

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: **Brisbane Baylands Planning Applications (Concept Plans, Specific Plan Case SP-01-06, General Plan Amendment Cases GP-01-06/GP-01-10) and related Final Environmental Impact Report (SCH #2006022136) – Deliberations**

DATE: Meeting of July 24, 2017

Introduction/Discussion :

The City Council has provided a comprehensive list of prioritized questions and data requests which was incorporated into the staff report for the City Council July 13 deliberations meeting. Responses to questions/data requests are attached. In those instances more research or time will be required in order to fully respond, it is noted in the response.

In addition to these responses, the City Clerk will also be providing all written correspondence received subsequent to the July 13 meeting. The One Planet Living report prepared on behalf of UPC is included in this written correspondence for reference purposes.

Next Steps:

Following discussion of basic principles, the City Council is scheduled to continue its deliberations on **August 7, 2017**, at which the discussion is scheduled to focus on the appropriate mix of land uses within the Baylands. Following discussion of the appropriate mix of land uses, subsequent City Council deliberations will address development intensity and distribution of land uses within the Baylands and other General Plan policy issues.

Attachments:

1. Councilmember Conway Questions and Responses
 - 1A. Sierra Point Development Statistics

2. Councilmember Davis Questions and Responses

2.A 6/13/2017 memorandum from Tom Graf, GrafCon

2.B California Municipal Solid Waste (MSW) Landfills Active Post-1/1/88 And Pre-1/1/88 Sites with Active Gas Control Systems or Estimated

2.C Landfill Facility Compliance Study

2.D Landfill Facility Compliance Study – Phase II Report

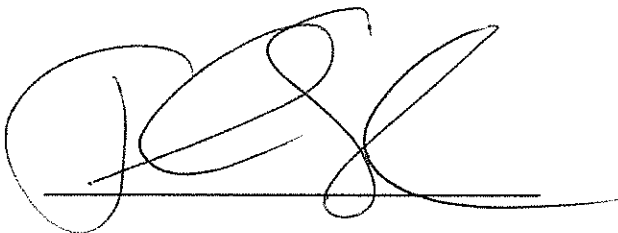
3. Councilmember Lentz Questions and Responses

4. Mayor Liu Questions and Responses


5. Councilmember O'Connell Questions and Responses

5A. Draft Bayshore Multi-Modal Facility Study Phase II

6. Responses to Other Information Requests



John Swiecki, Community Development Director



Clay Holstine, City Manager

ATTACHMENT 1

Responses to Information Requests from Councilmember Conway

- 1. Provide a table showing acreage and buildout square footage of Sierra Point, including South San Francisco portion.**

See Attachment 1A. In summary, Sierra Point (including both Brisbane and South San Francisco portions) involves approximately 120 acres and 1.4 million square feet of existing development with another approximately 1.0 million square feet of approved but unbuilt space within Brisbane and a planned but unapproved 700-room hotel in Brisbane.

- 2. Can the City limit housing on the Baylands to temporary lodging (i.e., not full time permanent housing) for local workforce?**

Development regulations could be crafted to provide for temporary lodging of employees as a permitted land use within the Baylands.

ATTACHMENT 2

Responses to Information Requests from Councilmember Davis

1. Respond to request for consideration of an alternative significance threshold for windsurfing impacts and consideration of new computer model for wind impact evaluation.

While CEQA encourages agencies to formally adopt thresholds of significance (Guidelines Section 15064.7(a)), they are not required to do so. The City considered the thresholds of significance used in the few known similar impact evaluations prepared under CEQA – wind impacts on Candlestick Point State Recreation Area (CSRA) from the Executive Park project in San Francisco and impacts on windsurfing at the Coyote Point Recreation Area caused by waterfront development in Burlingame. Due to the fact that impacts on windsurfing in CPSRA is common both to the approved Executive Park project and the Brisbane Baylands, the City determined that the significance threshold used by San Francisco in its CEQA review of the Executive Park project’s wind impacts on CPSRA¹ would be appropriate for use in evaluating impacts of proposed Baylands development. Therefore, the Draft EIR uses the same threshold as San Francisco used for the Executive Park EIR:

Baylands development would have a significant impact on recreational windsurfing resources if it would substantially degrade the windsurfing recreational resource by reducing wind speeds “to the point where the reductions would adversely affect windsurfing in prime windsurfing areas or substantially impair access to prime windsurfing areas from existing launch sites.”

