3. PLANS AND POLICIES

In accordance with CEQA Guidelines Section 15125(d), Chapter 3, Plans and Policies, discusses inconsistencies between the Proposed Project and applicable local, regional, and State plans and policies. Inconsistencies with existing policy do not, in and of themselves, indicate a significant physical environmental effect within the meaning of CEQA. To the extent that adverse physical environmental impacts may result from such inconsistencies, these impacts are analyzed in this EIR in the specific topic sections in Chapter 4, Environmental Setting and Impacts. The staff reports and approval motions prepared for the decision-makers as part of the entitlements approval process will include a comprehensive project analysis and findings regarding the consistency of the Proposed Project with applicable plans, policies, and regulations independent of the environmental review process.

A. LOCAL PLANS AND POLICIES

San Francisco General Plan

The *San Francisco General Plan* (*General Plan*) is the embodiment of the City's vision for the future of San Francisco.[1] It provides general policies and objectives to guide land use decisions and contains some policies that relate to physical environmental issues. The *General Plan* comprises a series of ten elements, each of which pertains to a particular topic that applies Citywide: Air Quality, Arts, Commerce and Industry, Community Facilities, Community Safety, Environmental Protection, Housing, Recreation and Open Space, Transportation, and Urban Design. The *General Plan* also includes area plans, each of which focuses on a particular area of the City. The project site is within the geographic area covered by the *Central Waterfront Area Plan*, discussed on p. 3.2.

The Planning Department, the Zoning Administrator, the Planning Commission, the Board of Supervisors, and other City decision-makers will evaluate the Proposed Project for conformance with the objectives and policies of the *General Plan*, and will consider potential inconsistencies as part of the decision-making process. The consideration of *General Plan* objectives and policies is carried out independent of the environmental review process, as part of the decision to approve, modify, or disapprove a proposed project.

Potential conflicts with the *General Plan* Urban Design Element will be considered by the decision-makers as part of actions to approve, modify, or disapprove the Proposed Project. As discussed on pp. 1.2-1.3, Public Resources Code Section 21099 eliminates the analysis of

[1] San Francisco Planning Department website. Available online at http://www.sf-planning.org/ftp/General_Plan/index.htm. Accessed December 8, 2015.

aesthetics in the environmental review for this Proposed Project under CEQA. The topic of aesthetics may no longer be considered in determining the physical environmental effects of the Proposed Project under CEQA. Therefore, insofar as impacts resulting from the Proposed Project's conflict with the *General Plan* Urban Design Element are premised on underlying aesthetic concerns (such as impacts on visual and scenic resources, public views, urban design, and visual character and quality), such conflicts are not considered significant impacts for the purposes of CEQA under Public Resources Code Section 21099.

CENTRAL WATERFRONT AREA PLAN

The *Central Waterfront Area Plan* is one of the four plan areas covered by the *Eastern Neighborhoods Rezoning and Area Plan*, which was adopted in 2008. The Eastern Neighborhoods encompass much of the City's industrial zoned land and have been transitioning to other uses over the past several decades. One of the goals of the Eastern Neighborhoods planning effort was to find a balance between growth of housing and office uses and preservation of production, distribution, and repair (PDR) facilities. The *Central Waterfront Area Plan* acknowledges recent changes in the land use character in the vicinity of the project site within the northern portion of the *Central Waterfront Area Plan*.

> Portions of the Central Waterfront have been transitioning from PDR to a more mixed-use character. This has been particularly the case in the northern portion of the neighborhood, with new residential development and a small amount of new retail occurring along Third Street. In addition, life science and medical related uses are expected to desire locations close to Mission Bay in the northern portion of this neighborhood. This mix of uses in the northern portion of the neighborhood should be maintained and promoted, while the core PDR areas south of 23rd Street and east of Third Street should be protected.[2]

Although the project site is included in the geographic area covered by the *Central Waterfront Area Plan*, that plan did not revise zoning and height controls for the majority of the Pier 70 area; only heights for the western end of the project site, west of the Michigan Street alignment, were revised,[3] deferring to the Port's Pier 70 area planning process, which was ongoing when the *Central Waterfront Area Plan* was being prepared.[4] (See the discussion of the Port's *Pier 70 Preferred Master Plan* on pp. 3.7-3.9.) As described on pp. 3.3-3.4, implementation of the Proposed Project would require amendment of the existing Use Districts and Height and Bulk Districts within the project site.

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[2] City and County of San Francisco, *Central Waterfront Area Plan*, December 2008, p. 7.

