

**CALENDAR ITEM  
C108**

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**GENERAL LEASE - PUBLIC AGENCY USE**

**APPLICANT:**

Office of Community Investment and Infrastructure  
Successor Agency to the San Francisco Redevelopment Agency

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Candlestick Point, City and County of San Francisco

**AUTHORIZED USE:**

Archaeological investigation and surcharging (placement of fill to compact underlying soils)

**LEASE TERM:**

1 year, beginning December 2, 2013.

**CONSIDERATION:**

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest in the lease.

**OTHER PERTINENT INFORMATION:**

1. The Office of Community Investment and Infrastructure (OCII) is the successor agency to the San Francisco Redevelopment Agency.
2. In 2011, the Commission entered into two Agreements with the California Department of Parks and Recreation, the San Francisco Redevelopment Agency, the Port of San Francisco, and the City and County of San Francisco. The Agreements, "Hunters Point Shipyard/Candlestick Point Title Settlement, Public Trust Exchange and Boundary Line Agreement" (Trust Agreement) and the "Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement", involve lands within Candlestick Point and the former Hunters Point Naval Shipyard, City and County of San Francisco. (See Calendar Item 67,

CALENDAR ITEM NO. **C108** (CONT'D)

April 6, 2011.)

3. The Agreements were executed and recorded on June 27, 2011 but the associated property conveyances have not yet occurred. Several conditions precedent must be satisfied prior to the Initial Closing Phase, including conducting a Record of Survey, which the parties are diligently working on.
4. The subject parcel, which is referred to the in Trust Agreement as the Non-Park Commission Land Trust Termination Parcel, will be transferred to the OCII from the Commission, free of the public trust, as part of the Initial Closing Phase which is expected to occur in 2014.
5. OCII has applied to the Commission for an interim lease to conduct an archaeological investigation and surcharging, or compaction of underlying soils, in preparation for the future development that will occur once the parcel is transferred to OCII.
6. An Environmental Impact Report (EIR), State Clearinghouse No. 2007082168, was prepared for this project by the San Francisco Redevelopment Agency and certified on August 3, 2010. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) are contained in Exhibit D, attached hereto.

A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) is contained in Exhibit D, attached hereto.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

CALENDAR ITEM NO. **C108** (CONT'D)

**EXHIBITS:**

- A. Land Description
- B. Site Location and Map
- C. Mitigation Monitoring Plan
- D. Findings and Statement of overriding considerations

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that an EIR, State Clearinghouse No. 2007082168, was prepared for this Project by the San Francisco Redevelopment Agency and certified on August 3, 2010, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program as contained in Exhibit C, attached hereto.

Adopt the Findings, made in conformance with California Code of Regulation, Title 14, sections 15091 and 15096, subdivision (h), as contained in Exhibit D, attached hereto.

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, Title 14, section 15093, as contained in Exhibit D, attached hereto.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Office of Community Investment and Infrastructure, successor agency to the San Francisco Redevelopment Agency beginning December 2, 2013, for a term of one year, for archaeological investigation and surcharging, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

## EXHIBIT A

W26726

### LAND DESCRIPTION

All that certain real property, including tide lands and submerged lands, whether filled or unfilled, situate in the City and County of San Francisco, State of California, and being portions of Blocks 512, 513 and 828 and portions of Carroll Avenue (Formerly 27<sup>th</sup> Avenue), Donner Avenue (Formerly 28<sup>th</sup> Avenue), Aurelius Walker Drive (Formerly F Street), all as designated and shown on that certain map entitled "Map of the Salt March and Tide Lands and Lands Lying Under Water South of Second Street and Situate in the City and County of San Francisco", filed in Map Book W at Pages 46-47, Document Number X45805, in the office of the Recorder of said City and County of San Francisco, described as follows:

BEGINNING at the intersection of the northeasterly line of said Egbert Avenue (29<sup>th</sup> Avenue) as shown on said "Map of the Salt March and Tide Lands and Lands Lying Under Water South of Second Street and Situate in the City and County of San Francisco" with the easterly line of the 200 foot wide right of way for the Southern Pacific and Western Pacific Railroad Companies as said right of way is shown on Board of Tide Land Commissioners Block No. 9 by G. F. Allardt dated December 20, 1869, a copy of which is filed in Map Book W, Pages 50-52, Document X405, in the office of said Recorder;

thence along said northeasterly line of Egbert Avenue North 53°18'15" West 255.53 feet to the westerly line of said 200 foot wide railroad right of way, said westerly line being also a portion of the easterly boundary of that certain Parcel Map 5217, filed in Map Book 48, Pages 1-3, Document No. 1817606, in the office of said Recorder;

thence along said easterly boundary of said parcel map the following seven (7) courses:

- 1) North 01°47'49" West 39.74 feet,
- 2) North 53°17'57" West 31.87 feet,
- 3) North 36°43'53" East 40.04 feet,
- 4) North 01°47'49" West 307.35 feet,
- 5) North 53°18'15" West 31.77 feet,
- 6) North 36°41'45" East 39.60 feet, and
- 7) North 53°18'15" West 5.78 feet to the Agreed 1869 Ordinary High Water Mark described in Exhibit 25 to that certain Hunters Point Shipyard/Candlestick Point Title Settlement, Public Trust Exchange and Boundary Line Agreement recorded in Reel \_\_\_\_\_, Image \_\_\_\_\_, Document No. \_\_\_\_\_, in the office of said Recorder; thence in a generally northeasterly direction along said Agreed 1869 Ordinary High Water Mark 242 feet,

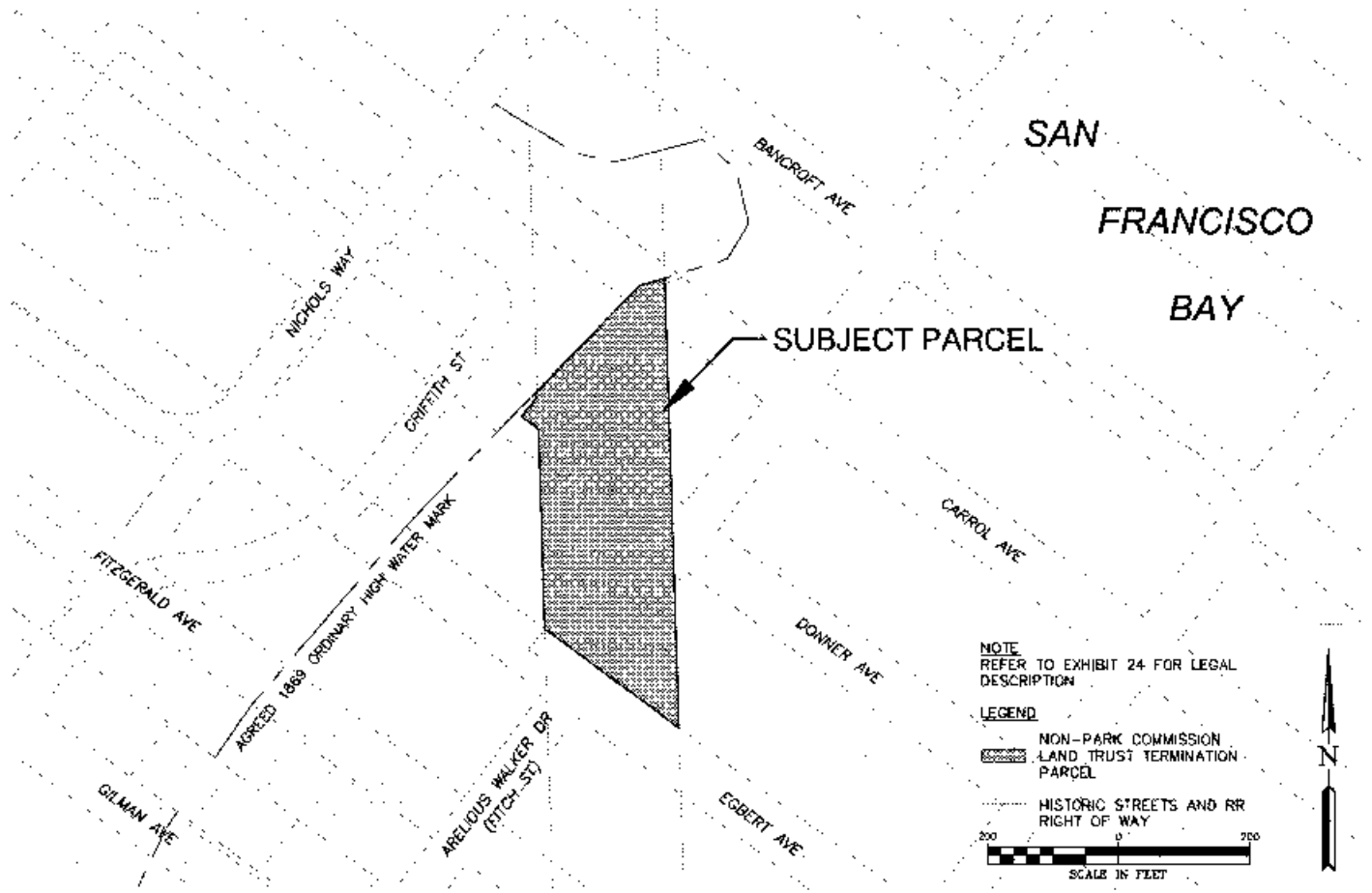
more or less, to said easterly line of said railroad right of way; Thence along said easterly line South 01°47'49" East 693.40 feet to the POINT OF BEGINNING.

**END OF DESCRIPTION**

This description is a duplicate of that Non-Park Commission Land Trust Termination Agreement written by Michael Kincaid, dated March 31, 2011 and found in that "Hunters Point Shipyard/Candlestick Point Title Settlement, Public Trust Exchange and Boundary Agreement" on file at the Sacramento offices of the California State Lands Commission.



