4.10 Land Use, Plans, and Policies

This section describes the applicable regulatory and environmental setting for existing land uses (including maritime uses) within and around the site for the Project, the Project's physical impacts on such uses, and the potential for land use conflicts with Project development that result in environmental impacts.

The section starts with a description of existing land uses on the site, existing land use patterns in the vicinity, adopted General Plan land use classifications, and zoning designations in and around the Project site. The section then goes on to describe the applicable regulatory framework and plans and policies that guide uses and development of the Project site and vicinity before evaluating potential physical impacts on the environment that may result from the proposed Project. Appropriate mitigation measures are identified, as necessary to avoid or lessen the severity of potential impacts. Pursuant to the City of Oakland's General Plan (General Plan), as well as Section 15358(b) of the State CEQA Guidelines, mitigation measures are proposed only to address significant physical impacts that may result from development of the Project.

With respect to land use and planning, CEQA focuses on whether a proposed project will cause an environmental impact due to a conflict with a land use plan, policy, or regulation adopted for the purpose of avoid or mitigating an environmental effect. CEQA does not require an analysis of potential conflicts with plans or policies not adopted for the purpose of mitigating or avoiding an environmental impact; to the extent this Section discusses such plans, policies, or regulations, it is for informational purposes. Policy conflicts do not, in and of themselves, indicate a significant environmental effect within the meaning of CEQA, in that the intent of CEQA is to determine physical effects associated with a project. Inconsistency with a policy, plan, or regulation adopted for the purpose of avoiding or mitigating an environmental effect does not necessarily result in a significant impact pursuant to CEQA. To result in an impact under CEQA, the inconsistency must be related to a direct or indirect physical impact on the environment and result in a significant, adverse impact (as determined by application of the significance criteria in this EIR for the affected resource).

Comments received on the Notice of Preparation (NOP) included concerns with the introduction of non-industrial land uses into an area with existing industrial uses, marine terminal and ancillary operations, and railroads. Comments also contained concerns regarding potential conflicts between Project uses and existing maritime navigation uses, including conflicts between commercial vessels and recreational watercraft. Comments were also received regarding conflicts with plans and policies including the public trust doctrine, the San Francisco Bay Plan, and the San Francisco Bay Area Seaport Plan. Comments also contained concerns regarding the Project's proposed land use compatibility with other plans such as the Downtown Oakland Specific Plan (DOSP). These issues are discussed in this section.

This section also analyzes the Maritime Reservation Scenario, focused on environmental conditions, regulations, impacts, and mitigation measures that would be different from those identified for the proposed Project.

4.10.1 Environmental Setting

Project Site Existing Land Uses

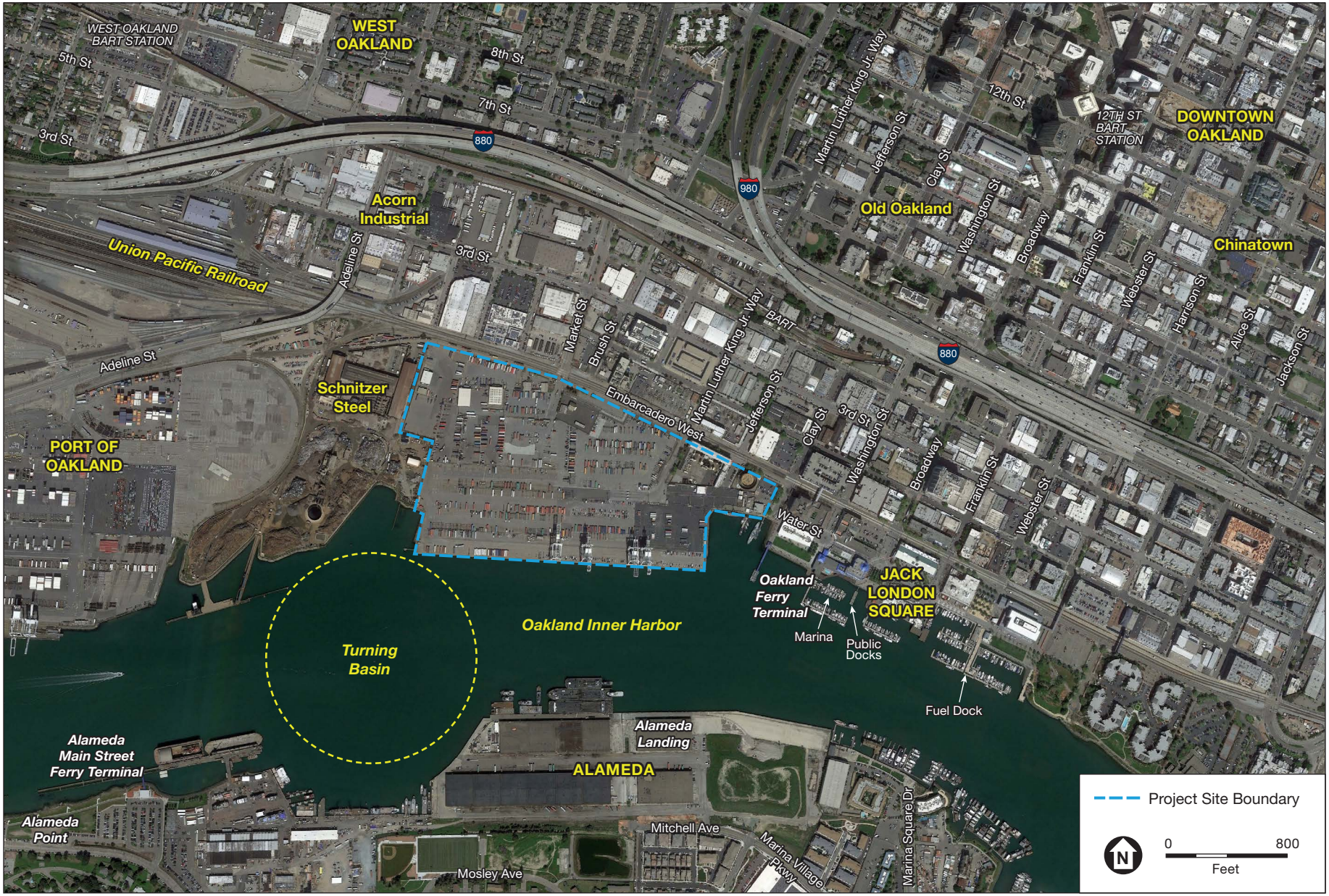
The Project site consists of the Howard Terminal and surrounding parcels (see Figure 3-5). Used as a container shipping terminal until 2014, the Howard Terminal portion of the Project site, the largest existing land use on the site totaling approximately 50 acres, is currently leased by the Port of Oakland (Port) to short-term tenants for maritime support uses. Existing uses and activities include, but are not limited to, truck parking, loaded and empty container storage and staging, longshoreperson training facilities, and berthing vessels. There is no public access to Howard Terminal. Howard Terminal contains Berths 67 and 68 within the Port of Oakland. Four container cranes are located on Howard Terminal and were used to load/unload ships when the terminal was used for container vessel operations.

The Peaker Power Plant, located on the northern portion of the Project site, south of Embarcadero West (601 Embarcadero West), is a 165 Mega-Watt (MW) jet fuel-fired power generation facility (Dynegy, 2019). Fuel storage for the facility is located in a large tank across Jefferson Street from the energy facility. Plans to retire the jet fuel power plant are currently being considered by the owners, and East Bay Community Energy (EBCE) approved a contract on June 5, 2019 to receive capacity from a 20 MW/80 MW-hour battery energy storage project that is currently planned to be built as a partial replacement for the Peaker Power Plant (EBCE, 2019).

The Project site also encompasses a surface parking lot currently used by Beverages & More and Waterfront Hotel customers, a small storage area for the USS Potomac, and Oakland Fire Station 2 at Clay and Water Streets. Station 2 was closed as a dispatch facility and OFD's fireboat (the *Sea-Wolf*) was taken out of service in 2003 due to budget cuts. Station 2 reopened in 2020 for use as a temporary fire station during planned remodels and fire station rebuilds that will be taking place in the City over the next 5 to 7 years. The out-of-service *Sea-Wolf* and City of Oakland police boats are docked in the Oakland-Alameda Estuary (Estuary) adjacent to the fire station. A small public plaza containing seating is located on the Project site, next to the USS *Potomac* and the Lightship *Relief* berthed in the Estuary adjacent to the Project site. The Oakland Ferry Terminal is also located immediately adjacent to the Project site.

Surrounding Existing Land and Water Uses

The Project site is bounded by Jack London Square — an approximately 18-square-block, pedestrian-oriented mixed-use and entertainment area — on the east; the scrap metal recycling center, Schnitzer Steel, and Port lands and commercial maritime uses on the west; the Estuary and the Oakland Inner Harbor on the south; and the parallel Union Pacific railroad (UPRR) tracks, Embarcadero West roadway, and industrial and commercial uses on the north. The Project site sits approximately one-half mile southwest of Downtown, across Interstate 880 (I-880), and one-half mile southeast of West Oakland. The north shore of the City of Alameda is directly south, across the Estuary. Surrounding land uses are depicted on **Figure 4.10-1**.



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SOURCE: ESA, 2019; Google Earth, 2019

Oakland Waterfront Ballpark District Project

Figure 4.10-1
Surrounding Land Uses

ESA

Jack London Square

Jack London Square is located primarily on the Estuary side of Embarcadero West between Clay and Alice Streets south of Downtown Oakland and I-880. The neighborhood surrounding Jack London Square has begun to transition from primarily industrial use to a mix of higher density housing within a context of commercial and light industrial/manufacturing uses. Commercial uses consist of office, retail, hotel, restaurant, and entertainment uses. Jack London Square contains an expansive waterfront promenade and Water Street, just north of the shoreline, is used primarily as a pedestrian promenade but also accommodates vehicular access. Jack London Square hosts a weekend farmer's market in the plaza areas and along Water Street, as well as a number of special events throughout the year. Further to the north, Embarcadero West is divided by railroad tracks and used by vehicles and pedestrians to access the waterfront commercial area. Major access to Jack London Square from Downtown Oakland is provided along Broadway. The Produce District, the site of a wholesale produce market, is located along both sides of Franklin between 2nd and 4th Streets. The Oakland Ferry Terminal located adjacent to the Project site, and the Jack London Square Amtrak station, approximately 0.6-mile from the Project site, are major transportation stations that serve the area. Three BART stations, including West Oakland (0.9-mile), 12th Street Oakland City Center (0.8), and Lake Merritt (1.1-mile), are located near the Project site.

Jack London Square contains marinas with boat slips for monthly rental and berths for guests. There were 14 liveaboards in the Jack London Square marina as of March 2019. Two public boat docks are located at the foot of Broadway with a 4-hour limit; no overnight berthing is allowed at the public docks. The only fuel dock in the Estuary is also located at the foot of Webster toward the eastern end of the Jack London Square waterfront and is used by recreational boaters, the Oakland Police and Fire Departments, the U.S. Coast Guard, and others to refuel boats (Oakland Marinas, 2019). Private kayak, canoe, and paddleboard rentals are also available near the waterfront with a launch area near the public dock.

The Port of Oakland manages property along the waterfront including Jack London Square, which contains public access spaces near the waterfront. As noted earlier, two historic ships are located next to the ferry terminal and adjacent to the Project site. One is President Franklin Delano Roosevelt's official yacht, the USS *Potomac*, and the other is the Lightship *Relief*, which was historically used as a surrogate lighthouse to guide ships. Both ships are open to the public. City of Oakland fire and police boats are docked between the USS *Potomac* and Lightship *Relief*.

Industrial and Other Uses

Schnitzer Steel is a scrap metal recovery and recycling operation that occupies approximately 26.5 acres of non-Port land adjacent to the Project site. Operations at the site include shredding of light iron products such as automobiles, appliances, and other recyclable light steel materials; shearing and torch cutting of heavy recyclable heavy melting steel products; and temporary storage of finished recycled metal products, incidental non-metal recyclable products, and non-recyclable waste materials. Schnitzer Steel also includes a private shipping crane that is used to load container ships with processed ferrous scrap (Schnitzer Steel, 2014). Schnitzer Steel also operates a bulk loading facility and pier in the Estuary waters.

To the north and northeast of the Project site, across the UPRR railroad tracks and Embarcadero West, is the City of Oakland's Acorn Industrial area of light industrial, warehouse, and commercial uses centered along 3rd Street and bordered on the north by the BART tracks and I-880. The Acorn Industrial area extends to the northwest of the Project site to the Union Pacific Railway Yard and Mandela Parkway in West Oakland.

Areas to the north of the Project site and east of the Acorn Industrial area include a Pacific Gas & Electric (PG&E) substation, various commercial and light industrial uses, scattered residences, and live-work and loft apartments.

Port of Oakland

The Port of Oakland's Seaport is comprised of approximately 1,300 acres of maritime-related facilities, generally bounded by the San Francisco-Oakland Bay Bridge to the northwest, I-880 to the east and northeast, the Oakland Estuary to the south, and Howard Terminal at its easternmost extension. The Seaport includes four active marine terminals, warehousing, transloading, drayage truck ancillary services, container repair/depot facilities, lay-berths, vessel ancillary services, a dredge rehandling facility, and Berths 9 through 68 (see **Figure 4.10-2**). Three Port marine terminals – Howard Terminal, Matson Terminal, and Oakland International Container Terminal – are located along the Inner Harbor. Howard Terminal is currently not active as a container cargo terminal. The Seaport is a major economic driver for the Bay Area, supporting more than 27,000 jobs in the region and generating over $2.2 billion annually in business revenue and $281 million in State and local taxes; the total economic output associated with the seaport operations is estimated to be over $60 billion.[1]

Seaport operations on land include transfer of containers to and from ocean-going vessels, stacking and storage of containers at the marine terminals and off-dock yards, and movement of cargo into and out of transload and cross-dock facilities. Horizontal transport around the Seaport is carried out by yard trucks, over-the-road drayage trucks, and rail. As of October 2018, approximately 9,000 drayage trucks were registered with the Port's Secure Truck Enrollment Program, a requirement for providing drayage service at the Port. Of these registered trucks, up to approximately 3,000 are in operation on any given day, with each driving one or more trips to and from the Seaport. Maritime Street, 7th Street, Middle Harbor Road, and the Adeline Street overpass are the key throughways for commercial and truck traffic at the Seaport (Port of Oakland, 2019).

Oakland Inner Harbor

Vessel Use

The Estuary is an approximately 7- mile long, 1,000-foot-wide water body separating Oakland and Alameda. The Oakland Inner Harbor is a portion of the Estuary adjacent to the Project site that extends from the Ben E. Nutter Terminal to the Park Street Bridge (NOAA, 2018). The Oakland Inner Harbor contains a federal navigation channel (Inner Harbor Channel) extending to the eastern end of Howard Terminal with a shipping lane used by container ships serving the Port of

[1] Port of Oakland, 2018. *The Economic Impact of the Port of Oakland*, October 9, 2018. Available at: https://www.portofoakland.com/wp-content/uploads/Economic-Impact-Report-2019-FULL-REPORT.pdf, accessed September 30, 2019.

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SOURCE: Port of Oakland, 2019

Oakland Waterfront Ballpark District Project

Figure 4.10-2

Port of Oakland Seaport Facilities

ESA

Oakland and other large vessels. San Francisco Bay Ferry vessels, commercial fishing boats, and U.S. Coast Guard vessels also frequently use the Inner Harbor Channel. The Inner Harbor Channel is also used by recreational boaters including motorized watercraft (e.g., cabin motorboats, open motorboats, large sailboats under engine power) and non-motorized watercraft (e.g., kayaks, canoes, sculls, sailboats under sail power, paddleboards, kiteboards).

Turning Basin

A turning basin is located in the Inner Harbor Channel immediately adjacent to the southwest corner of the Project site. The turning basin, which measures approximately 1,500 feet in diameter and extends to a depth of 50 feet below Mean Lower Low Water (MLLW) (see Figure 4.10-1), was deepened and expanded to its current configuration in 2001 (Porter et al., 2007). The turning basin can be used 24 hours a day, seven days per week, with very little seasonal change. The San Francisco Bar Pilots (Bar Pilots) are licensed by the State to safely navigate ships into and out of the San Francisco Bay, including the Oakland Inner Harbor (SF Bar Pilots, 2019). Every vessel that calls at Berths 55-68 in the Inner Harbor needs to be turned upon arrival or departure, and the turning basin is necessary for these vessel maneuvers (Port of Oakland, 2019). Some of the largest ships are generally not turned between midnight and 5:00 a.m., and there tends to be an uptick in turning basin activity from 3:00 a.m. to 8:00 a.m. and from 4:00 p.m. to 9:00 p.m. (SF Bar Pilots, 2019). Shipping use of berths within the Project vicinity and the turning basin during 2018 is summarized in **Table 4.10-1**, below. As shown in the table, the turning basin was used 985 times throughout 2018. The average length of time for ships using the turning basin in 2018 was 21 minutes (Marine Exchange of the San Francisco Bay Region, 2019).

TABLE 4.10-1
OAKLAND INNER HARBOR CHANNEL ARRIVALS, DEPARTURES, & USE OF THE TURNING BASIN, 2018

Time of Year	Time of Day	Arrivals Berths 55-68[a]	Departures Berths 55-68[a]	Uses of the Turning Basin[b]
April – October	Weekday Evening[c]	35	116	72
	Weekday Afternoon[d]	95	61	47
	Weekend[e]	70	93	70
	Other Times	509	440	403
November - March	All	465	467	393
Total 2018[f]	All	1,174	1,177	985

NOTES:

a Arrivals & departures are based on "actual time of arrival" and "last line" data and include "shifts" from/to other locations within the Bay. Actual time of arrival refers to the time when a ship passes through the Golden Gate Bridge, and indicates the first activity at the receiving berth. Last line refers to the time when a ship gets underway and departs the dock or anchorage. Shifts take into account last line times. Berths 55-68 are located in the Inner Harbor and include Schnitzer Steel, Berth 65.

b Uses of the Turning Basin is based on ship entry and exit times into and out of the Turning Basin. The maximum of the entries or exits during the time period was used.

c Arrivals and departures occurring between 6:00 p.m. and 10:00 p.m. are included as weekday evening events, as weekday evening baseball games generally begin at 7:00 p.m.

d Arrivals and departures occurring between 12:00 p.m. through 4:00 p.m. are included as weekday afternoon events, as weekday daytime baseball games generally begin at 12:30 p.m.

e Arrivals and departures occurring between 12:00 p.m. and 9:00 p.m. are included as weekend events, as weekend baseball games generally begin at 1:00 p.m. or 6:00 p.m.

f The total of 1,174 Arrivals includes 15 Shifts. There were 1,159 total voyages to Berths 55-68 in 2018.

SOURCE: Marine Exchange of the San Francisco Bay Region, Data Provided March 4, 2019 and Data Provided March 15, 2019.

Large container cargo ships that call at the Port's Seaport are large ocean-going vessels. Such vessels are constrained by their ability to deviate from the course they are following in the Estuary. For this reason, other vessels, including all non-motorized, and motorized recreational vessels, must keep out of their way. Vessel navigation, steering, and sailing are governed by U.S. Coast Guard regulations.

There is the potential for conflict to occur between recreational boaters and the commercial vessels that use the waterway. The Bar Pilots, which are responsible for piloting the large cargo vessels, require safe maneuvering conditions free from potential conflict with other vessels. While data relating to conflicts between recreational boats and commercial vessels is unavailable, anecdotally, the Bar Pilots have indicated that conflicts between ships and kayaks or other small non-motorized watercraft are not common in the Estuary. However, conflicts with motorized recreational boats are more common, and can be disruptive to maneuvering the container ships, as the Bar Pilots need to make modifications to their procedures to avoid them. By contrast, Ferry operators, commercial/charter fishermen, and U.S. Coast Guard vessels are operated by licensed captains who are knowledgeable about the rules of navigation and generally avoid conflicts (SF Bar Pilots, 2019).

Railroads

At-grade railroad tracks, operated by UPRR, currently run between the east- and west-bound lanes of Embarcadero West through Jack London Square and north of the Project site, crossing Market Street, Martin Luther King Jr. Way, and Clay Street directly adjacent to the Project site. Vehicular traffic currently crosses the rail tracks via at-grade intersections with 9A warning devices (flashing light signals with automated gate arms and additional flashing lights on cantilevers). The UPRR railroad tracks adjacent to the Project site are part of UPRR's Niles Subdivision, which is a corridor that serves the Port of Oakland and regional freight rail customers. The UPRR tracks also serve Amtrak passenger trains on the Capitol Corridor route. The Capitol Corridor operates 30 weekday trains and 22 weekend trains on the UPRR tracks (CCJPA, 2019). Freight and passenger trains use the railroad tracks both day and night, seven days per week. Cars and pedestrians frequently cross the railroad tracks to get to and from businesses and events held in Jack London Square. A discussion of train frequency is presented in Section 4.15, *Transportation and Circulation*. Three railyards, one operated by UPRR and two leased to tenants by the Port, are located within the Project vicinity. The UPRR railyard is located approximately 0.25-mile to the northwest of the Project site.

Downtown Oakland

Downtown Oakland is located to the northeast of the Project site and comprises the central business district of the City of Oakland. Downtown Oakland is characterized by a mix of high-rise office buildings, government administration buildings, and mixed-use commercial and residential buildings. The 12th Street Bay Area Rapid Transit (BART) station within Downtown Oakland is located approximately 0.8-mile northeast of the Project site.

The southwest corner of Downtown (Old Oakland) is located immediately north of I-880 and east of I-980, approximately five blocks from the Project site. Old Oakland is a historic district that contains a mix of commercial and residential uses.

Oakland Chinatown, a center for Asian-American culture in the City, is located northeast of the Project site. Chinatown contains a mix of commercial, residential, and community uses. The Lake Merritt BART station serves Chinatown and is located approximately 1.1-miles northeast of the Project site.

West Oakland

West Oakland is a neighborhood northwest of the Project site, generally bounded by highways I-880, I-980, and I-580, and contains a mix of residential, industrial, commercial, and truck-related uses. Residential uses occupy about 59 percent of the land in West Oakland, generally concentrated in the northern, eastern, and southwestern portions of the area. Industrial uses are concentrated around Mandela Parkway and West Grand Avenue, and in the vicinity of 3rd Street, the Acorn Industrial area mentioned above. Commercial uses primarily occur at the northern end near Emeryville, and along San Pablo Avenue, the eastern end of West Grand Avenue, Market Street, and 7th Street. The West Oakland BART station is located approximately 0.9-mile northwest of the Project site.

Alameda

The north shore of the City of Alameda is located across the Estuary, approximately 1,000 feet south of the Project site. In Alameda, warehouse uses are currently located on the north shore of Alameda, south of the Project site. Uses in Alameda southwest of the Project site include marine, residential, and commercial uses. The north shore of Alameda is currently undergoing redevelopment at: 1) Alameda Landing, immediately south of the Project site, that will include a waterfront park and promenade, office and retail uses, and a water shuttle landing (City of Alameda, 2011); and 2) Alameda Point, part of the former Naval Air Station Alameda southwest of the Project site, that will include a mix of commercial, residential, open space, recreational, and retail uses (City of Alameda, 2019). The Alameda Main Street Ferry Terminal is located less than 0.5-mile southwest of the Project site across the Estuary.