[3] The Height District for the area covered by the Illinois Parcels PKN, PKS, and HDY2 was changed from 40-X to 65-X.

[4] City and County of San Francisco, *Central Waterfront Area Plan*, December 2008, p. 8. "Because the Port's Pier 70 planning process for Pier 70 is ongoing, this Plan leaves zoning and height controls for the area as-is, in recognition that the Plan may need to be amended, and zoning modified, to reflect the outcome of the Port's Pier 70 area planning process."

San Francisco Planning Code

The San Francisco Planning Code, which incorporates by reference the City's Zoning Maps, implements the *General Plan* and governs permitted uses, density, and configuration of buildings within the City. Permits to construct new buildings (or to alter or demolish existing ones) may not be issued unless (1) a project complies with the Planning Code, (2) allowable exceptions are granted pursuant to provisions of the Planning Code, or (3) amendments to the Planning Code are included as part of the Proposed Project.

The Zoning Map consists of a series of numbered maps that divide the City into geographic sections and show the locations and boundaries of zoning districts (Maps ZN01 through ZN14) and Height and Bulk Districts (Maps HT01 through HT14). Use Districts are the base zoning that prescribes which land uses are permitted and most development standards (except height and bulk). Height and Bulk Districts are mapped separately from the Use Districts and prescribe the maximum height and bulk of buildings.

USE DISTRICTS

As shown on Figure 4.B.1: Existing Use Districts in the Project Vicinity, in Section 4.B, Land Use and Land Use Planning, p. 4.B.3, the project site is zoned P (Public) in the eastern portion of the Hoedown Yard within the Illinois Parcels, and the rest of the project site is zoned M-2 (Heavy Industrial). Some of the proposed land uses within the project site (residential, commercial, and retail/arts/light-industrial [RALI][5]) are inconsistent with these existing zoning designations.

Implementation of the Proposed Project would therefore require an amendment to the Planning Code that would create a new Pier 70 Special Use District (SUD) to establish land use zoning controls for the project site. The proposed SUD would also incorporate the design standards and guidelines in the proposed *Pier 70 SUD Design for Development* document.[6] The Zoning Maps would be amended to show changes from the current zoning P (Public) and M-2 (Heavy Industrial) districts to the proposed SUD zoning.

HEIGHT AND BULK DISTRICTS

As shown on Figure 4.B.2, Existing Height and Bulk Districts in the Project Vicinity, in Section 4.B, Land Use and Land Use Planning, p. 4.B.4, the Illinois Parcels, on the westernmost portion of the project site, are currently within a 65-X Height and Bulk District. The remainder

[5] The proposed project would include market-rate and affordable residential uses, commercial use, retail, restaurant, and arts/light industrial (which are collectively referred to for the purposes of this EIR as RALI uses).

[6] The proposed *Pier 70 SUD Design for Development* document, which is included as part of the Proposed Project, would set forth the underlying vision and principles for development of the project site, and establishes standards and design guidelines to implement them.

of the project site (encompassing the 28-Acre Site and the eastern portion of the Hoedown Yard within the Illinois Parcels) is currently within a 40-X Height and Bulk District. Bulk controls (i.e., limits on horizontal building dimensions) do not apply within an "X" Bulk District.

On November 4, 2014, the San Francisco electorate approved Proposition F, a ballot measure that authorized a height increase at the 28-Acre Site from the existing 40 feet to 90 feet, except for a 100-foot-wide portion adjacent to the shoreline that would remain at 40 feet. Proposition F conditioned the proposed height increase on completion of an EIR and approval of a development plan for the 28-Acre Site by the Port Commission and the Board of Supervisors. Proposition F did not apply to the Illinois Parcels; the area along Illinois Street had already been rezoned from 40-X to 65-X Height and Bulk District under the *Central Waterfront Plan*.

Building heights under the Proposed Project are inconsistent with the existing height limits on the project site. Upon certification of this EIR and the approval of a development plan for the 28-Acre Site by the Port Commission and Board of Supervisors, the legislative amendment to the existing Planning Code height and bulk limits within the project site adopted under Proposition F would become effective, and the existing 40-X Height and Bulk District within the inland portions of the 28-Acre Site would become 90-X, a height limit increase of 50 feet (the existing height and bulk designation along a 100-foot-wide area along the shoreline would remain at 40-X). (See Figure 2.13: Proposed Height Limits Plan, in Chapter 2, Project Description, p. 2.40.) The existing 40-X Height and Bulk District of the eastern portion of the Hoedown Yard within the Illinois Parcels would be changed from 40-X to 65-X, a height limit increase of 25 feet. The existing 65-X height and bulk designation within the rest of the Illinois Parcels would remain at 65-X.