NO SCALE

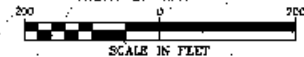
# SITE



NOTE  
REFER TO EXHIBIT 24 FOR LEGAL  
DESCRIPTION

**LEGEND**

-  NON-PARK COMMISSION  
LAND TRUST TERMINATION  
PARCEL
-  HISTORIC STREETS AND RR  
RIGHT OF WAY



## CANDLESTICK POINT

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

W26726  
 OFFICE OF COMMUNITY  
 INVESTMENT &  
 INFRASTRUCTURE  
 GENERAL LEASE -  
 PUBLIC AGENCY USE  
 SAN FRANCISCO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C: MITIGATION MONITORING PROGRAM – California State Lands Commission

<p><b>AQ-1: Criteria Pollutants from Construction Activities</b></p>	<p><b>MM HZ-15: Dust Control Plans.</b> Prior to obtaining a grading, excavation, site, building or other permit from the City that includes soil disturbance activities, the Project Applicant shall obtain approval of a Dust Control Plan (DCP) from the San Francisco Department of Public Health (SFDPH) for areas over 0.5 acre at Candlestick Point. Compliance with the DCP shall be required as a condition of the permit. The DCP shall be submitted to and approved by the SFDPH prior to the beginning of construction, and the site operator must ensure the implementation of all specified dust control measures throughout the construction Project. The DCP shall require compliance with the following specific mitigation measures to the extent deemed necessary by the SFDPH to achieve no visible dust at the property boundary:</p> <ul style="list-style-type: none"> <li>• Submission of a map to the Director of Health showing all sensitive receptors within 1,000 feet of the site;</li> <li>• Keep all graded and excavated areas, areas around soil improvement operations, visibly dry unpaved roads, parking and staging areas wetted at least three times per shift daily with reclaimed water during construction to prevent visible dust emissions from crossing the property line. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour;</li> <li>• Analysis of wind direction and placement of upwind and downwind particulate dust monitors;</li> <li>• Record keeping for particulate monitoring results;</li> <li>• Requirements for shutdown conditions based on wind, dust migration, or if dust is contained within</li> </ul>	<p>Project Area</p>	<p>BAAQMD and SFDPH to approve site specific DCP and ADMP and to monitor compliance throughout construction activity</p>	<p>BAAQMD/SFDPH</p>	<p>Prior to obtaining a grading, excavation, site, building or other permit from the City that includes soil disturbance activities. Ongoing throughout construction activity</p>

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	<p>the property boundary but not controlled after a specified number of minutes;</p> <ul style="list-style-type: none"> <li>• Establishing a hotline for surrounding community members who may be potentially affected by Project-related dust. Contact person shall respond and take corrective action within 48 hours. Post publicly visible signs around the site with the hotline number as well as the phone number of the Bay Area Air Quality Management District (BAAQMD) and make sure the numbers are given to adjacent residents, schools, and businesses;</li> <li>• Limiting the area subject to construction activities at any one time;</li> <li>• Installing dust curtains and windbreaks on windward and downwind sides of the property lines, as necessary. Windbreaks on windward side should have no more than 50% air porosity;</li> <li>• Limiting the amount of soil in trucks hauling soil around the job site to the size of the truck bed and securing with a tarpaulin or ensuring the soil contains adequate moisture to minimize or prevent dust generation during transportation;</li> <li>• Enforcing a 15 mph speed limit for vehicles entering and exiting construction areas;</li> <li>• Sweeping affected streets with water sweepers at the end of the day;</li> <li>• Hiring an independent third party to conduct inspections for visible dust and keeping records of those inspections;</li> <li>• Minimizing the amount of excavated material or waste materials stored at the site; and</li> <li>• Prevent visible track out from the property onto</li> </ul>				



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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>adjacent paved roads. Sweep with reclaimed water at the end of each day if visible soil material is carried out from property.</p> <p>For all areas, this measure shall be implemented through Article 22B (areas over one half acre) or for HPS Phase II through a requirement in the potential additions to Article 31 imposing requirements to parcels other than Parcel A or through an equivalent process established by the City or Agency.</p>				
<b>AQ-2: Diesel Particulate Matter (DPM) from Construction Activities</b>	<p><b>MM AQ 2.1 Implement Emission Control Device Installation on Construction.</b> To reduce DPM emissions during Project construction, the Project Applicant shall require construction equipment used for the Project to utilize emission control technology such that 50% of the fleet will meet US EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies) for particulate matter control (or equivalent) during the first two years of construction activities, increasing to 75% of the fleet in the third year and 100% of the fleet starting in the fourth year and for the duration of the Project.</p>	Construct- ion Site	SFRA and DBI to review construction documents; Construction contractor to submit quarterly report and compliance of activity through duration, until deemed complete by SFRA	SFRA/DBI	Prior to issuance of construction site permit
	<p><b>MM AQ-2.2 Implement Accelerated Emission Control Device Installation on Construction Equipment Used for Alice Griffith Parcels.</b> In addition to mitigation measure MM AQ-2.1, in order to minimize the potential impacts to residents living in Alice Griffith from the construction activities in that area, the Project Applicant will require that all construction equipment used in the Alice Griffith parcels (CP01 though CP06) would utilize equipment</p>	Construct- ion Site	SFRA and DBI to review construction documents; Construction contractor to submit quarterly report and	SFRA/DBI	Prior to issuance of construction site permit

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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	which meets the US EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies) for particulate matter control (or equivalent) throughout the entire duration of construction activities on those parcels.		compliance of activity through duration, until deemed complete by SFRA		
<b>AQ-3. Toxic Air Contaminants (TACs) from Construction Activities</b>	<b>MM HZ-15: Dust Control Plans</b> (as described in Impact AQ-1).				
<b>CP-2a: Change in the Significance of Archaeological Resources from Construction Activities</b>	<p><b>MM CP-2a: Mitigation to Minimize Impacts to Archaeological Resources at Candlestick Point.</b> Based on a reasonable presumption that archaeological resources may be present within the Project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the Project on buried or submerged historical resources.</p> <p><b>Overview:</b> The Project Applicant shall retain the services of a qualified archaeological consultant having expertise in California prehistoric and urban historical archeology. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the archaeological consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure and with the requirements of the Project Archaeological Research Design and Treatment Plan (Archeo-Tec.</p>	Candlestick Point Project Area	<p>Prior to Project construction, demolition and remediation</p> <p>Quarterly MMRP reports to the San Francisco Office of Community Investment and Infrastructure (OCII), to include reporting on any Archaeological MM tasks completed</p>	OCII, ERO, Coroner, and, if applicable, the California State Native American Heritage Commission	<p>Testing Plan completed prior to issuance of any permit authorizing soils disturbance</p> <p>Testing program completed prior to commencement of any soil disturbing construction activity</p> <p>Testing</p>

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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>Archaeological Research Design and Treatment Plan for the Bayview Waterfront Project, San Francisco, California, 2009) at the direction of the City's Environmental Review Officer (ERO). In instances of inconsistency between the requirement of the Project Archaeological Research Design and Treatment Plan and of this archaeological mitigation measure, the requirement of this archaeological mitigation measure shall prevail. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the Project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce potential effects on a significant archaeological resource as defined in CEQA Guidelines Section 15064.5(a)(c) to a less-than significant level.</p> <p><b>Archaeological Testing Program:</b> The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the Project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to</p>		<p>Testing Plan complete upon approval by ERO of Final Testing Plan</p> <p>Testing Program and Report deemed complete upon approval by ERO Final Testing Report</p> <p>Data Recovery Plan and Program deemed complete upon approval by ERO of Final report indicating completion of data recovery program.</p> <p>Verification of compliance with measures relating to</p>		<p>Report completed prior to commencement of any soil disturbing activity</p> <p>Development of monitoring program work scope prior to commencement of soil disturbing activity; monitoring activity to occur during site excavation and construction, as per monitoring program</p> <p>Monitoring report submitted to ERO upon</p>

EXHIBIT C: MITIGATION MONITORING PROGRAM – California State Lands Commission

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.</p> <p>At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings for submittal to the ERO. If, based on the archaeological testing program, the archaeological consultant finds that significant archaeological resources may be present, the ERO (in consultation with the archaeological consultant) shall determine if additional measures are warranted. Additional measures that may be undertaken include, but are not necessarily limited to, additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the Project, the Project Applicant shall either:</p> <ol style="list-style-type: none"> <li>a. Re-design the Project so as to avoid any adverse effect on the significant archaeological resource; or</li> <li>b. Implement a data recovery program, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</li> </ol> <p><b>Archaeological Monitoring Program:</b> If the ERO, in consultation with the archaeological consultant, determines that an Archaeological Monitoring Program (AMP) shall be implemented, the AMP shall include the following provisions, at a minimum:</p> <ul style="list-style-type: none"> <li>• The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of</li> </ul>		<p>Human Remains will occur upon approval by ERO of Final Archaeological Resources Report</p>		<p>completion of monitoring program</p> <p>Work scope of Data Recovery Plan will occur in conjunction with work scope for the Monitoring Program prior to commencement of soil disturbance; more specific, detailed subsequent work scope may be required by ERO upon completion of the Monitoring Program Report</p> <p>Data Recovery</p>

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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>the AMP prior to the commencement of any Project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what Project activities shall be archaeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), and site remediation, shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;</p> <ul style="list-style-type: none"> <li>• The archaeological consultant shall train all Project construction personnel who could reasonably be expected to encounter archaeological resources of the expected resource(s), how to identify the evidence of the expected resource(s), and the appropriate protocol in the event of apparent discovery of an archaeological resource;</li> <li>• The archaeological monitor(s) shall be present on the Project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with the archaeological consultant, determined that Project construction activities could have no effects on significant archaeological deposits;</li> <li>• The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;</li> <li>• If an intact archaeological deposit is encountered, all soil-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor</li> </ul>				<p>Program activity to occur during and subsequent to construction activity, as per Data Recovery Program</p> <p>Timing of mitigation relating to human remains and funerary objects will occur upon discovery, if applicable</p>

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	<p>shall be authorized to temporarily halt demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If, in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of any encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit and present the findings of this assessment to the ERO as expeditiously as possible; and</p> <ul style="list-style-type: none"> <li>• Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.</li> </ul> <p><b>Archaeological Data Recovery Program:</b> The archaeological data recovery program shall be conducted in accord with an Archaeological Data Recovery Plan (ADRP). The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions</p>				

