plan has been periodically amended since its adoption, most recently in 2011, to address climate change and shoreline protection issues. In 1975, after a collaborative

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<sup>4</sup> Center for Biological Diversity. No date. *Natural History*. Central California Coast Steelhead Trout, *Oncorhynchus mykiss*. Available: [http://www.biologicaldiversity.org/species/fish/central\\_california\\_coast\\_steelhead\\_trout/natural\\_history.html](http://www.biologicaldiversity.org/species/fish/central_california_coast_steelhead_trout/natural_history.html). Accessed: August 8, 2016.

planning process with the San Francisco Planning Department, BCDC adopted the San Francisco Waterfront Special Area Plan (Special Area Plan). The Special Area Plan was substantially amended in 2000. This plan, together with the McAteer-Petris Act and the Bay Plan, as well as subsequent amendments to all three documents, prescribes a set of rules for shoreline development along the San Francisco waterfront. Several policies of the Bay Plan are aimed at protecting San Francisco Bay's water quality, ensuring the safety of fills, and guiding dredging of the Bay's sediment. In addition, when approving a project in an area polluted with toxic or hazardous substances, BCDC will coordinate with appropriate local, state, and federal agencies to ensure that the project will not cause harm to the public, to Bay resources, or to the beneficial uses of the Bay.

## K. VARIANTS

The last paragraph on pages 6-37 and 6-38 in Chapter 6, *Variants*, has been revised to remove reference to M-TR-12:

\* Similar to the proposed project, Variant 2 would be designed to provide access for ~~P~~olice and ~~F~~ire ~~D~~epartment vehicles into the Public Safety Building across Mission Rock Street. The project sponsor has coordinated with Police and Fire Departments and they have come to agreement on the design of the "keep clear" zone, which would ensure clear access and ingress/egress for the Police and Fire Departments' vehicles to the Public Safety Building. Thus, the impact would be *less than significant*. However, until final street design is coordinated with the Police and Fire Department, this would conservatively be a significant impact. Mitigation Measure M-TR-12 would reduce this significant impact to a less than significant level. Improvement Measure I-TR-12 would also apply to Variant 2 and would enhance emergency vehicle access.

The following text has been added to page 6-38, after the section on Parking Impacts, in Chapter 6, *Variants*:

\* The effects of the proposed project on the transportation network under cumulative (2040) conditions are deemed to be *less-than-significant* for construction impacts, VMT impacts, regional transit impacts, loading impacts, emergency vehicle access impacts, and parking impacts. Variant 2 would likewise not make a considerable cumulative contribution to these impact areas because as compared to the proposed project, it would have a similar building square footage, generate a similar level of peak hour vehicle trips, have similar peak commercial loading demands, and have lower peak parking demands when compared to the proposed project. The impacts of Variant 2 related to construction, VMT impacts, regional transit impacts, loading impacts, emergency vehicle access, and parking under cumulative conditions would thus be *less than significant* as with the proposed project.

The cumulative impacts of the proposed project on traffic hazard impacts and bicycle impacts would be *less than significant with mitigation*. Although Variant 2 would increase vehicle, bicycle, and pedestrian travel in the area, the existing local roadways would be designed to adopted design standards, which are developed to ensure the safe circulation for all modes, including conflicts between vehicles and other modes. Consistent with the City's Better Streets Plan and Transit First Policy, roadway improvements throughout the city, including the study area, would improve overall safety and encourage sustainable modes of transportation. Future growth would increase traffic volumes in the study area. The proposed project's internal roadway system are based on design standards that would reduce traffic speeds and promote walking and bicycling. Under 2040 cumulative conditions, development projects in Mission Bay including the proposed project would provide new roadways, bicycle facilities, sidewalks and enhanced intersection crossing treatments, traffic control devices, and transportation wayfinding. The Giants currently have a Transportation Management Plan (TMP) and Parking Control Officers (PCOs) are deployed during major events at AT&T Park at key intersections to monitor and manage traffic as needed. The Golden State Warriors also have a TMP for the Event Center that includes commitments to provide transit service and deploy PCOs at key intersections during Warriors' games and major overlapping events at AT&T Park.

Pedestrian impacts would be *significant and unavoidable with mitigation* under the proposed project. The cumulative contribution of Variant 2 would be similar to the proposed project because it would have the same access design for the Parcel D2 parking garage, and would generate slightly fewer pedestrian and bicycle trips when compared to the proposed project under all scenarios. By their nature, pedestrian circulation impacts are site specific and generally do not contribute to impacts from other development projects. Variant 2 would have a similar pedestrian safety impact at two intersections on Fourth Street as the proposed project, but the pedestrian impact at these intersections would not be expected to affect or be further affected by other development projects near the project site. The impacts of Variant 2 related to traffic hazard impacts and bicycle impacts under cumulative conditions would thus be *less-than-significant with mitigation* as with the proposed project. Implementation of traffic signals on Fourth Street at Mission Rock Street and Long Bridge Street (Mitigation Measure M-TR-9) would fully resolve pedestrian safety impacts associated with Variant 2 that such impacts would be less than significant. However, at this time, the approval of the signalization improvements is considered somewhat uncertain, because they will require SFMTA Board approval. For that reason, this variant's contribution to potential cumulative pedestrian impacts would be considered to remain *significant and unavoidable with mitigation*, similar to the proposed project.

The cumulative impacts of the proposed project on transit impacts would be *significant and unavoidable with mitigation*. The cumulative transit impacts of the proposed project result from a substantial increase in transit demand on one individual Muni route (i.e., Route 10) that would not be accommodated by local transit capacity (Impact C-TR-4). The proposed project also contributes considerably to transit delays (Impact C-TR-6) due to the addition of project vehicle trips that would result in queues, at the driveways for the proposed project parking garages and at intersections adjacent to the garage facilities, and would affect operations of the T Third line along Third Street between Mission Rock Street and Channel Street. Variant 2 would contribute 2 percent fewer transit trips than the proposed project during the a.m. peak hour and 6 percent more transit trips during the p.m. peak hour than the proposed project, and thereby result in a significant cumulative transit impact. The cumulative transit mitigation measure M-C-TR-4 described for the proposed project, which involves providing a fair-share contribution to improve the 10 Townsend line capacity, would also be applicable to Variant 2. The impacts of Variant 2 related to transit impacts under cumulative conditions would thus be *significant and unavoidable with mitigation* as with the proposed project.

The last sentence in the third paragraph on page 6-38 in Chapter 6, *Variants*, has been revised to correct an error.

\* Variant 2 would not change the outdoor event uses under the pProject (it would only change indoor activities associated with Variant 2), so to the extent pProject uses are subject to Mitigation Measure M-NOI-2.1, Noise Control Plan for Outdoor Amplified Sound), this mitigation would equally apply under Variant 2, and noise from outdoor events would remain ~~less than~~ less than significant and unavoidable with mitigation under Variant 2.

The last paragraph on page 6-58 in Chapter 6, *Variants*, has been revised to correct an error.

\* As stated on page 6-58, under Variant 3, Reconfigured Parking, the Block D2 parking garage, unlike under the proposed project, would not have a driveway on the east end of Long Bridge Street, immediately west of Bridgeview Street, as the proposed project does. Therefore, unlike the proposed project, Variant 3 would not cause pedestrian and bicycle hazards due to queues from the garage driveway on Long Bridge Street, and Mitigation Measure M-TR-3 would not be necessary under Variant 3 in order for queue impacts at that location to be less than significant. However, ~~As~~ with the proposed project, Variant 3 would cause pedestrian and bicycle hazards due to queues at the proposed ~~project~~ Block D2 garages, as documented in Impact ~~TR-3 and~~ TR-6. Mitigation Measures ~~M-TR-3 and~~ M-TR-6, M-TR-7, and M-TR-9 would also apply to Variant 3.

With implementation of these measures, vehicle impacts on pedestrians and bicycles generated by trips to the project's parking garage under Variant 3 would be reduced to a less-than-significant level.

The third paragraph on page 6-60 in Chapter 6, *Variants*, has been revised to remove reference to M-TR-12:

\* Similar to the proposed project, Variant 3 would be designed to provide access for Police and Fire Department vehicles into the Public Safety Building across Mission Rock Street. The project sponsor has coordinated with Police and Fire Departments and they have come to agreement on the design of the "keep clear" zone, which would ensure clear access and ingress/egress for the Police and Fire Departments' vehicles to the Public Safety Building. Thus, the impact would be *less than significant*. However, until final street design is coordinated with the Police and Fire Department, this would conservatively be a significant impact. Mitigation Measure M-TR-12 would reduce this significant impact to a less than significant level. Improvement Measure I-TR-12 would also apply to Variant 3 and would enhance emergency vehicle access.

The following text has been added to page 6-60, after the section on Parking Impacts, in Chapter 6, *Variants*:

The effects of the proposed project on the transportation network under cumulative (2040) conditions are deemed to be *less-than-significant* for construction impacts, VMT impacts, regional transit impacts, loading impacts, emergency vehicle access impacts, and parking impacts. Variant 3 would likewise not make a considerable cumulative contribution to these impact areas because as compared to the proposed project, it would have identical building square footage, generate the same number of peak hour vehicle trips, have the same peak commercial loading demands, and have the same peak parking demands when compared to the proposed project. The impacts of Variant 3 related to construction, VMT impacts, regional transit impacts, loading impacts, emergency vehicle access, and parking under cumulative conditions would thus be *less-than-significant* as with the proposed project.

\* The cumulative impacts of the proposed project on traffic hazard impacts and bicycle impacts would be *less-than-significant with mitigation*. Although Variant 3 would increase vehicle, bicycle, and pedestrian travel in the area, the existing local roadways would be designed to adopted design standards, which are developed to ensure the safe circulation for all modes, including conflicts between vehicles and other modes. Consistent with the City's Better Streets Plan and Transit First Policy, roadway improvements throughout the city, including the study area, would improve overall safety and encourage sustainable modes of transportation. Future growth would increase traffic volumes in the study area. The proposed project's internal roadway

system are based on design standards that would reduce traffic speeds and promote walking and bicycling. Under 2040 cumulative conditions, development projects in Mission Bay including the proposed project would provide new roadways, bicycle facilities, sidewalks and enhanced intersection crossing treatments, traffic control devices, and transportation wayfinding. The Giants currently have a Transportation Management Plan (TMP) and Parking Control Officers (PCOs) are deployed during major events at AT&T Park at key intersections to monitor and manage traffic as needed. The Golden State Warriors also have a TMP for the Event Center that includes commitments to provide transit service and deploy PCOs at key intersections during Warriors' games and major overlapping events at AT&T Park.

Pedestrian impacts would be *significant and unavoidable with mitigation* under the proposed project. The cumulative contribution of Variant 3 would be similar to the proposed project because it would have five driveways located on the same streets as the proposed project driveways for the Parcel D2 parking garage, and would generate the same number of pedestrian and bicycle trips when compared to the proposed project. By their nature, pedestrian circulation impacts are site specific and generally do not contribute to impacts from other development projects. Variant 3 would have a slightly greater pedestrian safety impact at two intersections on Fourth Street compared the proposed project, but the pedestrian impact at these intersections would not be expected to affect or be further affected by other development projects near the project site. The impacts of Variant 3 related to traffic hazard impacts and bicycle impacts under cumulative conditions would thus be *less-than-significant with mitigation* as with the proposed project. Implementation of traffic signals on Fourth Street at Mission Rock Street and Long Bridge Street (Mitigation Measure M-TR-9) would fully resolve pedestrian safety impacts associated with Variant 3 that such impacts would be less-than-significant. However, at this time, the approval of the signalization improvements is considered somewhat uncertain, because they will require SFMTA Board approval. For that reason, this variant's contribution to potential cumulative pedestrian impacts would be considered to remain *significant and unavoidable with mitigation*, similar to the proposed project.

The cumulative impacts of the proposed project on transit impacts would be *significant and unavoidable with mitigation*. The cumulative transit impacts of the proposed project result from a substantial increase in transit demand on one individual Muni route (i.e., Route 10) that would not be accommodated by local transit capacity (Impact C-TR-4). The proposed project also contributes considerably to transit delays (Impact C-TR-6) due to the addition of project vehicle trips that would result in queues, at the driveways for the proposed project parking garages and at intersections adjacent to the garage facilities, and would affect operations of the T Third line along Third Street between Mission Rock Street and Channel Street. Variant 3 would contribute an

identical number of transit trips to the proposed project. The cumulative transit mitigation measure M-C-TR-4 described for the proposed project, which involves providing a fair-share contribution to improve the 10 Townsend line capacity, would also be applicable to Variant 3. The impacts of Variant 3 related to transit impacts under cumulative conditions would thus be *significant and unavoidable with mitigation as with the proposed project.*

The following text has been added to page 6-76, paragraph 2, in Chapter 6, *Variants*, to clarify:

However, this variant would result in approximately 200,000 gsf less residential space than the proposed project, which equates to approximately 200 units.<sup>22</sup> This would lead to the construction of between 800 and 1,400 residential units under Variant 4, depending on the land use assumption. The same percentage of affordable units, 40 percent of all units, would be provided under Variant 4 as under the proposed project. All other project features under this variant would remain the same as the proposed project.

The last paragraph on pages 6-82 and 6-83 in Chapter 6, *Variants*, has been revised to remove reference to M-TR-12.

\* Similar to the proposed project, Variant 4 would be designed to provide access for Police and Fire Department vehicles into the Public Safety Building across Mission Rock Street. The project sponsor has coordinated with Police and Fire Departments and they have come to agreement on the design of the “keep clear” zone, which would ensure clear access and ingress/egress for the Police and Fire Departments’ vehicles to the Public Safety Building. Thus, the impact would be *less than significant*. However, until final street design is coordinated with the Police and Fire Department, this would conservatively be a significant impact. Mitigation Measure M-TR-12 would reduce this significant impact to a less than significant level. Improvement Measure I-TR-12 would also apply to Variant 4 and would enhance emergency vehicle access.

The following text has been added to page 6-83, after the section on Parking Impacts, in Chapter 6, *Variants*:

\* The effects of the proposed project on the transportation network under cumulative (2040) conditions are deemed to be *less-than-significant* for construction impacts, VMT impacts, regional transit impacts, loading impacts, emergency vehicle access impacts, and parking impacts. Variant 4 would likewise not result in a perceptible difference in travel demand or make a considerable cumulative contribution to these impact areas because, as compared to the proposed project, it would have the same building square footage, generate 2 percent more peak hour vehicle trips, have 2 percent higher peak commercial loading demands (50 spaces versus 49 for project), and have slightly lower peak parking demands when compared to the proposed project. The impacts of Variant

4 related to construction, VMT impacts, regional transit impacts, loading impacts, emergency vehicle access, and parking under cumulative conditions would thus be *less-than-significant* as with the proposed project.

The cumulative impacts of the proposed project on traffic hazard impacts and bicycle impacts would be *less-than-significant with mitigation*. Although Variant 4 would increase vehicle, bicycle, and pedestrian travel in the area, the existing local roadways would be designed to adopted design standards, which are developed to ensure the safe circulation for all modes, including conflicts between vehicles and other modes. Consistent with the City's Better Streets Plan and Transit First Policy, roadway improvements throughout the city, including the study area, would improve overall safety and encourage sustainable modes of transportation. Future growth would increase traffic volumes in the study area. The proposed project's internal roadway system are based on design standards that would reduce traffic speeds and promote walking and bicycling. Under 2040 cumulative conditions, development projects in Mission Bay including the proposed project would provide new roadways, bicycle facilities, sidewalks and enhanced intersection crossing treatments, traffic control devices, and transportation wayfinding. The Giants currently have a Transportation Management Plan (TMP) and Parking Control Officers (PCOs) are deployed during major events at AT&T Park at key intersections to monitor and manage traffic as needed. The Golden State Warriors also have a TMP for the Event Center that includes commitments to provide transit service and deploy PCOs at key intersections during Warriors' games and major overlapping events at AT&T Park. For these reasons, the contribution of Variant 4 to potential cumulative traffic hazard impacts and bicycle impacts would be *less-than-significant with mitigation*, similar to the proposed project.

Pedestrian impacts would be *significant and unavoidable with mitigation* under the proposed project. The cumulative contribution of Variant 4 would be similar to the proposed project because it would have the same access design for the Parcel D2 parking garage, and would generate slightly more pedestrian and bicycle trips when compared to the proposed project. By their nature, pedestrian circulation impacts are site specific and generally do not contribute to impacts from other development projects. Variant 4 would have a similar pedestrian safety impact at two intersections on Fourth Street as the proposed project, but the pedestrian impact at these intersections would not be expected to affect or be further affected by other development projects near the project site. The impacts of Variant 4 related to traffic hazard impacts and bicycle impacts under cumulative conditions would thus be *less-than-significant with mitigation* as with the proposed project. Implementation of traffic signals on Fourth Street at Mission Rock Street and Long Bridge Street (Mitigation Measure M-TR-9) would fully resolve pedestrian safety impacts associated with Variant 4 that such impacts would be less than significant. However, at this time, the approval of the

signalization improvements is considered somewhat uncertain, because they will require SFMTA Board approval. For that reason, this variant's contribution to potential cumulative pedestrian impacts would be considered to remain *significant and unavoidable with mitigation*, similar to the proposed project.

The cumulative impacts of the proposed project on transit impacts would be *significant and unavoidable with mitigation*. The cumulative transit impacts of the proposed project result from a substantial increase in transit demand on one individual Muni route (i.e., Route 10) that would not be accommodated by local transit capacity (Impact C-TR-4). The proposed project also contributes considerably to transit delays (Impact C-TR-6) due to the addition of project vehicle trips that would result in queues, at the driveways for the proposed project parking garages and at intersections adjacent to the garage facilities, and would affect operations of the T Third line along Third Street between Mission Rock Street and Channel Street. Variant 4 would contribute 2 percent more transit trips than the proposed project and result in a significant cumulative transit impact. The cumulative transit mitigation measure M-C-TR-4 described for the proposed project, which involves providing a fair-share contribution to improve the 10 Townsend line capacity, would be applicable to Variant 4. The impacts of Variant 4 related to transit impacts under cumulative conditions would thus be *significant and unavoidable with mitigation*, as with the proposed project.

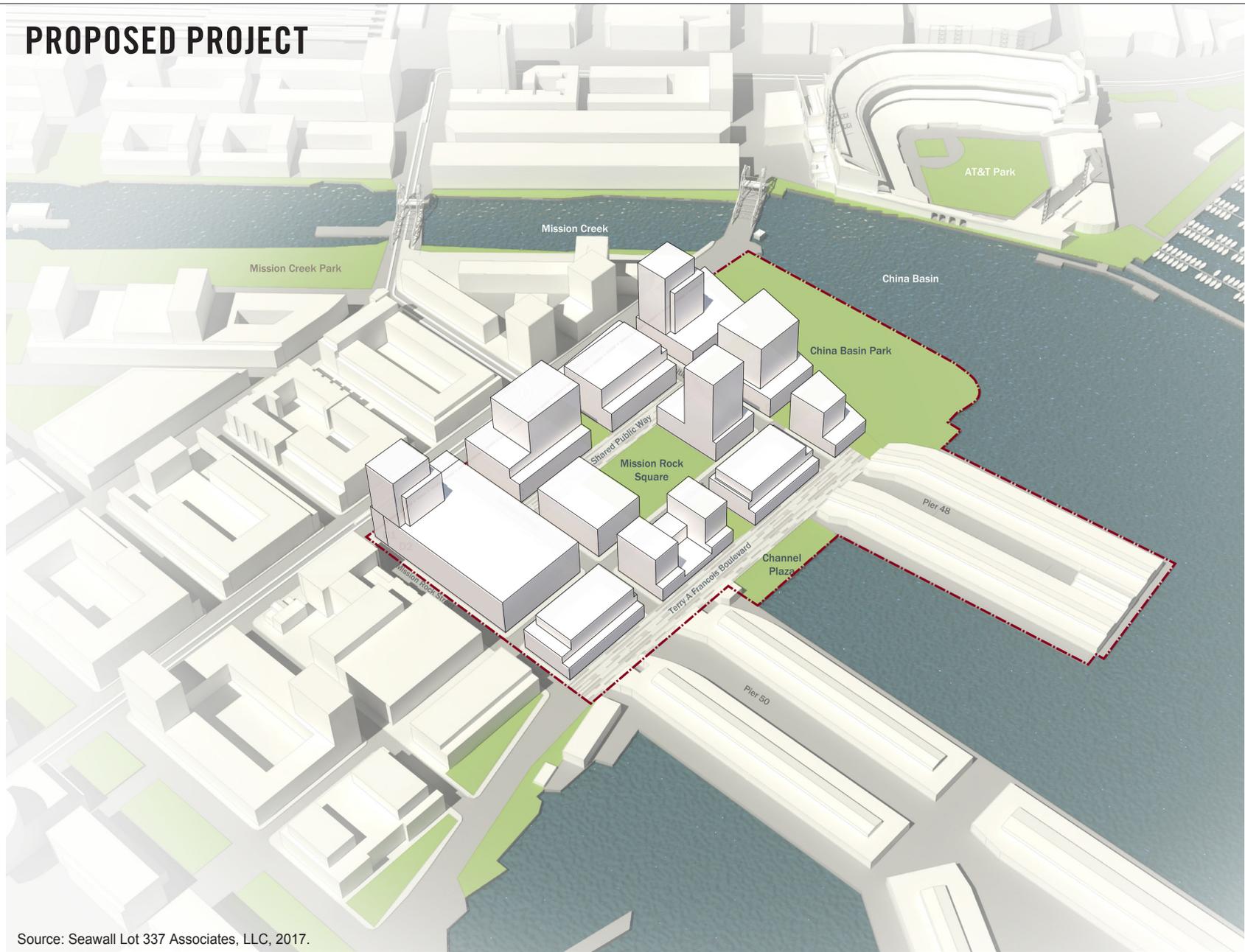
## **L. ALTERNATIVES**

Text has been added to the second to last paragraph on page 7-5, as follows:

Alternative A is included as required by CEQA Guidelines Section 15126.6(e); Alternatives B and C are potentially feasible options that would most likely meet most of the project sponsor's objectives. Table 7-1, on the following page, summarizes and compares the characteristics of the proposed project with those of Alternatives A, B, and C. Detailed descriptions of each alternative are presented below, along with an evaluation of their environmental impacts. Figures 7-1 through 7-4 include 3D depictions of the proposed project (for comparison purposes) and alternatives.

Four new figures, Figures 7-1 through 7-4, have been added following page 7-6.

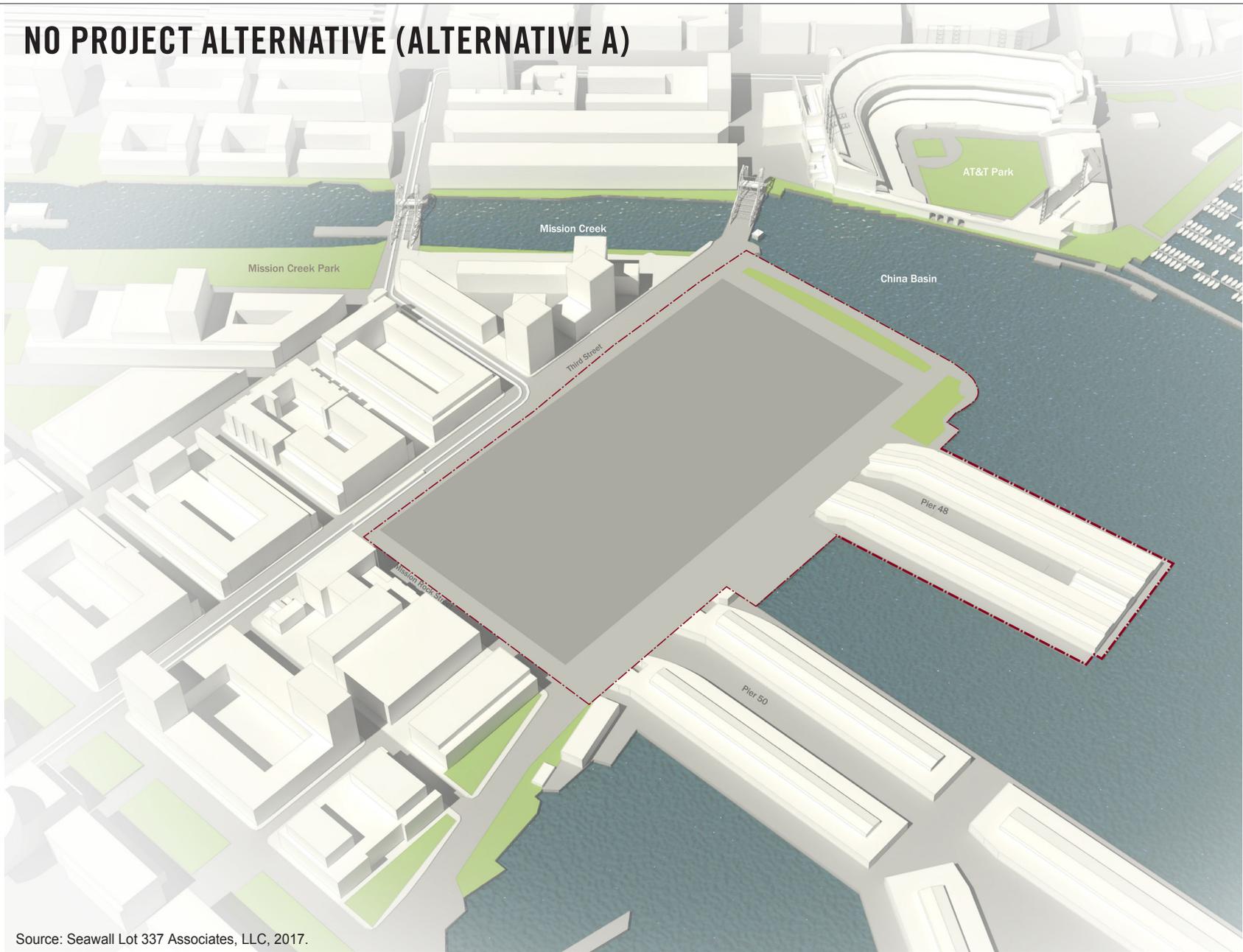
# PROPOSED PROJECT



Source: Seawall Lot 337 Associates, LLC, 2017.

Graphics ... 00336.13 (7-14-2017)

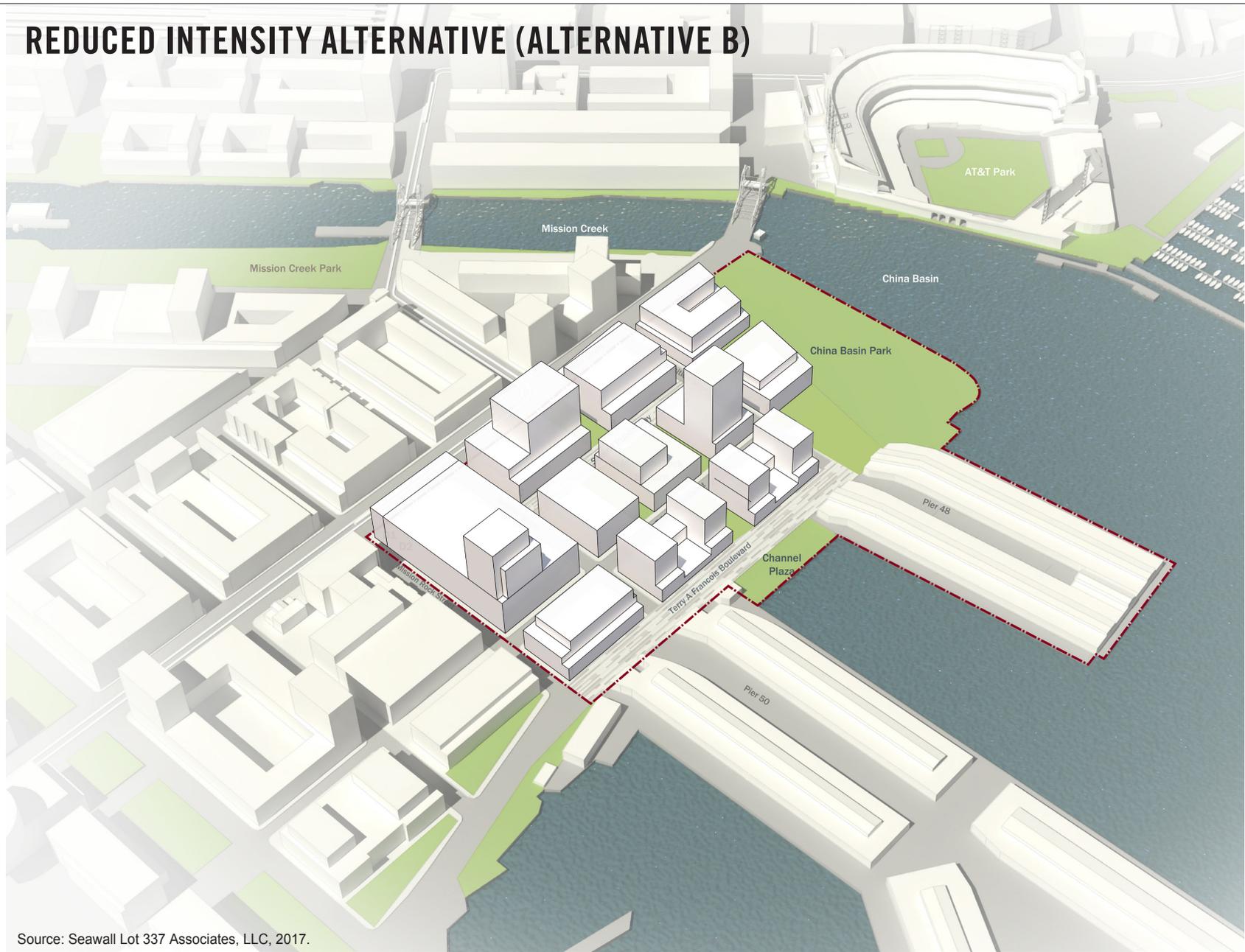
# NO PROJECT ALTERNATIVE (ALTERNATIVE A)



Source: Seawall Lot 337 Associates, LLC, 2017.

Graphics ... 00336.13 (7-14-2017)

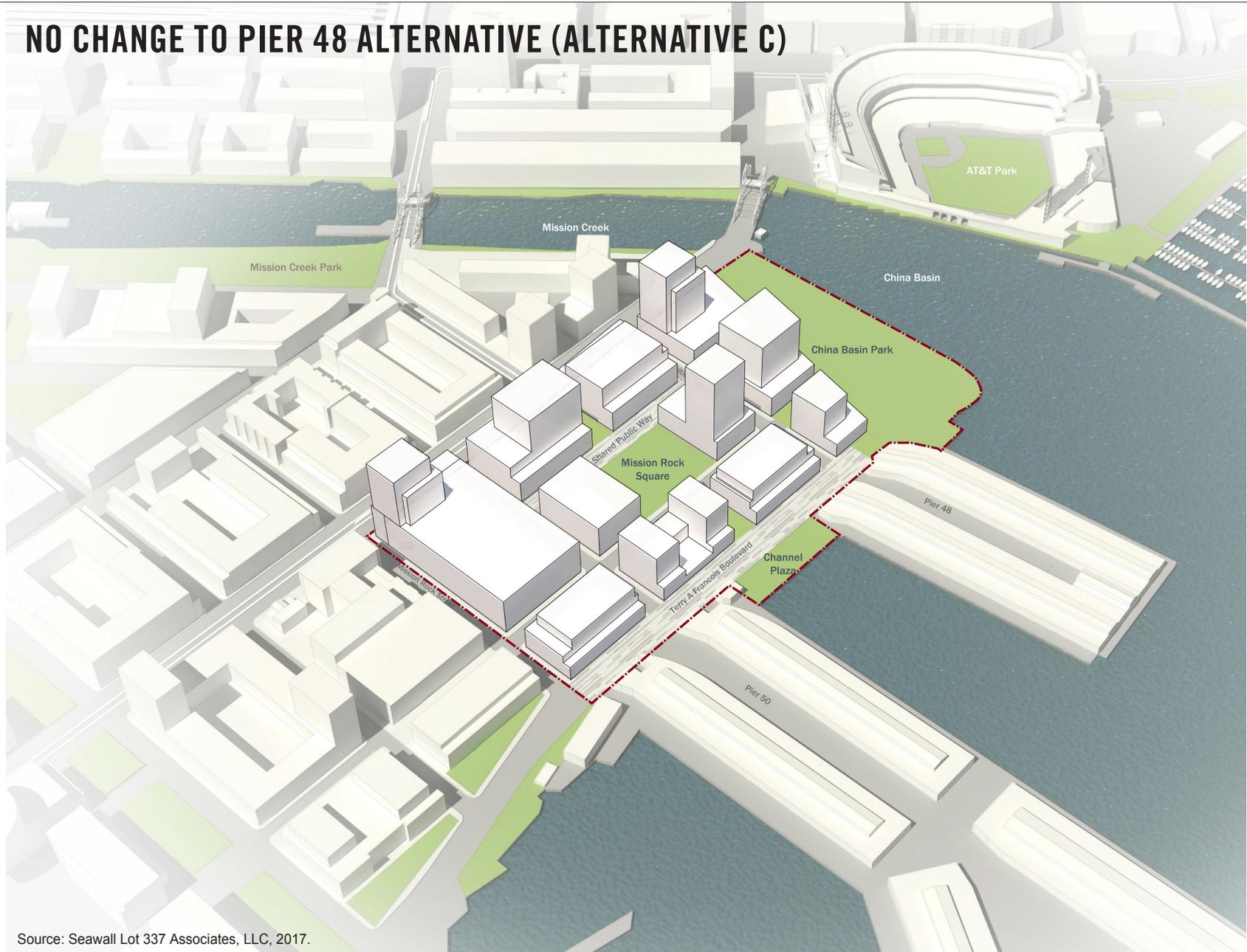
# REDUCED INTENSITY ALTERNATIVE (ALTERNATIVE B)



Source: Seawall Lot 337 Associates, LLC, 2017.

Graphics ... 00336.13 (7-14-2017)

# NO CHANGE TO PIER 48 ALTERNATIVE (ALTERNATIVE C)



Source: Seawall Lot 337 Associates, LLC, 2017.

Graphics ... 00336.13 (7-14-2017)

Reference to M-TR-12 in the last sentence of the first paragraph on page 7-9 in Chapter 7, Alternatives, has been deleted as follows:

- \* Implementation of Mitigation Measures M-TR-3, M-TR-4.1, M-TR-4.2, M-TR-6, M-TR-9, M-TR-10, M-TR-11.1, and M-TR-11.2, ~~and M-TR-12~~ as identified for the proposed project to reduce these impacts, would not be required for the No Project Alternative.

All references to Figure 7-1 have been updated to Figure 7-5, as follows:

**Page 7-13:**

As shown in Figure 7-~~15~~, page 7-15, in the area where Block K would be located under the proposed project, there would be an extension of China Basin Park under the Reduced Intensity Alternative.

Table 7-2 on the following page summarizes the differences between the proposed project and the Reduced Intensity Alternative, and Figure 7-~~15~~ (page 7-15) shows the proposed site plan for the Reduced Intensity Alternative compared to the proposed project.

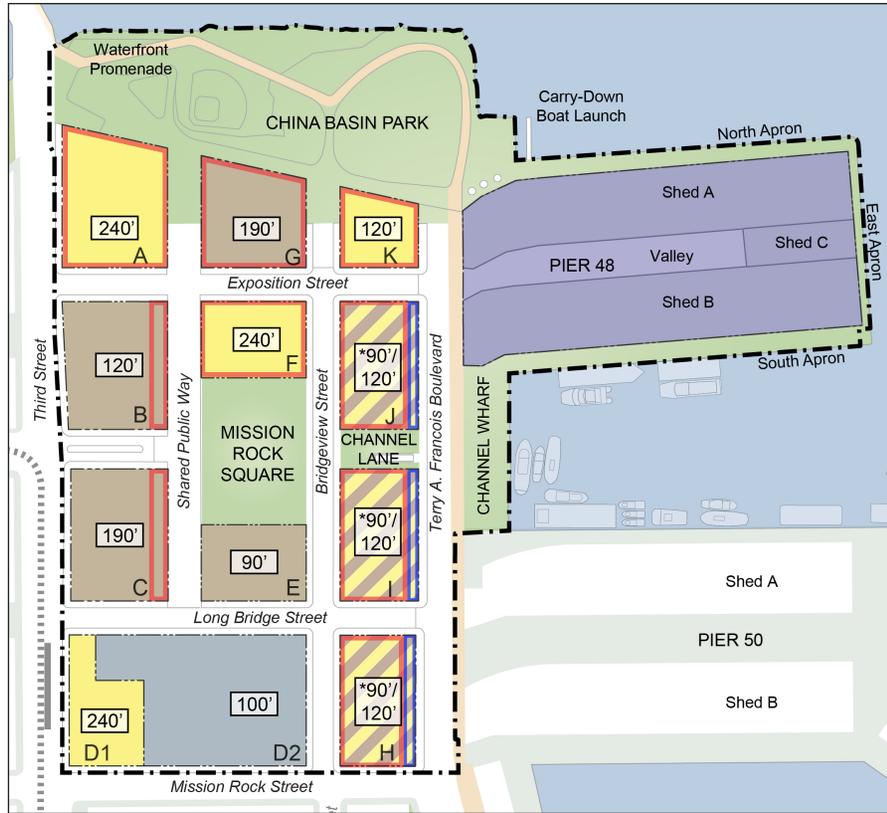
As shown in Figure 7-~~15~~ (page 7-15), the building heights under the Reduced Intensity Alternative would be consistent with the heights of commercial and residential buildings proposed throughout the rest of the site.

**Page 7-17:**

However, under the Reduced Intensity Alternative the 240-foot tower at Block D1 would be moved to a different location on Block D than under the proposed project, as shown in Figure 7-~~15~~ (page 7-15).

Buildings at Block K would retain its height of 120 feet but would be moved from next to China Basin Park to the center of Seawall Lot 337 under this alternative (as shown in Figure 7-~~15~~); under the proposed project, this is the location of Mission Rock Square.

### Proposed Project



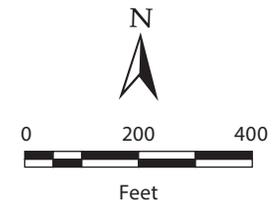
### Alternative



#### LEGEND

- Residential
- Commercial
- Flex Residential/Commerical
- Parking
- Production
- Building Height
- Open Space
- Blue Greenway/  
Waterfront Promenade
- Muni Line
- Project Boundary
- 40' Base Height
- 60' Base Height

\*90 feet if Commercial Use (e.g. High Commercial), 120 feet if Residential Use (e.g. High Residential).



Graphics ... 00336.13 (7-24-2017)

Source: Seawall Lot 337 Associates, LLC, 2016

Text has been added to page 7-27, after the section on VMT Impacts, in Chapter 7, *Alternatives*, as follows:

Induced Travel Impact

\* The Reduced Intensity Alternative will have a similar effect on induced travel as the proposed project. Similar to the proposed project, the Reduced Intensity Alternative would include features that will slightly alter the transportation network (although these are identical to those included in the proposed project). These features would be sidewalk widening, on-street loading zones, curb cuts, and on-street safety strategies and intersection signalization. These features fit within the general types of projects identified that would not substantially induce automobile travel. Therefore, impacts would similarly be *less-than-significant* for the Reduced Intensity Alternative.

Reference to M-TR-12 in the first paragraph on page 7-31 in Chapter 7, *Alternatives*, has been deleted as follows:

\* Similar to the proposed project, the Reduced Intensity Alternative would be designed to provide access for Police and Fire Department vehicles into the Public Safety Building across Mission Rock Street. The project sponsor has coordinated with Police and Fire Departments and they have come to agreement on the design of the “keep clear” zone, which would ensure clear access and ingress/egress for the Police and Fire Departments’ vehicles to the Public Safety Building. Thus, the impact would be less than significant. However, until final street design is coordinated with the Police and Fire Department, this would conservatively be a significant impact. Mitigation Measure M-TR-12 would reduce this significant impact to a less than significant level. Improvement Measure I-TR-12 would also apply to the Reduced Intensity Alternative and would enhance emergency vehicle access.

Text has been added to page 7-83, after the section on VMT Impacts, in Chapter 7, *Alternatives*, as follows:

Induced Travel Impact

\* The No Change to Pier 48 Alternative will have a similar effect on induced travel as the proposed project. Similar to the proposed project, the No Change to Pier 48 Alternative would include features that will slightly alter the transportation network (although these are identical to those included in the proposed project). These features would be sidewalk widening, on-street loading zones, curb cuts, and on-street safety strategies and intersection signalization. These features fit within the general types of projects identified that would not substantially induce automobile travel. Therefore, impacts would similarly be *less-than-significant* for the No Change to Pier 48 Alternative.

Reference to M-TR-12 in the second paragraph on page 7-86 in Chapter 7, *Alternatives*, has been deleted as follows:

\* Similar to the proposed project, the No Change to Pier 48 Alternative would be designed to provide access for Police and Fire Department vehicles into the Public Safety Building across Mission Rock Street. The project sponsor has coordinated with Police and Fire Departments and they have come to agreement on the design of the “keep clear” zone, which would ensure clear access and ingress/egress for the Police and Fire Departments’ vehicles to the Public Safety Building. Thus, the impact would be less than significant. ~~However, until final street design is coordinated with the Police and Fire Department, this would conservatively be a significant impact. Mitigation Measure M-TR-12 would reduce this significant impact to a less than significant level. Improvement Measure I-TR-12~~0~~ would also apply to the No Change to Pier 48 Alternative and would enhance emergency vehicle access.~~

The impact conclusion for Impact TR-12 has been revised on page 7-134 in the Chapter 7, *Alternatives*.

*	Impact TR-12: The proposed project <del>could</del> <u>would not</u> result in significant impacts on emergency access to the project site or adjacent locations. This impact would be less than significant <del>with mitigation.</del>	NI <	<del>LISM</del> =	<del>LISM</del> =
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## M. REPORT PREPARERS

The following text has been revised on page 8-1 in Chapter 8, *Report Preparers*:

\* Deputy City Attorney: Elaine Warren

ATTACHMENT A  
**DRAFT EIR COMMENT LETTERS**



# A-BAAQMD



## BAY AREA AIR QUALITY MANAGEMENT DISTRICT

**ALAMEDA COUNTY**  
Pauline Russo Cutter  
Scott Haggerty  
Rebecca Kaplan  
Nate Miley

**CONTRA COSTA COUNTY**  
John Gioia  
David Hudson  
(Vice Chair)  
Karen Mitchoff  
Mark Ross

**MARIN COUNTY**  
Katie Rice  
(Secretary)

**NAPA COUNTY**  
Brad Wagenknecht

**SAN FRANCISCO COUNTY**  
Edwin M. Lee  
Hillary Ronen  
Jeff Sheehy

**SAN MATEO COUNTY**  
David Canepa  
Carole Groom  
Doug Kim

**SANTA CLARA COUNTY**  
Margaret Abe-Koga  
Cindy Chavez  
Liz Kniss  
(Chair)  
Rod G. Sinks

**SOLANO COUNTY**  
Pete Sanchez  
James Spering

**SONOMA COUNTY**  
Teresa Barrett  
Shirlee Zane

Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

Connect with the  
Bay Area Air District:



June 7, 2017

Tania Sheyner  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Subject: Seawall Lot 337 and Pier 48 Mixed-Use Project DEIR

Dear Ms. Sheyner:

Bay Area Air Quality Management District (Air District) staff has reviewed the City and County of San Francisco's (City) Draft Environmental Impact Report (DEIR) prepared for the Seawall Lot 337 and Pier 48 Mixed-Use Project (Project). The Project would include development of a mixed-use, multi-phase project at Seawall Lot 337, rehabilitation and reuse of Pier 48, and construction of approximately 5.4 acres of new open space. The Project would include up to 2.8 million gross square feet (gsf) of mixed uses, including approximately 1.1 to 1.6 million gsf of residential uses (estimated at 1,000 to 1,600 units, consisting of both market-rate and affordable housing), approximately 972,000 to 1.4 million gsf of commercial uses, and 241,000 to 245,000 gsf of active/retail uses. Additionally, the Project would include approximately 3,100 parking spaces and rehabilitation of 242,500 gsf of Pier 48 for industrial, restaurant, active/retail, tour, exhibition, and meeting space use. The Project also includes an approximately 4,000-seat entertainment venue and an on-site hotel. Construction is projected to begin in 2017 and would be phased over a six-year period, concluding in 2023.

Air District staff greatly appreciates the opportunity to work with the City to address the potentially significant air quality impacts estimated for this Project. Project design features and mitigation measures identified in the DEIR will substantially lessen the local and regional air quality impacts from construction and operation of the Project.

However, even with these Project design features and on-site mitigation measures, air quality impacts from the Project still exceed the City's thresholds of significance. Therefore, Mitigation Measure M-AQ-1.5 Emissions Offsets for Construction and Operational Ozone Precursor Emissions (M-AQ-1.5) commits the Project sponsor to provide funds to achieve additional emission reductions to reduce air pollution below the thresholds of significance. To this end, M-AQ-1.5 states that the Project sponsor would provide funding, currently estimated by the City to be approximately \$18,030 per weighted ton, with an upper limit not to exceed \$35,000 per weighted ton of ozone precursors, to the Air District to fund emissions reductions projects.

A-BAAQMD-1

A-BAAQMD-2

# A-BAAQMD

Tania Sheyner

June 7, 2017

Page 2

As Air District staff previously has discussed with the City, the current cost for these types of emission offset projects is approximately \$35,000 a ton, and staff anticipates that costs will rise in future years. Therefore, Air District staff recommend that the City revise M-AQ-1.5 to remove the upper limit of \$35,000 per ton in order for this Project to participate in the Air District's offset mitigation projects.