The alternative significance threshold suggested by the windsurfing community is untested in CEQA analysis.

As discussed in Final EIR Master Responses 30 through 34, the threshold and alternative analysis methodology suggested by the windsurfing community would be less appropriate and useful than the methodology used in the Draft EIR. The proposed alternative threshold of significance has never been applied to the CPSRA windsurfing area in a publicly circulated CEQA document, in contrast to the threshold of significance used in the Draft EIR.

¹ City and County of San Francisco, *Draft Environmental Impact Report, Executive Park Amended Subarea Plan and the Yerby Company and Universal Paragon Corporation Development Projects* (San Francisco Case No. 2006.0422E, State Clearinghouse Number 2006102123), October 13, 2010.

2. How are we going to deal with the traffic and what is the impact of all this development on our ability to get in and out of Brisbane?

Options for expanding roadway and highway capacity to carry more vehicles are limited. Major improvements planned for the Baylands area include the Geneva Avenue extension and the Candlestick interchange. Smaller roadway capacity projects are also proposed as part of the Bi-County study and EIR mitigation measures. In addition to these roadway and highway capacity measures, options for addressing traffic congestion include:

- Expanding transit service (e.g., Caltrain, bus rapid transit, extension of Muni lines)
- Clustering development within walking distance of transit to increase transit usage
- Providing complementary uses in close proximity to each other to reduce the need for vehicular travel
- Improving bicycle and pedestrian facilities to provide a realistic alternative to vehicular travel for short trips
- Transportation Demand Management, working with businesses to reduce traffic generation through ride share, transit incentives, and similar program
- Transportation Systems Management, employing technology to increase the capacity of existing roadway facilities (e.g., coordinated signal timing)

3. How will 20 years of pile driving affect those already leaking pipelines?

Response is under preparation.

4. Can the city set the allowed time to pile drive?

The Brisbane Municipal Code requires construction contractors to limit standard construction activities to between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 7:00 p.m. on weekends and holidays.

As currently set forth in the EIR, pile driving and/or other extreme noise-generating activities (greater than 90 dBA) would be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise-generating activity permitted between 12:30 p.m. and 1:30 p.m. No extreme noise-generating activities would be allowed on weekends and holidays.

Mitigation Measure 4.J-4a requires submission of a Noise Control Plan for review and approval by the City of Brisbane Building Department to ensure that construction noise does not exceed the standards set forth in the City's Noise Ordinance. Mitigation Measure 4.J-4a also states that construction contractors shall implement "quiet" pile-driving technology (such as pre-drilling of piles and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions. The City will have the opportunity to add requirements related to timing of pile driving during its review

of the Noise Control Plan. Additionally, the City may also restrict hours as a project condition of approval once specific development projects are brought forward.

5. If housing is allowed, can the city dictate the type of housing it would prefer? For example, could it require a certain number of work force housing units based on the square footage of a proposed development?

If housing were to be permitted within the Baylands, the City could define the specific types of housing that would be permitted, including workforce housing owned and maintained by businesses for their workers. Through a development agreement, the City could negotiate a development standard calling for a provision of a certain number of housing units to be “affordable” in order to provide “work force” housing units. A limitation on the square footage of the units could be imposed. Any housing restrictions (income-based, workforce) would require ongoing monitoring over time.

6. Instead of the housing types proposed by UPC, could the city mandate that it wants housing for seniors or artists or real live/work communal environments?

Affordable housing for seniors could be required as housing for that classification is set forth in the Housing Element. The City would most probably not be able to restrict housing to “artists,” but could provide development standards that would permit live/work space. Zoning standards could also be developed to permit live/work communal environments. Requirements for the provision of such types of housing could be negotiated through a development agreement.