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	<p>are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the Project. Destructive data recovery methods shall not be pursued if nondestructive methods are practical.</p> <p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> <li>• Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations;</li> <li>• Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures;</li> <li>• Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies;</li> <li>• Interpretive Program. Consideration of an onsite/ off-site public interpretive program during the course of the archaeological data recovery program;</li> <li>• Security Measures. Recommended security measures to protect the archaeological resource from vandalism, looting, and other potentially damaging activities;</li> <li>• Final Report. Description of proposed report format and distribution of results; and</li> <li>• Curation. Description of the procedures and recommendations for the curation of any</li> </ul>				

EXHIBIT C: MITIGATION MONITORING PROGRAM – California State Lands Commission

	<p>recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.</p> <p><b>Human Remains and Associated or Unassociated Funerary Objects:</b> The treatment of human remains and associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with applicable state and federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner’s determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Sec. 5097.98). The archaeological consultant, Project Applicant, and MLD shall make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines Sec. 15064.5(d)). The agreement shall take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.</p> <p><b>Final Archaeological Resources Report:</b> The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s). Information that may put at risk</p>				



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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>any archaeological resource shall be provided in a separate removable insert within the final report. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than presented above.</p>				
<p><b>GE-9 Soil Hazards— Settlement</b></p>	<p><b>MM GE-5a: Site-Specific Geotechnical Investigation with Analysis of Liquefaction, Lateral Spreading, and/or Settlement.</b> Prior to issuance of building permits for the Project site:</p> <ul style="list-style-type: none"> <li>The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC), the Seismic Hazards Mapping Act, and requirements contained in CGS Special Publication 117A “Guidelines for Evaluating and Mitigating Seismic Hazards in California.” In addition, all engineering practices,</li> </ul>	<p>Project Area</p>	<p>Approval of site-specific geotechnical investigations</p>	<p>DBI</p>	<p>Prior to issuance of building permits for the Project site</p>

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	<p>and analyses of structural design shall be consistent with SFBC standards to ensure seismic stability, including reduction of potential liquefaction hazards;</p> <ul style="list-style-type: none"> <li>• DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all necessary geotechnical mitigation measures. No permits shall be issued by DBI until the GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods;</li> <li>• All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations;</li> <li>• The site-specific Project plans shall incorporate the mitigation measures contained in the approved site-specific geotechnical reports to reduce liquefaction hazards. The engineering design techniques to reduce liquefaction hazards shall include proven methods generally accepted by California Certified Engineering Geologists, subject to DBI and GPRC review and approval, including, but not necessarily limited to: <ul style="list-style-type: none"> <li>○ Structural Measures: <ul style="list-style-type: none"> <li>▪ Construction of deep foundations, which transfer loads to competent strata beneath</li> </ul> </li> </ul> </li> </ul>				

EXHIBIT C: MITIGATION MONITORING PROGRAM – California State Lands Commission

	<p>the zone susceptible to liquefaction, for critical utilities and shallow foundation;</p> <ul style="list-style-type: none"> <li>▪ Structural mat foundations to distribute concentrated load to prevent damage to structure;</li> <li>○ Ground Improvement Measures: <ul style="list-style-type: none"> <li>▪ Additional over-excavation and replacement of unstable soil with engineering-compacted fill;</li> <li>▪ Dynamic compaction, such as Deep Dynamic Compaction (DDC) or Rapid Impact Compaction (RIC), to densify loose soils below the groundwater table;</li> <li>▪ Vibro-compaction, sometimes referred to as vibro-floatation, to densify loose soils below the groundwater table;</li> <li>▪ Stone columns to provide pore pressure dissipation pathways for soil, compact loose soil between columns, and provide additional bearing support beneath foundations;</li> <li>▪ Soil-cement columns to densify loose soils and provide additional bearing support beneath foundations; and</li> </ul> </li> <li>○ The Project CEG or GE shall be responsible for ensuring compliance with these requirements.</li> </ul>				
<b>NO-1a: Implementation of the Project Could Expose People to</b>	<b>MM NO-1a1: Construction Document Mitigation to Reduce Noise Levels During Construction.</b> The Project Applicant shall incorporate the following practices into the construction documents to be implemented by the Project contractor:	Construct-ion Site	Review and approve contract specifications; Project	OCII/DBI/Dep artment of Public Works (DPW)	Prior to issuance of construction site permit

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<p><b>Excessive Noise Levels From Construction Activities</b></p>	<ul style="list-style-type: none"> <li>• Provide enclosures and mufflers for stationary equipment, shrouding or shielding for impact tools, and barriers around particularly noisy operations on the site;</li> <li>• Use construction equipment with lower noise emission ratings whenever possible, particularly air compressors;</li> <li>• Provide sound-control devices on equipment no less effective than those provided by the manufacturer;</li> <li>• Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptors;</li> <li>• Prohibit unnecessary idling of internal combustion engines;</li> <li>• Require applicable construction-related vehicles and equipment to use designated truck routes to access the Project site;</li> <li>• Implement noise attenuation measures to the extent feasible, which may include, but are not limited to, noise barriers or noise blankets. The placement of such attenuation measures will be reviewed and approved by the Director of Public Works prior to issuance of development permits for construction activities; and</li> <li>• Designate a Noise Disturbance Coordinator who shall be responsible for responding to complaints about noise during construction. The telephone number of the Noise Disturbance Coordinator shall be conspicuously posted at the construction site and shall be provided to the City. Copies of the</li> </ul>		<p>applicant to submit quarterly report to OCII.</p>		

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	construction schedule shall also be posted at nearby noise-sensitive areas.				
<b>HY-1a: Water Quality Standards and Waste Discharge Requirements</b>	<p><b>MM HY-1a.2 Stormwater Pollution Prevention Plan (SWPPP): Separate Storm Sewer System.</b>                  Consistent with the requirements of the State Water Resources Control Board General Permit for Storm Water Discharges Associated with Construction and Land Disturbing Activities (Construction General Permit), the Project Applicant shall undertake the proposed Project in accordance with a project-specific Storm Water Pollution Prevention Plan (SWPPP) prepared by Qualified SWPPP Developer, who shall consult with California State Parks on those elements of the SWPPP that cover the Candlestick Park State Recreation Area, including selection of best management practices and other SWPPP improvements. The San Francisco Regional Water Quality Control Board (SFRWQCB), the primary agency responsible for protecting water quality within the project area, is responsible for reviewing and ensuring compliance with the SWPPP. This review is based on the Construction General Permit issued by the SWRCB.</p> <p>The SWPPP shall include, as applicable, all Best Management Practices (BMPs) required in Attachment C of the Construction General Permit for Risk Level 1 dischargers, Attachment D for Risk Level 2 dischargers, or Attachment E for Risk Level 3 dischargers. In addition, recommended BMPs, subject to review and approval by the SFRWQCB, include the measures listed below. However, the measures themselves may be altered, supplemented, or deleted during the SFRWQCB's review process, since the</p>	Project Area	<p>SWPPP for each site undergoing construction in areas draining to separate storm sewer system to be approved by the SFRWQCB.</p> <p>Quarterly reporting to SFRWQCB and OCII to include reporting on compliance with this measure until completion of construction</p> <p>Annual post-construction period reporting to SFRWQCB and OCII to include</p>	SFRWQCB	<p>Submit Site-specific SWPPP to the SFRWQCB for approval prior to initiating construction activity in any area draining to separate storm sewer systems</p> <p>Construction and monitoring reporting throughout the construction period</p> <p>Post construction BMP's monitoring and maintenance</p>

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	<p>SFRWQCB has final authority over the terms of the SWPPP.</p> <ul style="list-style-type: none"> <li>• Scheduling: <ul style="list-style-type: none"> <li>○ To reduce the potential for erosion and sediment discharge, schedule construction to minimize ground disturbance during the rainy season. Schedule major grading operations during the dry season when practical, and allow enough time before rainfall begins to stabilize the soil with vegetation or to install sediment-trapping devices;</li> <li>○ Sequence construction activities to minimize the amount of time that soils remain disturbed;</li> <li>○ Stabilize all disturbed soils as soon as possible following the completion of ground disturbing work;</li> <li>○ Install erosion and sediment control BMPs prior to the start of any ground-disturbing activities;</li> </ul> </li> <li>• Erosion and Sedimentation: <ul style="list-style-type: none"> <li>○ Preserve existing vegetation in areas where no construction activity is planned or where construction activity will occur at a later date;</li> <li>○ Stabilize and re-vegetate disturbed areas as soon as possible after construction with planting, seeding, and/or mulch (e.g., straw or hay, erosion control blankets, hydromulch, or other similar material) except in actively cultivated areas. Planting and seeding shall use native, non-invasive species;</li> </ul> </li> </ul>		<p>reporting on compliance with this measure</p>		<p>in accordance with SWPPP</p>

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	<ul style="list-style-type: none"> <li>○ Install silt fences, coir rolls, and other suitable measures around the perimeter of the areas affected by construction and staging areas and around riparian buffers, storm drains, temporary stockpiles, spoil areas, stream channels, swales, downslope of all exposed soil areas, and in other locations determined necessary to prevent off-site sedimentation;</li> <li>○ Install temporary slope breakers during the rainy season on slopes greater than 5 percent where the base of the slope is less than 50 feet from a water body, wetland, or road crossing at spacing intervals required by the SFRWQCB;</li> <li>○ Use filter fabric or other appropriate measures to prevent sediment from entering storm drain inlets;</li> <li>○ Detain and treat stormwater using sedimentation basins, sediment traps, baker tanks, or other measures to ensure that discharges to receiving waters meet applicable water quality objectives;</li> <li>○ Install check dams, where applicable, to reduce flow velocities. Check dams reduce erosion and allow sediment to settle out of runoff;</li> <li>○ Install outlet protection/energy dissipation, where applicable, to prevent scour of the soil caused by concentrated high velocity flows;</li> <li>○ Implement control measures such as spraying water or other dust palliatives to alleviate nuisance caused by dust;</li> </ul>				