A-BAAQMD-2  
cont.

Mitigation Measure M-AQ-2.2 Reactive Organic Gases (ROG) Emissions Reduction Measures, requires the Project sponsor to implement ethanol/ROG emission reduction technologies from the microbrewery operations if "available and practical". Air District staff recommend that the City clarify how the Project sponsor would demonstrate to the City whether technologies to reduce ethanol/ROG emissions are "available and practicable" and specify what information the Project sponsor is required to submit to support this determination.

A-BAAQMD-3

Air District staff recommend that the Project sponsor submit an Authority to Construct permit application prior to beginning construction of the microbrewery, and that the proposed microbrewery owner/operator apply for an Air District Permit to Operate for any equipment that may cause air pollution (boilers, diesel engines, grain handling/storage equipment, etc.). Please contact Barry Young, Senior Advanced Projects Advisor at 415-749-4721 or [byoung@baaqmd.gov](mailto:byoung@baaqmd.gov) with any questions about how to apply for an Air District permit.

A-BAAQMD-4

Air District staff is available to assist the City to address these comments. If you have any questions, please contact Alison Kirk, Senior Planner, at (415) 749-5169 or [akirk@baaqmd.gov](mailto:akirk@baaqmd.gov).

Sincerely,



for Jean Roggenkamp

Jean Roggenkamp  
Deputy Executive Officer

cc: BAAQMD Director Edwin M. Lee  
BAAQMD Director Hillary Ronen  
BAAQMD Director Jeff Sheehy

A-BCDC  
San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

June 12, 2017

Tania Sheyner  
City and County of San Francisco  
1650 Mission Street, Suite 400  
San Francisco, California 94013

**SUBJECT:** Draft Environmental Impact Report for the Seawall Lot 337 and Pier 48 Mixed-Use Project (a.k.a. Mission Rock); SCH# 2013122024 (BCDC Inquiry File No. SF.SB.6501.1)

Dear Tania Sheyner:

On May 1, 2017, the San Francisco Bay Conservation and Development Commission (“BCDC” or “the Commission”) staff received the Draft Environmental Impact Report (“DEIR”) prepared by the City and County of San Francisco Planning Department for the Seawall Lot 337 and Pier 48 Mixed-Use District Project (“proposed project”), also known as the Mission Rock Project. The proposed project would involve the development of a project at Seawall Lot 337, consisting of: 1,000-1,600 residential units for approximately 2,350 to 3,760 residents; a combined 1.2- to 1.6-million gross square feet of commercial, production, and active/retail uses, providing for employment of 3,270 to 5,820 people; 3,100 above-ground and belowground parking spaces; construction or improvements to approximately 8 acres of open space; rehabilitation of Pier 48 to provide 242,500 gross square feet of industrial, restaurant, active/retail, tour, exhibition, and/or meeting space; geotechnical and shoreline protection improvements; and, new and upgraded utilities and infrastructure. As a responsible agency with discretionary approval authority over the project, BCDC will rely on the DEIR in evaluating the proposal, as well as other required information.

The Commission’s staff has reviewed the DEIR and is submitting its comments regarding the document. Although the Commission itself has not reviewed the DEIR, the staff comments are based on the McAteer-Petris Act, the Commission’s San Francisco Bay Plan (“Bay Plan”)<sup>1</sup>, the Commission’s San Francisco Waterfront Special Area Plan (“San Francisco Waterfront SAP”), the Commission’s San Francisco Bay Area Seaport Plan (“Seaport Plan”), the Commission’s federally-approved management program for the San Francisco Bay, and the federal Coastal Zone Management Act (“CZMA”).

**BCDC’s Jurisdiction and Authority.** The following paragraphs provide information about BCDC’s jurisdiction and authority to clarify and provide additional context to the information provided in the DEIR.

*Jurisdiction.* As indicated in the DEIR, the Commission has “Bay” jurisdiction over all areas of the Bay subject to tidal action up to the shoreline. At the project site, the shoreline is located at the mean high tide line. Additionally, the Commission has “shoreline band” jurisdiction over an area 100 feet landward of and parallel to the shoreline.

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<sup>1</sup> Please note that, as used in the Bay Plan policies, the word “should” is mandatory.

# A-BCDC

Tania Sheyner  
City and County of San Francisco  
June 12, 2017  
Page 2

In accordance with the provisions of the McAteer-Petris Act, the Commission has designated certain areas within the 100-foot shoreline band for specific priority uses for ports, water-related industry, water-oriented recreation, airports and wildlife refuges. The Commission is authorized to grant or deny permits for development within these priority use areas based on the appropriate Bay Plan development policies pertaining to the priority use. As indicated in the DEIR, approval of Assembly Bill 2797 (AB 2797) by the governor on September 23, 2016, removed the Port Priority Use designation that previously applied to portions of Seawall Lot 337 and Pier 48. Therefore, the proposed project is not governed by Bay Plan policies specific to Ports or the policies of the Seaport Plan, which would otherwise restrict development of the site to marine terminals and directly-related or compatible ancillary activities. Instead, per the Bay Plan policies on Other Uses of the Bay and Shoreline, the project site may be "used for any purpose...that uses the Bay as an asset and in no way affects the Bay adversely. This means any use that does not adversely affect enjoyment of the Bay and its shoreline by residents, employees, and visitors with the site area itself or within adjacent areas of the Bay or shoreline."

A-BCDC-1  
cont.

As identified in the DEIR, the project site is also subject to certain policies found within the Commission's San Francisco Waterfront SAP, which applies the requirements of the McAteer-Petris Act and the provisions of the Bay Plan to the San Francisco waterfront in greater detail, and which should be read in conjunction with both the McAteer-Petris Act and the Bay Plan. The San Francisco Waterfront SAP includes both general and geographic-specific policies that guide BCDC's regulatory decisions on permit applications, consistency determinations, and related matters. AB 2797 amended the San Francisco Waterfront SAP to apply geographic-specific policies related to the Northeastern Waterfront to Pier 48.

*Authority.* As identified in the DEIR, a portion of the project would occur within the Commission's jurisdiction and thus requires Commission authorization. Within the Commission's jurisdiction, permits are required for certain activities, including construction, changes of use, many land divisions, dredging, and dredged material disposal. Permits are issued if the Commission finds the activities to be consistent with the McAteer-Petris Act and the policies and findings of the Bay Plan, and at this project site, the San Francisco Waterfront SAP.

Pursuant the CZMA, the Commission also reviews federal projects for effects on the coastal zone, whether or not the projects are located within the Commission's coastal zone as defined by state law, and is required to concur with or object to the federal agency's determination or federal permit applicant's certification that a project is consistent with the Commission's laws and policies. Based on the inclusion of a number of federal permits in the "Project Approvals" section of the DEIR, the project is likely subject to the Commission's regulatory authority under the CZMA. Any non-federal activity that requires either a federal permit or license or is supported by federal financial assistance that affects BCDC's coastal zone must be conducted in a manner that is fully consistent with the enforceable policies of BCDC's federally approved Coastal Management Program. Where a project is subject to both the Commission's state law and federal jurisdictions, the Commission's Coastal Management Program provides that issuance of a permit under the McAteer-Petris Act will be deemed to be a concurrence with a consistency certification under the CZMA.

A-BCDC-2

- In the FEIR, please identify BCDC’s regulatory obligation to review project elements inside and outside its jurisdiction that require a federal permit or licenses or that are supported by federal funding, and that affect any land or water use or natural resources of BCDC’s coastal zone. Identify any elements of the project that require a federal permit or license, or that are supported by federal financial assistance.

A-BCDC-3

**Public Trust.** The Public Trust Doctrine holds that navigable waters and tidelands are the property of the state and must be protected for public use and enjoyment. The Bay Plan has policies to guide its permitting actions on any lands subject to the Public Trust Doctrine, as well as policies specific to Filling for Public Trust Uses on Publicly-Owned Property Granted in Trust to a Public Agency by the Legislature. The policies of the San Francisco Waterfront SAP also provide that within the Northeastern Waterfront geographic area, “permitted uses” at piers not designated for removal, such as Pier 48, would be *only* those “consistent with the Public Trust Doctrine and the Port’s Legislative Trust Grant.”

A-BCDC-4

AB 2797 relaxed certain use restrictions on Seawall Lot 337 in order to allow nontrust leases on the seawall lot for a period of 75 years, and thus the Commission would not consider these policies in its review of the portion of the proposed project at Seawall Lot 337. Pier 48 is unchanged by the legislation insofar as uses at Pier 48 must be consistent with the Public Trust Doctrine and the terms of the Port’s Legislative Trust Grant, the Burton Act. Thus, the Commission will consider the relevant policies for the proposed uses and Bay fill at Pier 48.

- As part of its discussion of the Public Trust, the FEIR should reference and consider the policies in the Bay Plan related to Public Trust (page 88) and Fill for Public Trust Uses on Publicly-Owned Property Granted in Trust to a Public Agency by the Legislature (page 84). These policies require that the Commission, in taking actions on such land, “assure that the action is consistent with the public trust needs for the area and, in the case of lands subject to legislative grants, would also assure that the terms of the grant are satisfied and the project is in furtherance of statewide purposes.” Public trust uses cited in the Bay Plan include commerce, navigation, fisheries, wildlife habitat, recreation and open space. Fill of land subject to the Public Trust Doctrine is allowable if “necessary to the health, safety, and welfare of the public in the entire Bay Area,” and if it “[p]rovides for major shoreline parks, regional public access facilities, removal of existing pile-supported fill, open water basins, increased safety of fills, mechanisms for implementation, enhance public views of the Bay, and other benefits to the Bay, all of which exceed the benefits that could be accomplished through BCDC’s permit authority for individual projects through the application of other Bay Plan policies.”
- The FEIR should indicate that the Commission’s determination regarding a project’s consistency with the public trust doctrine is done independently and in consultation with the State Lands Commission.

A-BCDC-5

A-BCDC-6

**Public Access.** The proposed project includes approximately 8 acres of new or improved open space areas, including, within the Commission’s jurisdiction, an expanded China Basin Park, the marginal wharf between Piers 48 and 50, and the apron of Pier 48. China Basin Park would be expanded from 2.2 to 4.4 acres, and would include a large lawn area, active recreation areas for children and adults, stormwater

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treatment gardens, food kiosks, a plaza, and possibly Bay overlooks, boardwalks, and waterfront picnic areas. The DEIR anticipates that special events or assembly uses could on a year-round basis for up to 5,000 people, including small concerts, picnics in the park, Sunday Streets, and other cultural events. The marginal wharf open space area, called Channel Wharf, would consist of a 0.5 acre paved plaza with sitting areas and a public art component. The Pier 48 apron, 1.1 acres in area, would serve as open space except in the event that maritime uses presented a safety conflict, in which case, access would be restricted. A personal watercraft boat launch is discussed at the northern edge of the apron, and a drop-off area and time-limited parking would be provided at an adjacent location on land.

The Bay Plan policies on Public Access state, in part, that “in addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible public access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use.”

The San Francisco Waterfront SAP states that public access should be open and free, and connected physically and visually to the Bay. The San Francisco Waterfront SAP also includes public access policies specific to major projects involving use and reuse of piers in the Northeastern Waterfront. Policy No. 6 states that for work on major piers, 35 percent of the project area is generally considered maximum feasible public access. The policy states further that “[p]rojects on finger piers, where there is no change to the pier shed footprint, particularly when projects preserve historic structures, should provide to the maximum extent feasible, public access on the entire apron, the Bayside History Walk, and an additional public access feature consistent with the project and size of the pier, and with the Secretary of the Interior’s Standards.” The policy further provides that “[o]n-pier, open spaces may be located at pier-end, mid-pier or adjacent to a bulkhead building, and could be provided as an exterior or interior atrium or gallery with significant views to the Bay...”

- The DEIR indicates that the proposed project is to be developed in several distinct development phases. In areas of the shoreline that will not be improved as part of the initial phase(s) of the proposed project, please discuss the anticipated condition of the shoreline during in the interim, and identify if there are any plans or the potential to provide or enhance shoreline access during this time.
- A project that would add 2,350 to 3,760 residents and 3,270 to 5,820 employees will by definition bring more people to the site. The FEIR should discuss the anticipated demand for shoreline public access given the addition of new residents, workers, customers and other users expected at the site, and consider whether the proposed new public access areas are likely sufficient to accommodate these new users. The FEIR should also discuss nearby public shoreline areas, including the proposed Mission Bay P22 Bayfront Park, and consider the impacts the proposed project may have on public access at these locations. This information will be useful to the Commission in its evaluation of the adequacy of the public access proposed with the proposed project.

A-BCDC-7  
cont.

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- In the FEIR, please discuss the consistency of the proposed public access elements proposed at Pier 48 with the San Francisco Waterfront SAP policies specific to the reuse of piers for major projects discussed above. A-BCDC-10
  
- Bay Plan Public Access Policy No. 6 requires that, wherever appropriate, public access required as a condition of development is to be permanently guaranteed “by requiring dedication of fee title or easements at no cost to the public, in the same manner that streets, park sites, and school sites are dedicated to the public as part of the subdivision process in cities and counties.” Please indicate in the FEIR those areas of the project site that are to be permanently guaranteed as public access, and the method by which those areas are to be guaranteed. A-BCDC-11
  
- The proposed project includes a “Working Waterfront” zone along Terry A. Francoise Boulevard, which would contain a mix of maritime, industrial, and active/retail land uses. The same zone contains portions of the Bay Trail/Blue Greenway and access to the open space areas located along the Pier 48 apron and the marginal wharf. The proposed project also includes the rehabilitation of the Pier 48 apron to provide for maritime and public access uses of the apron. Please discuss in the FEIR the compatibility of industrial and maritime uses at these locations with the proposed public access, and any measures that are or will be necessary to ensure the safety of the public in its use of such areas. Please indicate any limitations on public access that may be imposed in the event that use conflicts do occur. A-BCDC-12
  
- The FEIR should indicate whether the public access areas are designed to permit barrier-free access for persons with disabilities to the maximum extent feasible. Public Access Design Guidelines Objective No. 2 is to make public access usable, which can be accomplished by, among other actions “[i]ncorporating accessibility improvements into public access areas.” Plan Recreation Policy No. 1 states, in part: “Diverse and *accessible* water-oriented recreational facilities...should be provided to meet the needs of a growing and diversifying population” (emphasis added). A-BCDC-13
  
- The proposed project includes a launch for human-powered boats from the Pier 48 apron. The FEIR should also consider the potential for facilities related to a variety of other water-oriented recreational uses to be accommodated at the site, including but not limited to, swimming and fishing. The project sponsors have previously informed BCDC staff that certain facilities of this sort may be incompatible with the site because of water contamination or the potential for conflicts with nearby marine industrial uses. Where such conflicts exist to the extent that they preclude or would require limited public access to the water, they should be analyzed as part of the FEIR. In the discussion, please consider the following policies and guidelines:
  - Bay Plan Recreation Policy No. 1 states, in part: “Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying popula-A-BCDC-14

tion, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels.”

- o Public Access Design Guidelines Objective No. 2 is to make public access usable, which can be accomplished by, among other actions, “[t]aking advantage of existing site characteristics and opportunities, such as fishing, viewing, picnicking, swimming or boating.”

**Scenic Views.** The Bay Plan policies on Public Access and Appearance, Design and Scenic Views state, in part, that and that “[a]ll 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.”

The San Francisco Waterfront SAP characterizes the Northeastern Waterfront, which pursuant to AB 2797 now includes Pier 48, as “a regional recreation and scenic resource.”. Generally, the San Francisco Waterfront SAP provides that waterfront development should provide maximum feasible public access—of which visual access is “a critical part,” preserve important Bay views, have a low scale height and bulk, and reflect the historic character of the waterfront, and improve transportation access and efficient movement of people.

- The DEIR discusses visual resources and aesthetics in Section 4.B, and provides narrative descriptions as well as visual simulations of the proposed project from various locations of interest. The figures do not include important views from Third Street, some of which are mentioned in the text on Page 4.B-8. Existing and proposed view opportunities that should be included in the baseline for the project evaluation should include (1) one or more from the perspective of a viewer on Third Street, particularly from those locations where the Bay is currently visible, such as in the gap between Piers 48 and 50 and at China Basin Park, and (2) one or more from the perspective of a viewer standing across Mission Creek at the location of the promenade adjacent to AT&T Park, looking in the direction of China Basin Park and Pier 48.
- The visual simulations of Pier 48 included in the DEIR (see Figure 4.B-2) appear to show at least nine large (approximately 3-story-tall) structures, presumably holding tanks associated with the reuse of the pier shed as a brewery, including on the apron of Pier 48 and north of the pier shed along the shoreline. Please clarify if the potential reuses of Pier 48 included in this assessment would include large freestanding structures outside the footprint of the existing pier shed, and if so discuss their potential impacts on Bay views and whether or not these structures might alternatively be sited within the footprint of the pier shed to avoid associated visual impacts.
- The FEIR should describe and would ideally illustrate views of the proposed public view corridors to the Bay and shoreline from relevant locations within and surrounding the project site. If views are partial or reduced from what is currently provided, this should be indicated as well.

A-BCDC-14  
cont.

A-BCDC-15

A-BCDC-16

A-BCDC-17

A-BCDC-18

- Please consider the possible use of the basin between Piers 48 and 50 for marine industrial uses in your discussion of Bay views from the Pier 48 apron and the Channel Wharf open space area. If used for berthing, and depending on the size of the berthed vessels and the location of the viewer, there will not be unimpeded Bay views from this location at all times.

A-BCDC-19

**Fill and Impacts to Bay Resources.** The DEIR anticipates the need for filling of Bay waters for work to Pier 48 and rehabilitation of the seawall adjacent to Pier 48. Minor fill for public access is also anticipated on the Pier 48 apron, which is generally consistent with the Commission's policies on Bay fill. The DEIR indicates that the proposed project has the potential to impact special status marine species and their habitat, including longfin smelt, green sturgeon, Central California coast steelhead, Chinook salmon, as well as other species of concern.

A-BCDC-20

Section 66605 of the McAteer-Petris Act sets forth the criteria necessary to authorize placing fill in the Bay and certain waterways. It states, among other things, that further filling of the Bay should only be authorized if it is the minimum necessary to achieve the purpose of the fill and if harmful effects associated with its placement are minimized. According to the Act, fill should be authorized only when no alternative upland location is available for such purpose.

- It is unclear to us if any work is proposed for the existing rip-rap shoreline protection system installed along the site's northern edge adjacent to McCovey Cove. If such work is proposed as part of the project, please describe this work and any resulting Bay fill. The Bay Plan establishes criteria by which new shoreline protection projects may be authorized and which existing shoreline protection may be maintained or reconstructed. Bay Plan Shoreline Protection Policy No. 1 establishes a number of criteria against which the Commission will examine the necessity for shoreline armoring and the appropriateness of the proposed method of armoring. For each of the proposed shoreline protection elements of the proposed project, please discuss: (1) the erosion and/or flood protection considerations necessitating shoreline protection; (2) why the type of protective structure proposed is the most appropriate for each area, given the use it is protecting, flood or erosion considerations, or other factors; (3) if the shoreline protection structure would be properly engineered to provide erosion control and flood protection for the life of the proposed project based on a 100-year flood event that takes future sea level rise into account; (4) how the shoreline protection structure would be designed to prevent significant impediments to physical and visual public access; and (5) how the shoreline protection structures on the north and south ends of the project site would be integrated with current or planned shoreline protection measures on adjacent properties.
- The FEIR should discuss and analyze the proposed project's consistency with Bay Plan Subtidal Areas Policy No. 1, which requires that for any fill project, local and baywide effects are to be evaluated as to: "(a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry." The FEIR should also discuss the requirement in the same policy that, "[p]rojects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects."

A-BCDC-21

A-BCDC-22

- The FEIR should discuss and analyze the proposed project’s consistency with Bay Plan policies on Fish, Other Aquatic Organisms and Wildlife, which state, in part, that “specific habitats are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered...[and that] any species that provides substantial public benefits should be protected. Furthermore, the Commission cannot “authorize projects that would result in the ‘taking’ of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal endangered species acts, or the federal Marine Mammal Protection Act, or species that are candidates for listing under the California Endangered Species Act, unless the project applicant has obtained the appropriate ‘take’ authorizations from the U.S. Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Game.”
- The FEIR’s discussion on Hydrology and Water Quality and Hazards and Hazardous Materials should reference the role of the Commission and other resource agencies established in Bay Plan Water Quality Policy No. 4, which states in part, “[w]hen approving a project in an area polluted with toxic or hazardous substances, the Commission should coordinate with appropriate local, state and federal agencies to ensure that the project will not cause harm to the public, to Bay resources, or to the beneficial uses of the Bay.”
- The DEIR indicates that the proposed rehabilitation of Pier 48 would require a seismic upgrade consisting of extensive work to the pier, including replacement of supporting piles, the perimeter deck, and other structural components. Non-structural work is proposed for the interior of the pier shed. The Bay Plan policies on Safety of Fills state, in part, that “the Commission has appointed the Engineering Criteria Review Board consisting of geologists, civil engineers specializing in geotechnical and coastal engineering...to: (a) establish and revise safety criteria for Bay fills and structures thereon; (b) review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions; (c) prescribe an inspection system to assure placement and maintenance of fill according to approved designs...These activities would complement the functions of local building departments and local planning departments....Even if the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the Engineering Criteria Review Board...” The FEIR should discuss and analyze whether the proposed rehabilitation work to Pier 48 as well as any work to shoreline protection structures would be consistent with the Bay Plan policies on the safety of fills.

A-BCDC-23

A-BCDC-24

A-BCDC-25

**Climate Change.** The DEIR considers the potential for inundation of Seawall Lot 337 during a 100-year storm event, assuming sea-level rise of 11 to 24 inches by 2050, and 36 to 66 inches by 2100. Buildings and internal streets and sidewalks would be elevated to avoid inundation in the event of a 100-year storm through 2100. China Basin Park would be partially inundated during such an event by the end of the century. It would be regraded to slope upward from the shoreline and serve in part as a buffer for flood waters during such an event, however permanent structures (e.g., kiosks), the Bay Trail, and cer

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tain other elements would be placed at an elevation where they would not be inundated under these projections. The DEIR also states that the parking garage under Mission Rock Square would be protected by a berm or flood gate.

An adaptation approach for elements of the proposed project along the eastern edge of the project site, including Pier 48, the marginal wharf area and Terry A. Francois Boulevard, is not discussed in detail, however, according to the DEIR strategies have been developed for the project site, the shoreline, and the pier. The DEIR indicates that "Pier 48 sits at a higher surface elevation, and no part of the pier is within an anticipated future flood zone. However at the mid-century level of the SLR scenario, pier decks on Pier 48 may be affected where utility infrastructure is currently located beneath the pier decks. In addition, the structural integrity of the pier's substructure can be threatened, and wave action underneath the piers can create uplift."

- The FEIR should discuss and consider the proposed project's consistency with BCDC policies related to Climate Change. Climate Change Policy No. 3 states that where an assessment of a project shows vulnerability to public safety, the project "should be designed to be resilient to a mid-century sea level rise projection," and for a project that "will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise...." Please provide additional discussion regarding any measures in the proposed project's design that have been incorporated to achieve resiliency to a mid-century sea level rise projection along the Terry A. Francois Boulevard and Pier 48, as well as possible adaptation approaches identified to address the long-term impacts.
- Please provide additional detail on those elements within China Basin Park would be inundated either permanently or periodically for the life of the proposed project, and calculate the area that would be subject to such inundation on a regular or periodic basis.
- Please elaborate upon the proposed berm or flood gate to protect the belowground parking area, including the location and possible design.

Thank you for providing the staff with an opportunity to review the DEIR for the proposed project. We recognize the scope of this project and hope these comments aid you in preparation of the FEIR. We look forward to working with you and the project sponsors as the project is developed and through the permitting stage. If you have any questions regarding this letter or the Commission's policies and permitting process, please do not hesitate to contact me at (415) 352-3618 or ethan.lavine@bcdc.ca.gov.

Finally, we would greatly appreciate receiving a print copy of the FEIR in our office upon its publication.

Sincerely,



ETHAN LAVINE

Principal Regulatory and Permit Analyst

EL/ra

cc: State Clearinghouse

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cont.

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A-BCDC-29

A-BCDC-30

**DEPARTMENT OF TRANSPORTATION**  
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*Making Conservation  
a California Way of Life*

June 8, 2017

SCH # 2013122024  
GTS # 04-SF-2017-00121  
SFVAR010

Tanya Sheyner  
Planning Department  
City and County of San Francisco  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**Seawall Lot 337 and Pier 48 Mixed Use Project– Draft Environmental Impact Report**

Dear Ms. Sheyner:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. In tandem with the Metropolitan Transportation Commission’s (MTC) Sustainable Communities Strategy (SCS), the Caltrans *Strategic Management Plan 2015-2020* includes targets to reduce Vehicle Miles Travelled (VMT), in part, by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Draft Environmental Impact Report (DEIR).

***Project Understanding***

The project sponsor proposes a mixed use, multi-phase development at Seawall Lot 337, including the rehabilitation and reuse of Pier 48. The project would construct approximately 5.4 acres of net new open space, for a total of 8.0 acres of open space on the project site. In addition, approximately 1.1 million gross square feet (gsf) of parking would be provided in two public parking garages (approximately 3,100 parking spaces), one above grade and one underground. The proposed project would also include public access areas, assembly areas, and an internal grid of public streets, shared streets, and utility infrastructure. Overall, the proposed project would involve the construction of up to 2.7 to 2.8 million gsf of residential, commercial, production, active/retail, and parking uses on 11 proposed development blocks on Seawall Lot 337, plus rehabilitation of approximately 261,000 gsf of Pier 48. The project is regionally accessed via the Interstate (I-) 280 and King Street on-ramp, located 0.5 miles from the project site, and from the I-80 and Harrison Street on-ramp, located 0.7 miles from the project site.

***Lead Agency***

As the Lead Agency, the City and County of San Francisco is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project’s fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

A-Caltrans-1

A-Caltrans-2

# A-Caltrans

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## ***Project Description***

The estimate for the number of parking spaces with the proposed develop is 3,100 spaces. Is there an estimate for the number of residential units proposed?

A-Caltrans-3

Under the *Bicycle Circulation and Parking* section of the Transportation and Circulation element, the DEIR specifies it would provide a total of 2,782 bicycle parking spaces under the High Residential Assumption and a total of 2,390 spaces under the High Commercial Assumption (page 4.E-65). However, the *Bicycle Impacts* section lists a total of 2,648 bicycle spaces under the High Residential Assumption and 2,256 spaces under the High Commercial Assumption. Please clarify the number of bicycle parking spaces proposed for the project.

A-Caltrans-4

## ***Multimodal Planning***

Caltrans encourages the project developer to reduce the proposed parking supply. We recommend referring to *Reforming Parking Policies to Support Smart Growth*, an MTC study funded by Caltrans, for sample parking ratios and strategies that support compact growth: [http://www.mtc.ca.gov/planning/smart\\_growth/parking](http://www.mtc.ca.gov/planning/smart_growth/parking). Reducing parking supply can encourage alternate forms of transportation, reduce regional VMT, and lessen future traffic impacts on I-80, I-280 and the STN.

A-Caltrans-5

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Jannette Ramirez at 510-286-5535 or [jannette.ramirez@dot.ca.gov](mailto:jannette.ramirez@dot.ca.gov).

Sincerely,



PATRICIA MAURICE  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
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*EDMUND G. BROWN JR., Governor*  
*CHARLTON H. BONHAM, Director*



June 9, 2017

Tania Sheyner  
 Environmental Coordinator  
 San Francisco Planning Department  
 1650 Mission Street, Suite 400  
 San Francisco, CA 94103

**SUBJECT: SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT**

Dear Ms. Sheyner:

The California Department of Fish and Wildlife (Department) has reviewed the draft Environmental Impact Report (DEIR) for the Seawall Lot 337 and Pier 48 Mixed-Use Project (Project) proposed by Seawall Lot 337 Associates, LLC (applicant). The Project would entail development of a mixed-use, multi-phase project at Seawall Lot 337, rehabilitation and reuse of Pier 48, and construction of approximately 5.4 acres of net new open space.

As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection and management of fish, wildlife, and habitats necessary for biologically sustainable populations of those species (Fish and G. Code §1802). In this capacity, the Department administers the California Endangered Species Act, the Native Plant Protection Act, and other provisions of the California Fish and Game Code that afford protection to the State's fish and wildlife resources. The Department is also responsible for marine biodiversity protection under the Marine Life Protection Act (Fish and G. Code, § 2850) in coastal marine waters of California and is recognized as a "Trustee Agency" under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; hereafter CEQA; Cal. Code Regs., § 15000 et seq.; hereafter CEQA Guidelines). As a Trustee Agency, the Department is responsible for providing biological expertise to review and comment upon environmental documents and impacts arising from the Project activities (CEQA Guidelines, § 15386; Fish and G. Code, § 1802).

The Department is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381) and may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, the Project may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

To enable the Department to adequately review and comment on the proposed project from the standpoint of the protection of plants, fish, and wildlife, we recommend the

A-CDFW-1

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following information be included in the DEIR. The Department has the following comments and recommendations:

A-CDFW-1  
cont.

### Biological Significance

The San Francisco Bay-Delta is the second largest estuary in the United States and supports numerous aquatic habitats and biological communities. It encompasses 479 square miles, including shallow mudflats. This ecologically significant ecosystem supports a number of state and federally threatened and endangered species, and sustains important commercial and recreational fisheries. Protected marine species under the State and Federal Endangered Species Acts that could potentially be impacted by Project activities include:

- Chinook Salmon (*Oncorhynchus tshawytscha*), state and federally threatened (Spring-run), state and federally endangered (Winter-run);
- Steelhead (*Oncorhynchus mykiss*), federally-threatened (Central California Coast and Central Valley ESUs);
- Green Sturgeon (*Acipenser medirostris*), federally-threatened (southern DPS); and
- Longfin Smelt (*Spirinchus thaleichthys*), state-threatened.
- Southern Sea Otter (*Enhydra lutris nereis*)
- Peregrine Falcon (*Falco peregrinus anatum*)
- Brown Pelican (*Pelecanus occidentalis californicus*)
- California Least Tern (*Sterna antillarum browni*)

A-CDFW-2

Several species with important commercial and recreational fisheries value that could potentially be impacted by Project activities include:

- Dungeness Crab (*Cancer magister*),
- Pacific Herring (*Clupea pallasii*),
- Rockfish (*Sebastes* spp.),
- California Halibut (*Paralichthys californicus*)
- Surfperches (*Embiotocidae*).

A-CDFW-3

### Potential Take of State Listed Species

The pile driving associated with the Pier 48 seismic upgrade has the potential to impact state listed species. As specified in the DEIR, pile driving 18" to 24" concrete piles with an impact hammer will exceed the hydroacoustic thresholds for injury to fish. Specifically, the accumulated sound exposure level (SEL) of 183 decibels (dB) for fish under 2 grams and the 187 dB SEL threshold for fish over 2 grams. Additionally, the DEIR discusses the potential need to use an impact hammer for the large diameter, 48" or 72", steel pipe piles in the event that a vibratory hammer cannot get the pile to the necessary depth. Driving piles of this diameter with an impact hammer, even with sound attenuation measures in place and for short durations of time, may still exceed the 206 dB peak SEL threshold that is associated with fish mortality.

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Additionally, the Project Variant 1 (District Energy/Bay-Source Energy Capture), mentioned in volume 2 of the EIR, has the potential to entrain state listed species through the proposed water intake structure and screen. The intake screen approach velocities specified within the variant description are consistent with Department recommendations. However, the ultimate design and application of any fish screen may still pose a risk of take. Screen designs and tests both need to be reviewed and approved by Department screen engineers and scientists prior to implementing any fish screen design within the waters of the state.

A-CDFW-5

The project has multiple components that pose a risk of take to state listed species. The Department recommends that the applicant consult with the Department regarding the need for incidental take coverage, in the form of a 2081(b) Incidental Take Permit (ITP) (Fish and G. Code § 2081) , for all components and/or phases of the Project that may result in take.

A-CDFW-6

### **Fully Protected Species**

The Department has jurisdiction over fully protected species pursuant to Fish and Game Code Sections 3511, 4700, 5050, and 5515. Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and certain relocation situations. Therefore take of any fully protected animal species is prohibited and must be avoided by the Project. Fully protected marine species in the Project area include: the Brown Pelican, Peregrine Falcon, and the California Least Tern. There is also potential for the Southern Sea Otter to be present within the Project area. The Department recommends including the fully protected species status in the biological discussion for species in the Project area. Additionally, the Department recommends discussing the potential impacts on fully protected species in the Final EIR. The Department maintains a list of fully protected species on the Department's web site: [http://www.dfg.ca.gov/wildlife/nongame/t\\_e\\_spp/fully\\_pro.html](http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/fully_pro.html)

A-CDFW-7

### **Pacific Herring**

Pacific herring are an important forage species for ocean and bay food webs. Forage fish are defined as species that contribute significantly to the diets of larger organisms during some part of their life history. Herring eggs, larvae, young-of-the-year, and adults provide a food source for a variety of birds, mammals, fishes, and invertebrates. In 2012, the California Fish and Game Commission adopted a Forage Species Policy, (<http://www.fgc.ca.gov/policy/>), which recognizes the importance of forage species to the California Current Large Marine Ecosystem. This policy intends to provide adequate protection for forage species through precautionary and informed management, and by identifying and progressively incorporating Essential Fishery Information needed for ecosystem-based management.

A-CDFW-8

Within San Francisco Bay, herring spawn during the winter months from November through March. The approximate area from the Bay Bridge south through the Central

Tania Sheyner  
San Francisco Planning Department  
June 9, 2017  
Page 4

Basin, which includes the entirety of the Project area, has been highlighted by the Department as 1 of 2 critical herring spawning areas within San Francisco Bay. The Department recommends that all in-water work activities remain within the proposed work window of June 1 through November 30. In the event that working within the proposed work window is not feasible, the applicant shall consult with the Department on how to proceed.

A-CDFW-8  
cont.

Project Variant 1 poses a significant risk of entrainment and/or impingement of Pacific herring eggs and larvae during the winter months. Since the Project area is within a sensitive spawning location, the risk of impacting larval herring is significantly higher than in surrounding areas. Additionally, the Department's screen criteria discussed in the DEIR is protective of juvenile smelt and salmonids but may not be protective of much smaller herring larvae and eggs. There is high likelihood that the screening criteria would not be sufficient in protecting these sensitive life stages of herring.

A-CDFW-9

### Recommendations

The Department has the following recommendations:

- For all components and/or phases of the Project that may potentially take state listed species, the applicant should consult with the Department regarding incidental take coverage.
- The Final EIR should be very specific regarding potential impacts to state fully protected species and the minimization and avoidance measures that will be implemented.
- All in-water construction activities should be scheduled within the proposed work window of June 1 through November 30 to avoid impacts to state listed species and sensitive Pacific herring spawning habitat.

A-CDFW-10

A-CDFW-11

A-CDFW-12

### Conclusion

The Department appreciates the opportunity to comment on the DEIR to assist the San Francisco Planning Department in identifying and mitigating Project impacts on biological resources. As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for discussion, please contact Arn Aarreberg, Environmental Scientist, California Department of Fish and Wildlife, 5355 Skylane Blvd., Suite B, Santa Rosa, CA 95403, phone (707) 576-2889, email [Arn.Aarreberg@wildlife.ca.gov](mailto:Arn.Aarreberg@wildlife.ca.gov).

A-CDFW-13

Sincerely,



Craig Shuman, D. Env.  
Marine Regional Manager

Tania Sheyner  
San Francisco Planning Department  
June 9, 2017  
Page 5

ec: Becky Ota, Program Manager  
Department of Fish and Wildlife  
[Becky.Ota@wildlife.ca.gov](mailto:Becky.Ota@wildlife.ca.gov)

Bill Paznokas, Senior Environmental Scientist (Supervisor)  
Department of Fish and Wildlife  
[William.Paznokas@wildlife.ca.gov](mailto:William.Paznokas@wildlife.ca.gov)

Arn Aarreberg, Environmental Scientist  
Department of Fish and Wildlife  
[Arn.Aarreberg@wildlife.ca.gov](mailto:Arn.Aarreberg@wildlife.ca.gov)

cc: Gary Stern  
National Marine Fisheries Service  
777 Sonoma Ave., Rm 325  
Santa Rosa, CA 95404

Regulatory Division  
U.S. Army Corps of Engineers  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103

Jaime Michaels  
San Francisco Bay Conservation and Development Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, CA 94102-7019

Dale Bowyer  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

# I-Garfinkle

**From:** [Deborah Garfinkle](#)  
**To:** [Sheyner, Tania \(CPC\)](#)  
**Subject:** Giants' mission rock project  
**Date:** Friday, May 05, 2017 12:51:04 PM

---

I am very concerned about these plans on several levels - the traffic and transportation congestion and pollution that this massive project will generate, especially given the Warriors Arena project that has already broken ground. I worry about the potential for devastating earthquake damage in an area that is all landfill and is already showing signs of buckling sidewalks and construction in projects that have been built. But most of all, I am skeptical of the planning for sea level rise in the location. Such large projects just don't seem rational for the location at all, especially since SF taxpayers will probably have to pay for the damage - especially if it's shown that our planning department has side-stepped the necessary approval process for the sake of developers who don't live and work in the area. My husband and I live in South Beach and anyone who sees the Bay on a daily basis or reads about the environment that this project probably doesn't make either good environment or fiscal sense.

I-Garfinkle-1

I-Garfinkle-2

I-Garfinkle-3

Sincerely,

Deborah Garfinkle  
400 Beale St Apt 613

# I-Hong

---

**From:** Dennis Hong [mailto:dennisj.gov88@yahoo.com]  
**Sent:** Wednesday, July 12, 2017 4:41 PM  
**To:** Sheyner, Tania (CPC); Gibson, Lisa (CPC); Rahaim, John (CPC)  
**Cc:** Board of Supervisors, (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); marlia.cohen@sfgov.org; Lee, Mayor (MYR)  
**Subject:** My Comments Case 2013.0208E - Seawall pier 48, Mission Rock

Miss Tania Sheyner, Lead Planner  
SF Planning Department  
1650 Mission Street Suite #400  
San Francisco, CA. 94103

July 12, 2017

Dear Miss Sheyner,

This email is a follow up to today's phone conversation.  
Hello, my name is Dennis Hong and I am a resident of San Francisco and have been for over 70+ years. As requested, I trust my comment/s and this email format address my comments. Here are my comments on the proposed Project, Case Number 2013.0208E - Mission Rock - **I am in strong support of this Project.** It will be an enhancement to both the City and this area. Over the years, both the Sponsor/Developer, the Planning Department and the community has done a great job working together on this project and DEIR. I had a chance to partially review this DEIR on line. Because of the size of this Document and from what I had seen in the online-DEIR, I find it well documented and in concert with this project the adjacent projects, especially the Mission Bay Project/s. I'm in full support of this project. I feel that this Project will add additional benefits to both the City, the community. Please include me in full support of this wonderful project. If at all possible, I'm also in favor of expediting this project and putting it on a fast track schedule.

If for some reason I had left anyone off this list, please share this email with them. Thanking all of you in advance for your attention to this Project. Please include my comments to the Final EIR and place me on the distribution list for the RTC - to this DEIR.

I appreciated the opportunity to review and comment on this Project. If you have any question to my comments, I can be reached at [dennisj.gov88@yahoo.com](mailto:dennisj.gov88@yahoo.com)

Best regards, Dennis Hong  
Dennis Hong  
101 Marietta Drive  
San Francisco, CA. 94127

I-Hong-1

# I-Kutay

**From:** [John Kutay](#)  
**To:** [Kim, Jane \(BOS\)](#); [Sheyner, Tania \(CPC\)](#)  
**Subject:** I support Mission Rock but it needs better architecture  
**Date:** Friday, May 05, 2017 12:57:47 PM

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Hi,

First I would like to thank both of you for the work you do for the city.

As a life long San Francisco resident and current Mission Bay resident (living on Long Bridge St), I fully support the Mission Rock project and the life/retail/restaurants it will bring the area.

However, it's no secret that the underwhelming, mid-rise architecture in the area has drawn a lot of criticism to the area as being sterile and unattractive.

Mission Bay also has about 40% affordable housing, meaning the area has even more of a responsibility to be an example of how great a new, economically diverse neighborhood can be - in ways that are both aesthetic and communal.

I-Kutay-1

Mission Rock by itself has enough mass to pull Mission Bay out of it's status as a sterile area full of nothing but architectural boiler plate and 'dorms' for tech workers (as some call it today).

I would recommend that SF Planning and the Board of Supervisors push the Mission Rock developers to build something attractive, modern, and inspiring enough to pull people from all over the region to spend time in Mission Bay for things outside of sports games. It has an opportunity to be a modern Union Square, but in order to do that, we need better architecture.

Thank you for considering my feedback.

Regards,  
John

# I-Stokus (1)

**From:** Lawrence Stokus <lvstokus@att.net>  
**Sent:** Friday, May 05, 2017 11:14 AM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Public Comment on Giants Mission Rock Project  
**Attachments:** PUBLIC TRUST DOCTRINE copy.pdf

## Public Comment on Giants Mission Rock Project

**Ms. Sheyner - - -**

**The email below is public comment on the Giants Mission Rock project.**

**Thank you.**

=====

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** Fwd: The Privatization of Public Land Debate is not just in Washington DC but right here in the San Francisco Bay Area  
**Date:** April 27, 2017 at 10:12:49 PM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahogroups.com)

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** The Privatization of Public Land Debate is not just in Washington DC but right here in the San Francisco Bay Area  
**Date:** April 27, 2017 at 10:04:55 PM PDT  
**To:** [Diane.Oshima@sfport.com](mailto:Diane.Oshima@sfport.com)  
**Cc:** "Elaine (PRT) Forbes" <[elaine.forbes@sfport.com](mailto:elaine.forbes@sfport.com)>, "Brad (PRT) Benson" <[brad.benson@sfport.com](mailto:brad.benson@sfport.com)>

**Ms. Oshima (Port of San Francisco): Would you please distribute this email to all members of the Port of San Francisco's Waterfront Plan Working Group as public comment regarding waterfront planning and the:**

## GIANTS MISSION ROCK PROJECT

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**The Privatization of Public Land Debate is not just in Washington but right here in the San Francisco Bay Area**

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A screenshot of a web browser displaying an ABC News article. The browser's address bar shows the URL: abcnews.go.com/Politics/trump-slams-massive-federal-land-grab-calls-. The ABC News logo is visible in the top left corner of the page. A navigation menu includes links for U.S., International, Politics, Lifestyle, Entertainment, and Virtual Reality. The main headline reads: "Trump slams 'massive federal land grab review of national monuments'". Below the headline, it says "By MEGHAN KENEALLY · Apr 26, 2017, 12:00 PM ET". A blue button with a Facebook icon and the text "Share with" is located in the bottom right corner of the article preview.

abc NEWS U.S. International Politics Lifestyle Entertainment Virtual Reality

### Trump slams 'massive federal land grab review of national monuments'

By MEGHAN KENEALLY · Apr 26, 2017, 12:00 PM ET Share with

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**Links:**

<http://www.socketsite.com/archives/2017/04/impact-report-for-giants-massive-mission-rock-development-revealed.html>

## I-Stokus (1)

<http://www.socketsite.com/archives/2017/04/the-latest-accounting-for-mission-bay.html>

<https://www.bloomberg.com/news/features/2017-04-19/the-nightmare-scenario-for-florida-s-coastal-homeowners>

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**1. The Giants Mission Rock project would be built on public trust waterfront land where residential and general purpose office construction is **not** allowed under Federal and State public trust waterfront law.**

I-Stokus (1)-1

**Uses Inconsistent with the Public Trust**

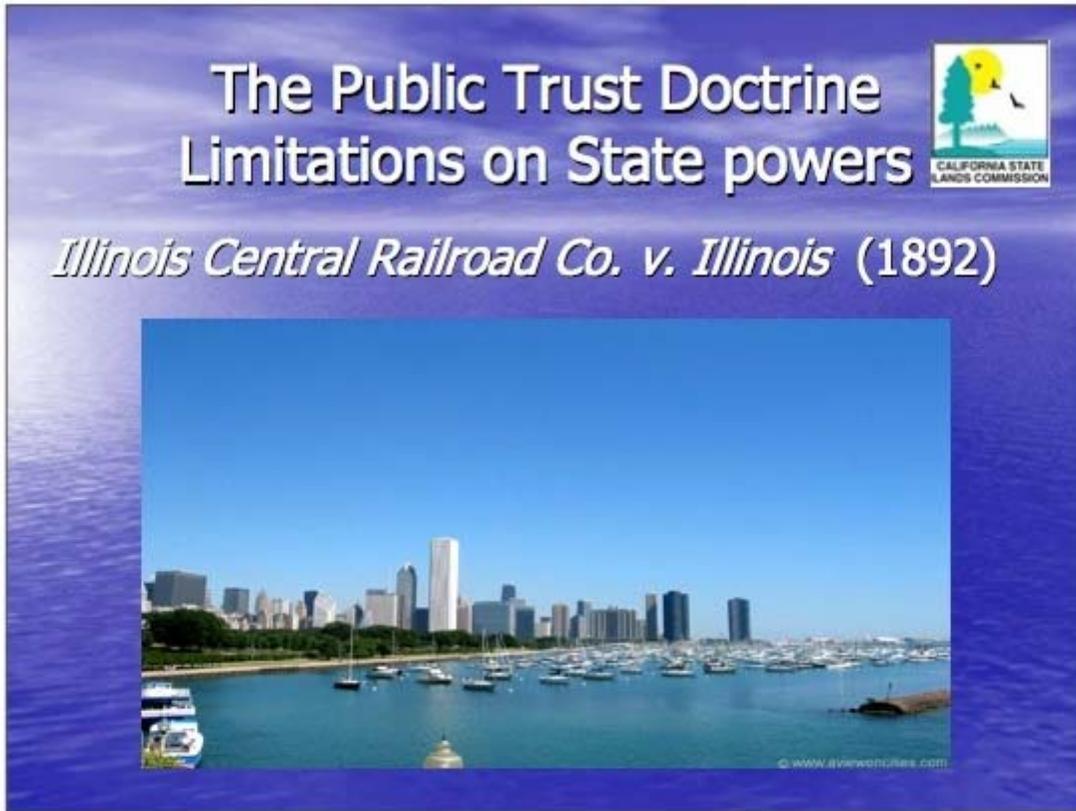
**California State Lands Commission**

- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependant or water-related
  - Do not serve a statewide public purpose
  - Can be located on non-waterfront property
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc. *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199

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**2. The Giants Mission Rock project would be built on public trust waterfront land which cannot be given up to private interests.**

I-Stokus (1)-2



Over 115 years ago the United States Supreme Court issued its landmark ruling on the nature of a state's title to its tide and submerged lands. That decision serves as notice to lawmakers in all states that they are restricted in giving up trust lands to private interests. Although state and federal courts have reviewed tidelands trust issues many times since then, this basic premise of the trust remains fundamentally unchanged.



