

1 **4.1 CONSISTENCY WITH PLANS AND POLICIES**

2 Redevelopment would result in benefits to achievement of the goals and objectives of study
3 area plans and policies. Redevelopment would also result in one less than significant and one
4 significant impact. With implementation of a measure recommended in this section, the
5 significant impact would be avoided.

6 **4.1.1 Study Area**

7 The study area for plans and policies is the approximately 1,800-acre project area.

8 **4.1.2 Regulatory Setting**

9 This section identifies adopted plans and their associated goals, objectives, and policies
10 relevant to planning of the proposed redevelopment program. Laws, regulations, ordinances,
11 and plans and their non-planning applicability (e.g., the Endangered Species Act) are identified
12 and discussed in Sections 4.2 through 4.15 of this document.

13 **Federal**

14 There are no relevant federal plans or policies.

15 **State/Regional**

16 **The U.S. Environmental Protection Agency: *State Implementation Plan*; the California Air**
17 **Resources Board: *Clean Air Plan*; The Bay Area Air Quality Management District,**
18 **Association of Bay Area Governments, and Metropolitan Transportation Commission:**
19 ***Ozone Attainment Plan*.** The study area is subject to major air quality planning programs
20 required by both the federal Clean Air Act (CAA), last amended in 1990, and the California CAA
21 of 1988. Both federal and state statutes provide for ambient air quality standards to protect
22 public health, timetables for progressing toward achieving and maintaining ambient standards,
23 and development of plans to guide the air quality improvement efforts of state and local
24 agencies. The federal plan, referred to as the *State Implementation Plan* (SIP), must contain
25 control strategies that demonstrate attainment with national ambient air quality standards by
26 deadlines established in the federal CAA. The state plan, called the *Clean Air Plan* (CAP), must
27 show satisfactory progress in attaining state ambient air quality standards. Deadlines are not
28 fixed for attaining state standards. The SIP and CAP overlap and generally contain the same
29 emissions control measures. Both plans rely on the combined emission control programs of the
30 U.S. Environmental Protection Agency (EPA), California Air Resources Board (CARB), and the
31 Bay Area Air Quality Management District (BAAQMD).

32 Neither the SIP nor CAP contain policies or standards regulating specific development projects.
33 Rather, regional air quality goals are achieved primarily by imposing emission standards on

1 individual mobile sources that operate in the Bay Area, and by imposing emissions standards or
2 operational limits or both on stationary sources. As plans are periodically revised, emissions
3 forecasts and underlying information on growth are updated.

4 The *Ozone Attainment Plan* (the "Attainment Plan") is the regional plan for attaining ambient
5 ozone standards in the Bay Area. The 1999 Attainment Plan was adopted by it three co-lead
6 agencies, the BAAQMD, the Metropolitan Transportation Commission (MTC), and the
7 Association of Bay Area Governments (ABAG), and submitted to the CARB in June 1999.
8 CARB approved the plan in July 1999 and submitted it to the EPA. In March 2001, the EPA
9 proposed to partially approve and partially disapprove the plan. In response, the three co-lead
10 agencies are proposing to correct deficiencies in the 1999 plan by preparing a Revised 2001
11 Attainment Plan, which was adopted by the three co-lead agencies in October 2001, and
12 submitted to the CARB and EPA for incorporation to the California SIP. At the time of its
13 adoption, the goal of the 2001 Attainment Plan was to implement measures that would reduce
14 ozone precursors by a total of 372 tons per day across the region. The Attainment Plan relies on
15 the implementation of measures, rather than consistency with objectives and policies, to
16 achieve its goal. Plan measures that would be a part of the redevelopment program are
17 discussed in Sections 4.3: Transportation, and Circulation and 4.4: Air Quality.

18 **The California State Lands Commission.** The State Lands Commission (SLC) was
19 established in 1938, with authority detailed in Division 6 of the California Public Resources
20 Code. The SLC manages nearly four million acres of submerged land underlying the state's
21 navigable and tidal waterways, including San Francisco Bay. These submerged lands are
22 termed "sovereign lands." Sovereign lands are held in Public Trust, a concept of management
23 for the public good¹, and must be used only for public purposes such as fishing, ecological
24 preservation, scientific study, and water-dependent commerce and navigation.

25 In addition, the state granted certain tidal and submerged lands in trust to cities and counties to
26 develop harbors in furtherance of state and national commerce. These submerged or historically
27 submerged lands are termed "granted lands." Major California ports, including the Port of
28 Oakland within the study area, as well as a portion of the Oakland Army Base, are located on
29 granted lands. The SLC monitors these lands to ensure compliance with the terms of the
30 statutory grant. These grants encourage development of tidelands and historic tidelands
31 consistent with the public trust, while requiring grantees to re-invest revenues produced from
32 these lands back into the lands from which such revenues are generated.

¹ Historically, the Public Trust Doctrine provided that public waterways were for "commerce, navigation, and fisheries." Later court rulings added hunting, fishing, swimming, and recreational boating, and in 1971 expanded them to include "preservation of those lands in their natural state," in order to protect scenic and wildlife habitat values. A 1983 California Supreme Court ruling (*National Audubon Society v. Superior Court*, 33 C3rd 419) held the state has an "affirmative duty to take the public trust into account" in making decisions affecting public trust resources, and also the duty of continuing supervision over these resources that allows and may require modification of such decisions.

1 **The San Francisco Bay Conservation and Development Commission: *San Francisco Bay***
2 ***Plan***. While its jurisdiction is regional—San Francisco Bay—the BCDC is a state agency that
3 generally performs functions equivalent to those performed by the California Coastal
4 Commission in those portions of coastal California not adjacent to the San Francisco Bay.