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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<ul style="list-style-type: none"> <li>• Groundwater/Dewatering:                             <ul style="list-style-type: none"> <li>○ Prepare a dewatering plan prior to excavation specifying methods of water collection, transport, treatment, and discharge of all water produced by construction site dewatering;</li> <li>○ Impound water produced by dewatering in sediment retention basins or other holding facilities to settle the solids and provide other treatment as necessary prior to discharge to receiving waters. Locate sedimentation basins and other retention and treatment facilities away from waterways to prevent sediment-laden water from reaching streams;</li> <li>○ Control discharges of water produced by dewatering to prevent erosion;</li> <li>○ If contaminated groundwater is encountered, contact the SFRWQCB for appropriate disposal options. Depending on the constituents of concern, such discharges may be disallowed altogether, or require regulation under a separate general or individual permit that would impose appropriate treatment requirements prior to discharge to the stormwater drainage system;</li> </ul> </li> <li>• Tracking Controls:                             <ul style="list-style-type: none"> <li>○ Grade and stabilize construction site entrances and exits to prevent runoff from the site and to prevent erosion;</li> <li>○ Install a tire washing facility at the site access to allow for tire washing when vehicles exit the site;</li> </ul> </li> </ul>				



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	<ul style="list-style-type: none"> <li>○ Remove any soil or sediment tracked off paved roads during construction by street sweeping;</li> <li>● Non-stormwater Controls:               <ul style="list-style-type: none"> <li>○ Place drip pans under construction vehicles and all parked equipment;</li> <li>○ Check construction equipment for leaks regularly;</li> <li>○ Wash construction equipment in a designated enclosed area regularly;</li> <li>○ Contain vehicle and equipment wash water for percolation or evaporative drying away from storm drain inlets;</li> <li>○ Refuel vehicles and equipment away from receiving waters and storm drain inlets, contain the area to prevent run-on and runoff, and promptly cleanup spills;</li> <li>○ Cover all storm drain inlets when paving or applying seals or similar materials to prevent the discharge of these materials;</li> </ul> </li> <li>● Waste Management and Hazardous Materials Pollution Control:               <ul style="list-style-type: none"> <li>○ Remove trash and construction debris from the project area daily;</li> <li>○ Locate sanitary facilities a minimum of 300 feet from receiving waters. Maintain sanitary facilities regularly;</li> <li>○ Store all hazardous materials in an area protected from rainfall and stormwater run-on and prevent the off-site discharge of hazardous</li> </ul> </li> </ul>				

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	<p>materials;</p> <ul style="list-style-type: none"> <li>○ Minimize the potential for contamination of receiving waters by maintaining spill containment and cleanup equipment on site, and by properly labeling and disposing of hazardous wastes;</li> <li>○ Locate waste collection areas close to construction entrances and away from roadways, storm drains, and receiving waters;</li> <li>○ Inspect dumpsters and other waste and debris containers regularly for leaks and remove and properly dispose of any hazardous materials and liquid wastes placed in these containers;</li> <li>○ Train construction personnel in proper material delivery, handling, storage, cleanup, and disposal procedures;</li> <li>○ Implement construction materials management BMPs for: <ul style="list-style-type: none"> <li>▪ Road paving, surfacing and asphalt removal activities;</li> <li>▪ Handling and disposal of concrete and cement;</li> </ul> </li> <li>● BMP Inspection, Maintenance, and Repair: <ul style="list-style-type: none"> <li>○ Inspect all BMPs on a regular basis to confirm proper installation and function. Inspect BMPs daily during storms;</li> <li>○ Immediately repair or replace BMPs that have failed. Provide sufficient devices and materials (e.g., silt fence, coir rolls, erosion blankets, etc.) throughout project construction to enable</li> </ul> </li> </ul>				

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	<p>immediate corrective action for failed BMPs;</p> <ul style="list-style-type: none"> <li>• Monitoring and Reporting:                             <ul style="list-style-type: none"> <li>○ Provide the required documentation for SWPPP inspections, maintenance, and repair requirements. Personnel that will perform monitoring and inspection activities shall be identified in the SWPPP;</li> <li>○ Maintain written records of inspections, spills, BMP-related maintenance activities, corrective actions, and visual observations of off-site discharges of sediment or other pollutants, as required by the SFRWQCB;</li> <li>○ Monitor the water quality of discharges from the site to assess the effectiveness of control measures;</li> <li>○ Implement Shoreline Improvements and work over water BMPs to minimize the potential transport of sediment, debris, and construction materials to the Lower Bay during construction of shoreline improvements;</li> </ul> </li> <li>• Post-construction BMPs:                             <ul style="list-style-type: none"> <li>○ Re-vegetate all temporarily disturbed areas as required after construction activities are completed. Re-vegetation shall use native, non-invasive species;</li> <li>○ Remove any remaining construction debris and trash from the project site and area upon project completion;</li> <li>○ Phase the removal of temporary BMPs as</li> </ul> </li> </ul>				

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Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>necessary to ensure stabilization of the site;</p> <ul style="list-style-type: none"> <li>○ Maintain post-construction site conditions to avoid formation of unintended drainage channels, erosion, or areas of sedimentation;</li> <li>○ Correct post-construction site conditions as necessary to comply with the SWPPP and any other pertinent SFRWQCB requirements; and</li> </ul> <ul style="list-style-type: none"> <li>● Train construction site personnel on components of the SWPPP and BMP implementation. Train personnel that will perform inspection and monitoring activities.</li> </ul>				
<p><b>TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System</b></p>	<p><b>MM TR-1: Candlestick Point-Hunters Point Shipyard Phase II Construction Traffic Management Program.</b> The Project Applicant shall develop and implement a Candlestick Point– Hunters Point Shipyard Phase II Construction Traffic Management Program to minimize impacts of the Project and its contribution to cumulative impacts related to construction activities and construction traffic. The program shall provide necessary information to various contractors and agencies as to how to maximize the opportunities for complementing construction management measures and to minimize the possibility of conflicting impacts on the roadway system, while safely accommodating the traveling public in the area. The program shall supplement and expand, rather than modify or supersede any manual, regulations, or provisions set forth by SFMTA, DPW or other City departments and agencies.</p> <p>Preparation of the Construction Management Program shall be the responsibility of the Project Applicant, and</p>	<p>Project Area</p>	<p>Confirm establishment as part of Phase 1 approval; Project Applicant shall update the program prior to approval of development plans for Phase 1, Phase 3, and Phase 4.</p> <p>SFMTA and DPW to approve program prior to each sup-</p>	<p>San Francisco Municipal Transportation Agency (SFMTA)/ Department of Public Works (DPW)</p>	<p>Program shall be implemented at first sub-phase application and updated with each subsequent sub-phase application</p>

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	<p>shall be reviewed and approved by SFMTA and DPW prior to initiation of construction. The Project Applicant shall update the program prior to approval of development plans for Phase 2, Phase 3, and Phase 4 of construction to reflect any change to Project development schedule, reflect transportation network changes, to update status of other development construction activities, and to reflect any changes to City requirements.</p> <p>The program shall:</p> <ul style="list-style-type: none"> <li>• Identify construction traffic management practices in San Francisco, as well as other jurisdictions that although not being implemented in the City could provide useful guidance for a project of this size and characteristics;</li> <li>• Describe procedures required by different departments and/or agencies in the City for implementation of a construction management plan, such as reviewing agencies, approval process, and estimated timelines;</li> <li>• Describe coordination efforts associated with the Navy remediation efforts and scheduling regarding construction vehicle routing via the Crisp gate;</li> <li>• Identify construction traffic management strategies and other elements for the Project, and present a cohesive program of operational and demand management strategies designed to maintain acceptable levels of traffic flow during periods of construction activities in the Bayview Hunters Point area. These could include construction strategies, demand management strategies, alternate route strategies, and public information strategies;</li> </ul>		<p>phase approval; SFMTA and DPW to undertake ongoing enforcement during construction.</p>		

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	<ul style="list-style-type: none"> <li>• Coordinate with other projects in construction in the immediate vicinity, so that they can take an integrated approach to construction-related traffic impacts; and</li> <li>• Present guidelines for selection of construction traffic management strategies.</li> </ul>				

## **EXHIBIT D – Candlestick Point-Hunters Point Shipyard Phase II Project**

### **STATEMENT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS**

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#### **1.0 INTRODUCTION**

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval for the following: to authorize issuance of a short-term General Lease—Public Agency Use (Lease) to the San Francisco Office of Community Investment and Infrastructure (OCII) for interim use of a small parcel of sovereign land that will be included in the Candlestick Point-Hunters Point Shipyard Phase II Project (Phase II Project or Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)<sup>1</sup> The CSLC parcel is part of a previously approved title settlement, public trust exchange, and boundary line agreement that is expected to result in the transfer of the CSLC parcel to OCII in 2014, free of the public trust. The purpose of the Lease is to allow OCII to conduct Phase II Project mitigation in advance of the transfer to facilitate future development once the parcel is transferred to OCII.

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.

The CSLC is a responsible agency under CEQA for the Phase II Project because the CSLC must approve a lease for the mitigation on the CSLC parcel to go forward and because the OCII (the successor to the San Francisco Redevelopment Agency), as the CEQA lead agency, has the principal responsibility for approving the Phase II Project and has completed its environmental review under CEQA. The OCII analyzed the environmental impacts associated with the Phase II Project in an Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2007082168) and, in August 2010, certified the EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP), Findings, and a Statement of Overriding Considerations.

The Phase II Project involves developing a mixed-use community with a wide range of residential, retail, office, research and development, civic and community uses, and parks and recreational open space. A major component analyzed in the EIR was an opportunity site for a new stadium for the San Francisco 49ers National Football League

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<sup>1</sup> CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, Title 14, section 15000 et seq.

team. Additionally, new transportation and utility infrastructure would serve the Phase II Project including a bridge across Yosemite Slough. The Phase II Project proposes development of 10,500 residential units with an associated population of 24,465 residents; 885,000 gross square feet (gsf) of retail; 150,000 gsf of office; 2.5 million gsf of Research & Development uses; a 220-room, 150,000-gsf hotel; a 225,000-gsf artist studio space and arts center; 100,000 gsf of community services; ~240 acres of new parks, sports fields, and waterfront recreation areas, as well as ~97 acres of new and improved State parkland; a 69,000-seat 49ers stadium; and a 100,000-seat performance arena. Shoreline improvements would also be implemented to stabilize the shoreline. The Phase II Project would include structured and on-street parking and various infrastructure improvements to support the development.

The CSLC parcel of land within the Phase II Project area will undergo pre-construction mitigation activities in preparation for the planned development. These activities include an archaeological investigation (implementation of Mitigation Measure [MM] CP-2a) and surcharging<sup>2</sup> (implementation of MM GE-5a). The CSLC's approval of the Lease will allow the OCII to conduct the archaeological investigation and surcharging on state lands. The parcel currently contains paved surfaces, including portions of two parking lots and a road with strips of grasses and bushes in between the road and parking lots.