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**Public Trust Waterfront Law PDF Link:**

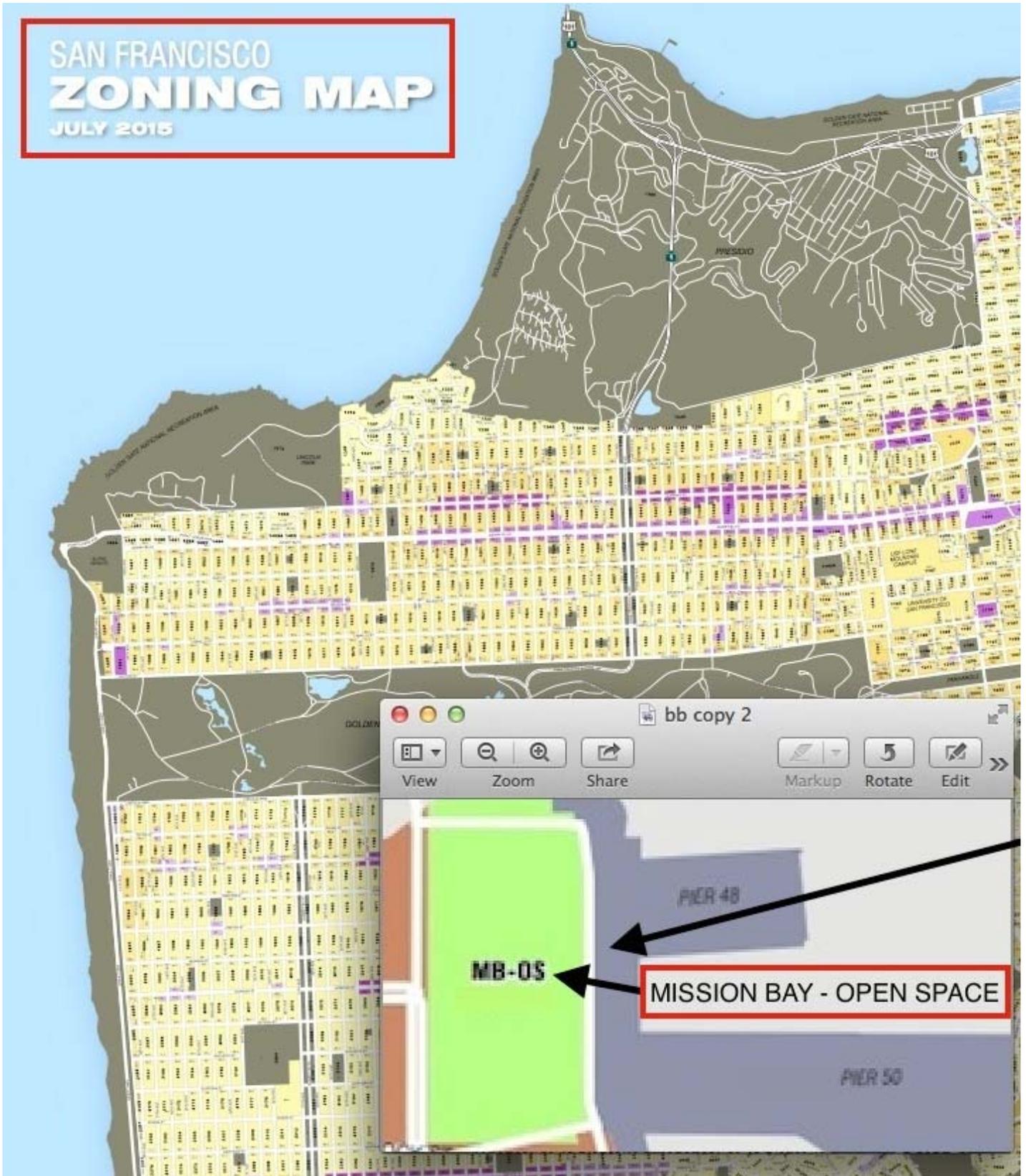
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**3. The Giants Mission Rock project would be built on a site set aside decades ago after intensive negotiations by the previous Waterfront Plan Working Group and subsequently zoned for open space park.**

I-Stokus (1)-3

# I-Stokus (1)

Double Click to Enlarge Zoning Map - - -



**SF Zoning Map Link:**

<http://sf-planning.org/sites/default/files/FileCenter/Documents/9016-BIGmap.pdf>

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**4. The Giants Mission Rock project would be built on a site of approximately 270 feet of submarginal water saturated bay fill subject to earthquake, tsunami, and sea level rise. The public would be asked to foot an approximately \$150 million bill to (hopefully) stabilize the site so that the Giants can build their private development.**

The Warriors asked the public for approximately \$150 million to build a new Pier 30-32 on which to build a new Warriors Arena. The answer was a resounding NO.

Now the Giants want the public to spend approximately \$150 million to stabilize (the Giants hope) a water saturated bay fill site so that they can build private high rises. The answer should be the same: NO

I-Stokus (1)-4

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**California Bill AB-2797 Link:**

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB2797](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2797)

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**Excerpt From Above Bill:**

(e) A substantial investment in new infrastructure and public facilities is needed to realize the benefits of the portions of Seawall Lot 337 that will be used for public and private development parcels that will be subject to nontrust leases. The infrastructure costs will exceed one hundred fifty million dollars (\$150,000,000) based on estimates that the developer endorsed a term sheet for the project in 2013. The development proposal would require to construct the necessary infrastructure and public facilities, which would be funded by the land value is unavailable. Project-based public financing would be used to provide the developer for its equity advances for infrastructure costs under CFD law, IFD law

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**5. Public operation of an open space park site is a significant liability in itself, however, allowing the building of (especially tall and/ or heavy) private structures on public trust waterfront land puts the public in an extremely risky liability position.**

I-Stokus (1)-5

The public (taxpayers), as owners of the land, could be held responsible (in the case of a natural disaster - which is most likely inevitable) for damage to private property (the structures, etc., think Millennium Tower) and for injury or death of individuals.

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**6. The Port of San Francisco, acting as the manager for the trustee for the public, is promoting this project as in the best interests of the public (the land owners under public trust waterfront law). It is not in the best interests of the public.**

- a. It is construction that is not an allowed use under State and Federal public trust waterfront law.
- b. It is an unlawful giving up to private interests of public trust waterfront land.
- c. It does not honor previous planning agreements and zoning.
- d. It is not being built on a stable geological site and the public would be asked to spend approximately \$150 million to stabilize the site.
- e. The public would be exposed to great future liability.

I-Stokus (1)-6

**This is a project that the public should **not** be involved in.**

Leave this type of project to private developers who develop on private land, put up 100% private capital, and take all of the profits and all of the liability without their hand in the public's pocket.

## I-Stokus (1)

It is time for the Giants owners to put on their “developer big pants” on and start acting like other developers that take big risks and earn big profits.

The Warriors are doing it, so can the Giants.

It is also time for the Port of San Francisco to deal with the reality that the land they manage under the public waterfront land trust is not suitable for tall and/ or heavy structures. That is because it is either underwater (under piers) or is water saturated bay fill subject to liquefaction during an earthquake, and to tsunami and to sea level rise.

The public trust waterfront law was put in place in 1892 to prevent politicians and developers from pushing through waterfront projects that history has proven are not suitable for the waterfront.

The waterfront - the meeting of the land and the sea - has always been one of the most dangerous places on earth to build anything.

**Throughout history “Nature bats last”.**

I-Stokus (1)-6  
cont.

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**7. The Mission Rock project is nothing more than a “land grab” of public trust waterfront land by the owners the San Francisco Giants who will take the development profits and leave the public with most of the liability and the problems. You have heard this story before.**

I-Stokus (1)-7

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**8. If the Giants’ owners want to get into the real estate development business, they should do what the owners of the Golden State Warriors did in San Francisco.**

**a. Get off public trust waterfront land that has been set aside mainly for maritime and public open space use since 1892.**

I-Stokus (1)-8

**b.** Buy a piece of private land.

**c.** Take out a permit.

**d.** Build their project.

## I-Stokus (1)

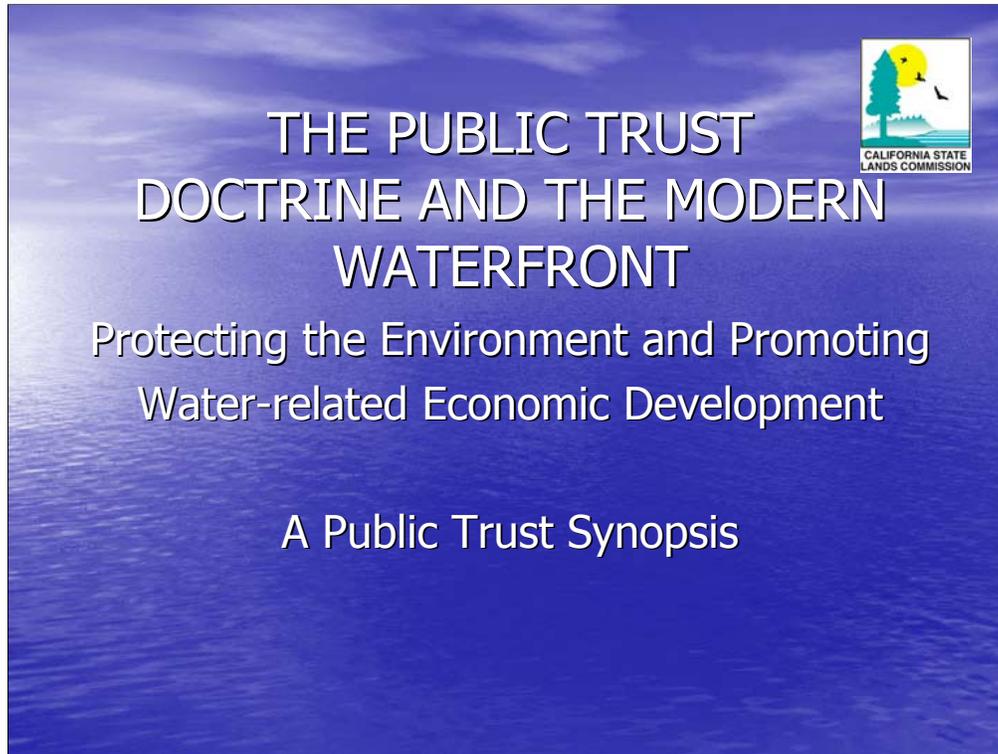
Yes, the Giants owners have a lot of "political juice" in San Francisco, but the Port of San Francisco and the Giants owners have to obey State and Federal law just like the President of the United States.

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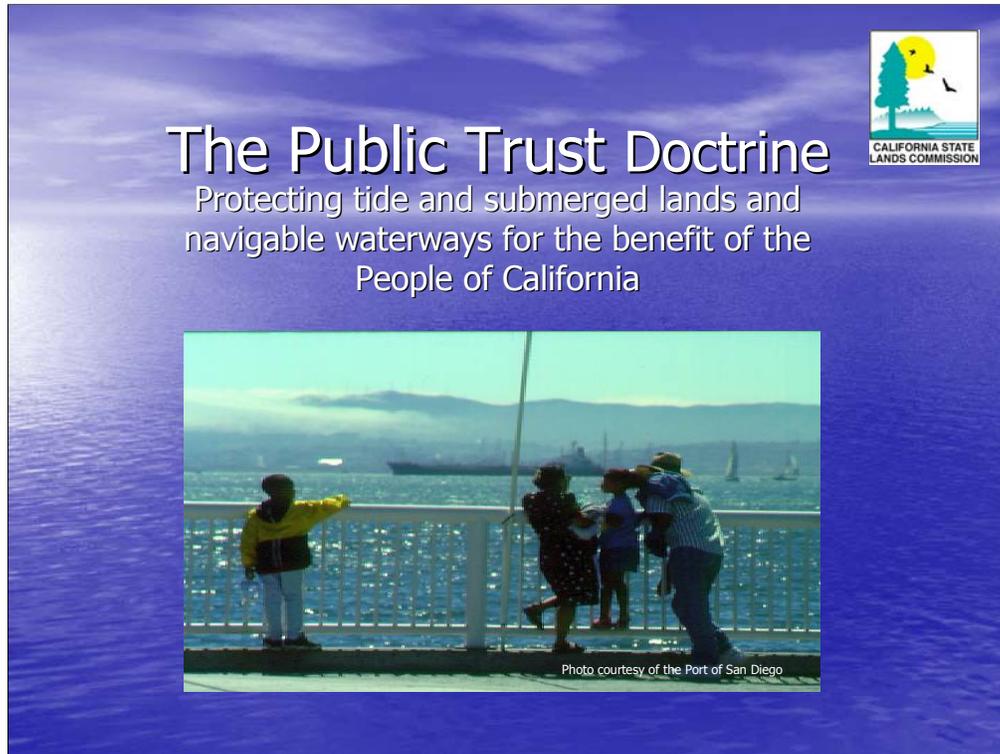
I-Stokus (1)-8  
cont.

**9. Will the attempts to privatize public lands only stop when "they have it all"? Have they no shame?**

I-Stokus (1)-9



Welcome, this introduction to the Public Trust Doctrine was developed by the staff of the California State Lands Commission in 2007 and was presented in workshop settings in San Francisco, Los Angeles and San Diego. We hope it is helpful in understanding the basic concepts of this important legal precept that has evolved over the millennia.



This presentation is only a glimpse at some of the landmark events that have molded the Public Trust Doctrine in California as we know it today. There are a myriad of other statutes, cases, and actions that have been part of the evolution of this rather unique area of the law. And of course we expect more legislation, cases and events in the future to leave their mark. But with that said – the basic principal remains the same -- these are publicly owned lands held in trust for water-related public needs.

## Origins of the Public Trust Doctrine



- Roman Civil Law
  - The air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.

*Institutes of Justinian – 534 CE*
- English Common Law
  - The sovereign held the tide and submerged lands, not in a proprietary capacity, but as trustee of a public trust for the benefit of the people of the realm.

*Magna Charta – 1215*



The origins of the Public Trust Doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership – they were dedicated to the use of the public. This concept that waterways are unique and that the government holds them in trust for the people has endured.

In 13<sup>th</sup> century Spain, public rights in navigable waterways were recognized in the *Siete Partides* and in England in the *Magna Charta* which placed restrictions on the sovereign in dealing with public use of waterways.

Under English Common Law, this principle evolved into the Public Trust Doctrine, pursuant to which the sovereign holds navigable waterways as a trustee of a public trust for the benefit of the people for various water-related uses.

## Origins of the Public Trust Doctrine in the US



- The precept that tide and submerged lands are unique and that the ruler of the people holds them in trust for the people was transplanted to the new world and when the United States broke free of the English sovereign, those former colonies became sovereign states.
  - Post-American Revolution  
*Martin v. Waddell* (1842)
  - Equal-Footing Doctrine  
*Pollard's Lessee v. Hagan* (1845)



After the American Revolution, each of the original states succeeded to this sovereign right and duty. Each state became a trustee of the navigable waterways within its boundaries for the common use of the people.

When California was admitted to the Union in 1850, it too succeeded to the same sovereign rights and duties under the Equal-Footing Doctrine.

# The Public Trust Doctrine Limitations on State powers



*Illinois Central Railroad Co. v. Illinois* (1892)



Over 115 years ago the United States Supreme Court issued its landmark ruling on the nature of a state's title to its tide and submerged lands. That decision serves as notice to lawmakers in all states that they are restricted in giving up trust lands to private interests. Although state and federal courts have reviewed tidelands trust issues many times since then, this basic premise of the trust remains fundamentally unchanged.

## Purpose of the Public Trust Doctrine



- The state's title to its tide and submerged lands is a title held in trust for the people of the state so that those citizens may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing free from obstruction or interference from private parties.

*Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452



In a decision involving a grant of the Chicago waterfront by the Illinois State Legislature to the Illinois Central Railroad, the US Supreme Court made it clear that a state's title to its tide and submerged lands is different from that of the proprietary lands it or the federal government holds for sale. The court found that it was beyond the authority of the legislature to transfer away the public's rights in the waterfront.

In other words, the Public Trust is an affirmation of the duty of the state to protect the people's common heritage in navigable waters for their common use. States have a duty to protect the public's right to navigate on, conduct commerce over, and fish in navigable waters.



# The California Constitution

**1879**

**Article X, Section 3** – State prohibited from selling certain tidelands

**Article X, Section 4** – Public right of access to waterways guaranteed

**1910**

**Article 1, Section 25** – Public Right to Fish

In a Constitutional convention in 1879, the delegates drafted several provisions for the new constitution aimed at prohibiting certain practices that had placed many of California's urban waterfronts in private hands and restricted public access and use. These provisions were adopted by the California electorate as was the right to fish in 1910. These provisions add additional protections to California's Public Trust lands.

## To What Uses May Public Trust Lands Be Put ?



Traditionally Public Trust uses were limited to:

- Water-related Commerce
- Navigation
- Fishing



What common uses may public trust lands be put to? Traditionally, public trust uses were limited to commerce by navigation and fishing.

Commerce and navigation were essential elements in building the British empire in the 16<sup>th</sup> through the 19<sup>th</sup> centuries.

Being an island nation the right of English citizens to conduct commerce by sea along with the ability to access fishing grounds were rights set forth in the *Magna Charta* as restrictions on the sovereign's powers.

# The Public Trust Doctrine



- Facilities for the Promotion of Trust Uses
- Examples of these Public Trust consistent uses include:
  - Harbors
  - Ports
  - Marinas
  - Piers
  - Wharves



Facilities for the promotion and accommodation of Public Trust uses are necessary and incidental or ancillary to Public Trust uses and are therefore consistent with the Public Trust Doctrine.

# The Public Trust Doctrine



- As a common law doctrine, which is continuously evolving, the courts have found that other water-oriented uses that benefit the public are also consistent with the trust:
  - Open Space
  - Ecological Preservation
  - Scientific Study
  - Water-dependent or water-oriented recreation

*Marks v. Whitney* (1971) 6 Cal.3d 251

Photo courtesy of Angelo Garcia, CA Dept. of Water Resources



Photo courtesy of the Port of San Diego



In more recent years, the California Supreme Court has said that the Public Trust Doctrine embraces the right of the public to use the navigable waters of the state for bathing, swimming, boating, and general water-related recreational purposes. The Public Trust is sufficiently flexible to encompass changing public needs, such as to include the preservation of the lands in their natural state for scientific study, as open space and as wildlife habitat.

## I-Stokus (1)

Uses that directly promote, support, or accommodate Public Trust uses and public access.



- Commercial facilities:
  - Warehouses  
*Oakland v. Williams* (1929) 206 Cal. 315
  - Container cargo storage
  - Convention and Trade Facilities  
*Haggerty v. Oakland* (1958) 161 Cal.App.2d 407
- Facilities to serve waterfront visitors:
  - Hotels
  - Restaurants
  - Parking lots  
*Martin v. Smith* (1960) 184 Cal.App.2d 571



Photo Courtesy of Port of San Francisco



Photo courtesy of the Port of San Diego

As we have observed, uses on Public Trust lands not only include those traditional and direct Public Trust uses of commerce by navigation and fishing, but also include uses which facilitate or support Public Trust uses, such as wharves and warehouses. These types of uses were approved by the courts early in the 20<sup>th</sup> century because they directly promote the public's trust needs. Later, uses which were incidental to the promotion of the Public Trust, such as the Port of Oakland's convention center, were held to be consistent with the trust, because, although they were not physically dependent on being near the water, they promoted port business by encouraging trade, shipping and commercial associations to become familiar with the port and its facilities. Many of these Public Trust lands have been filled and, while no longer underwater, they retain their legal character as tide or submerged lands and are protected by the Public Trust Doctrine.

Visitor-serving facilities, such as restaurants, hotels and parking areas, are also allowed uses because as places of public accommodation, they facilitate broad public access to public trust lands, and therefore, enhance the public's enjoyment of these lands set apart for their benefit. The Legislature in following the mandate of Article X, Section 4 of the Constitution **“to enact such laws as will give the most liberal construction of this provision, so that access to the navigable waters of this State shall always be attainable for the people thereof”** passed the McAteer-Petris Act to protect the San Francisco Bay area, the Coastal Act and the Subdivision Map Act and set forth public access as one of the primary objectives of those laws.

## General Guidelines for Achieving Compliance with the Public Trust:



1. The primary use must be water-dependant or water-related.
2. The use must directly promote or support uses authorized by the Public Trust Doctrine and if the trust is managed by a local or regional governmental entity, be authorized by the statutory trust grant.
3. The use must accommodate or enhance the statewide public's enjoyment or benefit from the trust lands not merely provide a local or municipal public benefit.

The trustee of the lands must determine appropriate uses between competing trust needs of the public. Uses that interfere with the public's trust needs must not be allowed. Only short-term (for the minimum period practicable, up to a maximum period of five years) non-trust uses may be allowed by the trustee if no trust needs for the site are foreseeable during that period and the trust receives just compensation for the use of the public's property.

## Uses Inconsistent with the Public Trust



- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependant or water-related
  - Do not serve a statewide public purpose
  - Can be located on non-waterfront property
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc. *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199



The essential Public Trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage its Public Trust lands in order to implement and facilitate those trust purposes for all of the people of the state. Therefore, uses that do not accommodate, promote, foster or enhance the statewide public's need for essential maritime services or the public's enjoyment of the state's waterways are not appropriate uses for public trust lands. These would include commercial facilities that could easily be sited on uplands. It also includes strictly local or neighborhood-serving uses that confer no significant benefit to all Californians. Examples include public hospitals, public libraries, public schools, supermarkets, local government buildings and office buildings that serve general rather than specifically trust-related functions.

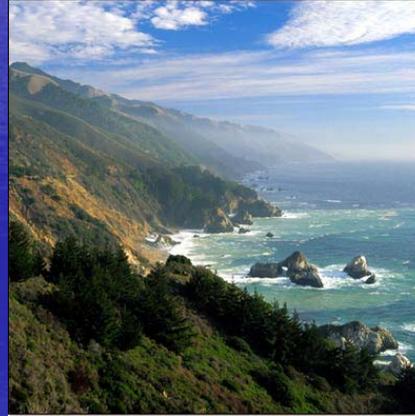
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## California's Sovereign Lands



Tide and submerged lands and the beds of lakes, streams, and other navigable waterways are held in trust by the State of California for the benefit of the people of California

- \* 4 million acres
- \* 120 rivers and sloughs
- \* 40 lakes
- \* 1100 miles of coastline
- \* thousands of miles of non-coastal shorelines
- \* 3 miles offshore



Public Trust lands in California, and under the State Lands Commission jurisdiction, include over 4 million acres underling the State's waterways. In addition to managing these lands directly the Commission and its staff seek to assist local government trustees in carrying out their mandates as public trustees.

## Entities Involved in Public Trust Issues



- People of California
- California State Legislature
- Courts
- California State Lands Commission
- Legislative Trustees
- Attorney General's Office
- Regulatory Agencies
  - BCDC
  - Coastal Commission
  - State Water Resources Control Board
  - Regional Water Quality Control Boards
  - Department of Fish and Game
  - Tahoe Regional Planning Agency

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All agencies with jurisdiction over development or other activities that can impact public trust lands and resources have a responsibility to consider their actions in the context of the effect on the resource. The Public Trust Doctrine exists to protect publicly owned property rights in the navigable waters of the state. Whether it is a land management decision by the State Lands Commission or local trustee or a regulatory decision of a governmental body exercising police power authority over the Public Trust property the obligation to the people of the state is the same.

## I-Stokus (2)

**From:** [Lawrence Stokus](#)  
**To:** [Sheyner, Tania \(CPC\)](#)  
**Subject:** Fwd: Here it is. A Perfect Example of How the Port of San Francisco Operates.  
**Date:** Friday, May 05, 2017 11:14:50 AM  
**Attachments:** [hotels 2 copy.jpg](#)  
[PUBLIC TRUST DOCTRINE copy.pdf](#)

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## Public Comment on Giants Mission Rock Project

**Ms. Sheyner - - -**

**The email below is public comment on the Giants Mission Rock project.**

**Thank you.**

=====

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** Here it is. A Perfect Example of How the Port of San Francisco Operates.  
**Date:** April 28, 2017 at 11:56:00 AM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahoogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahoogroups.com)

### Here it is. A Perfect Example of How the Port of San Francisco Operates.

- 1. First, the Port of San Francisco says: please email us all of your public comments and we will distribute those comments to all members of the Waterfront Plan Working Group. In other words, rather than just a highly controlled meeting with limited time to explain a complex issue, you can send us your more complex ideas in an email (taking advantage of the modern internet). This is how the BCDC operates and it feels more like a democracy.**
- 2. Then when the Port does not like your opinions, the Port refuses to distribute them.**
- 3. This is exactly how the Port operated during the opposition to the Warriors arena on Pier 30-32.**

I-Stokus (2)-1

4. **No democracy with Port projects on public trust waterfront land, just edicts.**
5. **“Pretend you are listening, but push the projects through the process (especially the Giants Mission Rock Project)”.**
6. **“Legally, we have to listen to the public, but then we can just do what we want”.**

I-Stokus (2)-1  
cont.

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On Apr 28, 2017, at 10:15 AM, Oshima, Diane (PRT)  
<[diane.oshima@sfport.com](mailto:diane.oshima@sfport.com)> wrote:

**Thank you for sharing these emails, Lawrence. I respect your perspectives on Port and waterfront issues. Port staff however is not available to serve as a conduit to disseminate individual opinions and views. Please feel free to come to any of the Waterfront Plan Update public meetings to share your materials and public comments.**

**Have a good weekend,  
Diane**

**Diane Oshima  
Deputy Director, Waterfront Planning  
Port of San Francisco  
Pier 1  
San Francisco, CA 94111  
415.274.0553**

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Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** Fwd: Hotels Allowed on Public Trust Waterfront Land  
**Date:** April 28, 2017 at 9:50:15 AM PDT

## I-Stokus (2)

To:

[SaveTheSanFranciscoWaterfront@yahoogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahoogroups.com)

Begin forwarded message:

**From:** Lawrence Stokus

[<lvstokus@att.net>](mailto:lvstokus@att.net)

**Subject:** Hotels Allowed on Public Trust Waterfront Land

**Date:** April 28, 2017 at 9:49:40 AM PDT

**To:** [Diane.Oshima@sfport.com](mailto:Diane.Oshima@sfport.com)

**Cc:** "Elaine (PRT) Forbes"

[<elaine.forbes@sfport.com>](mailto:elaine.forbes@sfport.com), "Brad (PRT) Benson"

[<brad.benson@sfport.com>](mailto:brad.benson@sfport.com)

**Ms. Oshima  
(Port of San  
Francisco):  
Would you  
please  
distribute this  
email to all  
members of the  
Port of San  
Francisco's  
Waterfront  
Plan Working  
Group as  
public comment  
regarding  
waterfront  
planning.**

**Hotels on Public Trust  
Waterfront Land?**

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**Link:**

## I-Stokus (2)

<http://www.sfchronicle.com/bayarea/place/article/Hotels-on-the-Embarcadero-not-such-a-bad-idea-11104745.php>

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1. Under State and Federal public trust waterfront law, hotels are allowed on public trust waterfront land.



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2. However, San Francisco passed an ordinance many years ago that says that hotels are not allowed on San Francisco's waterfront.

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3. San Francisco also passed Prop B recently which gives San Francisco a "say" in waterfront height limits. This ordinance is now being challenged by the State of California in court.

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4. The legal question is whether the State (the trustee of public trust waterfront lands) can be "told what they can do" by the citizens of San Francisco. That court decision might affect whether San Francisco's "no hotels on the waterfront" ordinance is enforceable.

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## I-Stokus (2)

5. Confusing? Yes? But keep this concept in mind:

**The general idea of public trust waterfront law is that the waterfront belongs to EVERYONE in the State of California. As a result, construction on the waterfront that only benefits a few select local people like residential and general purpose office is NOT allowed.**

**The Giants Mission Rock project is a good example of what is NOT allowed.**

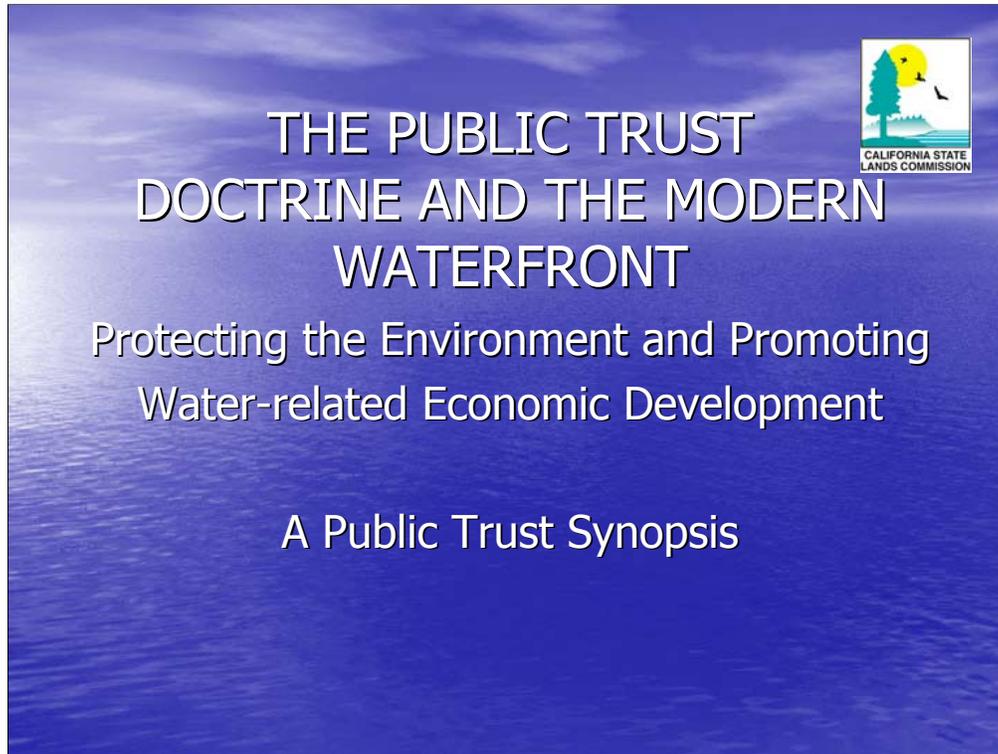
**Hotels, on the other hand, benefit visitors from out of town and locals and thus are allowed.**

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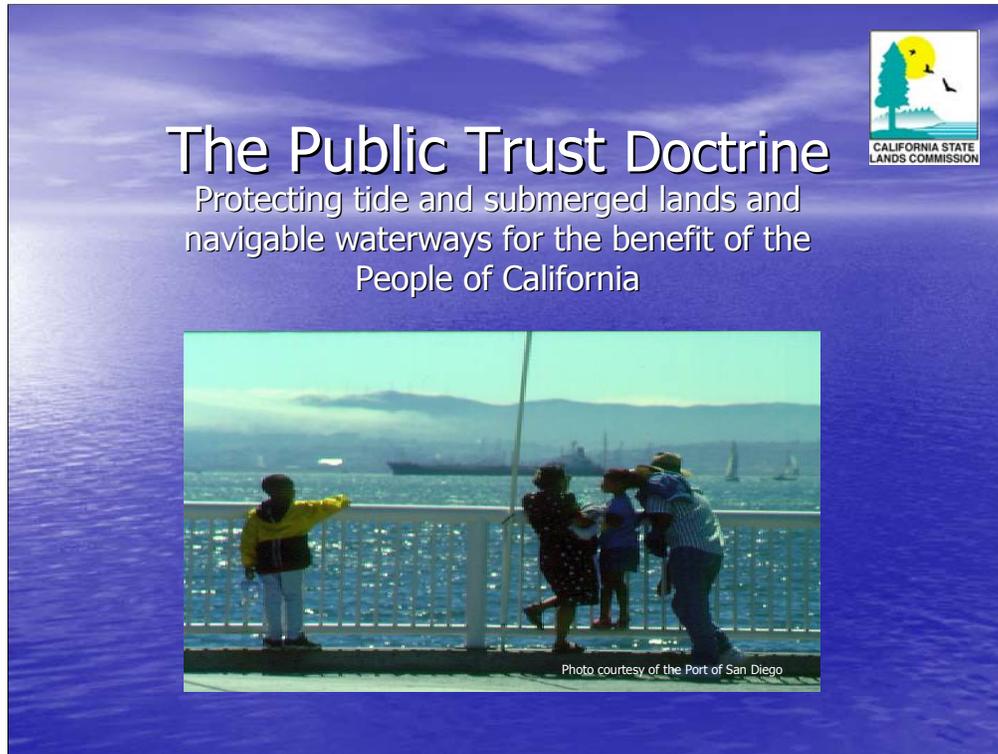
6. Read more about what is allowed and what is not allowed on public trust waterfront land:

**Public Trust  
Waterfront Law  
PDF Link:**

I-Stokus (2)-2  
cont.



Welcome, this introduction to the Public Trust Doctrine was developed by the staff of the California State Lands Commission in 2007 and was presented in workshop settings in San Francisco, Los Angeles and San Diego. We hope it is helpful in understanding the basic concepts of this important legal precept that has evolved over the millennia.



This presentation is only a glimpse at some of the landmark events that have molded the Public Trust Doctrine in California as we know it today. There are a myriad of other statutes, cases, and actions that have been part of the evolution of this rather unique area of the law. And of course we expect more legislation, cases and events in the future to leave their mark. But with that said – the basic principal remains the same -- these are publicly owned lands held in trust for water-related public needs.

# Origins of the Public Trust Doctrine



- Roman Civil Law
  - The air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.

*Institutes of Justinian – 534 CE*
- English Common Law
  - The sovereign held the tide and submerged lands, not in a proprietary capacity, but as trustee of a public trust for the benefit of the people of the realm.

*Magna Charta – 1215*



The origins of the Public Trust Doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership – they were dedicated to the use of the public. This concept that waterways are unique and that the government holds them in trust for the people has endured.

In 13<sup>th</sup> century Spain, public rights in navigable waterways were recognized in the *Siete Partides* and in England in the *Magna Charta* which placed restrictions on the sovereign in dealing with public use of waterways.

Under English Common Law, this principle evolved into the Public Trust Doctrine, pursuant to which the sovereign holds navigable waterways as a trustee of a public trust for the benefit of the people for various water-related uses.

## Origins of the Public Trust Doctrine in the US



- The precept that tide and submerged lands are unique and that the ruler of the people holds them in trust for the people was transplanted to the new world and when the United States broke free of the English sovereign, those former colonies became sovereign states.
  - Post-American Revolution  
*Martin v. Waddell* (1842)
  - Equal-Footing Doctrine  
*Pollard's Lessee v. Hagan* (1845)



After the American Revolution, each of the original states succeeded to this sovereign right and duty. Each state became a trustee of the navigable waterways within its boundaries for the common use of the people.

When California was admitted to the Union in 1850, it too succeeded to the same sovereign rights and duties under the Equal-Footing Doctrine.

# The Public Trust Doctrine Limitations on State powers



*Illinois Central Railroad Co. v. Illinois* (1892)



Over 115 years ago the United States Supreme Court issued its landmark ruling on the nature of a state's title to its tide and submerged lands. That decision serves as notice to lawmakers in all states that they are restricted in giving up trust lands to private interests. Although state and federal courts have reviewed tidelands trust issues many times since then, this basic premise of the trust remains fundamentally unchanged.

## Purpose of the Public Trust Doctrine



- The state's title to its tide and submerged lands is a title held in trust for the people of the state so that those citizens may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing free from obstruction or interference from private parties.

*Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452



In a decision involving a grant of the Chicago waterfront by the Illinois State Legislature to the Illinois Central Railroad, the US Supreme Court made it clear that a state's title to its tide and submerged lands is different from that of the proprietary lands it or the federal government holds for sale. The court found that it was beyond the authority of the legislature to transfer away the public's rights in the waterfront.

In other words, the Public Trust is an affirmation of the duty of the state to protect the people's common heritage in navigable waters for their common use. States have a duty to protect the public's right to navigate on, conduct commerce over, and fish in navigable waters.



# The California Constitution

**1879**

**Article X, Section 3** – State prohibited from selling certain tidelands

**Article X, Section 4** – Public right of access to waterways guaranteed

**1910**

**Article 1, Section 25** – Public Right to Fish

In a Constitutional convention in 1879, the delegates drafted several provisions for the new constitution aimed at prohibiting certain practices that had placed many of California's urban waterfronts in private hands and restricted public access and use. These provisions were adopted by the California electorate as was the right to fish in 1910. These provisions add additional protections to California's Public Trust lands.

# To What Uses May Public Trust Lands Be Put ?



Traditionally Public Trust uses were limited to:

- Water-related Commerce
- Navigation
- Fishing



Photo courtesy of the Port of Oakland

What common uses may public trust lands be put to? Traditionally, public trust uses were limited to commerce by navigation and fishing.

Commerce and navigation were essential elements in building the British empire in the 16<sup>th</sup> through the 19<sup>th</sup> centuries.

Being an island nation the right of English citizens to conduct commerce by sea along with the ability to access fishing grounds were rights set forth in the *Magna Charta* as restrictions on the sovereign's powers.

# The Public Trust Doctrine



- Facilities for the Promotion of Trust Uses
- Examples of these Public Trust consistent uses include:
  - Harbors
  - Ports
  - Marinas
  - Piers
  - Wharves



Facilities for the promotion and accommodation of Public Trust uses are necessary and incidental or ancillary to Public Trust uses and are therefore consistent with the Public Trust Doctrine.

# The Public Trust Doctrine



- As a common law doctrine, which is continuously evolving, the courts have found that other water-oriented uses that benefit the public are also consistent with the trust:
  - Open Space
  - Ecological Preservation
  - Scientific Study
  - Water-dependent or water-oriented recreation

*Marks v. Whitney* (1971) 6 Cal.3d 251

Photo courtesy of Angelo Garcia, CA Dept. of Water Resources



Photo courtesy of the Port of San Diego



In more recent years, the California Supreme Court has said that the Public Trust Doctrine embraces the right of the public to use the navigable waters of the state for bathing, swimming, boating, and general water-related recreational purposes. The Public Trust is sufficiently flexible to encompass changing public needs, such as to include the preservation of the lands in their natural state for scientific study, as open space and as wildlife habitat.

## I-Stokus (2)

Uses that directly promote, support, or accommodate Public Trust uses and public access.



- Commercial facilities:
  - Warehouses  
*Oakland v. Williams* (1929) 206 Cal. 315
  - Container cargo storage
  - Convention and Trade Facilities  
*Haggerty v. Oakland* (1958) 161 Cal.App.2d 407
- Facilities to serve waterfront visitors:
  - Hotels
  - Restaurants
  - Parking lots  
*Martin v. Smith* (1960) 184 Cal.App.2d 571



Photo Courtesy of Port of San Francisco



Photo courtesy of the Port of San Diego

As we have observed, uses on Public Trust lands not only include those traditional and direct Public Trust uses of commerce by navigation and fishing, but also include uses which facilitate or support Public Trust uses, such as wharves and warehouses. These types of uses were approved by the courts early in the 20<sup>th</sup> century because they directly promote the public's trust needs. Later, uses which were incidental to the promotion of the Public Trust, such as the Port of Oakland's convention center, were held to be consistent with the trust, because, although they were not physically dependent on being near the water, they promoted port business by encouraging trade, shipping and commercial associations to become familiar with the port and its facilities. Many of these Public Trust lands have been filled and, while no longer underwater, they retain their legal character as tide or submerged lands and are protected by the Public Trust Doctrine.

Visitor-serving facilities, such as restaurants, hotels and parking areas, are also allowed uses because as places of public accommodation, they facilitate broad public access to public trust lands, and therefore, enhance the public's enjoyment of these lands set apart for their benefit. The Legislature in following the mandate of Article X, Section 4 of the Constitution **“to enact such laws as will give the most liberal construction of this provision, so that access to the navigable waters of this State shall always be attainable for the people thereof”** passed the McAteer-Petris Act to protect the San Francisco Bay area, the Coastal Act and the Subdivision Map Act and set forth public access as one of the primary objectives of those laws.

## General Guidelines for Achieving Compliance with the Public Trust:



1. The primary use must be water-dependant or water-related.
2. The use must directly promote or support uses authorized by the Public Trust Doctrine and if the trust is managed by a local or regional governmental entity, be authorized by the statutory trust grant.
3. The use must accommodate or enhance the statewide public's enjoyment or benefit from the trust lands not merely provide a local or municipal public benefit.

The trustee of the lands must determine appropriate uses between competing trust needs of the public. Uses that interfere with the public's trust needs must not be allowed. Only short-term (for the minimum period practicable, up to a maximum period of five years) non-trust uses may be allowed by the trustee if no trust needs for the site are foreseeable during that period and the trust receives just compensation for the use of the public's property.

# Uses Inconsistent with the Public Trust



- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependant or water-related
  - Do not serve a statewide public purpose
  - Can be located on non-waterfront property
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc. *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199



The essential Public Trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage its Public Trust lands in order to implement and facilitate those trust purposes for all of the people of the state. Therefore, uses that do not accommodate, promote, foster or enhance the statewide public's need for essential maritime services or the public's enjoyment of the state's waterways are not appropriate uses for public trust lands. These would include commercial facilities that could easily be sited on uplands. It also includes strictly local or neighborhood-serving uses that confer no significant benefit to all Californians. Examples include public hospitals, public libraries, public schools, supermarkets, local government buildings and office buildings that serve general rather than specifically trust-related functions.

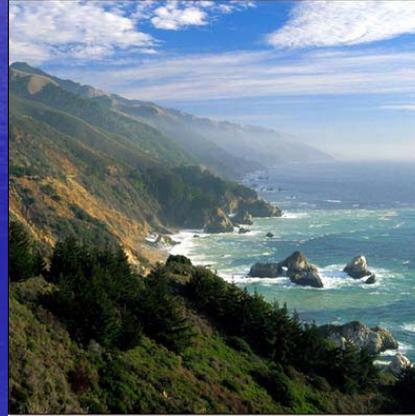
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## I-Stokus (3)

**From:** Lawrence Stokus <lvstokus@att.net>  
**Sent:** Friday, May 05, 2017 11:30 AM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Public Comment on Giants Mission Rock Project

### Public Comment on Giants Mission Rock Project

**Ms. Sheyner - - -**

**The email below is public comment on the Giants Mission Rock project.**

**Thank you.**

=====

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** **Giants Mission Rock Project Flood Potential Coming to Light. Taxpayers Will Pay Extra.**  
**Date:** April 30, 2017 at 10:34:48 AM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahoogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahoogroups.com)

## Giants Mission Rock Project Flood Potential Coming to Light.

### Taxpayers Will Pay Extra to Support Giants Private Development on Public Trust Waterfront Land.

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**Links:**

<http://sfpublicpress.org/news/searise/2017-04/projects-sailed-through-despite-dire-flood-study>

<http://sfpublicpress.org/news/searise/2017-04/emails-show-how-flood-study-finally-became-public>

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**Excerpts From Above Articles:**

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**1.**

A city-commissioned environmental study that detailed how the Mission Bay neighborhood would be inundated by rising seas in coming decades went unpublished for more than a year while two showcase waterfront developments won key approvals from city officials and voters, a Public Press review of records shows.

I-Stokus (3)-1

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**2.**

Fran Weld, the Giants' vice president of development, said the team was "able to learn from the process." She said the 28-acre Mission Rock site would be re-engineered and could function as a levee. The Giants' plan to raise the buildings to 5.5 feet above today's mean high tide, surrounded with graded parks that drain to the streets and the bay. She said a Mello-Roos tax — a special neighborhood-based real estate surcharge — would help pay for future sea rise protections.

I-Stokus (3)-2

## I-Stokus (4)

**From:** Lawrence Stokus <lvstokus@att.net>  
**Sent:** Friday, May 05, 2017 3:22 PM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Fwd: Public Comment on Giants Mission Rock Project

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** Public Comment on Giants Mission Rock Project  
**Date:** May 5, 2017 at 3:17:38 PM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahogroups.com)

# Public Comment on Giants Mission Rock Project

**Ms. Sheyner - - -**

<p>Tania Sheyner, AICP, LEED AP Senior Environmental Planner</p> <p>Planning Department, City and County of San Francisco 1650 Mission Street, Suite 400, San Francisco, CA 94103 Direct: 415-575-9127 Fax: 415-558-6409 Email: <a href="mailto:Tania.Sheyner@sfgov.org">Tania.Sheyner@sfgov.org</a> Web: <a href="http://www.sfplanning.org">www.sfplanning.org</a></p>
--

**The email below is public comment on the Giants Mission Rock project.**

**Thank you for listening to the public.**

=====

ATT Park was sold to the public as a “street car ballpark”. Where most people would arrive at the ballpark in street cars.