The Accountable Planning Initiative

In November 1986, the voters of San Francisco approved Proposition M, the Accountable Planning Initiative, which added Section 101.1 to the Planning Code and established eight Priority Policies. These policies are (1) preservation and enhancement of neighborhood-serving retail uses and future opportunities for resident employment in and ownership of such businesses; (2) conservation and protection of existing housing and neighborhood character to preserve the cultural and economic diversity of neighborhoods; (3) preservation and enhancement of affordable housing; (4) discouragement of commuter automobiles that impede Muni transit service or that overburden streets or neighborhood parking; (5) protection of industrial and service land uses from commercial office development and enhancement of resident employment and business ownership; (6) maximization of earthquake preparedness; (7) preservation of landmarks and historic buildings; and (8) protection of parks and open space and their access to sunlight and vistas.

Prior to issuing a permit for any demolition, conversion, or change of use, and prior to taking any action that requires a finding of consistency with the *General Plan*, the City is required to find that such project or action would be consistent with the Priority Policies. The staff reports and approval motions prepared for the decision-makers will include a comprehensive project analysis and findings regarding the consistency of the Proposed Project with the Priority Policies. The consistency of the Proposed Project with plans and policies related to environmental topics associated with the Priority Policies is discussed in Chapter 4, Environmental Setting and Impacts, of this EIR (under Sections 4.B, Land Use and Land Use Planning; 4.C, Population and Housing; 4.D, Cultural Resources; 4.E, Transportation and Circulation; 4.I, Wind and Shadow; 4.J, Recreation; and 4.N, Geology and Soils).

Port of San Francisco

WATERFRONT LAND USE PLAN

Approved in June 1997, the Port of San Francisco's *Waterfront Land Use Plan* (WLUP) is a land use policy document governing property under the jurisdiction of the Port of San Francisco, generally from Fisherman's Wharf to India Basin.[7] (See Figure 2.1: Project Location, p. 2.6, which shows the boundaries of the Waterfront Land Use Plan Area in relation to the project site.) The project site is located within the *Waterfront Plan*'s Southern Waterfront Subarea (except for the Hoedown Yard, which is not under Port jurisdiction and therefore is not covered in the WLUP). The Southern Waterfront Subarea extends from Mariposa Street, just north of the project site, south to and including India Basin.[8] The WLUP contains the following objectives for the Southern Waterfront Subarea:[9]

- Maximize the utilization of existing cargo terminal facilities.
- Pursue financing mechanisms to develop competitively priced maritime support facilities in the Southern Waterfront.
- Maximize the productivity of Port assets through interim use of property reserved for maritime expansion.
- Development of non-maritime land uses that would be beneficial to the Port and compatible with maritime activities in areas which are surplus to long-term maritime needs.
- Promote non-maritime activities in and around three historic Union Iron Works buildings to facilitate the revitalization of an area that survives as an example of San Francisco's earliest maritime industry.

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[7] City and County of San Francisco, Port of San Francisco, *Waterfront Land Use Plan*, Revised Version, 2009 (hereinafter referred to as "*Revised WLUP*"). Available online at http://www.sfport.com/index.aspx?page=294. Accessed December 6, 2016.

[8] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, Map of the Southern Waterfront Subarea, Revised Version, 2009, p. 163A.

[9] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, pp. 155-161.

- Reserve or improve areas which will provide opportunities for the protection of wildlife habitat and for passive and active recreational uses.
- Enhance the public's appreciation of the waterfront by providing greater opportunities for access in a manner which does not compromise the efficiency of maritime operations.

The WLUP reserves most of the Pier 70 area for "Existing Maritime" or "Maritime Expansion" (roughly encompassing the 28-Acre Site within the project site and also the adjacent BAE Systems Ship Repair site).[10] According to the WLUP, "Maritime Uses consist of all uses, which depend on a waterfront location to operate all their related support and ancillary services and activities," including cargo shipping, ship repair, fishing industry, recreational boating and water use, ferry and excursion boats and water taxis, passenger cruise ships, historic ships, maritime support services, temporary and ceremonial berthing, and maritime office.[11] The WLUP identifies several maritime uses as "acceptable" uses within the Maritime areas in the Southern Waterfront Subarea.