4.10.2 Regulatory Setting

Federal

United States Coast Guard Navigation Rules and Regulations

The Inner Harbor Channel and Turning Basin are part of a federal navigation channel. Navigation by any vessel, including all recreational motorized and non-motorized watercraft, in the channel is regulated by the Inland Navigation Rules and Regulations of the United States (U.S.) Coast Guard (U.S. Coast Guard, 2019). Ships serving the Port of Oakland are considered vessels restricted in ability to maneuver and vessels constrained by draft. The following rules are applicable to all vessels using the Inner Harbor:

- **Rule 9, Narrow Channels:** (a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable; (b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway; (d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway; (g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

- **Rule 18, Responsibilities Between Vessels:** (d) Any vessel other than a vessel not under command or a vessel restricted in her ability to maneuver shall, if the circumstances of the case admit, avoid impeding the safe passage of a vessel constrained by her draft.

Additionally, within the navigable waters of the San Francisco Bay and connecting waters, including the Estuary, anchoring is prohibited outside of designated anchorages except when required for safety or with the written permission of the Captain of the Port (33 CFR 110.224). Enforcement authority is discussed in Section 4.13, *Public Services*.

State

The Public Trust Doctrine

The Public Trust Doctrine governs the use of tidal and submerged lands, including former tidal and submerged lands that have been filled. The purpose of the Public Trust Doctrine is to ensure that these lands are held in trust for the people, for purposes of commerce, navigation, and fisheries. Because public trust lands are held for the benefit of the statewide public, they are subject to certain limitations on their use. Water-dependent or water-related uses, such as fisheries, navigation, environmental preservation, water-related recreation, public open space, and public access to the water and the waterfront, are generally considered to be consistent with the public trust. Ancillary or incidental uses that promote public trust uses or accommodate the public's enjoyment of public trust lands are also permitted (e.g., hotels, restaurants, specialty retail establishments).

The California State Lands Commission (CSLC) has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has residual and oversight authority over tidelands and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code Sections 6009(c), 6009.1, 6301, and 6306). The CSLC is responsible for ensuring that the grantees are managing granted trust lands in accordance with the public trust and terms of applicable legislative grants.

Through a series of legislative grants, the State granted to the City of Oakland, in trust, publicly owned tide and submerged lands located within the City's boundaries. In 1927, the City Charter gave the Port of Oakland the exclusive authority to hold, manage, and administer the Port Area, as defined by ordinance, which includes tide and submerged lands granted to the City. In the intervening period, the Port (and before the Port was established, the City) acquired from private parties other lands for various Port uses, all of which are currently held by the Port. Today, the Port serves as the local trustee for statutory trust lands and trust assets within the Port's jurisdiction.

Different portions of the Project site have distinct title histories, which fall into three general categories, as described below. The boundaries of each category cannot be determined with precision because of the natural movement of the historic high and low tide lines before they were filled and reclaimed and because of uncertainty around the accuracy of various tideland surveys performed through the years. The approximate boundaries of the properties, based on available historic maps and other information, are shown in **Figure 4.10-3**.

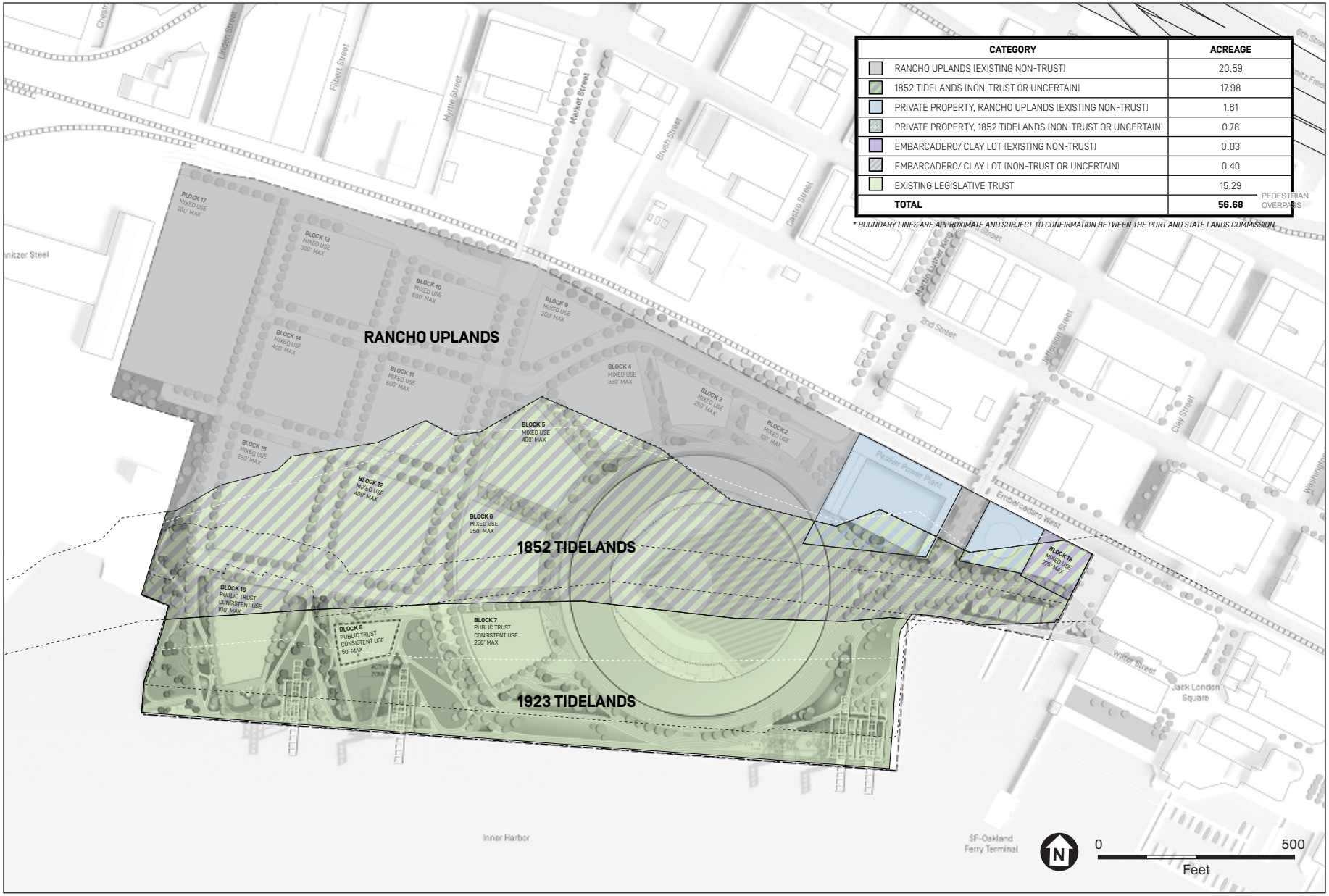
- **1923 Tidelands.** This portion of the Project site consists of filled, formerly submerged lands, and was granted by the State to the City of Oakland by a 1923 legislative trust grant (Stats.

1923, Chap. 174, as amended by Stats 1981, Chap. 1016). This approximately 10-acre portion of the Project site is public trust land, subject to public trust and legislative grant restrictions. Per the legislative grant, the City is required to establish a harbor on the granted lands, and is permitted to use the granted lands for wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation. The Port may lease this portion for public trust uses for periods not to exceed 66 years.

- **1852 Tidelands.** This approximately 22-acre portion of the Project site consists of filled tidelands that were granted by the State to the City of Oakland by an 1852 legislative trust grant (Stats. 1852, Chap. 107), which was then conveyed by the City to private parties, including Horace Carpentier and his affiliated entities. The City or the Port then re-acquired these lands from the successors-in-interest to Horace Carpentier pursuant to a settlement. This area has a long history of litigation and title claims, most of which transpired during the middle to late 19th century. An 1897 California Supreme Court decision (*City of Oakland v. Oakland Water Front Co.* (1897) 118 Cal. 160) confirmed that a settlement by which Horace Carpentier gained title to the lands, was valid, but whether this decision terminated the trust in the lands remains unclear. Even assuming these lands were not subject to the public trust, to the extent these lands were acquired or improved with trust funds, they would be considered an asset of the trust (see, e.g., Harbors and Navigation Code Sections 1698(a)(3) and 1698(e)).
- **Rancho Uplands.** This approximately 20-acre portion of the Project site consists of upland areas that are generally located landward of the ordinary high-water mark in its last natural location. These lands were never owned by the State, and were within the rancho grant confirmed and patented by the United States to Vincente and Domingo Peralta. As such, they were not subject to the public trust or included in any legislative grants. However, to the extent that these this portions of the Project site were acquired or improved with trust funds, they are considered an asset of the trust and to be used for public trust purposes. If the Port were to determine the property was no longer needed for trust purposes, however, the Port could, among other things, lease the lands for an economically productive non-trust use or sell them for fair market value, to generate revenue for the trust (see, e.g., Harbors and Navigation Code Section 6294).

The proposed placement of non-trust uses on public trust lands within the Project site would be inconsistent with the Public Trust Doctrine. In order to resolve issues regarding the public trust status of portions of the Project site, Assembly Bill (AB) 1191 (Stats. 2019, Chap. 752), also known as the Oakland Waterfront Sports and Mixed-Use Project, Waterfront Access, Environmental Justice, and Revitalization Act, was enacted. AB 1191 authorizes CSLC to take certain actions related to the development of the Howard Terminal property and the Project, including, among other things:

- Authorizes CSLC to approve an exchange (potentially in phases) at the Howard Terminal property and settle any dispute as to the boundary or title status of the 1852 Tidelands, 1923 Tidelands, and Rancho Uplands on the site if certain findings can be made, including that the exchange will not substantially interfere with public trust uses and purposes, and that the final trust lands will provide a significant benefit to the public trust and be useful for public trust purposes; and



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SOURCE: BIG/JCFO, 2020

Oakland Waterfront Ballpark District Project

Figure 4.10-3
Existing Public Trust Configuration

ESA

- Authorizes CSLC to approve a baseball park as an allowed use of trust lands, along with other potentially public trust-consistent uses, such as visitor-serving retail, hotels, public access improvements, visitor-serving or water-oriented recreation, cultural and entertainment uses, and other uses on the final trust lands, provided certain conditions are met, including that the ballpark would maximize public use of trust assets and resources on the waterfront and not interfere with navigation of commercial vessels.

San Francisco Bay Plan and San Francisco Bay Area Seaport Plan

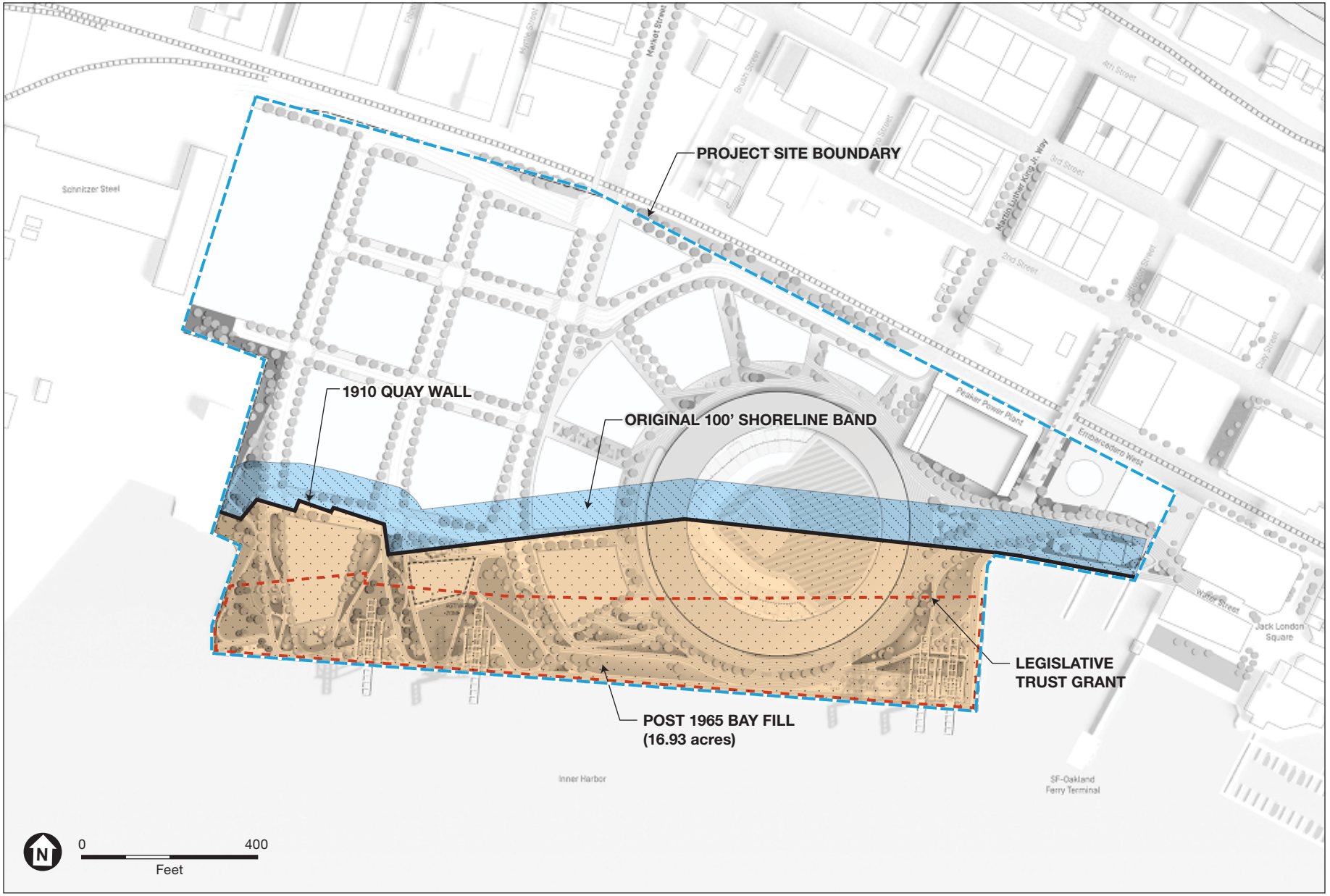
BCDC's San Francisco Bay Plan (Bay Plan) implements the 1965 McAteer-Petris Act (Government Code Sections 66600–66694), which charges BCDC with planning for the long-term use of the Bay and regulating development in and around the Bay. The Bay Plan provides policy direction for BCDC's permit authority regarding the placement of fill, extraction of materials, determining substantial changes in use of land, water, or structures within its jurisdiction, protection of the Bay habitat and shoreline, and maximizing public access to the Bay.

Under the Bay Plan, BCDC regulates the placement of new "fill" (generally defined as any material placed in or over the water surface, including pilings, structures placed on pilings, and floating structures) in the Bay (Government Code Section 66605). Over the years, BCDC has approved modifications to the Project site, including Bay fill for various port-related purposes (Catellus, 2019). **Figure 4.10-4** presents the approximate shoreline location at time of McAteer-Petris Act enactment in September 1965, the original 100-foot shoreline band jurisdiction, as well as the approximate area of fill authorized by BCDC subsequent to that time. As shown in the figure, the Project site's shoreline in 1965 was likely fixed by a quay wall, or a concrete and steel wall used to dock floating vessels, which was constructed around 1910. As also shown on the figure, after 1965, approximately 17 acres of additional fill was placed at the site to accommodate a container terminal with a marginal wharf.

The McAteer-Petris Act and the Bay Plan[2] provide for the designation of priority land uses for the Bay shoreline. These uses include ports, water-related industry, airports, wildlife refuges, and water-oriented recreation. The Bay Plan includes a series of maps that identify designated shoreline priority use areas, along with policies, notes and suggestions for future development of these areas. The Project site is shown on Bay Plan Map 5, Central Bay. The map identifies the Project site and adjacent properties as a "Port" priority use area. The Bay Plan refers the reader to the San Francisco Bay Area Seaport Plan (the "Seaport Plan"), and provides that lands under this designation should be protected for marine terminals and directly related ancillary services. BCDC uses the Seaport Plan to help guide its regulatory decisions on permit applications, consistency determinations, and related matters. The Seaport Plan identifies the following goals:

- Ensure continuation of the San Francisco Bay port system as a major world port and contributor to the economic vitality of the San Francisco Bay region;
- Maintain or improve the environmental quality of San Francisco Bay and its environs;
- Provide for efficient use of finite physical and fiscal resources consumed in developing and operating marine terminals through 2020;

[2] See Bay Plan, Part I – Summary, Developing the Bay and Shoreline to Their Highest Potential, No. 3(a))



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SOURCE: BKF Engineers, 2020

Oakland Waterfront Ballpark District Project

Figure 4.10-4
Original BCDC Jurisdiction and Subsequent Fill

ESA

- Provide for integrated and improved surface transportation facilities between San Francisco Bay ports and terminals and other regional transportation systems; and
- Reserve sufficient shoreline areas to accommodate future growth in maritime cargo, thereby minimizing the need for new Bay fill for port development.

The Bay Area Plan policies also provide that "Other uses, especially public access and public and commercial recreational development, should also be permissible uses provided they do not significantly impair the efficient utilization of the port area." [3]

BCDC reviews permits for proposed projects in the shoreline band for consistency with the McAteer-Petris Act, the Bay Plan and the Seaport Plan, as amended by AB 1191. AB 1191 authorizes BCDC to take certain actions related to the development of the Howard Terminal property and the Project, including, among other things:

- Establishes a deadline for BCDC to determine whether the Seaport Plan or the Bay Plan should retain or remove Seaport Plan or Bay Plan port priority use designations from the Howard Terminal property and adjacent areas currently designated for port priority use;
- Authorizes BCDC, in considering permits for those aspects of the Project that lie within the BCDC's jurisdiction, to find that the ballpark, public trust, and public open-space uses that lie within the BCDC jurisdictional bay fill lands are water-oriented uses, provided that certain conditions are met; and
- Authorizes BCDC to grant a permit for those aspects of the Project that lie within the BCDC's jurisdiction, notwithstanding certain Bay Plan policies applicable to BCDC's Bay jurisdiction (Government Code Sections 66605(b), 66605(c), 66605(d), and 66605(f)), and Bay Plan policies on "Fills in Accord with Bay Plan," "Fill for Bay-Oriented Commercial Recreation and Bay-Oriented Public Assembly on Privately-Owned or Publicly-Owned Property," and "Filling for Public Trust Uses on Publicly-Owned Property Granted in Trust to a Public Agency by the Legislature," if the Project is otherwise consistent with all other applicable BCDC laws and policies and if BCDC finds that (1) the Project will provide a substantial quantity of high-quality open space and public access, and will provide the public with views from and along major thoroughfares that invite the public to the waterfront, and (2) the Project will provide significant pedestrian and bicycle improvements both onsite and offsite in the vicinity of the project site to promote and encourage public access to, and public assembly at, the shoreline of the bay.

Regional

Plan Bay Area 2040

As required by Senate Bill 375, all metropolitan regions in California must complete a Sustainable Communities Strategy (SCS) as part of a Regional Transportation Plan. In the Bay Area, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) are jointly responsible for developing and adopting a SCS that integrates transportation, land use, and housing to meet greenhouse gas reduction targets set by the California Air Resources Board (CARB). The *Plan Bay Area 2040*, adopted in 2017, serves as the SCS for the Bay Area, per Senate Bill 375. As defined by the Plan, Priority Development Areas

[3] See Bay Plan, Part IV - Development of the Bay and Shoreline: Findings and Policies, Ports, Policy Nos. 1 and 3.

(PDAs) are areas where new development will support the needs of residents and workers in a pedestrian-friendly environment served by transit. The Project is located within the "Oakland Downtown & Jack London Square" PDA—the area bounded generally by I-580 on the north, I-980 on the west, the Oakland Estuary on the south, and Lake Merritt and 5th Avenue on the east.

Local Plans, Ordinances and Policies

City of Oakland Charter

The City is a municipal corporation, enabled by authority vested through the Charter of the City of Oakland, adopted by the people of the City of Oakland on November 5, 1968, and ratified and made effective by the California Secretary of State on January 28, 1969. As a charter city, the City has broad local authority with respect to land use planning and building permitting of lands lying within the City boundaries. Pursuant to the Charter, the City Council of the City adopts the General Plan of the City.

Under Article VII of the Charter, the City also acts through the Board of Port Commissioners, otherwise known as the Port of Oakland. The Port of Oakland is a department of the City with the exclusive authority to control and manage certain lands of the City, referred to as the Port Area, in conformity with the Charter and the General Plan. Approximately 50 acres of the 55-acre Project site lie within the Port Area, with the remainder located within the Estuary Policy Plan area.

In order to avoid administrative duplication, to appropriately allocate regulatory land use authority between the City and Port, and to facilitate the analysis of and, if approved by all applicable government agencies and entities, development of the Project, the Port and City, without waiving any of their respective authorities and jurisdiction over lands within the Port Area and consistent with Article VII of the Charter, are cooperating to establish a shared regulatory framework for the Project. Pursuant to that framework, it is anticipated that the City and the Port will closely consult and confer with one another regarding the content of the proposed General Plan amendment and zoning regulations that will govern future development of the proposed Project, both of which will be presented to the City Council for its discretionary review and approval. Further, it is anticipated that the City will accept applications for, process, and consider approval of all tentative and final subdivision maps and construction building permits as required for build-out of the Project. The Port specifically reserves its power and duty to issue Port building permits pursuant to Section 708 of the Charter, which building permits will be in addition to any other permits required by the City.

Because development of the Project will require discretionary approvals from both the City and the Port, this Section discusses the application of regulations pursuant to both the City's General Plan and relevant Port land use policies to the Project site. The Project's anticipated approvals are described in Chapter 3, *Project Description*.

City of Oakland General Plan

The Oakland General Plan establishes comprehensive, long-term land use policies for the City and provides the primary policy direction for development throughout the City and therefore the Project site. The General Plan consists of a series of "elements," each of which deals with a

particular topic, and includes policies, many of which guide development citywide. The Oakland General Plan includes the Land Use and Transportation Element (LUTE) (adopted March 24, 1998), including the 2019 Oakland Bike Plan (July 2019) and the Pedestrian Master Plan (December 2007, updated June 2017), which are adopted as part of the LUTE; the Historic Preservation Element (adopted March 8, 1994 and amended July 21, 1998); the Open Space, Conservation, and Recreation (OSCAR) Element (adopted June 11, 1996); the Safety Element (November 2004, amended 2012); the 2015-2023 Housing Element Update (December 9, 2014); and the Noise Element (June 21, 2005).

The majority of the Project site is located within the "General Industry and Transportation" General Plan land use classification established by the LUTE (City of Oakland, 2015). The General Industry and Transportation classification is intended to recognize, preserve, and enhance areas of the City for a wide variety of businesses and related establishments that may have the potential to create off-site impacts such as noise, light/glare, truck traffic, and odor. General Industry and Transportation areas are characterized by sites with good freeway, rail, seaport, and/or airport access.

Land Use and Transportation Element (LUTE)

Relevant General Plan LUTE Policies

The LUTE of the Oakland General Plan contains the following land use policies that address issues related to land use and planning, and/or are particularly relevant to the Project (City of Oakland, 2007). The Project site is located in the Central/Chinatown planning area.

Industry and Commerce Policies

Policy I/C3.5 Promoting Culture, Recreation, and Entertainment. Cultural, recreational, and entertainment uses should be promoted within the downtown, particularly in the vicinity of the Fox and Paramount Theaters, and within the Jack London Square area.

Policy I/C.4.1: Protecting Existing Activities. Existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the City should be protected from the intrusion of potentially incompatible land uses.

Policy I/C4.2: Minimizing Nuisances. The potential for new or existing industrial or commercial uses, including seaport and airport activities, to create nuisance impacts on surrounding residential land uses should be minimized through appropriate siting and efficient implementation and enforcement of environmental and development controls.