LOT A was going to be a big open space park for everyone to enjoy. And that made sense since LOT A was then known as the Mission Bay swamp - one the most unbuildable sites in the city.

I-Stokus (4)-1

## I-Stokus (4)

The Giants made a deal with the Port and made LOT A a parking lot. The fact that LOT A was set aside as open space park was IGNORED.

Now, the Giants are saying: Better to build offices and residences than leaving it a parking lot.

**That is a lot of hypocrisy. LOT A is a parking lot because the Port and the Giants wanted it to stay a parking lot. And LOT A is not an open space park as it was set aside for because the Port wants to privatize and commercialize it.**

The Giants Yard and restaurants, etc. can still be built on the site (under public trust waterfront law) as low rise tourist serving facilities and would bring plenty of life to an area that can act as a grand open space park just like the northern shore of San Francisco and the eastern shore of Chicago (see pictures below).

You do not have to build megamillion dollar residential (luxury/ affordable) and office high rises on LOT A (submarginal bay fill subject to earthquake, tsunami and flood) to have tourist serving retail and restaurants built on the site. That argument is just the way the Giants are trying to get control of this incredibly valuable piece of public trust waterfront land. It is a "for profit public land grab", pure and simple, with the public taking on huge liability.

Having the Port do a land swap between LOT A and the Warriors Salesforce site and moving the Warriors arena to LOT A would have been a better option with shared parking (summer baseball, winter basketball) and much less future liability for the public (Where was Mayor Lee?).

However, the Giants owners did not want to give up "their land" - which of course is public trust waterfront land that does not belong to the Giants, the Port or the State of California.

It is a unique ownership. It belongs to the PEOPLE OF CALIFORNIA (in their totality), is held in trust for them, and has VERY restrictive land use controls that only allow certain types of uses. What the Giants want to build is not allowed under public trust waterfront law.

**San Francisco Waterfront (Proposed Crissy Field) - - - double click to enlarge (would the City dare to propose that the Giants project be built on this site?)**

I-Stokus (4)-1  
cont.

I-Stokus (4)-2

I-Stokus (4)-3

I-Stokus (4)-4

I-Stokus (4)-5



Chicago Waterfront - - - double click to enlarge



Chicago Waterfront - - - double click to enlarge

I-Stokus (4)



## I-Stokus (5)

**From:** Lawrence Stokus <lvstokus@att.net>  
**Sent:** Sunday, May 21, 2017 2:28 PM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Public Comment on Giants Mission Rock Project  
**Attachments:** PUBLIC TRUST DOCTRINE copy.pdf; A federal judge complicates the Lucas Museum land grab - Chicago Tribune.pdf

## Public Comment on the Giants Mission Rock Project

**The email below is public comment on the Giants Mission Rock project.**

**Thank you for listening to the public.**

<p>Tania Sheyner, AICP, LEED AP Senior Environmental Planner</p> <p>Planning Department, City and County of San Francisco 1650 Mission Street, Suite 400, San Francisco, CA 94103 Direct: 415-575-9127 Fax: 415-558-6409 Email: <a href="mailto:Tania.Sheyner@sfgov.org">Tania.Sheyner@sfgov.org</a> Web: <a href="http://www.sfplanning.org">www.sfplanning.org</a></p>
--

=====

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** LA Times Article Puts on Display the Tangled Political Thinking Regarding the Legal Use of San Francisco's Public Trust Waterfront Land  
**Date:** May 21, 2017 at 1:58:18 PM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahoo.com](mailto:SaveTheSanFranciscoWaterfront@yahoo.com)

**LA Times Article Puts on Display the Tangled Political Thinking Regarding the Legal Use of San Francisco's Public Trust Waterfront Land**



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**Link to LA Times Article:**

<http://www.latimes.com/politics/la-pol-ca-newsom-waterfront-governor-20170519-story.html>

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Here is the short version of what is going on here:

1. Public trust waterfront land is a very unique type of ownership. It is owned by the People of California (NOT the City of SF, nor the Port of SF, nor the State of California). It is held in trust for the People of California, and the State of California (California State Land Commission) is the trustee (and NOT the owner).
2. Since public trust waterfront land is owned by EVERYONE in California, public trust waterfront land use is restricted to uses that benefit EVERYONE and not just a few select private individuals.

## I-Stokus (5)

Therefore land uses that benefit only a few select private individuals are not permitted. For example, the Giants Mission Rock proposal to build general purpose office and residential (luxury and affordable) high rises on the LOT A site is not allowed under public trust waterfront law:

I-Stokus (5)-1  
cont.

### **Public Trust Waterfront Law PDF Link:**

3. Enter the politicians, who can turn a simple legal matter into a complex political issue:

#### **POLITICAL FORCE #1**

The real estate developers who would like to develop every square inch of public trust waterfront land for profit. And the politicians who back them and like the idea of some of those profits flowing into their coffers where they can put them to “good use”. Gavin Newsom seems to be backing this group these days.

#### **POLITICAL FORCE #2**

The progressive politicians (think left) who want to stop (or at least slow down) people from being economically pushed out of the city (an often shared concern). These politicians would like to “get their share of public trust waterfront land” and would like to see some of those profits put into “affordable housing” on public trust waterfront land. Ex-Mayor Agnos and John Burton seem to be backing this group.

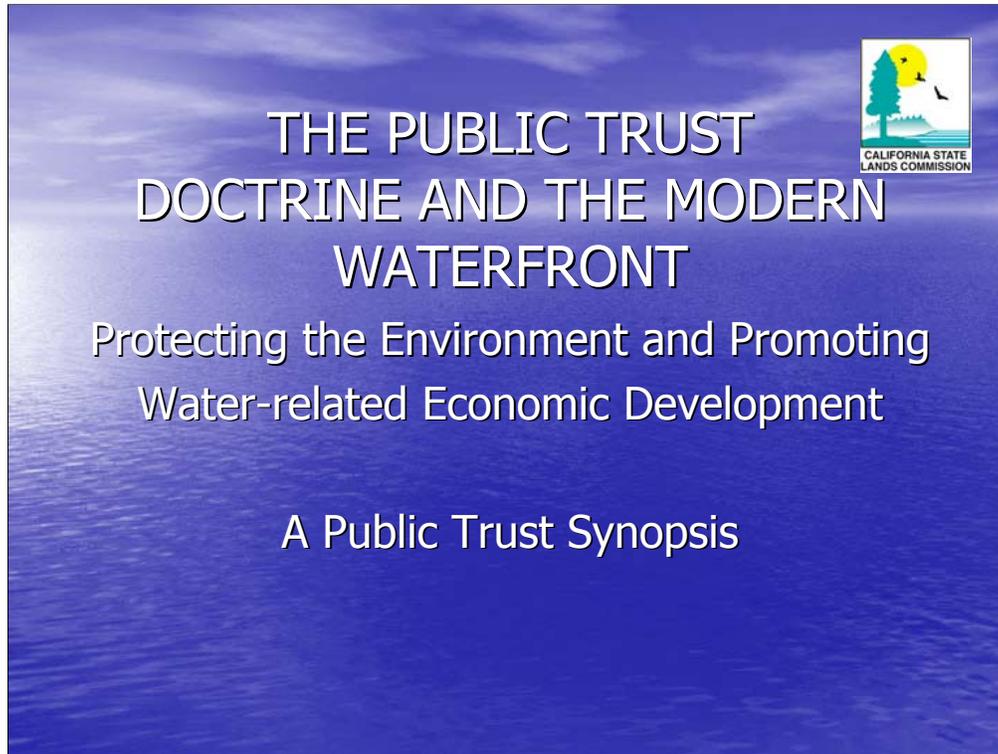
I-Stokus (5)-2

#### **4. KEY POINT:**

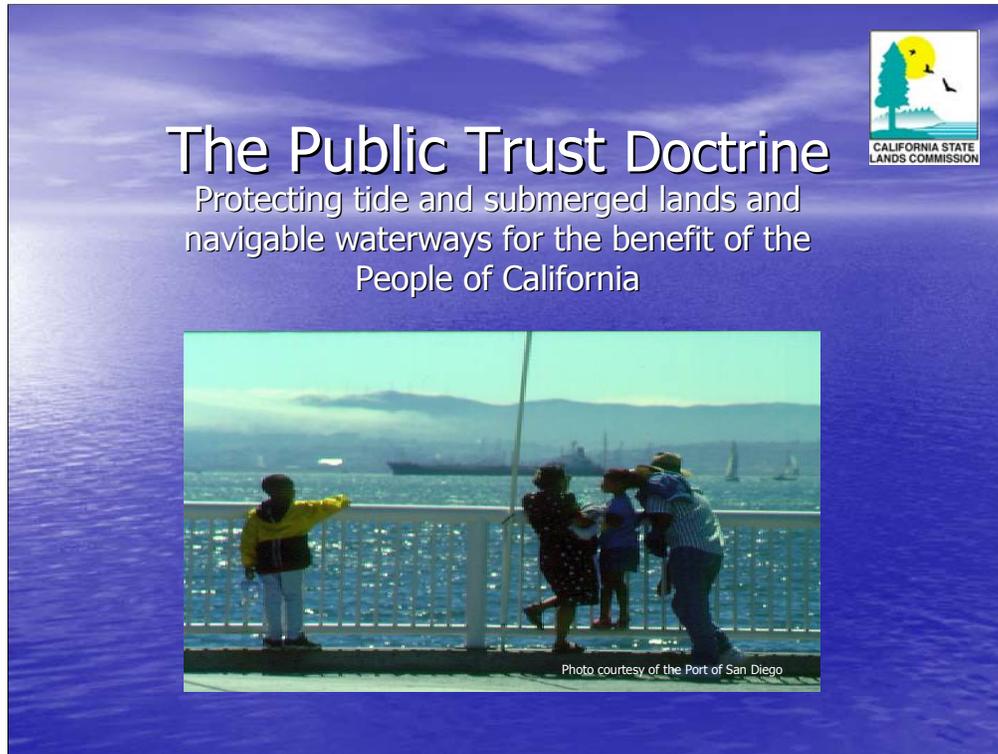
**This political debate will play out eventually, but on land other than public trust waterfront land because NEITHER political force has the right (under State and Federal public trust waterfront) to take the public trust waterfront land away from the public and give it to few select private individuals because they think it is a good idea.**

**And it may take the intervention of the Federal Courts (as in the proposed George Lucas Museum public trust waterfront land case in Chicago) to make the politicians in California understand that they must abide by State and Federal public trust waterfront law.**

### **Link to Chicago Tribune Opinion Piece:**



Welcome, this introduction to the Public Trust Doctrine was developed by the staff of the California State Lands Commission in 2007 and was presented in workshop settings in San Francisco, Los Angeles and San Diego. We hope it is helpful in understanding the basic concepts of this important legal precept that has evolved over the millennia.



This presentation is only a glimpse at some of the landmark events that have molded the Public Trust Doctrine in California as we know it today. There are a myriad of other statutes, cases, and actions that have been part of the evolution of this rather unique area of the law. And of course we expect more legislation, cases and events in the future to leave their mark. But with that said – the basic principal remains the same -- these are publicly owned lands held in trust for water-related public needs.

## Origins of the Public Trust Doctrine



- Roman Civil Law
  - The air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.

*Institutes of Justinian – 534 CE*
- English Common Law
  - The sovereign held the tide and submerged lands, not in a proprietary capacity, but as trustee of a public trust for the benefit of the people of the realm.

*Magna Charta – 1215*



The origins of the Public Trust Doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership – they were dedicated to the use of the public. This concept that waterways are unique and that the government holds them in trust for the people has endured.

In 13<sup>th</sup> century Spain, public rights in navigable waterways were recognized in the *Siete Partides* and in England in the *Magna Charta* which placed restrictions on the sovereign in dealing with public use of waterways.

Under English Common Law, this principle evolved into the Public Trust Doctrine, pursuant to which the sovereign holds navigable waterways as a trustee of a public trust for the benefit of the people for various water-related uses.

# Origins of the Public Trust Doctrine in the US



- The precept that tide and submerged lands are unique and that the ruler of the people holds them in trust for the people was transplanted to the new world and when the United States broke free of the English sovereign, those former colonies became sovereign states.
  - Post-American Revolution  
*Martin v. Waddell* (1842)
  - Equal-Footing Doctrine  
*Pollard's Lessee v. Hagan* (1845)



After the American Revolution, each of the original states succeeded to this sovereign right and duty. Each state became a trustee of the navigable waterways within its boundaries for the common use of the people.

When California was admitted to the Union in 1850, it too succeeded to the same sovereign rights and duties under the Equal-Footing Doctrine.

# The Public Trust Doctrine Limitations on State powers



*Illinois Central Railroad Co. v. Illinois* (1892)



Over 115 years ago the United States Supreme Court issued its landmark ruling on the nature of a state's title to its tide and submerged lands. That decision serves as notice to lawmakers in all states that they are restricted in giving up trust lands to private interests. Although state and federal courts have reviewed tidelands trust issues many times since then, this basic premise of the trust remains fundamentally unchanged.

## Purpose of the Public Trust Doctrine



- The state's title to its tide and submerged lands is a title held in trust for the people of the state so that those citizens may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing free from obstruction or interference from private parties.

*Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452



In a decision involving a grant of the Chicago waterfront by the Illinois State Legislature to the Illinois Central Railroad, the US Supreme Court made it clear that a state's title to its tide and submerged lands is different from that of the proprietary lands it or the federal government holds for sale. The court found that it was beyond the authority of the legislature to transfer away the public's rights in the waterfront.

In other words, the Public Trust is an affirmation of the duty of the state to protect the people's common heritage in navigable waters for their common use. States have a duty to protect the public's right to navigate on, conduct commerce over, and fish in navigable waters.



# The California Constitution

**1879**

**Article X, Section 3** – State prohibited from selling certain tidelands

**Article X, Section 4** – Public right of access to waterways guaranteed

**1910**

**Article 1, Section 25** – Public Right to Fish

In a Constitutional convention in 1879, the delegates drafted several provisions for the new constitution aimed at prohibiting certain practices that had placed many of California's urban waterfronts in private hands and restricted public access and use. These provisions were adopted by the California electorate as was the right to fish in 1910. These provisions add additional protections to California's Public Trust lands.

## To What Uses May Public Trust Lands Be Put ?



Traditionally Public Trust uses were limited to:

- Water-related Commerce
- Navigation
- Fishing



Photo courtesy of the Port of Oakland

What common uses may public trust lands be put to? Traditionally, public trust uses were limited to commerce by navigation and fishing.

Commerce and navigation were essential elements in building the British empire in the 16<sup>th</sup> through the 19<sup>th</sup> centuries.

Being an island nation the right of English citizens to conduct commerce by sea along with the ability to access fishing grounds were rights set forth in the *Magna Charta* as restrictions on the sovereign's powers.

# The Public Trust Doctrine



- Facilities for the Promotion of Trust Uses
- Examples of these Public Trust consistent uses include:
  - Harbors
  - Ports
  - Marinas
  - Piers
  - Wharves



Facilities for the promotion and accommodation of Public Trust uses are necessary and incidental or ancillary to Public Trust uses and are therefore consistent with the Public Trust Doctrine.

# The Public Trust Doctrine



- As a common law doctrine, which is continuously evolving, the courts have found that other water-oriented uses that benefit the public are also consistent with the trust:
  - Open Space
  - Ecological Preservation
  - Scientific Study
  - Water-dependent or water-oriented recreation

*Marks v. Whitney* (1971) 6 Cal.3d 251

Photo courtesy of Angelo Garcia, CA Dept. of Water Resources



Photo courtesy of the Port of San Diego



In more recent years, the California Supreme Court has said that the Public Trust Doctrine embraces the right of the public to use the navigable waters of the state for bathing, swimming, boating, and general water-related recreational purposes. The Public Trust is sufficiently flexible to encompass changing public needs, such as to include the preservation of the lands in their natural state for scientific study, as open space and as wildlife habitat.

Uses that directly promote, support, or accommodate Public Trust uses and public access.



- Commercial facilities:
  - Warehouses  
*Oakland v. Williams* (1929) 206 Cal. 315
  - Container cargo storage
  - Convention and Trade Facilities  
*Haggerty v. Oakland* (1958) 161 Cal.App.2d 407
- Facilities to serve waterfront visitors:
  - Hotels
  - Restaurants
  - Parking lots  
*Martin v. Smith* (1960) 184 Cal.App.2d 571



Photo Courtesy of Port of San Francisco



Photo courtesy of the Port of San Diego

As we have observed, uses on Public Trust lands not only include those traditional and direct Public Trust uses of commerce by navigation and fishing, but also include uses which facilitate or support Public Trust uses, such as wharves and warehouses. These types of uses were approved by the courts early in the 20<sup>th</sup> century because they directly promote the public's trust needs. Later, uses which were incidental to the promotion of the Public Trust, such as the Port of Oakland's convention center, were held to be consistent with the trust, because, although they were not physically dependent on being near the water, they promoted port business by encouraging trade, shipping and commercial associations to become familiar with the port and its facilities. Many of these Public Trust lands have been filled and, while no longer underwater, they retain their legal character as tide or submerged lands and are protected by the Public Trust Doctrine.

Visitor-serving facilities, such as restaurants, hotels and parking areas, are also allowed uses because as places of public accommodation, they facilitate broad public access to public trust lands, and therefore, enhance the public's enjoyment of these lands set apart for their benefit. The Legislature in following the mandate of Article X, Section 4 of the Constitution **“to enact such laws as will give the most liberal construction of this provision, so that access to the navigable waters of this State shall always be attainable for the people thereof”** passed the McAteer-Petris Act to protect the San Francisco Bay area, the Coastal Act and the Subdivision Map Act and set forth public access as one of the primary objectives of those laws.

## General Guidelines for Achieving Compliance with the Public Trust:



1. The primary use must be water-dependant or water-related.
2. The use must directly promote or support uses authorized by the Public Trust Doctrine and if the trust is managed by a local or regional governmental entity, be authorized by the statutory trust grant.
3. The use must accommodate or enhance the statewide public's enjoyment or benefit from the trust lands not merely provide a local or municipal public benefit.

The trustee of the lands must determine appropriate uses between competing trust needs of the public. Uses that interfere with the public's trust needs must not be allowed. Only short-term (for the minimum period practicable, up to a maximum period of five years) non-trust uses may be allowed by the trustee if no trust needs for the site are foreseeable during that period and the trust receives just compensation for the use of the public's property.

## Uses Inconsistent with the Public Trust



- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependant or water-related
  - Do not serve a statewide public purpose
  - Can be located on non-waterfront property
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc. *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199



The essential Public Trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage its Public Trust lands in order to implement and facilitate those trust purposes for all of the people of the state. Therefore, uses that do not accommodate, promote, foster or enhance the statewide public's need for essential maritime services or the public's enjoyment of the state's waterways are not appropriate uses for public trust lands. These would include commercial facilities that could easily be sited on uplands. It also includes strictly local or neighborhood-serving uses that confer no significant benefit to all Californians. Examples include public hospitals, public libraries, public schools, supermarkets, local government buildings and office buildings that serve general rather than specifically trust-related functions.

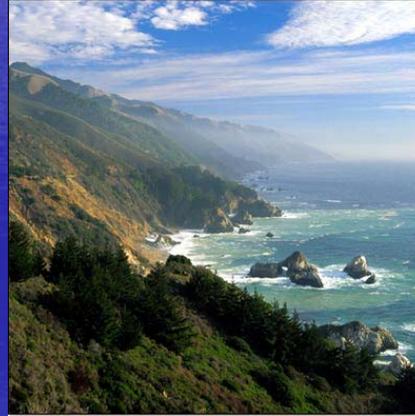
Another example of local, neighborhood-serving uses are public municipal parks. Some have suggested that public parks, recreation and open space are *ipso facto* consistent with the Public Trust Doctrine simply because they have been listed in the court cases or granting statutes. This suggestion must be rejected. The California Supreme Court made this eminently clear in the *Mallon* case. Open space, public parks and other uses unrelated to the waterfront and of a primarily community or municipal benefit, are not authorized on Public Trust lands or may not be supported by Public Trust revenues. Traditional Public Trust uses include water-dependent and water-related commerce, navigation, and fisheries. And, although courts have recognized that the Public Trust Doctrine is flexible and has been explicitly extended to include public access and public water-related recreational uses, as well as environmental protection, open space, and preservation of scenic areas, the overarching principle of the Public Trust Doctrine is that trust lands and trust assets belong to the statewide public and are to be used to promote water-dependent and water-related uses, beneficial to the statewide public rather than primarily benefiting a local community.

## California's Sovereign Lands



Tide and submerged lands and the beds of lakes, streams, and other navigable waterways are held in trust by the State of California for the benefit of the people of California

- \* 4 million acres
- \* 120 rivers and sloughs
- \* 40 lakes
- \* 1100 miles of coastline
- \* thousands of miles of non-coastal shorelines
- \* 3 miles offshore



Public Trust lands in California, and under the State Lands Commission jurisdiction, include over 4 million acres underling the State's waterways. In addition to managing these lands directly the Commission and its staff seek to assist local government trustees in carrying out their mandates as public trustees.

## Entities Involved in Public Trust Issues



- People of California
- California State Legislature
- Courts
- California State Lands Commission
- Legislative Trustees
- Attorney General's Office
- Regulatory Agencies
  - BCDC
  - Coastal Commission
  - State Water Resources Control Board
  - Regional Water Quality Control Boards
  - Department of Fish and Game
  - Tahoe Regional Planning Agency

1. The People of California – are the beneficiaries of the Public Trust and the people are afforded rights of access to navigable waterways through the California Constitution and Act of Admission to the Union. They also have standing to assert Public Trust rights in court and have directly enacted several Constitutional provisions in preserving public rights associated with Public Trust lands.
2. The State Legislature – is the representative of all the people and, subject to judicial review, is the initial authority dealing with management issues involving Public Trust lands and the uses to which Public Trust lands may be put. In order to promote Public Trust purposes, the Legislature has, since statehood, enacted nearly 300 statutes granting state-owned sovereign trust lands to various local governmental entities – legislative trustees. These grants were made for purposes consistent with the Public Trust Doctrine and typically for specific limited purposes including the development of harbors. The Legislature may create, alter, amend modify or revoke a trust grant so that the tidelands are administered in a manner most suitable to the needs of the people of the state.
3. The Courts – As a common law doctrine, it is the courts that have generally defined what the Public Trust Doctrine is. The courts interpret legislation and determine when the legislature or its trustees have overstepped their authority.
4. State Lands Commission – Following a scandal regarding malfeasance by the office entrusted to manage the State's Public Trust property, in 1938, the Legislature created an independent State Lands Commission, consisting of the LT Governor, State Controller and Director of Finance to administer the State's property interest in Public Trust lands. The Legislature vested exclusive jurisdiction over ungranted trust lands and any residual authority remaining in the State as to granted trust lands in the State Lands Commission. The Commission acts pursuant to legislative direction, the Constitution and the Public Trust Doctrine to protect the public's interest in all Public Trust lands, including granted trust lands.

## Entities Involved in Public Trust Issues



- People of California
- California State Legislature
- Courts
- California State Lands Commission
- Legislative Trustees
- Attorney General's Office
- Regulatory Agencies
  - BCDC
  - Coastal Commission
  - State Water Resources Control Board
  - Regional Water Quality Control Boards
  - Department of Fish and Game
  - Tahoe Regional Planning Agency



5. Legislative Trustees – As mentioned previously, the Legislature has enacted hundreds of statutes transferring daily control and management of Public Trust lands to many local governmental entities since 1850. These grants were made in trust, for general purposes consistent with the Public Trust Doctrine. In fact the major commercial ports in California all trace their development to Legislative grants-in-trust of tidelands. Each of the ports, from Oakland and San Francisco in the Bay Area, to Los Angeles, Long Beach and San Diego in the south -- has a statutory grant from the State. Each grant contained the mandate that the lands be used by the grantee for the establishment, improvement and conduct of a harbor. Thus although San Francisco had a state agency run its port for most of the 20<sup>th</sup> century, it was more often the cities, given the land and the power to govern, control, develop and improve the lands, which developed the state's major ports. These Public Trust lands are commonly called granted lands. The local grantee enjoys the benefits such utilization and development brings to a local economy, while the mechanism of a grant-in-trust promises that the state tidelands as well as all revenues generated directly or indirectly by the tidelands are used only for authorized Public Trust purposes of statewide benefit. It is important to note that except for certain statutory provisions specifically involving the CSLC, the Commission is not typically involved in day-to-day trust operations where the Legislature has transferred legal title to the trustee. It is the trustee that has the primary responsibility of administering the trust within the parameters of their granting statutes. It is therefore imperative that as trustees, these local governments treat public trust lands with the care that will allow this unique and limited resource to continue to provide utility and benefit to the statewide public for generations to come.
6. The Attorney General's Office – As a representative of the people of California it is the Attorney General's duty to enforce all laws. The Attorney General's office provides legal representation to the State Lands Commission through its Land Law division. State Lands and the Attorney General's office have worked closely in seeking to protect the public's interest in Public Trust lands.
7. Regulatory Agencies
- All agencies with jurisdiction over development or other activities that can impact public trust lands and resources have a responsibility to consider their actions in the context of the effect on the resource. The Public Trust Doctrine exists to protect publicly owned property rights in the navigable waters of the state. Whether it is a land management decision by the State Lands Commission or local trustee or a regulatory decision of a governmental body exercising police power authority over the Public Trust property the obligation to the people of the state is the same.

# Editorial: A federal judge complicates the Lucas Museum land grab



This file artist rendering released in September 2015 by the Lucas Museum of Narrative Art shows the proposed museum in Chicago. (AP)

FEBRUARY 4, 2016, 8:14 PM

**M**ayor [Rahm Emanuel](#) and "Star Wars" creator [George Lucas](#) got the unluckiest of several unlucky breaks on page 13. Read U.S. District Judge John Darrah's legal ruling Thursday and you find yet another repudiation of Emanuel's argument that the mayor can give Lucas the use of lakefront land for a museum of narrative art. Darrah rejected — *on every count* — [City Hall's](#) motion to dismiss a lawsuit in which the advocacy group Friends of the Parks seeks to block this unconscionable land grab. From Darrah's page 13:

Friends of the Parks "have sufficiently pled that the proposed Museum is not for the benefit of the public but will impair public interest in the land and benefit the [Lucas Museum of Narrative Art](#) and promote private and/or commercial interests. ... Plaintiffs have plausibly stated a claim for a violation of the public-trust doctrine. Thus (City Hall's) Motion to Dismiss is denied with respect to Count III." Just as Darrah rebuked two other arguments.

**This is a brutal**, although not yet fatal, blow to Emanuel, Lucas and the high-handed city lawyers who've tried to ramrod this project down Chicago's throat and onto Chicago's lakefront. In a practical sense, a legal battle that may drag on interminably now can move forward. In the more important legal sense of right and wrong, it affirms that Judge Darrah takes seriously the federal courts' responsibility to enforce the public trust doctrine he cites (more on that later). That's especially crucial when Emanuel is trying to give Lucas control of 17 acres between Soldier Field and McCormick Place. At a cost of \$10. For a 99-year lease. Renewable for another 99 years. That is, for nearly *three centuries*.

We hope Mayor Emanuel reads the judge's ruling, which is as crisp and unequivocal as his similar ruling last March on an earlier City Hall motion to dismiss this suit. If he were a rude man, Darrah could have reduced Thursday's treatise to a sentence: *Didn't you City Hall lawyers read what I wrote 11 months ago?*

All of us who want this museum built in Chicago, rather than in Los Angeles, Oakland or San Francisco, should urge the mayor to admit defeat at this site and find a grand location anywhere but the lakefront. Why do we recommend that?

Many moons may pass before Darrah rules not on motions but on merits of the case. But with each preliminary action it's clearer the judge just doesn't buy what Emanuel's lawyers are selling. Nor is Darrah bamboozled by Springfield's attempt to make this land grab legal, adding it to a popular bill to enable an Obama library for Chicago's South Side. The judge's ruling tells lawmakers how they bungled their effort to let the Chicago Park District give Lucas use of this site.

**The vital and controlling issue here**, the legal principle known as public trust doctrine, dictates why this land — recovered from Lake Michigan as landfill during the 1920s — is so unique:

By law this is submerged lake bottom and has special protections. The state of Illinois, not the city of Chicago, holds title to the land — not with a traditional landowner's right but as a trustee with fiduciary responsibility to every resident of Illinois. If you're a citizen you own what's called a fractional beneficial interest in public trust land. You can use it. As Darrah wrote last March, citing federal precedents, the purpose of the public trust doctrine is "to police the legislature's disposition of public lands." He noted that state lawmakers can't relinquish control of such land "to satisfy a private interest." His wording Thursday, quoted in the second paragraph of this editorial, suggests he thinks Emanuel's proposal would do precisely that for Lucas.

We noted last March that this isn't where City Hall's lawyers wanted or expected to be. They thought the opponents would challenge their land grab as an affront to Chicago's Lakefront Protection Ordinance, which it arguably is. That sort of challenge would be filed in Cook County courts, where politically astute judges often defer to Democratic mayors. Instead, plaintiff attorney Thomas Geoghegan shrewdly seized on public trust doctrine and headed to federal court. Darrah is focused on U.S. Supreme Court case law, not on doing

favors for City Hall or a celebrity filmmaker.

We don't know how much money Chicago taxpayers are burning for the privilege of losing repeatedly in court. We do know that the longer City Hall clings to a lakefront notion that looks dead in the water, City Hall risks squandering the wealth of jobs and tourism that a museum at a *legal* location would bring to this city.

**Mayor Emanuel, a suggestion** we've murmured before: Tell Mr. Lucas, politely but firmly, that Chicagoans have spent nearly two centuries guarding their lakefront from similarly grand and otherwise desirable projects. Tell him that other superb sites abound, including some that would enhance redevelopment of the historic African-American neighborhood of Bronzeville.

Then remind him that he was able to host his wedding at Promontory Point on South Lake Shore Drive only because ... Chicagoans protect their lakefront.

It's one thing, Mr. Mayor, for your lakefront site to be a loser. Imagine how much worse it would be to tell Chicagoans that, because your City Hall didn't find a site that's legal, Mr. Lucas will take his museum and its jobs to California.

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**This article is related to:** [Opinion](#), [Editorials](#), [Museums](#), [Rahm Emanuel](#), [George Lucas](#)

## I-Stokus (6)

**From:** Lawrence Stokus <lvstokus@att.net>  
**Sent:** Wednesday, May 31, 2017 8:11 AM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Fwd: Stay Within the Law  
**Attachments:** Design teams compete for best solution to sea-level conundrum - San Francisco Chronicle.pdf

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** **Stay Within the Law**  
**Date:** May 31, 2017 at 8:02:18 AM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahogroups.com)

**Stay Within the Law**

I-Stokus (6)-1



# Design teams compete for best solution to

By John King | May 30, 2017 | Updated: May 30, 2017 6:17pm



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**Direct Link:**

<http://www.sfchronicle.com/bayarea/article/Design-teams-compete-for-best-solution-to-11183611.php>

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**PDF Link:**

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**Excerpt From Above Article:**

Not taking part in the effort: the Bay Conservation and Development Commission, which is running a design competition to raise awareness about the possible local impacts of sea-level rise. In the future, the regulatory agency will work with design teams with an eye to producing visions that can be

“We hope the teams will push the envelope — but they’re also expected to shape their proposed relation with state and federal law,” said Larry Goldzband, the commission’s executive director. We want them to be realistic as well as inspirational.”



# Design teams compete for best solution to sea-level conundrum

By John King | May 30, 2017 | Updated: May 30, 2017 6:17pm

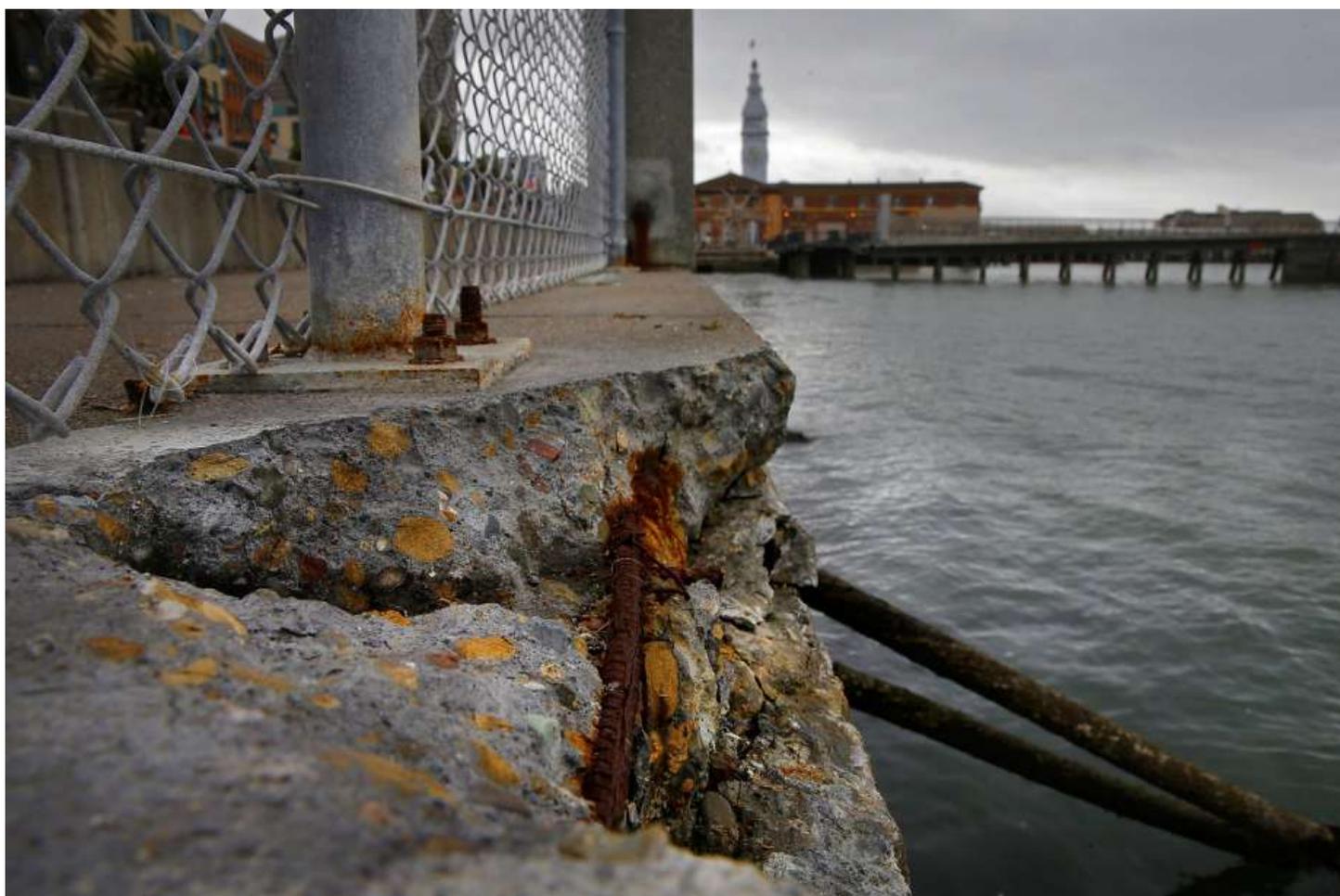


Photo: Michael Macor, The Chronicle



The sea wall in need of repairs along the Embarcadero between Howard and Mission Streets in San Francisco last year.

An ambitious design competition that seeks to make the Bay Area a model for how to prepare for sea-level rise kicks off this week.

The competition, dubbed “Resilient by Design,” will select 10 interdisciplinary teams to tackle 10 sites around the bay, with at least one in each county. Each team will focus on a single site and prepare a design response that is intended to be not just visually cool, but scientifically and economically feasible.

“If we can figure out how to do this, and make changes on the ground or along the shore as well as come up with ideas, we can really be a model” for other metropolitan areas, said Amanda Brown-Stevens, managing director of the design competition, which is scheduled to conclude next May.

On the drawing board since 2015, Resilient by Design **received a major boost in January** when the Rockefeller Foundation pledged \$4.6 million to make the effort happen. Other sponsors include the Metropolitan Transportation Commission, the city of San Francisco and the Santa Clara Valley Water District.

The plan then was that the launch of the competition would include a list of specific locations.

Instead, the Wednesday kickoff will couple a request for qualifications from design teams, which are expected to include engineers and climate change experts as well as landscape architects, with an “open call” for Bay Area residents to suggest particular spots that might be worthy of in-depth attention.

“We want to emphasize the idea that everyone is involved,” said Brown-Stevens, a former deputy director of the Greenbelt Alliance who also has worked on local political campaigns.



## I-Stokus (6)

“There needs to be significant community buy-in for this effort to be successful.”

The danger in the Bay Area is that an open call can lead to endless delays, with pushback from localities that don't make the final cut. But the schedule is tight: After 10 design teams are selected this summer, the fall will be spent gathering information and visiting different sites around the bay.

The 10 locations are to be selected in December, with an emphasis on different scales and challenges as well as making sure that each Bay Area county is included. Each team will be assigned a spot, and design solutions will be presented in May.

The idea is that the design proposals will include specific restoration efforts or infrastructure upgrades that could then be implemented as funding becomes available.

Each design team will receive \$250,000 for its work. It's not clear if a “winner” will be selected at the end.

The competition takes cues from Rebuild by Design, a competition also supported by Rockefeller that responded to Hurricane Sandy's impact on New York City and the surrounding region in 2012. This time, though, the threat is gradual — that the Bay Area's environment and livability could be undermined by environmental change.

The most recent government-sponsored projections for the Bay Area were done in 2012 and suggest that daily tides within the Golden Gate could climb between 18 and 66 inches by 2100.

That's why Resilient by Design has the potential to reshape the region, advocates say. It allows planners and politicians to get ahead of events and begin to craft adaptation strategies that don't simply involve building ever-taller walls along the shore.

“This is a chance for the Bay Area to show international leadership on climate change,” said Warner Chabot, executive director of the San Francisco Estuary Institute and a member of the

## I-Stokus (6)

competition board. “We can demonstrate that there’s a way to prepare for the future with creativity, not just fear.”

Not taking part in the effort: the Bay Conservation and Development Commission, which in 2009 held a design competition to raise awareness about the possible local impacts of sea-level rise. Instead, the regulatory agency will work with design teams with an eye to producing visions that can become reality.

“We hope the teams will push the envelope — but they’re also expected to shape their proposals in relation with state and federal law,” said Larry Goldzband, the commission’s executive director. “We want them to be realistic as well as inspirational.”

*John King is The San Francisco Chronicle’s urban design critic. Email: [jking@sfchronicle.com](mailto:jking@sfchronicle.com) Twitter: [@johnkingsfchron](https://twitter.com/johnkingsfchron)*

**information**

On the competition: [www.resilientbayarea.org/](http://www.resilientbayarea.org/)

The Chronicle’s 2016 series “Rising Reality”: <http://projects.sfchronicle.com/2016/sea-level-rise/>



**John King**  
Architecture Critic

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**From:** Lawrence Stokus [mailto:lvstokus@att.net]  
**Sent:** Sunday, June 25, 2017 10:04 AM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Fwd: LA Times Article: Discusses the State Lands Commission's Lawsuit Against the City of San Francisco

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** **LA Times Article: Discusses the State Lands Commission's Lawsuit Against the City of San Francisco**  
**Date:** June 25, 2017 at 9:48:43 AM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahoogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahoogroups.com)

**LA Times Article: Discusses the State Lands Commission's Lawsuit Against the City of San Francisco.**

**Possible court decision regarding San Francisco's waterfront soon.**

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**Link:**

<http://www.latimes.com/politics/la-pol-ca-lands-commission-20170622-htlstory.html>

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**Comments:**

**1. Remember that even if the State court says that the City of San Francisco has no say in its public trust waterfront land development, the State of California (acting as the public's trustee with the public as owner of the land):**

**Still must abide by all State and Federal public trust waterfront law as to **legal use** of that land (which is highly restricted).**

**That is, the State of California (Legislature and Governor) are not free to do whatever they want (for example the Giants Mission Rock project).**

I-Stokus (7)-2  
cont.

**2. Note that our local newspaper,, the San Francisco Chronicle, never seems to discuss these important public trust waterfront issues. Why?**

I-Stokus (7)-3

**Only when the public is educated and well informed can a true democracy exist.**

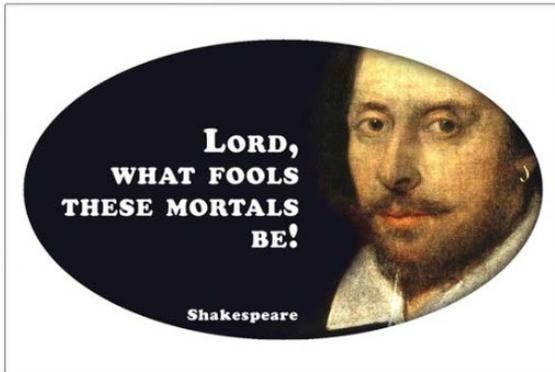
# I-Stokus (8)

**From:** Lawrence Stokus [mailto:lvstokus@att.net]  
**Sent:** Wednesday, July 12, 2017 11:19 PM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Fwd: The Rule of Law Comes Into Focus

Begin forwarded message:

**From:** Lawrence Stokus <lvstokus@att.net>  
**Subject:** The Rule of Law Comes Into Focus  
**Date:** July 12, 2017 at 11:07:28 PM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahoogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahoogroups.com)

## The Rule of Law Comes Into Focus



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Below is a link to a worthwhile article that the BCDC (Bay Conservation and Development Commission) has been distributing.  
**The article points out how much people do not understand about the waterfront or have forgotten or just ignore.**

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**Link (watch the video):**

<https://calmatters.org/articles/california-response-rising-seas/>

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**Excerpts from Above Article:**

I-Stokus (8)-1

## I-Stokus (8)

Back in San Francisco is [Mission Rock](#), an ambitious, 300-acre development in low-lying Mission Bay next to AT&T Park, home to baseball's San Francisco Giants. A new \$1 billion arena, scheduled to open in 2019, will be added here to house the Golden State Warriors basketball team.

A 2016 study examining options for the area suggests converting nearby Third Street into a levee, reinforcing sea walls and even allowing marshy areas nearest the water to flood periodically. Some plans call for elevating the surrounding land by four feet. Project renderings depict glass panels on top of berms intended to block the advancing sea's spray.

FIG 5-4: CREEK CONCEPT 2 DEVELOPMENT VISION



FIG 5-6: CREEK CONCEPT 3 DEVELOPMENT VISION



One thing all experts agree upon: There is not one perfect way to respond to the threats of sea-level rise. These illustrations, created by San Francisco Bay Area Planning and Urban Research Association, offer mitigation options for a bayfront development in San Francisco. Among the suggestions: erecting plexi-glass walls to protect fans at the Giant's baseball stadium from sea-spray, installing a lock system to control water flow into a basin that collects water from storm surges, and restoring wetlands that absorb water and offer greenspace. **Comment:** The Pacific Ocean does not view plexi-glass walls as an "obstacle".

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"I wish human beings were rational, but they are not," said June Grant, an [Oakland-based architect](#) whose work focuses on adaptability. It shocks her to see property being sold in flood-prone areas: "You have to be nuts; why would you do that? Nothing will change until the codes change."

People will have to be forced by law, Grant says, to pull back from the water and the views that are precious to them.

## I-Stokus (9)

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**From:** Lawrence Stokus [mailto:lvstokus@att.net]  
**Sent:** Tuesday, August 08, 2017 1:56 PM  
**To:** Sheyner, Tania (CPC)  
**Subject:** Fwd: City-State Dispute over Prop. B Waterfront Limits Goes to Trial

Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** City-State Dispute over Prop. B Waterfront Limits Goes to Trial  
**Date:** August 8, 2017 at 1:37:14 PM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahoogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahoogroups.com)

## City-State Dispute over Prop. B Waterfront Limits Goes to Trial

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**Link:**

<http://www.sfchronicle.com/bayarea/article/City-state-dispute-over-Prop-B-waterfront-limits-11740260.php>

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**Comment:**

Both sides in this dispute (plus the San Francisco Chronicle) are ignoring State and Federal public trust waterfront law which imposes:

1. "Control restrictions" on public trust waterfront land which prohibit turning over control of the lands to select private individuals (like the Giants or Forest City).
  2. "Use restrictions" on public trust waterfront lands which prohibit residential and general purpose office construction.
- 

**Link:**

**Excerpt From Above Link:**

## Uses Inconsistent with the Public Trust



- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependant or water-related
  - Do not serve a statewide public purpose
  - Can be located on non-waterfront property
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc. *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199



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**Comment:**

Prop B speaks only to “height restrictions”.

To date, Prop B has been used mainly by politicians to leverage affordable housing deals out of the Giants Mission Rock proposed project and Forest City’s Pier 70 proposed project.