The proposed residential, commercial, RALI, parking, and open space uses, under both the Maximum Residential Scenario and the Maximum Commercial Scenario, would be inconsistent with the "Existing Maritime" or "Maritime Expansion" designations under the WLUP.[12]

In addition to addressing the Port's maritime uses, WLUP policies designate "Mixed Use Opportunity Areas" (roughly encompassing the 20th/Illinois Parcel within the project site, and also the adjacent Historic Core and the site of future Crane Cove Park).[13] The Mixed Use Opportunity Area allows for development of several non-maritime commercial uses (artists/designers, assembly and entertainment, general office, museums, retail, recreational enterprises, warehousing/storage, and wholesale trade/promotion center).

Residential use is not among the acceptable uses within the Mixed Use Opportunity Area. Therefore, the Proposed Project's residential use under both the Maximum Residential Scenario and the Maximum Commercial Scenario would be inconsistent with the existing "Mixed Use Opportunity" designation under the WLUP.[14] To the extent that the Proposed Project could be inconsistent with certain provisions of the existing WLUP, in order to approve the Proposed Project, the San Francisco Port Commission would need to approve amendments to the WLUP as necessary to ensure consistency between the Proposed Project and the amended WLUP. In

[10] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, Map A. Maritime Areas, p. 49A.
[11] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, p. 48.
[12] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, The Southern Waterfront Acceptable Land Use Table, p.162.
[13] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, Map D. Waterfront Mixed Use Opportunity Areas, p. 81A.
[14] City and County of San Francisco, Port of San Francisco, *Revised WLUP*, The Southern Waterfront Acceptable Land Use Table, p.162.

2014-2015, Port staff completed the comprehensive WLUP *1997-2014 Review Report* and have developed a public process for targeted updates to the WLUP. Draft updates to the WLUP are anticipated in the spring of 2017.

PORT OF SAN FRANCISCO PIER 70 PREFERRED MASTER PLAN

Through a community-based planning process, the Port of San Francisco, with its Central Waterfront Advisory Group and a variety of interested stakeholders, developed the *Pier 70 Preferred Master Plan (Preferred Master Plan)*, dated April 2010.[15] The *Preferred Master Plan* was endorsed by the Port Commission in May 2010.[16]

The *Preferred Master Plan* articulates the following goals to provide a policy framework to guide Pier 70's transformation:

1. Create a Pier 70 National Register Historic District and rehabilitate its extraordinary historic resources.
2. Preserve the long-term viability of the ship repair industry.
3. Create a major new shoreline open space system that extends the San Francisco Bay Trail and the Blue Greenway to and through Pier 70.
4. Promote sustainable mixed-use infill development and economic vitality that includes climate adaptation strategies appropriate to this waterfront location.
5. Provide sites for office, research, emerging technologies, light industry, commercial, cultural, and recreational uses to expand San Francisco's economic base and generate revenues to fund public benefits.
6. Promote development that is pedestrian-oriented and fosters use of alternative, sustainable transportation modes and practices.
7. Extend the City street grid to enhance public access and integrate new development with the Central Waterfront.
8. Remediate environmental contamination to enable public use and enjoyment of Pier 70 and its waterfront and improve environmental quality.[17]

The Proposed Project would further many of these primary goals of the *Preferred Master Plan*. However, the Proposed Project differs from the plan in its implementation, particularly with respect to the density envisioned for new infill construction and the amount and location of residential use under the plan.

[15] Port of San Francisco, *Pier 70 Preferred Master Plan*, April 2010 (hereinafter referred to as "*Preferred Master Plan*").
[16] Port of San Francisco Port Commission, Resolution 10-27, "Request to authorize real estate developer solicitations to implement the April 2010 Preferred Master Plan for the Pier 70," May 11, 2010.
[17] Port of San Francisco, *Preferred Master Plan*, p. 3.

Density of Infill Construction

The *Preferred Master Plan* presents a Density Study Development Program to "test the capacity of development within the parameters established by the Plan and to inform the feasibility analysis."[18] The density study assumed 2,263,630 gross square feet (gsf) of new infill construction within the general area now covered by the 28-Acre Site, and 337,744 gsf of new infill construction within the general area now covered by the 20th/Illinois Parcel.[19] The plan notes that,

> evolving market opportunities and fluctuating development cycles may require varying approaches and design solutions to achieve these Plan goals and objectives. Thus, the Plan is not "hard-wired" or overly prescriptive in specifying a development program or physical siting of new development. The implementation strategy anticipates the need for an open, collaborative relationship with private development partner(s) and the community to determine how best to balance and achieve the Plan goals and objectives.[20]

The amount of infill construction proposed within the 28-Acre Site under the Proposed Project (3,410,830 gsf under the Maximum Residential Scenario and 3,422,265 gsf under the Maximum Commercial Scenario) would exceed the amount of new infill construction assumed for the general area under the *Preferred Master Plan* (an increase of around 50 percent under either scenario).