7. Explain the process for requiring/negotiating cultural benefits such as public art, museums, activities for ethnic groups and clubs, seniors and youth.

The City has a requirement that either public art or funds for public art be provided as part of private development. Through a development agreement, the City could negotiate funding for additional cultural benefits for the community.

8. Explain the process for requiring/negotiating recreational opportunities such as ball fields, gyms and trails.

The City has a requirement for the dedication of land or the payment of fees for recreational purposes, the scope of which depends on the type of development approved. For example, residential development has different requirements than does commercial development. Each of the development scenarios for the Baylands proposes parks and open space in excess of Municipal Code requirements. Through a development agreement, the City could also negotiate for enhanced recreational facilities.

9. How is the Baylands development being coordinated with all the Candlestick/Hunters Point/India Basin/Bayview and San Francisco development just north of Recology?

The EIR included a Cumulative Impacts analysis (Section 6.3), which analyzed the effects of the proposed Project Site development, in combination with the effects of past, present, and reasonably foreseeable future related projects, such as the future development mentioned in the question.

The cumulative analysis for air quality, greenhouse gas emissions, and traffic relies on projections contained in adopted local, regional, or statewide plan or related planning documents, such as the San Mateo County Transportation Plan and relevant regional plans developed by the City/County Association of Governments (C/CAG) of San Mateo County. The analysis of cumulative impacts also relied on SF-CHAMP model travel demand estimates, travel demand forecasts for the Candlestick Point/Hunters Point Study forecasts, and ABAG land use and socio-economic database and growth forecasts, including *Projections 2009* and *draft Plan Bay Area*, which provide forecasts of employment and population growth for the nine county San Francisco Bay Area. All other resource areas use the list of projects approach. The list of reasonably foreseeable future projects within the geographic scope of the impact analyses is based upon information provided by the City of Brisbane, as well as major project lists provided by San Mateo County, San Francisco, and Daly City. The list includes 22 projects in Brisbane, San Francisco, Daly City, and South San Francisco. The total development included in the list includes 39,836 residential units, 17, 9994,000 square feet of non-residential and 2,050 hotel rooms. Therefore, the EIR included a robust cumulative analysis to determine the proposed Project Site development's cumulative impacts. See Section 6.3.3 for a discussion of cumulative impacts by issue area long with mitigation measures that have been identified to reduce cumulative impacts to less-than-significant levels. It should be noted that not all cumulatively significant impacts can be reduced to below a level of significance. Section 6.1 Significant and Unavoidable Impacts summarizes all of the significant unavoidable impacts by project development scenario.

10. Can we get insurance that covers earthquakes, sea rise, severe storms, tree roots, allowing people to live on toxic land? If yes, how much will that cost and who will pay in perpetuity?

Insurance to address natural disasters, such as earthquakes, severe storms, etc. is available on the market. Insurance addressing site remediation is also available on the market. Insurance covering impacts of sea level rise is not known to be available. The actual cost of such insurance is dependent on the land uses being covered, amount of coverage, and the level of risk as perceived by the insurer and underwriter, and cannot be estimated at this time. Typically, property owners would pay the costs for such insurance.

11. Provide examples of successfully redeveloped unregulated landfills.

Response is under preparation.

12. Have any epidemiological studies been prepared for projects built on closed landfills? If so, provide results.

The results of *Systematic Review of epidemiological studies on health effects associated with management of solid waste* (Porta, D., Milani, S., Lazzarino, A., Perucci, C., Forastiere, F., 2009 in *Environ. Health* 8: 60) indicate “in most cases the overall evidence was inadequate to establish a relationship between a specific waste process and health effects; the evidence from occupational studies was not sufficient to make an overall assessment. For community studies, at least for some processes, there was limited evidence of a causal relationship and a few studies were selected for a quantitative evaluation. In particular, for populations living within two kilometres of landfills there was limited evidence of congenital anomalies and low birth weight with excess risk of 2 percent and 6 percent, respectively. The excess risk tended to be higher when sites dealing with toxic wastes were considered. For populations living within three kilometres of old incinerators, there was limited evidence of an increased risk of cancer, with an estimated excess risk of 3.5 percent. The confidence in the evaluation and in the estimated excess risk tended to be higher for specific cancer forms such as non-Hodgkin's lymphoma and soft tissue sarcoma than for other cancers.”