**San Francisco (and State) politicians and real estate developers have the entire City of San Francisco in which to continue their political/ real estate development dance. However, they will have to confine their dance steps within the “rule of law” and not just dance to the drum beat of political expediency.**

San Francisco’s public trust waterfront is a separate legal entity from the City and has its own laws as to control and use of public

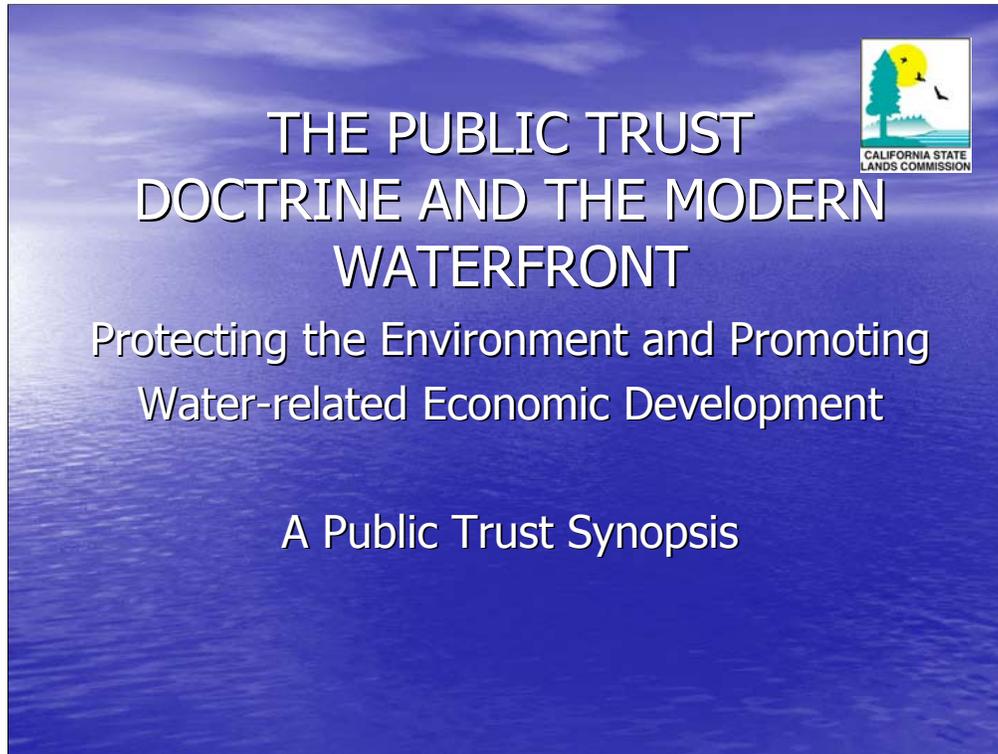
## I-Stokus (9)

trust waterfront lands. In a democracy, under the rule of law, those laws govern.

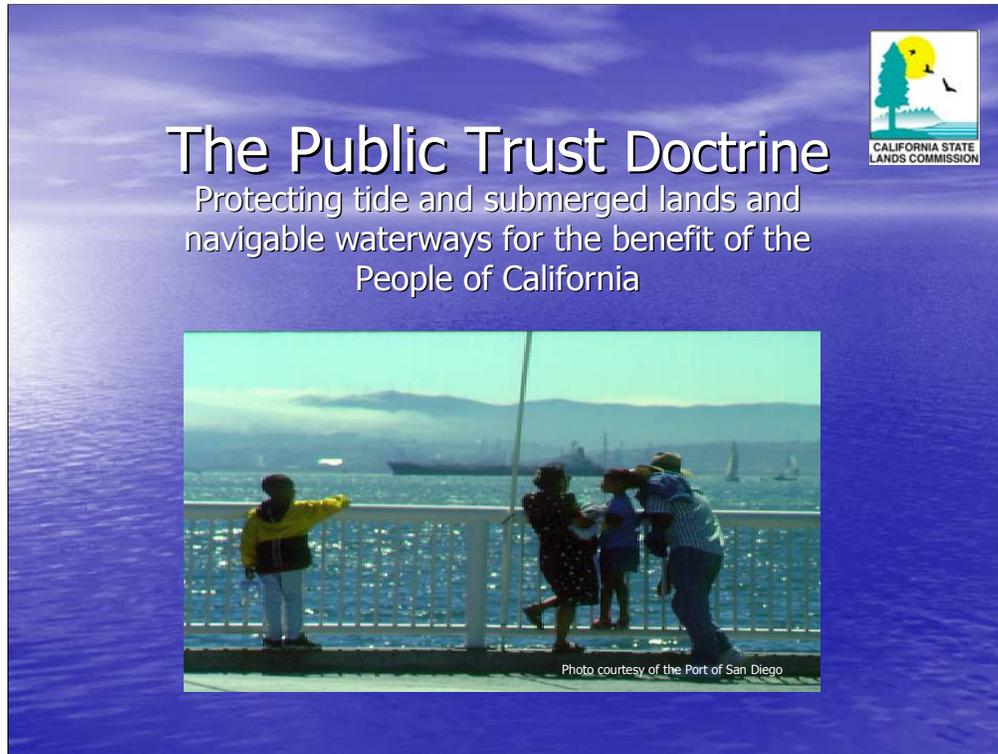
Both the Giant's Mission Rock proposed project and Forest City's Pier 70 proposed project violate the "control restrictions" and "use restrictions" of State and Federal public trust waterfront law. That is, no residential (luxury or affordable) or general purpose office construction is allowed on public trust waterfront land.

Regardless of the outcome of this State Court case, it appears that Federal Courts will have be asked to intervene into the administration of public trust waterfront lands in the State of California.

I-Stokus (9)-1  
cont.



Welcome, this introduction to the Public Trust Doctrine was developed by the staff of the California State Lands Commission in 2007 and was presented in workshop settings in San Francisco, Los Angeles and San Diego. We hope it is helpful in understanding the basic concepts of this important legal precept that has evolved over the millennia.



This presentation is only a glimpse at some of the landmark events that have molded the Public Trust Doctrine in California as we know it today. There are a myriad of other statutes, cases, and actions that have been part of the evolution of this rather unique area of the law. And of course we expect more legislation, cases and events in the future to leave their mark. But with that said – the basic principal remains the same -- these are publicly owned lands held in trust for water-related public needs.

# Origins of the Public Trust Doctrine



- Roman Civil Law
  - The air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.

*Institutes of Justinian – 534 CE*
- English Common Law
  - The sovereign held the tide and submerged lands, not in a proprietary capacity, but as trustee of a public trust for the benefit of the people of the realm.

*Magna Charta – 1215*



The origins of the Public Trust Doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership – they were dedicated to the use of the public. This concept that waterways are unique and that the government holds them in trust for the people has endured.

In 13<sup>th</sup> century Spain, public rights in navigable waterways were recognized in the *Siete Partides* and in England in the *Magna Charta* which placed restrictions on the sovereign in dealing with public use of waterways.

Under English Common Law, this principle evolved into the Public Trust Doctrine, pursuant to which the sovereign holds navigable waterways as a trustee of a public trust for the benefit of the people for various water-related uses.

## Origins of the Public Trust Doctrine in the US



- The precept that tide and submerged lands are unique and that the ruler of the people holds them in trust for the people was transplanted to the new world and when the United States broke free of the English sovereign, those former colonies became sovereign states.
  - Post-American Revolution  
*Martin v. Waddell* (1842)
  - Equal-Footing Doctrine  
*Pollard's Lessee v. Hagan* (1845)



After the American Revolution, each of the original states succeeded to this sovereign right and duty. Each state became a trustee of the navigable waterways within its boundaries for the common use of the people.

When California was admitted to the Union in 1850, it too succeeded to the same sovereign rights and duties under the Equal-Footing Doctrine.

# The Public Trust Doctrine Limitations on State powers



*Illinois Central Railroad Co. v. Illinois* (1892)



Over 115 years ago the United States Supreme Court issued its landmark ruling on the nature of a state's title to its tide and submerged lands. That decision serves as notice to lawmakers in all states that they are restricted in giving up trust lands to private interests. Although state and federal courts have reviewed tidelands trust issues many times since then, this basic premise of the trust remains fundamentally unchanged.

## Purpose of the Public Trust Doctrine



- The state's title to its tide and submerged lands is a title held in trust for the people of the state so that those citizens may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing free from obstruction or interference from private parties.

*Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452



In a decision involving a grant of the Chicago waterfront by the Illinois State Legislature to the Illinois Central Railroad, the US Supreme Court made it clear that a state's title to its tide and submerged lands is different from that of the proprietary lands it or the federal government holds for sale. The court found that it was beyond the authority of the legislature to transfer away the public's rights in the waterfront.

In other words, the Public Trust is an affirmation of the duty of the state to protect the people's common heritage in navigable waters for their common use. States have a duty to protect the public's right to navigate on, conduct commerce over, and fish in navigable waters.



# The California Constitution

**1879**

**Article X, Section 3** – State prohibited from selling certain tidelands

**Article X, Section 4** – Public right of access to waterways guaranteed

**1910**

**Article 1, Section 25** – Public Right to Fish

In a Constitutional convention in 1879, the delegates drafted several provisions for the new constitution aimed at prohibiting certain practices that had placed many of California's urban waterfronts in private hands and restricted public access and use. These provisions were adopted by the California electorate as was the right to fish in 1910. These provisions add additional protections to California's Public Trust lands.

# To What Uses May Public Trust Lands Be Put ?



Traditionally Public Trust uses were limited to:

- Water-related Commerce
- Navigation
- Fishing



Photo courtesy of the Port of Oakland

What common uses may public trust lands be put to? Traditionally, public trust uses were limited to commerce by navigation and fishing.

Commerce and navigation were essential elements in building the British empire in the 16<sup>th</sup> through the 19<sup>th</sup> centuries.

Being an island nation the right of English citizens to conduct commerce by sea along with the ability to access fishing grounds were rights set forth in the *Magna Charta* as restrictions on the sovereign's powers.

# The Public Trust Doctrine



- Facilities for the Promotion of Trust Uses
- Examples of these Public Trust consistent uses include:
  - Harbors
  - Ports
  - Marinas
  - Piers
  - Wharves



Facilities for the promotion and accommodation of Public Trust uses are necessary and incidental or ancillary to Public Trust uses and are therefore consistent with the Public Trust Doctrine.

# The Public Trust Doctrine



- As a common law doctrine, which is continuously evolving, the courts have found that other water-oriented uses that benefit the public are also consistent with the trust:
  - Open Space
  - Ecological Preservation
  - Scientific Study
  - Water-dependent or water-oriented recreation

*Marks v. Whitney* (1971) 6 Cal.3d 251

Photo courtesy of Angelo Garcia, CA Dept. of Water Resources



Photo courtesy of the Port of San Diego



In more recent years, the California Supreme Court has said that the Public Trust Doctrine embraces the right of the public to use the navigable waters of the state for bathing, swimming, boating, and general water-related recreational purposes. The Public Trust is sufficiently flexible to encompass changing public needs, such as to include the preservation of the lands in their natural state for scientific study, as open space and as wildlife habitat.

Uses that directly promote, support, or accommodate Public Trust uses and public access.



- Commercial facilities:
  - Warehouses  
*Oakland v. Williams* (1929) 206 Cal. 315
  - Container cargo storage
  - Convention and Trade Facilities  
*Haggerty v. Oakland* (1958) 161 Cal.App.2d 407
- Facilities to serve waterfront visitors:
  - Hotels
  - Restaurants
  - Parking lots  
*Martin v. Smith* (1960) 184 Cal.App.2d 571



Photo Courtesy of Port of San Francisco



Photo courtesy of the Port of San Diego

As we have observed, uses on Public Trust lands not only include those traditional and direct Public Trust uses of commerce by navigation and fishing, but also include uses which facilitate or support Public Trust uses, such as wharves and warehouses. These types of uses were approved by the courts early in the 20<sup>th</sup> century because they directly promote the public's trust needs. Later, uses which were incidental to the promotion of the Public Trust, such as the Port of Oakland's convention center, were held to be consistent with the trust, because, although they were not physically dependent on being near the water, they promoted port business by encouraging trade, shipping and commercial associations to become familiar with the port and its facilities. Many of these Public Trust lands have been filled and, while no longer underwater, they retain their legal character as tide or submerged lands and are protected by the Public Trust Doctrine.

Visitor-serving facilities, such as restaurants, hotels and parking areas, are also allowed uses because as places of public accommodation, they facilitate broad public access to public trust lands, and therefore, enhance the public's enjoyment of these lands set apart for their benefit. The Legislature in following the mandate of Article X, Section 4 of the Constitution **“to enact such laws as will give the most liberal construction of this provision, so that access to the navigable waters of this State shall always be attainable for the people thereof”** passed the McAteer-Petris Act to protect the San Francisco Bay area, the Coastal Act and the Subdivision Map Act and set forth public access as one of the primary objectives of those laws.

## General Guidelines for Achieving Compliance with the Public Trust:



1. The primary use must be water-dependant or water-related.
2. The use must directly promote or support uses authorized by the Public Trust Doctrine and if the trust is managed by a local or regional governmental entity, be authorized by the statutory trust grant.
3. The use must accommodate or enhance the statewide public's enjoyment or benefit from the trust lands not merely provide a local or municipal public benefit.

The trustee of the lands must determine appropriate uses between competing trust needs of the public. Uses that interfere with the public's trust needs must not be allowed. Only short-term (for the minimum period practicable, up to a maximum period of five years) non-trust uses may be allowed by the trustee if no trust needs for the site are foreseeable during that period and the trust receives just compensation for the use of the public's property.

## Uses Inconsistent with the Public Trust



- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependant or water-related
  - Do not serve a statewide public purpose
  - Can be located on non-waterfront property
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc. *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199



The essential Public Trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage its Public Trust lands in order to implement and facilitate those trust purposes for all of the people of the state. Therefore, uses that do not accommodate, promote, foster or enhance the statewide public's need for essential maritime services or the public's enjoyment of the state's waterways are not appropriate uses for public trust lands. These would include commercial facilities that could easily be sited on uplands. It also includes strictly local or neighborhood-serving uses that confer no significant benefit to all Californians. Examples include public hospitals, public libraries, public schools, supermarkets, local government buildings and office buildings that serve general rather than specifically trust-related functions.

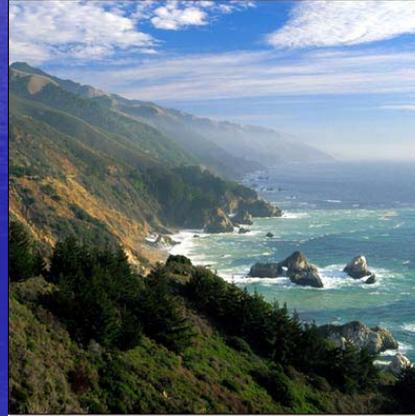
Another example of local, neighborhood-serving uses are public municipal parks. Some have suggested that public parks, recreation and open space are *ipso facto* consistent with the Public Trust Doctrine simply because they have been listed in the court cases or granting statutes. This suggestion must be rejected. The California Supreme Court made this eminently clear in the *Mallon* case. Open space, public parks and other uses unrelated to the waterfront and of a primarily community or municipal benefit, are not authorized on Public Trust lands or may not be supported by Public Trust revenues. Traditional Public Trust uses include water-dependent and water-related commerce, navigation, and fisheries. And, although courts have recognized that the Public Trust Doctrine is flexible and has been explicitly extended to include public access and public water-related recreational uses, as well as environmental protection, open space, and preservation of scenic areas, the overarching principle of the Public Trust Doctrine is that trust lands and trust assets belong to the statewide public and are to be used to promote water-dependent and water-related uses, beneficial to the statewide public rather than primarily benefiting a local community.

## California's Sovereign Lands



Tide and submerged lands and the beds of lakes, streams, and other navigable waterways are held in trust by the State of California for the benefit of the people of California

- \* 4 million acres
- \* 120 rivers and sloughs
- \* 40 lakes
- \* 1100 miles of coastline
- \* thousands of miles of non-coastal shorelines
- \* 3 miles offshore



Public Trust lands in California, and under the State Lands Commission jurisdiction, include over 4 million acres underling the State's waterways. In addition to managing these lands directly the Commission and its staff seek to assist local government trustees in carrying out their mandates as public trustees.

## Entities Involved in Public Trust Issues



- People of California
- California State Legislature
- Courts
- California State Lands Commission
- Legislative Trustees
- Attorney General's Office
- Regulatory Agencies
  - BCDC
  - Coastal Commission
  - State Water Resources Control Board
  - Regional Water Quality Control Boards
  - Department of Fish and Game
  - Tahoe Regional Planning Agency

1. The People of California – are the beneficiaries of the Public Trust and the people are afforded rights of access to navigable waterways through the California Constitution and Act of Admission to the Union. They also have standing to assert Public Trust rights in court and have directly enacted several Constitutional provisions in preserving public rights associated with Public Trust lands.
2. The State Legislature – is the representative of all the people and, subject to judicial review, is the initial authority dealing with management issues involving Public Trust lands and the uses to which Public Trust lands may be put. In order to promote Public Trust purposes, the Legislature has, since statehood, enacted nearly 300 statutes granting state-owned sovereign trust lands to various local governmental entities – legislative trustees. These grants were made for purposes consistent with the Public Trust Doctrine and typically for specific limited purposes including the development of harbors. The Legislature may create, alter, amend modify or revoke a trust grant so that the tidelands are administered in a manner most suitable to the needs of the people of the state.
3. The Courts – As a common law doctrine, it is the courts that have generally defined what the Public Trust Doctrine is. The courts interpret legislation and determine when the legislature or its trustees have overstepped their authority.
4. State Lands Commission – Following a scandal regarding malfeasance by the office entrusted to manage the State's Public Trust property, in 1938, the Legislature created an independent State Lands Commission, consisting of the LT Governor, State Controller and Director of Finance to administer the State's property interest in Public Trust lands. The Legislature vested exclusive jurisdiction over ungranted trust lands and any residual authority remaining in the State as to granted trust lands in the State Lands Commission. The Commission acts pursuant to legislative direction, the Constitution and the Public Trust Doctrine to protect the public's interest in all Public Trust lands, including granted trust lands.

## Entities Involved in Public Trust Issues




- People of California
- California State Legislature
- Courts
- California State Lands Commission
- Legislative Trustees
- Attorney General's Office
- Regulatory Agencies
  - BCDC
  - Coastal Commission
  - State Water Resources Control Board
  - Regional Water Quality Control Boards
  - Department of Fish and Game
  - Tahoe Regional Planning Agency

5. Legislative Trustees – As mentioned previously, the Legislature has enacted hundreds of statutes transferring daily control and management of Public Trust lands to many local governmental entities since 1850. These grants were made in trust, for general purposes consistent with the Public Trust Doctrine. In fact the major commercial ports in California all trace their development to Legislative grants-in-trust of tidelands. Each of the ports, from Oakland and San Francisco in the Bay Area, to Los Angeles, Long Beach and San Diego in the south -- has a statutory grant from the State. Each grant contained the mandate that the lands be used by the grantee for the establishment, improvement and conduct of a harbor. Thus although San Francisco had a state agency run its port for most of the 20<sup>th</sup> century, it was more often the cities, given the land and the power to govern, control, develop and improve the lands, which developed the state's major ports. These Public Trust lands are commonly called granted lands. The local grantee enjoys the benefits such utilization and development brings to a local economy, while the mechanism of a grant-in-trust promises that the state tidelands as well as all revenues generated directly or indirectly by the tidelands are used only for authorized Public Trust purposes of statewide benefit. It is important to note that except for certain statutory provisions specifically involving the CSLC, the Commission is not typically involved in day-to-day trust operations where the Legislature has transferred legal title to the trustee. It is the trustee that has the primary responsibility of administering the trust within the parameters of their granting statutes. It is therefore imperative that as trustees, these local governments treat public trust lands with the care that will allow this unique and limited resource to continue to provide utility and benefit to the statewide public for generations to come.
6. The Attorney General's Office – As a representative of the people of California it is the Attorney General's duty to enforce all laws. The Attorney General's office provides legal representation to the State Lands Commission through its Land Law division. State Lands and the Attorney General's office have worked closely in seeking to protect the public's interest in Public Trust lands.
7. Regulatory Agencies
 

All agencies with jurisdiction over development or other activities that can impact public trust lands and resources have a responsibility to consider their actions in the context of the effect on the resource. The Public Trust Doctrine exists to protect publicly owned property rights in the navigable waters of the state. Whether it is a land management decision by the State Lands Commission or local trustee or a regulatory decision of a governmental body exercising police power authority over the Public Trust property the obligation to the people of the state is the same.

# I-Stokus (10)

**From:** [Lawrence Stokus](#)  
**To:** [Sheyner, Tania \(CPC\)](#)  
**Subject:** Fwd: San Francisco Echos Houston  
**Date:** Wednesday, August 30, 2017 11:17:51 PM

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Begin forwarded message:

**From:** Lawrence Stokus <[lvstokus@att.net](mailto:lvstokus@att.net)>  
**Subject:** San Francisco Echos Houston  
**Date:** August 30, 2017 at 11:08:22 PM PDT  
**To:** [SaveTheSanFranciscoWaterfront@yahogroups.com](mailto:SaveTheSanFranciscoWaterfront@yahogroups.com)

## San Francisco Echos Houston (you reap what you sow)

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**Link:**

<https://www.cbsnews.com/news/harvey-reveals-problem-decades-in-the-making-houston/>

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**Excerpt:**



I-Stokus (10)-1

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By **MANUEL BOJORQUEZ** / CBS NEWS / August 30, 2017, 7:13 PM

# "We've covered our sponge up": Harvey reveals problem decades in the making

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**HOUSTON** -- **Harvey** dumped a year's worth of rain on Houston in a matter of days, shattering last year's above-normal rainfall and bringing this year's total to an unprecedented 73 inches.

But according to **Jim Blackburn**, a professor in the Civil and Environmental Engineering Department at Rice University, the storm wasn't just a natural disaster.

→ [How to help Harvey flood victims](#)

"This was a climate-influenced storm. There's no question," Blackburn said. "The temperature in the Gulf of Mexico where the tropical cyclone grew in two days to a Category 4 hurricane was 2 to 7 degrees above normal."

Blackburn has studied the effects of storms on cities for nearly 40 years. He said that when Harvey came ashore, the storm laid bare another problem decades in the making: the massive paving over of the area's natural wetlands and prairies.



Play **VIDEO**

### **Helicopter view of Houston shows extent of flooding damage**

"We've covered our sponge up," Blackburn said. "The sponge we had here was wonderful. It would hold water, but ... in order to develop it you had to drain it. You had to get rid of the water. And as we've developed out we've dumped water back on ourselves."

Since the 1950s, nearly 88 square miles of wetlands have disappeared in the Houston area due to

development. And the region's system of canals and bayous are overwhelmed by increasingly heavy storms.

"Basically, Harvey is the new norm," Blackburn said.

He said a photo of nursing home residents in waist-deep floodwater illustrates the problem. The residents were evacuated, but the home was built on land directly across from a floodplain boundary.



Jim Blackburn / **CBS NEWS**

"And part of it is getting an adequate amount of room for that water to come through the city, which means buyouts, evacuation and sort of a green space," he said, which means "not rebuilding in some areas."

It also means moving past a politically charged debate around climate change in a way many can understand, he said. It's not just about the environment -- it's about money.

"Houston's **economy has been disrupted**. We are going to have a hard time recovering and we're going to wear the brand of having this on us," Blackburn said.

"This is what climate scientists have been telling us would happen," he said. "Absolutely, it's a game changer."

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# I-WONG

## COMMENTS June 12, 2017, By: Howard Wong, CWAG SEAWALL LOT 337 AND PIER 48 MIXED-USE DEVELOPMENT DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)

These are my comments at this time, and are applicable to various portions of the DEIR wherever the subjects may arise. Also, subjects are often interrelated.

### GENERAL COMMENT:

For the average citizen, DEIR and EIRs are too difficult to understand---voluminous with much “boilerplate” information that overwhelm key issues. It is important to summarize and simplify the most contentious issues at the beginning of the DEIR---with great clarity that includes charts, diagrams, simplicity....

Also, at the beginning of the DEIR and EIRs, the essential premises need to be outlined. Otherwise, the conclusions are weak.

I-Wong-1

### TABLE S-1 SUMMARY OF IMPACTS ON PROPOSED PROJECT

**Quantify Existing Traffic Volumes:** Generally, existing traffic congestion needs to be quantified---because 2-hour traffic gridlock is now normal. Quantify existing traffic jams and project future traffic jams--even without additional projects in the area.

I-Wong-2

**Quantify Projected Traffic Volumes with MTC Data:** Introduce MTC traffic data, which projects over a hundred thousand new daily car trips in a decade or so. MTC data would help set a baseline of projected traffic volumes. Then, the traffic impact of new projects can be added, including the Warriors Arena, Pier 70, Hunters Point and other projects.

I-Wong-3

**Extrapolate Transit Impacts Due to Projected Traffic Volumes:** Massive increases in car trips will require massive transit mitigations. Buses alone will face major delays and unreliability, even with dedicated transit lanes. Light rail will require extraordinary increases in capacity, frequency and technology, like traffic signal synchronization and digital schedules. A massive increase in ferry service should be a mitigation measure. A funding plan for transit mitigations should be mandated.

I-Wong-4

**Project Deters Bicycles and Pedestrians:** With increased traffic congestion, with or without the project, the region becomes less attractive and safe for bicycles and pedestrians. Mitigations necessitate leveling the playing field for bicycles and pedestrians---on par with motorized vehicles.

I-Wong-5

**Seismic Mitigations for Streets, Sidewalks and Utilities:** With large-scale construction, the opportunity exists to design streets, sidewalks and utilities for earthquakes---for a larger area leading to the site. A regional perspective is a good investment, allowing future access to the entire region in the aftermath of a major earthquake.

I-Wong-6

**New Shadow:** The location of tall buildings determines shadow impacts on key areas, like onto historic Lefty O'Doul Bridge, onto open space within the project, onto commercial streets within & outside the project.... To assure the vitality of such spaces, the exact location of tall buildings should be guided by shadow charts---included in the EIR. In design, the shape of tall buildings is also important in terms of shadows cast onto key features.

I-Wong-7

### A. PROJECT SUMMARY

**Page 1-2:** For a greater chance of success for the project, there should be no parking under Mission Rock Square. For this size of park, ramps and car entrances would be obvious. Psychologically, a sense of place is stronger when the park is on terra firma.

I-Wong-8

**Page 1-2:** Penthouse enclosures of 20-40 feet height seem excessive, and would cast more new shadows. Evaluate low-penthouse elevators and mechanical equipment.

I-Wong-9

### B. PROJECT SPONSOR'S OBJECTIVES

**PROJECT-WIDE OBJECTIVES**

**Page 2-3:** With more international design firms, there is a growing “sameness” in architecture and parks--  
-much easier to tweek designs already in computer files. So, “distinctive design” should be expanded  
upon---by unique and distinctive design that draws from the character of the neighborhood and San  
Francisco. Ideally, from a photo, one can identify San Francisco---not Boston, Melbourne or Hamburg.  
And unique design does not mean faux historicism.

I-Wong-10

**Page 2-3:** Two other urban design goals that have been emphasized over the years include:

- Activation of the entire ground level and streets of the project.
- Integrating seamlessly with adjoining streets and neighborhoods---by design and character.

I-Wong-11

**SPECIFIC OBJECTIVES---SEAWALL LOT 337**

**Page 2-5:** Ensure that parking facilities are “concealed”---masked by ground-floor retail, green walls  
and/or art---or embedded in mid-blocks.

I-Wong-12



**Figure 2.4: Proposed Site Plan**

The plans should show a complex mix of flex uses at ground-level and streets, which assure activation of  
the entire site and all its uses.

I-Wong-13

To increase the chances of social and economic vibrancy, a certain degree of “chaos” should happen at  
the ground. Mixed-use should be shown vertically as well as horizontally, by example, housing above  
retail, commercial, services, art studios, light manufacturing....

**Figure 2.4:** Generally, given the recent emphasis for much more housing, other variables to be added  
are residential sizes and types. This large project can work with neighborhoods, housing advocates,  
Board, Mayor and Planning to create a flexible plan, allowing for many more housing units within the  
same envelope. Throughout the world, housing innovations include micro-units, cooperative housing,  
shared housing, prefabricated dwellings, floating units....

I-Wong-14

**Figure 2.4:** Emphasize that streets themselves are vital open space. Well-designed and unique  
streetscapes seamlessly connect people, stores, homes, architecture, neighborhoods, waterfronts....

I-Wong-15

**Figure 2.4:** In the site map, parking facilities would be best “concealed”---masked by ground-floor retail,  
green walls and/or art---or embedded in mid-blocks. Also, in order to achieve ground-level activation, all  
ground-floor spaces should be flex uses, allowing for retail/ commercial particularly along major streets  
(inside the project and Third Street). Think of typical San Francisco neighborhoods, like North Beach.

I-Wong-16

**Figure 2.4:** In the site map, I assume street names are place-holders. Does “Bridgeview Street” really  
have a view of the bridge? “Shared Public Way” could be a San Francisco name, like “Emperor Joshua  
Norton Way”.

I-Wong-17

**Figure 2.4:** Consider site design as 3-dimensional. Create a sense of hills---ups and downs. Generally,  
sloped streets and spaces could create a San Francisco hill-like ambience.

I-Wong-18

**Figure 2.4:** Consider adding a variety of community-use spaces. There’s a need for community meeting  
rooms and gathering places. Multipurpose facilities activate other uses.

I-Wong-19



**Figure 2.6:** There is the danger of street frontages looking like retail suck into the bottom of high-rises,  
like King Street and Los Angeles. Maps, diagrams and design guidelines need to foster “chaos” and  
complexity---spatially in three dimensions. Different neighborhoods can be unique with colors, details,  
individual spontaneity.... No strip malls here. Think Paris, Venice and Bangkok.

I-Wong-20



**6. VARIANTS**

**Page 6-1:** It would be clearer if a chart shows how Variants affect the total number of residential units and affordable units---especially in comparison to agreed-upon percentage of affordable units.



# I-Zaks

**From:** [Julia Zaks](#)  
**To:** [Sheyner, Tania \(CPC\)](#)  
**Subject:** Mission Rock Project  
**Date:** Friday, May 05, 2017 1:38:59 PM

---

Hello Tania,

I'm writing to voice my strong support of the Mission Rock project. Building a vibrant community on what is currently a parking lot is an excellent idea from many perspectives (environmental, economic, justice/equity), and as a long-time Mission Bay resident I look forward to seeing the project come to fruition.

I-Zaks-1

Thank you,  
Julia

**ATTACHMENT B**  
**DRAFT EIR PUBLIC HEARING TRANSCRIPT**



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**SAN FRANCISCO PLANNING DEPARTMENT**

**PUBLIC HEARING AND COMMENT**

**DRAFT EIR FOR**

**SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT**

**CASE NO. 2013.0208E**

**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

**Thursday, June 1, 2017**

**San Francisco City Hall**

**One Drive Carlton B. Goodlett Place, Room 400**

**San Francisco, CA 94102**

**Reported By:**  
**Kelly Newton, CSR. No. 13849**

-----

**JAN BROWN & ASSOCIATES**

**WORLDWIDE DEPOSITION & VIDEOGRAPHY SERVICES**

**701 Battery Street, 3rd Floor, San Francisco, CA 94111**

**(415) 981-3498 or (800) 522-7096**

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

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June 1, 2017 2:39 p.m.

COMMISSION SECRETARY IONIN: Good afternoon, and welcome back to the San Francisco Planning Commission's regular hearing for Thursday, June 1st, 2017.

I will remind members of the public that the Commission does not tolerate any disruption or outbursts of any kind and to please silence your mobile devices that may sound off during these proceedings.

Commissioners, we left off under your general -- excuse me -- your regular calendar on Item 10 for Case No. 2013.0208E, Seawall Lot 337 and Pier 48 Mixed-Use Project. This is the Draft Environmental Impact Report. Please note that written comments will be accepted at the Planning Department until 5:00 p.m. on June 12th, 2017.

MS. SHEYNER: Good afternoon, President Hillis, members of the Commission. I'm Tania Sheyner, Planning Department staff.

The item before you is Seawall Lot 337 and Pier 48 Mixed-Use Project Draft Environmental Impact Report or Draft EIR. The project is also known as Mission Rock Mixed-Use Project. The purpose of today's hearing is to take the public -- to take public comments on the adequacy, accuracy, and completeness of the Draft EIR pursuant to California Environmental Quality Act -- or

1 CEQA -- and San Francisco's local procedures for  
2 implementing CEQA. No approval action on this document  
3 is requested at this time.

4 I'm joined today by my colleagues,  
5 Devyani Jain, Acting Deputy Environmental Review  
6 Officer, and Jenny Delumo, Environmental Planner.  
7 Members of the consultant team and project sponsor team  
8 are also present.

9 I will now provide a brief overview of the  
10 proposed project. The project site is located adjacent  
11 to the Mission Bay neighborhood of the City and adjacent  
12 to the Mission Bay south redevelopment area. The  
13 27-acre project site consists of several areas -- the  
14 13.6-acre Seawall Lot 337, the .3-acre strip of land on  
15 the south side of Seawall Lot 337 referred to as Parcel  
16 P20, the 6-acre Pier 48, the existing 2.6-acre China  
17 Basin Park, and the 4.6 acres of streets and access  
18 areas within or adjacent to the boundaries of Seawall  
19 Lot 337 and Pier 48.

20 Most of the project site is currently paved with  
21 Seawall Lot 337 and portions of Parcel P20 used mainly  
22 as surface parking lot. The Pier 48 structure is used  
23 for indoor parking, storage, and warehouse uses. As  
24 envisioned, the proposed project would entail  
25 development of a mixed-use, multiphase project at

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 Seawall Lot 337, rehabilitation and reuse of Pier 48,  
2 and construction of approximately 5.4 acres of net new  
3 open space for a total of approximately eight acres of  
4 open space on the site.

5 In total, the proposed project would include 2.7  
6 to 2.8 million gross square feet of mixed uses on 11  
7 proposed development blocks. The mixed-use development  
8 would contain approximately 1.1 to 1.6 million gross  
9 square feet of residential uses estimated at 1,000 to  
10 1,600 units consisting of both market-rate and  
11 affordable housing, approximately 972,000 to 1.4 million  
12 gross square feet of commercial uses, and 241,000 to  
13 244,800 gross square feet of active retail uses on the  
14 lower floors of each block.

15 Additionally, the project would include  
16 approximately 1.1 million gross square feet of  
17 aboveground and underground parking, approximately 3,100  
18 parking spaces, 2,300 in one 100-foot tall garage and  
19 700 in a below-grade garage, and 100 parking spaces  
20 scattered in 10 building sites. It will also include  
21 rehabilitation of 242,500 gross square feet at Pier 48  
22 for industrial, restaurant, active/retail, tour,  
23 exhibition, and meeting-space use specially analyzed as  
24 a proposed brewery.

25 The 11 blocks on Seawall Lot 337 could be

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 developed with building heights ranging from 90 feet --  
2 approximately seven stories -- to a maximum of 240 feet  
3 -- approximately 23 stories -- for the tallest two  
4 residential buildings.

5 Construction of the project would be phased over  
6 an approximately six-year period.

7 The project also includes four variants.  
8 Variant one would provide a district-wide heating and  
9 cooling system with hot and cold water piped underground  
10 to individual buildings in lieu of chillers and boilers  
11 in each building. Variant two would include an  
12 entertainment venue which would accommodate up to 4,000  
13 patrons and up to 50 events per year in one of the  
14 proposed project buildings. Variant three proposes  
15 reconfigured parking by relocating 700 parking spaces  
16 from the subterranean garage at Mission Rock Square,  
17 which would now be constructed under this variant to the  
18 Block D2 garage. Lastly, variant four proposes a hotel  
19 with approximately 200,000 gross square feet in a  
20 building that would otherwise be residential.

21 The proposed project would amend the San  
22 Francisco Planning Code, adding a new Special Use  
23 District, which would establish land-use zoning controls  
24 for the project site and incorporate design controls  
25 into the proposed SUD.

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1           The Draft EIR concluded that the proposed  
2 project would result in project-specific and cumulative,  
3 significant, unavoidable impacts related to  
4 transportation and circulation specifically related to  
5 transit and pedestrian safety, air quality specifically  
6 related to increases in criteria air pollutants, noise,  
7 and wind. The Draft EIR found that other impacts to  
8 archaeological and tribal-cultural resources, air  
9 quality, transportation and circulation, biological  
10 resources, and inadvertent discovery of paleontological  
11 resources could be mitigated to a less-than-significant  
12 level.

13           Today, comments should be directed towards the  
14 adequacy and accuracy of information contained in the  
15 Draft EIR. For members of the public who wish to speak,  
16 please state your name for the record. Please speak  
17 slowly and clearly so that the court reporter can make  
18 an accurate transcript of today's proceedings. Staff is  
19 not here to answer comments today. Comments will be  
20 transcribed and responded to in writing in the Comments  
21 and Responses document, which will respond to all verbal  
22 and written comments received, and make revisions to the  
23 Draft EIR as appropriate. Those who are interested in  
24 commenting on the Draft EIR in writing by mail or e-mail  
25 may submit their comments to my attention at 1650

1 Mission Street, Suite 400, San Francisco, by 5:00 p.m.  
2 on June 12th, 2017.

3 After the comment period ends on June 12th, the  
4 Planning Department will prepare a Comments and  
5 Responses document, which will contain our responses to  
6 all relevant comments on the Draft EIR heard today and  
7 sent in writing to the Planning Department by 5:00 p.m.  
8 on June 12th. Unless the commissioners have questions,  
9 I would respectfully suggest that the public hearing on  
10 this item be opened.

11 COMMISSION PRESIDENT HILLIS: Thank you, we will  
12 do that. So, we'll open this item up for public comment  
13 on the Draft EIR. I've got two speaker cards -- Katy  
14 Liddell and Amanda Montez -- but if there's others that  
15 would like to speak, please line up on the screen side  
16 of the room.

17 MS. LIDDELL: Good afternoon, Commissioners. My  
18 name is Katy Liddell, and I've lived over in the South  
19 Beach Mission Bay area since 1995, so that's before the  
20 ballpark was built. I am a cofounder and the current  
21 president of the local neighborhood association. So,  
22 I've been there for a long time; I've known the Giants  
23 for a long time.

24 I did take a look at the Draft EIR. I, in  
25 particular, looked at transportation and circulation

O-NA-1

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 because that is of primary importance to all of us over  
2 there. That part of the City is congested and will  
3 continue to be congested as it gets further developed.  
4 But one of the many things I like about this project is  
5 that the Giants are truly investing in our neighborhood  
6 and that they, as good neighbors, care as much about the  
7 area as we local residents, including  
8 transportation/congestion.

9 The Giants have always reached out to us as the  
10 neighborhood to keep us in the loop of their plans and  
11 events. They have held numerous workshops over the  
12 years to show us the buildings and the design for  
13 Seawall Lot 337. I know I've personally attended  
14 several, along with many of my neighbors. The Giants  
15 also circulate calendars with their special events  
16 listed as to date, time, and how many people they think  
17 will attend so that we are aware of what's going on in  
18 the neighborhood. Yes, there have been times when there  
19 are problems with congestion, litter, quality-of-life  
20 issues, but the Giants are always willing to sit down  
21 with us, to talk to us about those issues, and to look  
22 at mitigations.

23 In fact, this is an ongoing process and will  
24 remain so as congestion, safety, cleanliness, and other  
25 quality-of-life issues continue to be our biggest

O-NA-1  
cont.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 neighborhood challenges. But the Giants are good  
2 neighborhoods, and I have the upmost faith that they  
3 will work with us to ensure adequate services and  
4 funding for those services to make our neighborhood  
5 cleaner and safer. I personally like having the Giants  
6 as neighbors, and I like their plans for Seawall Lot 337  
7 and Pier 48. I look forward to seeing the Mission Rock  
8 Project take form on this empty parking lot. Thank you.

9 COMMISSION PRESIDENT HILLIS: Thank you. Next  
10 speaker, please.

11 MS. MONTEZ: Good afternoon, Commissioners. My  
12 name is Amanda Montez, and I serve as the Associate  
13 Director over at the San Francisco Parks Alliance, and  
14 the Parks Alliance is the largest nonprofit organization  
15 serving San Francisco's diverse city parks and serves  
16 both as a fiscal sponsor for over 200 small community  
17 park partners or friends group and works with the City  
18 to develop new and innovative recreational spaces in  
19 underserved community. Together, with our park partner  
20 organizations, the San Francisco Parks Alliance raises  
21 millions annually to improve our parks, playgrounds and  
22 open spaces, and today I am speaking to support the  
23 Draft EIR before you.

24 Since 2005, when Mayor Newsom assembled the Blue  
25 Greenway Task Force, the Parks Alliance has served as a

O-NA-1  
cont.

O-SF  
Parks-1

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 public convener and partner with the City to realize the  
2 Blue Greenway vision of an expanded Bay trail and  
3 connected open space and recreation areas along the 13  
4 miles spanning from AT&T Park to Candlestick Point State  
5 Recreation Area. Mission Block's development plan with  
6 eight much-needed acres of new parks is a vital step in  
7 realizing this vision for San Francisco's residents.

8 For too long, the City's southern waterfront has  
9 been disconnected from the central and northern  
10 waterfront areas with a lack of pedestrian access or  
11 trail connectivity exacerbating the need for parks among  
12 some of the City's historically-underserved communities.  
13 The San Francisco Giants are investing in smart,  
14 pedestrian-centric planning for our community, and  
15 they've been responsive in addressing the City's needs  
16 for more active recreation opportunities. Opening eight  
17 acres for public access is a game changer.

18 This project's completion is a major priority  
19 for the Park's Alliance, and we hope that you will join  
20 us in supporting the Draft EIR and the project as a  
21 whole. Thank you for your time.

22 COMMISSION PRESIDENT HILLIS: Thank you very  
23 much. Any additional public comment on this item?

24 MS. CLARK: Laura Clark. Just, anytime there's  
25 an EIR up, I want to remind everyone that the EIRs take

O-SF  
Parks-1  
cont.

I-Clark-1

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 devastatingly too long, and we need to look for ways to  
2 speed this process up. Thank you.

I-Clark-1  
cont.

3 COMMISSION PRESIDENT HILLIS: Thank you,  
4 Ms. Clark. Any additional public comment? Seeing none,  
5 we'll close public comment on the Draft EIR and open it  
6 to commissioner comments. Commissioner Moore?

7 COMMISSIONER MOORE: The EIR is complicated and  
8 lengthy. What I am missing in comparison to the Bio  
9 Digester Facilities Project we just heard an hour or two  
10 ago is a three-dimensional depiction of alternatives. I  
11 do not see them, they may be somewhere. I looked very  
12 carefully. It would be easier to understand them if  
13 there was a depiction of how these new development  
14 masses as a whole -- not just as a photo-simulation,  
15 which is kind of bland, but as a isometric in the way  
16 that it's typically done.

A-SFPC-1

17 The second point I'd like to make is that in the  
18 chapter of sea level rise, which is a very  
19 well-documented chapter in the lengthy EIR, there's --  
20 by 2020, there are apparently significant impacts on the  
21 sea and where it would be if we don't do anything about  
22 it. There is an organization called Naturally Resilient  
23 Communities, nrcsolutions.org, and I would like the EIR  
24 team to look at what they're doing. At this moment, the  
25 eight acres of open space -- although there is a

A-SFPC-2

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REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 hydrology diagram -- does not quite fit into what many  
2 other communities in the United States are already doing  
3 called naturally resilient solutions, and I would  
4 appreciate if you would take a look at that.

5 Those are my two comments.

6 COMMISSION PRESIDENT HILLIS: Thank you. Any  
7 additional commissioner comments? Seeing none, thank  
8 you, staff and project sponsor for -- I agree -- a  
9 complicated, but comprehensive CEQA document. We know  
10 this project's been long in the making, so I'm happy to  
11 see it here and converting a parking lot into housing  
12 and parks and other uses. So, we're looking forward to  
13 seeing more on the project. Thank you.

14 (Proceedings concluded at 2:54 p.m.)  
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cont.

O-NA, O-SF Parks, I-Clark, A-SFPC

REPORTER'S TRANSCRIPT OF PROCEEDINGS - June 1, 2017

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF ALAMEDA )  
4  
5

6 I, the undersigned, duly qualified Certified  
7 Shorthand Reporter of the State of California, do hereby  
8 certify:

9 That the said proceeding was taken before me as a  
10 Certified Shorthand Reporter at the said time and  
11 place, and was taken down in shorthand writing by me;

12 That I am a Certified Shorthand Reporter of the  
13 State of California, that the said proceeding was  
14 thereafter transcribed by means of computer-aided  
15 transcription, and that the foregoing transcript  
16 constitutes a full, true and correct report of the  
17 proceedings which then took place;

18 That I am a disinterested person to the said  
19 action.

20 IN WITNESS WHEREOF, I have hereunto subscribed my  
21 hand this 12th day of June, 2017.

22  
23 

24 Kelly Newton, CSR No. 13849  
25



**ATTACHMENT C  
APPENDIX 1, NOTICE OF PREPARATION, SUMMARY  
OF SCOPING COMMENTS, AND COMMENTS  
RECEIVED**



# Notice of Preparation

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# SAN FRANCISCO PLANNING DEPARTMENT

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## NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT AND NOTICE OF PUBLIC SCOPING MEETING

*Date:* December 11, 2013  
*Case No.:* **2013.0208E**  
*Project Title:* **Seawall Lot 337 and Pier 48 Mixed-Use Project**  
*Zoning:* Seawall Lot 337 and Block P20: MB-OS (Mission Bay, Open Space)  
Use District; OS Height and Bulk District  
Pier 48: M-2 (Heavy Industrial) Use District; 40-X Height and Bulk District  
*Block/Lot:* Seawall Lot 337: 8719/002  
Pier 48: 9900/048  
Block P20: 8719/002  
*Lot Size:* Seawall Lot 337: 13.63 acres  
Pier 48: 5.84 acres  
Block P20: 0.32 acre  
China Basin Park: 2.57 acres  
Existing Streets and Access Areas: 4.62 acres  
Total Project Site Size: Approximately 27 acres  
*Project Sponsor:* Jon Knorpp/Seawall Lot 337 Associates, LLC  
(415) 972-1762  
*Lead Agency:* San Francisco Planning Department  
*Staff Contact:* Tania Sheyner (415) 575-9127  
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### PROJECT OVERVIEW

The Project Site, which is described in greater detail on the following page, is located in the Mission Bay portion of the City (Figure 1, page 3). The Project Sponsor (Seawall Lot 337 Associates, LLC) of the Seawall Lot 337 and Pier 48 Mixed-Use Project (Mission Rock Project or Project) proposes a mixed-use, multi-phase waterfront development of Seawall Lot 337, rehabilitation and reuse of Pier 48, and construction of approximately 5.4 acres of net new open space, for a total of 8 acres of open space on site.<sup>1</sup> The Project would also include public access areas, assembly areas, and an internal grid of public streets, shared public ways, and utilities infrastructure. Overall, the Project would involve construction of up to approximately 3.7 million gross square feet (gsf) of residential, commercial, and retail uses, and a public

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<sup>1</sup> The Project Sponsor's proposal includes Block P20 as part of the Project Site. This lot along the southern edge of Seawall Lot 337 is owned by the Port but is part of the Mission Bay South Redevelopment Project Area and subject to the jurisdiction of the Office of Community Investment and Infrastructure as the Successor Agency to the San Francisco Redevelopment Agency. Local and state approvals would be necessary for the Project to include Block P20 as part of the Project Site. Except where indicated otherwise, references in this document to Seawall Lot 337 include Block P20; as part of the Project, Block P20 would be merged into Seawall Lot 337.

parking garage on the Project Site. Both Seawall Lot 337 and Pier 48 are owned by the Port of San Francisco (Port).