Transportation and Transit-Oriented Development Policies

Policy T2.1: Encouraging Transit-Oriented Development. Transit-oriented development should be encouraged at existing or proposed transit nodes, defined by the convergence of two or more modes of public transit such as BART, bus, shuttle service, light rail or electric trolley, ferry, and inter-city or commuter rail.

Policy T2.2: Guiding Transit-Oriented Development. Transit-oriented developments should be pedestrian oriented, encourage night and day times use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of surrounding neighborhoods.

Policy T3.3: Allowing Congestion Downtown. For intersections within Downtown and for those that provide direct access to downtown locations, the City should accept a lower level of service and a higher level of traffic congestion than is accepted in other parts of Oakland. The desired pedestrian oriented nature of downtown activity and the positive effect of traffic congestion in promoting the use of transit or other methods of travel should be recognized.

Policy T4.1: Incorporating Design Features for Alternative Travel. The City will require new development, rebuilding, or retrofit to incorporate design features in their projects that encourage the use of alternative modes of transportation such as transit, bicycling, and walking.

Policy T6.2: Improving Streetscapes. The City should make major efforts to improve the visual quality of streetscapes. Design of the streetscape, particularly in neighborhoods and commercial centers, should be pedestrian oriented, include lighting, directional signs, trees, benches, and other support facilities.

Waterfront Policies

Policy W1.1: General Plan Conformance of Projects in the Seaport and Airport Areas. The Port shall make a written determination on General Plan conformity for each project, plan, and/ or land use guideline it approves in the Port area. Prior to making such determination the Port will forward its proposed determination to the Director of City Planning, who may provide the Port with written comments within a specified time period. Any comments so provided shall be considered and responded to in writing by the Port in its conformity determination.

For projects in the Port Area outside the seaport and airport areas, the Port's determination of General Plan conformity may be appealed to the City Council within 10 days. If not appealed within 10 days, the Port's determination shall be deemed final. If appealed, the City Council, by a vote of a least 6 members, shall make a final determination on the appeal within 30 days. The City Planning Commission shall provide recommendation to the City Council for consideration in hearing on appeal of the Port's conformity determination.

Policy W1.2: Planning with the Port of Oakland. Plans for maritime and aviation operations as well as activities on all lands in Port jurisdiction should be coordinated with, and generally consistent with, the Oakland General Plan.

Policy W1.3: Reducing Land Use Conflicts. Land uses and impacts generated from Port or neighborhood activities should be buffered, protecting adjacent residential areas from the impacts of seaport, airport, or other industrial uses. Appropriate siting of industrial activities, buffering (e.g., landscaping, fencing, transitional uses, etc.), truck traffic management efforts, and other mitigations should be used to minimize the impact of incompatible uses.

Policy W2.1: Linking Neighborhoods with the Waterfront. All recreational activity sites along the waterfront should be connected to each other to create continuous waterfront access. Safe and direct automobile, bicycle, pedestrian and waterway access between the waterfront and adjacent neighborhoods should be created and strengthened.

Policy W2.2: Buffering of Heavy Industrial Uses. Appropriate buffering measures for heavy industrial uses and transportation uses on adjacent residential neighborhoods should be developed and implemented.

***Policy W2.5: Improved Railroad Crossings*.** To create safe access to the water, pedestrian, bicycle, and automobile railroad crossings should be provided where feasible. Crossings could include grade separations, at-grade crossings, skyway bridges, or connections between buildings.

Policy W2.6: Providing Maritime and Aviation Viewing Access. Safe access to areas for viewing maritime and aviation activities without interfering with seaport and airport activities should be encouraged.

Policy W2.10: Making Public Improvements as a Part of Projects. Physical improvements to improve the aesthetic quality of the waterfront, and increase visitor comfort safety, and enjoyment should be incorporated in the development of projects in the waterfront area. The amenities may include landscaping, lighting, public art, comfort stations, street furniture, picnic facilities, bicycle racks, signage, etc. These facilities should be accessible to all persons and designed to accommodate the elderly and physically disabled persons.

Policy W7.1: Developing Lands in the Vicinity of the Seaport/ Airport. Outside the seaport and airport, land should be developed with a variety of uses that benefit from the close proximity to the seaport and airport and that enhance the unique characteristics of the seaport and airport. These lands should be developed with uses which can buffer adjacent neighborhoods from impacts related to such activities.

***Policy W10.2: Defining Jack London Square Land Uses*.** The area should reflect its current dominant use of commercial and entertainment uses and activities such as restaurants, retail, theater, hotel, farmers market, concert series, boat shows, and other entertainment and cultural activities. Other appropriate uses include office, live/work, and waterfront density residential development.

Policy W10.3: Defining Jack London Square Development Intensity and Characteristics. Development in this area should be high intensity commercial, entertainment, and cultural activities which capitalize on proximity to downtown, existing areas of bigger establishments retailing durable goods, existing produce market area with offices and live/work spaces, and proximity to ferry and Amtrak stations. Development must be sensitive to open, public gathering spaces such as boardwalks, open plazas, outside eating areas for restaurants, etc. Properties along the shoreline should be particularly sensitive to public uses and access due to the unique potential for direct water access and viewing opportunities of the estuary, San Francisco Bay, City of Alameda, San Francisco skyline, and Port of Oakland shipping activity.

Policy W10.4: Defining Jack London Square Mixed Use Characteristics. The character of this area should be mixed use. Higher density housing, single use housing, and live/work lofts and units are appropriate within the area and developments. Mixed use should be sensitive to the surrounding character and design of existing buildings as well as the desire to have the shoreline fully accessible to the public.

***Policy W10.6: Specifying Public Access and Linkages*.** Public access along the estuary should be facilitated by commercial and active recreational uses. It is important to have physical access to and between uses and activities along the waterfront, particularly along the shoreline.

Downtown Policies

***Policy D1.10: Planning for the Jack London District*.** Pedestrian-oriented entertainment, live-work enterprise, moderate-scale retail outlets, and office should be encouraged in the Jack London Waterfront area.

Policy D2.1: Enhancing the Downtown. Downtown development should be visually interesting, harmonize with its surroundings, respect and enhance important views in and out of the downtown, respect the character, history, and pedestrian orientation of the downtown, and contribute to an overall attractive skyline.

Policy D9.1: Concentrating Commercial Development. Concentrate region-serving or "destination" commercial development in the corridor around Broadway between 12th and 21st Streets, in Chinatown, and in the Jack London District. Ground floor locations for commercial uses that encourage a pedestrian-friendly environment should be encouraged throughout the downtown.

Policy D10.2: Locating Housing. Housing in the downtown should be encouraged in identifiable districts, within walking distance of the 19th Street, 12th Street/City Center, and Lake Merritt BART stations to encourage transit use, and in other locations where compatible with surrounding uses.

Policy D10.3: Framework for Housing Densities. Downtown residential areas should generally be within the Urban Density Residential and Central Business District density range, where not otherwise specified. The height and bulk should reflect existing and desired district character, the overall city skyline, and the existence of historic structures or areas.

Policy D11.2: Locating Mixed-Use Development. Mixed-use development should be allowed in commercial areas, where the residential component is compatible with the desired commercial function of the area.

Policy D12.3: Locating Entertainment Activities. Large-scale entertainment uses should be encouraged to concentrate in the Jack London Waterfront and within the Broadway corridor area. However, existing large-scale facilities in the Downtown should be utilized to the fullest extent possible.

Policy D12.4: Locating Smaller Scale Entertainment Activities. Small-scale entertainment uses, such as small clubs, should be allowed to locate in the Jack London Waterfront area and to be dispersed throughout downtown districts, provided the City works with area residents and businesses to manage the impacts of such uses.

Neighborhood Policies

Policy N1.1: Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail.

Policy N1.7: Locating Hotels and Motels. Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor. No new hotels or motels should be located elsewhere in the city, however, the development of "bed-and-breakfast" type lodgings should be allowed in the neighborhoods, provided that the use and activities of the establishment do not adversely impact nearby areas, and parking areas are screened.

Policy N1.9: Locating Major Office Development. While office development should be allowed in commercial areas in the neighborhoods, the City should encourage major office development to locate in the downtown.

Policy N3.1: Facilitating Housing Construction. Facilitating the construction of housing units should be considered a high priority for the City of Oakland.

(Additional LUTE Policies are described in Sections 4.1, Aesthetics, Shadow and Wind; 4.2, Air Quality; 4.7, Greenhouse Gas Emissions; 4.12, Population and Housing; 4.13, Public Services; and 4.15, Transportation and Circulation.)

2019 Oakland Bike Plan

The City first adopted a bicycle plan in 1999, which defined a policy vision and established a plan for a citywide bikeway network of bike paths, lanes, and routes. In 2007, the City updated the Plan to refine the bikeway network through analysis of street conditions and interactions between bikes and buses. On July 9, 2019, the Oakland City Council adopted the Let's Bike Oakland Plan (2019 Oakland Bike Plan) as part of the City's General Plan. The 2019 Oakland Bike Plan is organized around the four goals of access, health and safety, affordability, and collaboration. Section 4.15, *Transportation and Circulation*, details the types of existing or proposed bicycle facility types that are defined in the 2019 Oakland Bike Plan. Figure 4.15-6 in Section 4.15, *Transportation and Circulation,* shows the existing and planned bicycle facilities near the Project site.

The 2019 Oakland Bike Plan contains the following policies related to land use and planning that were adopted to avoid or mitigate an environmental effect, and that are particularly relevant to the Project.

- **Access Goal, Objective A:** Increase access to jobs, education, retail, park and libraries, schools, recreational centers, transit, and other neighborhood destinations.

  Action A1: Build low-stress facilities that provide access to local destinations in every neighborhood in Oakland.

  Action A2: Increase the supply of bicycle parking at neighborhood destinations like schools, medical centers, grocery stores, and government offices.

  Action A3: Evaluate the potential to combine transportation-impact fees for new developments within the same neighborhood to provide continuous, high-quality bicycle facilities.

- **Access Goal, Objective C:** Support public transit service.

  Action C1: Design bikeways that provide first and last mile connections to transit

- **Health & Safety Goal, Objective C:** Reduce air pollution, asthma rates and greenhouse gas emissions.

  Action C1: Build a bicycle network that encourages Oaklanders to choose modes of transportation other than driving by providing low-stress facilities and integrating bikes with transit.

  Action C2: Achieve a 20% reduction in vehicle miles traveled annually as residents, workers and visitors meet daily needs by walking, bicycling and using transit, consistent with the City's Energy and Climate Action Plan (2018).

(Additional 2019 Oakland Bike Plan actions are included in Section 4.15, *Transportation and Circulation*.)

Pedestrian Master Plan

In November 2002, the City Council adopted the Pedestrian Master Plan as part of the LUTE. The Pedestrian Master Plan identifies policies and implementation measures for achieving LUTE policies that promote a walkable city. The Pedestrian Master Plan identifies types of pedestrian routes and minimum design guidelines for each type of route. The Pedestrian Master Plan was updated in 2017 to reflect the City's changing conditions, needs, and priorities (City of Oakland, 2018a).

The 2017 Pedestrian Master Plan establishes goals and outcomes for pedestrians in the City, bulleted below.

- **Outcome 2: Create Streets and Places that Promote Walking.** To achieve this objective, the City will integrate safety into the design of new streets, incorporate art into pedestrian infrastructure, plant more street trees, repair sidewalks, install accessible curb ramps, and provide public open space in underutilized roadways. The City will also pursue citywide programs and partnerships with nonprofits and community groups to promote walking.
- **Outcome 3: Improve Walkability to Key Destinations.** Oaklanders should be able to walk safely to transit, schools, jobs, and other major destinations. To achieve this objective, the City will, where possible, improve sidewalk connections and wayfinding signage to these destinations.

(Additional Pedestrian Master Plan policies and actions are included in Section 4.15, *Transportation and Circulation.*)

Open Space, Conservation, and Recreation (OSCAR) Element

The Open Space, Conservation and Recreation (OSCAR) Element of the General Plan addresses the management of open land, natural resources and parks in Oakland (City of Oakland, 1996b). Oakland's parks are categorized by size and intended service area, which is discussed in Section 4.14, *Recreation*.

The OSCAR contains the following open space (OS) and conservation (CO) policies that address issues related to land use and planning, that were adopted for the purpose of avoiding or mitigating an environmental effect, and that are particularly relevant to the Project.

> ***Policy OS-4.1, Provision of Usable Open Space:*** Continue to require new multi-family development to provide useable outdoor open space for its residents.
>
> ***Policy OS-7.1, Promotion of Beneficial Waterfront Uses***: Require land uses along the shoreline which promote the beneficial uses of the Estuary and Bay waters, including a balanced mix of commercial shipping facilities; water-dependent industry, commerce, and transportation; recreation; water-oriented services and housing; and resource conservation.
>
> ***Policy OS-7.2, Dedication of Shoreline Public Access:*** Support the BCDC requirements which mandate that all new shoreline development designate the water's edge as publicly accessible open space where safety and security are not compromised, and where access can be achieved without interfering with waterfront maritime and industrial uses. Where such

conflicts or hazards would result, support the provision of off-site access improvements in lieu of on-site improvements. In such cases, the extent of off-site should be related to the scale of the development being proposed.

Policy OS-9.2, Use of Natural Features to Define Communities: Use open space and natural features to define city and neighborhood edges and give communities within Oakland a stronger sense of identity. Maintain and enhance city edges, including the greenbelt on the eastern edge of the city, the shoreline, and San Leandro Creek. Use creeks, parks, and topographical features to help define neighborhood edges and create neighborhood focal points.

Policy CO-12.1: Land Use Patterns Which Promote Air Quality: Promote land use patterns and densities which help improve regional air quality conditions by: (a) minimizing dependence on single passenger autos; (b) promoting projects which minimize quick auto starts and stops, such as live-work development, mixed use development, and office development with ground floor retail space; (c) separating land uses which are sensitive to pollution from the sources of air pollution; and (d) supporting telecommuting, flexible work hours, and behavioral changes which reduce the percentage of people in Oakland who must drive to work on a daily basis.

There are also several land use and planning policies in other General Plan Elements that pertain to safety and that are identified in the appendices of the Safety Element (City of Oakland, 2012). Those related to land use and planning, that were adopted for the purpose of avoiding or mitigating an environmental effect, and that are particularly relevant to the Project (and not previously identified under the other elements discussed above) include the following from the OSCAR Element:

OSCAR/Safety Policy CO-12.4: Design of development to minimize air quality impacts. Require that development projects be designed in a manner which reduces potential adverse air quality impacts. This may include: (a) the use of vegetation and landscaping to absorb carbon monoxide and to buffer sensitive receptors; (b) the use of low-polluting energy sources and energy conservation measures.

(Additional OSCAR policies are addressed in Sections 4.1, *Aesthetics, Shadow and Wind*; 4.2, *Air Quality*; 4.3, *Biological Resources*; 4.7, *Greenhouse Gas Emissions*; 4.9, *Hydrology and Water Quality*; 4.14, *Recreation;* and 4.16, *Utilities and Service Systems.*)

Housing Element

The Housing Element Update 2015-2023 of the Oakland General Plan provides an assessment of the need for housing and an inventory of housing; a statement of the goals for housing residents; and a program for providing the needed amount of housing throughout the City (City of Oakland, 2014). The Housing Element contains the following policies that address issues related to land use and planning, that were adopted for the purpose of avoiding or mitigating an environmental effect, and that are particularly relevant to the Project:

Policy 7.4, Minimize Environmental Impacts from New Housing: Work with developers to encourage construction of new housing that, where feasible, reduces the footprint of the building and landscaping, preserves green spaces, and supports ecological systems.

The Housing Element does not identify the Project site as an opportunity site for residential development.

(Additional Housing Element policies are addressed in Sections 4.5, *Energy*; 4.7, *Greenhouse Gas Emissions*; and 4.12, *Population and Housing.*)

Other General Plan Elements

As discussed above, other elements of the General Plan contain policies adopted to avoid or mitigate an environmental effect, not specifically pertaining to land use, and are therefore discussed in the relevant sections of this EIR (though Chapter 4). Specifically:

- Policies from the Historic Preservation Element are listed in Sections 4.1, *Aesthetics, Shadow and Wind*; 4.4, *Cultural and Tribal Cultural Resources*; and 4.7, *Greenhouse Gas Emissions*.
- Policies from the Safety Element are listed in Sections 4.6, *Geology, Soils, and Paleontological Resources;* 4.7, *Greenhouse Gas Emissions;* 4.8, *Hazards and Hazardous Materials*; 4.9, *Hydrology and Water Quality*; 4.13, *Public Services*; and 4.16, *Utilities and Service Systems*.
- Policies from the Noise Element are listed in Section 4.11, *Noise and Vibration*.
- The Scenic Highways Element is discussed in Section 4.1, *Aesthetics, Shadow and Wind*.

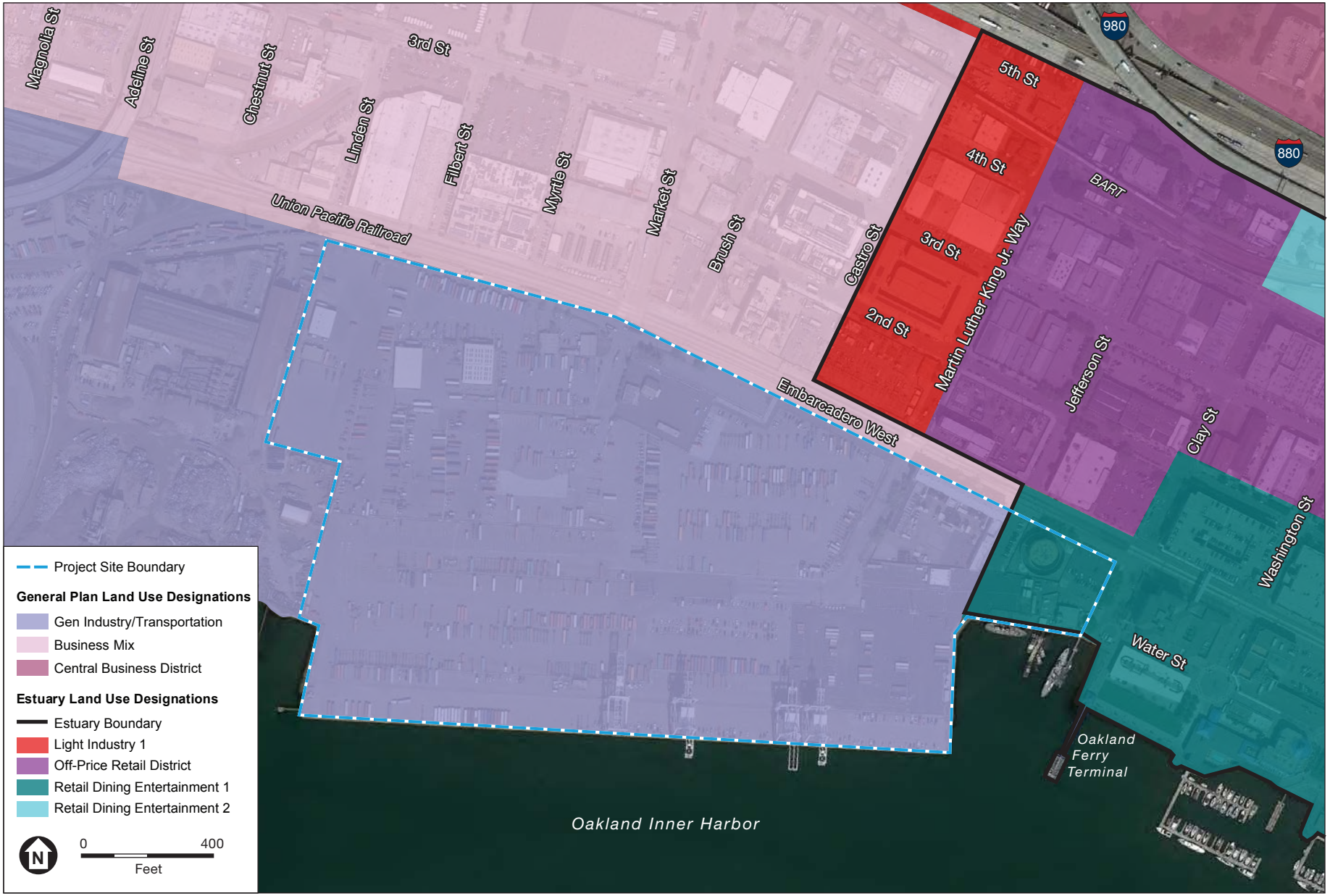
Estuary Policy Plan

A small portion of the Project site, located between Jefferson and Clay Streets south of Embarcadero West, is subject to the Estuary Policy Plan.[4] The Estuary Policy Plan is part of the General Plan and establishes land use designations and policy for the Estuary shoreline, generally extending from Adeline Street to 66th Avenue, including all lands west of I-880 that are within City or Port of Oakland jurisdiction (City of Oakland, 1999). The Estuary Policy Plan designates the land use for this portion as Retail Dining Entertainment 1 (RD&E-1). The intent of the RD&E-1 land use classification is to intensify and enhance public-oriented uses and activities that strengthen the attractiveness of the area as an active and pedestrian-friendly waterfront destination. General Plan and Estuary Policy Plan land use designations are illustrated in **Figure 4.10-5**.

The Estuary Policy Plan seeks to enhance the waterfront for the economic benefit of the community and connect the waterfront to the rest of the city. The following Estuary Policy Plan policies are relevant to the environmental impacts of the proposed Project:

- **Objective LU-1:** Provide for a broad mixture of activities within the Estuary area. As the waterfront changes away from industrial, warehousing and maritime support uses, a broader range of new uses should be encouraged that are complementary with the existing uses that remain. Development should build upon the value of the waterfront as a community amenity and attraction.
- **Objective LU-2:** Provide for public activities that are oriented to the water.
- **Objective LU-6:** Create greater land use continuity between the Estuary waterfront and adjacent inland districts.

[4] Lands within the Estuary Policy Plan are subject to City Ordinance 12229 CMS, and Port Resolution 20095, which temporarily removed those lands from the Port Area. The City has temporary planning authority for the Estuary Policy Plan area, while the Port retained its existing ownership and landlord powers and authority of lands in the Estuary Policy Plan area.



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SOURCE: City of Oakland, 2015; ESA, 2019; Google Earth, 2019

Oakland Waterfront Ballpark District Project

Figure 4.10-5
Existing General Plan and Estuary Policy Plan Land Use Designations

ESA

- **Objective SA-1:** Create a clear and continuous system of public access along the Estuary shoreline.
- **Objective SA-2:** Punctuate the shoreline promenade with a series of parks and larger open spaces.

  ***Retail, Dining, and Entertainment District Policy JL.1*:** Reinforce retail, dining, and entertainment uses along the waterfront, and extend these uses along Broadway to create a regional entertainment destination.

  ***Shoreline Access and Public Spaces Policy JL-8.2*:** Create new open spaces that expand the opportunities to view, appreciate, and enjoy the water's edge.

The Estuary Policy Plan also contains specific policy guidance, which includes "Redevelopment of the block bounded by the historic boat basin, the Embarcadero, Clay and Jefferson streets for public-oriented commercial-recreational and/or cultural use (e.g., maritime museum)."

Applicable Estuary Policy Plan policies are also discussed in Section 4.3, *Biological Resources*.