Health Effects of Residence Near Hazardous Waste Landfill Sites: A Review of Epidemiologic Literature (Vrijheid, M. 2000. *Environ Health Perspect* 108(suppl1):101-112) concluded “This review evaluates current epidemiologic literature on health effects in relation to residence near landfill sites. Increases in risk of adverse health effects (low birth weight, birth defects, certain types of cancers) have been reported near individual landfill sites and in some multisite studies, and although biases and confounding factors cannot be excluded as explanations for these findings, they may indicate real risks associated with residence near certain landfill sites. A general weakness in the reviewed studies is the lack of direct exposure measurement. An increased prevalence of self-reported health symptoms such as fatigue, sleepiness, and headaches among residents near waste sites has consistently been reported in more than 10 of the reviewed papers. It is difficult to conclude whether these symptoms are an effect of direct toxicologic action of chemicals present in waste sites, an effect of stress and fears related to the waste site, or an effect of reporting bias. Although a substantial number of studies have been conducted, risks to health from landfill sites are hard to quantify. There is insufficient exposure information and effects of low-level environmental exposure in the general population are by their nature difficult to establish.”

13. Describe impacts of Loma Prieta earthquake on development projects constructed on closed landfills

Internet research revealed that there were no reported incidences of damage or loss specific to development projects constructed on closed sanitary landfills as a result of the 1989 Loma Prieta earthquake. However, research has been conducted on the effects of earthquakes on operating landfills. According to a 1998 article written by Matasovic, N., Kavazanjian, E. Jr., and Anderson, R. entitled Performance of Solid Waste Landfills in Earthquakes, *Earthquake Spectra*, Issue #2, Vol. 14, p. 319-334, the Loma Prieta event produced abundant observational data on the seismic performance of unlined solid waste landfills. The authors found that all of the post-earthquake damage investigators report minor or moderate damage to landfills in this event, with the most common damage being cracking of the cover soil on the landfill slopes and at transitions between waste and natural ground. Observers noted that it was often difficult to distinguish between “normal” cracks induced by waste settlement and/or decomposition and earthquake-induced cracking.

Repair of this type of cover soil cracking is performed regularly as part of routine landfill maintenance activities. Repair of the earthquake induced cracks in the cover soil was typically carried out by landfill maintenance crews immediately following the earthquake without disruption to landfill operations. In some cases, some of the landfill gas recovery systems were temporarily affected by power loss and there was above-ground pipe breakage at a number of the landfills from the Loma Prieta earthquake. However, according to these investigations, all landfill gas recovery systems were repaired and back in operation within 24 hours of the earthquake and there were no reported post-earthquake changes in quantities of leachate and extracted landfill gas.

<https://rtdf.clu-in.org/public/phyto/minutes/altcov/acap/earthquake/earthquake.htm>.)

The Marina District neighborhood in San Francisco, about 50 miles epicenter, was severely impacted by the Loma Prieta earthquake because the neighborhood was constructed almost entirely on landfill comprised of mud, sand, and rubble from the 1906 earthquake. The Loma Prieta earthquake caused severe liquefaction of the landfill upon which the neighborhood was built, resulting in major damage including a small firestorm. Seven wood-frame buildings collapsed and more than 60 others were too damaged to reoccupy. Liquefaction was observed at many locations during the earthquake, including Santa Cruz, Watsonville, Moss Landing, and Oakland, but particularly hard hit were parts of San Francisco, such as the Marina District. In general, existing liquefaction susceptibility maps at the time accurately identified areas prone to damage. Additionally, the earthquake provided one of the first opportunities to test ground compaction and other soil stabilization methods meant to mitigate damage in liquefaction-prone areas. Encouragingly, no ground failure occurred on any improved sites and thus no building damage occurred to structures built on such sites. Buildings on adjacent unimproved sites, on the other hand, displayed settlement and resultant cracking.