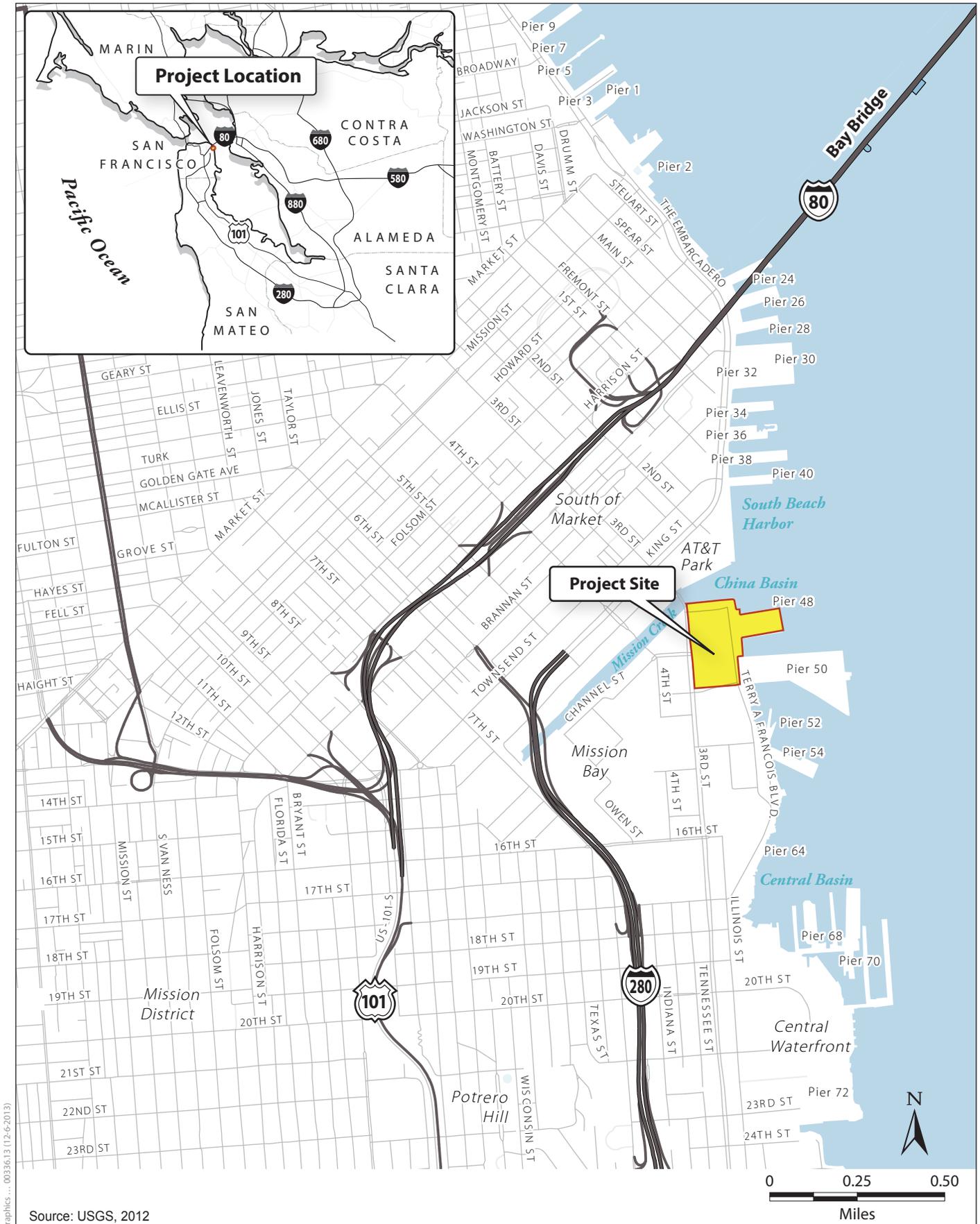
The approximately 27-acre Project Site consists of several areas: the 13.63-acre Seawall Lot 337, the 0.32-acre strip of land on the south side of Seawall Lot 337, referred to as Block P20 (see Footnote 1, on page 1), the 5.84-acre Pier 48, the 2.57-acre China Basin Park, and 4.62 acres of existing streets and access areas within and adjacent to the boundaries of Seawall Lot 337 and Pier 48/Pier 50. As noted above, the Project Site is in the Mission Bay area of the City and is adjacent to the Mission Bay South Redevelopment Project Area.

On Seawall Lot 337, the Project Sponsor proposes residential, commercial, retail, parking, and open space uses on the 11 proposed parcels. Retail uses would be included on the lower floors of each of the 11 parcels. Above the lower floor retail space, the Project Sponsor proposes predominantly residential uses on some parcels, predominantly commercial uses on other parcels, a parking structure on one parcel, and flexible zoning controls that would allow for the development of either commercial or residential as the predominant uses on three of the 11 parcels. The 11 parcels on Seawall Lot 337 would be developed to include the following mix of uses: approximately 750,000 gsf to 1.3 million gsf of residential uses, consisting of both market-rate and affordable housing; approximately 1.25 million to 1.6 million gsf of commercial<sup>2</sup>/office/research and development (R&D) uses; approximately 150,000 to 250,000 gsf of retail/entertainment/ancillary uses on the lower floors of each parcel; and enclosed parking. As noted above, total development would not exceed approximately 3.7 million gsf. In total, the Project would also provide approximately 3,100 parking spaces: 2,300 spaces within the parking structure; 700 spaces in underground or enclosed areas within the commercial and residential buildings; and 100 on-street spaces along the internal streets. The 11 parcels on Seawall Lot 337 could be developed up to heights ranging from 90 feet (approximately 7 stories) to a maximum of 380 feet (approximately 35 stories) for the tallest building, excluding the up to 20-foot-tall mechanical penthouse roof enclosures.

Pier 48 is proposed to be developed by Anchor Brewing and Distilling Company (Anchor Brewing) under an interim lease with the Port (not to exceed 30 years) in order to expand its existing brewery and distillery operations on Mariposa Street. The rehabilitation and reuse of Pier 48 would result in approximately 212,500 gsf of light industrial, restaurant, retail, and exhibition uses. There would be continued and enhanced public access and the potential for expanded maritime uses at Pier 48. Prior to being developed by Anchor Brewing, Pier 48 would continue to be used for storage, exhibit, and event parking uses.

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<sup>2</sup> For purposes of this NOP, *commercial* uses include office, research and development (R&D)/biotech, and other similar non-retail uses. *Retail* uses are included under their own use category and include shops, restaurants, and entertainment venue uses, or other uses that promote pedestrian activity. These definitions are different from the San Francisco *Planning Code*.



Graphics ... 0033613 (12-6-2013)

Source: USGS, 2012

Seawall Lot 337/Pier 48 Mixed-Use Project  
 Case No. 2013.0208E  
 December 11, 2013

**Figure 1**  
**Project Location**

## ENVIRONMENTAL SETTING

### *Project Site*

The Project Site encompasses approximately 1,176,000 sf (approximately 27 acres) and, as noted above, includes several existing areas: Seawall Lot 337, Block P20, Pier 48, China Basin Park, and adjacent streets and access areas (Figure 2, page 6). Table 1, below, presents a breakdown of the existing areas within the Project Site. Each area is discussed in more detail below.

**Table 1. Existing Project Site Components**

	Approximate Square Feet	Approximate Acres
Seawall Lot 337	594,000	13.63
Block P20	14,000	0.32
Pier 48	254,500	5.84
<i>Sheds A, B, and C</i>	181,200	4.16
<i>Valley</i>	31,300	0.72
<i>Aprons</i>	42,000	0.96
China Basin Park	112,000	2.57
Existing Streets and Access Areas	201,500	4.62
<i>Terry A. Francois Boulevard</i>	153,400	3.52
<i>Pier 48 Access Area</i>	26,300	0.60
<i>Marginal Wharf between Piers 48 and 50</i>	21,800	0.50
<b>Total</b>	<b>1,176,000</b>	<b>26.98</b>

Source: Seawall Lot 337 Associates, LLC 2013.

**Seawall Lot 337.** As shown in Figure 2, page 6, Seawall Lot 337 is a roughly rectangular parcel bounded by Terry A. Francois Boulevard to the north, Terry A. Francois Boulevard and Piers 48 and 50 to the east, Block P20 (explained in more detail below) and Mission Rock Street to the south, and Third Street to the west. Pier 48 is bounded by the San Francisco Bay to the north, east, and south and Terry A. Francois Boulevard to the west. Except for two small, portable pay station kiosks and a billboard, Seawall Lot 337 currently does not contain any permanent structures and functions mainly as a surface parking lot. Temporary structures are erected periodically to accommodate event uses. The existing surface lot provides parking for patrons of AT&T Park and parking for approximately 500 daytime commuters (primarily those working in nearby commercial buildings). In addition, the lot has provided space for special events, such as Cirque du Soleil circus performances and associated parking. Seawall Lot 337 is in a Mission Bay, Open Space (MB-OS) Use District and an OS Height and Bulk District.<sup>3</sup> It is also public

<sup>3</sup> Seawall Lot 337 was rezoned in 1991 as part of an earlier Mission Bay Redevelopment Plan that the Board of Supervisors later rescinded without rescinding the rezoning of Seawall Lot 337. As discussed in Footnote 1, with the exception of Block P20, the current Mission Bay South Redevelopment Plan, adopted in 1998, does not include the Project Site.

trust land covered by special state legislation (SB 815) that allows non-trust uses under specified circumstances.<sup>4</sup>

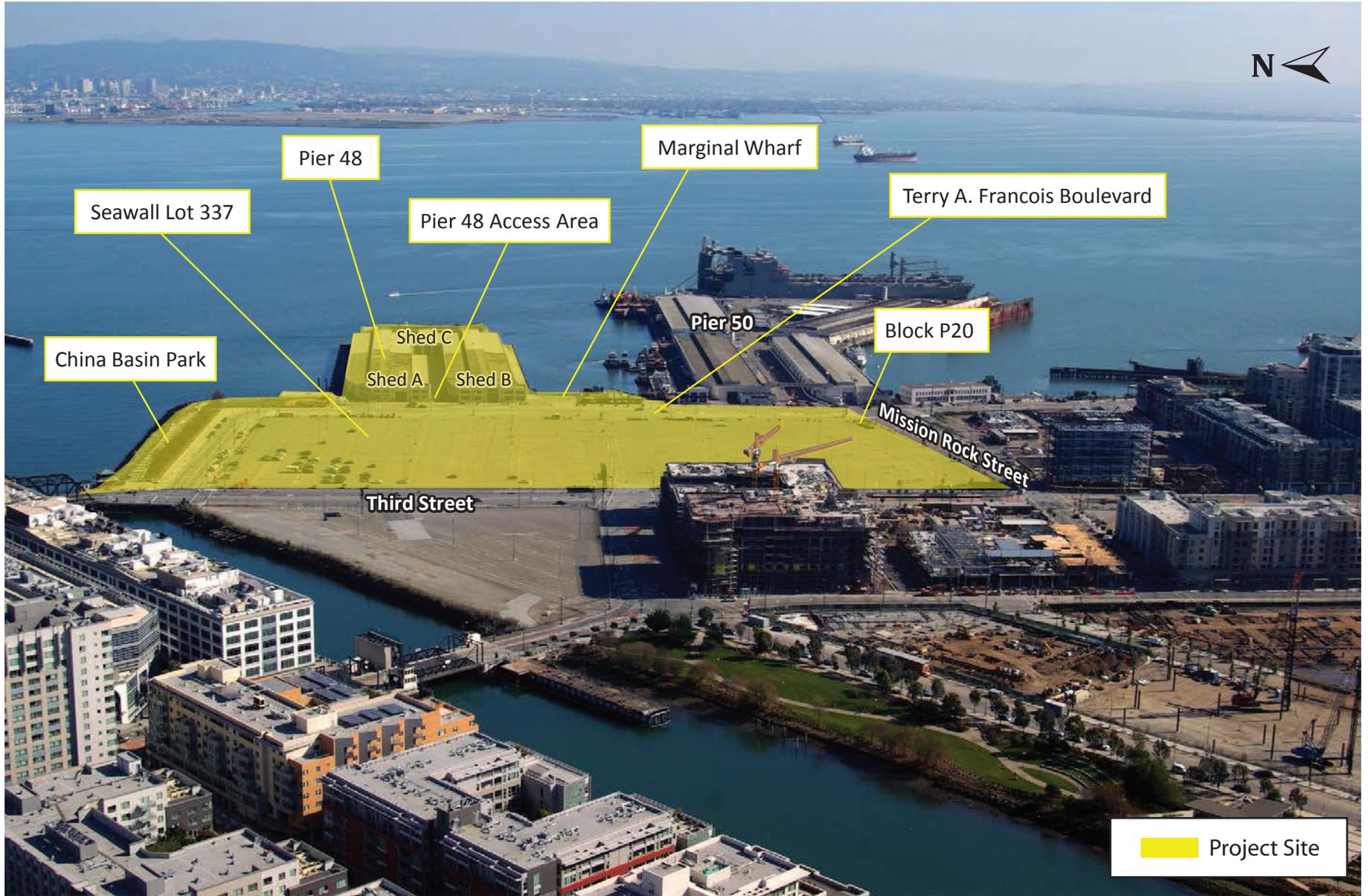
**Block P20.** The Project Site includes a 0.32-acre (14,024-sf), approximately 20-foot-wide strip of land adjacent to the south side of Seawall Lot 337 along the north side of Mission Rock Street. This area is currently within the Mission Bay South Redevelopment Plan Area and is referred to as Block P20 within that plan's documents. Block P20 has a land use designation of Open Space Use District and OS Height and Bulk District. Block P20 is subject to the public trust and, unlike Seawall Lot 337, was not covered by SB 815.<sup>5</sup> The Port Commission approved the inclusion of Block P20 in the Project Site, subject to necessary approvals by the Board of Supervisors and the San Francisco Office of Community Investment and Infrastructure (successor agency to the former San Francisco Redevelopment Agency) with respect to redevelopment plan and zoning changes, and the State Lands Commission and the State Legislature with respect to its use for non-trust uses under SB 815 or similar successor legislation (see Footnote 4, below, and Footnote 5, below, for a further explanation of SB 815). Figure 2, on the next page, depicts the location of Block P20.

**Pier 48.** Pier 48 is a pile-supported facility, approximately 254,500-sf (5.84-acre) in size. About 181,200 gsf of Pier 48 consists of enclosed warehouse space that includes two one-story main sheds (Shed A and Shed B) connected by a one-story connector shed (Shed C) at the east end of the pier (as shown in Figure 2, on the next page). The majority of the Pier 48 facility was completed in 1929, with the connector shed (Shed C) built in 1938. Due to fire damage, Shed C and portions of Sheds A and B were renovated by the Port in 2003. The three sheds on Pier 48 are all approximately 40 feet in height. Between Shed A and Shed B is an approximately 31,300-sf uncovered "valley," or open-to-sky space. Currently, Shed A and Shed C are used for parking for AT&T Park events and special events, such as Oktoberfest. Shed B is used for storage of voting machines by the City's Department of Elections. The eastern apron of Pier 48 is currently part of the premises the Port leases to Cross Link, Inc., dba Westar Marine Services (Westar), a barge, water taxi, and tug operator. The southern berth of Pier 48 is occupied by tugs and maintenance facilities for ferry boats. The northern apron is vacant and not actively used for any purpose. There is no existing public access to the 42,000-gsf (0.96-acre) pier aprons as these aprons are in varying states of disrepair or are encumbered by existing maritime industrial uses incompatible with unrestricted public access. Pier 48 is the southernmost pier structure within the Port of San Francisco Embarcadero National Register Historic District (Embarcadero Historic District), which is listed in the National Register of Historic Places (National Register). Pier 48 is within the M-2 (Heavy Industrial) Use District and 40-X Height and Bulk District.

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<sup>4</sup> Public trust lands are held on behalf of the people of the state for purposes of commerce, navigation, and fisheries. In addition, the Burton Act (stats. 1967, ch. 1333), under which the State of California transferred San Francisco Harbor to the City and its port, imposes statutory trust obligations on the Port. Senate Bill 815 (SB 815), approved in 2007, authorizes the California State Lands Commission to lift public trust use restrictions from designated Port seawall lots, including Seawall Lot 337, for up to 75 years or until January 1, 2094 upon making certain findings as specified in SB 815.

<sup>5</sup> SB 815 suspends application of public trust use restrictions for certain seawall lots, including Seawall Lot 337. However, since Block P20 is not part of the existing Seawall Lot 337 this area is not currently covered by SB 815.



Graphics ... 00336.13 (12-6-2013)

Source: Seawall Lot 337 Associates, LLC, 2013

Seawall Lot 337/Pier 48 Mixed-Use Project  
 Case No. 2013.0208E  
 December 11, 2013

**Figure 2**  
**Existing Land Uses at the Project Site**

**China Basin Park.** Approximately 2.57 acres of the northern portion of the Project Site are improved as China Basin Park and perimeter walkways. China Basin Park was constructed following the opening of AT&T Park and was opened to the public in 2001. The park includes a lawn lined with a single row of 26 trees and a paved bicycle/pedestrian pathway. The park features views of the San Francisco Bay (Bay) and its surroundings, and contains viewing areas, benches, picnic areas, lighting, a small baseball diamond, a statue of former Giants player Willie McCovey, and historic markers representing the Giants teams from 1958 through 1999. Figure 2, on the prior page, depicts the location of China Basin Park. China Basin Park is within the MB-OS Use District and an OS Height and Bulk District.

**Existing Streets and Access Areas.** The Project Site includes approximately 3.52 acres of Terry A. Francois Boulevard. This street curves around Seawall Lot 337 from Third Street to the northwest to Mission Rock Street to the southeast. The 0.6-acre Pier 48 access area is located directly to the west of Pier 48. To the south, between Pier 48 and Pier 50 and east of Terry A. Francois Boulevard, is a 0.50-acre area currently referred to as the Pier 48 Marginal Wharf (see Figure 2, on the prior page).

Access to the Project Site is currently provided via Third Street, Mission Rock Street, and Terry A. Francois Boulevard. Bridges located at the Third Street and Fourth Street crossings over Mission Creek provide pedestrian, bicycle, San Francisco Municipal Railway (Muni), and vehicle access from the South of Market area (SOMA) and the Fourth and King Streets Caltrain Station to the Project Site. In addition, ferries from the City of Larkspur in Marin County transport attendees of AT&T Park ballgames to and from the ballpark. The ferry dock is located at the China Basin Ferry Terminal, north of the Project Site across China Basin, along the eastern edge of AT&T Park.

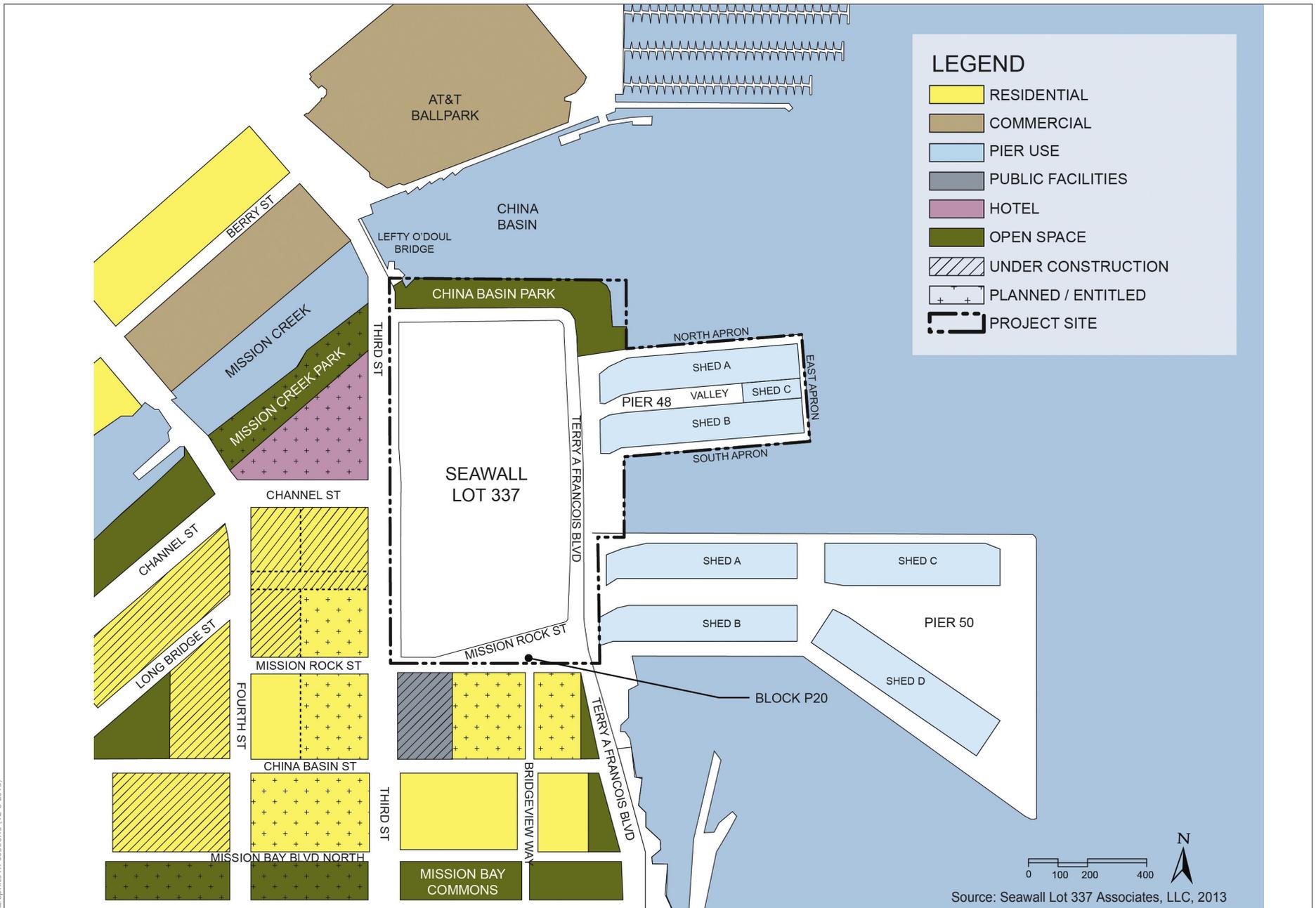
### *Adjacent Uses*

The Project Site is adjacent to Mission Bay, which is characterized by large parcels of land and streets that generally follow a grid pattern. Third Street is the primary arterial street in Mission Bay South, traveling in a north-south direction. The majority of the streets in the Mission Bay area are two-way. Topographic features in the Project vicinity are minimal, and grading is generally flat. Mission Bay is currently under development, with the parcels adjacent to the Project Site in various stages of completion. Several adjacent parcels are either vacant, serve temporarily as surface parking lots, are under construction, or serve as construction staging locations. In addition, several nearby parcels contain newly constructed buildings (completed from the late 1990s to the present) in contemporary architectural styles. Figure 3, on the next page, illustrates the land uses and development status for parcels adjacent to the Project Site.

Mission Bay, which covers 303 acres<sup>6</sup> of land between the Bay and Interstate 280 (I-280), is a mixed-use, transit-oriented development. Upon full implementation of the Mission Bay North and South Redevelopment Plans (expected to occur between 2020 and 2030, depending on market conditions), Mission Bay is anticipated to include a total of approximately 6,000 housing units, 4.4 million gsf of office/life science/biotechnology space, a University of California San Francisco (UCSF) research campus containing 2.65 million gsf of building space, a 878,000 gsf UCSF hospital complex (not included in the UCSF research campus), and various other retail, hotel, open space, and public facility uses. Over 11,000 residents and 31,000 permanent jobs are expected to be added to the Mission Bay area by full buildout.

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<sup>6</sup> The 0.32-acre Block P20 strip of land that is part of the proposed Project Site and within the Mission Bay South Redevelopment Plan Area is included within these 303 acres.



**Figure 3**  
**Project Site and Surrounding Land Uses**

North of the Project Site, across China Basin, is AT&T Park, home of the San Francisco Giants major league baseball team. Located at 24 Willie Mays Plaza, the ballpark opened in April 2000 and has a seating capacity of 41,503. The regular major league baseball season runs from early April to late September, followed by the postseason in October and early November. AT&T Park attracts an average of 3.5 million visitors to the neighborhood annually. Visitors attend baseball games or other events and patronize the local restaurants, retail stores, and bars. In addition to two to five preseason games and up to 12 postseason games, there are 81 regular home games per year, of which approximately 27 are held during the day (a maximum of 13 mid-week day games), and approximately 54 are held in the evening. AT&T Park hosts approximately 145 non-baseball related special events per year, including concerts, charity and private events, and other sporting events attended by a total of approximately 170,000 visitors annually.

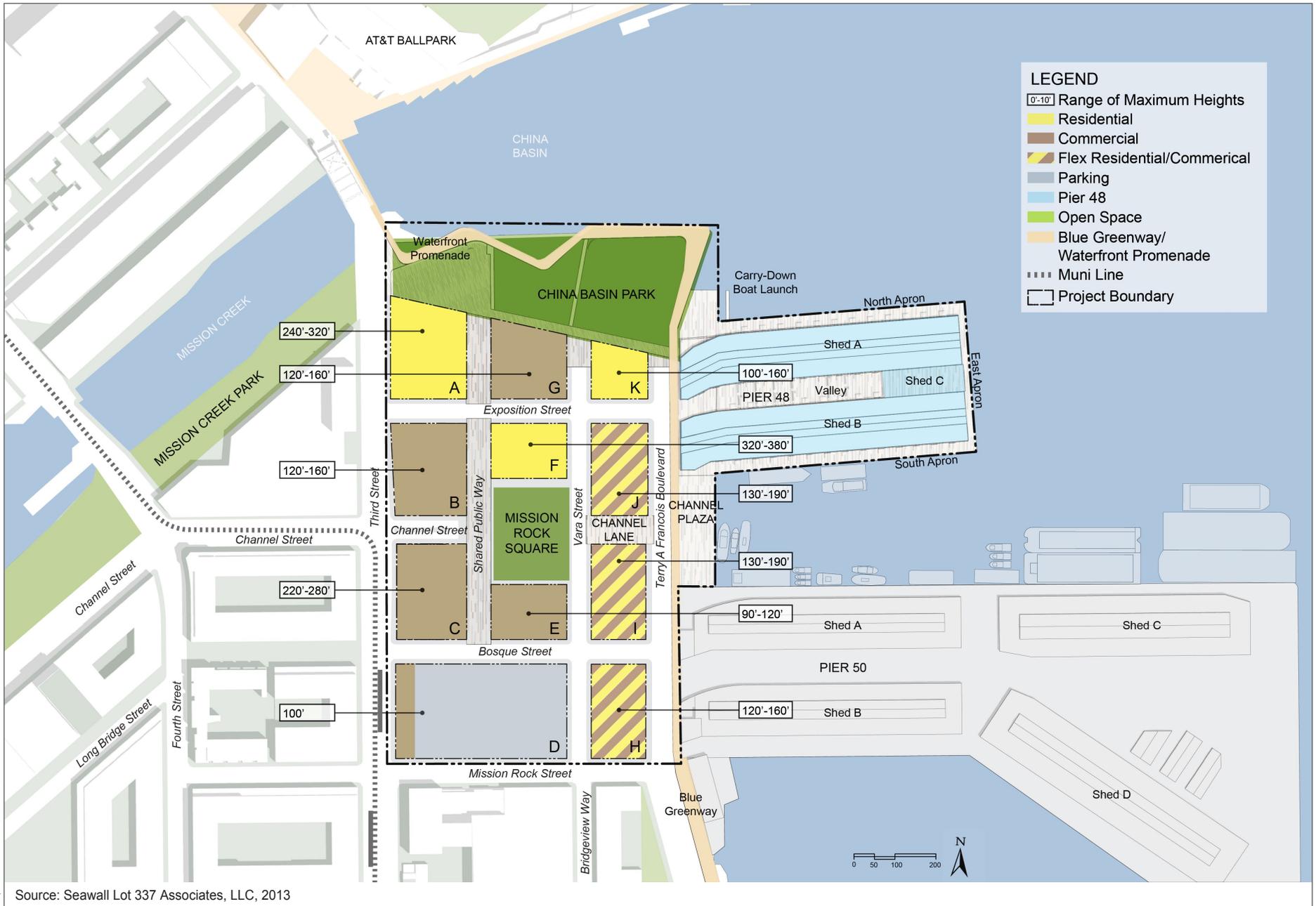
Mission Creek was once a waterway that extended from the Mission neighborhood to the Bay, but is now channelized and undergrounded going west from China Basin to approximately I-280. Mission Creek Park lines the creek on the north and south and includes open grassy areas, pathways, a small amphitheater, overlook areas, a non-motorized boat launch, sports courts, and a dog play area.

East and south of Seawall Lot 337 and to the south of Pier 48 is Pier 50, which is currently an active maritime industrial pier. Pier 50 houses the Port's primary maintenance facility (in Shed D), which supports Port maintenance activities along the waterfront. Pier 50's three other warehouse sheds (Sheds A, B, and C) accommodate industrial maritime support and harbor service operations. Pier 50 provides a berthing facility for the U.S. Department of Transportation Marine Administration (MARAD) ready-reserve berthing, which in turn provides transport for military troop deployments and national emergencies. There are numerous other smaller interim tenants at Pier 50, which typically use the pier for storage and parking uses. In addition, towing and tug boat services, operated by Westar, are located in Shed C. Westar operations are based out of Pier 50, with storage areas for equipment and vessels at the north apron of Pier 50 and at the south apron of Pier 48, as discussed above, on page 5.

## PROJECT DESCRIPTION

As discussed above, under Project Overview, the Project includes the construction of a total of approximately 3.7 million gsf of mixed-use, multi-phased development throughout the Project Site. This includes development on the proposed 11 parcels (Parcels A through K) on Seawall Lot 337 and the rehabilitation and reuse of Pier 48. The Project also includes doubling the size of the existing China Basin Park, establishing two new parks and open space areas on Seawall Lot 337, providing a promenade along the waterfront, and rehabilitating Pier 48, including for public access and maritime uses.

Figure 4, on the next page, illustrates the proposed site plan. Each of these components is described in greater detail on page 11.



**Figure 4**  
**Proposed Site Plan and Height Ranges**

### *Seawall Lot 337*

The proposed 11 parcels (A through K) on Seawall Lot 337 could be developed to a total of 3.7 million gsf. The total development, depending on market conditions, could include a mix of: approximately 750,000 gsf to 1.3 million gsf of a combination of market-rate and affordable residential uses; approximately 1.25 million to 1.6 million gsf of commercial uses; approximately 150,000 to 250,000 gsf of retail uses; and approximately 3,000 parking spaces that would be underground or enclosed within the on-site buildings and the proposed parking structure. Approximately 100 additional on-street parking spaces would be provided along the internal streets, for a total of 3,100 parking spaces throughout Seawall Lot 337. Land uses on the three designated flexible parcels (Parcels H, I, and J) would be dependent on market conditions, as discussed below. Under no scenario would both the upper range of residential and the upper range of commercial land uses (1.3 million gsf and 1.6 million gsf, respectively) be developed on Seawall Lot 337. The ultimate development on the site would be within the ranges discussed above but, in total, would not exceed approximately 3.7 million gsf. Development Controls and Design Guidelines (Design Guidelines) are currently being prepared that would guide the physical development on the Project Site. The Design Guidelines would guide the proposed development with respect to bulk, massing, setbacks, and other physical design and use aspects of the Project.

As depicted in Figure 4, on the prior page, the Project Sponsor proposes flexible zoning on three parcels in order to respond to future market demands. To this end, Parcels H, I, and J on Seawall Lot 337 are proposed to be designated to allow either residential or commercial as the predominant uses above the lower floor retail. The Project Sponsor would determine the primary land uses of the three flexible zoning parcels above the lower floor retail (i.e., residential or commercial) at the time of filing for design approvals for parcel development proposals. Three on-site parcels (Parcels A, F, and K) would be designated as either primarily residential above the lower floor retail and four parcels (Parcels B, C, E, and G) would be designated as primarily commercial above the lower floor retail. One parcel (Parcel D) would include a 9-floor, 2,300-space parking structure and a 60,000 gsf building with commercial and retail uses on the lower floors.

Seawall Lot 337 would be divided into 11 rectilinear parcels that would be configured in a grid pattern, separated by a system of internal streets. Parcel sizes would range from approximately 17,830 sf (Parcel K) to 97,500 sf (Parcel D). The parcel dimensions would align the proposed streets with existing neighboring streets in the adjacent Mission Bay neighborhood. The dimensions of parcels would, on average, be approximately one third to one half the size of the typical Mission Bay block.

Retail on the lower floors would be permitted on any of the commercial, residential, parking, or flexible parcels; that is, on all 11 parcels on site. Table 2, on the next page, summarizes the proposed development program by parcel.

As shown in Table 2, the buildings proposed on Seawall Lot 337 could range in height from 90 feet to 380 feet, depending on the land use. In general, buildings with predominantly commercial uses could range in height from 90 feet (7 stories) to 280 feet (20 stories), while buildings with mainly residential uses could range in height from 160 feet (15 stories) to 380 feet (35 stories).

**Table 2. Development Potential – Parcel Summary**

	<b>Parcel Area (sf)</b>	<b>Use<sup>a</sup></b>	<b>Height Range (feet)<sup>b</sup></b>	<b>Parking (spaces)<sup>c</sup></b>
<b>Parcel A</b>	43,410	Residential	240–320	Up to 250
<b>Parcel B</b>	41,100	Commercial	120–160	Up to 250
<b>Parcel C</b>	40,210	Commercial	220–280	Up to 250
<b>Parcel D</b>	97,500	Parking/Commercial <sup>d</sup>	100	2,300
<b>Parcel E</b>	25,110	Commercial	90–120	--
<b>Parcel F</b>	25,110	Residential	320–380	--
<b>Parcel G</b>	33,060	Commercial	120–160	Up to 250
<b>Parcel H</b>	31,090	Flexible–Residential or Commercial	120–160	--
<b>Parcel I</b>	31,320	Flexible–Residential or Commercial	130–190	--
<b>Parcel J</b>	31,460	Flexible–Residential or Commercial	130–190	--
<b>Parcel K</b>	17,830	Residential	100–160	--
<b>Total</b>	<b>417,200</b>	--	--	<b>3,100</b>

Source: Seawall Lot 337 Associates, LLC, 2013.

Notes:

- a. All parcels could include retail on the lower floors.
- b. The number of stories for each building can be estimated using the assumption that residential buildings average 11 feet per story and commercial buildings average 14 feet per story.
- c. In addition to the parking structure on Parcel D, buildings on Parcels A, B, C, and G could contain up to 250 parking spaces each, and all other buildings could include small amounts of on-site parking (less than approximately 10 spaces per parcel). In combination, excluding the Parcel D parking structure, the parcels would not exceed a total of 700 enclosed parking spaces distributed within the residential or commercial buildings. Including these 700 spaces, the parking structure (2,300 spaces) and on-street parking (100 spaces), the Project would include a maximum of 3,100 parking spaces.
- d. Parcel D would include two separate, but attached, buildings totaling approximately 850,000 gsf. A narrow building along Third Street would include approximately 53,000 gsf of commercial space and 7,000 gsf of lower floor retail space. The parking structure building on the remainder of Parcel D, adjacent to Vara Street, would be approximately 790,000 gsf, including approximately 15,000 gsf of retail on the lower floors.

The land uses proposed on Seawall Lot 337 are as follows:

- **Residential Uses.** The Project would include between 750,000 gsf and 1.3 million gsf of residential uses (approximately 500 to 1,500 units) on Seawall Lot 337. The specific unit mix has not been determined but could consist roughly of the following: approximately 10 percent micro-units and studios, approximately 40 percent one bedroom units; approximately 40 percent two bedroom units; and approximately 10 percent units with more than two bedrooms. As discussed above, housing would be provided on Parcels A, F, and K, and potentially on flexibly-zoned Parcels H, I, and J. New rental housing built for the Project would meet inclusionary housing requirements under Section 415 of the City's Planning Code or as determined by the Mayor's Office of Housing.
- **Commercial Uses.** Approximately 1.25 million gsf to 1.6 million gsf of commercial space would be developed on Seawall Lot 337. As discussed above, commercial uses would be provided on Parcels B, C, E, and G and potentially on the flexible Parcels H, I, and J above the retail uses on the lower floors. Parcel D would include approximately 53,000 gsf of commercial space within multiple stories of the proposed parking garage structure along the Third Street facade. On Seawall Lot 337, commercial uses could include office, R&D/biotech, and similar non-retail uses.
- **Retail Uses.** The lower floor areas of the proposed on-site development on Seawall Lot 337 would contain shops, restaurants, cafes, regional- and neighborhood-serving retail uses, a possible entertainment venue, community spaces, and building lobbies. A total of approximately 150,000 to 250,000 gsf of retail space would be located throughout Seawall Lot 337 on the lower floors of residential and commercial buildings and on the lower floors of the parking structure (Parcel D). In addition, retail uses could be provided in potential rooftop lounges on Parcels A, G, and K.

In addition, the Project would also upgrade and resize existing water, wastewater, drainage, gas and electric, and other utility infrastructure within the Project site, as necessary. The Project Sponsor is investigating a Project-wide utility solution to serve a portion of the Project's energy needs. The Project Sponsor is also considering sustainable sources of energy such as a solar photovoltaic system and bay source cooling.<sup>7</sup>

Site excavation to accommodate development would be required, including removal and disposal of some potentially hazardous materials at appropriately permitted off site facilities.

### *Open Spaces and Parks*

The Project's approximately 8 acres of new and expanded open spaces would include China Basin Park, Mission Rock Square, Channel Plaza, and a waterfront promenade. Figure 4, page 10, depicts the location of these proposed open spaces. This would provide a net increase of approximately 5.4 acres of new park space over the existing conditions at the Project Site.

The parks would be connected by a new north-south, pedestrian-oriented street network and shared public way from China Basin Park to the north and Bosque Street to the south, as well as by new

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<sup>7</sup> Bay source cooling involves a water pumping system that would use bay water for heating and cooling buildings.

sidewalks and roadways. These areas would also provide access to the City’s proposed Blue Greenway.<sup>8</sup> The open spaces and parks would include new trees and vegetation. In addition, trees and landscaping improvements would be planted along the block frontages. Each of the new and expanded open space and park features is described in more detail below and summarized in Table 3, below.

**Table 3. Proposed Parks and Open Spaces**

	Acreage	General Description
China Basin Park	5.12 <sup>a</sup>	Lawn open space, special event/assembly area for up to 5,000 people, waterfront cafes and pavilions, junior baseball field, picnic area, and promenade
Mission Rock Square	1.32	Multi-use lawn, plaza, café pavilion, and special event/assembly area for up to 2,000 people
Channel Plaza	0.58	Hardscaped, active maritime wharf, views of working vessels, and other maritime uses
Pier 48 Aprons/ Waterfront Promenade	0.96	Bicycle/pedestrian pathways and waterfront promenade; maritime access and use
<b>Total</b>	<b>~8.0</b>	

Source: Seawall Lot 337 Associates, LLC 2013.

Note:

<sup>a</sup> Acreage includes the existing 2.57-acre China Basin Park.

- China Basin Park.** The existing 2.57-acre China Basin Park was opened to the public in 2001 in connection with the AT&T Park project and is located just south of China Basin (across the channel from AT&T Park). The proposed expansion to a 5.12-acre China Basin Park would include a 1.4-acre Great Lawn, a reconfigured Junior Giants field for children, a lawn area, coastal native biofiltration gardens,<sup>9</sup> a pedestrian plaza connecting Lefty O’Doul Bridge to Pier 48, retail esplanade, and a promenade at the Bay’s edge along the length of the Project Site. At Project completion, China Basin Park would be able to accommodate assembly and special event uses for up to approximately 5,000 people.
- Mission Rock Square.** The new 1.3-acre Mission Rock Square would be located in the center of Seawall Lot 337 and be framed by a mix of residential and commercial uses above retail on the lower floors. A pedestrian-only path (Channel Street) would connect Mission Rock Square to the proposed Channel Plaza to promote bicycle and pedestrian connections to the waterfront. Mission Rock Square would be able to accommodate assembly and special event uses for up to approximately 2,000 people. The design of Mission Rock Square, Channel Street, and the interior pedestrian walkways would be intended to connect Project open space to the Mission Creek Park system, the Blue Greenway, and the bayfront.

<sup>8</sup> The Blue Greenway is a City-sponsored project dedicated to planning and creating a public open space and water access network in southeastern San Francisco, from Mission Creek to the southern San Francisco County line.

<sup>9</sup> Biofiltration gardens function as soil and plant-based filtration devices to remove pollutants in runoff through a variety of physical and biological treatment processes.

- **Channel Plaza.** A new open space at Channel Plaza would be constructed in the location of the current Marginal Wharf between Piers 48 and 50, east of Terry A. Francois Boulevard. Channel Plaza would be a 0.58-acre, hardscaped plaza. It would offer direct public access to the bayfront and serve as a maritime access point for industrial activities occurring at Pier 48, the Pier 48 Marginal Wharf, and Pier 50.
- **Pier 48 Aprons/Waterfront Promenade.** The Pier 48 aprons, totaling 0.96 acre (42,000 gsf), would be preserved and improved for public access, a waterfront promenade, and maritime operations. The northern apron of Pier 48 would be prioritized for public access and would be accessible for maritime uses where feasible. The eastern and southern aprons would be prioritized for maritime uses and open for public access where feasible. The northern apron would connect to the Blue Greenway via China Basin Park, the retail esplanade, and the bicycle and pedestrian promenade on the eastern side of Terry A. Francois Boulevard. The northern apron would also include a carry-down boat launch for public access to launch human-powered watercrafts (such as kayaks) into the Bay. In addition, the northern apron could include boat mooring capabilities for water taxis or excursion vessels.

### *Pier 48*

The Pier 48 sheds would be rehabilitated consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards)<sup>10</sup> and the Port of San Francisco Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures (Port Historic Guidelines). The Project Sponsor proposes to repurpose the 212,500 gsf of pier sheds and valley to accommodate a range of uses, including light industrial/manufacturing, barging, associated general office and storage, retail, restaurant, tour and exhibition space, event-related uses, and continued maritime operations on the aprons and along Channel Plaza. The proposed tenant, Anchor Brewing, would occupy all usable interior shed space and the currently open-to-sky valley space of Pier 48 under a 30-year interim lease. At Project completion, the Anchor Brewing brewery/distillery would be approximately 190,400 gsf, the restaurant would be approximately 11,000 gsf, and the retail/exhibition/museum/meeting room uses would be approximately 11,100 gsf.

The exterior of the Pier 48 structures would not be expanded. Exterior modifications would be limited to refurbishing windows, installing door systems and storefront windows within existing roll-up door openings, and refurbishing certain areas of the roof. The Project may include covering some portion of the open-to-sky valley area and loading area modifications such as refinishing floors and completing minor structural repairs.

Truck loading and unloading activities for Anchor Brewing would primarily occur in the Pier 48 valley. Facilities would be installed to permit barging for receiving or disbursing materials and finished products on the northern or southern aprons. Barges could travel between Pier 48 and the cities of Oakland and Stockton or other nearby maritime facilities. Delivery trucks would be accommodated at the north end of Terry A. Francois Boulevard and would back into the Pier 48 valley.

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<sup>10</sup> The Secretary's Standards are a series of concepts regarding the maintenance, repair, and replacement of historic materials, as well as the design of any additions or alterations.