Oakland Energy and Climate Action Plan

An Oakland Energy and Climate Action Plan (ECAP) adopted in 2012 identified, evaluated and recommend prioritized actions to reduce energy consumption and GHG emissions in Oakland (City of Oakland, 2018b). The 2012 ECAP identified transportation and land use priority actions to reduce GHG impacts to a quantitative target by 2020, including adopting PDAs per the Plan Bay Area. An update to the ECAP, the Oakland 2030 Equitable Climate Action Plan, was adopted in July 2020, and is a comprehensive plan aimed at achieving the City's 2030 GHG reduction target and increasing Oakland's resilience to the impacts of the climate crisis, both through a deep equity lens (City of Oakland, 2020). The ECAP and the City's 2030 GHG emission reduction target are described further in Sections 4.2, *Air Quality*; 4.5, *Energy*; and 4.7, *Greenhouse Gas Emissions*.

Oakland Tree Preservation and Removal Ordinance

City of Oakland Tree Preservation and Removal Ordinance (Oakland Municipal Code, Chapter 12.36) permits removal of protected trees under certain circumstances. To grant a tree removal permit, the City must determine that removal is necessary to accomplish specific objectives related to public health and safety, property rights, views, acceptable professional practices, and vegetation management prescriptions in certain areas. Consistency with the Oakland Tree Preservation and Removal Ordinance is evaluated in Section 4.3, *Biological Resources.*

Oakland Transit First Policy

The City's Public Transit and Alternative Modes ("Transit First") Resolution (No. 73036 C.M.S) recognizes the importance of striking a balance between economic development opportunities and the mobility needs of those who travel by means other than the private automobile. The policy favors modes of travel that have the potential to provide the greatest mobility for people rather than vehicles (City of Oakland, 1996a). Discussion of this policy is included in Section 4.15, *Transportation and Circulation*.

Oakland Planning Code and Zoning Ordinance

The Planning Code serves to implement General Plan policies and is found in the Oakland Municipal Code, Title 17. The Planning Code governs land uses and development standards, such as building height, bulk and setback, for specific zoning districts within Oakland. As noted above, the City and the Port are cooperating to establish a shared regulatory framework under which the City will apply all relevant provisions of the Oakland Planning Code to the Project site. Under this anticipated shared regulatory framework, permits to construct new buildings or to alter or demolish existing ones may not be issued unless the proposed Project conforms to the Planning Code or an exception is granted pursuant to provisions of the Planning Code.

The majority of the Project site, located between Jefferson and Linden Streets south of Embarcadero West, is located within the (IG), General Industrial Zone as shown in **Figure 4.10-6** (City of Oakland, 2013). The IG Zone is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate offsite impacts such as noise, light/glare, odor, and traffic. The IG zone allows heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses. Uses that may inhibit such uses, or the expansion thereof, are prohibited. The IG district is applied to areas with good freeway, rail, seaport, and/or airport access. A small portion of the Project site is located within the M-40 Heavy Industrial Zone. The M-40 Zone is intended to create, preserve, and enhance areas containing manufacturing, industrial, or related establishments that are potentially incompatible with most other establishments, and is typically appropriate to areas which are distant from residential areas and which have extensive rail or shipping facilities.

To date, City's zoning regulations have not been enforced, nor has the Port developed any zoning regulations, for the approximately 50-acre portion of the Project site located with the Port Area.

Port of Oakland Building Permits

Under Section 708 of the City Charter, any construction, alteration, or other development in the Port Area requires a Port Building Permit (sometimes referred to as a Port Development Permit). The Board of Port Commissioners must approve a Port Building Permit prior to the start of such work, and prior to submittal for a City of Oakland building permit. Applications for Port Building Permits for privately owned property within the Port Area are considered and acted upon by the Port Executive Director in the same manner as applications made to the Board of Port Commissioners. The Board of Port Commissioners has adopted ordinances governing the application and issuance of Port Building Permits, including Port Ordinance No. 2083, as amended by Port Ordinance Nos. 2972, 3689, and 3943. Further, as the lessor of certain lands within the Port Area, the Port enforces additional standards for its lessees through each applicable tenancy agreement.

SFO170XX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: City of Oakland, 2015; ESA, 2019; Google Earth, 2019

Oakland Waterfront Ballpark District Project

Figure 4.10-6

Existing Zoning

ESA

4.10.3 Significance Criteria

The City of Oakland has established thresholds of significance for CEQA impacts (City of Oakland, 2016). Based on these thresholds, the Project would have a significant impact on the environment if it would:

1. Physically divide an established community;
2. Result in a fundamental conflict between adjacent or nearby land uses;
3. Fundamentally conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect and actually result in a physical change in the environment; or
4. Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan.

The changes to Appendix G of the State CEQA Guidelines effective in December 2018 were intended to reflect recent changes to the CEQA statutes and court decisions. Many of these recent changes and decisions are already reflected in the City's adopted significance thresholds, which have been used to determine the significance of potential impacts. In the case of Land Use, the changes to Appendix G modified the third criterion above, and moved the fourth criterion to the section about biological resources. The third criterion now reads as follows in Appendix G: "Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?" The analysis in this EIR is consistent with these changes.

Approach to Analysis

This EIR analysis evaluates the development under the Project in terms of its potential to physically divide an existing community and its compatibility with nearby existing land uses. This EIR analysis also evaluates the general consistency of development of the Project with applicable land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect to determine the potential for significant environmental impacts.

Appendix G of the State CEQA Guidelines (Environmental Checklist Form) makes explicit the focus on *environmental* policies and plans, asking if the project would "conflict with any applicable land use plan, policy, or regulation . . . *adopted for the purpose of avoiding or mitigating an environmental effect*." (emphasis added). Even a response in the affirmative, however, does not necessarily indicate the project would result in a significant impact pursuant to CEQA, unless a physical change would occur. To be an impact under CEQA, the conflict must result in a direct or indirect physical impact on the environment (as determined by application of the significance criteria in this EIR for the affected resource). To the extent that physical impacts may result from such conflicts, such physical impacts are typically analyzed elsewhere in this document, with a few exceptions where the discussion of such impacts is provided in this Section below as they relate to land use.

Conflicts with a General Plan also do not inherently result in a significant effect on the environment within the context of CEQA. As stated in Section 15358(b) of the State CEQA Guidelines, "[e]ffects analyzed under CEQA must be related to a physical change." Section 15125(d) of the Guidelines states that EIRs shall discuss any inconsistencies between the proposed project and applicable General Plans.

Regarding a project's consistency with the General Plan in the context of CEQA, the Oakland General Plan states the following:

> The General Plan contains many policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of the California Environmental Quality Act (CEQA). (City Council Resolution No. 79312 C.M.S.; adopted June 2005)

Consistent with CEQA, not every policy that *could* apply to the Project is analyzed. The policies analyzed below are those that most directly pertain to the Project and that emerged as points of interest or controversy during the environmental review, scoping, and community input processes. To the extent this Section discusses potential conflicts with plans, policies or regulations not adopted for the purpose of mitigating or avoiding an environmental impact, it is for informational purposes. The lead agency and responsible agencies will ultimately determine the proposed Project's overall consistency on balance with the applicable goals and policies, as part of the decision to approve or reject the proposed Project.

Topics Considered and Determined to have No Impact

The following topic is considered to have no impact to the Project based on the proposed Project characteristics, its geographical location, and underlying site conditions. Therefore, this topic is not addressed further in this document for the following reasons:

- ***Conflict with a habitat/natural community conservation plan*** (Criterion 4). The Project site is not located within or in proximity to an area guided by a Habitat Conservation Plan or Natural Community Conservation Plan. Therefore, development of the Project would not conflict with such plans and no impact would occur.

  This criterion is also discussed in Section 4.3, *Biological Resources*; refer to the discussion in that section for further analysis.

4.10.4 Impacts of the Project

Physical Division of an Established Community

Impact LUP-1: The Project would not result in the physical division of an existing community. *(*Criterion 1) (*Less than Significant*)

For the purpose of this impact analysis, physically dividing an established community means the creation of barriers that prevent or hinder the existing flow of people or goods through an established

community, or the placement of a development in such a manner that it physically separates one portion of an established community from the remainder of that community. The construction of a new major highway through an existing residential neighborhood would constitute a typical example of a physical division of an established community.

The Project site is located in the Port Area, in a geographic area with marine terminals and ancillary operations that is a part of an integrated warehouse and transportation industrial logistics network, including rail. There are no typical residential neighborhoods or "communities" on or immediately adjacent to the Project site. Therefore, development of the site would not physically divide an established neighborhood or community.

Howard Terminal is one of the only Port of Oakland seaport facilities that is directly connected to the City's street grid and it serves as the current eastern edge of a commercial and industrial area of Port uses and privately-owned and operated businesses along the waterfront. As such, Howard Terminal represents the border between the maritime industrial uses of the Port and the entertainment-oriented commercial district of Jack London Square. The conversion of Howard Terminal from industrial use to entertainment, residential, and office/commercial uses would move the boundary between the Port's maritime activities and the Jack London Square commercial-entertainment district to the west, rather than creating a new division between the two.

The Project would involve the conversion of Howard Terminal from maritime service use to mixed-use commercial and residential. Existing short-term maritime-related leases would end, and tenants would need to relocate from Howard Terminal. As discussed in Chapter 3, *Project Description*, the existing tenants and users of Howard Terminal are assumed to move to other locations within the Seaport (including the Roundhouse parking adjacent to Howard Terminal), the City, or the region where their uses are permitted under applicable zoning and other regulations. All trucks currently making trips in/out of Howard Terminal will continue to make the same number of trips to and from the Seaport from their new locations, and while not proposed as part of the Project, it is possible that truck parking currently located at Howard Terminal would relocate to the Roundhouse site to the west of Schnitzer Steel.[5] Truck parking is an allowable use at the Roundhouse, that would be consistent with surrounding industrial and maritime land uses, but would be subject to separate action by the Port of Oakland Board of Commissioners, and would be consistent with surrounding industrial and maritime land uses. The resulting transportation-related impacts are assessed in Section 4.15, *Transportation and Circulation*, along with other potential impacts to Port-related truck and rail access. Potential impacts to vessels accessing the Port are analyzed under Impact LUP-2, below.

The Project would also reduce barriers and extend public connections to the waterfront. The Project would develop Athletics Way, an extension of Water Street from Jack London Square, that would be a pedestrian promenade leading to and encircling the ballpark and connecting the Project site to Jack London Square. The Project would also develop a Waterfront Park, which

[5] Relocation of truck parking to the Roundhouse site is not proposed as part of the Project, but may be an indirect effect of the Project and would fulfil the Port's commitment, made in conjunction with redevelopment of the Oakland Army Base (OAB), to designate 15 acres for overnight parking.

would provide public access to the shoreline in the Project site, further extending the existing shoreline access located along Jack London Square. Additionally, the Project also proposes adding approximately 1.25 miles of the Bay Trail along the waterfront as part of the Waterfront Park, and to complete a proposed segment on 2nd Street between Brush and Clay Streets. The Project's proposed onsite circulation system would be designed to provide connectivity to the outside street network along the northern edges of the Project site. The proposed bicycle and pedestrian network would also join the existing City street and pedestrian network on the eastern edge of the Project site.

Therefore, the Project would not physically divide an established community, although it would move the boundary between Port-related industrial uses and the Jack London Square commercial-entertainment district to the west. The impact would be less than significant.

Mitigation: None required.

Land Use Compatibility

Impact LUP-2: The Project could result in a fundamental conflict with adjacent or nearby land or water-based uses. *(*Criterion 2) (*Less than Significant with Mitigation*)

While fundamental land use conflicts are no longer included in the State CEQA Guidelines Appendix G checklist, this topic remains an adopted CEQA significance threshold for the City of Oakland. Thus, this discussion evaluates the potential for fundamental conflicts by assessing potential physical impacts of the proposed development (e.g., the Project's potential to affect trucks or vessels associated with maritime operations, resulting in environmental impacts). This discussion also evaluates potential impacts of the environment on the Project (e.g., exposure of new residents to air pollutants), even though CEQA does not generally require an agency to consider the effects of existing environmental conditions on a proposed project's future users or residents, except to the extent the proposed project will exacerbate those conditions.

For the purpose of this analysis, a fundamental conflict with adjacent or nearby land uses means that the character of activities associated with one land use is in fundamental conflict with the uses of adjacent land, or the characteristics of one land use disrupts or degrades adjacent land uses to such a degree that the functional use of the adjacent land for its existing or planned purpose is imperiled.

The Seaport represents a unique industrial land use in the Bay Area. It is a major seaport that cannot be relocated, and is integrated with a regional transportation network of roads and rail. The Seaport is a major economic driver for the Bay Area, supporting more than 27,000 jobs in the region and generating over $2.2 billion annually in business revenue and $281 million in State and local taxes; the total economic output associated with the Seaport is estimated to be over $60

billion.[6] The Project, with its proposed ballpark and residential and office/commercial uses, could result in a fundamental conflict with adjacent Seaport uses if the Project substantially affects the functioning or viability of the uses. [7] Additionally, several General Plan policies (I/C4.1, I/C4.2, W1.3, W.2.2, W7.1, and D10.2) provide that existing Seaport uses should be protected from potentially incompatible uses and that adjacent uses, particularly residential uses, should be buffered from potential nuisances caused by Seaport uses. Thus, the potential for a fundamental land use conflict has been considered below by examining potential impacts on Seaport truck operations and maritime navigation (due to recreational watercraft or light and glare), as well as potential exposure of new residents of the Project to substantial noise and air pollution. As noted, this may include some discussion of issues that are not directly related to CEQA impacts; to the extent such discussion is included here, it is for informational purposes.

As discussed in Section 3.16, *Seaport Compatibility Measures*, in Chapter 3, *Project Description*, the Exclusive Negotiation Term Sheet for Howard Terminal, approved by the Board of Port Commissioners on May 13, 2019, requires the Project Sponsor and the Port to negotiate Seaport Compatibility Measures, which may include input from the Port's seaport and maritime stakeholders, to ensure that the Project does not impact or interfere with the Port's use or operations outside of the Project, or the health and safety of Port tenants and workers. Seaport Compatibility Measures may incorporate results of this chapter's analysis of those fundamental conflicts that could result in a direct or indirect physical impact on the environment (i.e., the mitigation measures presented below), and may also include measures, designs, and operational standards to address non-CEQA conflicts. Any Seaport Compatibility Measures will be reflected in any agreements and other negotiated transaction documents between the Project sponsor and the Port, subject to the permitting and regulatory jurisdiction of all applicable local, State, and federal agencies.

Seaport Road and Rail Access

The Project would generate increased vehicular, bike, and pedestrian activity in the Project vicinity that would mix with Seaport traffic by road or rail. Seaport operations are sensitive to traffic and truck delays, and a level of traffic congestion or vehicular delay that might be acceptable to typical residential or commercial development may result in a significant disruption to Seaport operations. A significant disruption could result in loss of business and imperil Seaport functioning.

As discussed in Section 4.15, *Transportation and Circulation*, and in Appendix TRA, the proposed Project, which includes off-site improvements, would result in some increases in vehicular delay on both non-game days and game days. The Project includes various roadway improvements, such as lane configuration on Adeline Street, to promote truck movement in and out of the Seaport on Adeline Street (see the Section 4.15.5 discussion of Port Operations for additional information). The Project sponsor would be required to develop and implement a Transportation and Parking Demand Management (TDM) Plan for non-ballpark development to

6 Port of Oakland, 2018. The Economic Impact of the Port of Oakland, October 9, 2018. Available at: https://www.portofoakland.com/wp-content/uploads/Economic-Impact-Report-2019-FULL-REPORT.pdf, accessed September 30, 2019.

7 "Office/commercial" uses could include a range of commercial activities, including but not limited to life sciences/research activities.

reduce vehicle traffic generated by the Project by 20 percent. The Project sponsor would also be required to establish a TDM Plan for the performance venue that incorporates traffic management strategies to minimize its traffic impact on neighboring communities, including the Seaport, that may include traffic and/or parking control officers or other personnel acceptable to the City to manage traffic at key intersections and railroad crossings. The TDM Plans for the Project would be required as **Mitigation Measure TRANS-1a**. As also discussed in Section 4.15, measures have been identified in the Transportation Management Plan (TMP) to specifically address ballpark event transportation that could affect Seaport operations, including signage and traffic management at key intersections to protect Seaport access on Adeline Street. This active management of traffic volumes before and after ballgames and large events coinciding with peak periods would be included in the TMP included as **Mitigation Measure TRANS-1b**.

The potential increase in non-Port vehicles cutting through the Seaport was assessed based on existing traffic patterns and the expected trip distribution, and found that Project-related traffic would contribute to a limited increase in cut through traffic in the AM and PM peak periods, as shown in Appendix TRA. Nonetheless, the potential for cut through traffic is a concern for the efficiency of Seaport operations. One of the TMP strategies for the ballpark is to collaborate with the navigational application (App) providers to remove, to the extent feasible, one or more Seaport streets from the Apps so drivers are routed around, rather than through, the Seaport. The TMP would also include a performance standard for cut-through traffic. If the standard is not met, additional measures would be implemented to reduce cut-through traffic. One possible measure would be preventing eastbound and westbound through movements of private vehicles at the intersection of I-880/Frontage Road and 7th Street to reduce cut-through volumes.

The technical analysis in Appendix TRA shows that Port-related traffic would not be substantially impacted by trips to and from the Project site. Port-related traffic would continue to be able to use Adeline Street to travel between the Port and the I-880 corridor. It is possible, however, that some truck drivers may make the conscious choice to avoid the Adeline Street corridor when there is an event at the ballpark and use either the 7th Street or Maritime Street access to the Seaport. For this reason, a sensitivity test was performed to analyze traffic conditions that would occur under this scenario. As described in Section 4.15, the sensitivity analysis shows that the transportation network would function well with all but one intersection operating at LOS C or better and average queues within available storage lengths. Per the TMP included as Mitigation Measure TRANS-1b, if Port-related performance standards for travel time are not met, for example due to increased ballpark traffic, additional measures would be implemented, such as additional road closures or traffic control personnel.

The Project would also introduce additional pedestrian, bicycle, and vehicle traffic at the existing at-grade railroad crossings and potentially at the uncontrolled areas between the at-grade crossings. This additional multimodal traffic would increase the potential for conflicts with motor vehicles, bicyclists, and pedestrians along the railroad corridor in the Project vicinity and through Jack London District both at at-grade crossings and between crossings, and could delay rail access to the Seaport. As a result, a series of at-grade and grade separated crossing improvements have been identified for the railroad corridor. These railroad crossing improvements are required for the Project under **Mitigation Measure TRANS-3a** (Implement At-Grade Railroad Crossing

Improvements), as described in Section 4.15. Additionally, **Mitigation Measure TRANS-3b** (Pedestrian and Bicycle Overcrossing) would require the construction of a grade-separated overcrossing for pedestrians and bicyclists seeking to access the Project site, which would reduce the potential for conflicts with rail traffic and the potential for delay in Seaport access. As discussed in Section 4.15, proposed improvements imposed through Mitigation Measures TRANS-3a and TRANS-3b would substantially improve railroad corridor safety within the limits of the improvements but are subject to review and approval by the California Public Utility Commission (CPUC) and would not eliminate the use of at-grade crossings by pedestrians, bicyclists, and vehicles accessing the proposed Project. For this reason, and because the improvements are subject to the review and approval of another agency, the transportation Impact TRANS-3 related to transportation hazards would be significant and unavoidable (see Section 4.15, *Transportation and Circulation*).

With or without the rail safety improvements, Mitigation Measures TRANS-1a and TRANS-1b incorporate traffic management strategies to minimize Project traffic impacts on neighboring communities, including the Seaport, that may include traffic and/or parking control officers or other personnel acceptable to the City to manage traffic at key intersections. These personnel may also be deployed to railroad crossings if needed to ensure either their safety or operation.

Therefore, with implementation of Mitigation Measures TRANS-1a and TRANS-1b, the Project would not result in a fundamental land use conflict with Seaport road operations and rail access, and impacts would be less than significant with mitigation incorporated.

Recreational Watercraft and Maritime Navigation

While the Project does not propose facilities for recreational watercraft or direct water access, the ballpark and Waterfront Park could indirectly create a new demand for recreational watercraft users adjacent to the Project site. Recreational water users, especially kayakers, are often present in McCovey Cove during baseball games at Oracle Park[8] in San Francisco, to the point that the Port of San Francisco has developed Safe Boating Regulations for McCovey Cove which outline safety guidelines for motorized and non-motorized vessels and specify the amount of time that motorized boats can be anchored. McCovey Cove also has an established "No Motor Zone" for non-motorized vessels such as kayaks, canoes, and rafts (Port of San Francisco, 2019).

Based on the San Francisco experience, it is reasonable to assume that the construction of a waterfront ballpark at the Project site would create similar interest and an increase in recreational water users around the Project site could occur, although the ballpark's orientation as well as the existing setting adjacent to the Inner Harbor differs from Oracle Park and McCovey Cove. As shown in Figure 3-9, the Project ballpark's outfield walls would not be directly adjacent to the Bay, as is the case with Oracle Park, and would not generate the same fan experience as seen with the "splash hits"[9] into McCovey Cove. The proposed ballpark would have an opening oriented to

8 The home of the San Francisco Giants, previously AT&T Park.

9 A "splash hit" is a home run that is hit directly into McCovey Cove during a San Francisco Giants baseball game at Oracle Park. It is a practice among the non-motorized boaters using the cove to retrieve the baseball as a souvenir (San Francisco Giants, 2019).

the southeast and a portion of the Estuary; however, the distance from home plate to the Estuary of approximately 700 feet would be substantially greater than the longest modern-day home run distance of 505 feet.[10]

While the conditions of McCovey Cove and the Inner Harbor differ, that does not necessarily preclude an increase in recreational water users adjacent to the Project site, as the Project would represent a new entertainment destination in the City. In addition, there are multiple recreational boat marinas and facilities to located along the Estuary a short distance from the Project site from which sailboats, motorboats, kayaks, and similar watercraft can be launched.

As described above, the Project site is adjacent to the Inner Harbor Channel and the Inner Harbor Turning Basin, and both are used regularly by ships serving the Seaport. The Inner Harbor Turning Basin was used by turning vessels approximately 189 times in 2018 during the months of April through October at times of the day and night when baseball games occur (see Table 4.10-1). The ballpark is located on the Project site as far away from the Inner Harbor Turning Basin as possible, which reduces, but does not eliminate, the potential for conflict with recreational users in this area. If recreational boaters increase activity, including congregating or anchoring during ballgames, in the channel and turning basin, this could result in a fundamental conflict between the proposed Project and adjacent or nearby water-based uses, including maritime navigation and ferry transit, resulting in the need for mitigation. More specifically, if recreational watercraft are present in adjacent and nearby federal waterways, including the Inner Harbor Turning Basin, or if there is a risk of recreational watercraft impeding the safe transit of commercial ship traffic due to Project activities, a ship's Bar Pilot, in protecting the public, is likely to delay a vessel transit until recreational watercraft are no longer a safety concern. In addition to the vessel directly affected, delays can result in: (a) canceled and rescheduled truck appointments to pick up and drop off containers; (b) delays in subsequent truck appointments for other ships while time is made up for the first ship; (c) delays in the ship's departure from Oakland and arrival at its next port of call; and (d) fees and penalties on terminal operators associated with the delays. If substantial or recurring, these disruptions would create transportation inefficiencies that could require several days or more to return the Port to normal operations and ultimately lead to the risk of shipping companies terminating their business with the Port.