5 The McAteer-Petris Act of 1965 establishes BCDC to “. . . prepare an enforceable plan to guide
6 the future protection and use of San Francisco Bay and its shoreline.” The outcome of that
7 legislation, *The San Francisco Bay Plan* (the “Bay Plan”), was adopted by BCDC in 1968, and
8 has been amended several times, most recently in April 2001 (BCDC 1968). The Bay Plan
9 guides BCDC in its protection of the Bay and in its exercise of permit authority over
10 development adjacent to the Bay. The Act directs BCDC to carry out its regulatory process in
11 accord with Bay Plan guidance—comprising policies and maps—regarding protection of the
12 Bay, its sloughs, estuaries, salt ponds, tidal marshes, managed wetlands, and other natural
13 resources, as well as development of the Bay and shoreline to its highest potential while
14 minimizing Bay fill. The Bay Plan specifies “justifiable filling” as that which provides substantial
15 public benefit that could not be achieved as well without filling. The Bay Plan also has the
16 objective of ensuring that Bay fill meets geologic safety requirements.

17 The Bay Plan defines five special land use designations called “priority uses” that are
18 appropriate to be located at specific limited shoreline sites. The priority use designations are
19 ports, water-related industry, airports, wildlife refuges, and water-related recreation. Therefore, if
20 a site is designated a priority use area in the Bay Plan, it is reserved for that use. In this manner,
21 BCDC exerts limited land use authority in priority use areas through the Bay Plan and its
22 regulatory program.

23 In addition to these priority use areas under BCDC limited land use authority, all tidal areas of
24 San Francisco Bay are subject to the BCDC regulatory program, and BCDC reviews and issues
25 separate permits for filling, for dredging, and for shoreline development. Shoreline development
26 is regulated by BCDC through its jurisdiction over a continuous 100-foot-wide “shoreline band”
27 along the edge of the entire San Francisco Bay and related waters; the shoreline band extends
28 100 feet inland from the line of highest tidal action. See Section 4.2: Land Use, for additional
29 detail.

30 The Bay Plan makes findings and promulgates policies that focus on two main topics:
31 preservation and enhancement of the Bay as a natural resource, and development of the Bay
32 and its shoreline. In addition to policies, the plan includes maps that illustrate how policies and
33 priority land use designations apply within BCDC’s jurisdiction.

34 The Bay Plan findings concerning ports in the Bay recognize the importance of maritime
35 commerce to the Bay Area, and the necessity of keeping pace with changes in shipping
36 technology, particularly the growth in containerized cargo handling. The findings recognize that
37 necessary Bay fill for new terminals must be minimized, that port development will require

1 coordination with other shoreline land uses, and that local government must work to protect
2 sufficient port lands to accommodate port-related uses. Bay Plan findings state that the *San*
3 *Francisco Bay Area Seaport Plan* (BCDC and MTC [1982, as amended through 2001], see
4 below) has been developed to coordinate the planning and development of port terminals in the
5 Bay.

6 The findings and policies on shoreline development focus on physical design and provide
7 guidelines for the BCDC Design Review Board, established in 1970. The board conducts
8 detailed design analysis of proposed projects, with special attention to public access and related
9 water-oriented development issues.

10 **The Bay Conservation and Development Commission and Metropolitan Transportation**
11 **Commission: *San Francisco Bay Area Seaport Plan*.** The *San Francisco Bay Area Seaport*
12 *Plan* (the “Seaport Plan”) constitutes the maritime element of the MTC’s *Regional*
13 *Transportation Plan*, and is incorporated into the Bay Plan, where it forms the basis of the that
14 plan’s port policies. The Seaport Plan assists MTC to make funding decisions and to manage
15 the metropolitan transportation system; BCDC uses the Seaport Plan to help guide its regulatory
16 decisions on permit applications, consistency determinations, and related matters. The Seaport
17 Plan promotes the following goals:

- 18 • ensure continuation of the San Francisco Bay port system as a major world port and
19 contributor to the economic vitality of the San Francisco Bay region;
- 20 • maintain or improve the environmental quality of San Francisco Bay and its environs;
- 21 • provide for efficient use of finite physical and fiscal resources consumed in developing and
22 operating marine terminals through 2020;
- 23 • provide for integrated and improved surface transportation facilities between San Francisco
24 Bay ports and terminals and other regional transportation systems; and
- 25 • reserve sufficient shoreline areas to accommodate future growth in maritime cargo, thereby
26 minimizing the need for new Bay fill for port development.

27 The Seaport Plan recognizes that justifiable
28 fill is likely to occur along the Oakland
29 waterfront, in order to effectively implement
30 port priority uses discussed in these plans. To
31 achieve necessary cargo handling
32 capabilities, capacity, and efficiency to meet
33 2020 cargo throughput forecasts, the Seaport
34 Plan assumes potential net fill in the study
35 area as follows:

Facility	Potential Net Fill (Acres)
New Berth 21	29
Berths 55-58	0 to 30
Total net fill	29 to 59

Source: BCDC and MTC 1982, as amended in 2001:
Table 3

1 The Seaport Plan assumes this is the minimum justifiable fill to achieve throughput goals.

2 Although the Seaport Plan allows for up to 30 acres of fill for Berths 55-58, that project actually
3 resulted in a net increase in Bay surface of approximately 14.5 acres. On January 29, 2001,
4 BCDC amended the Seaport Plan in the following major respects:

- 5 • deletion of approximately 174.4 acres of land from Port Priority Use designation, so that land
6 could be used by the City for non-port purposes;
- 7 • addition of approximately 51 acres of land to the Port Priority Use designation primarily for
8 port ancillary uses;
- 9 • reduction of Bay fill at Oakland to delete the Bay Bridge Site fill (110 acres) and the Army
10 Terminal fill (17 acres);
- 11 • increase of Port of Oakland throughput projections for the year 2020 through increase of
12 container terminal acreage and decrease in the number of projected berths from 26 to 19;
- 13 • relocation of the functions of the Port's existing Joint Intermodal Terminal to OARB property;
- 14 • addition of approximately 184 acres of OARB and Army Reserve Enclave property east of
15 Maritime Street to Port Priority Use designation; and
- 16 • fill of approximately 29 acres for New Berth 21.

17 **Long Term Management Strategy.** The Long Term Management Strategy (LTMS) program
18 was developed in 1990. The LTMS is a multi-agency (U.S. Army Corps of Engineers [Corps],
19 EPA Region IX, Regional Water Quality Control Board [RWQCB], State Water Resources
20 Control Board [SWRCB], and BCDC) regional organization with an objective to develop
21 coordinated approaches to dredging programs, sediment studies, and cost sharing. The LTMS
22 program outlines a program for the disposal of dredged material from San Francisco Bay over
23 50 years. Dredging and disposal of Bay sediments, including those generated by the
24 construction and maintenance of maritime facilities are reviewed for consistency with the LTMS
25 program.