The OCII determined that the Phase II Project could have significant environmental effects on the following environmental resources:

- Transportation and Circulation;
- Aesthetics;
- Wind;
- Air Quality;
- Noise and Vibration;
- Cultural Resources;
- Hazards and Hazardous Materials;
- Geology and Soils;
- Hydrology and Water Quality;
- Biological Resources;
- Public Services;
- Recreation;
- Utilities;
- Energy; and
- Greenhouse Gas Emissions.

Of those 15 resources areas, Phase II Project components within the CSLC's jurisdiction (i.e., archaeological investigations and placement of sediment for surcharging) could have significant environmental effects on six of the above resource areas:

- Transportation and Circulation;
- Air Quality;
- Noise and Vibration;
- Cultural Resources;
- Geology and Soils; and
- Hydrology and Water Quality.

In certifying the EIR and approving the Phase II Project, the OCII imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be

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<sup>2</sup> Surcharging is the placement of fill to compact underlying soils.



substantially lessened with implementation of these mitigation measures. However, even with the integration of feasible mitigation, the OCII concluded in the EIR that some of the identified impacts would remain significant. As a result, the OCII adopted a Statement of Overriding Considerations to support its approval of the Phase II Project despite the significant and unavoidable impacts. The OCII determined that, after mitigation, the Phase II Project may still have significant impacts on Transportation and Circulation, Air Quality, Noise and Vibration, Cultural Resources, and Public Services. Of these:

- The CSLC's approval of the Lease to allow surcharging and the archaeological investigation on the lease premises may have significant and unavoidable impacts only to Transportation and Circulation.
- The significant and unavoidable impacts to Air Quality, Noise and Vibration, Cultural Resources (historic structures), and Public Services will occur due to activities outside of the lease premises or after the parcel is no longer state owned, and are therefore outside the jurisdiction and approval authority of the CSLC.

As a responsible agency, the CSLC complies with CEQA by considering the lead agency's EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the CSLC may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or project revisions are implemented, the CSLC adopts a Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Lease approval.

## 2.0 FINDINGS

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment. (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the OCII for the Project identifies potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund v. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

While the CSLC must consider the environmental impacts of the Project as set forth in the OCII's EIR, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the CSLC's exercise of discretion involves only issuing a short-term General Lease—Public Agency Use for archaeological investigation and surcharging, the CSLC is responsible

for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction. With respect to all other impacts associated with implementation of the Phase II Project, the CSLC is bound by the legal presumption that the EIR fully complies with CEQA.

The CSLC has reviewed and considered the information contained in the Phase II Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the CSLC's approval of a General Lease—Public Agency Use, which would allow surcharging and an archaeological investigation on the lease premises, are included herein and organized according to the resource affected. These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment;
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.<sup>3</sup>

Whenever Finding (3) is made, the CSLC has determined that sufficient mitigation is not practicable to reduce the impact to a less than significant level, and even after implementation of all feasible mitigation measures, there will be or could be one or more unavoidable significant adverse impacts due to the Lease approval. Significant impacts requiring Finding (3) were identified in the Final EIR. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts related to the CSLC's discretionary action, as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15093, 15096, subd. (h).)

These Findings are based on the information contained in the EIR, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the EIR.

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC's record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

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<sup>3</sup> See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

## I. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The following impacts were determined in the EIR to be potentially significant absent mitigation: AQ-1, CP-2a, GE-9, NO-1a, and HY-1a. After application of mitigation, however, the impacts were determined to be less than significant.

### A. Air Quality

#### CEQA FINDING NO. AQ-1

Impact: **Impact AQ-1. Criteria Pollutants.** Construction activities associated with the Project may result in short-term increases in emission of criteria air pollutants and precursors that exceed Bay Area Air Quality Management District (BAAQMD) CEQA significance criteria.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities authorized by the Lease approval have the potential to result in dust emissions due to activities undertaken as part of an archaeological investigation and the placement of fill and grading to compact underlying bay mud. These construction activities associated with the Project would result in short-term increases in the emission of criteria air pollutants that could exceed BAAQMD CEQA significance criteria.

Implementation of **MM HZ-15** will minimize impacts to air quality by ensuring that construction contractors comply with the dust control strategies included in an approved dust control plan. Implementation of this plan will reduce the impacts caused by construction dust to less than significant.

**MM HZ-15: Dust Control Plans.** Prior to obtaining a grading, excavation, site, building or other permit from the City that includes soil disturbance activities, the Project Applicant shall obtain approval of a Dust Control Plan (DCP) from the San Francisco Department of Public Health (SFDPH) for areas over 0.5 acre at Candlestick Point. Compliance with the DCP shall be required as a condition of the permit. The DCP shall be submitted to and approved by the SFDPH prior to the beginning of construction, and the site operator must ensure the implementation of all specified dust control measures throughout the construction Project. The DCP shall require compliance with the following specific mitigation measures to the extent

deemed necessary by the SFDPH to achieve no visible dust at the property boundary:

- Submission of a map to the Director of Health showing all sensitive receptors within 1,000 feet of the site;
- Keep all graded and excavated areas, areas around soil improvement operations, visibly dry unpaved roads, parking and staging areas wetted at least three times per shift daily with reclaimed water during construction to prevent visible dust emissions from crossing the property line. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour;
- Analysis of wind direction and placement of upwind and downwind particulate dust monitors;
- Record keeping for particulate monitoring results;
- Requirements for shutdown conditions based on wind, dust migration, or if dust is contained within the property boundary but not controlled after a specified number of minutes;
- Establishing a hotline for surrounding community members who may be potentially affected by Project-related dust. Contact person shall respond and take corrective action within 48 hours. Post publicly visible signs around the site with the hotline number as well as the phone number of the BAAQMD and make sure the numbers are given to adjacent residents, schools, and businesses;
- Limiting the area subject to construction activities at any one time;
- Installing dust curtains and windbreaks on windward and downwind sides of the property lines, as necessary. Windbreaks on windward side should have no more than 50% air porosity;
- Limiting the amount of soil in trucks hauling soil around the job site to the size of the truck bed and securing with a tarpaulin or ensuring the soil contains adequate moisture to minimize or prevent dust generation during transportation;
- Enforcing a 15 mph speed limit for vehicles entering and exiting construction areas;
- Sweeping affected streets with water sweepers at the end of the day;
- Hiring an independent third party to conduct inspections for visible dust and keeping records of those inspections;
- Minimizing the amount of excavated material or waste materials stored at the site; and
- Prevent visible track out from the property onto adjacent paved roads. Sweep with reclaimed water at the end of each day if visible soil material is carried out from property.

For all areas, this measure shall be implemented through Article 22B (areas over one half acre) or for HPS Phase II through a requirement in the potential additions to Article 31 imposing requirements to parcels other than Parcel A or through an equivalent process established by the City or Agency.

**CEQA FINDING NO. AQ-2**

Impact: **Impact AQ-2. Diesel Particulate Matter (DPM) from Construction Activities.** Construction activities associated with the Project could result in impacts to off-site populations from Project-generated emissions of DPM.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

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

**FACTS SUPPORTING THE FINDING(S)**

Activities authorized by the Lease approval have the potential to result in Diesel Particulate Matter (DPM) from construction activities undertaken as part of the placement of fill and grading to compact underlying bay mud. These construction activities associated with the Project could result in impacts to off-site populations from Project-generated emissions of DPM.

Implementation of **MM AQ-2.1** and **MM AQ-2.2** will minimize impacts to air quality by requiring emission control devices to reduce the carcinogenic and noncarcinogenic health risks posed by DPM emissions during construction activities to below established thresholds, and thus would reduce this impact to less than significant.

**MM AQ 2.1: Implement Emission Control Device Installation on Construction.**

To reduce DPM emissions during Project construction, the Project Applicant shall require construction equipment used for the Project to utilize emission control technology such that 50% of the fleet will meet US EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies) for particulate matter control (or equivalent) during the first two years of construction activities, increasing to 75% of the fleet in the third year and 100% of the fleet starting in the fourth year and for the duration of the Project.

**MM AQ-2.2: Implement Accelerated Emission Control Device Installation on Construction Equipment Used for Alice Griffith Parcels.** In addition to mitigation measure MM AQ-2.1, in order to minimize the potential impacts to residents living in Alice Griffith from the construction activities in that area, the Project Applicant will require that all construction equipment used in the Alice Griffith parcels (CP01 though CP06) would utilize equipment which meets the US EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control

Strategies) for particulate matter control (or equivalent) throughout the entire duration of construction activities on those.

### LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less than significant level.

#### CEQA FINDING NO. AQ-3

Impact: **Impact AQ-3. Toxic Air Contaminants (TACs) from Construction Activities.** Construction activities associated with the Project may result in impacts to off-site and Alice Griffith populations from emissions of TACs bound to soil-PM<sub>10</sub>.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities authorized by the Lease approval have the potential to result in dust emissions due to activities undertaken as part of an archaeological investigation and the placement of fill and grading to compact underlying bay mud. These construction activities associated with the Project may result in short-term impacts to off-site and Alice Griffith populations from emissions of TACs bound to soil-PM<sub>10</sub>.

Implementation of **MM HZ-15** will minimize impacts to air quality by ensuring that construction contractors comply with the dust control strategies included in an approved dust control plan. Implementation of this plan will reduce the impacts caused by construction dust to less than significant.

MM HZ-15: Dust Control Plans (as described in Impact AQ-1).

### LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less than significant level.

## B. Cultural Resources

### CEQA FINDING NO. CP-2a

Impact: **CP-2a. Change in Significance of Archaeological Resources From Construction Activities.** Construction at Candlestick Point may result in a substantial adverse change in the significance of archaeological resources, including prehistoric Native American, Chinese fishing camp, and maritime-related archaeological remains.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

### FACTS SUPPORTING THE FINDING(S)

Activities authorized by the Lease approval, including grading and construction activities have the potential to result in a substantial adverse change in the significance of archaeological resources, including prehistoric Native American resources, Chinese fishing camps, and maritime related resources.

Implementation of **MM CP-2a** would minimize this impact by ensuring that an archaeological testing program is performed and that any discovered archaeological resources are appropriately handled and documented, thus preserving their meaning and significance.