Any vessel traveling within the Inner Harbor is subject to the U.S. Coast Guard's Inland Navigation Rules and Regulations, including recreational motorized and non-motorized watercraft. Per the U.S. Coast Guard's Inland Navigation Rules and Regulations, recreational boats are required to keep as near to the outer limit of the channel as is safe and practicable, to not cross the channel if there is a container ship or other large vessel moving towards them, and to avoid and allow the safe passage of container ships and other large vessels using the Inner Harbor Channel and Turning Basin. Under the U.S. Coast Guard's Inland Navigation Rule 9 (g), "any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel." Furthermore, within the Estuary, anchoring is prohibited outside of designated anchorages except when required for safety. While commercial vessels have licensed captains and typically operate

[10] According to the longest home runs hit by each of the 30 MLB teams since Statcast tracking technology began tracking home run distances at the start of the 2015 season (MLB, 2020). Note that the distance from home plate to McCovey Cove at Oracle Park is approximately 370 feet.

within the confines of the established regulations, operators of recreational watercraft may be unaware of these regulations.

The Harbor Safety Committee of the San Francisco Bay Region indicated in its 2017 Harbor Safety Plan that reported and unreported near-misses may be prevented by small boats properly yielding the right-of-way to large vessels that cannot change course (HSC, 2017). Anecdotally, the Bar Pilots have observed minimal conflicts between ships and non-motorized recreational watercraft in the Inner Harbor. However, the Bar Pilots have indicated that conflicts with motorized recreational watercraft are more frequent, and the Bar Pilots must try to reach them via radio to require them to move or make modifications to their procedures to avoid them. While the Bar Pilots can also use the tug boats helping to maneuver large ships to chase the boats away from the ships, doing so removes an asset from the task of maneuvering the ships (SF Bar Pilots, 2019).

Since the potential exists for an increase in conflicts between recreational watercraft and ships in the Inner Harbor Channel, **Mitigation Measure LUP-1a** would require the Project sponsor to develop a boating and recreation water safety protocol, including certain requirements intended to minimize conflicts with maritime navigation resulting in safety hazards and ship delay, in consultation with the City of Oakland (including the Oakland Police Department), the Port of Oakland, the San Francisco Bay Area Water Emergency Transportation Authority (WETA), the Harbor Safety Committee of the San Francisco Bay Region, and the U.S. Coast Guard for implementation during baseball games and large events at the new ballpark. Mitigation Measure LUP-1a would require the Project sponsor to place signs along the wharf informing those in the water that anchoring of recreational boats adjacent to the Project site is prohibited, and would provide for regular enforcement by the U.S. Coast Guard and/or Oakland Police Department, which is authorized to enforce boating rules by the U.S. Coast Guard. Additional Oakland Police Department enforcement would also be required to enforce against crimes (such as boating under the influence). The protocol would also include a requirement to disseminate safe boating regulations, including the applicable U.S. Coast Guard's Inland Navigation Rules and Regulations, for the areas adjacent to the Project site to marina operators, charter/rental companies, and public boat launches in the vicinity. Therefore, with implementation of Mitigation Measure LUP-1a, the risk of an increase in conflicts between recreational boaters and other vessels using the Inner Harbor Channel would be reduced.

The Project could result in increased ferry service[11], which could theoretically result in an increase in ferry-related water conflicts. However, any increase in ferry service would operate on established routes and ferries in the Estuary are also subject to the Inland Navigation Rules and Regulations of the U.S. Coast Guard, and would be required to avoid and allow the safe passage of container ships and other large vessels using the Inner Harbor Channel and Turning Basin. The Bar Pilots have indicated that ferries currently avoid conflicts between ships in the Inner Harbor Channel because they have licensed captains and are familiar with the navigational rules (SF Bar Pilots, 2019). The U.S. Coast Guard's Inland Navigation Rules and Regulations would also apply to potential conflicts between recreational boaters and ferries. As described above,

[11] Expanded ferry service was envisioned as part of WETA's *Expansion of Ferry Transit Service in the San Francisco Bay Area Program Environmental Impact Report*, the physical environmental impacts of which were analyzed therein (WETA, 2003).

Mitigation Measure LUP-1a would require the Project sponsor and the City of Oakland to develop and implement a boating and recreation water safety protocol, which would reduce the risk of conflicts between recreational boaters and ferries using the Inner Harbor Channel.

With the Project-specific boating and recreational water safety protocol and specific requirements called for in Mitigation Measure LUP-1a, the Project would not result in a fundamental conflict with maritime navigation or water-based uses, and impacts would be less than significant with mitigation incorporated.

Mitigation Measure LUP-1a: Boating and Recreational Water Safety Plan and Requirements.

The Project sponsor shall develop a protocol for boating and water recreation around the Project site with the approval of the City of Oakland and the Port of Oakland, the San Francisco Bay Area Water Emergency Transportation Authority, the Harbor Safety Committee of the San Francisco Bay Region, and the United States Coast Guard.

The protocol shall specify measures intended to minimize conflicts with maritime navigation resulting in safety hazards and ship delay, and shall be implemented prior to and during baseball games, concerts, and other large events (as defined in the TMP) scheduled at the ballpark or the Waterfront Park. The protocol shall include, but shall not be limited to, the following requirements:

1. Installation and maintenance of signs along the wharf informing recreational watercraft of the prohibition on docking and anchoring adjacent to the Project site, including the wharf adjacent to the Project site;

2. Water-based patrols by the Oakland Police Department during and reasonably prior and subsequent to, all baseball games, concerts, and other large events (as defined in the TMP) at the ballpark or the Waterfront Park, sufficient to remove any boating and water recreation activity that is not in compliance with all the applicable laws, regulations, and rules governing navigation in the shipping channel or in the turning basin, as well as ensuring that no such boating or water recreation activity loiters, anchors, or otherwise impedes maritime navigation;

3. Procedures for response to water-related emergencies adjacent to the Project site during all baseball games, concerts, and other large events (as defined in the TMP) at the ballpark or the Waterfront Park; and

4. Communications by the Project sponsor to its guests, customers, and the public regarding this protocol through communicating on (without limitation) its websites and on communications to those who have purchased entry to ballpark events.

The Project sponsor shall solely fund the cost of all of the above requirements, including the incremental cost of the additional water-based OPD patrols.

The Project sponsor, the City of Oakland, and the Port of Oakland (collectively, the "Approving Parties") shall reach agreement on a protocol achieving all of these requirements prior to the issuance of a certificate of occupancy and Port Building Permit for the ballpark. During the opening baseball season in which games are played in the ballpark, the Approving Parties shall meet at least monthly to review the effectiveness of

the protocol in preventing non-compliant boating activity, shipping delays, and water safety hazards. After this opening baseball season, the Approving Parties shall continue to meet monthly to review the effectiveness of the protocol unless less frequent meetings are mutually agreed upon. Additionally, the Approving Parties shall review annually the number of OPD warnings and citations, safety incidents, and water-related emergency responses to ensure that the safety measures are effective.

The Approving Parties shall make good faith efforts to regularly revise the initial protocol based on the effectiveness and feasibility of the protocol in preventing non-compliant boating activity, shipping delays, and water safety hazards. If the Approving Parties cannot mutually agree to revise the protocol to ensure that it effectively prevents non-compliant boating activity, shipping delays, and water safety hazards within 30 days of first making such efforts, then the Port may require additional operational safety measures that are similar to those listed in the initial protocol, including measures such as increased water-based patrols or enhanced signage, which shall be promptly implemented by Project sponsor at Project sponsor's sole cost.

Light and Glare and Maritime Navigation

Light and glare as it broadly pertains to daytime and nighttime views is discussed in Section 4.1, *Aesthetics, Wind, and Shadow*. The following discussion focuses on the proposed Project's operational light and glare impacts on adjacent or nearby water-based uses, specifically maritime navigation. During the EIR scoping process, the City received comments requesting that the EIR analyze the potential effects of light and glare on maritime navigation. For example, the Port of Oakland stated that the EIR should "evaluate the impacts of lighting on navigational safety in the Inner Harbor" and should "identify mitigation measures, including design and operational restrictions relating to light and glare interference, to allow safe vessel navigation in the federal channels in compliance with all applicable standards, such as the Port of Oakland Exterior Lighting Policy." (Port of Oakland Comments on Waterfront Ballpark NOP of DEIR, p. 10 (January 7, 2019).)[12] Due to the sensitivity of surrounding uses, including use of the nearby turning basin by vessels, a quantitative light and glare analysis was prepared by HLB Lighting Design (2020) (**Appendix AES**).

As discussed in Section 4.1, the ballpark alone would not create a substantial source of daytime glare because the façade has been designed without reflective materials and field lighting would not be employed during daytime hours. However, adjacent buildings under Phase 1 and Buildout could create new sources of daytime glare. The potential for substantial new daytime glare from the building facades would be minimized through implementation of **Mitigation Measure BIO-1b, Bird Collision Reduction Measures**, as described in Section 4.3, *Biological Resources*, which would reduce the amount of reflective glass and polished surfaces on proposed buildings.

During evening and nighttime hours, Project lighting and signage associated with project operations would result in brightly illuminated surfaces that would be visible from vessels using the Inner Harbor. As shown in Tables 4.1-3 to 4.1-5 in Section 4.1-1, *Aesthetics, Wind, and Shadow*, receptor locations 2 (Inner Harbor Turning Basin at an elevation of 190 feet above water), 2B (Inner Harbor Turning Basin at an elevation of 64 feet above water), and 2C (Inner

[12] The Port also requested that the EIR analyze light and glare impacts associated with flights to or from the Oakland Airport. The Project site is located more than two miles from the airport. For this reason, as noted in Chapter 4.8 (Hazards), the potential for such impacts is not considered significant.

Harbor Turning Basin at an elevation of 25 feet above water) were selected for analysis because they represent locations where lighting resulting in glare could be seen by maritime pilots of vessels using the turning basin. Existing spill light and glare measurements were taken at a height of 159 feet above water from the bridge of a ship using the Inner Harbor Turning Basin. However, the proposed Project's impacts on spill light and glare at receptor locations 2, 2B, and 2C were determined based on the geometric relationship of the receptor locations to light sources. Location 2A was selected because it provides a line-of-site to the Project site through the center of the turning basin, though it is at ground level. Because maritime pilots rely on familiarity with navigational aids and physical landmarks at the Estuary and the surrounding area, visibility is a key factor in determining whether light and glare from the proposed Project would adversely affect the ability of maritime pilots to safely navigate the Estuary.

As shown in **Figure 4.10-7**, the Project would result in oblique views of the infield light sources and a direct line-of-site between receptors 2, 2B, and 2C in the Turning Basin and the outfield pole structures. The beam of light emanating from outfield light stands would be directed downward toward the field of play as required by Major League Baseball. Light intensity experienced by receptors falls off dramatically as the point of view of a receptor, such as the vessel pilots, is further from the center of the beam. Receptor locations 2, 2B, and 2C would experience glare equivalent to approximately 0.4 to 1.3 percent of the brightness experienced when looking into the outfield light stands from the field.

In the absence of sports facility lighting standards in relation to maritime navigation, the Project was analyzed using three different comparative methods to disclose information pertaining to the Project's potential to cause glare impacts on nearby maritime navigation uses.

First, the Project was evaluated to determine the potential for Disability Glare to be experienced at receptor locations 2, 2B, and 2C due to the ballpark lighting. Disability Glare is functionally defined as a reduction in the ability to see caused by bright light sources. In common situations of navigation, such as driving, Disability Glare can occur when a task (e.g., seeing an object in the road) is made more difficult or impossible due to the brightness of a light source (e.g., high-beam headlights) occurring in the field of view but offset from the primary visual task. In roadway lighting, Disability Glare is evaluated through calculation of the Veiling Luminance caused by a lighting configuration. Based on the maximum Veiling Luminance (0.24 candela [cd]/m2) that would be considered acceptable to navigate on a local street with high pedestrian activity (such as those streets bounding the Project site) without causing Disability Glare, the Veiling Luminance anticipated from the entire sports lighting assembly under the proposed Project is not anticipated to exceed the threshold for a local street with high pedestrian activity (0.24 cd/m2) at any of the receptor sites.

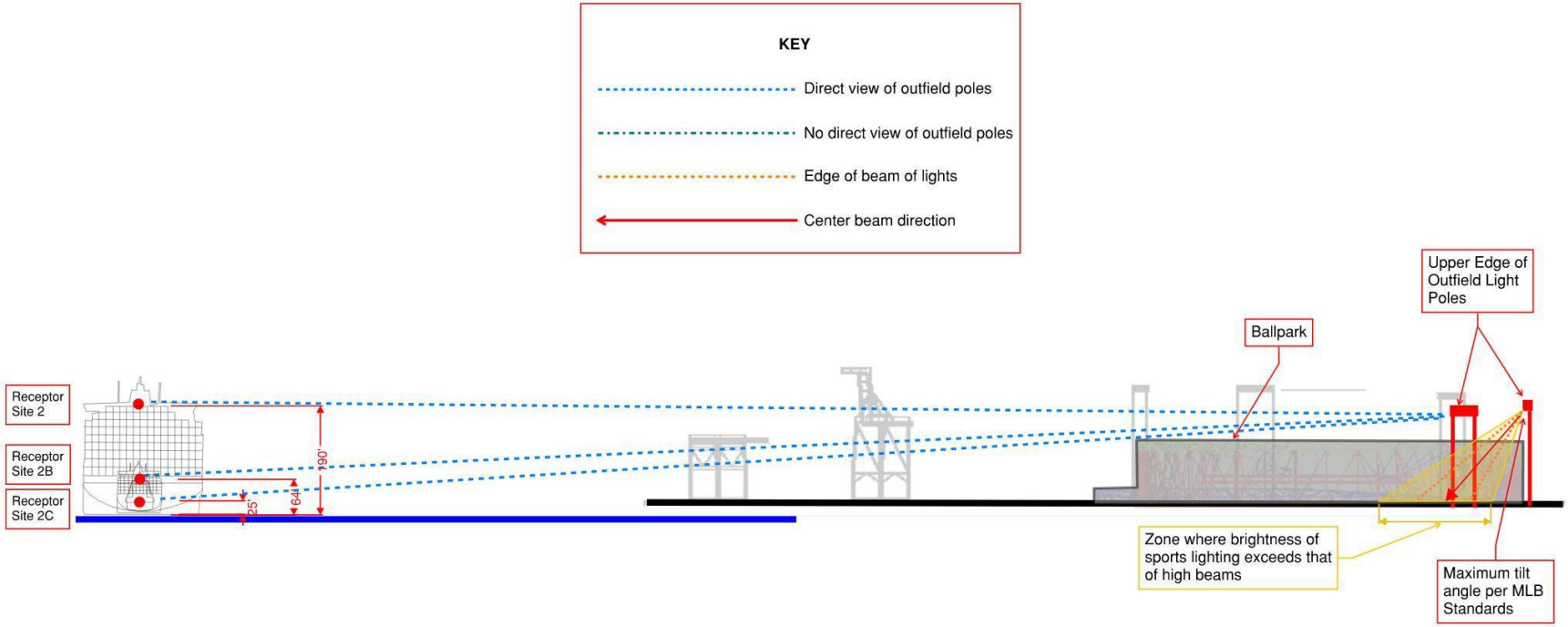


Figure 4.10-7
Section Showing the Line-of-Site Between Receptor Locations 2, 2B, and 2C and the Proposed Project Outfield Lighting Fixture

SOURCE: HLB Lighting Design, 2020

Additionally, the potential glare from the sports lighting fixtures under the Project was compared to the glare from the existing high-mast lighting at the existing active terminals approaching the Project site to assess the glare potential. While no standards currently exist in the U.S. pertaining to limiting the glare of sports lighting as viewed from neighboring locations, the European Committee for Standardization, in their publication CEN EN 12193:2007 "Light and lighting – Sports lighting", provides guidance for limiting the maximum intensity of sports light fixtures, measured in cd, in the direction of sensitive sites to limit obtrusive light. Under the Project, the brightness of the sports light fixtures from Receptor Site 2C is slightly less than the current fixture brightness at the active terminal, and Receptor Site 2B it is approximately double. However, both existing and proposed luminaire intensity is anticipated to be significantly below the European standard of 25,000 cd.

Finally, the potential glare from the proposed Project sports lighting fixtures was also compared to glare limitations included in IES RP-37-15 "Outdoor Lighting for Airport Environments". The recommended maximum luminaire intensity in the direction of a pilot moving on the airfield is 25,000 cd, aligning with the limitations in CEN EN 12193:2007 described in the previous paragraph, and well above both the estimated existing (1,839-4,235 cd) and anticipated maximum luminaire intensity from the sports lighting fixtures (2,551-4,186 cd).

In summary, the anticipated glare at the turning basin receptor sites from the proposed ballpark lighting is not anticipated to exceed recommended limits per available glare standards (Disability Glare/Veiling Luminance; maximum luminaire intensity in the direction of sensitive sites per EN 12193:2007; and maximum luminaire intensity of airfield luminaires in the direction of pilots of moving aircraft per IES RP-37-15).

In addition to the maritime pilots navigating vessels for shipping, the Water Emergency Transportation Authority (WETA) operates the San Francisco Bay Ferry, which uses the Jack London Square terminal approximately 550 feet from the outfield lighting stands at the ballpark. The height of ferry pilots' eyes on the San Francisco Bay Ferry vessels are 25 to 30 feet above water and could have a direct line-of-sight to the LED ribbon boards, primary outfield scoreboard, the display on the exterior of the ballpark facing Jack London Square, or field lighting, which would be illuminated at night during games. Both light sources could be a substantial source of nighttime glare for the ferry pilots.

To provide context, the WETA operations department was consulted for the purposes of this analysis. WETA did not indicate that glare from light stands at Oracle Park in San Francisco has been an issue on approach to or departing from Oracle Park before, during, or after baseball games or other events at night. However, WETA did indicate that ballpark lights aimed directly at ferry pilots' eyes could interfere with their ability to dock (Stahnke, 2019). As described in the Lighting Technical Report prepared by HLB Lighting Design, Inc. and shown in Figure 4.10-7, field lighting would be directed downward at the field of play as required by Major League Baseball, and not toward the ferry dock. As shown in the figure, the zone where field lighting would exceed the brightness of an automobile's high beam headlights would not extend beyond the ballpark itself; thus, the brightness experienced by ferry pilots in the Inner Harbor would be substantially lower than the brightness of high beam automobile headlights. Moreover, as described earlier, the light intensity experienced by receptors falls off dramatically as the point of view of a receptor, such as the vessel pilots, is further from the center of the beam. For these reasons, field lighting would not

be expected to adversely affect the ability of maritime or ferry pilots to navigate in the Estuary. Scoreboard signage would be in direct view of highway driving positions and thus would be required to comply with the California Vehicle Code, which would limit its perceived brightness from the perspective of a ferry pilot.

The Port of Oakland requires its tenants to comply with the Port's light trespass minimization measures to prevent potential light pollution that may be generated by development and to conserve energy. However, under a shared regulatory framework contemplated by the City and Port, it is anticipated that the Project would be subject to the City of Oakland's Outdoor Lighting Standards, which are more stringent. The City of Oakland's Outdoor Lighting Standards, would require exterior lighting fixtures to be adequately shielded to prevent unnecessary glare onto adjacent properties. Additionally, **Improvement Measure AES-2**, **Design Lighting Features to Minimize Light Pollution**, described in Section 4.1, *Aesthetics, Shadow, and Wind*, is included as **Mitigation Measure LUP-1b** to reduce the potential effects of lighting on adjacent or nearby water-based uses, including maritime and ferry navigation. This measure would require that the Project sponsor shall demonstrate to the satisfaction of the City and the Port that its lighting design achieves the desired lighting results, or is necessary to meet market demand and expectations of an MLB ballpark with respect to field lighting, architectural lighting, house lighting, and digital signage as described in the Lighting Technical Report. In addition, if the ballpark orientation or design of light stands changes such that light and glare levels in the shipping channel or Inner Harbor Turning Basin would be substantially different than analyzed in the Lighting Technical Report, the Project sponsor would be required to assess the changes in a supplemental Lighting Technical Report subject to review and approval by the City and the Port.

> **Mitigation Measure LUP-1b:** Implement **Improvement Measure AES-2**, **Design Lighting Features to Minimize Light Pollution. (**see Section 4.1, *Aesthetics, Shadow, and Wind)*

Pyrotechnic Events

Refer to Section 4.1, *Aesthetics, Shadow, and Wind* for a more general discussion regarding pyrotechnic events and their effects on nearby uses. This paragraph considers the effects of pyrotechnic events, or fireworks, on adjacent or nearby water-based uses, specifically maritime pilots while they navigate the Inner Harbor. Lighting from these events would result in temporary and short-term increases in glare when looking toward the fireworks in the sky or above the horizon, but would not be expected to substantially interfere with their ability to see navigational aids in the Estuary or on the shoreline.

The proposed Project would include pyrotechnic events (fireworks). There would be approximately seven fireworks shows a year, each lasting approximately 15 minutes in duration. The fireworks would likely be set off from a barge located in the Estuary, and would be subject to permitting requirements. Typical fireworks rise to a height of 300-600 feet before exploding, though smaller shells may explode at lower elevations. Additionally, some smaller scale fireworks would be launched from the ballpark itself, reaching an approximately height of 0-300 feet.

When viewing navigational aids or physical landmarks along the shoreline, maritime pilots look down toward the water or immediately across the surface of the water at the shoreline from a

perspective 25 to 190 feet above water. Because of this downward angle, fireworks are not likely to be in the direct line of site of maritime pilots, and therefore, would not substantially interfere with their ability to navigate the Estuary.

Additionally, the U.S. Coast Guard regulates firework displays that are set off from barges in the San Francisco Bay (33 CFR § 165.1191). Currently, pyrotechnic events using barges are held near Oracle Park during home baseball games, near Pier 39 during the Fourth of July, near Pier 3 during Fleet Week, and near the San Francisco Ferry Building on New Year's Eve, among others. Prior to these events, the U.S. Coast Guard establishes a temporary safety zone during the loading and transit of the fireworks barge, until after completion of the fireworks display to restrict navigation in the vicinity of the fireworks loading, transit, and firing site (typically a 100-foot radius during loading and set-up, and increases to a 560-1,000-foot radius upon commencement of the fireworks display). These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels. The Project sponsor would be required to obtain clearance for the pyrotechnic events involving barges from the U.S. Coast Guard, which would include notification of the event in the U.S. Coast Guard's Local Notice to Mariners prior to the event. The U.S. Coast Guard would also determine the radius required for the safety zone.

Given that fireworks displays would be typically above the line of sight of maritime pilots, safety zones would be enforced the U.S. Coast Guard, and notification would be given prior to fireworks displays, pyrotechnic displays are not expected to adversely affect the ability of maritime pilots to navigate the Inner Harbor and the Project would not result in a fundamental conflict in this regard.