26 The LTMS program arose out of the San Francisco Estuary Project (SFEP), which was
27 established through the 1987 amendments to the Clean Water Act of 1987. The SFEP was
28 developed as a five-year cooperative effort between the EPA and State of California to promote
29 more effective management of the San Francisco-Delta Estuary and to restore and maintain the
30 Estuary's water quality and natural resources. The result of the effort was a Comprehensive
31 Conservation and Management Plan (CCMP) for the San Francisco Estuary (SFEP 1993). The
32 CCMP addresses aquatic resources, wildlife, wetland management, water use, pollution
33 prevention and reduction, dredging and waterway modification, land use, public involvement
34 and education, and research and monitoring program areas. For each program area, goals,
35 recommended approaches, objectives, and actions are provided. A preliminary implementation

1 strategy is included that suggests ways in which state and federal agencies can contribute to
2 financing CCMP actions.

3 **The Association of Bay Area Governments: *The Bay Trail Plan.*** *The Bay Trail Plan* (ABAG
4 1989) proposes development of a regional hiking and bicycling trail around the perimeter of San
5 Francisco and San Pablo bays. The Plan was prepared by ABAG pursuant to Senate Bill 100
6 (1987), which mandates the Bay Trail to:

- 7 • provide connections to existing park and recreation facilities;
- 8 • create links to existing and proposed transportation facilities; and
- 9 • be planned in such a way as to avoid adverse effects on environmentally sensitive areas.

10 The Plan proposes an alignment for a 400-mile recreational “ring around the Bay.” Three main
11 elements make up the Bay Trail system:

- 12 • The “spine” trail is the main alignment, intended as a continuous recreational corridor
13 encircling the Bay and linking the shoreline of all nine Bay Area counties. In some areas,
14 constraints force the spine trail inland.
- 15 • Where the spine trail does not follow the shoreline, “spur” trails provide access from the
16 spine to points of natural, historic, and cultural interest along the waterfront.
- 17 • “Connector” trails link the Bay Trail to inland recreation sites, residential neighborhoods and
18 employment centers, or provide restricted access to environmentally sensitive areas. Some
19 connector trails link the Bay Trail and the Ridge Trail, another regional trail network, which
20 travels inland, mostly along the ridges of the Bay Area’s hills.

21 Approximately one-third of the trail currently exists as either hiking-only paths, hiking and
22 bicycling paths, or as on-street bicycle lanes. When complete, the Bay Trail will create
23 connections between more than 90 parks and publicly accessible open-space areas around San
24 Francisco and San Pablo bays. By providing access to a wide array of commercial ferries and
25 public boat launches, the trail will establish connections to “water trails” that will enable outdoor
26 enthusiasts to appreciate the Bay not only from the shoreline, but from the water as well.

27 While the trail will provide access to wetlands and other sensitive natural features along the
28 Bay’s shoreline, ABAG and its member agencies included policies in the Bay Trail Plan
29 specifically to protect these areas. Existing Bay fill (primarily in the form of levees) provides
30 shoreline trail access in many locations, and trail design policies require that trail design,
31 construction, and use be appropriate to the surroundings.

32 The Bay Trail Plan contains policies to guide selections of the trail route and implementation of
33 the trail system. Plan policies fall into five categories:

- 1 • **Trail alignment policies** reflect the goals of the Bay Trail program—to develop a
2 continuous trail which highlights the wide variety of recreational and interpretive experiences
3 offered by the diverse bay environment and is situated as close as feasible to the shoreline,
4 within the constraints defined by other policies of the plan.

- 5 • **Trail design policies** underscore the importance of creating a trail which is accessible to
6 the widest possible range of trail users and which is designed to respect the natural or built
7 environments through which it passes. Minimum design guidelines for trail development are
8 recommended for application by implementing agencies.

- 9 • **Environmental protection policies** underscore the importance of the San Francisco Bay’s
10 natural environment and define the relationship of the proposed trail to sensitive natural
11 environments such as wetlands.

- 12 • **Transportation access policies** reflect the need for bicycle and pedestrian access on Bay
13 Area toll bridges, in order to create a continuous trail and to permit cross-bay connections as
14 alternative trail routes.

- 15 • **Implementation policies** define a structure for successful implementation of the Bay Trail,
16 including mechanisms for continuing trail advocacy, oversight and management.

17 **The East Bay Regional Park District: *Master Plan 1997*.** The East Bay Regional Park
18 District’s (EBRPD) *Master Plan 1997* (“the Plan” [EBRPD 1996]) defines the vision and the
19 mission of EBRPD, and sets EBRPD priorities for ten years. It explains EBRPD’s responsibilities
20 and promulgates policies and guidelines for achieving established standards of service in
21 resource conservation, management, interpretation, public access, and recreation. The Plan
22 maintains a balance between the need to protect resources and the recreational use of
23 parklands for all to enjoy now and in the future. The Plan sets the following priorities for the next
24 decade:

- 25 • Continue to preserve open space as well as natural and cultural resources in regional
26 parklands.

- 27 • Complete the acquisition and facility development program of Measure AA (a 1988 bond
28 act).

- 29 • Complete a system-wide plan that will include an inventory of resources, unit designations,
30 and resource prescriptions.

- 31 • Complete key park and trail projects in the eastern part of the EBRPD’s jurisdiction.

- 32 • Where possible, enhance facilities, services, and programs provided by other agencies.

- 33 • Complete the missing sections of the Bay Area Ridge Trail and the San Francisco Bay Trail.

- 34 • Actively seek sponsorships, encourage volunteer activities, and form other partnerships that
35 improve the availability of services.

- 36 • Expand camping facilities and programs and develop new sites.

1 • Expand interpretive and recreational programs to reach more residents dwelling within
2 EBRPD’s jurisdiction.

3 • Encourage local communities, agencies and organizations to create opportunities for
4 children, youth, and families to come to the regional parks.