### *Proposed Parking and Circulation*

The Project Site would be accessible for all modes of transportation via Third Street, the reconfigured Mission Rock Street (currently under construction as part of the Mission Bay South redevelopment project), and the reconfigured Terry A. Francois Boulevard. The Project would include vehicular, bicycle, and pedestrian improvements along those streets to accommodate the increase in on-site activity. In addition, new interior multi-modal neighborhood streets would be established throughout Seawall Lot 337. The existing and proposed streets serving the Project Site are described below and are illustrated in Figure 4, on page 10.<sup>11</sup>

- **Interior Neighborhood Streets.** The proposed new interior neighborhood streets are Exposition Street and Bosque Street, each in an east-west alignment, and Vara Street, in a north-south alignment. All proposed neighborhood streets would be designed as slow-traffic areas.<sup>12</sup> When games or other major events are scheduled at the ballpark, no on-street parking on Bosque Street and the southern portions of Vara Street would be allowed. This would allow for additional vehicle travel lanes and would be similar to the existing traffic management plan in use for ballpark events on the streets adjoining the existing surface parking lot on Seawall Lot 337.
- **Shared Public Way.** The proposed new interior shared public way would be located one block east of Third Street, extending between Bosque Street to the south to just beyond Exposition Street to the north. This shared public way, which would prioritize pedestrians over bicycles and automobiles, would consist of a single shared paved surface with no curbs or gutters. Automobiles would be able to access it from the adjoining streets via curb-cuts similar to a typical driveway. The prioritized pedestrian right-of-way would be delineated through the placement of street furniture and landscaping. The shared public right-of-way would make it possible for adjoining retail or restaurants to utilize the street sidewalks for outdoor seating and retail space, with vehicular access limited primarily to deliveries, drop-offs/pick-ups or emergency vehicles. When games or other major events are scheduled at the ballpark, the shared public way would be closed to vehicles, with the exception of emergency vehicles.
- **Channel Street.** Traffic on Channel Street currently travels in an east-west direction and terminates where Channel Street bisects Third Street, just west of Seawall Lot 337. Under the Project, Channel Street would be extended onto Seawall Lot 337 to connect to Terry A. Francois Boulevard. The western portion of Channel Street would traverse the Project Site in an east-west orientation and would intersect with the shared public way and terminate at Mission Rock Square. This western segment of the shared public way would be designed for low traffic volumes, no on-street parking, and sidewalks on both sides of the street. The eastern portion of Channel Street, to the east of Mission Rock Square, would link Vara Street to the west with Terry A. Francois Boulevard to the east. This segment of Channel Street would be a bicycle and pedestrian-only section for people traveling from Mission Rock Square eastward to Channel Plaza.

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<sup>11</sup> The exact dimensions of travel and parking lanes and of sidewalks are being evaluated by the City; however, the fundamental classification and function of streets (i.e., shared public way or neighborhood street) are not anticipated to change.

<sup>12</sup> “Slow-traffic areas” or “slow-traffic streets” would limit vehicular traffic speeds by installing traffic calming devices such as curb extensions/bulb-outs.

- **Third Street.** The east side of Third Street between Channel Street and the Lefty O'Doul Bridge would be improved, and new and improved sidewalks, curbs, gutters, and on-street parking spaces would be provided. Along this segment of Third Street, the street would be restriped to allow for an additional parking lane on the eastern side of the street. A bicycle lane would be provided on the eastern side of the street. A sidewalk would be provided on the eastern side of the street, south of Channel Street to Mission Rock Street. Improvements to the western side of Third Street would occur as part of the Mission Bay South Redevelopment Plan.
- **Mission Rock Street.** Mission Rock Street, which forms the southern boundary of the Project Site, will be reconfigured and realigned as part of the Mission Bay South Redevelopment Project prior to proposed Project development. The reconfiguration will allow for multi-modal traffic to serve Piers 48 and 50, the adjoining Mission Bay neighborhood, and the under-construction San Francisco Public Safety Building to the south. Mission Rock Street will include two travel lanes heading west and one travel lane heading east, with sidewalks on both sides of the street. Under the Project, the proposed parking garage on Parcel D would be located on the north side of Mission Rock Street.
- **Terry A. Francois Boulevard.** Terry A. Francois Boulevard is proposed to be reconfigured under the Project to include two separate design segments within the Project Site. The southern on-site segment would link Mission Rock Street to the south with the proposed new (internal) Bosque Street to the north and it would serve as the entrance to Pier 50. This segment would be designed to accommodate truck movements into and out of Pier 50 with travel lanes in each direction. The northern on-site segment of Terry A. Francois Boulevard would consist of the segment from Bosque Street to the south to the proposed new (internal) Exposition Street at Pier 48 to the north. This portion of Terry A. Francois Boulevard would be designed as a slow-traffic street with travel lanes in each direction. A two-way bicycle lane would be provided along the entire length of the reconfigured street and would be separated from the motorized vehicle travel lanes. Following the proposed reconfiguration, Terry A. Francois Boulevard would no longer connect with Third Street.

As discussed above, approximately 3,100 parking spaces would be located throughout the Project Site to serve the proposed on-site commercial, residential, and retail development. The proposed parking garage would accommodate other public and transit-based parking, similar to existing conditions. The 2,300-space parking garage would also serve patrons of AT&T Park events. The overall operations of the parking garage would be managed to optimize the parking shared between retail, commercial, AT&T Park users, and other public and transit-based parking users. Public parking would continue to be provided on Pier 48, but only as an interim use until full buildout of the Project. Pier 48 would not include public parking after full buildout of the Project, but could provide a small amount of parking (approximately ten spaces) for employees who work at Anchor Brewing.

The Project as proposed would include a Transportation Demand Management (TDM) Program that would include a plan to coordinate and facilitate parking and traffic at and around the Project Site on AT&T Park event days.

*Shoreline Protection/Sea Level Rise*

The Port has identified areas in its jurisdiction along the San Francisco Bay waterfront, including the Project Site, which would be subject to inundation during a 100-year flood event, assuming a sea level rise ranging from 0.39–2.0 feet by 2050 and 1.38–5.48 feet by 2100.<sup>13</sup> Proposed measures to prevent inundation of Seawall Lot 337 during a 100-year flood under the projected 2100 sea level rise would be incorporated into the design of Seawall Lot 337. For example, proposed finished floors of the development would accommodate rising tide levels at the projected 2100 levels.

**PROJECT PHASING**

For purposes of construction phasing, the Project Site has been divided into four areas, with four construction phases occurring per area. Each area would consist of two to four parcels and associated areas for streets and open spaces. Table 4, below, summarizes the currently anticipated Project phasing by area. As shown, some overlap in construction activities is anticipated between the four areas; however, in general, the construction of Area 1 would occur from 2015 to 2018, Area 2 from 2016 to 2019, Area 3 from 2017 to 2020, and Area 4 from 2018 to 2021.<sup>14</sup> Construction of each area would consist of four components: (1) demolition and rough grading, (2) infrastructure, (3) foundations and building, and (4) paving and landscaping. On average, each area would be constructed over about 2.25 years.

**Table 4. Preliminary Project Phasing**

Phase	Years	Total Number of Work Days	Proposed Development
Area 1	2015–2018	785	Parcel A Parcel B Parcel C Parcel D Pier 48 – Phase 1
Area 2	2016–2019	785	Parcel G Parcel K China Basin Park Pier 48 – Phase 2
Area 3	2017–2020	785	Parcel E Parcel F Mission Rock Square
Area 4	2018–2021	785	Parcel H Parcel I Parcel J Channel Plaza

Source: Seawall Lot 337 Associates, LLC 2013

<sup>13</sup> Coastal and Ocean Working Group of the California Climate Action Team (CO-CAT), State of California Sea-Level Rise Guidance Document, March 2013 update. Available online at [http://www.opc.ca.gov/webmaster/ftp/pdf/docs/2013\\_SLR\\_Guidance\\_Update\\_FINAL1.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/docs/2013_SLR_Guidance_Update_FINAL1.pdf). Accessed on December 6, 2013.

<sup>14</sup> The phasing of Project implementation is subject to change due to market conditions and other unanticipated factors.

## PROPOSED LAND USE AND ZONING CHANGES

Seawall Lot 337 is currently within the MB-OS Use District and Pier 48 is within the M-2 Use District. China Basin Park is within the MB-OS Use District and OS Height and Bulk District. Block P20 is currently designated as open space in the Mission Bay South Redevelopment Plan. The Project Sponsor would request rezoning of the Project Site through a Special Use District or other similar rezoning mechanism, through amendments to the Planning Code, Zoning Map and Mission Bay South Redevelopment Plan, and, as needed, corresponding amendments to the City's General Plan and Port's Waterfront Land Use Plan. If approved by the Port Commission, the Planning Commission, and the San Francisco Board of Supervisors, the SUD would include flexible zoning controls that permit certain parcels (Parcels H, I, and J) to be developed for either commercial or residential uses. The SUD would specify controls on height, density limits, bulk, and setback requirements. It also would establish a design review process and Design Guidelines that would apply across the Project Site.

As discussed above and illustrated in Figure 4 (on page 10), this proposed flexible zoning would allow for a mixed-use development that responds to future market conditions. The proposed new zoning would permit the following uses:

- Parcels H, I, and J would be permitted for either commercial or residential uses above the retail on the lower floors.
- Parcels A, F, and K would be restricted to primarily residential use above the lower floor retail.
- Parcels B, C, E, and G would be restricted to primarily commercial use above the lower floor retail.
- Parcel D would be zoned to allow for nine stories of structured public parking, with commercial space and retail uses on portions of the lower floors.
- All development parcels would be permitted to include retail and parking on the lower floors.
- Pier 48 would be permitted for light industrial/manufacturing, barging, associated general office and storage, retail, restaurants, tours, exhibitions, events, public access, and maritime uses.
- The SUD would incorporate certain development controls, such as height limits ranging from a minimum of 90 feet to up to a maximum of 380 feet by parcel (as described above), allowed development density expressed as permissible floor area ratio (FAR) limits, bulk limits, building setbacks on upper floors, and other controls on proposed development.
- Approximately 8 acres of new and expanded open spaces would include China Basin Park, Mission Rock Square, Channel Plaza, and a Pier 48 Aprons/waterfront promenade.
- Proposed zoning would permit assembly uses and other special events at China Basin Park (for approximately 5,000 people) and at Mission Rock Square (for approximately 2,000 people).

## COMPATIBILITY WITH EXISTING ZONING AND PLANS

The EIR will discuss the Project's potential conflicts relating to physical environmental effects with the San Francisco General Plan and its relevant elements. The EIR will also analyze the Project's potential conflicts with the Bay Conservation and Development Commission (BCDC) San Francisco Waterfront Special Area Plan (an element of BCDC's Bay Plan), the BCDC and Metropolitan Transportation

Commission's San Francisco Bay Area Seaport Plan, and the Port of San Francisco Waterfront Land Use Plan (as noted below, under Approvals Required, amendments to these plans would also be required). Other applicable planning documents will be discussed for context, including the Bicycle Plan, Sustainability Plan, Climate Action Plan, and Better Streets Plan, as well as the City's Transit First policy.

The EIR will also discuss the conformance of the Project with the *San Francisco Planning Code*. Inconsistencies with relevant plans or zoning that could result in physical effects on the environment will be analyzed in the applicable environmental topic sections, such as noise and air quality.

## APPROVALS REQUIRED

In addition to zoning approvals, implementation of the Project would require numerous federal, state, and local reviews, permits and approvals. The Project Sponsor and the Port would apply jointly to secure state and regional approvals, as necessary. Existing state, regional, and local plans that would require amendments include:

- BCDC's San Francisco Waterfront Special Area Plan;
- BCDC and Metropolitan Transportation Commission's San Francisco Bay Area Seaport Plan; and
- Port of San Francisco Waterfront Land Use Plan.

Project reviews, permits or approvals from the following agencies are anticipated at this time:

- San Francisco Planning Commission
- San Francisco Port Commission
- San Francisco Board of Supervisors
- San Francisco Public Utilities Commission
- San Francisco Department of Public Health
- San Francisco Department of Public Works
- San Francisco Municipal Transportation Agency
- State Lands Commission
- San Francisco Bay Conservation and Development Commission
- California Department of Toxic Substance Control
- Metropolitan Transportation Commission
- San Francisco Regional Water Quality Control Board
- California Department of Finance
- Oversight Board of the San Francisco Office of Community Investment and Infrastructure (OCII)
- OCII Commission
- Bay Area Air Quality Management District
- National Park Service
- State Historic Preservation Office
- U.S. Army Corps of Engineers
- National Marine Fisheries Service

## SUMMARY OF POTENTIAL ENVIRONMENTAL ISSUES

The Project may result in significant environmental effects. As required by the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) will be prepared and will examine these effects, identify mitigation measures for potentially significant impacts, and analyze whether proposed mitigation measures would reduce the environmental effects to less-than-significant levels. The EIR will analyze the potential effects of the Project with respect to the environmental topics listed below. Cumulative impacts will also be discussed under each of the environmental topic sections in the EIR. The

EIR will also analyze alternatives to the Project that could substantially reduce or eliminate one of more significant impacts of the Project, but could still feasibly attain most of the major Project objectives.

- Land Use and Land Use Planning
- Aesthetics
- Population, Housing, and Employment
- Cultural and Paleontological Resources
- Transportation and Circulation
- Noise
- Air Quality
- Greenhouse Gas Emissions
- Wind and Shadow
- Utilities and Service Systems
- Public Services and Recreation
- Biological Resources
- Geology and Soils
- Hydrology and Water Quality
- Sea Level Rise
- Hazards and Hazardous Materials
- Mineral and Energy Resources
- Agriculture and Forest Resources

## OTHER CEQA ISSUES

The EIR will also include a discussion of topics required by CEQA, including the Project's growth-inducing impacts, significant unavoidable impacts, significant irreversible impacts, any known controversy associated with the Project and its environmental effects and issues to be resolved by decision-makers.

## FINDING

**This Project may have a significant effect on the environment and an Environmental Impact Report is required.** This determination is based upon the criteria of the State CEQA Guidelines, Sections 15063 (Initial Study), 15064 (Determining Significant Effect), and 15065 (Mandatory Findings of Significance).

## PUBLIC SCOPING PROCESS

Pursuant to the State of California Public Resources Code Section 21083.9 and California Environmental Quality Act Guidelines Section 15206, a public scoping meeting will be held to receive oral comments concerning the scope of the EIR. The meeting will be held from **6:00 p.m. to 8:00 p.m. on January 13, 2014 in the Bayside Room at the Port of San Francisco, Pier 1, The Embarcadero**. To request a language interpreter or accommodations for persons with disabilities at the scoping meeting, please contact the staff contact listed above at least 72 hours in advance of the meeting. Written comments will also be accepted at this meeting and until 5:00 p.m. on January 31, 2014. Written comments should be sent to Sarah B. Jones, Environmental Review Officer, San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103 or sent by email to Tania Sheyner, the EIR Coordinator for this Project, at [Tania.Sheyner@sfgov.org](mailto:Tania.Sheyner@sfgov.org).

If you work for a responsible State agency, we need to know the views of your agency regarding the scope and content of the environmental information that is germane to your agency's statutory responsibilities in connection with the Project. Your agency may need to use the EIR when considering a permit or other approval for this Project. Please include the name of a contact person in your agency.

Notice of Preparation of an EIR  
December 11, 2013

Case No. 2013.0208E  
Seawall Lot 337 and Pier 48 Mixed-Use Project

Members of the public are not required to provide personal identifying information when they communicate with the Commission and Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Planning Department's website or in other public documents.

December 11<sup>th</sup>, 2013

Date

Victoria Wise for

Sarah B. Jones  
Environmental Review Officer

## Summary of Scoping Comments

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## Written Comments

Name	Organization/Affiliation	Date	Topic	Comment
<b>Public Agency Comments</b>				
Aarreberg, Arn	California Department of Fish and Wildlife - Marine Region	12/23/2014	Biological Resources	Poential impacts to the marine environment, a State-managed fishery, and State/federally-listed species.
Aarreberg, Arn	California Department of Fish and Wildlife - Marine Region	12/23/2014	Distribution List	Please include on future distribution lists.
Alm, Erik AICP	Caltrans	1/9/2014	Transportation	The Project's fair-share contribution, financing, scheduling, and implementation responsibilities should be discussed in the EIR.
Alm, Erik AICP	Caltrans	1/9/2014	Transportation	Include a Traffic Impact Study. See letter for the suggested information to be included in the TIA, which is typical to all TIAs.
Oggins, Cy R.	California State Lands Commission	1/9/2014	Project Description	A thorough and complete Project Description should be included in the EIR.
Oggins, Cy R.	California State Lands Commission	1/9/2014	Biological Resources	Evaluate noise and vibration impacts on fish and birds from construction activities on the pier. Suggests mitigation measures and early consultation.
Oggins, Cy R.	California State Lands Commission	1/9/2014	GHG	Include a GHG emissions analysis consistent with AB 32. Identify impacts and mitigation measures.
Oggins, Cy R.	California State Lands Commission	1/9/2014	Sea Level Rise	Consider the effects of sea level rise on all resource categories affected by the Project. Detemine whether development on Pier 48 would be designed to prevent 100-year flood inundation under rising tide levels.
Oggins, Cy R.	California State Lands Commission	1/9/2014	Cultural Resources	Evaluate potential impacts to submerged cultural resources in the Project area. Contact CSLC to obtain shipwreck data from database.
Oggins, Cy R.	California State Lands Commission	1/9/2014	Mitigation	Present specific mitigation and don't defer.
<b>Public/Individual Comments</b>				
Anavy, Ralph (email1)	Resident at 420 Mission Bay	1/30/2014	Land Use/Plans and Policies	Scale of development is in conflict with the character of the rest of Mission Bay. Create a consistent city environment.
Anavy, Ralph (email1)	Resident at 420 Mission Bay	1/30/2014	Design	Concern about height. All waterfront buildings should be limited to 90 feet with setbacks.

Name	Organization/Affiliation	Date	Topic	Comment
Anavy, Ralph (email1)	Resident at 420 Mission Bay	1/30/2014	Shadow	Shading virtually all the way to the water. Cast shadows on the current waterfront promenade and China Basin Park. Will cast shadows on Mission Rock Square.
Anavy, Ralph (email1)	Resident at 420 Mission Bay	1/30/2014	Design	Continuation of a greenbelt around the water front. Include a roadway exit around the north end of facilitate traffic flow. Bury a road underneath the park. No walled waterfront. No skyscrapers.
Anavy, Ralph (email1)	Resident at 420 Mission Bay	1/30/2014	Land Use/Plans and Policies	Scale of development should be consistent with the rest of Mission Bay and approved uses. Conform with the SF waterfront plan.
Anavy, Ralph (email1)	Resident at 420 Mission Bay	1/30/2014	Design	Mission Rock Square is isolated from the public. The area should include parking structure instead and replace the park with a more significant open space pathway along the waterfront promenade. Maybe include part of Parcel D as open space where there would be no shadows.
Anavy, Ralph (email2)	Resident at 420 Mission Bay	1/30/2014	Parking	Not enough parking, but the proposed parking areas are impractical. The parking garages should not provide a wall to the neighborhood. Consider incorporating all parking into the building structures, green spaces, or roadways. Parking garage should not serve a parking facility for the stadium.
Anavy, Ralph (email2)	Resident at 420 Mission Bay	1/30/2014	Design/ Transportation	Concern about street design and deadends. Design better roadways, which allow the added traffic burden to be absorbed internally. Or create a new road system (bridge or tunnel) across the channel to the north.
Anavy, Ralph (email3)	Resident at 420 Mission Bay	1/30/2014	Land Use/Plans and Policies	The current plan would build a walled enclave
Anavy, Ralph (email3)	Resident at 420 Mission Bay	1/30/2014	Transportation	Parking garage will create traffic issues.
Anavy, Ralph (email3)	Resident at 420 Mission Bay	1/30/2014	Aesthetics	Concern about blocked views.
Berger, Stephani	Public	1/31/2014	Transportation	Closure of TFB at Third would force traffic onto streets currently design as low-traffic areas.
Berger, Stephani	Public	1/31/2014	Hazards/Public Services	Increased traffic from the Project could delay emergency vehicles from the Public Safety Building.

## Written Comments

Name	Organization/Affiliation	Date	Topic	Comment
Berger, Stephani	Public	1/31/2014	Project Description	The type of use intended for the buildings is too vague.
Berger, Stephani	Public	1/31/2014	Transportation	Consider parking and traffic flow.
Berger, Stephani	Public	1/31/2014	Transportation	Evaluate how there is currently limited public transportation in the area.
Berger, Stephani	Public	1/31/2014	Land Use/Plans and Policies	Why would the Project be exempt from existing height restrictions?
Brase, H. William	Resident at the Radiance	1/25/2014	Design	Buildings seem "blocky and squat." Wants more residential than commercial.
Brase, H. William	Resident at the Radiance	1/25/2014	Land Use/Plans and Policies	Height limits should be lower along the waterfront to the east and have staggered building heights throughout.
Brase, H. William	Resident at the Radiance	1/25/2014	Design	Parking garage height and design concerns.
Brase, H. William	Resident at the Radiance	1/25/2014	Land Use/Plans and Policies	Block P20 should remain as part of the Mission Bay Redevelopment Plan and remain a green strip.
Brase, H. William	Resident at the Radiance	1/25/2014	Design	Concern about narrow street widths
Brase, H. William	Resident at the Radiance	1/25/2014	Hazards/Public Services	Concern about narrow street widths and impacts to emergency vehicles from the Public Safety Building.
Brase, H. William	Resident at the Radiance	1/25/2014	Design	Pier 48 should be include other uses than Anchor.
Brase, H. William	Resident at the Radiance	1/25/2014	Air Quality	Concern about pollution from Anchor production and potential smoke stacks.
Brase, H. William	Resident at the Radiance	1/25/2014	Transportation	Concern about increased truck traffic due to Anchor.
Brase, H. William	Resident at the Radiance	1/25/2014	Transportation	Not enough public transportation to support the Project.
Fahnestock, Jackson	Owner at the Radiance	1/14/2014	Design	Commitment to residential units seems low; need more housing. Too much commercial; need a more vibrant mix. Need a specific minimum target of residential-serving retail. Need parking to serve this. Shared Public Way needs strong commitment to restrictions on vehicles. More retail on Third. More design should consider Third, including bike lanes.
Fahnestock, Jackson	Owner at the Radiance	1/14/2014	Transportation	Discuss how the Project site would be connected to the City's transportation network.
Fahnestock, Jackson	Owner at the Radiance	1/14/2014	Design	Include other uses in Pier 48 other than just Anchor.

Seawall Lot 337/Pier 48 Mixed-Use Development Project  
Written Comments

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Name	Organization/Affiliation	Date	Topic	Comment
Fahnestock, Jackson	Owner at the Radiance	1/14/2014	Design	Generally supportive of height, but requests that the buildings have more architectural style than the rest of the Mission Bay buildings.
Fahnestock, Jackson	Owner at the Radiance	1/14/2014	Design	Provide a park management plan for China Basin Park.
Fahnestock, Jackson	Owner at the Radiance	1/14/2014	Design	Design of parking garage should become available for community review.
Frazier, Diana	Condo owner in Mission Bay	1/29/2014	Transportation	Concern about traffic patterns, congestion, and parking.
Frazier, Diana	Condo owner in Mission Bay	1/29/2014	Aesthetics	Preserve unique views of the bridges and East Bay. Current design does not unite the Mission Bay/China Basin neighborhood.
Frazier, Diana	Condo owner in Mission Bay	1/29/2014	Land Use/Plans and Policies	Current design does not unite the Mission Bay/China Basin neighborhood.
Hong, Dennis J.		12/13/2013	Distribution List	Please include on future distribution lists.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Transportation	Reconfiguration of TFB would increase traffic into neighborhood streets. Concern about added truck traffic from Pier 48 and impact to neighborhood streets.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Hazards/Public Services	Added truck traffic and parking garage will impact the Public Safety Building to the south.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Transportation	Design traffic southbound from Vara Street to divert traffic away from entering Bridgeway Way.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Design	Concerned about heights of buildings; consider reducing heights.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Shadow	Tall buildings could create shadows along the waterfront of TFB.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Population	Height of buildings would add population density.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Transportation	Height of buildings would result in increases in traffic with limited solutions to traffic control.
Kwok, Alfred	Resident at 435 China Basin	1/30/2014	Aesthetics	Concern that building heights would be inconsistent with the overall look of the other buildings in Mission Bay.
Pignol, Mathilde	Owner at the Madrone	1/31/2014	Design	Concern about heights on Project site, particularly on Parcels A and F. Concerned about loss of private view.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Recreation	Loss of green space; public lands should be reserved for public use and recreation.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Shadow	Tall buildings will block sun.

## Written Comments

Name	Organization/Affiliation	Date	Topic	Comment
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Land Use/Plans and Policies	Buildings would create a physical barrier to public access to the Bay.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Alternatives	Convert the entire Seawall Lot 337 into a park to preserve public access to the Bay.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Design	Concern about building heights; should not exceed the rest of Mission Bay and slope small as they get closer to the Bay.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Land Use/Plans and Policies	Building heights would be inconsistent with existing buildings in Mission Bay.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Transportation	Congestion in surrounding streets and impacts to transportation infrastructure.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Air Quality	Increased traffic will result in air pollutants.
Robinson, Thomas	Resident of Mission Bay	1/26/2014	Hydrology	Increased traffic will result in runoff into the Bay.
Santiago, Ruben			Distribution List	Please include on future distribution lists.
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Concern about heights
Stearns, Esther	Owner at the Madrone	1/28/2014	Transportation	Pedestrian safety at Lefty O-Doul Bridge. It is closed in one direction for all home games. How will that work for office workers?
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Consider separate bike/ped "flyover" bridge over Mission Creek.
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Too much commercial space.
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Project site should include a transit center.
Stearns, Esther	Owner at the Madrone	1/28/2014	Project Description	Clarify the inclusion of Block P20.
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Include a plan to control homeless in parks.
Stearns, Esther	Owner at the Madrone	1/28/2014	Population	Discuss affordable housing
Stearns, Esther	Owner at the Madrone	1/28/2014	Public Services	Discuss schools
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Mission Rock Square should be bigger than 1.3 acres.
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Priority should be given to developing open spaces earlier.
Stearns, Esther	Owner at the Madrone	1/28/2014	Parking	What is the plan for resident and guest parking?
Stearns, Esther	Owner at the Madrone	1/28/2014	Noise	What are the rules regarding noise? Additional residents will result in more noise conflict.
Stearns, Esther	Owner at the Madrone	1/28/2014	Design	Retail development should be a tribute to science and spirit.
Stearns, Jan	Resident at the Madron	1/31/2014	Design	Buildings are too tall; they should not exceed 8 stories.

Seawall Lot 337/Pier 48 Mixed-Use Development Project  
 Written Comments

\*

Name	Organization/Affiliation	Date	Topic	Comment
Stearns, Jan	Resident at the Madron	1/31/2014	Transportation	Bottleneck at 3rd Street and Mission Creek. How will traffic flow be streamlined?
Stearns, Jan	Resident at the Madron	1/31/2014	Design	Consider separate bike/ped "flyover" bridge over Mission Creek.
Stearns, Jan	Resident at the Madron	1/31/2014	Transportation	Concern about vehicles going south and cutting through the driveways of private residential complexes.
Stearns, Jan	Resident at the Madron	1/31/2014	Design	Project site should include a transit center.
Ushman, Neal	Resident at 420 Mission Bay	1/31/2014	Parking	Concern about a net loss in parking compared to existing conditions. Concern about game-day parking.
Ushman, Neal	Resident at 420 Mission Bay	1/31/2014	Design	East side of Third Street will be reconfigured; what is going to be displaced for these improvements?
Ushman, Neal	Resident at 420 Mission Bay	1/31/2014	Transportation	What impacts will the the Third Street changes have on Third Street south of Mission Rock Street? How will closing the link between TFB between Mariposa Street and Lefty O-Doul have on traffic? Transportation Study should focus on traffic patterns on Third, Fourth, and TFB. Include studies during on- and off-season.
Ushman, Neal	Resident at 420 Mission Bay	1/31/2014	Transportation	Concern about lack of public transportation.
Ushman, Neal	Resident at 420 Mission Bay	1/31/2014	Land Use/Plans and Policies	Any development on the Project site should follow the guidelines established for Mission Bay.

## Oral Comments

Name	Organization/Affiliation	Topic	Comment
Fazio, David	Helix Opportunity	Design	Design project for ADA and seniors.
Fahnestock, Peggy	Owner at Radiance	Transportation	Concern about lack of public transportation in the area.
Fahnestock, Peggy	Owner at Radiance	Transportation	Traffic congestion on Third Street.
Fahnestock, Jack	Owner at Radiance	Design	Include residential and retail uses. Concerned about an imbalance.
Fahnestock, Jack	Owner at Radiance	Design	Generally supportive of height.
Pilpel, David	Resident	Project Description	Needs to be finite and stable pursuant to CEQA
Pilpel, David	Resident	Land Use/Plans and Policies	Include a description of neighboring land uses north of Mission Creek, Mission Bay, Eastern Neighborhoods, Potrero Hill, and Dog Patch.
Pilpel, David	Resident	Baseline	Include actual accounts and data of existing conditions at the time of the NOP.
Pilpel, David	Resident	General	Impact analysis needs to have a discussion of the direct, indirect, and cumulative impact of the Project.
Pilpel, David	Resident	Transportation	Concern about the lack of public transportation in the area.
Pilpel, David	Resident	Design	Street design is confusing.
Pilpel, David	Resident	Transportation	Discuss the use on game days.
Pilpel, David	Resident	Utilities	Discuss water and sewer issues with respect to adequacy. Do a Water Supply Assessment.
Pilpel, David	Resident	Alternatives	Include at least three alternatives. One would be a step-down towers approach, one would be a small project overall, and the third would not change the height limits.
Pilpel, David	Resident	Distribution List	Please include on future distribution lists.
Musteller, David	Resident at 325 China Basin	Design	Concern about heights
Musteller, David	Resident at 325 China Basin	Transportation	Density will lead to traffic problems at the Third and Fourth Street bridges.
Musteller, David	Resident at 325 China Basin	Design	More retail uses. Examine the ratio of retail to population density.
Hestor, Sue	Resident	Warriors	Concern that this is an alternative site for the Warriors EIR.
Hestor, Sue	Resident	Aesthetics	Although SB743 was passed, include an analysis. Explain what would occur along view perspectives, the waterfront, and surrounding areas.

## Oral Comments

Name	Organization/Affiliation	Topic	Comment
Hestor, Sue	Resident	Population	Concern that the housing will not be occupied by fulltime owners. Explain the impacts of housing being occupied by fulltime residents versus parttime residents.
Chang, Kitty	Resident at Radiance	Design	Move buildings further back from waterfront.
Chang, Kitty	Resident at Radiance	Design	Incorporate with the south side of Mission Bay.
Chang, Kitty	Resident at Radiance	Design	Restore Block P20 to soften the edge.
Chang, Kitty	Resident at Radiance	Design	Include mooring of small ships and boats so that they can dock temporarily for lunch.

## **Comments Received on the NOP (with Attachments)**





Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

Notice of Preparation

December 11, 2013

To: Reviewing Agencies

Re: Seawall Lot 337 and Pier 48 Mixed Use Project  
SCH# 2013122024

Attached for your review and comment is the Notice of Preparation (NOP) for the Seawall Lot 337 and Pier 48 Mixed Use Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

**Tania Sheyner**  
City and County of San Francisco  
1650 Mission Street  
San Francisco, CA 94103

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Attachments  
cc: Lead Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2013122024  
**Project Title** Seawall Lot 337 and Pier 48 Mixed Use Project  
**Lead Agency** San Francisco, City and County of

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**Type** NOP Notice of Preparation  
**Description** The project would include ~750,000 gsf to 1.3 million gsf of residential uses, 1.25 million to 1.6 million gsf of commercial/office/R&D uses, and 150,000 to 250,000 gsf of retail/entertainment/ancillary uses within 11 development parcels. Project Sponsor proposes flexible zoning on three parcels in order to respond to future market demands.

---

**Lead Agency Contact**

**Name** Tania Sheyner  
**Agency** City and County of San Francisco  
**Phone** (415) 575-9127 **Fax**  
**email**  
**Address** 1650 Mission Street  
**City** San Francisco **State** CA **Zip** 94103

---

**Project Location**

**County** San Francisco  
**City** San Francisco  
**Region**  
**Cross Streets** Third Street/Terry A. Francois Blvd./Mission Rock Street  
**Lat / Long** 37° 46' 29" N / 122° 23' 19" W  
**Parcel No.** 8719/002,9900/048,8719/002  
**Township** 2S **Range** 5W **Section** **Base**

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**Proximity to:**

**Highways** I-280, I-80, US 101  
**Airports**  
**Railways** Caltrain  
**Waterways** San Francisco Bay, Mission Creek  
**Schools** Several  
**Land Use** Seawall Lot 337: MB-OS (Mission Bay, Open Space), OS Height & Bulk Dist; Pier 48: M-2 (Heavy Industrial), 40-X Height & Bulk

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**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects; Other Issues

---

**Reviewing Agencies** Resources Agency; California Coastal Commission; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Fish and Wildlife, Region 3; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; California Highway Patrol; Department of Housing and Community Development; Caltrans, District 4; Air Resources Board; Regional Water Quality Control Board, Region 2

---

**Date Received** 12/11/2013 **Start of Review** 12/11/2013 **End of Review** 01/09/2014

**NOF Distribution List**

County: SAN FRANCISCO

SCH# 20131220

**Regional Water Quality Control Board (RWQCB)**

- RWQCB 1  
Cathleen Hudson  
North Coast Region (1)
- RWQCB 2  
Environmental Document  
Coordinator  
San Francisco Bay Region (2)
- RWQCB 3  
Central Coast Region (3)
- RWQCB 4  
Teresa Rodgers  
Los Angeles Region (4)
- RWQCB 5S  
Central Valley Region (5)
- RWQCB 5F  
Central Valley Region (5)  
Fresno Branch Office
- RWQCB 5R  
Central Valley Region (5)  
Redding Branch Office
- RWQCB 6  
Lahontan Region (6)
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Victorville Branch Office
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- RWQCB 8  
Santa Ana Region (8)
- RWQCB 9  
San Diego Region (9)

- Other \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_  
Conservancy

Resources Agency

- Resources Agency  
Nadell Gayou
  - Dept. of Boating & Waterways  
Nicole Wong
  - California Coastal Commission  
Elizabeth A. Fuchs
  - Colorado River Board  
Tanya Trujillo
  - Dept. of Conservation  
Elizabeth Carpenter
  - California Energy Commission  
Eric Knight
  - Cal Fire  
Dan Foster
  - Central Valley Flood Protection Board  
James Herota
  - Office of Historic Preservation  
Ron Parsons
  - Dept of Parks & Recreation  
Environmental Stewardship Section
  - California Department of Resources, Recycling & Recovery  
Sue O'Leary
  - S.F. Bay Conservation & Dev't. Comm.  
Steve McAdam
  - Dept. of Water Resources Resources Agency  
Nadell Gayou

- Fish & Wildlife Region 1E  
Laurie Harnsberger
- Fish & Wildlife Region 2  
Jeff Drongesen
- Fish & Wildlife Region 3  
Charles Armor
- Fish & Wildlife Region 4  
Julie Vance
- Fish & Wildlife Region 5  
Leslie Newton-Reed  
Habitat Conservation Program
- Fish & Wildlife Region 6  
Gabrina Gatchel  
Habitat Conservation Program
- Fish & Wildlife Region 6 I/M  
Heidi Sickler  
Inyo/Mono, Habitat Conservation Program
- Dept. of Fish & Wildlife Marine Region  
George Isaac

Other Departments

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Sandra Schubert  
Dept. of Food and Agriculture
- Depart. of General Services  
Public School Construction
- Dept. of General Services  
Anna Garbeff  
Environmental Services Section
- Dept. of Public Health  
Jeffery Worth  
Dept. of Health/Drinking Water
- Delta Stewardship Council  
Kevan Samsam

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Environmental Services Division
- Fish & Wildlife Region 1  
Donald Koch

- Delta Protection Commission  
Michael Machado
- Cal EMA (Emergency Management Agency)  
Dennis Castrillo

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Philip Crimmins
- Caltrans - Planning  
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- California Highway Patrol  
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Office of Special Projects
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CEQA Coordinator  
Housing Policy Division

Dept. of Transportation

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- Caltrans, District 4  
Erik Alm
- Caltrans, District 5  
David Murray
- Caltrans, District 6  
Michael Navarro
- Caltrans, District 7  
Dianna Watson

- Native American Heritage Comm.  
Debbie Treadway
- Public Utilities Commission  
Leo Wong
- Santa Monica Bay Restoration  
Guangyu Wang
- State Lands Commission  
Jennifer Deleong
- Tahoe Regional Planning Agency (TRPA)  
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Cal EPA

Air Resources Board

- All Projects  
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- Transportation Projects  
Jon Taylor
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Mike Tollstrup
- State Water Resources Control Board  
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Division of Financial Assistance
- State Water Resources Control Board  
Student Intern, 401 Water Quality Certification Unit  
Division of Water Quality
- State Water Resources Control Board  
Phil Crader  
Division of Water Rights
- Dept. of Toxic Substances Control  
CEQA Tracking Center
- Department of Pesticide Regulation  
CEQA Coordinator

- Caltrans, District 8  
Dan Kopulsky
- Caltrans, District 9  
Gayle Rosander
- Caltrans, District 10  
Tom Dumas
- Caltrans, District 11  
Jacob Armstrong
- Caltrans, District 12  
Maureen El Harake

**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 286-6053  
FAX (510) 286-5559  
TTY 711

**RECEIVED**

JAN 14 2014

**CITY & COUNTY OF S.F.**  
PLANNING DEPARTMENT  
M.F.A.

*Flex your power!  
Be energy efficient!*

January 9, 2014

SFVAR010  
SCH#2013122024

Ms. Tania Sheyner  
Planning Department  
City and County of San Francisco  
1650 Mission Street  
San Francisco, CA 94103

Dear Ms. Sheyner:

**Seawall Lot 337 and Pier 48 Mix Use Project – Notice of Preparation**

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Seawall Lot 337 and Pier 48 Mix Use project. The following comments are based on the Notice of Preparation. As lead agency, the City and County of San Francisco (City) is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits.

***Traffic Impact Study***

The environmental document should include an analysis of the impacts of the proposed project on State highway facilities in the vicinity of the project including on and off-ramps, and mainline operations on Interstates 80 and 280. Please ensure that a Traffic Impact Study (TIS) is prepared providing the information detailed below:

1. Information on the project's traffic impacts in terms of trip generation, distribution, and assignment. The assumptions and methodologies used in compiling this information should be addressed. The study should clearly show the percentage of project trips assigned to State facilities. A comparison table of trip generation between ITE's trip generation methodology and SF-CHAMP model is also desired.
2. Current Average Daily Traffic (ADT) and AM, Midday, PM, Saturday and Sunday peak hour volumes on all significantly affected streets, highway segments and intersections.
3. Schematic illustration and level of service (LOS) analysis for the following scenarios: 1) existing, 2) existing plus project, 3) cumulative and 4) cumulative plus project for the roadways and intersections in the project area.

Ms. Tania Sheyner/City and County of San Francisco  
January 9, 2014  
Page 2

4. A timeline of foreseeable development projects within the vicinity of the proposed project and traffic generation.
5. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State highway facilities being evaluated.
6. Transportation Demand Management strategies along with an implementation schedule to accommodate the phasing of the proposed project.
7. Proposed and planned regional and local transportation capital and operational improvements information to accommodate growth within the project area. This may include references to transportation studies/assessments and neighborhood/community plans including the Waterfront Transportation Assessment and Railyard Boulevard Feasibility Study.
8. The procedures contained in the 2010 update of the Highway Capacity Manual should be used as a guide for the analysis. We also recommend using the Department's "*Guide for the Preparation of Traffic Impact Studies*"; it is available on the following web site:  
<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>.
9. Mitigation measures should be identified where plan implementation is expected to have a significant impact. Mitigation measures proposed should be fully discussed, including financing, scheduling, implementation responsibilities, and lead agency monitoring.

We encourage the City to coordinate preparation of the study with our office, and we would appreciate the opportunity to review the scope of work.

We look forward to reviewing the TIS, including Technical Appendices, and environmental document for this project. Please send two copies to the address at the top of this letterhead, marked ATTN: Yatman Kwan, Mail Stop #10D.

Should you have any questions regarding this letter, please call Yatman Kwan, AICP of my staff at (510) 622-1670.

Sincerely,

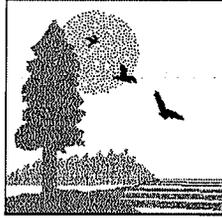


ERIK ALM, AICP  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

**CALIFORNIA STATE LANDS COMMISSION**

100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



**JENNIFER LUCCHESI**, Executive Officer  
(916) 574-1800 FAX (916) 574-1810  
California Relay Service From TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

**Contact Phone: (916) 574-1900**  
**Contact FAX: (916) 574-1885**

January 9, 2014

File Ref: SCH # 2013122024

Tania Sheyner  
City and County of San Francisco  
1650 Mission Street  
San Francisco, CA 94103

**Subject: Notice of Preparation (NOP) for an Environmental Impact Report (EIR)  
for the Seawall Lot 337 and Pier 48 Mixed Use Project, San Francisco  
County**

Dear Ms. Tania Sheyner:

The California State Lands Commission (CSLC) staff has reviewed the subject NOP for an EIR for the Seawall Lot 337 and Pier 48 Mixed Use Project (Project), which is being prepared by the San Francisco Planning Department (Department). The Department, as a public agency with principal responsibility for authorizing the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

**CSLC Jurisdiction and Public Trust Lands**

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

Based on the information provided, and review of in-house records and maps, the proposed Project appears to be located within lands granted to the City and County of San Francisco pursuant to Chapter 1333, Statutes of 1968 and as amended with minerals reserved to the State. Day to day administration of these lands is managed by the Port of San Francisco and authorization from the CSLC will not be required for this Project. This determination is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to the attention of CSLC. In addition, this letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

### **Project Description**

The Project sponsor, Seawall Lot 337 Associates, LLC, proposes to develop a mixed-use multi-phase waterfront development including residential, commercial, retail, parking and open space. In addition, Pier 48 is proposed to be developed by Anchor Brewing and Distilling Company under an interim lease with the Port of San Francisco.

From the Project Description, CSLC staff understands that the Project would include the following components:

- **Flexible Zoning**. Three of the 11 parcels on Seawall Lot 337 are proposed for flexible zoning, which would allow for either commercial or residential development in order to respond to future market demands. However the total development would not exceed 3.7 million gross square feet (gsf);
- **Residential**. Between 750,000 and 1.3 million gsf of residential space would be developed, including residential units at both market rate and affordable housing;
- **Commercial**. Between 1.25 million and 1.6 million gsf of commercial, office and research facilities;
- **Retail**. Between 1.25 and 1.6 million gsf of retail, entertainment, enclosed parking and ancillary uses on the lower floors of buildings;
- **Parking**. 3,100 parking spaces; and
- **Light Industrial**. The rehabilitation and reuse of Pier 48 as a brewery would create roughly 212,500 gsf of light industrial, restaurant, retail, maritime and exhibition uses on the pier.

### **Environmental Review**

CSLC staff requests that the following potential impacts be analyzed in the EIR.

#### **General Comments**

1. **Project Description**: A thorough and complete Project Description should be included in the EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., methods and equipment that may be used, maximum area of impact or volume of sediment disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. Thorough descriptions will make for a

more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

### Biological Resources

2. Construction Noise: The EIR should evaluate noise and vibration impacts on fish and birds, including special status species, from construction activities on the pier. Mitigation measures could include species-specific work windows as defined by the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration's Fisheries Service. CSLC staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

### Climate Change

3. Greenhouse Gas (GHG): A GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included in the EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to less than significant.
4. Sea Level Rise: The EIR should consider the effects of sea level rise on all resource categories potentially affected by the proposed Project. At its meeting on December 17, 2009, the CSLC approved the recommendations made in a previously requested staff report, "A Report on Sea Level Rise Preparedness" (Report), which assessed the degree to which the CSLC's grantees and lessees have considered the eventual effects of sea level rise on facilities located within the CSLC's jurisdiction. (The Report can be found on the CSLC's website, [www.slc.ca.gov](http://www.slc.ca.gov).) One of the Report's recommendations directs CSLC staff to consider the effects of sea level rise on hydrology, soils, geology, transportation, recreation, and other resource categories in all environmental determinations associated with CSLC leases.

The NOP mentions that development on Seawall Lot 337 would be designed to prevent 100-year flood inundation under the rising tide levels projected for 2100, however no mention is made of plans to decommission or prevent inundation of development on Pier 48. Please determine whether development on Pier 48 would be designed to prevent 100-year flood inundation under rising tide levels projected for 2100. If the design does not prevent inundation, determine the lifespan of the development, its vulnerability to sea level rise, and the impacts to the environment if the development was inundated. If significant impacts are determined, develop mitigation measures that would reduce the impacts to less than significant.

### Cultural Resources

5. Submerged Resources: The EIR should evaluate potential impacts to submerged cultural resources in the Project area. Many ships were historically abandoned around the shore of San Francisco Bay, often in areas that were later filled, such as

the Project site. The CSLC maintains a shipwrecks database that can assist with an analysis of impacts to historical shipwrecks. CSLC staff requests that the Department contact Senior Staff Counsel Pam Griggs (see contact information below) to obtain shipwrecks data from the database and CSLC records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in State waters for more than 50 years is presumed to be significant.

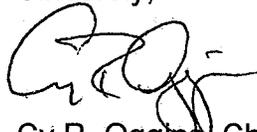
#### Additional Review

6. Deferred Mitigation: In order to avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (b)).

Thank you for the opportunity to comment on the NOP for the Project. As a trustee agency, we request that you consider our comments while drafting the EIR. Please send additional information on the Project to the CSLC as plans become finalized.

Please send copies of future Project-related documents, including electronic copies of the Draft EIR, and Mitigation Monitoring and Reporting Program (MMRP), when they become available, and refer questions concerning environmental review to Holly Wyer, Environmental Scientist, at (916) 574-2399 or via e-mail at [holly.wyer@slc.ca.gov](mailto:holly.wyer@slc.ca.gov). For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at [pamela.griggs@slc.ca.gov](mailto:pamela.griggs@slc.ca.gov). If you have any questions regarding the legislative grant to the City and County of San Francisco, please contact Sheri Pemberton at (916) 574-1800 or via email at [sheri.pemberton@slc.ca.gov](mailto:sheri.pemberton@slc.ca.gov). For all other questions, please contact Grace Kato at (916) 574-1227 or via email at [grace.kato@slc.ca.gov](mailto:grace.kato@slc.ca.gov).