Based on the foregoing, and with implementation of Mitigation Measures LUP-1b and BIO-1b, impacts to maritime pilots would not be expected to be substantial or adverse, and the proposed Project would not result in a fundamental conflict with regard to water-based uses, such as maritime navigation, due to light and glare conflicts

Compatibility with the Existing Noise Environment

Potential land use conflicts could arise due to the introduction of residential and open space (park) uses on the Project site adjacent to Port, industrial, and railroad uses. Residents living close to industrial uses may experience higher levels of noise than those found in non-industrial areas. To the extent that noise exposures exceed what would be expected by persons choosing to live in a mixed-use industrial area or near a railroad corridor, they could indicate a fundamental conflict with adjacent or nearby land uses and the need for mitigation. As discussed in Section 4.11, *Noise and Vibration*, the City of Oakland uses Land Use Compatibility Guidelines to determine noise-affected uses (see Table 4.11-7). Noise levels of 65 Day/Night Average Sound Level (DNL) measured near the site of the proposed Waterfront Park are within the normally acceptable range established by the City's land use noise environment guidelines. Noise levels of 75 DNL were measured near Schnitzer Steel and noise levels of 72 DNL were measured adjacent to the UPRR tracks where potential residences could be located, which would be at the top end of the "normally unacceptable" noise exposure category for residential uses. The General Plan indicates that residential development should only proceed in such an area provided that a detailed analysis of the noise reduction requirements be made and needed noise insulation features included in the design.

With regard to residential uses, **Mitigation Measure NOI-3**, **Noise Reduction Plan for Exposure to Community Noise**, requires the Project sponsor to submit a Noise Reduction Plan prepared by a qualified acoustical engineer for City review and approval that identifies specific noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level of 45 DNL within the interior space of residential buildings. With incorporation of Mitigation Measure NOI-3, the noise exposure of proposed residential uses would be compatible with the City's land use noise environment guidelines, and would not indicate a fundamental conflict with adjacent land uses.

With the inclusion of Mitigation Measure NOI-3, the Project would not expose Project residents to existing noise levels in excess of the City's Land Use Compatibility Guidelines such that a fundamental land use conflict would occur.

Compatibility with the Existing Air Quality

Residential and office/commercial uses proposed by the Project near the Port uses (which includes many pollutant sources including heavy-duty trucks, diesel locomotives, off-road equipment, stationary sources, and water borne vessels), industrial uses (Schnitzer Steel and other stationary pollutant sources), and railroads would be exposed to sources of diesel exhaust emissions and other toxic air contaminants (TACs). To the extent that air pollutant emissions would expose new residents to substantial health risks, this could indicate a fundamental conflict with nearby or adjacent land uses and the need for mitigation. As discussed in Section 4.2, *Air Quality*, construction and operation of the Project would expose proposed on-site sensitive receptors to substantial levels of TACs. Incorporation of **Mitigation Measures AIR-1c, Diesel Particulate Matter Controls**; **AIR-2c, Diesel Backup Generator Specifications**; **AIR-2d, Diesel Truck Emission Reduction**; **AIR-2e**, **Criteria Pollutant Mitigation Plan; AIR-3, Truck-Related Risk Reduction Measures – Toxic Air Contaminants**; **AIR-4a, Install MERV16 Filtration Systems**; and **AIR-4b, Exposure to Air Pollution – Toxic Air Contaminants,** would reduce Project-related impacts to less than significant levels.

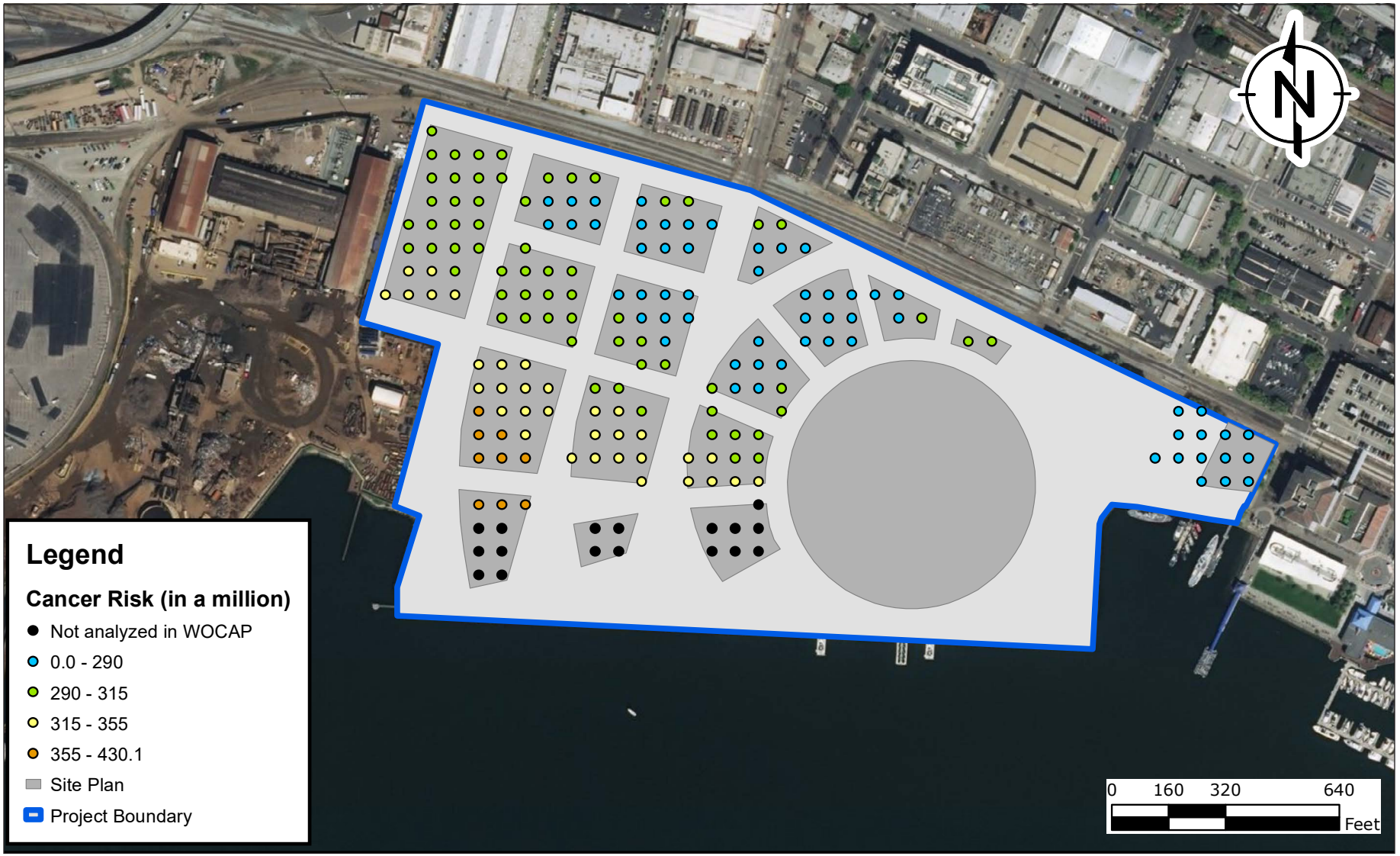
However, high background (existing) levels of pollutants and TACs at the Project site pose health risks to proposed on-site sensitive receptors, and while Project-related impacts related to the exposure of proposed on-site sensitive receptors to substantial levels of TACs can be mitigated to less than significant levels**,** under cumulative conditions, impacts to on-site sensitive receptors would be significant and unavoidable. Mitigation Measures **AIR-1b, Criteria Air Pollutant Controls**, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, and **AIR-2.CU, Implement Applicable Strategies from the West Oakland Community Action Plan**, are identified to reduce air quality impacts under cumulative conditions to the extent feasible.

It should also be noted that the analysis of cumulative health risks to on-site receptors is based on an analysis of a MEIR located in Block 6, close to the ballpark (nearer to the northern boundary of the Project site), since this receptor would experience maximum exposure from onsite construction. However, there is evidence that TAC and $PM_{2.5}$ emissions are worst closest to the southwestern boundary of the site. This is illustrated in **Figure 4.10-8a** and **Figure 4.10-8b**. Additionally, as described in Section 4.2, the cumulative HRA overestimates the health risk impacts associated with Schnitzer Steel on new on-site sensitive receptors, because Schnitzer

Steel is currently in the process of designing and installing emissions controls to reduce its stationary source TAC emissions in order to comply with the air district regulations. Also, as discussed in Sections 4.2, *Air Quality*, and 4.7, *Greenhouse Gas Emissions*, there are existing plans and regulations to improve air quality in the Project vicinity.

The California Air Resources Board's (CARB's) *Air Quality and Land Use Handbook* recommends to avoid siting new sensitive land uses within 1,000 feet of a railyard, consider siting limitations and mitigation approaches to development within one miles of railyards, and consider limitations on the siting of new sensitive land uses in areas immediately downwind of ports due to exposure to diesel and other emissions. However, CARB acknowledges that recommendations in its handbook need to be balanced with other State and local policies, including those related to addressing housing and transportation needs, the benefits of urban infill, and community economic development priorities (CARB, 2005).

CARB also recently published a Technical Advisory containing strategies to reduce air pollution exposure near high-volume roadways that contains strategies to help decrease pollution exposure near their sources. Scientific evidence indicates that implementing the strategies contained in the Technical Advisory can decrease exposure to air pollution in a variety of locations and contexts, so these strategies are applicable in a broad range of developments, not just those located near high-volume roadways. Indoor high efficiency filtration included in Mitigation Measure AIR-5a (Install MERV16 Filtration Systems) is identified as a strategy that removes pollution from the air. Another strategy is implementing building and streetscape design that promotes air flow and pollutant dispersion. Research studies show that street corridors characterized by buildings with varying shapes and heights, building articulations (street frontage design elements like edges and corners that help break up building mass), and spaces that encourage air flow (e.g., parks) benefit from better pollutant dispersion and air quality. Solid barriers, such as sound walls can also increase vertical dispersion of pollutants. Vegetation also has the potential to alter pollutant transport and dispersion. Maximum benefits have been shown to occur when vegetation is combined with solid barriers (CARB, 2017). Additionally, the U.S. Environmental Protection Agency (U.S. EPA) has published *Recommendations for Constructing Roadside Vegetation Barriers to Improve Near-Road Air Quality* that contains characteristics of effective vegetation barriers, including height, thickness, porosity, seasonality, and pollution/stress resistance (U.S. EPA, 2016).



SFO\170XXX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: Ramboll, 2020

Oakland Waterfront Ballpark District Project

Figure 4.10-8a
On-site Cumulative Cancer Risk (2024)

ESA

SFO\170XXX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: Ramboll, 2020

Oakland Waterfront Ballpark District Project

Figure 4.10-8b
On-site Cumulative PM2.5 Concentration (2024)

ESA

Mitigation Measure LUP-1c, Land Use Siting and Buffers, would incorporate these strategies by imposing siting limitations to physically separate sensitive land uses and strategies to buffer sensitive Project uses from nearby Port, rail, and industrial operations. Prohibiting residential uses west of Myrtle Street would separate potential on-site sensitive receptors from Port and industrial operations west of the Project site, and would place residential uses over 1,000 feet from the UPRR railyard to the northwest of the Project site, which is consistent with the guidance contained in CARB's land use handbook. Buffering strategies included in Mitigation Measure LUP-1c that would promote air flow and pollutant dispersion, combined with Mitigation Measures AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, and AIR-2.CU would reduce air quality impacts to sensitive receptors on-site. Therefore, with the implementation these mitigation measures, the Project would not result in a fundamental conflict with nearby or adjacent land uses due to air quality

Mitigation Measure LUP-1c: Land Use Siting and Buffers.

All proposed sensitive uses (including residences and childcare facilities) on the Project site shall be prohibited west of Myrtle Street. Prohibiting residential uses west of Myrtle Street would separate potential on-site sensitive receptors from Port and industrial operations west of the Project site, and would place residential uses over 1,000 feet from the UPRR railyard to the northwest of the Project site, per guidance from the California Air Resources Board's (CARB's) *Air Quality and Land Use Handbook* (2005). Prior to the issuance of a construction-related permit, the Project sponsor shall develop detailed plans and specifications for buffering strategies to be used during Project development, including timing and phasing of implementation to precede on-site sensitive receptors. Buffering strategies to be used on the Project site shall incorporate guidance contained in CARB's *Technical Advisory: Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways* (2017) and the U.S. Environmental Protection Agency's (U.S. EPA's) *Recommendations for Constructing Roadside Vegetation Barriers to Improve Near-Road Air Quality* (2016) and include (but not be limited to):

1. The creation of building and streetscape design principles that shall incorporate buildings with varying shapes and heights, building articulations, and spaces that encourage air flow.

2. Solid barriers (e.g., sound walls or building walls) along the western perimeter of the Project site that shall be used in combination with vegetation barriers (i.e., dense trees/vegetation planted next to the solid barrier). If implemented Solid building exterior walls built on the western property line of Block 17 shall be used in combination with upper level setbacks and landscaping elements.

3. Vegetated buffers along the western perimeter of the site and portions of the northern perimeter west of Market Street that shall be planted densely, contain plants tolerant of air pollution, use trees, shrubs, and grasses for multi-level pollutant trapping, and use multiple species to minimize risks with low diversity.

City planning staff shall review and accept the Project sponsor's plans and specification, together with their proposed timing and phasing strategies prior to issuance of any construction-related permit. Accepted plans, specifications, and phasing shall be referenced on all subsequent construction-related plans submitted to

the City's building official, who shall determine compliance prior to permit issuance and upon final inspection.

The project Sponsor shall be responsible for maintaining all solid barriers and vegetated buffers for the life of the Project.

Mitigation Measure Effectiveness

Implementation of Mitigation Measure LUP-1c would impose siting limitations to physically separate sensitive land uses and strategies to buffer sensitive Project uses from nearby Port, rail, and industrial operations. Prohibiting residential uses west of Myrtle Street would separate potential on-site sensitive receptors from Port and industrial operations west of the Project site, and would place residential uses over 1,000 feet from the UPRR railyard to the northwest of the Project site, per guidance from CARB's *Air Quality and Land Use Handbook*. With regard to buffering strategies, scientific evidence indicates that implementing the strategies contained in CARB's Technical Advisory, including building and streetscape design principles, solid barriers, and vegetated buffers, can decrease exposure to air pollution in a variety of locations and contexts (CARB, 2017).

While high background (existing) levels of pollutants and TACs at the Project site pose health risks to proposed on-site sensitive receptors, and under cumulative conditions, impacts to on-site sensitive receptors would be significant and unavoidable, Mitigation Measures AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, and AIR-2.CU, are identified to reduce air quality impacts under cumulative conditions to the extent feasible (see Impact AIR-2.CU in Section 4.2, *Air Quality*). As noted above, a fundamental land use conflict would occur if the characteristics of one land use disrupts or degrades adjacent land uses to such a degree that the functional use of the adjacent land for its existing or planned purpose is imperiled. Thus, with implementation of these air quality measures and the siting and buffering measures outlined in Mitigation Measure LUP-1c, the Project would not interfere with adjacent Port, rail, or industrial operations, and would not result in a fundamental land use conflict in this regard.

Other Impacts of the Project on Existing Land and Water-based Uses

Concerns are often raised about compatibility when there is a potential for new uses (e.g., residents) to raise complaints about existing land and water-based uses. As discussed previously, the Port represents a unique industrial land use in the Bay Area. The Port is a major seaport and cannot be relocated; is integrated with a regional transportation network of roads and rail; and is a major economic driver for the Bay Area. The Project, with its proposed ballpark and residential and office/commercial uses, could result in a fundamental conflict with adjacent or nearby land and water-based uses if it substantially affects the functioning or viability of these Port uses. Similarly, the City's General Plan provides that existing industrial activities should be protected from potentially incompatible land uses (Policy I/C4.2) and that buffering, truck traffic management efforts, and other mitigations should be used to minimize the impact of other uses on the Port and neighboring activities (Policy W1.3).

Based on the Port's experience with nearby users and residents, complaints from new uses regarding Port operations and, operations at the adjacent Schnitzer Steel facility are likely. To address this issue, the Exclusive Negotiation Term Sheet with the Project sponsor, approved by the Board of Port Commissioners, states that the future users, owners, lessees, and residents of and in the Project

shall be notified of potential impacts of Port maritime and marine operations on their use and waive rights to claims arising therefrom. While not required to address an impact under CEQA, **Improvement Measure LUP-1, Statement of Disclosure** is included below and would be included as a condition of approval for the Project. Any other actions to address these complaints and any physical impacts of the complaints are not reasonably foreseeable but rather speculative, and so any environmental impacts of any resulting actions are outside the scope of this Draft EIR.

> **Improvement Measure LUP-1: Statement of Disclosure.**
>
> The Project sponsor and any future owners of the Project or portions of the Project shall provide a Statement of Disclosure on the lease or title to all new tenants or owners of the Project, or any portion thereof, acknowledging the commercial and industrial character of the Project's environs, and providing express acceptance of the potential for the Port's maritime and marine operations in the area to result in certain off-site impacts at higher levels than would be expected in other mixed-use or residential areas of the City. This requirement shall run with the land.

Conclusion

As discussed above, while potential land and water-based use conflicts could arise due to the introduction of new residential and office/commercial uses on the Project site adjacent to Port, industrial, and railroad uses, with the inclusion of Mitigation Measures LUP-1a, LUP-1b, LUP-1c, AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, AIR-2.CU, BIO-1b, NOI-3, TRANS-1a, and TRANS-1b, the Project would not result in a fundamental conflict with nearby uses and impacts would be less than significant. This impact would be less than significant with mitigation.

> **Mitigation Measure LUP-1a: Boating and Recreational Water Safety Plan and Requirements.** (see above)
>
> **Mitigation Measure LUP-1b:** Implement **Improvement Measure AES-2, Design Lighting Features to Minimize Light Pollution.** (see Section 4.1, Aesthetics, Shadow and Wind)
>
> **Mitigation Measure LUP-1c: Land Use Siting and Buffers.** (see above)
>
> **Mitigation Measure AIR-1b: Criteria Air Pollutant Controls.** (see Section 4.2, Air Quality)
>
> **Mitigation Measures AIR-1c: Diesel Particulate Matter Controls.** (see Section 4.2, Air Quality)
>
> **Mitigation Measure AIR-2c: Diesel Backup Generator Specifications.** (see Section 4.2, Air Quality)
>
> **Mitigation Measure AIR-2d: Diesel Truck Emission Reduction.** (see Section 4.2, Air Quality)
>
> **Mitigation Measure AIR-2e: Criteria Pollutant Mitigation Plan.** (see Section 4.2, Air Quality)

Mitigation Measures AIR-3: Truck-Related Risk Reduction Measures – Toxic Air Contaminants. (see Section 4.2, Air Quality)

Mitigation Measures AIR-4a: Install MERV16 Filtration Systems. (see Section 4.2, Air Quality)

Mitigation Measures AIR-4b: Exposure to Air Pollution – Toxic Air Contaminants. (see Section 4.2, Air Quality)

Mitigation Measure AIR-2.CU: Implement Applicable Strategies from the West Oakland Community Action Plan. (see Section 4.2, Air Quality)

Mitigation M**easure BIO-1b: Bird Collision Reduction Measures**. (see Section 4.3, Biological Resources)

Mitigation Measure NOI-3, Noise Reduction Plan for Exposure to Community Noise. (see Section 4.11, Noise and Vibration)

Mitigation Measure TRANS-1a: Transportation and Parking Demand Management (TDM) Plan. (see Section 4.15, Transportation and Circulation)

Mitigation Measure TRANS-1b: Transportation Management Plan. (see Section 4.15, Transportation and Circulation)

Significance After Mitigation: Less than Significant.

Consistency with Land Use Plans and Policies

Impact LUP-3: The Project would not conflict with public trust restrictions. *(*Criterion 3) *(Less than Significant)*

As described in Section 4.10.2, under the subheading *The Public Trust Doctrine*, the Project site includes three categories of land with different title histories – the 1923 Tidelands, the 1852 Tidelands, and the Rancho Uplands, the approximate boundaries of which are shown on Figure 4.10-5. The 1923 Tidelands is the only portion of the Project site definitively subject to the legislative grant restrictions. There is some dispute, however, as to whether the conveyance by the City of Oakland to Horace Carpentier effectively freed the 1852 Tidelands from the public trust. However, to the extent the 1852 Tidelands and Rancho Uplands were acquired or improved with trust funds, the Port holds and operates these lands as assets of the trust and the Port has a duty to manage them accordingly (see, e.g., Harbors and Navigation Code Sections 1698(a)(3) and 1698(e)). Examples of traditional public trust and other trust-consistent uses are presented in Section 4.10.2.

As described in Section 3.5.1, *Major Project Components*, of Chapter 3, *Project Description*, and shown in **Figure 3-8**, proposed uses in blocks located within the 1923 Tidelands (i.e., Blocks 7, 8, and 16) include programmed open space, recreational areas, and public plazas. Each of these uses would be considered traditional, trust-consistent uses. Blocks 7, 8, and 16 would also contain other potentially public trust-consistent uses, such as visitor-serving retail, hotels, visitor-serving

recreation, cultural and entertainment uses. A portion of the proposed ballpark would also be located within the 1923 Tidelands. A private ballpark is not identified among uses explicitly authorized under the legislative grant (see Section 4.10.2, under the subheading *The Public Trust Doctrine)*. As also discussed in Section 3.5.1, and shown in Figure 4.10-5, proposed uses within the 1852 Tidelands and Rancho Uplands areas include portions of the ballpark, as well as all or a portion of Blocks 2-6, 9-15, and 17-18 proposed for mixed-use development, including residential, office/commercial, and retail uses west of the ballpark. These blocks could also include one or more hotels and a performance venue. Residential and general commercial and office uses are not among those commonly understood to be trust-consistent; hotels serving waterfront visitors, however, are generally understood to be trust-consistent uses.

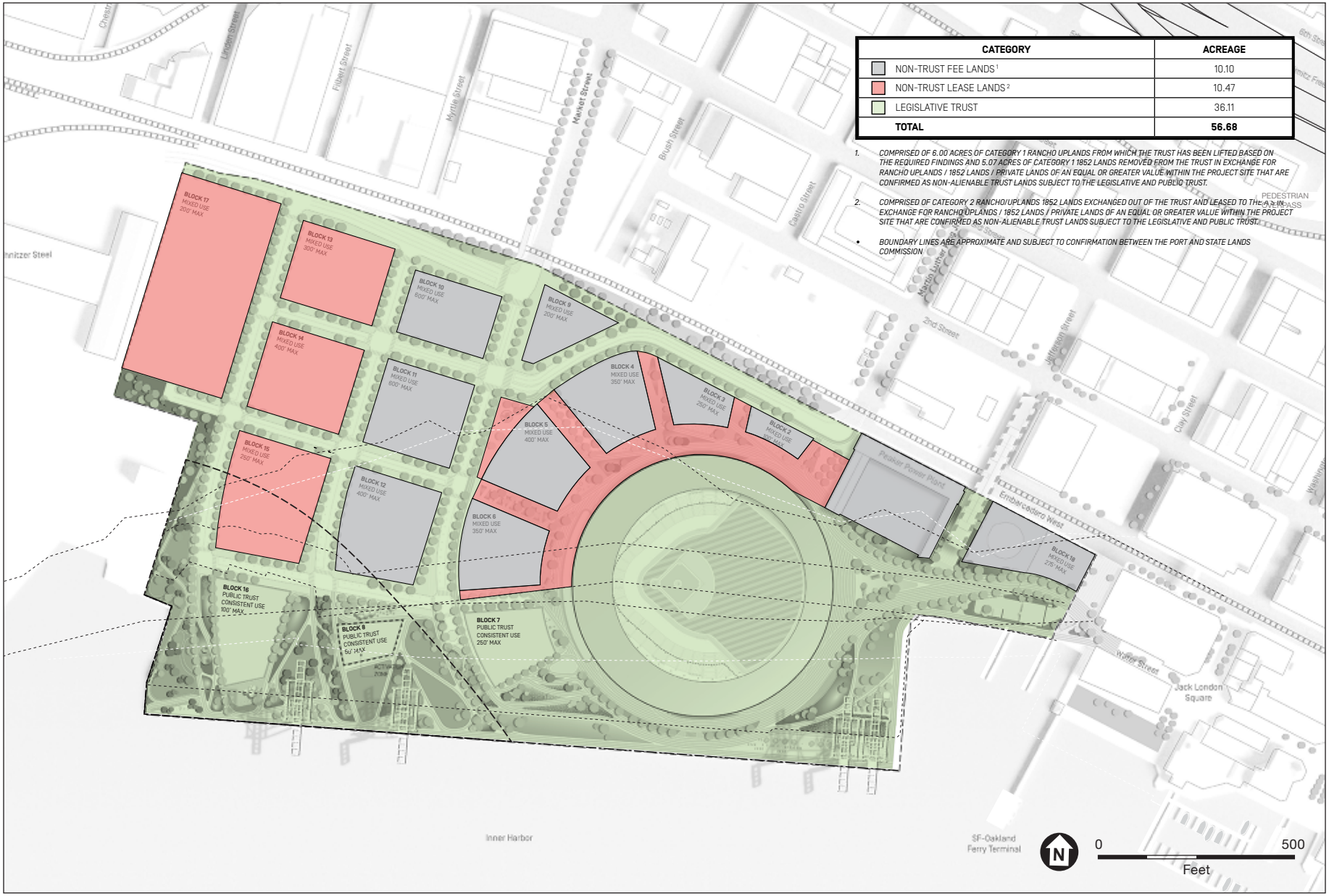
AB 1191 specifically authorizes a trust exchange to resolve trust and boundary uncertainties, and authorizes the proposed ballpark and associated uses as a trust use if the CSLC makes certain findings. Under AB 1191, the trust exchange may include a boundary line agreement, title settlement, trust exchange, or quitclaim. If approved, the trust exchange proposed by the Project sponsor would result in a trust land configuration similar to that shown in **Figure 4.10-9**.