The amount of infill construction proposed within the 20th/Illinois Parcel under the Proposed Project (approximately 499,000 gsf under the Maximum Residential Scenario and approximately 500,200 gsf under the Maximum Commercial Scenario[21]) would exceed the amount of new infill construction assumed for the general area under the *Preferred Master Plan* (an increase of around 48 percent under either scenario).

Residential Use

To facilitate the continuation of heavy industrial ship repair operations within the adjacent BAE Systems Ship Repair site, the *Preferred Master Plan* contemplated limited residential use for the project site. The *Preferred Master Plan* did not envision any residential use within the 28-Acre

[18] Port of San Francisco, *Preferred Master Plan*, Table A1: Density Study Development Program, p. 110.
[19] Port of San Francisco, *Preferred Master Plan*, Table A1: Density Study Development Program, p. 110.
[20] Port of San Francisco, *Preferred Master Plan*, pp. 3-4.
[21] Under the Maximum Residential Scenario, proposed infill construction within the PKN Parcel would total 274,900 gsf (261,700 gsf residential + 6,600 gsf office + 6,600 gsf RALI), and proposed infill construction within the PKS parcel would total 224,100 gsf (213,100 gsf residential + 11,000 gsf RALI). Under the Maximum Commercial Scenario, proposed infill construction within the PKN Parcel would total 273,700 gsf (260,500 gsf residential + 6,600 gsf commercial + 6,600 gsf RALI), and proposed infill construction within the PKS Parcel would total 226,500 gsf (215,500 gsf residential + 11,000 GSF RALI).

Site. However, the *Preferred Master Plan* provides some opportunity for limited residential development along Illinois Street within the 20th/Illinois Parcel, but does not specify an amount.

> Pier 70 is not planned as a residential district. The continuation of heavy industrial operations for ship repair, which can involve loud, around-the-clock activities, generally conflicts with living standards and conditions conducive to significant new residential development. While the land use program primarily calls for non-residential activities, the Plan provides some opportunity for a limited amount of residential development along Illinois Street. One site is north of 20th Street near Crane Cove Park, across from existing housing developments. The other is the parcel just south of 20th Street along Illinois Street. These locations have been identified because they are close to public transit, can support new construction, are located upland away from the shipyard, and are near other residences. Proposals for housing would require thorough review of the design and program to demonstrate compatibility with the ship repair industry.[22]

The Proposed Project would be inconsistent with the land use program contemplated for the general area now occupied by the 28-Acre Site under the *Preferred Master Plan.* Under the proposed Maximum Residential Scenario, the 28-Acre Site would include up to 2,150 residential units. Under the proposed Maximum Commercial Scenario, the 28-Acre Site would include up to 1,100 residential units. However, the Proposed Project would be generally consistent with the land use program contemplated for the general area now occupied by the 20th/Illinois Parcel considered under the *Preferred Master Plan*.

B. REGIONAL PLANS AND POLICIES

Plan Bay Area

Plan Bay Area is a long-range integrated transportation and land use/housing strategy through 2040 for the San Francisco Bay Area and is considered the Sustainable Communities Strategy for the San Francisco Bay Area.[23] On July 18, 2013, *Plan Bay Area* was jointly approved by the Association of Bay Area Governments (ABAG) and by the Metropolitan Transportation Commission. *Plan Bay Area* marks the nine-county region's first long-range plan to meet the requirements of California's 2008 Senate Bill (SB) 375, which calls on each of the State's 18 metropolitan areas to develop a Sustainable Communities Strategy to accommodate future population growth and reduce greenhouse gas emissions from cars and light trucks. Working in collaboration with cities and counties, *Plan Bay Area* advances initiatives to expand housing and transportation choices, create healthier communities, and build a stronger regional economy.

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[22] Port of San Francisco, *Preferred Master Plan*, p. 49.

[23] Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission, *Plan Bay Area*. Available online at http://files.mtc.ca.gov.s3.amazonaws.com/pdf/Plan_Bay_Area_FINAL/pbafinal/index.html. Accessed January 4, 2016.