**MM CP-2a: Mitigation to Minimize Impacts to Archaeological Resources at Candlestick Point.** Based on a reasonable presumption that archaeological resources may be present within the Project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the Project on buried or submerged historical resources.

**Overview:** The Project Applicant shall retain the services of a qualified archaeological consultant having expertise in California prehistoric and urban historical archeology. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the archaeological consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure and with the requirements of the Project Archaeological Research Design and Treatment Plan (Archeo-Tec. Archaeological Research Design and Treatment Plan for the Bayview Waterfront Project, San Francisco, California, 2009) at the direction of the City's Environmental Review Officer (ERO). In instances of inconsistency between the requirement of the Project Archaeological Research Design and Treatment Plan and of this archaeological mitigation measure, the requirement of this archaeological mitigation measure shall prevail. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final

approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the Project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce potential effects on a significant archaeological resource as defined in CEQA Guidelines section 15064.5(a)(c) to a less than significant level.

**Archaeological Testing Program:** The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the Project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings for submittal to the ERO. If, based on the archaeological testing program, the archaeological consultant finds that significant archaeological resources may be present, the ERO (in consultation with the archaeological consultant) shall determine if additional measures are warranted. Additional measures that may be undertaken include, but are not necessarily limited to, additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the Project, the Project Applicant shall either:

- a. Re-design the Project so as to avoid any adverse effect on the significant archaeological resource; or
- b. Implement a data recovery program, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

**Archaeological Monitoring Program:** If the ERO, in consultation with the archaeological consultant, determines that an Archaeological Monitoring Program (AMP) shall be implemented, the AMP shall include the following provisions, at a minimum:

- The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the AMP prior to the commencement of any Project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what Project activities shall be archaeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), and



site remediation, shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;

- The archaeological consultant shall train all Project construction personnel who could reasonably be expected to encounter archaeological resources of the expected resource(s), how to identify the evidence of the expected resource(s), and the appropriate protocol in the event of apparent discovery of an archaeological resource;
- The archaeological monitor(s) shall be present on the Project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with the archaeological consultant, determined that Project construction activities could have no effects on significant archaeological deposits;
- The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- If an intact archaeological deposit is encountered, all soil-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be authorized to temporarily halt demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If, in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of any encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit and present the findings of this assessment to the ERO as expeditiously as possible; and
- Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

**Archaeological Data Recovery Program:** The archaeological data recovery program shall be conducted in accord with an Archaeological Data Recovery Plan (ADRP). The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that

could be adversely affected by the Project. Destructive data recovery methods shall not be pursued if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- **Field Methods and Procedures.** Descriptions of proposed field strategies, procedures, and operations;
- **Cataloguing and Laboratory Analysis.** Description of selected cataloguing system and artifact analysis procedures;
- **Discard and Deaccession Policy.** Description of and rationale for field and post-field discard and deaccession policies;
- **Interpretive Program.** Consideration of an onsite/ off-site public interpretive program during the course of the archaeological data recovery program;
- **Security Measures.** Recommended security measures to protect the archaeological resource from vandalism, looting, and other potentially damaging activities;
- **Final Report.** Description of proposed report format and distribution of results; and
- **Curation.** Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

**Human Remains and Associated or Unassociated Funerary Objects:** The treatment of human remains and associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with applicable state and federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Sec. 5097.98). The archaeological consultant, Project Applicant, and MLD shall make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines Sec. 15064.5(d)). The agreement shall take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

**Final Archaeological Resources Report:** The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s). Information that may put at risk any archaeological resource shall be provided in a separate removable insert

within the final report. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than presented above.

#### LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less than significant level.

#### C. Geology and Soils

##### **CEQA FINDING NO. GE-9**

Impact: **GE-9. Soil Hazards—Settlement.** Implementation of the Project could expose people or structures to substantial adverse effects cause by damage from settlement.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities authorized by the Lease approval that have the potential to expose people or structures to substantial adverse effects caused damage from soil settlement. Unstable subsurface materials, such as artificial fill or soft Bay Mud deposits are abundant in the Candlestick Point site. Damage to structures could be caused by the settlement of poorly compacted fill or consolidation of very soft natural deposits.

Implementation of **MM GE-5a** would minimize this impact by requiring design-level geotechnical investigations and site-specific seismic analyses to evaluate the peak ground accelerations for design of Project structures, as required by the San Francisco Building Code (SFBC). Surcharging will be used as part of the implementation of MM GE-5a. Surcharging involves adding excess fill, for a limited period of time, above the elevation that is needed to achieve the intended final site grades. Surcharging accelerates the consolidation of sediments, and vertical drains would be used to increase lateral soil drainage and allow settlement that would normally occur over years to occur in months.

**MM GE-5a: Site-Specific Geotechnical Investigation with Analysis of Liquefaction Lateral Spreading and/or Settlement.** Prior to issuance of building permits for the Project site:

- The Applicant shall submit to the San Francisco Department of Building Inspection (DBI) for review and approval a site-specific, design-level geotechnical investigation prepared by a California Certified Engineering Geologist (CEG) or California Registered Geotechnical Engineer (GE), as well as project plans prepared in compliance with the requirements of the San Francisco Building Code (SFBC), the Seismic Hazards Mapping Act, and requirements contained in CGS Special Publication 117A “Guidelines for Evaluating and Mitigating Seismic Hazards in California.” In addition, all engineering practices, and analyses of structural design shall be consistent with SFBC standards to ensure seismic stability, including reduction of potential liquefaction hazards;
- DBI shall employ a third-party CEG and California Registered Professional Engineer (Civil) (PE) to form a Geotechnical Peer Review Committee (GPRC), consisting of DBI and these third-party reviewers. The GPRC shall review the site-specific geotechnical investigations and the site-specific structural, foundation, infrastructure, and other relevant plans to ensure that these plans incorporate all necessary geotechnical mitigation measures. No permits shall be issued by DBI until the GPRC has approved the geotechnical investigation and the Project plans, including the factual determinations and the proposed engineering designs and construction methods;
- All Project structural designs shall incorporate and conform to the requirements in the site-specific geotechnical investigations;
- The site-specific Project plans shall incorporate the mitigation measures contained in the approved site-specific geotechnical reports to reduce liquefaction hazards. The engineering design techniques to reduce liquefaction hazards shall include proven methods generally accepted by California Certified Engineering Geologists, subject to DBI and GPRC review and approval, including, but not necessarily limited to:
  - Structural Measures:
    - Construction of deep foundations, which transfer loads to competent strata beneath the zone susceptible to liquefaction, for critical utilities and shallow foundation;
    - Structural mat foundations to distribute concentrated load to prevent damage to structure;
  - Ground Improvement Measures:
    - Additional over-excavation and replacement of unstable soil with engineering-compacted fill;

- Dynamic compaction, such as Deep Dynamic Compaction (DDC) or Rapid Impact Compaction (RIC), to densify loose soils below the groundwater table;
  - Vibro-compaction, sometimes referred to as vibro-floatation, to densify loose soils below the groundwater table;
  - Stone columns to provide pore pressure dissipation pathways for soil, compact loose soil between columns, and provide additional bearing support beneath foundations;
  - Soil-cement columns to densify loose soils and provide additional bearing support beneath foundations; and
- The Project CEG or GE shall be responsible for ensuring compliance with these requirements.

#### LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less than significant level.

#### D. Noise and Vibration

##### CEQA FINDING NO. NO-1a

Impact: **NO-1a. Implementation of the Project Could Expose People to Excessive Noise Levels From Construction Activities.** Construction at Candlestick Point would generate increased noise levels for both off-site and on-site sensitive receptors.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

#### FACTS SUPPORTING THE FINDING(S)

Construction activities authorized by the Lease approval, including demolition, site preparation, and grading, would generate increased noise levels for both off-site and on-site receptors; however construction noise impacts would occur primarily in noise-sensitive areas adjacent or near to active construction sites, they would not occur during recognized sleep hours, and would be consistent with the requirements for construction noise that exist in Sections 2907 and 2908 of the *San Francisco Municipal Code*.

Implementation of **MM NO-1a1** would minimize this impact by requiring the applicant to incorporate best practices for reducing noise into the construction document, and implement these practices during construction. Best practices include but are not limited to muffling stationary equipment, locating stationary equipment far from sensitive receptors, prohibiting unnecessary idling, and using noise blankets to attenuate sound.

**MM NO-1a1: Construction Document Mitigation to Reduce Noise Levels During Construction.** The Project Applicant shall incorporate the following practices into the construction documents to be implemented by the Project contractor:

- Provide enclosures and mufflers for stationary equipment, shrouding or shielding for impact tools, and barriers around particularly noisy operations on the site;
- Use construction equipment with lower noise emission ratings whenever possible, particularly air compressors;
- Provide sound-control devices on equipment no less effective than those provided by the manufacturer;
- Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptors;
- Prohibit unnecessary idling of internal combustion engines;
- Require applicable construction-related vehicles and equipment to use designated truck routes to access the Project site;
- Implement noise attenuation measures to the extent feasible, which may include, but are not limited to, noise barriers or noise blankets. The placement of such attenuation measures will be reviewed and approved by the Director of Public Works prior to issuance of development permits for construction activities; and
- Designate a Noise Disturbance Coordinator who shall be responsible for responding to complaints about noise during construction. The telephone number of the Noise Disturbance Coordinator shall be conspicuously posted at the construction site and shall be provided to the City. Copies of the construction schedule shall also be posted at nearby noise-sensitive areas.

#### LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less than significant level.

#### E. Hydrology and Water Quality

**CEQA FINDING NO. HY-1a**

Impact: **HY-1a. Water Quality Standards and Waste Discharge Requirements.** Construction at Candlestick Point could cause an exceedance of water quality standards or contribute to or cause a violation of waste discharge requirements.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

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

#### FACTS SUPPORTING THE FINDING(S)

Activities authorized by the Lease approval that have the potential to result in increased erosion and sediment runoff in stormwater include surcharging, grading, and site preparation. The large amount of exposed sediment used for surcharging and grading the site may increase the amount of suspended sediment in stormwater runoff from the Project area.