5 The EBRPD’s Master Plan (1996) does not identify proposed regional parks in the project area.
6 Through the OARB conveyance process, however, EBRPD has requested land located at the
7 westernmost tip of the Gateway peninsula, immediately south of the Bay Bridge, for use as a
8 public park.

9 **The Airport Land Use Commission of Alameda County: *Airport Land Use Policy Plan*.** The
10 Airport Land Use Commission (ALUC) is currently undertaking revision of the Airport Land Use
11 Policy Plan (ALUPP, adopted in 1986), in part to remove former Naval Air Station (NAS)
12 Alameda—closed as an airfield since 1996—and its associated planning areas from the
13 jurisdiction of the ALUC. On December 8, 1999, the ALUC amended the ALUPP via resolution
14 to remove all references to former NAS Alameda (ALUC 1999; Alameda County 2001). The
15 ALUPP contains policies intended to provide guidelines to the ALUC for its review of proposed
16 local agency actions (such as project approvals), to determine whether these actions are
17 compatible with current and anticipated airport operations. In general, the most pressing ALUC
18 concerns and important policies of the ALUPP regard physical obstacles to air navigation,
19 exposure of persons on the ground to accidents, hazards to flight (smoke, glare, electrical
20 interference, etc.), and noise. Because the project area is located within the General Referral
21 Area, any subsequent redevelopment activity that includes elements 100 feet in height or more
22 above grade, will be referred to the ALUC for a determination of consistency with the ALUPP.

23 **California Regional Water Quality Control Board, San Francisco Bay Region: *Water***
24 ***Quality Control Plan*.** The San Francisco RWQCB shares responsibility with the State Water
25 Resources Control Board for implementation of the federal Clean Water Act (CWA) and the
26 state Porter-Cologne Act. The RWQCB carries out its overall mission to protect surface water
27 and ground water of the San Francisco Bay Region primarily by:

28 • addressing regional water quality concerns through its Water Quality Control Plan (the
29 “Basin Plan”) and triennial updates;

30 • preparing new or revised policies as necessary; and

31 • implementing and enforcing conditions of permits issued under the National Pollution
32 Discharge Elimination System (NPDES) Permit Program or in Waste Discharge
33 Requirements (WDRs).

34 The Basin Plan describes the legal, technical, and programmatic bases for water quality
35 regulation in the region, and contains the following:

36 • a listing of beneficial uses of waters within its jurisdiction the RWQCB must protect;

- 1 • narrative and numerical Water Quality Objectives (WQOs) required to protect the designated
2 beneficial uses; and
- 3 • strategies and time schedules for achieving the WQOs.

4 The Basin Plan is programmatic, and WQOs are intended to result in overall high water quality
5 within entire water bodies, and do not generally apply to individual actions. Rather, the RWQCB
6 enforces conditions through permits or WDRs tailored for an individual action. By ensuring that
7 each project complies with conditions or WDRs, the RWQCB ensures that each WQO for a
8 water body is achieved.

9 **Local**

10 **The City of Oakland: *General Plan Land Use and Transportation Element*.** The March 1998
11 update of the *Land Use and Transportation Element* (LUTE) of the Oakland General Plan
12 provides a blueprint for the City’s growth and development to year 2015. The LUTE identifies
13 five distinct “showcase districts” representing the major regional economic generators located
14 within the City: the Coliseum Area, Downtown, Seaport, Airport/Gateway, and Mixed Use
15 Waterfront. A portion of the study area is located within the Seaport Showcase District, which
16 generally encompasses the Maritime sub-district, and portions of the OARB and 16th/Wood sub-
17 districts. The vision for the economic and development progress of each showcase district is
18 grounded in one of three fundamental policy frameworks: Industry and Commerce, Downtown,
19 and Waterfront. The Seaport Showcase District is subject to the policies of the Waterfront policy
20 framework.

21 As described in Section 4.2: Land Use, the LUTE classifies land uses in the study area as either
22 Business Mix, General Industrial/Transportation, or Park & Urban Open Space. Each of these
23 LUTE land use classifications is also grounded in a specific policy framework.

24 Finally, the LUTE also identifies six distinct “planning areas” of the City, describes relatively
25 current population, housing, and employment conditions for each planning area, and proposes
26 improvement/implementation strategies for each area. The study area is entirely located within
27 the West Oakland Planning Area. The LUTE identifies most of the OARB and the 16th/Wood
28 sub-districts as slated for “growth and change,” while it identifies a portion of the OARB sub-
29 district and the entire Maritime sub-district as slated for “maintenance and enhancement.”
30 Strategies for the West Oakland Planning Area relevant to the study area include the following:

- 31 • Maintain and enhance a strong community character and identity.
- 32 • Define appropriate residential densities.
- 33 • Revitalize commercial and industrial investment.
- 34 • Foster City–Port cooperation and coordination.

OARB Area Redevelopment EIR

- 1 • Increase public safety.
- 2 • Improve Wood and Pine streets.
- 3 • Position West Grand Avenue as the “direct” route into West Oakland.
- 4 • Improve Raimondi Park.
- 5 • Establish reuse options for the OARB.
- 6 • Develop parkland and public access at Middle Harbor and the Bay Bridge touchdown.
- 7 • Locate new Port-related trucking businesses outside of West Oakland.

8 The LUTE recognizes the OARB reuse process as a necessary action to fully achieve the City’s
9 vision for the Seaport Showcase District and the West Oakland Planning Area. The LUTE
10 supports the success of the seaport, envisions its now current and future expansion within the
11 study area, and seeks to minimize negative externalities of such expansion on the nearby West
12 Oakland neighborhood (City of Oakland 1998a).

13 The LUTE was amended in July 1998 (Resolution No. 74403 C.M.S.) to add policies to
14 implement the Alameda County Hazardous Waste Management Plan.

15 **The City of Oakland: *Oakland Bicycle Plan*.** In July 1999, the City Council adopted the
16 Oakland Bicycle Plan. Among other things, the Bicycle Plan contains a series of
17 recommendations for bicycle parking to be included in new developments; these
18 recommendations are anticipated to be incorporated into the zoning regulations, currently under
19 revision.