(<http://www.air-worldwide.com/Publications/AIR-Currents/Loma-Prieta%E2%80%99s-Legacy,-Twenty-Years-On/>)

Per the Baylands EIR, the potential for liquefaction at the Project Site is very high based on USGS liquefaction susceptibility mapping. Various geotechnical investigations at the Project Site have confirmed the presence of potentially liquefiable deposits in subsurface materials. The EIR includes Mitigation Measure 4.E-2a, which requires preparation and approval of a site-specific geotechnical report. Among other things, the report would provide site-specific construction methods regarding grading activities, fill placement, compaction, foundation construction, and avoidance of settlement, liquefaction, differential settlement, and seismic hazards. The EIR also includes Mitigation Measure 4.E-2b which addresses recovery from damage to future structures and the landfill itself that may be caused by future earthquakes through preparation and implementation of a Post-Earthquake Inspection and Corrective Action Plan. Mitigation Measure 4.E-3 specifies that the geotechnical investigation required under Mitigation Measure 4.E-2a would address liquefaction issues. Additionally, all future Project Site development would adhere to California Code of Regulations, Title 27, Section 21190 which contains specific requirements for development on former solid waste landfills. With adherence to applicable building codes and Title 27 regulations in addition to implementation of the aforementioned mitigation measures, the EIR concluded that seismic related impacts including liquefaction would be less than significant.

14. For UPC-cited brownfield redevelopment projects (Mission Bay etc.) provide a comparison of these sites to the Baylands in regard to underlying soil stability and contamination issues, proposed uses, risk based cleanup goals, etc.

Response under preparation.

15. Are there cases where HOAs are burdened by after the fact remediation costs on a site originally considered closed?

While there are cases where residential developments have been impacted by previous site contamination, such cases involve development of housing prior to current regulations and clean-up standards. Staff and its consultant team were unable to locate any example of a homeowners' association being burdened with remediation costs following site remediation to State regulatory agency standards and requirements.

16. Identify brownfield projects in California where sites could not achieve clean-up goals for approved land uses

The City controls land use, redevelopment and planning of the site. Should the City decide the remediation of the site has not achieved cleanup goals protective of human health and the environment, through the scientifically defensible method of a human health risk assessment, the City can choose to limit the land use of the site to commercial/industrial or other.

17. Show examples of insurance policies or funding structures that address issues such as natural disasters and potential contamination exposure

Environmental Impairment Liability Insurance Coverage only applies to listed locations. This policy form can provide coverage for first-party cleanup costs, business interruption, loss of rents and extra expenses coverage. These coverage extensions are especially important on commercial buildings and habitational risks, such as apartment complexes and hotels.

Regarding the insurance application process, underwriters basically need to know about the preexisting pollution conditions at the insured locations (if any), the raw materials or inventories at the insured locations and the size and use of the insured property.

Environmental insurance is a special form of insurance providing cover against losses that could be incurred as a result of third party and regulatory action rising from pollution or contamination. It is increasingly used as an effective mechanism to transfer environmental liabilities associated with corporate and property transactions as well as ongoing operations.

Environmental insurance policies cover statutory clean-up requirements, third party claims for bodily injury and property damage, and associated legal expenses, resulting from pollution or contamination events, whether such events are "sudden and accidental" or "gradual" in nature. Related costs such as business interruption losses (e.g. loss of profit, loss of rental income) can also be covered.

The principal environmental insurance coverages, which can be tailored to meet the specific risk, are:

- Historical Pollution Coverage - Arranged for liabilities associated with pre-existing contamination (e.g. due to previous industrial operations) or for contingent liability exposures associated with previous divestments.
- Operational Pollution Coverage - Coverage for on-going pollution risks, for example from unanticipated discharges, leakages or spillages.
- Contractor's Pollution Liability - Coverage for pollution liabilities associated with contractor's operations, whether from the new incidents or the movement of existing contamination.
- Remediation Cost Cap - "Stop loss" programs designed to protect against cost overruns on contamination cleanup projects.
- Combined Programs and Liability Buy-outs – A blend of the principal coverages with a funded element to cover known remediation costs. Such programs can be structured to provide buyers and/or sellers with a long term buy-out of environmental liabilities.