Implementation of **MM HY-1a.2** would minimize this impact by requiring the preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP). An SWPPP requires measures to reduce sediment discharge from construction activities including but not limited to: minimizing ground disturbance during the rainy season, using silt fences, filter fabric, and other technology to prevent the release of sediment into the stormwater system, and monitoring water quality of discharges from the work site. This mitigation will ensure implementation of the specific measures and Best Management Practices ("BMPs") that are applicable to surcharging activities. For all construction associated with the Project requiring handling, stockpiling, or transport of soil, compliance with existing federal, state, and local regulations and controls and implementation of mitigation measure MM HY-1a.2 would ensure that potential adverse effects on human health and the environment would be reduced to less than significant.

**MM HY-1a.2: Stormwater Pollution Prevention Plan: Separate Storm Sewer System.** Consistent with the requirements of the SWRCB General Permit for Storm Water Discharges Associated with Construction and Land Disturbing Activities (Construction General Permit), the Project Applicant shall undertake the proposed Project in accordance with a project-specific Storm Water Pollution Prevention Plan (SWPPP) prepared by Qualified SWPPP Developer, who shall consult with California State Parks on those elements of the SWPPP that cover the Candlestick Park State Recreation Area, including selection of best management practices and other SWPPP improvements. The SFRWQCB, the primary agency responsible for protecting water quality within the project area, is responsible for reviewing and ensuring compliance with the SWPPP. This review is based on the Construction General Permit issued by the SWRCB.

The SWPPP shall include, as applicable, all Best Management Practices (BMPs) required in Attachment C of the Construction General Permit for Risk Level 1 dischargers, Attachment D for Risk Level 2 dischargers, or Attachment E for Risk Level 3 dischargers. In addition, recommended BMPs, subject to review and approval by the SFRWQCB, include the measures listed below. However, the measures themselves may be altered, supplemented, or deleted during the SFRWQCB's review process, since the SFRWQCB has final authority over the terms of the SWPPP.

- Scheduling:
  - To reduce the potential for erosion and sediment discharge, schedule construction to minimize ground disturbance during the rainy season. Schedule major grading operations during the dry season when practical, and allow enough time before rainfall begins to stabilize the soil with vegetation or to install sediment-trapping devices;
  - Sequence construction activities to minimize the amount of time that soils remain disturbed;
  - Stabilize all disturbed soils as soon as possible following the completion of ground disturbing work;
  - Install erosion and sediment control BMPs prior to the start of any ground-disturbing activities;
- Erosion and Sedimentation:
  - Preserve existing vegetation in areas where no construction activity is planned or where construction activity will occur at a later date;
  - Stabilize and re-vegetate disturbed areas as soon as possible after construction with planting, seeding, and/or mulch (e.g., straw or hay, erosion control blankets, hydromulch, or other similar material) except in actively cultivated areas. Planting and seeding shall use native, non-invasive species;
  - Install silt fences, coir rolls, and other suitable measures around the perimeter of the areas affected by construction and staging areas and around riparian buffers, storm drains, temporary stockpiles, spoil areas, stream channels, swales, downslope of all exposed soil areas, and in other locations determined necessary to prevent off-site sedimentation;
  - Install temporary slope breakers during the rainy season on slopes greater than 5 percent where the base of the slope is less than 50 feet from a water body, wetland, or road crossing at spacing intervals required by the SFRWQCB;
  - Use filter fabric or other appropriate measures to prevent sediment from entering storm drain inlets;
  - Detain and treat stormwater using sedimentation basins, sediment traps, baker tanks, or other measures to ensure that discharges to receiving waters meet applicable water quality objectives;
  - Install check dams, where applicable, to reduce flow velocities. Check dams reduce erosion and allow sediment to settle out of runoff;
  - Install outlet protection/energy dissipation, where applicable, to prevent scour of the soil caused by concentrated high velocity flows;



- Implement control measures such as spraying water or other dust palliatives to alleviate nuisance caused by dust;
- Groundwater/Dewatering:
  - Prepare a dewatering plan prior to excavation specifying methods of water collection, transport, treatment, and discharge of all water produced by construction site dewatering;
  - Impound water produced by dewatering in sediment retention basins or other holding facilities to settle the solids and provide other treatment as necessary prior to discharge to receiving waters. Locate sedimentation basins and other retention and treatment facilities away from waterways to prevent sediment-laden water from reaching streams;
  - Control discharges of water produced by dewatering to prevent erosion;
  - If contaminated groundwater is encountered, contact the SFRWQCB for appropriate disposal options. Depending on the constituents of concern, such discharges may be disallowed altogether, or require regulation under a separate general or individual permit that would impose appropriate treatment requirements prior to discharge to the stormwater drainage system;
- Tracking Controls:
  - Grade and stabilize construction site entrances and exits to prevent runoff from the site and to prevent erosion;
  - Install a tire washing facility at the site access to allow for tire washing when vehicles exit the site;
  - Remove any soil or sediment tracked off paved roads during construction by street sweeping;
- Non-stormwater Controls:
  - Place drip pans under construction vehicles and all parked equipment;
  - Check construction equipment for leaks regularly;
  - Wash construction equipment in a designated enclosed area regularly;
  - Contain vehicle and equipment wash water for percolation or evaporative drying away from storm drain inlets;
  - Refuel vehicles and equipment away from receiving waters and storm drain inlets, contain the area to prevent run-on and runoff, and promptly cleanup spills;
  - Cover all storm drain inlets when paving or applying seals or similar materials to prevent the discharge of these materials;
- Waste Management and Hazardous Materials Pollution Control:

- Remove trash and construction debris from the project area daily;
- Locate sanitary facilities a minimum of 300 feet from receiving waters. Maintain sanitary facilities regularly;
- Store all hazardous materials in an area protected from rainfall and stormwater run-on and prevent the off-site discharge of hazardous materials;
- Minimize the potential for contamination of receiving waters by maintaining spill containment and cleanup equipment on site, and by properly labeling and disposing of hazardous wastes;
- Locate waste collection areas close to construction entrances and away from roadways, storm drains, and receiving waters;
- Inspect dumpsters and other waste and debris containers regularly for leaks and remove and properly dispose of any hazardous materials and liquid wastes placed in these containers;
- Train construction personnel in proper material delivery, handling, storage, cleanup, and disposal procedures;
- Implement construction materials management BMPs for:
  - Road paving, surfacing and asphalt removal activities;
  - Handling and disposal of concrete and cement;
- BMP Inspection, Maintenance, and Repair:
  - Inspect all BMPs on a regular basis to confirm proper installation and function. Inspect BMPs daily during storms;
  - Immediately repair or replace BMPs that have failed. Provide sufficient devices and materials (e.g., silt fence, coir rolls, erosion blankets, etc.) throughout project construction to enable immediate corrective action for failed BMPs;
- Monitoring and Reporting:
  - Provide the required documentation for SWPPP inspections, maintenance, and repair requirements. Personnel that will perform monitoring and inspection activities shall be identified in the SWPPP;
  - Maintain written records of inspections, spills, BMP-related maintenance activities, corrective actions, and visual observations of off-site discharges of sediment or other pollutants, as required by the SFRWQCB;
  - Monitor the water quality of discharges from the site to assess the effectiveness of control measures;
  - Implement Shoreline Improvements and work over water BMPs to minimize the potential transport of sediment, debris, and construction

materials to the Lower Bay during construction of shoreline improvements;

- Post-construction BMPs:
  - Re-vegetate all temporarily disturbed areas as required after construction activities are completed. Re-vegetation shall use native, non-invasive species;
  - Remove any remaining construction debris and trash from the project site and area upon project completion;
  - Phase the removal of temporary BMPs as necessary to ensure stabilization of the site;
  - Maintain post-construction site conditions to avoid formation of unintended drainage channels, erosion, or areas of sedimentation;
  - Correct post-construction site conditions as necessary to comply with the SWPPP and any other pertinent SFRWQCB requirements; and
- Train construction site personnel on components of the SWPPP and BMP implementation. Train personnel that will perform inspection and monitoring activities.

#### LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less than significant level.

## II. SIGNIFICANT AND UNAVOIDABLE IMPACTS

### A. Transportation and Circulation

#### CEQA FINDING NO. TR-1

Impact: **TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

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

#### FACTS SUPPORTING THE FINDING(S)

Impact TR-1 was determined in the EIR to be significant and unavoidable. Construction vehicle traffic and roadway construction would impact the transportation system and

contribute to cumulative construction impacts in the vicinity of the Project. Implementation of MM TR-1, which requires development and implementation of a Project construction traffic management program, would minimize impacts associated with construction traffic. However, disruption and increased delays and construction-related traffic impacts on local and regional roadways may still occur even with implementation of MM TR-1, therefore these impacts are considered significant and unavoidable.

**MM TR-1: Candlestick Point-Hunters Point Shipyard Phase II Construction Traffic Management Program.** The Project Applicant shall develop and implement a Candlestick Point– Hunters Point Shipyard Phase II Construction Traffic Management Program to minimize impacts of the Project and its contribution to cumulative impacts related to construction activities and construction traffic. The program shall provide necessary information to various contractors and agencies as to how to maximize the opportunities for complementing construction management measures and to minimize the possibility of conflicting impacts on the roadway system, while safely accommodating the traveling public in the area. The program shall supplement and expand, rather than modify or supersede any manual, regulations, or provisions set forth by SFMTA, DPW or other City departments and agencies.

Preparation of the Construction Management Program shall be the responsibility of the Project Applicant, and shall be reviewed and approved by SFMTA and DPW prior to initiation of construction. The Project Applicant shall update the program prior to approval of development plans for Phase 2, Phase 3, and Phase 4 of construction to reflect any change to Project development schedule, reflect transportation network changes, to update status of other development construction activities, and to reflect any changes to City requirements.

The program shall:

- Identify construction traffic management practices in San Francisco, as well as other jurisdictions that although not being implemented in the City could provide useful guidance for a project of this size and characteristics;
- Describe procedures required by different departments and/or agencies in the City for implementation of a construction management plan, such as reviewing agencies, approval process, and estimated timelines;
- Describe coordination efforts associated with the Navy remediation efforts and scheduling regarding construction vehicle routing via the Crisp gate;
- Identify construction traffic management strategies and other elements for the Project, and present a cohesive program of operational and demand management strategies designed to maintain acceptable levels of traffic flow during periods of construction activities in the Bayview Hunters Point area. These could include construction strategies, demand management strategies, alternate route strategies, and public information strategies;

- Coordinate with other projects in construction in the immediate vicinity, so that they can take an integrated approach to construction-related traffic impacts; and
- Present guidelines for selection of construction traffic management strategies.