20 **The City of Oakland: *General Plan Estuary Policy Plan Element*.** The *Estuary Policy Plan*
21 (the “Estuary Plan”) is an element of the Oakland General Plan. The Estuary Plan addresses
22 issues of shoreline accessibility and continuity, the quality and character of new development,
23 and the relationship of the Oakland shoreline to surrounding districts and neighborhoods. The
24 Plan includes objectives and policies intended to enhance the future of the area of Oakland
25 located between Adeline Street, the Nimitz Freeway, 66th Avenue, and the Estuary shoreline. It
26 calls for a system of open spaces and shoreline access that provides recreational opportunities,
27 environmental enhancement, interpretive experiences, visual amenities, and important public
28 gathering places.

29 The Estuary Plan identifies three distinct districts:

- 30 • the Jack London district, which extends from Adeline Street to Oak Street;
- 31 • the Oak-to-Ninth Avenue district, which extends from Oak Street to the Ninth Avenue Marine
32 Terminal; and

- the San Antonio/Fruitvale district, which extends from 9th Avenue to 66th Avenue.

A one- by two-block area of the Maritime sub-district is located within the Jack London district. The relevant portion of the project area is bounded by Brush Street, 2nd Street, Martin Luther King, Jr. Way, and the Embarcadero.

The City of Oakland: *General Plan Open Space, Conservation, and Recreation Element.*

The foundation of the Open Space, Conservation, and Recreation Element of the Oakland General Plan (the OSCAR), adopted in 1996, is a set of increasingly specific goals, objectives, policies, and actions. Goals are broad vision statements; objectives are more specific ends for pursuit; policies are guidance sufficiently specific to guide day-to-day decision making; and actions are very specific measures to be taken to implement policies. The OSCAR organizes a framework for evaluating resources and implementing policies and actions as follows:

- I. Open Space
 1. Open Space Land Uses
 2. Shoreline and Creeks
 3. Open Space for Community Character

- II. Conservation
 1. Earth Resources
 2. Water Resources
 3. Plant and Animal Resources
 4. Air Resources
 5. Energy Resources

- III. Recreation
 1. Park Land Use
 2. Park Operations
 3. Human Resources
 4. Funding

The OSCAR defines 12 distinct planning areas, and sets forth a strategy for each that recommends specific priorities to be considered during decision making. The strategies are not binding, and they are flexible and fluid in nature, intended to change in response as future opportunities or constraints present themselves. The study area is located within two OSCAR planning areas: West Oakland and the Harbor. Relevant or potentially relevant recommended strategies include the following:

- Improve access to the shoreline, including construction of the Bay Trail, with spurs along Maritime Street and 7th Street/Middle Harbor Road. Create stronger links between the waterfront and West Oakland. Note that a spur trail along 7th Street and Middle Harbor Road between the Union Pacific (UP) rail overhead and the Middle Harbor Road/Maritime Street intersection is currently under construction as part of the Port of Oakland's Vision 2000 Program.

- Continue street planting efforts and other programs to "green" West Oakland.

- 1 • Improve the eastbound Bay Bridge “gateway” to Oakland (that land within the OARB sub-
2 district immediately south of the Bay Bridge touchdown). Note that planning for reuse of the
3 OARB has consistently included use of this area as a park and visual gateway to the City of
4 Oakland.

- 5 • Explore possible use of finger piers and the Middle Harbor for shoreline access and
6 recreation; pursue development of a small historic shoreline park at the Union Point
7 (Western Pacific) mole. Note the entire shoreline of Middle Harbor, as well as the Inner
8 Harbor Shoreline of the Western Pacific mole, are currently under construction as a regional
9 shoreline park—the Middle Harbor Shoreline Park—as part of the Port of Oakland’s Vision
10 2000 Program. The new park will include interpretive opportunities regarding cultural and
11 historic resources.

- 12 • Establish visitor observation areas and promote public awareness of the economic
13 importance of the Oakland shoreline. Note that an element of the new Middle Harbor
14 Shoreline Park will be maritime interpretive opportunities.

15 **The City of Oakland: *General Plan Historic Preservation Element.*** The Historic Element of
16 the General Plan was adopted in 1994 and amended in 1998. The element sets forth a historic
17 preservation strategy that seeks to promote preservation of a wide range of properties and
18 districts in a manner reasonably balanced with other concerns and consistent with other City
19 goals and objectives. The Historic Element recognizes that Oakland is home to a rich array of
20 significant older properties that set it apart from other California cities, and that preservation and
21 enhancement of these properties could contribute positively to Oakland’s economy affordable
22 housing stock, image, and quality of life.

23 The Historic Element identifies two local landmarks within the 16th/Wood and Maritime sub-
24 districts: the Southern Pacific Railroad (SPRR) Station at 16th and Wood streets (also known as
25 the Amtrak Station), and the Southern Pacific mole westerly terminus at the end of 7th Street.
26 Development affecting either of these resources would be subject to policies of the Historic
27 Element. It also identifies the OARB Historic District and former Fleet and Industrial Supply,
28 Oakland (FISCO) site (no longer extant) as Areas of Primary Importance.

29 **The City of Oakland: *General Plan Housing Element.*** The Housing Element (City of Oakland
30 1992) addresses three major goals:

- 31 • Ensure every Oakland family has the opportunity to live in a sound housing unit, large
32 enough to accommodate its members at a reasonable cost relative to its income, and
33 free from non-economic constraints on its freedom of selection.

- 34 • Provide for the housing needs of all economic segments, age groups, and household
35 types.

- 36 • Ensure a reasonable balance of housing according to occupancy type, dwelling type,
37 price, density, type of amenities, and location.

1 The City has developed policies (included in Appendix 4.1 of this document) that are a part of
2 the Housing Element to address five major problems:

- 3 • substandard housing;
- 4 • overcrowding;
- 5 • problems of low- and moderate-income households;
- 6 • over-concentration of publicly-assisted housing; and
- 7 • discrimination in housing.