With approval of a trust exchange agreement pursuant to AB 1191, and a trust consistency finding by the CSLC of those aspects of the Project located on public trust lands (as provided by AB 1191), the Project would be consistent with the public trust, and the impact would be less than significant. In the absence of such approvals, the Project could not proceed.

Mitigation: None required.

Impact LUP-4: The Project would not conflict with the San Francisco Bay Plan and Seaport Plan land use policies adopted for the purpose of avoiding or mitigating an environmental effect. (Criterion 3) ***(Less than Significant)***

The Project is proposed for lands subject to BCDC's permit jurisdiction. Accordingly, in order for BCDC to authorize a permit for the Project, it must find the project consistent with the applicable requirements of the McAteer-Petris Act, the San Francisco Bay Plan, and the San Francisco Bay Area Seaport Plan. BCDC regulations relevant to the Project concern priority shoreline uses and bay fill, each of which is addressed further below.



SFO\170XX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: BIG/JCFO, 2020

Oakland Waterfront Ballpark District Project

Figure 4.10-9

Proposed Public Trust Configuration

ESA

Priority Shoreline Uses

As discussed in Section 4.10.2, the McAteer-Petris Act and the Bay Plan[13] provide for the designation of priority land uses for the Bay shoreline, and identification on the Bay Plan maps of specific lands reserved for such priority uses. The Port of Oakland, including the Project site, is designated as a "Port" priority use area. The Bay Plan's policies governing use of Port priority land uses, including those within the 100-foot shoreline band, direct that development within these areas are governed by the San Francisco Bay Area Seaport Plan, and should be protected for marine terminals and directly related ancillary services. The Seaport Plan's land use designation mirrors that of the Bay Plan maps, and similarly provides that such areas be protected for marine terminals and other directly related port activities. Because the Project proposes a range of non-port uses which would preclude future use of the area for port purposes, the Project would conflict with BCDC regulations governing port priority use areas. As BCDC stated in its letter submitted during the scoping process, "Within a Port Priority Use Area, any proposed project must be consistent with the Bay Plan development policies related to Ports (page 51). Those policies state, in part, that 'Port Priority Use Areas should be protected for marine terminals and directly-related ancillary activities,' and that other uses are permissible only if they 'do not significantly impair the efficient utilization of the port area.' Therefore, issuance of a permit for the project as described in the NOP could not occur unless the boundaries of the Port Priority Use Area on Bay Plan Map No. Five were revised to avoid the project site." BCDC stated further: "To consider removing a port priority use area designation, the Seaport Plan requires that BCDC evaluate the impact of a proposed deletion on the region's capacity to handle the amount of ocean-going cargo projected to pass through the Bay Area ports. Under the provisions of the Seaport Plan, to approve the requested amendment [BCDC] must determine that eliminating the potential future use of the area for port purposes will not negatively affect the region's cargo handling capacity and will not increase the need to fill the Bay for future port development." (BCDC, 2019).

One purpose of the McAteer-Petris Act and Bay Plan is to minimize unnecessary Bay fill; and a primary goal of the Seaport Plan is to "[r]eserve sufficient areas of shoreline to accommodate future growth in maritime cargo, thereby minimizing the need for new Bay fill for port development" (BCDC and MTC, 2012). The Seaport Plan's General Policy No. 4 states that deletions of port priority use areas from the plan should not occur unless it can be demonstrated the deletion does not detract from the regional capability to meet the project growth in cargo.

The Seaport Plan includes a forecast of waterborne cargo demand through 2020, along with estimates of the various ports' marine terminal capabilities to handle the forecast cargo. Because the current plan's forecast is reaching the end of the projection timeline, BCDC has commissioned a study to estimate the Bay Area's seaport capacity to serve its foreseeable cargo handling needs through 2050 (The Tioga Group and Hackett Associates, 2020). The Tioga Group and Hackett Associates produced a study, adopted by the Seaport Planning Advisory Committee in May 2020, that presents estimated seaport acreage requirements across three growth scenarios – slow, moderate, and high (BCDC, 2020). According to the findings of the study, the Bay Area's seaports can expect long-term cargo growth in three sectors that could stress capacity: containerized cargo, roll-on/roll-off vehicle cargo, and dry bulk cargo. According to the study, by 2050, the Bay Area

[13] See Bay Plan, Developing the Bay and Shoreline to Their Highest Potential, No. 3(a),

will need between 98 and 753 acres more active terminal space, depending upon growth rate. The study notes the Bay Area's potential seaport expansion area presently totals roughly approximately 356 acres. Among the available terminal sites discussed, the Howard Terminal is identified as a potentially suitable site for additional container, roll-on/roll-off vehicle, and dry bulk cargo handling. The study notes that the Port of Oakland could probably handle container cargo under a moderate growth scenario without Howard Terminal, but that it would have little room for future growth. Regarding growth in roll-on/roll-off and dry bulk cargo, the study finds that, depending upon growth among cargo types, there could be conflicting demand for use of Howard Terminal's acreage (The Tioga Group and Hackett Associates, 2020).

AB 1191 establishes a deadline for BCDC to determine whether to remove the Project site from the Seaport Plan's port priority use designation and make conforming changes to the Bay Plan. With such removal from the Seaport's Plan port priority use designation and changes to the Bay Plan, the Project's potential conflicts with the Seaport Plan and corresponding Bay Plan policies could be resolved. With respect to the portion of the Project subject to BCDC jurisdiction, the Port and City would require as conditions of their approvals that the Project sponsor obtain the necessary Seaport Plan and Bay Plan amendments. With those amendments, the Project would not conflict with BCDC regulations governing shoreline use and the impact would be less than significant. In the absence of such amendments, the Project could not proceed.

Bay Fill and Shoreline Band Jurisdiction

As explained in Section 4.10.2, the McAteer-Petris Act and the Bay Plan[14] restrict the types of projects for which fill may be authorized. BCDC interprets these regulations as applying both to projects proposing new fill, as well as projects which would utilize or rely upon previously-authorized Bay fill (BCDC, 2019). Pursuant to the McAteer-Petris Act, for new Bay fill to be approvable, it must be demonstrated that the fill is the minimum necessary to accomplish the purpose, there is no alternative, and the fill will not conflict with public access or enjoyment of the Bay or waterfront. Similarly, the Bay Plan directs that a project proposing fill should be approved if the fill is the minimum necessary to achieve its purpose and it meets one of the following conditions: (1) is in accord with Bay Plan policies as to the Bay-related purposes for which fill may be needed (i.e., ports) and is shown on the Bay Plan maps as likely to be needed; (2) is in accord with Bay Plan policies as to purposes for which some fill may be needed if there is no other alternative (i.e., airports, roads, and utility routes); or (3) is in accord with the Bay Plan policies as to minor fills for improving shoreline appearance or public access.[15] In addition, as with developments proposed within the 100-foot shoreline band, BCDC requires projects involving Bay fill to provide maximum feasible shoreline access and to be designed in a manner that visually complements the surrounding Bay setting, while also preserving and enhancing Bay viewing opportunities.[16]

[14] See Bay Plan, Part IV - Development of the Bay and Shoreline: Findings and Policies, Fills In Accord with the Bay Plan, Policy No. 1.

[15] See Bay Plan, Part IV - Development of the Bay and Shoreline: Findings and Policies, Fills In Accord with the Bay Plan, Policy No. 1.

[16] See Bay Plan, Part IV - Development of the Bay and Shoreline: Findings and Policies, Public Access, Policy No. 1; and Appearance Design and Scenic Views, Policies 1 and 2.

As described in Section 3.10.2 of the *Project Description*, the Project could require a small amount of permanent Bay fill from the relocation and construction of stormwater and drainage, as needed, and the limited addition of in-water piles for the reinforcement of waterfront areas, within an area of no more than 0.01 acre (500 square feet), to support the cranes. The environmental effects of potential pile installation to support cranes is addressed in Section 4.3, *Biological Resources*. Given the small amount of potential new permanent fill proposed and that the potential piles would not obstruct Bay or waterfront access or use, potential permanent fill for the crane support piles would not be expected to conflict with applicable BCDC Bay fill regulations. At the time of McAteer-Petris Act's passage in September 1965, the Project site's shoreline was landward of its current location. In the years subsequent to that date, BCDC authorized fill placement for port-related purposes, resulting in an approximately 17-acre bayward expansion of the site (Catellus, 2019). The approximate locations of the current and 1965 shorelines are presented in Figure 4.10-6.

AB 1191 requires all BCDC jurisdictional bay fill lands to remain subject to the public trust and authorizes BCDC, in considering permits for the Project, to find that the ballpark, public trust, and public open space uses that lie within the BCDC jurisdictional bay fill lands are water-oriented uses, if BCDC finds that certain conditions are met. Thus, project components proposed for such filled areas must be evaluated consistent with the conditions in AB 1191, which address ballpark and open space design, public access, views, and activation of public open spaces. Determinations of Project consistency with these conditions will ultimately be made by BCDC through the permit process, which will include review of the Project's proposed appearance and design by the agency's Design Review Board. Through issuance of a permit, consistent with the conditions in AB 1191, the Project's potential conflicts with BCDC's Bay fill policies would be resolved, and the Port would require that the Project sponsor consult with and obtain the required permits from BCDC for the Project as a condition to commencing construction of any portion of the Project within BCDC's jurisdiction. With BCDC approval, the Project would not conflict with the agency's regulations governing use of Bay fill, and the impact would be less than significant. In the absence of such approval, the Project could not proceed.

Mitigation: None required.

Impact LUP-5: Development of the Project would not conflict with other regional land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect. *(*Criterion 3) (*Less than Significant*)

Plan Bay Area 2040

Plan Bay Area 2040 integrates transportation, land use, and housing to meet greenhouse gas reduction targets for the San Francisco Bay Area region. With regard to land use, *Plan Bay Area 2040* focuses growth and development in PDAs, which are served by public transit and have been identified as appropriate for additional, compact development (ABAG, 2017a). The Project is located within the Oakland Downtown & Jack London Square PDA (MTC, 2018). The Oakland Downtown & Jack London Square PDA is characterized as a center of culture, night life, business, innovation, shipping, and civic life in Oakland (ABAG, 2017b). The Project would

develop a MLB ballpark, a performance venue, hotel(s), and a mix of residential, office/commercial, retail, and entertainment uses that would directly support additional compact development that aligns with the character of the Oakland Downtown & Jack London Square PDA. Additionally, as discussed in Section 4.15, *Transportation*, *Plan Bay Area 2040* recommends increasing non-auto travel mode share and reducing VMT per capita and per employee by promoting transit-oriented development, transit improvements, and active transportation modes such as walking and bicycling. The Project would generate per-capita VMT more than 15 percent below regional averages for residential and commercial uses, and would generate VMT more than 15 percent below existing similar uses for the ballpark and performance venue. The Project is consistent with land uses envisioned for the Oakland Downtown & Jack London Square PDA and the *Plan Bay Area 2040*. Therefore, Project impacts related to conflicts with other regional land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect would be less than significant.

Mitigation: None required.

Impact LUP-6: Development of the Project would not result in a fundamental conflict with City of Oakland General Plan land use policies *(*Criterion 3). (*Less than Significant*)

The Project site is currently located within the "General Industry and Transportation" General Plan land use classification established by the LUTE. Proposed Project uses would conflict with the existing General Plan land use designation for the Project site. To resolve the conflict, the Project proposes a General Plan Amendment to a "Regional Commercial" land use designation. The Regional Commercial classification is intended to maintain, support, and create areas of the City that serve as region-drawing centers of activity. The desired uses for this classification include a mix of commercial, office/commercial, entertainment, arts, recreation, sports and visitor serving activities, residential, mixed-use development, and other uses of similar character or supportive of regional drawing power. The Project would develop a MLB ballpark and mixed-use district intended to be a region-serving entertainment use, and therefore would be consistent with the intent and desired uses of the Regional Commercial designation.

Consistency between the Project and the applicable General Plan policies identified in Section 4.10.2, *Regulatory Setting*, above are discussed below.

Project Consistency with General Plan Policies

The Project would develop a MLB ballpark, a performance venue, hotel(s), and a mix of residential, office/commercial, retail, and entertainment uses located in downtown Oakland, and specifically within the Jack London waterfront area. The MLB ballpark would provide a large-scale commercial entertainment use near the Jack London waterfront area and would be a region-serving entertainment destination centered around the ballpark, consistent with LUTE policies designed to locate entertainment uses and destination commercial uses near Jack London Square area (Policies D9.1, D12.3, and I/C3.5). Additionally, the proposed performance venue would provide a smaller scale entertainment use in the Jack London waterfront area, consistent with LUTE downtown policies (Policy D12.4).

The LUTE defines Jack London Square as the area generally bounded by Adeline Street, I-880, Channel Park, and the shoreline, and defines specific land use policies for the area in which the Project site is located in. Proposed Project land uses would be consistent with those identified for the Jack London Square are of the mixed-use waterfront including entertainment, retail, office, and residential uses (Policies W10.2 and D1.10). The Project would also provide mixed-use, high intensity development within proximity to the existing ferry and Amtrak stations. The linkage of the Project's uses to the existing Jack London Square entertainment and commercial district as well as the waterfront would provide additional physical access to the shoreline, consistent with LUTE policies for this area (Policies W10.3 and W10.4).

The LUTE also identifies neighborhood policies to concentrate commercial development and locate hotel and major office development in certain areas of the City with which the Project would be consistent. The Project would concentrate commercial development adjacent to the existing Jack London Square entertainment district, and the mixed-use development on the Project site would be designed to provide opportunities for neighborhood-oriented retail (Policy N1.1). Development of hotels are encouraged along the waterfront, as they are not allowed in many other areas of the City (Policy N1.9). Additionally, major office development is encouraged in the areas downtown (Policy N1.9).

The Project is located in an area well served by transit. Three BART stations exist within approximately one-mile of the Project site. There is an Amtrak / Capital Corridor train station about one-half mile east of the Project site, Alameda-Contra Costa (AC) Transit bus and shuttle service is within one-quarter mile, and the Jack London Square landing for the San Francisco Bay Ferry is immediately adjacent to and east of the site. Thus, the development of a mixed-use district at the Project site would represent transit-oriented development encouraged by the LUTE (Policies T2.1, T2.2, and T4.1). The Project would develop approximately 3,000 new housing units in the City, located near transit (Policy D11.2). Per the LUTE, facilitating the construction of housing units is considered a high priority for the City (Policy N3.1).

The Project proposes to include a network of public open spaces and extend the pedestrian and bicycle network from West Oakland to the waterfront. The network of public open spaces would include sidewalks and pedestrianized streets and plazas, landscaped areas at the western and northern periphery of the Project site, and the junction of Market Street and Martin Luther King Way. Athletics Way would represent the main point of arrival and entrance to the Project site for pedestrians and encircle the ballpark, connecting to the proposed Waterfront Park which would provide public access as close to the shoreline as possible. Thus, the Project would develop pedestrian-oriented mixed-used development including entertainment uses that would be consistent with LUTE policies designed to concentrate transit-oriented development in pedestrian oriented areas with improved streetscapes, a mix of land uses, and day and night use (Policies W2.10, T3.3 and T6.2). The Project would also be consistent with OSCAR policies related to providing usable open space (Policy OS-4.1).

As described in Section 4.15, *Transportation*, the Project transportation program would also include Transportation Demand Management (TDM) elements to achieve a 20 percent vehicle trip reduction goal and would include transportation infrastructure improvements (onsite and

offsite) to improve pedestrian and bicycle access and address onsite and offsite circulation prior to and after ball games or other peak events, consistent with LUTE downtown policies desiring a pedestrian-oriented downtown that promotes the use of transit and alternative modes of travel (Policies D2.1 and T4.1). The Project also proposes to extend the Bay Trail along the waterfront as part of the Waterfront Park that would improve pedestrian and bicycle infrastructure and encourage alternative modes of travel. Thus, the Project would also be consistent with relevant policies for bicycle and pedestrian infrastructure in the 2019 Oakland Bike Plan and Pedestrian Master Plan.

Other LUTE policies generally relate to development along the waterfront that seeks to link neighborhoods with the waterfront, provide public access to the waterfront and shoreline, and provide maritime viewing access. The proposed large open spaces on the Project site (Athletics Way and the Waterfront Park) would serve as pedestrian-oriented connections to the waterfront and provide public access along the shoreline where maritime activities can be viewed (Policies W2.1, W2.6, and W10.6). Thus, the Project would also be consistent with OCSAR policies related to beneficial use of the waterfront, ensuring public shoreline access, and the use of the shoreline to define the neighborhood edge (Policies OS-7.1, OS-7.2, and OS-9.2).

The LUTE contains policies relating to general plan conformance in the Seaport, and that activities on all lands in Port jurisdiction should be generally consistent with the Oakland General Plan (Policies W1.1 and W1.2). As described above, the Project would include amendments to the General Plan in order to ensure consistency and resolve potential conflicts with the General Plan.

Potential Inconsistencies with General Plan Policies

LUTE Policy I/C.4.1 (Protecting Existing Activities) states that existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the City should be protected from the intrusion of potentially incompatible land uses. Howard Terminal is the current eastern edge of an existing industrial and commercial district comprised of Port uses and privately-owned and operated businesses, and the Project site currently represents the border between these uses and the entertainment-oriented commercial district of Jack London Square. However, as discussed under Impact LUP-5 above, the Project is located in the Plan Bay Area's Oakland Downtown & Jack London Square PDA, which has been identified by the City as an area appropriate for additional, compact development to support growth based on population, housing, and employment projections. Therefore, the conversion of Howard Terminal from industrial use to entertainment, residential, and office/commercial uses proposed by the Project would be consistent with long term land use plans for the City.

Additionally, LUTE Policy W1.3 (Reducing Land Use Conflicts) states that land uses and impacts generated from Port or neighborhood activities should be buffered, protecting adjacent residential areas from the impacts of seaport, airport, or other industrial uses. There are also multiple other LUTE policies related to the buffering of heavy industrial uses (Policy W2.2), minimizing nuisances between seaport activities and residential uses (Policy I/C4.2), and developing lands near the Seaport that can buffer adjacent neighborhoods (Policy W7.1). As discussed under Impact LUP-2 above, the Project has the potential to conflict with adjacent Port and industrial uses with regard to Seaport road and rail access, maritime navigation, the existing noise environment, and existing air quality. Mitigation Measure LUP-1a would require the Project

sponsor and the City of Oakland to develop and implement a boating and recreation water safety protocol, which would reduce the risk of conflicts with maritime navigation. With incorporation of Mitigation Measure NOI-3, the noise exposure of proposed residential uses would be compatible with the City's land use noise environment guidelines. Mitigation Measures AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, and AIR-2.CU, are identified to reduce air quality impacts to the extent feasible. Additionally, Mitigation Measure LUP-1b would physically separate sensitive land uses and buffer Project uses from nearby Seaport and industrial operations.

LUTE Policy CO-12.1 (Land Use Patterns Which Promote Air Quality) and OSCAR/Safety Policy CO-12.4 (Design of Development to Minimize Air Quality Impacts) relate to separating land uses which are sensitive to pollution from the sources of air pollution and designing development projects in a manner which reduces potential adverse air quality impacts. As discussed in Section 4.2, *Air Quality*, the Project site is located in an area with numerous existing sources of air pollutants. Mitigation Measures AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, and AIR-2.CU have been identified to reduce air quality impacts to the extent feasible, and Mitigation Measure would physically separate sensitive land uses and buffer Project uses from nearby sources of air pollutants.

The LUTE also contains policies relating to locating mixed-use development and minimizing nuisances between commercial activities and residential uses (Policies I/C4.2 and D11.2) The Project would also introduce new residential uses immediately adjacent to a MLB ballpark, which could generate large amounts of light, noise, and traffic. Performance measures that help buffer new residential uses from noise associated with potentially conflicting uses (notably existing industrial and maritime uses adjacent to the Project site, as well as the ballpark on the Project site) are included in the City's Noise Ordinance. The Project also includes TDM elements to achieve a 20 percent vehicle trip reduction goal and promotes transit and alternative modes of travel to reduce vehicle trips associated with the Project that could impact future residents. Furthermore, future residents within the Project site will undoubtedly be aware of the presence of the adjacent ballpark and the associated retail uses, and many will presumably choose to live on the Project site due in part to the proximity of these venues and attractions. Thus, the Project would not fundamentally conflict with these policies.

Conclusion

As noted above, per the City's General Plan, the fact that a specific project does not meet all General Plan goals, policies, and objectives does not inherently result in a significant effect on the environment within the context of CEQA. While the Project could conflict with individual policies of the General Plan, it would be generally consistent with the Plan as a whole and would include amendments to the General Plan and Planning Code as discussed above to further ensure the Project is consistent with the General Plan's land use designations. In order to approve the proposed Project, the City Council would be required to find and determine that the Project, with these amendments, is consistent with the General Plan. Therefore, the development of the Project would not fundamentally conflict with the City's General Plan and impacts would be less than significant.

Mitigation: None required.

Impact LUP-7: Development of the Project would not fundamentally conflict with City of Oakland Estuary Policy Plan. *(*Criterion 3) *(Less than Significant)*

A portion of the Project site between Jefferson and Clay Streets south of Embarcadero West is located in the Estuary Policy Plan area. The existing uses for these parcels include fuel storage for the Peaker Power Plant, surface parking lot and storage area, Oakland Fire Station 2, a portion of the longshoreperson training area, and a small public plaza. On the portion of the Project site located in the Estuary Policy Plan, the Project would retain the existing fire station and construct a portion of Athletics Way, a pedestrian promenade which would be an extension of Water Street leading to and encircling the ballpark designed to accommodate visitors and spectators on game days with seating areas, picnic spaces, café terraces and beer gardens, children's play spaces, and lawns.[17] The Project would also develop the existing parking lot at the northeast corner of the Project site with new mixed use development, potentially with residential units, in a structure that could be up to 275 feet tall. The fuel storage for the Peaker Power Plant would remain unless one or more of the Project variants described in Chapter 5 are implemented. While a public plaza and some shoreline access already exist on this portion of the Project site, the Project proposes to enhance these areas further and connect them to the shoreline on the remainder of the Project site that is not currently accessible to the public.