Sincerely,



Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
Grace Kato, LMD, CSLC  
Holly Wyer, DEPM, CSLC  
Jessica Rader, Legal, CSLC

## Chapman, Kirsten

---

**From:** Aarreberg, Arn@Wildlife <Arn.Aarreberg@wildlife.ca.gov>  
**Sent:** Monday, December 23, 2013 1:42 PM  
**To:** Sheyner, Tania  
**Subject:** Seawall Lot 337 and Pier 48 Mixed-Use Project NOP

Hello Tania,

My name is Arn Aarreberg. I am an Environmental Scientist with the California Dept. of Fish and Wildlife Marine Region. I work on environmental project review for projects that may have impacts to the marine environment in San Francisco Bay.

I see that the Port of SF has issued an NOP for the Seawall lot 337 and Pier 48 project. From the information within the NOP, there seems that there is potential for this project to have impacts to the marine environment, a state managed fishery, and state and federally listed species. I would appreciate it if you could add me to your mailing list for all future documents that are issued for this project as I will be the CDFW Marine Region contact.

Please feel free to contact me if you have any questions. I look forward to working with the Port on this Project.

Arn Aarreberg  
Environmental Scientist  
Marine Environmental Review and Water Quality Project  
California Department of Fish and Wildlife - Marine Region  
5355 Skylane Blvd. Suite B, Santa Rosa, CA 95403  
Office: (707) 576-2889 Fax: (707) 576-7132  
[Arn.Aarreberg@wildlife.ca.gov](mailto:Arn.Aarreberg@wildlife.ca.gov)  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

---

**From:** rrraphy@aol.com  
**Sent:** Thursday, January 30, 2014 2:56 PM  
**To:** Sheyner, Tania  
**Subject:** Written Comment re Seawall lot 337 & pier 48 Mixed-Use project, (case # 2013.0208E) EIR

San Francisco Planning Department  
1650 Mission Street, suite 400  
San Francisco, CA 94104

January 30, 2014

emailed to Tania Sheyner  
By mail to Sarah B. Jones

**Comments relative to scale, proposed layout and building heights of the project  
Seawall lot 337 & pier 48 Mixed-Use project, (case # 2013.0208E) EIR**

The scale of the development is in total contrast to the character of the rest of Mission Bay. The current plan build a walled enclave (Virtually all building tower are at heights well above the rest of Mission Bay, and wall in a central square), that will feed poorly into an already overly congested road system.

Voters in the early 1980s turned down a plan (by I M Pei) that had **tall towers, and a lot more green space.** The current plan return to something (worse) that was voted down. Putting tall buildings on the waterfront of SF, in what was originally the bay is ill advised. The design of such tall buildings is a bad idea at this location.

The whole Mission Bay Architectural Plan is founded around the concept of **taller buildings next to the freeway, and shorter buildings next to the bay.** The Port land is SF land, not a private ownership, and the proposed project seems disconnected to the wants of citizen. This development ignores all rules set for Mission Bay, as well as advisory rules for the waterfront. Let us not forget that while the current waterfront is where it is today, this land is all reclaimed over the bay, and as such could be considered prime land to reclaim for the bay!

The Giant stadium required a special variation to the height limitation on the water front. Now they want more variations to put a mini Manhattan with a **huge monolith of a parking facility** for 2300 cars, while they had pledged to support transit only usage, as well as 3 towers well in excess of the 160 ft Mission Bay allowance, (plus 2 topping at 190 ft, right at water edge), all this South of the China Basin channel.

Furthermore the parking as presented creates a wall, separating the rest of the development from the rest of Mission Bay, and channeling cars into what will create monstrous traffic jams, as few roads allow car exit, except into already highly congested bottlenecks, or into dead ends. If you are going to put more parking, spread it around the whole area, and break this monstrous structure, and open up the roadway.

Please reject the plan unless it limits heights to those of the rest of Mission bay, i.e. approximately 8 stories to a max of 16, with parking under most of the buildings, and with enhanced street side access for local businesses, and amenities for residents.

Please note that my objection is not just building height, but **creating a consistent city environment** with a living street for resident, not a deserted suburban mall, open to the adjacent areas, The new design is not providing it, as it seeks too much freedom to build commercial space, vs residential space!

So I will register my strong objection to the current design and ask that it be replaced by one that is integrated with the rest of Mission Bay. Otherwise it is an enclave, and yet it will impact dramatically the rest of Mission bay, from traffic flow, to blocked views, to unnecessary parking.

Ralph Anavy

420 Mission Bay Blvd N  
Unit # 1503  
SF, CA 94158

415 647-8093

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**From:** rrraphy@aol.com  
**Sent:** Thursday, January 30, 2014 3:51 PM  
**To:** Sheyner, Tania  
**Subject:** Seawall lot 337 & pier 48 Mixed-Use project, (case # 2013.0208E) EIR

San Francisco Planning Department  
1650 Mission Street, suite 400  
San Francisco, CA 94104

January 30, 2014

emailed to Tania Sheyner  
By mail to Sarah B. Jones

**Comments relative to traffic flow and traffic congestion caused by the current project  
Seawall lot 337 & pier 48 Mixed-Use project, (case # 2013.0208E) EIR**

The issue of traffic flow and parking are extremely poorly conceived.

First the Parking structure. This is meant to serve the Giants, but they pledged no commuter parking, and a transit first policy when they got approval to the stadium. As a parking for the buildings of the project, it is also ill conceived, as impractical for residents, by being too remote. Same applies to Parking for Tower G (a bad idea in itself). It is out of scale with the commercial needs proposed, given public transit nearby.

If the developer wants to incorporate some parking structures into the design, height, location and size of such structures are critical.

They should not provide a wall to the neighborhood, as the current plan offers. This huge facility should be broken up into 2, or better yet 3 separate facilities, with manageable traffic flow in and out spread across the area, and not jammed at one end. Better yet, consider incorporating all parking into the building structures, under the green spaces, and even under the roadways!

They should be scaled down to serve the local needs of the (down sized) project, not as a parking facility for the stadium nearby.

The plan should be integrate with the rest of Mission bay, not separate itself from it. Critical choke points for traffic have already been document by the SF waterfront traffic studies.

Bottlenecks on 3rd and 4th as well as on Mariposa Street and 16th Streets are already well documented. They are already considered critical. A new UCSF hospital complex will add to the current burden.

And yet, the proposed project creates an enclave, with limited through traffic, roads that dead end either internally or into blocked intersections (like for Bosque and exposition streets, on 3rd Street which has a blocked center lane). Add a huge additional commuter parking lot (2300 cars!..why more commuter parking here, when the T line and the train station are near by), and no solution to what is essentially a traffic nightmare, an "island" feeding all traffic into the existing overtaxed road system.

The only streets within the area feeding in and out are Terry Francois, and Third street. Bosque dead ends on 3rd. Vans dead ends. Vara dead ends. Exposition butts on third, and Mission Rock as well.

It is all wrong from a traffic stand point. Current proposed density is not considering this, unless a new escape route (another bridge from Terry Francois to the Embarcadero ) alleviates it, and this is unlikely, and even undesirable. There are no other avenues to the traffic congestion than reducing the scope of the project.

So I recommend **down-scaling the development, and designing a better roadway and distributed parking approach**, which roads that allow the added traffic burden to be absorbed in the already over-taxed road system in place, or the addition of a new road system (bridge or tunnel) from Terry Francois across the waterway channel North.

Ralph Anavy  
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San Francisco, CA 94158

415 647-8093

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**From:** rrraphy@aol.com  
**Sent:** Thursday, January 30, 2014 5:03 PM  
**To:** Sheyner, Tania  
**Subject:** Seawall lot 337 & pier 48 Mixed-Use project, (case # 2013.0208E) EIR , memo 3

San Francisco Planning Department  
1650 Mission Street, suite 400  
San Francisco, CA 94104

January 30, 2014

emailed to Tania Sheyner  
By mail to Sarah B. Jones

**Comments relative to Residential/Commercial Mix and the Open Space for the current project  
Seawall lot 337 & pier 48 Mixed-Use project, (case # 2013.0208E) EIR**

The scale of the lot 337 development is in total conflict to the character of the rest of Mission Bay, which is uncalled for, especially on public Port land belonging to SF.

Look at the plans (Buildings H, I, J) on the water side, on the south east side...a row of over-sized buildings fronting the bay, that could be anything, Commercial, Residential or mixed, whatever they want.

Too tall, too much freedom, to design a traffic and density coherent project. This ought to be fixed in the design of the project before authorization. Too much latitude to "to stick it to us later".

Worse yet, a wall of 160 and 190 feet buildings on the waterfront is unconscionable! (include Building K as well). All waterfront buildings should top under 90 feet, with set backs.

The current plans create shading virtually all the way to the water. There is no continuation of a green belt all around the water front. And no road way exit around the North end, to facilitate traffic flow.

If you want to preserve a park and promenade at the North end, bury a road underneath, which will provide some additional traffic flow in and out!

It is a bad idea to design a wall of tall buildings on the periphery of the bay, especially since the issue of traffic and parking are so poorly conceived, and SF voters have already indicated their opposition to a walled waterfront.

The Mission bay concept of "Taller near the freeway shorter near the water" and keeping some open vistas towards the water for all should not be suddenly waved. There should be no skyscrapers South of the China Basin Channel. Also, buildings A, F, G and K will cast shadows on the current water front promenade and China Basin park as they sit due South of it!

Also, why is G a proposed commercial tower building? This has some of the best views of the bay, and should be zoned residential, and brought to the scale of the rest of Mission Bay. Try to stay within the primary use concept of MB: 100% residential, under 100 ft tall, to the North of Mission bay Blvd, to the China Basin channel, except for limited approved use (parking, hotel, safety building, school) or height variation (under 160ft).

Noted before, the project is out of sink with the rest of MB. Design should integrate with the rest not separate itself from. Mission Rock Square is the perfect demonstration of this enclave mentality. It is blocked on all sides by tall buildings, it has no through road access, as most streets there will dead end.

I suggest removing it from this location, putting a moderate height parking structure (or building) in its place, and replacing the "lost" green space by spreading it in a more significant open space pathway along the waterfront promenade to the east of Buildings H, I, J, K, in order to continue a meaningful greenbelt all the way around the pier 48/pier 50 water frontage, and along Terry Francois. Keep it unbroken, all the way to pier 70. (look at Mission Creek park, and continue it around Lot 337).

Splitting the proposed Parking structure D, into 2 becomes now possible (it is already desirable). Part of D could now also be an open space, serving the new SF Safety building on Mission Rock. and it is not sitting in shadows. Put the other parking where the Mission Rock square is, or put parking under the proposed streets, and China Basin park!  
Building height: The rest of MB is at a max of ~80-160 ft or 8-16th stories. Conform to the rest and to the SF waterfront plan (no exception), which thus help reduce the shadows on all the open spaces. Shadows, as currently designed impact all parks, and most significantly Mission Rock Square which is walled in.

From a Mission bay building height design viewpoint, many buildings, and buildings A and F in particular, don't belong. they also don't belong on the water front at 320-380 feet in height (G and K are also too tall for water front buildings).

I recommend a significant downsizing to the whole project, freeing all open space from shadows, and maintaining a green belt around the waterfront. From an EIR standpoint, the current plans are untenable.

Ralph Anavy  
420 Mission Bay Blvd. N.  
#1503  
SF CA 94158

415 647-8093

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**From:** s b <slb36333@yahoo.com>  
**Sent:** Friday, January 31, 2014 3:25 PM  
**To:** Sheyner, Tania  
**Subject:** Comments for the Seawall Lot 337 and Pier 48 Mixed-Use project, for the EIR (Environmental Impact Report)

Dear San Francisco Planning Department:

I am writing regarding the environmental impact for Seawall Lot 337 and Pier 48 Mixed-Use project.

In evaluation of the plan, please consider the following items:

- With the closure of Terry Francois at Third, the proposed traffic flow will be onto streets currently designated as low traffic areas. The day-to-day traffic will put a tremendous burden on Terry Francois and Mission Rock Street. The loss of access to Third Street with the reconfigured Terry Francois will further add burden to these streets as they now need to accommodate the added traffic to Pier 48 and the existing traffic to Pier 50 as well.

Additionally, this could increase the traffic through the easement between Mission Bay Blvd North and China Basin Street.

It should be noted also that emergency vehicles leaving the Public Safety Building will exit onto Mission Rock, further adding to the traffic demand on Mission Rock. With potential increase congestion in the area as there will be only one route out of the area, delay of emergency vehicles should be evaluated.

- The proposed design is still too vague as to the type use intended for the buildings. The impact on local resources could differ significantly. The issues surrounding parking and traffic flow do not appear to have been thought through.
- There is limited public transportation currently to support the growing area and with an influx that could double the neighborhoods population this should be evaluated as well. Furthermore, the new plan reduces available street parking significantly.
- Although this is Port land for development why would the City of San Francisco exempt them from the height restrictions required elsewhere.

Thank you,

Stephani Berger  
[slb36333@yahoo.com](mailto:slb36333@yahoo.com)

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**From:** Bill Brase <willib2004@comcast.net>  
**Sent:** Thursday, January 30, 2014 4:45 PM  
**To:** Sheyner, Tania  
**Subject:** COMMENTS TO MEETING OF JANUARY 13, 2014, FOR SEAWALL LOT 337 AND PIER 48  
**Attachments:** Comments to SWL337 of 1 13 14.docx; Bill B view parking struct.pdf

Tania,

Thank you for this opportunity,

Comments and photo attached.

Bill Brase

**COMMENTS TO MEETING OF JANUARY 13, 2014, FOR SEAWALL LOT 337 AND PIER 48, Mixed-use project EIR – Notice of Availability and Notice of Preparation**

1. **Building Heights and Residences.** The Project Sponsors have previously attempted to convince us that lower, squat buildings would not be as attractive as thinner, taller buildings, and that the taller ones would provide more open space. In the current plans the buildings look as though they are not thinner but just taller and as blocky, taking up the same square footage on SWL 337. The advantage appears to be to the builder sponsors; more revenue. See 2 below, Parcel D is very blocky and squat. This especially, and the project in general, also turns its back on its neighbors in South Mission Bay where the only condos (as opposed to rental units) will be looking out on an ugly parking garage. While tall slim buildings can be attractive, I would like to see how, or if there will be limits to the horizontals and specifically how much open space is added, if any. As the neighborhood surrounding this project is zoned residential, we would like to see residential maximized over commercial.

The lack of little to no (non- commercial) waterfront activity and/or water views along the eastern periphery of the project and south from Pier 48, would strongly indicate much lowered height limits should be mandatory along the waterfront to the east and much staggered building height design throughout. EIR approvals and neighborhood and other city residents would look more positively on the project if these details were addressed and or scoped more modestly.

2. **Parking Garage, Parcel D.** I've attached a projection of the parking garage as seen from our building south of SWL 337. I had understood that Block 20 (see 3 below) was to provide a buffer of greenery between the parking garage and the neighbors to the south and pedestrians. Incorporation of Block 20 into the Project allows the Sponsor more (building) space but appears that it will be an eyesore to the neighbors.

Hopefully much can be done to make this parking garage attractive as has been discussed in earlier meetings. If the Sponsor can underground parking in the plaza as stated previously, why not underground part of this massive, bulky structure?

3. **Block P20, the twenty foot wide strip** from Terry A. Francois Blvd. to 3<sup>rd</sup> St. I propose this Block 20 remain with Mission Bay Development Group to become and remain a green strip as part of Mission Bay.

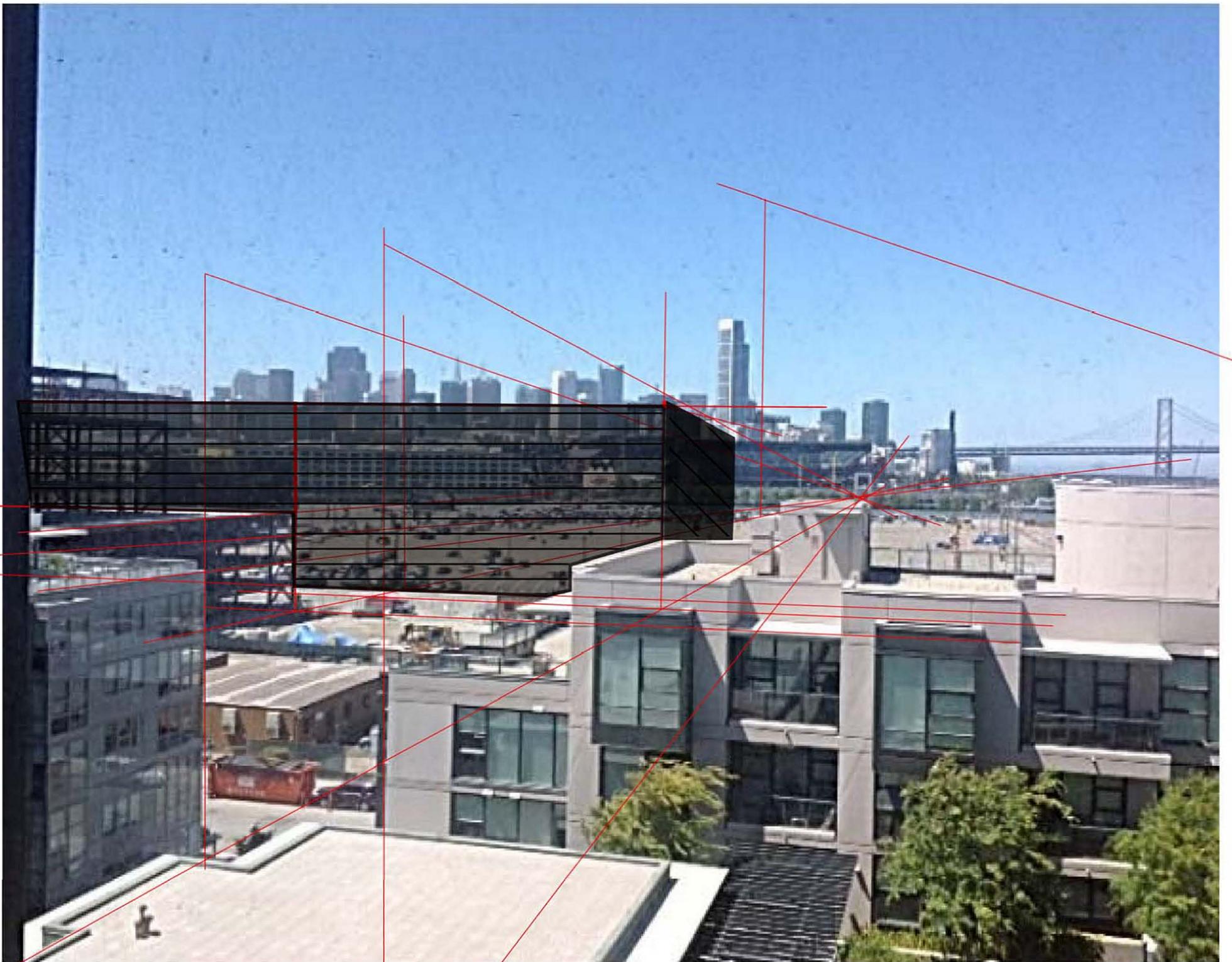
4. **Street widths** (within the project) **and Terry A. Francois Blvd.** (the latter from Mission Rock St. to the north.) Already the streets in the Project have been designed to be very narrow and TAFD is now projected to be narrowed. Narrow streets have proven to be a constant problem in Mission Bay north of the creek. Are the narrow streets meant for the economic benefit of the Project Sponsors or to the benefit of the neighbors and city residents? The answer seems to be the former. What's wrong with a wide open space for people to stroll along the water front? After all TAFB really is an extension of the Embarcadero to the south, but being treated poorly.

China Basin St. will have parking garage entry/egress, and the Fire station will have emergency vehicles coming and going. Yet the street is currently being narrowed to three lanes. How is this being addressed by the Project?.

5. **Pier 48.** Through all the previous presentation of the project from 2009 until now, I had understood that this large pier would have public space and possibly restaurants, food markets and the like, with open space to the public. Suddenly a contract has been let to bring in Anchor Steam. There was no public comment or discussion. I'm concerned also about the probable pollution from the smoke stacks and more truck traffic through the neighborhood. Granted this is part of the port, but I thought, that as this ties in with the greater project, we could have a more neighborhood and visitor friendly space.
6. **Transportation.** There is not now, or forecasted, enough public transportation for a neighborhood touted as public transit first. There is no budget in the city, and none is foreseen for more transport.

H. William Brase  
Resident Radiance  
330 Mission Bay Blvd North, #803  
San Francisco 94158

attach: Projection of Parking Garage



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**From:** Jackson Fahnestock <fahnestk@sbcglobal.net>  
**Sent:** Tuesday, January 14, 2014 11:23 AM  
**To:** Sheyner, Tania  
**Subject:** Comments on Seawall Lot 337  
**Attachments:** Comments on NOP\_1\_11\_14.odt

Re: Comments on Seawall Lot 337 & Pier 48 Case No. 2013.0208E

Hello Tania,

Please find attached my comments on the above-listed project. I have also forwarded, by mail, a copy of this to Sarah Jones. Thank you for your efforts on this.

Regards,

Jackson Fahnestock  
[fahnestk@sbcglobal.net](mailto:fahnestk@sbcglobal.net)  
January 14, 2014

Comments on NOP Document for  
Development of Seawall Lot 337 and Pier 48  
Case No. 2013.0208E

January 14, 2014

To: Sarah B. Jones  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission St. Suite 400  
San Francisco, CA 94103

To the Project Sponsor and Associated Agencies:

First, as a nearby owner-resident at the Radiance in Mission Bay for the past four-and-a-half years I'm quite excited to finally see Seawall Lot 337 advancing. As an architect and urban planner (now retired) I have worked on several projects of this scale in this country and abroad. I know how complex and daunting they can be. I want to commend the sponsor and its associated team. From what I've seen to date the designers have drawn up an imaginative and fundamentally workable plan.

Having said that, I do have some concerns. I will address them by category.

**Residential.** From what I can tell there is a fragile commitment to the residential component. There is no stated minimum for one thing. The range of 500 to 1,500 simply implies to me that there could be, at the least, 500 units built. At a recent meeting of the Mission Bay Community Advisory Committee there was a vague mention of a 650-unit minimum but this number is not in the Project document issued for the NOP. Depending on the size of the units this amount could possibly be reached in one 30-story building—or certainly in two buildings of modest size. Even 1,500 units seems low based on the critical housing shortage we face here in the city and the attractive nature of the site. The scope of this commitment, I feel, needs to be reopened.

**Commercial.** Understandably commercial uses will bring more return to the bottom line. The deck is stacked for an office park as a result. Again, going back to the ranges, we could end up with 750,000 gsf of residential and 1.6M gsf of commercial. In fact, with the “flexible blocks H, I, & J, there could be up to 7 of the 11 parcels going commercial. The last thing we need in Mission Bay is more lifeless buildings at night and on weekends. Again, one of the big problems with the recent planning of Mission Bay is the stratification of uses in rigid zones. This is our last chance to get a vibrant mix.

**Retail.** Location, location, location. There should be a specific minimum target of neighborhood-serving retail. 150,000 gsf of retail is a bare minimum target especially when terms such as “community spaces, building lobbies, and entertainment venues” are included. Really? There needs to be some reasonable amount of on-street short term parking for these uses as well. When I think of the shopping districts I prefer (besides downtown) I think of Fillmore, Union, and Chestnut Streets. Yes, all congested with fun small shops, people, and traffic—genuine slices of urbanity. I do think the “Shared Public Way” concept is a good one but if it's mostly pedestrian there has to be a strong commitment on restrictions--possibly with keyed bollards for certain restricted access privileges.

**3<sup>rd</sup> Street.** Third Street has become the unwanted orphan in this area. For some reason no one has

looked at the the street from at least the ballpark to Dogpatch. This is a major movement corridor and, unfortunately it has become more of a lifeless highway than a city street. I would encourage a far greater emphasis on retail along this corridor. We need to work to get the T-line a safe, convenient means of transit; one way is to put transit-friendly uses along the ground floors on 3rd. The bike lanes have been addressed inside the Mission Rock development site but 3<sup>rd</sup> Street has been left out. If the bikes don't have a place on 3<sup>rd</sup> they will use it anyway, causing risks to all users of the street.

**Transportation.** There's an appalling lack of mention of how the Mission Rock site is connected to the city's transportation network – and I'm not just speaking of shuttle buses. Mission Bay has still not been properly integrated into this bigger framework and the signs to date are not encouraging. The current TEP has major gaps in this regard. The attractions in the Mission Rock development will make it imperative that an innovative transportation strategy be developed – not just garages and bike lanes.

**Pier 48.** Wow! This part of the development could amount to 6-to-10 percent of the overall gross square footage of the project. It seems like--as much as I think the Anchor Steam's adaptive reuse of Pier 48 is a good one--the scope definition on these sheds is too loose. Since it's slated for the first phase there should be a rigorous refining and disclosure of the program elements here. This should include a significant infusion of public purpose areas, i.e., galleries, artist studios and the like.

**Heights.** In the massing studies done to date I have a reasonable confidence that there is a built-in flexibility in the ranges – with variety and interest. I have no problem in having heights that give us a proper density, without which we are throwing away the potential of one of the most exciting neighborhoods in the city. Please, give us some relief from the aircraft-carrier-looking roof planes to date in Mission Bay. There are looming challenges to restrain building heights at the so-called waterfront. But the buildings in question here are not at the water's edge. And, I can think of many low-scale buildings in the northern waterfront that are simply atrocious and should be ripped out. And, there is a wall of bulkhead structures toward the north that completely blocks our views and access. Their historic status is certainly warranted but should not continue to block out public access and views to the waterfront.

Everyone likes to have views of the skyline but many don't want to live next to a high rise themselves. Everyone wants to have views of the Bay and the bridges. But we never got guarantees in our deeds or leases that the status quo is a god-given right. Yes, I feel that its important to retain views as much as possible. But cities are organic. I believe most people regard Vancouver as a very liveable and attractive city. I invite you to look up images of that city with their slender towers that border generous open spaces and yes, some even edge toward the water. We can't afford to let political power plays and large donors dictate how our urban form is generated.

**China Basin Park.** There has been a good deal already discussed about providing a park management plan that allows programmed uses to augment more open and free-functioning spaces. I always point to Bryant Park in New York City as one that has done an amazingly good job in keeping standards of design, maintenance, and security at the highest levels. They have inventive separations between adult and children spaces as well as active and passive zones.

**Parking Garage.** Because it is slated for early development it is critical that the designs become more definitive and become available for community review. Parking garages can be well designed and good neighbors. The allocation of commercial and retail in this facility has not been adequately described to date as to placement and nature.

In closing, I encourage the Project Sponsor and associated agencies to use the scoping and EIR periods to continue their due diligence in addressing those issues I mention. Many of these are not formula driven so they will involve a fundamental dialogue at the 30,000-foot level. While expedition is undoubtedly in order there are some things that must be given a stronger scrutiny before the opportunity slips away in the press of finalizing the entitlements.

Again, thanks to the Project Team for your amazing efforts to date and for the opportunity to contribute these comments.

Jackson Fahnestock,  
330 Mission Bay Blvd. North, San Francisco, CA  
fahnestk@sbcglobal.net

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**From:** Diana Frazier <dianahfrazier@gmail.com>  
**Sent:** Wednesday, January 29, 2014 12:46 PM  
**To:** Sheyner, Tania  
**Subject:** Mission Bay Development plan. Development minded resident has concerns....

Dear Planning Board.

I love San Francisco: I am business founder that has benefitted from the San Francisco ecosystem, a condo owner in Mission Bay, my son and family live here, and own a business as well. I know of and read the recent NYTimes article on the housing crunch in San Francisco's precious 7 square miles. I am not a NIMBY and appreciate development as an engine of growth. I also understand the trade offs between taller buildings leaving more green space and vice versa.

However....I have to voice my concerns. The current plan I have seen is very preliminary, and I would think it is easier to impact now, rather than a year from now when more finalized versions are issued.

First concern...what about traffic patterns, congestion and parking? The plans I see do not appear to have been well thought out, but rather the plan is a wish list for developers wanting to sell units. In fact their plans DO not seem to address crucial transportation issues at all.

Second concern is one of preserving the very unique views of the Bridges and East Bay...the original concept of the Mission Bay neighborhood....for all to enjoy. Aren't there enough very high skyscrapers already on the other side of the Channel that can satisfy those who need and want to pay for an unobstructed luxury view and live that very different lifestyle? Design that creates a walled enclave divides not unites the Mission Bay/China Bay neighborhood. Keep skyscrapers on the other side of the China Basin Channel, or near the freeways and adhere to the longstanding SF waterfront goals, as well as the Mission Bay plan that required gradually lower heights towards the water.

We have the opportunity to make this growing area something special not just another congested metropolitan. Lets keep that in mind as we refine these plans and find the perfect compromise.

Diana Frazier

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**From:** Dennis Hong <dennisj.gov88@yahoo.com>  
**Sent:** Friday, December 13, 2013 8:15 AM  
**To:** Sheyner, Tania  
**Cc:** Chiu, David; Kim, Jane  
**Subject:** DEIR-NOA 2013.0208E - Pier 48/Seawall #337

Dennis J. Hong  
101 Marietta Drive San Francisco, CA. 94127-1841  
415.239.5867  
December 13, 2013

San Francisco Planning Department  
Atten: Miss Tania Sheyner, Lead Planner  
1650 Mission Street, Suite 400 San Francisco, CA. 94103  
Subject: DEIR/NOA 2013.0208E / Pier48/Seawall #337

Good morning Miss Sheyner,  
I'm in receipt of an email notice that this Document is ready.  
It was suggested we contact you directly. I'm doing several studies in various areas of the City, including the Citizens Advisory Board for the Central Market Street and the Tenderloin Areas, with the Board of Supervisors and the Mayors Office.  
Miss. Sheyner both hard copy and CD's for this Project can be sent to the above address. If convenient I can pick them up at 1650 Mission on the 4<sup>th</sup> floor. At present we do not have the ability to download this document. Please let me know which is most convenient. We would like to be on the distribution list for this Project.

My Email is: [dennisj.gov88@yahoo.com](mailto:dennisj.gov88@yahoo.com)

Regards,  
Dennis Hong

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**From:** Al Kwok <alkwok88@gmail.com>  
**Sent:** Thursday, January 30, 2014 2:12 PM  
**To:** Sheyner, Tania  
**Subject:** Comment on "Seawall Lot 337 and Pier 48 Mixed-Use Project Case Y#2013.0208E"

To Tania Sheyner, EIR coordinator

I am writing to express two of my concerns on the proposed project.

(1) Traffic. The proposed reconfiguration of Terry A Francois Boulevard by the elimination of the connection to Third Street will increase the traffic flow into the neighborhood streets. The added truck traffic to Pier 48, plus the existing traffic to Pier 50 will no longer be able to exit from Terry Francois westward directly to Third Street. Adding to this truck traffic will be the day-to-day traffic from the commercial/retail/residential buildings from the proposed parking structure (parcel D). This traffic will utilize Mission Rock Street and potentially other neighborhood streets and I have the following concerns:

- a. Since the entrance to the Fire Equipment at the Public Safety Building (PSB) is from Mission Rock Street, this added truck traffic will negatively impact the flow of emergency fire equipment out of the Public Safety Building. The impact will be exacerbated on event days at the AT&T Ballpark with the additional traffic from event parking.
- b. Control for traffic going south bound on Vara Street heading towards Bridgeway Way (to which Vara Street is aligned) must be designed so that it diverts traffic away from entering Bridgeway Way. If southbound traffic from Vara Street is allowed to continue on Bridgeview Way past Mission Rock Street, it will need to make a westerly or easterly direction turn as it approaches China Basin Street. It cannot continue southbound and allowed to enter into the private easement area between the Madrone Residences and the Radianc Residences, as this area serves as the entrances to the parking garages for these two communities. Furthermore, since the entrance to the garage in the PSB is on China Basin Street, any added westbound traffic originating from the parking structure D will create congestion around this entrance used by police vehicles in and out of the PSB.

The design proposal must clear state specific traffic control designs to minimize this impact to an acceptable level.

(2) Height of the buildings. The height of all the structures are tall and are generally not in keeping with the rest of Mission Bay. In addition, structures in parcels J, I, H are higher than K, A, and B, giving the project area the feel of having a "wall" right by the waters edge. The height of these 3 structures (J,I,H) creates huge shadow along the water front on Terry Francois, adds population density to the project area, and increases traffic to an area with limited solutions to traffic control.

The design proposal must consider the maximum height of the various structures to be in keeping with the overall look of the other buildings in the Mission Bay Area.

Respectfully submitted,

Alfred Kwok

435 China Basin Street #633

San Francisco, CA 94158

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**From:** Mathilde Pignol <mathildepignol@gmail.com>  
**Sent:** Friday, January 31, 2014 11:12 AM  
**To:** Sheyner, Tania  
**Subject:** Comment on Seawall Lot 337 and Pier 48 Mixed-Use Project - Case # 2013.0208E

Hello Mrs Sheyner,

I am writing to express my deep concern with the proposed plan for Seawall Lot 337 and Pier 48 development. First of all let me say that I think it's great that the project is under review and a mixed use development seems like the right approach. My concern is more on the heights of the proposed buildings, in particular residential areas labeled F and A.

After having rented at the Infinity at 301 Main St, I chose to purchase a condo at the Madrone because of the comparative neighborhood feel of Mission Bay. One of the big differences between Mission Bay and SOMA is the height restriction of the buildings. I am very concerned that the proposal would have buildings go much higher than the 16 stories of the Madrone (which is the maximum height for all of Mission Bay.) I feel this would very negatively impact both the neighborhood feel of the area as well as the value of my particular unit. My unit is North facing and the view is its greatest feature, having a tall tower blocking the view will result in a drop in the value of my property.

Thank you for taking my comments into consideration as the project goes into review.

Mathilde Pignol  
Owner at the Madrone  
480 Mission Bay Blvd North Unit 1605  
San Francisco CA 94158  
650-380-6619

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**From:** Tom Robinson <Tom.Robinson@stanford.edu>  
**Sent:** Sunday, January 26, 2014 9:20 PM  
**To:** Sheyner, Tania  
**Subject:** Seawall Lot 337 and pier 48 EIR

Dear Ms. Sheyner,

I write as a resident of Mission Bay with my concerns about the proposed development plans for seawall lot 337 and pier 48. I am quite alarmed at the potential implications on health and quality of life, including air quality and traffic congestion, from such a massive development and the loss of public space along the Bay. Some of my main concerns are as follows:

First, the plans falsely claim to add substantial green space and access to the Bay while, in fact, the amount of green space is minimal (and exaggerated in the illustrations by visual illusions from the perspectives used). The dense buildings, and resulting shade and chill from blocking out the sunshine, will create a major physical and psychological barrier to public access to the bay shore on the north and east. At the very least the size of the green space in the plans along McCovey Cove to the north should be doubled or more. This should continue along piers 48 and 50. These are public lands and should be reserved for public use and recreation. Most optimal is to revert to the plan to make the entire Seawall 337 area into green space park for use of the public. I hope that will be considered as a superior alternative.

Second, if development does go forward in the Seawall 337 lot (versus a public park as suggested above) the proposed building heights are grossly out of proportion to everything else in Mission Bay and do not follow the usual pattern of lower building heights as they approach the Bay. It is my understanding that Mission Bay has a height restriction. The tallest buildings should be no taller than the other buildings in Mission Bay and should be required to further reduce in height as they approach the bay on the north and east, so as to be no taller than the existing buildings on the piers. As noted above, the proposed building heights will block the sun and make bay access along the north and east terribly inhospitable. A wall of tall buildings adjacent to the bay does not serve the interests of the public in any conceivable way.

Third, the proposed development adds tremendous congestion to an already overtaxed transportation infrastructure. Even without the Seawall project, the forthcoming UCSF hospitals and research campus will overwhelm the streets of the Mission Bay area and access to the 280 freeway and access to the Bay Bridge through south beach. Third, Fourth and Terry Francios will become gridlocked parking lots, spewing pollutants into the air and into the runoff to the bay. Even now, with only a small fraction of Mission Bay development completed, this is already the case with third street during the morning and afternoon commute times. Adding the dense proposed Seawall Lot 337 development on top of this will make congestion unbearable.

In sum. The proposed seawall lot 337 development appears to be a huge giveaway of public lands to private developers with minimal potential public benefits and great public costs. The best use of Seawall lot 337 to promote the health and quality of life of San Franciscans and our local environmental sustainability is to make it entirely into a green public park and recreation area, to preserve this public access to the Bay. However, if development is inevitable it should, at a minimum, double or more the proposed green space along the north and east, and building heights should be no taller than the rest of Mission Bay and slope (grow shorter) as they approach the bay. Finally, both transportation infrastructure needs to be drastically improved and the size of the development needs to be drastically shrunk to prevent the terrible congestion that will inevitably occur with any additional development in this area.

Thank you for considering my comments.

Thomas Robinson  
San Francisco Resident  
[Tom.tomr@gmail.com](mailto:Tom.tomr@gmail.com)

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**From:** Esther Stearns <estherstearns@gmail.com>  
**Sent:** Tuesday, January 28, 2014 8:27 PM  
**To:** Sheyner, Tania  
**Subject:** Comments on Seawall 337 Proposal Case No 2013.0208E

Thank you for your work on the EIR for Giants Parking Lot A. As a resident of the Madrone, I am sorry I missed the meeting. I have reviewed the plan and hope to attend future meetings. It is my understanding that I should simply email you my comments. If there is some other process I should use, please let me know.

I own a Madrone unit where I live with partner and our three young teen agers.

My comments

- 1) Building height, of course, is an important but not the only issue. As proposed the buildings seem quite oversized for the area. The two 30+ story towers seem way out of proportion particularly.
- 2) I see the proposed pedestrian path over the Lefty O'Doul Bridge but I do not think that will mitigate safety and volume issues. That bridge is closed in one direction for all home games. How will that work for all the office workers? Have you considered a separate bike pedestrian "fly over" bridge linking the new park with the rear of AT&T park
- 3) Mix of commercial seems much higher than I expected or than is good for neighborhood. I think that commercial should not be more than 25% of the space
- 4) I thought that there was going to be an innovative transit center. That is what we heard at SFMTA meeting. Looks like just parking to me. Where is the new thinking?
- 5) I do not understand the inclusion of lot P20. Do the Giants own it?
- 6) This would be a great project to pioneer a new plan for homeless in the parks. As a parent I can say that mentally ill and drug addicted homeless in city parks render them all but useless. Can a more compassionate outreach meet their needs better?
- 7) What is the plan for affordable housing and schools?
- 8) Mission Rock should be bigger than 1.3 acres
- 9) Priority should be give in the timeline to developing open spaces earlier
- 10) What is the plan for resident parking which is already a conflict with the park? Having dinner guests is impossible due to limitations
- 11) What are the rules regarding noise. With more residents there will be more noise conflict.
- 12) In my humble opinion, the theme of the entire retail development should be a tribute to science and spirit. I have a whole idea. Glad to discuss

Thank you again. I look forward to future meetings. Is there anything more I should do to submit these ideas

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Best Wishes, Esther Stearns  
420 Mission Bay Blvd North  
Unit 1601  
San Francisco, CA 94158

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**From:** Jan Stearns <jancohNSTEARNS@aol.com>  
**Sent:** Friday, January 31, 2014 9:27 AM  
**To:** Sheyner, Tania  
**Subject:** EIR Seawall 337

Hello

I live in the Madrone building in Mission Bay.  
I have a few concerns and comments:

I think the building heights are too tall. A building height of 8 stories would be acceptable

I am very concerned about the bottleneck at 3rd street and mission creek. Will there be a fly over bridge for bikes and pedestrians? How will the traffic flow be streamlined?

I also worry about cars needing to go south. I think too many cars will cut thru the driveway for Madrone and Strata.

Lastly where is the plan for a transit center. I believe Mission Bay is a transit first community.

Thank you for the opportunity to add my comments to the public dialogue.

Jan

Sent from my iPhone

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**From:** N.L.Ushman <nlushman@usa.net>  
**Sent:** Friday, January 31, 2014 4:22 PM  
**To:** Sheyner, Tania  
**Subject:** Seawall Lot 337 EIR  
**Attachments:** EIR - Seawall Lot 337.doc

Tania,

I have attached my comments regarding the scope of the Seawall Lot 337 EIR.

Neal Ushman

Comments regarding the scope of the Seawall Lot 337  
Environmental Impact Report

For the following reasons, I would like to ensure that the Environmental Impact Report (EIR) for the Seawall Lot 337 project adequately address the transportation and parking issues raised by the project:

Current situation:

As of the end of January, 2014, the Mission Bay area adjacent to Seawall Lot 337 area contains three housing complexes containing 620 units (Radiance: 99, Madrone: 329, Strata: 192).

The main way to access downtown San Francisco from Mission Bay are 3<sup>rd</sup> Street and 4<sup>th</sup> Street, with Terry A Francois Blvd. providing an alternative route from Mariposa St. to 3<sup>rd</sup> Street at the Lefty O'Doul Bridge. 4<sup>th</sup> Street is approximately 45 feet wide, with various configurations (most commonly on-street parallel parking, a bike lane and one lane of traffic in each direction). 3<sup>rd</sup> Street is approximately 84 feet wide with various configurations; the most common being two lanes of traffic in each direction with the Muni T line tracks in the middle. There is no on-street parking or bike lanes. Terry A. Francois Blvd. is generally two lanes in each direction, with parallel parking and a bike lane in each direction. These streets provide access to parking for the Giants games, as well as an alternative route into the City from the freeway at Mariposa St.

There are four parking areas, containing approximately 3,214 spaces (which includes approximately 48 handicapped spaces and 4 for electric vehicles.) This physical count only included marked spaces. Lot D contains an unpaved area that holds approximately 300 + vehicles. (This gives an approximate total of 3,500 spaces available.) All of these spaces are used whenever there is a Giants game.

Future Situation:

Within the next two years, UCSF will be opening its new hospital. The Public Safety Building will open. In addition, according to an article in SF.Curbed.com ("Mission Bay's Mega Projects in Handy Map Form") six new complexes (Arden, Sol, Mercy, Channel, Venue, and MB360) will open creating approximately 1,500 new housing units. This does not include approximately 350 units built as part of the proposed 250 unit hotel, or the approximately 70 units built as part of UCSF's housing for families with children in the UCSF Medical Center. Also, Kaiser Permanente is planning on building a medical center with 246,000 square feet of space, and Mission Bay Block 40 will add 995,000 square feet of office space. All of this increase will utilize 3<sup>rd</sup> and 4<sup>th</sup> Streets to a greater or lesser extent.

Lots B, C, and D will be developed, eliminating approximately 1,200 of the 3,200 existing parking spaces.

#### Seawall 337 Plans:

On top of all this development, the Seawall 337 plans include between 500 – 1,500 housing units and between 1.25 million to 1.6 million square feet of commercial space. In addition, 3,100 parking spaces would be provided (“2,300 spaces within the parking structure; 700 spaces in underground or enclosed areas within the commercial and residential buildings; and 100 on-street spaces along the internal streets.”)

#### Discussion:

Based on the above, (without considering the loss of Lots B, C, and D to already-planned development) the Seawall 337 plans will result in a net LOSS of approximately 400 parking spaces, at a time when parking will get tighter in this area. In general, parking for visitors and others around Madrone and Radiance is difficult, and there is no reason to assume that, in general, parking in the Mission Bay neighborhood will not get worse as other housing, medical, public, and commercial complexes open up. (Currently, when there is a Giants game, on-street parking is practically non-existent in this area.) Since, presumably parking will have to be provided for the 500 – 1,500 housing units being planned, as well as for the commercial tenants, where are the fans for the Giants games going to park? Presumably, this was addressed in the EIR prepared for the AT&T Stadium. (The 49ers had to rent space at a golf course for parking for Monday Night Football games, because the commercial offices they had rented spaces from had to provide parking for their employees first. There is no golf course that can be used as a back-up by the Giants.)

Also, the proposal indicates that the east side 3<sup>rd</sup> Street will be reconfigured, with new and improved sidewalks, curbs, gutters, on-street parking, and a bicycle lane provided. What is going to be displaced for these improvements? And what impact will these improvements have on 3<sup>rd</sup> Street south of Mission Rock Street?

What impact will the closing of the link Terry A. Francois Blvd provides between Mariposa St. and the Lefty O’Doul have on traffic? I would hope that a traffic study of the traffic patterns on these three streets (3<sup>rd</sup> Street, 4<sup>th</sup> Street, and Terry A. Francois Blvd) would be performed now, as a baseline before any new construction in process is completed. Such a study should look at pattern both during the “off-season”, and when there is a Giants game. In the year and a half I have lived in Mission Bay, I have not seen any such study done.

I have not addressed the public transportation issue, but that also needs to be addressed. Currently, only the T-line serves the area south of McCovey Cove.

In closing, I would hope that for the above reasons, the final EIR for the Seawall 337 Project seriously evaluate the impact of this project on traffic flows and parking for the area.

[On a personal note, just because it is called “Mission Rock” does not separate it from Mission Bay (which surrounds it on three sides). Any residential or commercial development should follow the guidelines established for Mission Bay development, since presumably the development parameters were established with long-term consideration for transportation and parking. Dropping “Giant’s City” into this plan may (and probably will) destroy the environment and infrastructure that previous planning has worked so hard to achieve.]

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