8 **The City of Oakland: *Environmental Hazards Element*.** This element defines, identifies, and
9 discusses environmental hazards, structural hazards, and areas subject to these hazards (City
10 of Oakland 1972). Environmental hazards are classified as geologic, fire, and flood. Structural
11 hazards are classified as residences, commercial/industrial buildings, public buildings, and utility
12 and transportation facilities. The environmental Hazards Elements included two goals:

- 13 • Minimize loss of life, injuries, and damage to property, of Oakland citizens resulting from
14 natural disasters.
- 15 • Recognize natural environmental hazards in planning for the City's future development.

16 **The City of Oakland: Municipal Code, Title 17: Planning, Chapter 17.01: General**
17 **Provisions of Planning Code and General Plan.** In accordance with Section 17.01.030 of the
18 Planning Code of the Oakland Municipal Code (OMC), no activities or facilities may be
19 established, substituted, expanded, constructed, altered, moved, painted, maintained, or
20 otherwise changed, and no lot lines created or changed, except in conformity with the Oakland
21 General Plan, or except as expressly provided by the Planning Code. The requirement for
22 activities or facilities to conform with the Oakland Zoning Regulations (which are found at OMC
23 §§ 17.07-17.154) is established by OMC 17.07.060. In accordance with Section 17.01.050,
24 should an express conflict between the Oakland General Plan and the Zoning Regulations
25 occur, the requirement for General Plan conformity supercedes the requirement for conformity
26 with the Zoning Regulations. The Director of City Planning determines if a specific proposal
27 conforms with the General Plan.

28 The Oakland City Planning Commission adopted Guidelines for Determining Project Conformity
29 with the General Plan and Zoning Regulations (City of Oakland 1998b, as amended through
30 2001). These guidelines describe procedures for deciding if an action is consistent with the
31 General Plan; they also describe procedures to follow when the General Plan and Zoning

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Regulations conflict. Factors considered when determining conformity with the General Plan include the following²:

1. The relevant General Plan land use classification(s). Conformity of proposed uses with General Plan land use classifications is the primary measure of conformity.
2. The relevant Zoning district(s). Conformity of proposed uses with Zoning District designations is a secondary measure of conformity.
3. The activity(ies) and facility type(s). The City’s Guidelines identify conforming activities and facilities for each General Plan land use classification.
4. The intensity (or density) of development. The City’s Guidelines establish maximum densities for development in each General Plan land use classification. Maximum floor-to-area ratio and density (in principal units per net acre) are also given an assumed net-to-gross ratio, a maximum density in principal units per net acre, and a minimum square footage of site area per principal unit.
5. The possible combinations of conformity are as follows:

		Zoning/Subdivision Regulations		
		Permitted	Conditionally permitted	Not permitted
General Plan	Clearly conforms	Permitted outright	CUP	Allowed w/ Interim CUP or re-zoning
	GP silent, not clear on conformity	Permitted outright	CUP	Not allowed
	Clearly does not conform	Not allowed	Not allowed	Not allowed


 Express conflict between the General Plan and Zoning Regulations; General Plan prevails.
Source: City of Oakland 1998b, as amended through 2001.

Figure 3-6b (Chapter 3: Description) depicts General Plan land use classifications as proposed under redevelopment: Business Mix, General Industrial/Transportation, Parks & Urban Open Space, and Light Industrial 1 (the latter classification is specific to the Estuary Policy Plan area). With amendment of the General Plan as proposed under redevelopment, all land uses would clearly conform to the General Plan, or the General Plan is silent on their conformity.

² If a proposed action is located within the Port Area, the Port makes a determination of conformity, with input from the Planning Director (Resolution 74129, CMS, February 1998).

1 The Oakland zoning code is in revision, and a new zoning system in development. While some
2 activities and facilities proposed under redevelopment would not conform to existing zoning, re-
3 zoning of the area, currently underway, would be consistent with proposed redevelopment as
4 presented in Chapter 3: Description. Should subsequent redevelopment activities be proposed
5 before re-zoning is complete, each would be evaluated for its conformity with zoning. Should the
6 subsequent activity not conform to current zoning, the activity would be modified to conform, the
7 site would be re-zoned under the existing system, or a variance would be granted.

8 Maximum development intensities in the project area are as follows:

	<u>Land Use Classification</u>	<u>Floor-Area Ratio</u>
9	Business Mix	4.0
10	General Industrial/Transportation	2.0
11	Urban Park & Open Space	Not Applicable
12	Light Industrial-1	2.0

13
14 Based on buildout projections as presented in Chapter 3: Description, redevelopment as
15 proposed would conform to allowable development densities/intensities.

16 **4.1.3 Regional Setting**

17 See Regulatory Setting, above.

18 **4.1.4 Local Setting**

19 See Regulatory Setting, above.

20 **4.1.5 Impact Analysis Methodology**

21 This analysis identifies existing plans and their objectives, goals, and policies relevant to the
22 redevelopment program. The analysis then evaluates whether the redevelopment program
23 described in Chapter 3: Description is consistent with plans and policies intended to protect the
24 environment. Relevant objectives, goals, and policies are included as Appendix 4.1.

25 In addition, pursuant to OMC 17.01.030, redevelopment as proposed in Chapter 3: Description,
26 was evaluated to determine if it conforms with proposed General Plan land use classifications,
27 density or intensity standards, and relevant General Plan policies. Because completion of the
28 City's update to its zoning regulations (making them consistent with the General Plan) is
29 expected to conclude in the near future, and the project area would be appropriately re-zoned at
30 that time, the redevelopment program was not evaluated for its conformity with current zoning,
31 but rather with the General Plan (with which the zoning must be consistent). Land use re-
32 classification is a part of redevelopment as proposed, and the evaluation of potential

1 subsequent redevelopment activities shows they would conform to the proposed General Plan
2 land use classifications, as well as the allowable density and intensity standard of those
3 classifications. Regarding conformance with General Plan policies, Appendix 4.1 includes a
4 listing of General Plan policies relevant to redevelopment as proposed. The evaluation of these
5 polices and the program, as included in that appendix, shows that redevelopment would be
6 consistent with the polices, objectives, and goals of the General Plan.

7 **Significance Criteria**

8 Redevelopment would have a significant impact on the environmental if it would:

- 9
- 10 • Fundamentally conflict with any applicable land use plan, policy, or regulation of an
11 agency with jurisdiction over the project (including, but not limited to the general plan,
12 specific plan, local coastal program, or zoning ordinance) adopted for the purpose of
13 avoiding or mitigating an environmental effect, and actually result in a physical change in
the environment.