18. Provide examples of former rail yards that have been remediated and turned into developments that include housing

Sacramento Railyards Project:

(<http://www.nytimes.com/2009/08/12/realestate/commercial/12rail.html>)

Sioux Falls Railyards Project:

(<https://www.usatoday.com/story/news/city/2017/03/29/6-want-first-crack-railyard-redevelopment/99794986/>)

19. Since the sides and bottom of the landfill are not sealed against bay water intrusion, what impact will sea level rise have?

The impacts of sea level rise on landfills are: inundation, leachate migration, physical erosion, and saltwater intrusion (Flynn et al., 1984; Titus and Barth 1984; Titus 1990).

- Inundation can result if flood waters are high enough. A ponding effect may cause increased leachate production by adding water to the volume of wastes in the landfill and causing varying degrees of saturation.
- Floodwaters may result in increased leachate production and the potential migration of leachate.
- Waves may cause extensive erosion of any uncompacted cover material. The degree of impact would relate directly to the amount of wave action resulting from a coastal flood. Erosion is particularly significant at landfills constructed such that the waste is above ground level.
- Salt intrusion from sea level rise may affect landfills with clay caps and/or liners. In coastal areas, where the extent of saltwater intrusion inland may be significant, it is common to have shallow unconfined aquifers with depths that respond rapidly to fluctuations in sea level. A rise in sea level may result in a rise in groundwater. The liner of a landfill may become inundated as the shallow groundwater rises, increasing the hydrostatic pressure on the liner. If the shallow groundwater mixes with saltwater, there may be significant clay-salt interaction, which can result in increased permeability of the clay liner and potential migration of leachate.

Closure plans reviewed and approved by CalRecycle and San Mateo County shall incorporate measures to protect the landfill from inundation, erosion, and flooding that may occur due to sea level rise. Proven mitigation measures should be considered to address the risks that could be created by sea level rise (Golder Associates 2016).

Since 2009, RWQCB has required that landfills located adjacent to the San Francisco Bay, rivers or the ocean submit a long-term flood protection plan when updating existing Waste Discharge Requirements (WDRs). WDR's are most commonly updated every 10-15 years, or with a proposed expansion, significant changes in monitoring parameters or well locations, when

ownership changes, or if new regulations are promulgated. Long-term flood protection plans must consider feasible options for achieving protection from the 100-year flood in the face of rising sea levels and increasing flood frequency and intensity. Once in place these plans must be updated every 5 years throughout the operational life and post-closure maintenance period of the landfill. Additionally, the RWQCB can require consideration of long-term flood protection and sea level rise in actions requiring landfill implementation of site cleanup and other corrective actions.

20. How will the cap be repaired in the eventuality it fails?

The landfill cap is proscribed by Title 27 and regulated by CalRecycle. Repairs to the landfill cap will be required to be made to the satisfaction of the regulatory agency. The specific methods used to repair the cap are dependent on the specific issue requiring repair.

21. Are the soils manifest (BSP) available to the public? Has the soil been tested by an independent company, not affiliated with UPC?

Response under preparation.

22. I want clarification about whether liquefaction is going to occur on the site

Whether and how severe liquefaction would occur within the Baylands is dependent on the magnitude and epicenter of the earthquake causing groundshaking within the Baylands. The Brisbane Baylands, the Baylands EIR noted that the *potential* for liquefaction within the Baylands is very high based on USGS liquefaction susceptibility mapping. Based on site-specific soils underlying the landfill portion of the site, Tom Graff, a consultant to UPC report the effects of liquefaction within the former landfill area would be at most minor (see Attachment 2A)

23. I want to understand what type of traffic we can expect should the Baylands and surrounding developments be built out. LOS and vehicle miles traveled does not give me a clear idea of how much time it will take to get between two points. I want to understand the additional time it will take to get to the freeway etc.