The Estuary Policy Plan currently designates the land use for these parcels as Retail Dining Entertainment 1 (RD&E-1). The Project proposes a General Plan Amendment to a Retail Dining Entertainment 2 (RD&E-2) land use designation for these parcels. The intent of the RD&E-2 land use classification is to enhance and intensify Lower Broadway as an active pedestrian-oriented entertainment district that can help to create stronger activity and pedestrian linkages with Downtown Oakland, Old Oakland, and Chinatown. The main difference between RD&E-1 versus RD&E-2 is that the latter allows for residential uses. The Estuary Policy Plan also contains specific policy guidance which includes redevelopment of the portion of the Project site within the Estuary Policy Plan for public-oriented commercial-recreational and/or cultural use (e.g., maritime museum).

The development of open space and improvements to waterfront access areas on the portion of the Project site located in the Estuary Policy Plan would be consistent with the Estuary Policy Plan policies. The Project would create an enhanced public open space for the public to access the shoreline, connect to existing and proposed public access areas, and lead into an area with new entertainment, commercial, and recreational uses. The Project would also enhance connections to existing pedestrian facilities along the Jack London Square waterfront and proposed pedestrian-oriented waterfront areas on the remainder of the Project site, and would improve pedestrian linkages with Downtown Oakland, Old Oakland, and Chinatown. The new mixed use block is anticipated to contain ground floor activation and/or retail space adjacent to Athletics Way, consistent with the intent of the RD&E-2 Estuary Policy Plan land use designation for an active pedestrian-oriented entertainment district. Therefore, the Project would not fundamentally conflict with the Estuary Policy Plan, and impacts would be less than significant.

[17] As described in Chapter 3, *Project Description*, demolition of Fire Station 2 may be pursued in the future, and analysis associated with demolition is included in this Draft EIR.

Mitigation: None required.

Impact LUP-8: Development of the Project would not conflict with City of Oakland Planning Code and Zoning Map. *(*Criterion 3) *(Less than Significant)*

The Project site is located within the (IG), General Industrial Zone, and the portion of the site east of Jefferson Street is located within the M-40, Heavy Industrial Zone. The proposed Project uses would conflict with the existing zoning designations on the Project site. To resolve the current conflicts between existing zoning, the Project proposes to rezone the Project site and establish a new Waterfront Planned Development Zoning District as authorized by the proposed General Plan Amendment, described specifically in Chapter 3, *Project Description*. As noted above, the City and the Port are cooperating to establish a shared regulatory framework under which the City will apply all relevant provisions of the Oakland Planning Code. Consistent with this shared regulatory framework, it is anticipated that the City would adopt the new zoning district into the Oakland Planning Code, and amend the General Plan and Zoning Map to apply the District to the geographic area of the Project site. The new zoning regulations for the District would establish permitted and conditionally permitted land uses, high-level development standards and a process for administrative review of project phases and design review.

The Project site, except for the portion subject to the Estuary Policy Plan, is in the Port Area, which is under the jurisdiction of the Port Board of Port Commissioners. Under the City Charter, the Port has the power and duty to carry out the general powers of the City (Section 706 (6) and (30)), including the powers to enforce general rules and regulations in the Port Area (Section 706(4)); to require the application of a Port Building Permit (sometimes referred to as a Port Development Permit) for any construction or improvement (Section 708); to approve street, sewer, and other public improvements (Section 712); and to provide for commercial development and for residential housing development (Section 706(23)). All land-use regulations, zoning, development permits, and other approvals must conform to the City's amended General Plan, and, under Section 727 of the Charter of the City of Oakland, the City has exclusive authority over the approval of any change to the General Plan designation. In addition, pursuant to the Section 706 of the Charter, residential development within the Port Area also requires City Council consent. As discussed in connection with Impact LUP-6, the Project will be generally consistent with the City's General Plan as amended in connection with Project. Therefore, the Port Board of Port Commissioners may approve Port Building Permits for the Project as consistent with applicable zoning regulations if it determines that the Project is consistent with applicable zoning regulations.

Therefore, with the Project's proposed amendments to the Planning Code and Zoning Map, the Project would not fundamentally conflict with the City of Oakland Planning Code and Zoning Map, and impacts would be less than significant.

Mitigation: None required.

Maritime Reservation Scenario

Under the Maritime Reservation Scenario, the proposed Project would establish a "Maritime Reservation Area" at the southwest corner of the Howard Terminal for up to 10 years (from May 2019) and would not develop permanent uses in this area. At any point within the 10 years (and within 5 years for some portions of the Maritime Reservation Area), the Port of Oakland may elect to take back a portion of the site from the Project sponsor to accommodate possible expansion of the existing Inner Harbor Turning Basin. If so elected, up to approximately 10 acres at the southwest corner of the Project site would be returned to the Port to accommodate expansion of the Inner Harbor Turning Basin.

Physical Division of an Established Community

Under the Maritime Reservation Scenario, up to approximately 10 acres of the proposed Project site would not be developed, the Project site boundary would change, and the Project site area would become smaller. Similar to the Project, there is no neighborhood or "community" on either side of the Project site that would be physically divided by development under the Maritime Reservation Scenario. However, development on the Project site would move the current boundary between Seaport-related industrial uses and commercial/entertainment uses farther to the west.

Land Use Compatibility

The Maritime Reservation Scenario would involve the same land uses as proposed under the Project somewhat reorganized on the site, and some of the land uses would be adjacent to the reserve area set aside for possible expansion of the turning basin. Under the Maritime Reservation Scenario, some Project land uses would be located farther away from Schnitzer Steel than they would with the proposed Project; however, the potential for conflicts with adjacent or nearby land or water-based uses would remain similar to those described for the Project. Specifically, Project-related traffic could impact road and rail access, there could be light and glare impacts on maritime navigation using the existing turning basin, and new residents would be exposed to the existing noise environment, and existing air quality. These potential impacts would be addressed by the mitigation measures identified for the Project. Any impacts of expanding the turning basin or on vessels using an expanded turning basin would be subject to a separate analysis if and when the Port elects to exercise its option and proceed with design, permitting, and construction.

During the 10-year period, the Port of Oakland could berth tugboats and similar watercraft (but not cargo vessels) along the wharf adjacent to the Maritime Reservation Area. Under this scenario, the potential for conflicts between recreational watercraft and water-based uses, specifically small commercial vessels and maritime navigation, would be similar as described above, and **Mitigation Measure LUP-1a** would require installation and maintenance of signs along the wharf informing non-Port vessels that they would be prohibited from docking in any part of the wharf adjacent to the Project site.

Consistency with Land Use Plans and Policies

Public Trust Doctrine

Under the Maritime Reservation Scenario, any portion of the Project site devoted to accommodate a possible expansion of the Inner Harbor Turning Basin would be consistent with

the public trust because it would support navigation. The issues identified for the remainder of the Project site concerning the trust compatibility of developments proposed for trust lands, as well as boundary uncertainties, would remain. As with the Project, under the Maritime Reservation Scenario, these issues would be resolved through a trust exchange pursuant to AB 1191, and the Port and City would require as conditions of their approvals that the Project sponsor consult with and obtain a determination by the CSLC that the Project is consistent with the public trust. If approved, the trust exchange proposed by the Project sponsor would result in a trust land configuration similar to that shown in **Figure 4.10-10**. With approval of the trust exchange agreement pursuant to AB 1191 the Maritime Reservation Scenario would be consistent with the public trust, and the impact would be less than significant. In the absence of such approvals, the Maritime Reservation Scenario could not proceed.

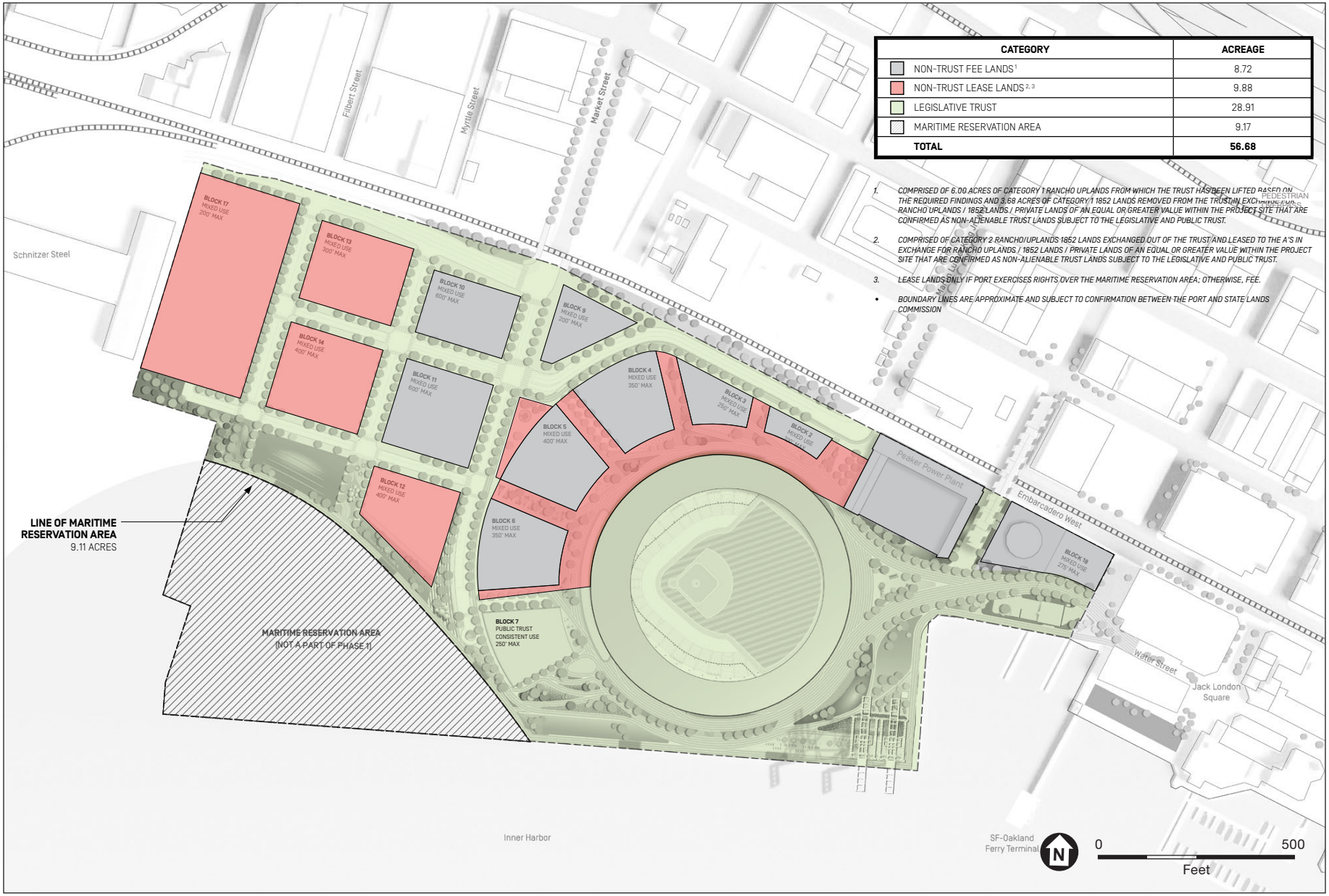
Bay Plan and Seaport Plan

Priority Shoreline Uses

Under the Maritime Reservation Scenario, a smaller portion of the Project site would be developed with non-port uses in conflict with the Bay Plan and Seaport Plan's Port Priority Use designations. As noted for the Project, AB 1191 establishes a deadline for BCDC to determine whether to remove the Project site from the Seaport Plan's port priority use designation and make conforming changes to the Bay Plan. With removal from the Seaport's Plan port priority use designation and changes to the Bay Plan, the Maritime Reservation Scenario's potential conflicts with the Seaport Plan and corresponding Bay Plan policies could be resolved. With respect to the portion of the Maritime Reservation Scenario subject to BCDC jurisdiction, the Port and City would require as conditions of their approvals that the Project sponsor obtain the necessary Seaport Plan and Bay Plan amendments pursuant to AB 1191. With those amendments, the Maritime Reservation Scenario would not conflict with BCDC regulations governing shoreline use and the impact would be less than significant. In the absence of such amendments, the Maritime Reservation Scenario could not proceed.

Bay Fill and Shoreline Band Jurisdiction

Under the Maritime Reservation Scenario, a smaller portion of the Project site comprising existing bay fill would be improved for public access, parks, open space, and mixed-use development, but land would be set aside for future possible expansion of the Bay. The Maritime Reservation Scenario would still include uses (e.g., restaurants, retail, hotel, ballpark) which, if approved on new fill today, might conflict with BCDC's fill regulations. As with the Project, AB 1191 authorizes BCDC, in considering permits for the Project, to find the ballpark, public trust, and public open space uses that lie within the BCDC jurisdictional bay fill lands as water-oriented uses if certain conditions are met. Thus, the Maritime Reservation Scenario's potential conflicts with BCDC's Bay fill regulations could be resolved. With BCDC approval, the Maritime Reservation Scenario would not conflict with the agency's regulations governing use of Bay fill, and the impact would be less than significant. In the absence of such approval, the Maritime Reservation Scenario could not proceed.



SFO\170XX\D171044.00 - A's Ballpark District EIR\05 Graphics-GIS-Modeling\Illustrator

SOURCE: BIG/JCFO, 2020

Oakland Waterfront Ballpark District Project

Figure 4.10-10
Maritime Reservation Scenario Proposed Public Trust Configuration

ESA

Plan Bay Area

The Maritime Reservation Scenario would involve the same land uses as proposed under the Project, and the potential for conflicts with the Plan Bay Area would remain the same as described for the Project. Therefore, the impacts and analysis for the Maritime Reservation Scenario would be the same as the Project with regard to conflicts with Plan Bay Area.

General Plan, Estuary Policy Plan, and Zoning

The Maritime Reservation Scenario would involve the same land uses as proposed under the Project, and the potential for conflicts with the General Plan, Estuary Policy Plan, and zoning would remain the same as described for the Project. Therefore, the impacts and analysis for the Maritime Reservation Scenario would be the same as the Project with regard to conflicts with the General Plan, Estuary Policy Plan, and zoning.

4.10.5 Cumulative Impacts

Impact LUP-1.CU: Development of the Project, in combination with past, present, existing, approved, pending and reasonably foreseeable future projects within and in the vicinity of the Project site, would not result in significant cumulative impacts to land use and planning. (*Less than Significant with Mitigation*)

Geographic Context

The cumulative geographic context for land use, plans and policy considerations for the development of the Project consists of the Project site in addition to the surrounding areas including the Oakland Inner Harbor, Jack London Square, the Port of Oakland, Downtown Oakland, West Oakland, and the north shore of Alameda. This analysis considers cumulative development (past, present, existing, approved, pending, and reasonably foreseeable future projects, as described in Section 4.0, *Introduction to Environmental Analysis*), in combination with the proposed Project, to determine if their effects would combine to result in cumulative land use impacts.

Cumulative Impact and Project Contribution

Physical Division of an Established Community

Cumulative development could result in a cumulative impact if it would create a new division between the Port's maritime activities. As analyzed under Impact LUP-1 above, the Project would have a less-than-significant impact in relation to the physical division of an existing community, although it would move the boundary between Port-related industrial uses and the commercial/ entertainment uses of the Jack London Square district farther to the west, and would improve connections to the waterfront and City street, pedestrian, and bicycle network. The Project would also improve pedestrian and bicycle connections to the West Oakland Specific Plan and Downtown Specific Plan areas. Cumulative projects identified in Section 4.0 (Appendix DEV) do not involve non-industrial development on lands involving Seaport-related industrial uses. Therefore, the Project would not contribute to a cumulative effect with regard to the physical division of an established community.

Land and Water-Based Use Compatibility

Cumulative residential development in proximity to Port and industrial operations, including under the Downtown Oakland Specific Plan and the West Oakland BART Redevelopment Project, in combination with the proposed Project could result in potential conflicts with nearby Port and industrial-related uses if they collectively impede road and rail access to the Port or result in other physical impacts that collectively impair the Port's operation. As discussed under Impact LUP-2, with Mitigation Measures LUP-1a, LUP-1b, LUP-1c, AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, AIR-2.CU, BIO-1b, NOI-3, TRANS-1a, and TRANS-1b, the Project would not result in a fundamental conflict with adjacent or nearby land or water-based uses, including Port and industrial operations. Therefore, the Project would not contribute to a cumulative impact in this regard.

The draft Downtown Oakland Specific Plan identifies potential General Plan amendments for parcels directly to the north of the Project site east of Brush Street for proposed residential and mixed-use residential development (City of Oakland, 2019b). The existing energy generation facilities on the Project site would be located directly adjacent to some of these parcels and conflicts could arise between residential and existing industrial uses. The Downtown Oakland Specific Plan Draft EIR found that no significant land use impacts related to land use incompatibility would occur as a result of the adoption and development under the Specific Plan with implementation of General Plan and Draft Specific Plan policies, and the Project would not contribute to a cumulative impact.

Cumulative development in the vicinity could increase the potential for recreational watercraft in the Inner Harbor that could be attracted to the Project site, causing potential conflicts with water-based uses, such as maritime navigation. Additionally, as the north shore of Alameda progresses in its redevelopment from a former military base to a mix of commercial, residential, open space, recreational, and retail uses, the potential for recreational water users crossing the Inner Harbor Channel from Alameda to the Project site could increase. As discussed under Impact LUP-2 above, per the U.S. Coast Guard's Inland Navigation Rules and Regulations, recreational boats would be prohibited from crossing the channel if there is a container ship or other large vessel moving towards them. Mitigation Measure LUP-1a would require the City, Port, and Project sponsor to develop boating and recreation water safety plan requirements that would reduce the risk of conflicts between recreational boaters associated with the new uses at the Project site and other vessels using the Estuary adjacent to the Project site. With this mitigation measure, the Project's contribution to any conflicts with water-based uses such as maritime navigation arising as a result of cumulative development in the area would be less than significant with mitigation.

Consistency with Land Use Plans and Policies

Determinations regarding Project conformity with the public trust and legislative grants (Impact LUP-4) and BCDC regulations (Impact LUP-5) would be Project-specific and would not influence or be influenced by other regional developments, except to the extent that amendments to the Seaport Plan are informed by forecasts of future growth, as described under LUP-5, above. Resolving the public trust issues through an exchange agreement or equivalent process (Impact LUP-4) would not result in a net reduction in trust lands, and therefore the Project would not contribute to a cumulative effect related to public trust lands. Further, the potential reduction in Bay Area port properties that would result from a *Bay Plan and Seaport Plan* amendment

(Impact LUP-5), if approved, could only occur if BCDC and MTC found the reduction would not impair Bay Area cargo handling needs. Therefore, the Project's reduction in the property available for port uses would not contribute to a cumulative effect related to regional marine cargo transport and handling.

While the Project may involve conflicts with the public trust or BCDC regulations concerning fill or priority uses, such conflicts must be resolved or the Project could not proceed. Thus, the Project would not cause, contribute to, or combine with potential conflicts of cumulative projects to result in a compounded adverse environmental effect. As discussed under Impact LUP-6, the Project would be consistent with land uses envisioned in the *Plan Bay Area 2040*, a regional planning effort that accounts generally for development assumed within the City of Oakland as well as the San Francisco Bay Area region.

With approval of the proposed General Plan amendment and rezoning, the Project would be generally consistent with local land use plans and policies including the City's General Plan, the Estuary Policy Plan, and the City's Planning Code. The General Plan contains policies related to the protection of existing uses, including industrial uses.

Additionally, all other cumulative development has been, or will be, subject to development guidance contained within the General Plan, prescribed by zoning, and other applicable land use plans to avoid conflicting with plans adopted to avoid or mitigate environmental effects. Therefore, the Project contribution to cumulative impacts related to conflicts with land use plans and policies would be less than significant.

Conclusion

In summary, based on the information in this land use and planning analysis and with implementation of Mitigation Measures LUP-1a, LUP-1b, LUP-1c, AIR-1b, AIR-1c, AIR-2c, AIR-2d, AIR-2e, AIR-3, AIR-4a, AIR-4b, AIR-2.CU, BIO-1b, NOI-3, TRANS-1a, and TRANS-1b, the Project would not make a cumulatively considerable contribution to potential cumulative land use impacts and would not combine with other cumulative development to result in any significant adverse cumulative land use and planning impacts.

> **Mitigation Measure LUP-1a: Boating and Recreational Water Safety Plan and Requirements.** (see Impact LUP-2)
>
> **Mitigation Measure LUP-1b:** Implement **Improvement Measure AES-2, Design Lighting Features to Minimize Light Pollution.** (see Section 4.1, Aesthetics, Shadow and Wind)
>
> **Mitigation Measure LUP-1c: Land Use Siting and Buffers.** (see Impact LUP-2)
>
> **Mitigation Measure AIR-1b: Criteria Air Pollutant Controls.** (see Section 4.2, Air Quality)
>
> **Mitigation Measures AIR-1c: Diesel Particulate Matter Controls.** (see Section 4.2, Air Quality)

Mitigation Measure AIR-2c: Diesel Backup Generator Specifications. (see Section 4.2, Air Quality)

Mitigation Measure AIR-2d: Diesel Truck Emission Reduction. (see Section 4.2, Air Quality)

Mitigation Measure AIR-2e: Criteria Pollutant Mitigation Plan. (see Section 4.2, Air Quality)

Mitigation Measures AIR-3: Truck-Related Risk Reduction Measures – Toxic Air Contaminants. (see Section 4.2, Air Quality)

Mitigation Measures AIR-4a: Install MERV16 Filtration Systems. (see Section 4.2, Air Quality)

Mitigation Measures AIR-4b: Exposure to Air Pollution – Toxic Air Contaminants. (see Section 4.2, Air Quality)

Mitigation Measure AIR-2.CU: Implement Applicable Strategies from the West Oakland Community Action Plan. (see Section 4.2, Air Quality)

Mitigation M**easure BIO-1b: Bird Collision Reduction Measures**. (see Section 4.3, Biological Resources)

Mitigation Measure NOI-3, Noise Reduction Plan for Exposure to Community Noise. (see Section 4.11, Noise and Vibration)

Mitigation Measure TRANS-1a: Transportation and Parking Demand Management (TDM) Plan. (see Section 4.15, Transportation and Circulation)

Mitigation Measure TRANS-1b: Transportation Management Plan. (see Section 4.15, Transportation and Circulation)

Significance after Mitigation: Less than significant.

Maritime Reservation Scenario – Cumulative

Under the Maritime Reservation Scenario, up to approximately 10 acres of the proposed Project site would not be developed. The reconfigured Project site boundary would change and the Project site area would become smaller. However, all cumulative site conditions relative to land use, plans, and policies would remain the same as described for the proposed Project. The Project under the Maritime Reservation Scenario would develop the same land uses, would require similar amendments to the Bay and Seaport Plans, and would involve the same proposed General Plan amendment and rezoning. Therefore, the cumulative impacts and analysis for the Maritime Reservation Scenario would be the same as those discussed above for the proposed Project.

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