14 **4.1.6 Impacts**

15 **Benefits**

16 Redevelopment is not only consistent with, but would directly and positively achieve the intent of
17 several plans and policies as follows:

- 18
- 19 • **The Bay Plan:** Redevelopment of the Gateway and Port development areas, creation of the
20 waterfront park at the Gateway peninsula, and removal of contaminated storm sewers as
21 proposed achieves the intent of Bay Plan policies regarding fish and wildlife, water quality,
water-related industry, ports, recreation, and public access.
 - 22 • **The Seaport Plan:** Redevelopment of the Port development area and Maritime sub-district
23 as proposed achieves the intent of Seaport Plan policies regarding cargo forecasts, Port
24 priority Use areas, marine terminals, and specific policies designated for the Port of
25 Oakland.
 - 26 • **The Bay Trail Plan:** Redevelopment of the OARB and Maritime sub-districts as proposed
27 achieves the intent of Bay Trail Plan policies regarding trail alignment and transportation
28 access.
 - 29 • **The East Bay Regional Park District Master Plan:** Implementation of the Gateway park
30 and public access features as proposed achieves the intent of Master Plan priorities
31 regarding preservation of open space and natural and cultural resources in regional
32 parklands; and completes the missing sections of the San Francisco Bay Trail.
 - 33 • **The Basin Plan:** Removal or remediation of contaminated storm sewers located in the
34 OARB sub-district achieves the mission of the RWQCB and Basin Plan to protect surface
35 water of the San Francisco Bay Region.

- 1 • **The Oakland General Plan Land Use and Transportation Element:** Redevelopment as
2 proposed achieves objectives and associated policies of the LUTE regarding the following:
3 expansion and retention of the Oakland job base and economic strength; provision of
4 adequate infrastructure; reduction of truck effects on local neighborhoods; encouragement
5 of waterfront access; creation of a high-quality natural and built waterfront environment;
6 promotion of the Port of Oakland; provision of commercial areas; construction of housing;
7 and reduction or elimination of hazardous wastes. Although the proposed project is not
8 expected to require new hazardous waste storage, treatment, or disposal facilities in the
9 area, any such facilities shall comply with applicable requirements.
- 10 • **The Oakland Estuary Plan:**³ Redevelopment of the Gateway development area as
11 proposed, including public access and parkland, achieves objectives and associated policies
12 of the Estuary Plan regarding the following: provide public activities oriented to the water;
13 develop the Estuary area in a way that enhances Oakland's long-term economic
14 development; create clear and continuous public access along the Estuary; punctuate the
15 shoreline with a series of parks and larger open spaces; enhance natural areas along the
16 waterfront; improve and clarify regional access to Oakland's waterfront; and improve
17 pedestrian and bicycle circulation.
- 18 • **The Oakland General Plan Open Space, Conservation and Recreation Element:**
19 Redevelopment as proposed would achieve objectives and associated policies of the
20 OSCAR regarding the following: develop a trails system; increase public access to the
21 waterfront; improve visual quality; develop civic open spaces; provide street trees; and
22 protect and promote beneficial use of nearshore waters.
- 23 • **The Oakland General Plan Historic Preservation Element:** Restoration and preservation
24 of the SPRR (Amtrak) Station and 16th Street Tower achieve goals and associated policies
25 of the Historic Preservation Element regarding the following: the use of historic preservation
26 to foster economic vitality and quality of life, and to preserve, protect, and enhance,
27 perpetuate, use, and prevent unnecessary destruction or impairment of properties of special
28 value or interest.

29 **Impacts**

30 **Impact 4.1-1:** Fill to create fastland for New Berth 21 plus a nominal portion of the
31 adjacent Gateway development area, and potential minor fill for
32 Gateway Park shoreline stabilization may conflict with Bay Plan
33 objectives and policies.

34 **Significance:** Consistent with Bay and Seaport Plans, but resulting environmental
35 impacts may be significant (see sections regarding traffic (4.3), air
36 quality (4.4), biology (4.12), geology (4.13), and water quality (4.15).

37 **Mitigation:** Mitigation is not warranted.

³ While only a small portion of the project area is located within the Estuary Policy Plan Area—two blocks of the Maritime sub-district—the Gateway development area represents the first waterfront property controlled solely by the City. For this reason, the City may elect to apply policies of the Estuary Plan to the Gateway development area, and this analysis evaluated redevelopment for conformity with the Estuary Plan.

1 As illustrated by Figure 4.1-1, approximately 29 gross acres of solid and covered fill would be
2 placed to create fastland for New Berth 21. Approximately 7 acres of the fill would be located in
3 areas currently occupied by marginal wharves, which represent covered fill. A minor portion of
4 this fill (less than one acre) would be located within the Gateway development area, and the
5 remainder within the Port development area. Approximately 3 acres of excavation would occur
6 to create the new berth, resulting in a net total fill of approximately 26 acres (both solid and
7 covered fill). This proposed 26 acres of net fill represents a substantial reduction in the 153
8 acres of fill for marine terminals previously allowed under the Bay and Seaport plans for
9 development of the Oakland Outer Harbor. Approximately 110 acres of previously allowed fill
10 near the Bay Bridge and 17 acres of previously allowed fill at the Army Terminal would not
11 occur. Therefore, redevelopment as currently proposed would result in a net reduction of
12 approximately 127 acres of Bay fill.

13 Under high tide and storm conditions, the Outer Harbor shoreline of the Gateway peninsula is
14 inundated to an access road that longitudinally traverses the site. In order to obtain the
15 maximum useable site, reduce potential maintenance costs, avoid shoreline erosion, and
16 increase the area of public access amenities, EBRPD may stabilize the Outer Harbor shoreline
17 via revetment or other stabilizing means that would constitute Bay fill. Should EBRPD decide to
18 stabilize the shoreline via fill, it could result in a shoreline fill of approximately 2,800 linear feet.