Since 2002, the regional population, household, and job forecast has been "policy-based," meaning that it promotes policy objectives that increase housing development and alternative transportation modes, specifically by increasing the proportion of growth near transit and in existing urban areas. With the adoption of SB 375 and its requirement that regional planning agencies create a plan to meet targets for greenhouse gas emissions reduction tied to land use, the Bay Area can expect to see further development directed towards existing urban areas like San Francisco to increase housing near jobs, reduce urban sprawl, and reduce greenhouse gas emissions.

These areas have been identified as Priority Development Areas (PDAs). A PDA is an infill location of at least 100 acres served by transit that is designated for compact land development, along with investments in community improvements and infrastructure. Under *Plan Bay Area*, 88 percent of population growth, 78 percent of new housing and 62 percent of new jobs in the Bay Area will be concentrated in PDAs.[24] The project site is located within the Port of San Francisco PDA, which includes approximately 678 acres of public waterfront lands and stretches 7.5 miles from Fisherman's Wharf to India Basin, adjacent to Hunters Point Shipyard in the Bayview/Hunters Point community. The Port of San Francisco PDA is one of 12 PDAs in the City where 88 percent of new housing production and population growth in the City is expected to take place. *Plan Bay Area* projects the creation of 1,497 residential units (households) by 2040 within the Port of San Francisco PDA.[25]

The Proposed Project under the Maximum Residential Scenario would provide 2,150 residential units within the 28-Acre Site and 540 residential units within the 20th/Illinois Parcel, for a total of 2,690 residential units within the Port of San Francisco PDA, and would alone exceed the growth projections for the entire Port of San Francisco PDA.[26]

Although the number of residential units under the Maximum Residential Scenario exceeds the specific growth projections for housing in the Port of San Francisco PDA, it is consistent with the overall goals of *Plan Bay Area* of accommodating future population growth within infill locations served by transit. *Plan Bay Area*'s projections serve more as targets for new infill development within PDAs rather than as limits to development. As such, the Proposed Project would enable the Port of San Francisco PDA to meet and exceed its targets for housing production under *Plan Bay Area*.

[24] ABAG, *Projections 2013*, July 2013, p. 71.

[25] ABAG, Plan Bay Area Priority Development Area Showcase, February 2015. Available online at http://gis.abag.ca.gov/website/PDAShowcase/. Accessed March 7, 2016.

[26] The Proposed Project under the Maximum Commercial Scenario would provide 1,100 residential units within the 28-Acre Site and 545 residential units within the Illinois Parcels, for a total of 1,654 residential units within the Port of San Francisco PDA, and would not alone exceed the growth projections for the entire Port of San Francisco PDA.

San Francisco Bay Conservation and Development Commission

The San Francisco Bay Conservation and Development Commission (BCDC), created by the McAteer-Petris Act (California Government Code Sections 66600-66682), functions as the State's coastal management agency for San Francisco Bay. The *San Francisco Bay Plan* (*Bay Plan*) was prepared by BCDC from 1965 through 1969 and amended through 2007 in accordance with the McAteer-Petris Act. The *Bay Plan* guides the protection and use of the Bay and its shoreline. BCDC has permit jurisdiction for the nine Bay Area counties with Bay frontage over areas subject to tidal action up to the mean high tide line and including all sloughs, tidelands, submerged lands, and marshlands lying between the mean high tide and 5 feet above mean sea level, and the land lying between the Bay shoreline and a line drawn parallel to, and 100 feet from, the Bay shoreline, known as the 100-foot shoreline band. Under the McAteer-Petris Act, BCDC has permit authority for the placement of fill, extraction of materials, or substantial changes in use of land, water, or structures within its jurisdiction, and to enforce policies aimed at protecting the Bay and its shoreline, as well as maximizing public access to the Bay.

For the Proposed Project, BCDC's jurisdiction includes the Bay and areas within 100 feet inland of the mean high tide line. The Proposed Project would require BCDC approval of activities within BCDC's jurisdiction along the Bay shoreline. BCDC will make the final determination of consistency with *Bay Plan* policies for the portions of the project site that are within its permit jurisdiction.

San Francisco Bay Plan and San Francisco Waterfront Special Area Plan

BCDC completed and adopted the *Bay Plan* in 1968, and the plan has been periodically amended during the past 40 years, most recently in 2011 to address climate change. 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 amended in 2012. This plan, together with the McAteer-Petris Act and the *Bay Plan* and 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 the Bay's water quality, managing safety of fills, and guiding the dredging activities of the Bay's sediment. The *Bay Plan* policies that are most relevant to the Proposed Project with respect to water quality and hydrology are as follows:

Water Quality

Policy 1: Bay water pollution should be prevented to the greatest extent feasible. The Bay's tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and

improve water quality. Fresh water inflow into the Bay should be maintained at a level adequate to protect Bay resources and beneficial uses.