Level of Service (LOS) is a measure of delay at intersections. The average wait at key intersections in the vicinity of the Baylands is projected to increase with development of the applicant's proposed project and other developments in San Francisco and Daly City adjacent to the Baylands as shown below.

Average Vehicular Delay – PM Peak Hour

Intersection	Existing Average Wait (seconds)	Future Average Wait (seconds)	Future Average Wait with Applicant's Proposed Project (seconds)
Geneva Ave/Bayshore Blvd	25	58	>80
Guadalupe Cyn Pwy/ Bayshore Blvd	15	18	21
Old County Rd/Bayshore Blvd	31	32	66
San Bruno Blvd/Bayshore Blvd	29	>50	>50
Sierra Point Pkwy/US 101 NB ramps	20	>50	>50
Tunnel Ave/Bayshore Blvd	27	>80	>80
Geneva Ave/Carter St	28	>80	>80
Geneva Ave/Mission St	12	>50	>50

24. I want clarification on the economic feasibility of the planning commission's recommendation

Response under preparation.

25. I want more information about private fields for recreation. Like how the model works for those businesses that host and charge for tournaments etc. Like what would be the process if we wanted to bring something like that to Brisbane.

Examples from across the country of private sport and recreation facilities can be found within a presentation included on the National Recreation and Park Association website: [http://www.nrpa.org/uploadedFiles/nrpaorg/Professional Development/Innovation Labs/Wheres%20The%20Money%20Pres.pdf](http://www.nrpa.org/uploadedFiles/nrpaorg/Professional%20Development/Innovation%20Labs/Wheres%20The%20Money%20Pres.pdf) This presentation identifies types of recreational spaces and sports facilities; primary objectives of these spaces; who uses these facilities; and typical financing mechanisms. Private sport and recreation facilities may be financed through private investment, joint ventures/ public-private partnership, or owner-operated. Bo Jackson's Elite Sports facility in Lockport, IL is an example of a public-private partnership that provides public entity with no-cost access during designated hours of operation.

The City of Norco operates a very large recreation area called SilverLakes Park, developed by Balboa Management Group who is leasing the city-owned land throughout a 99-year lease. The mission of SilverLakes is to create the highest-level experience for tournament activities with 24 full-size soccer fields, 4 LED lighted synthetic fields, 5 equestrian arenas, 1,500 horse stall capacity, 12,000 square foot outdoor café and a 10,000-person concert facility. Future developments include a 250-seat restaurant, a lighted stadium with 5,000 seat capacity, and indoor sports facility. The primary use of this property will be for sporting events. Secondary use will be for concerts, conferences, corporate events and other outdoor gatherings. <http://www.silverlakespark.com/the-property/>

Sportsplex USA in Poway was one of the first public/private recreational sports partnerships in the country. The 15-acre facility hosts over 350,000 people each year through sports leagues,

tournaments, and corporate events. Sportsplex USA Poway has three tournament-quality, professionally maintained softball fields with 300' fences and electronic scoreboards. They also offer two 180'x80' indoor soccer arenas with advanced synthetic turf. They also have a sports pub. The Sportsplex has been operating since 1994 on a 15-acre city-owned site. Under its lease, the company pays Poway a flat rate- now \$48,000 each year – plus a percentage of its annual gross revenues. <http://www.sportsplexusa.com/content.cfm?n=poway>.

Another example is Big League Dreams USA LLC which enters into private-public partnerships with municipalities to build and operate sports complexes on public lands. These sports complexes are typically 24-45 acres large, and include scaled down softball and baseball fields modeled after major league baseball parks, such as Fenway Park, Yankee Stadium, and Tigers Stadium. They also include batting cages, indoor soccer fields, sand volleyball courts, playgrounds, restaurants and concession stands. The City or County who owns the land pays for the construction of the sports facility. Total construction costs have ranged from \$14.8 million in Chino Hills, CA in 2003, to \$30 million in Manteca, CA in 2006, to \$43 million in Gilbert, AZ in 2008. Following construction, the park remains the capital asset of the municipality, while Big League Dreams leases the park for a given time (case studies show 20-35 years). The amount of rent Big League Dreams pays is determined by the profit sharing model specified within a negotiated lease agreement with the jurisdiction. In return, Big League Dreams serves as the primary operator and curator of the park, working cooperatively with the public partner's Parks and Recreation Department, the local sports organizations and the community.