19 Bay Plan policies require that surface area and total volume of Bay water be kept as large as
20 possible, and that filling should be allowed only for purposes of providing substantial benefits,
21 and only if there is no reasonable alternative to filling. Policies regarding shoreline protection
22 and erosion control state that such activities should be authorized if a project is necessary to
23 protect the shoreline, the type of protection is appropriate to the site and erosion conditions,
24 and the protection is properly designed. Because these fills would be the minimum necessary to
25 achieve their purpose, and because no reasonable alternatives to the fills would accomplish
26 their purpose, fill for New Berth 21 and a minor portion of the adjacent Gateway development
27 area, and potential fill for the Gateway park shoreline do not fundamentally conflict with policies
28 of the Bay Plan. (Sections 4.12: Biological Resources, and 4.15: Surface Water, include
29 measures to mitigate physical impacts of Bay fill; analysis of construction traffic, air, and noise
30 [Sections 4.3, 4.4, and 4.5, respectively] take into account impacts of Bay fill construction.)

31 Even for the minimum allowable fill consistent with Bay Plan policies, BCDC requires
32 compliance with permit conditions compensating for the loss of Bay volume and surface area.
33 When and if the Port of Oakland, the EBRPD, or proponents of other subsequent
34 redevelopment activities propose fill that complies with objectives and policies of the Bay Plan,
35 and yet would reduce the volume of surface area of Bay waters, they may be required to
36 compensate for that reduction in accordance with permit conditions established by BCDC prior
37 to construction of the fill. The Port of Oakland's Vision 2000 Berths 55-58 Project resulted in a
38 net increase in Bay surface of approximately 14.5 acres (per BCDC permit 7-99, as amended
39 through April 26, 2000), and a net increase in Bay volume of approximately 1.6 million cubic
40

- 1 Insert
- 2 Figure 4.1-1 Proposed Excavation and Bay Fill
- 3

1 yards. Permitting agencies may consider these net increases when imposing conditions on Bay
2 fill for the Port's New Berth 21 action.

3 **Impact 4.1-2:** Proposed land uses in a portion of the 16th/Wood sub-district would be
4 fundamentally inconsistent with Seaport and Bay plan Port Priority
5 Use designations.

6 **Significance:** Significant

7 **Mitigation 4.1-1:** Amend the Bay and Seaport plans to eliminate, where necessary,
8 Port Priority Use designations within the 16th/Wood sub-district.

9 **Residual Significance:** Less than significant

10 The Bay and Seaport plans as amended through 2001 designate a portion of the 16th/Wood
11 sub-district as Port Priority Use. Such a designation requires land uses that are directly
12 supportive of maritime activities. The Priority Use designation encompasses land between I-
13 880, Wood Street, West Grand Avenue, and 16th Street. The redevelopment program proposes
14 live/work, office, and ancillary retail in this area. These uses are not considered Port Priority
15 uses, and are fundamentally inconsistent with that designation. This inconsistency is considered
16 a significant impact. With implementation of Mitigation Measure 4.1-1, the inconsistency would
17 be eliminated, and the residual impact would be less than significant.

18 ~ ~ ~

19 **Impact 4.1-3:** Loss of all structures contributing to a historic district, and loss of the
20 district itself may conflict with Oakland General Plan Historic
21 Preservation Element goals and policies.

22 **Significance:** Less than significant

23 **Mitigation:** Mitigation is not warranted.

24 As discussed in detail in Section 4.6: Cultural Resources, all structures of the OARB Historic
25 District would be demolished to allow redevelopment of the Gateway and Port development
26 areas of the OARB sub-district. Goals of the General Plan require that unnecessary loss of such
27 resources not occur, and that such resources be used to foster economic vitality and enhance
28 the quality of life in Oakland. In addition, certain Historic Preservation Element policies state that
29 preservation and adaptive reuse of historic resources should occur to the extent consistent with
30 other Oakland General Plan policies. Preservation and/or adaptive reuse of historic resources at
31 the OARB sub-district is partially or fundamentally inconsistent with the following General Plan
32 Policies:

- 1 • LUTE Policy I/C.1: Attract new business.
- 2 • LUTE Policy I/C.4: Invest in economically distressed areas of Oakland.
- 3 • LUTE Objective I/C5: Maximize economic utility, employment generation, and citywide
- 4 benefit of closed military facilities.
- 5 • LUTE Objective T1: Provide adequate land for needs of rail, shipping, etc.
- 6 • LUTE Policy T1.1: Support the Port’s efforts to as a primary port of call for the West Coast.
- 7 • Hazards Element: Employ the most current seismic design criteria in construction.

8 As they apply to redevelopment of the OARB sub-district to its full, safe land use and economic
 9 potential, the policies of the Hazards Element and the LUTE have the potential to compete with
 10 policies of the Historic Preservation Element. Language contained in policies of the Historic
 11 Preservation Element recognize this tension regarding preservation and adaptive reuse, and
 12 therefore indicate consistency with policies of the Historic Preservation Element should occur to
 13 the extent such consistency does not create inconsistencies with other General Plan policies.
 14 For this reason, although loss of historic resources in the OARB sub-district appears to be
 15 inconsistent with policies of the Historic Preservation Element, this analysis concludes it does
 16 not constitute a fundamental conflict, and the impact is considered less than significant. Note
 17 that Sections 4.6: Cultural Resources, and 4.11: Aesthetics, acknowledge the loss of structures
 18 to be a significant impact, and recommends measures to mitigate the physical impacts to
 19 historic resources, but not to levels that are less than significant.

~ ~ ~

21 **4.1.7 Mitigation**

22 Implementation of the following mitigation measure shall avoid the impact of redevelopment
 23 related to plan consistency.

24 **Mitigation 4.1-1:** Amend the Bay and Seaport plans to eliminate, where necessary, Port Priority
 25 Use designations within the 16th/Wood sub-district.

26 This measure applies to Impact 4.1-2.

27 When plans for the Port’s 15 acres of AMS uses are finalized, the City and Port shall make
 28 application to BCDC to amend the plans to remove Port Priority designation from some or all of
 29 the 16th/Wood sub-district. The City and Port shall demonstrate to BCDC that 2020 throughput
 30 projections can be achieved without use of this area for Port Priority uses.

31 ~ ~ ~
 32 ~