Policy 2: Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's Basin Plan. The policies, recommendations, decisions, advice and authority of the State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board should be the basis for carrying out BCDC's water quality responsibilities.

Policy 3: New projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain non-polluting materials; and (c) applying appropriate, accepted and effective best management practices, especially where water dispersion is poor and near shellfish beds and other significant biotic resources.

Policy 4: When 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.

Policy 6: To protect the Bay and its tributaries from the water quality impacts of nonpoint source pollution, new development should be sited and designed consistent with standards in municipal stormwater permits and state and regional stormwater management guidelines, where applicable, and with the protection of Bay resources. To offset impacts from increased impervious areas and land disturbances, vegetated swales, permeable pavement materials, preservation of existing trees and vegetation, planting native vegetation and other appropriate measures should be evaluated and implemented where appropriate.

Policy 7: Whenever practicable, native vegetation buffer areas should be provided as part of a project to control pollutants from entering the Bay, and vegetation should be substituted for rock riprap, concrete, or other hard surface shoreline and bank erosion control methods where appropriate and practicable.

Climate Change

Policy 2: When planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential

flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices.

Policy 3: To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.

Policy 4: To address the regional adverse impacts of climate change, undeveloped areas that are both vulnerable to future flooding and currently sustain significant habitats or species, or possess conditions that make the areas especially suitable for ecosystem enhancement, should be given special consideration for preservation and habitat enhancement and should be encouraged to be used for those purposes.

Policy 5: Wherever feasible and appropriate, effective, innovative sea level rise adaptation approaches should be encouraged.

Safety of Fills

Policy 2: 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.

Policy 3: To provide vitally needed information on the effects of earthquakes on all kinds of soils, installation of strong-motion seismographs should be required on all future major landfills. In addition, the Commission encourages installation of strong-motion seismographs in other developments on problem soils, and in other areas recommended by the U.S. Geological Survey, for purposes of data comparison and evaluation.

Policy 4: Adequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project. The Commission may approve fill that is needed to provide flood protection for existing projects and uses. New projects on fill or near the shoreline should either be set back from the edge of the shore so that the project will not be subject to dynamic wave energy, be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project, be specifically designed to tolerate periodic flooding, or employ other effective means of addressing the impacts of future sea level rise and storm activity. Rights-of-way for levees or other structures protecting inland areas from tidal flooding should be sufficiently wide on the upland side to allow for future levee widening to support additional levee height so that no fill for levee widening is placed in the Bay.

Shoreline Protection

Policy 1: New shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if: (a) the project is necessary to provide flood or erosion protection for (i) existing development, use or infrastructure, or (ii) proposed development, use or infrastructure that is consistent with other Bay Plan policies; (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protection measures. Professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes, should participate in the design.

Policy 2: Riprap revetments, the most common shoreline protective structure, should be constructed of properly sized and placed material that meet[s] sound engineering criteria for durability, density, and porosity. Armor materials used in the revetment should be placed according to accepted engineering practice, and be free of extraneous material, such as debris and reinforcing steel. Generally, only engineered quarrystone or concrete pieces that have either been specially cast, are free of extraneous materials from demolition debris, and are carefully selected for size, density, and durability will meet these requirements. Riprap revetments constructed out of other debris materials should not be authorized.

Policy 3: Authorized protective projects should be regularly maintained according to a long-term maintenance program to assure that the shoreline will be protected from tidal erosion and flooding and that the effects of the shoreline protection project on natural resources during the life of the project will be the minimum necessary.

Policy 4: Whenever feasible and appropriate, shoreline protection projects should include provisions for nonstructural methods such as marsh vegetation and integrate shoreline protection and Bay ecosystem enhancement, using adaptive management. Along shorelines that support marsh vegetation, or where marsh establishment has a reasonable chance of success, the Commission should require that the design of authorized protection projects include[s] provisions for establishing marsh and transitional upland vegetation as part of the protective structure, wherever feasible.

Policy 5: Adverse impacts to natural resources and public access from new shoreline protection should be avoided. Where significant impacts cannot be avoided, mitigation or alternative public access should be provided.

Public Access

Policy 2: In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible 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, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided.

Policy 5: Public access should be sited, designed, managed, and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.

Policy 9: Access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.