The construction activities associated the Project would overlap with construction activities of other development projects in the area, notably the HPS Phase I, Executive Park site, Brisbane Baylands, Visitacion Valley, India Basin Shoreline, and the Hunters View site. In addition, the Project construction activities would also overlap with nearby proposed transportation improvement projects, such as the US-101/Harney interchange improvements, and the Geneva Avenue Extension. These overlapping construction activities would increase the number of construction worker vehicles and trucks traveling to and from the project sites along Harney Way and Jamestown Avenue for the Executive Park project and for development within Candlestick Point, and on Cesar Chavez Street and Evans Avenue for the India Basin Shoreline, Hunters View project, and development within Hunters Point Shipyard. For example, construction activities of one or more projects that adversely affect roadway capacity (e.g., Harney Way widening), combined with construction vehicle traffic traveling to and from the roadway project and nearby development projects under construction (e.g., Executive Park and Candlestick Point), could result in increased delays due to traffic diversions and substantial increases in truck traffic.

Given the magnitude of development proposed for the area, the Project's prolonged construction period, and the lack of certainty about the timing of the projects in the area, significant Project-related and significant Project contributions to cumulative traffic and circulation impacts could occur on some roadways, such as US 101, Cesar Chavez Street, Evans Avenue, Harney Way, and Bayshore Boulevard. Cumulative impacts would include construction detours and increased travel times. Implementation of individual traffic control plans would minimize impacts associated with each project and reduce each project's contribution to cumulative impacts in overlapping areas. However, some disruption and increased delays could still occur even with implementation of traffic control plans, and it is possible that significant construction-related traffic impacts on local and regional roadways may still occur. This potential unavoidable significant impact is overridden as set forth in the Statement of Overriding Considerations.

#### LEVEL OF SIGNIFICANCE AFTER MITIGATION

This impact remains significant after application of all feasible mitigation.

**3.0 STATEMENT OF OVERRIDING CONSIDERATIONS**

**I. INTRODUCTION**

This section addresses the CSLC’s obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the CSLC to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval against the backdrop of unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the CSLC from approving the Lease even if the activities authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the CSLC Lease Approval that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Lease, and (3) specific reasons for approving the Lease.

Although the OCII and CSLC have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts resulting from activities authorized by the CSLC Lease approval fall under one resource area: Transportation and Circulation (see Table 1). This impact is specifically identified and discussed in more detail in the CSLC’s CEQA Findings and in OCII’s Final EIR. While the CSLC has required all feasible mitigation measures, this impact remains significant for purposes of adopting this Statement of Overriding Considerations.

**Table 1 – Significant and Unavoidable Impacts Identified for the Approved Project**

Impact	Impact Description
<b>Transportation and Circulation</b>	
<p><b>TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System</b></p>	<p>Implementation of the Project and the resulting construction vehicle traffic and roadway construction would impact the transportation system and contribute to cumulative construction impacts in the vicinity of the Project. Implementation of MM TR-1, which requires development and implementation of a Project construction traffic management program, would minimize impacts associated with construction traffic, but disruption and increased delays and construction-related traffic impacts on local and regional roadways could still occur even with implementation of MM TR-1, therefore these impacts are considered significant and unavoidable.</p>

## II. ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

“When it comes time to decide on project approval, the public agency’s decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether ‘[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.’ Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives” [citations omitted].

The five potentially feasible alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Phase II Project. These alternatives include:

- 1) No Project Alternative;
- 2) CP-HPS Phase II Development Plan; No Yosemite Slough Bridge;
- 3) Reduced CP-HPS Phase II Development; San Francisco 49ers Stay at Existing Candlestick Park Stadium; Limited State Parks Agreement; Yosemite Slough Bridge Serving Only Transit, Bicycles and Pedestrians; and
- 4) Reduced CP-HPS Phase II Development; Historic Preservation; No HPS Phase II Stadium, Marina, or Yosemite Slough Bridge;
- 5) Reduced CP-HPS Phase II Development; No HPS Phase II Stadium, State Parks Agreement, or Yosemite Slough Bridge.

As presented in the EIR, the alternatives were described and compared with each other and with the Phase II Project.

Based on the analysis contained in the EIR, Alternative 4 is the environmentally superior alternative, however Alternative 4 still has 30 significant and unavoidable impacts. With the exception of the impacts related to construction of Yosemite Slough Bridge and the stadium, all of the Phase II Project’s impacts would remain significant for this alternative. Finally, because no improvements to the Candlestick Point Recreation Area (CPSRA) would occur with this alternative, there would be no protective measures to avoid or reduce the potential for flooding and future sea level rise impacts. While this alternative is identified as environmentally superior, a detailed comparison of the impacts associated with this alternative and those associated with the Phase II Project demonstrates that the alternative would provide limited, but not substantial, environmental benefits. No single alternative would eliminate all the significant and adverse impacts of the Project.

The OCII independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the OCII’s independent judgment

as to alternatives. The OCII found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. The five CEQA alternatives proposed and evaluated in the EIR were rejected as being infeasible for reasons provided in the OCII's Findings Regarding Alternatives (incorporated herein by reference).

Based upon the objectives identified in the final EIR and the detailed mitigation measures imposed upon the Phase II Project, the CSLC has determined that the Lease should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Lease are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations related to the Phase II Project:

- Provides for 10,500 new housing units, approximately 32 percent of which will be offered at below market-rates in order to serve a range of household income levels. The below market-rate housing requirements of the Project exceed what is required under California Redevelopment Law and the City's affordable inclusionary housing laws. The below market-rate housing includes the 1:1 replacement of all 256 public housing units at Alice Griffith. The Project provides for the phased replacement of these public housing units so that residents will be able to move directly into new units without having to relocate off-site.
- Creates or improves more than 300 acres of open space throughout the Project including the improvement of the Candlestick Point State Recreation Area, representing the largest park improvement project in the City's history since the construction of Golden Gate Park. This includes a contribution of \$10 million to fund the ongoing operations and maintenance of the CPSRA. The parks and open space will create a linked system of promenades, plazas, overlooks and play areas providing a variety of public spaces and amenities for both passive and active recreation. The parks and open space plans include neighborhood parks within Candlestick and HPS Phase II, new waterfront parks around the entire perimeter of the Shipyard, restored habitat areas, and restored public access to the water. The Project will provide a network of pedestrian and bike pathways that connect Project uses to the adjacent neighborhoods and provide unrestricted public access to the parks and open space on the Project site and the Bay shoreline. Enhanced connectivity of on-site and off-site facilities and new neighborhood parks will allow integration of new and existing facilities into the citywide park network. (DEIR III P-15)
- Provides 255,000 square feet of new and renovated replacement studio space for the existing Shipyard artist tenants, including land for a potential Arts Center.
- Invests more than \$2 billion in infrastructure to serve the site including \$404 million in transportation improvements.
- Provides space and infrastructure for a new United Nations Global Compact Center at the Shipyard.



- Provides a robust package of additional community benefits including:
  - \$3,500,000 for a scholarship fund to provide scholarships for local residents;
  - \$10,000,000 for an education improvement fund to improve or construct educational facilities in the area;
  - \$2,000,000 for community health facilities, including a potential pediatric health and wellness center;
  - The funding of a community benefits fund through the payment of 0.5 percent of the initial sale of each market rate home, as well as 50 percent of profits above the specified threshold, if any;
  - \$8,925,000 to fund workforce training and placement programs for local residents, which the City's Office of Economic and Workforce Development will match with compatible programs in the Bayview area;
  - A community builder program designed to support the participation of local builders in the construction of both market-rate and affordable housing;
  - \$2,500,000 for construction assistance programs designed to provide technical assistance and contractor workshops in conjunction with local hiring and disadvantaged business programs;
  - \$1,000,000 contribution towards the Agency's surety bond program designed to assist local contractors in obtaining insurance and credit support; and
  - A community realtor program designed to provide specific opportunities for licensed brokers in the area.
- Provides 4.8 acres of improved land for additional community facilities as determined by a local community process.
- Provides 65,000 square feet of built space for additional community facilities, including space for the International African Marketplace and library reading rooms.
- Creates approximately 5,582 construction job opportunities onsite over the buildout of the Project. Total annual payroll during peak periods is estimated to be \$44 million. Construction spending will indirectly generate an additional 1,600 jobs total in San Francisco over a 20-year build out.<sup>4</sup>
- Creates approximately 10,000 permanent jobs. Permanent jobs at CP-HPS Phase II are estimated to generate an annual payroll of \$750 million. In addition, economic activity from CP-HPS Phase II businesses is projected to generate multiplier effects on other businesses and employment, creating a projected additional 8,000 jobs from indirect and induced expenditures in the San Francisco economy.

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<sup>4</sup> *Fiscal and Economic Impact Analysis of the Candlestick Point/Hunters Point Shipyard Phase II Redevelopment Project*, prepared by Economic and Planning Systems Inc., May 2010.

- Will generate over \$2 billion annually in business revenue from economic activity by CP-HPS Phase II businesses. This business activity, in turn, will produce additional indirect spending by vendors to the CP-HPS Phase II businesses, estimated to be over \$900 million annually. Induced spending by employee households as a result of direct and indirect activity will result in over \$700 million in spending.
- Provides an opportunity site for a new 49ers football stadium at the Shipyard.
- At full build-out provides more than \$8 billion in net new property value.

### **III. CONCLUSION**

The CSLC has considered the final EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign lands. The CSLC has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Lease approval and has balanced them against the Lease approval's unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Lease approval outweigh the adverse environmental effects. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096, subdivision (h), and 15093, the CSLC finds that the remaining significant unavoidable impacts of the Lease approval are acceptable in light of the economic, fiscal, social, environmental, and public health and safety benefits of the Phase II Project. Such benefits outweigh such significant and unavoidable impacts of the Lease approval and provide the substantive and legal basis for this Statement of Overriding Considerations.

The CSLC finds that to the extent that any impacts identified in the final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the CSLC finds that the benefits of the Lease approval outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.