Policy 11: Federal, state, regional, and local jurisdictions, special districts, and the Commission should cooperate to provide appropriately sited, designed and managed public access, especially to link the entire series of shoreline parks, regional trail systems (such as the San Francisco Bay Trail) and existing public access areas to the extent feasible without additional Bay filling and without significant adverse effects on Bay natural resources. State, regional, and local agencies that approve projects should assure that provisions for public access to and along the shoreline are included as conditions of approval and that the access is consistent with the Commission's requirements and guidelines.

San Francisco Bay Water Quality Control Plan (Basin Plan)

San Francisco Bay waters are under the jurisdiction of the San Francisco Bay Regional Water Quality Control Board, which established regulatory standards and objectives for water quality in the Bay in its *Water Quality Control Plan for the San Francisco Bay Basin*, commonly referred to as the *Basin Plan*.[27] The *Basin Plan* identifies existing and potential beneficial uses for surface waters and provides numerical and narrative water quality objectives designed to protect those uses. The preparation and adoption of water quality control plans is required by the California Water Code (Section 13240) and supported by the Federal Clean Water Act. Adoption or revision of surface water standards is subject to the approval of the U.S. Environmental Protection Agency. Because beneficial uses, together with their corresponding water quality objectives, can be defined per Federal regulations as water quality standards, the *Basin Plan* is a regulatory reference for meeting the State and Federal requirements for water quality control.

[27] San Francisco Bay Regional Water Quality Control Board, *Water Quality Control Plan for the San Francisco Bay Basin*, March 20, 2015. Available online at http://www.swrcb.ca.gov/rwqcb2/water_issues/programs/planningtmdls/basinplan/web/docs/BP_all_chapters.pdf. Accessed November 28, 2015.

The project site is located adjacent to Lower San Francisco Bay, which extends from approximately the Bay Bridge on the north to the Dumbarton Bridge on the south. The combined sewer discharge structure for the 20th Street sub-basin of the City's combined sewer system discharges to the Central Basin, an inlet of Lower San Francisco Bay along the City's bay shoreline. Identified beneficial uses for the Central Basin of Lower San Francisco Bay are commercial and sport fishing, estuarine habitat, wildlife habitat, water contact recreation, noncontact water recreation, and navigation. Identified beneficial uses for Lower San Francisco Bay are industrial service supply, commercial and sport fishing, shellfish harvesting, estuarine habitat, fish migration, preservation of rare and endangered species, fish spawning, wildlife habitat, water contact recreation, noncontact water recreation, and navigation.

Total maximum daily loads for polychlorinated biphenyls (PCBs) and mercury in San Francisco Bay have been approved by the U.S. Environmental Protection Agency and officially incorporated into the *Basin Plan*.

C. STATE PLANS AND POLICIES

Public Trust Doctrine

The Public Trust Doctrine is a legal doctrine that governs the use of tidal and submerged lands, including former tidal and submerged lands that have been filled. It is not a codified set of laws but a doctrine primarily established in Court decisions and in decisions and interpretations by the California State Lands Commission and the California Attorney General. The purpose of the Public Trust Doctrine is to ensure that land that adjoins the State's waterways or is actually covered by those waters remains committed to water-oriented uses. Uses of Public Trust land are generally limited to waterborne commerce; navigation; fisheries; water-oriented recreation, including commercial facilities that must be located on or adjacent to water; and environmental preservation and recreation, such as natural resource protection, wildlife habitat and study, and facilities for fishing, swimming, and boating. Ancillary or incidental uses that promote Trust uses or accommodate the public's enjoyment of Trust lands are also permitted, such as hotels, restaurants, and specialty retail. Because the Public Trust Doctrine is based on judicial cases, there is no zoning code or general statute setting forth a list of permitted Trust uses.

Certain formerly tidal and submerged portions of the 28-Acre Site are subject to the Public Trust. (See Figure 2.3: Existing Public Trust Lands, in Chapter 2, Project Description, p. 2.14.) The proposed placement of certain non-Trust uses on land within the 28-Acre Site that is subject to the Public Trust would be inconsistent with the Public Trust. In order to resolve the Public Trust status of portions of Pier 70, the Port has obtained State legislation (Assembly Bill 418) that authorizes the State Lands Commission to approve a Public Trust exchange that would free some land from the Public Trust, while committing other land to the Public Trust. (See Figure 2.9: Proposed Public Trust Exchange Configuration, on p. 2.34.) For the City and Port to allow some

of the uses in the proposed SUD, the State Lands Commission would have to approve a Trust exchange agreement meeting the requirements of Assembly Bill 418 that would lift the Public Trust from designated portions of Pier 70.

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