Funding mechanisms for municipalities to build these facilities include available city funds, tax revenue bonds, general obligation bonds, and state grants. The process for building a sports complex is carried out in three phases. Phase I is the Planning phase, Phase II is the Design phase, and Phase III is the Construction phase. Typically this process takes a total of approximately 20 months.

Big League Dreams USA LLC generates revenue in a variety of ways, including team fees for adult softball, baseball and indoor soccer leagues, per team tournament fees for child & adult tournaments, player entrance fees, spectator entrance fees, batting cage fees, concessions, restaurants with bar, hosting special events, acceptance of corporate sponsorships, and per room fee for coordinating hotel partners who house out of town players and spectators. The operator reduces maintenance costs by utilizing artificial turf instead of grass, requiring municipal partners to pay design consultation and licensing fees, and capturing virtually all profits of years 1-4 of operation.

In exchange Big League Dreams provides their intellectual property, design consultation, and maintenance and operational guarantees to their public partners. The details of these services are specified within three types of agreements that Big League Dreams USA LLC reaches with its public partners: the Licensing Agreement, the Planning, Design and Construction Consulting Services Agreement, and the Lease Agreement.

The Licensing Agreement allows municipalities and/or counties to use the intellectual property of Big League Dreams USA LLC (e.g. total image, names and marks). This agreement also ensures that Big League Dreams USA LLC will not work with another municipality within the same market area (e.g. 50 miles) of the municipality's facility for the duration of the agreement (typically 20-35 years).

In the Planning, Design and Construction Consulting Services Agreement, Big League Dreams provides a design consultation service to municipalities for \$750,000. The three design phases consist of land and project evaluation, conceptualization, and project financing (Phase 1), planning and design (Phase 2) and construction (Phase 3). Given that architectural works were not protected by copyright law until 1990, classic major league ballparks such as Yankee Stadium, Fenway Park and Tiger Stadium are permitted for use in Big League Dreams USA LLC's designs at no charge to the company.

The Lease Agreement specifies the total rent as well as the level of service that Big League Dreams will provide regarding maintenance, communication, tournaments, and leagues. Within this agreement, "rent" is determined by a profit sharing model between Big League Dreams and their public partner (Landlord). These agreements largely vary depending on the negotiating power of the City or County. There are two types of profit sharing models utilized by Big League Dreams USA LLC and their public partners:

The first profit sharing model, which was utilized by the City of Chino Hills and Big League Dreams USA LLC in their lease agreement, states that for the first five years of operation, Big League Dreams USA LLC receives the first \$300,000 in profits, and the City receives the next \$750,000 in profits, with any excess to be evenly split. During the sixth through tenth years of operation, the city was to receive the first \$750,000 in profits, and Big League Dreams was to receive the next \$300,000.

The second, and more common, profit sharing model utilized by Big League Dreams and their public partners is based on percentages of gross revenue following a "Waiver Period." During the Waiver Period, which typically consists of the first three full operating years, Big League Dreams USA LLC nets nearly all revenue (in some agreements cities are paid percentage of revenue if gross revenue exceeds \$2.6 million). Following the Waiver Period, the municipality nets a percentage of the yearly revenue. In the case of Redding, the City receives 6 percent of the gross revenue up to \$3.25 million and 8 percent of revenue that exceeds that amount. The City of Manteca receives 16 percent of the gross revenue up to \$1.4 million, and 20 percent on everything thereafter – totaling roughly \$400,000 in rent every year. The town of Gilbert, AZ receives 6 percent of the gross yearly revenue. However, a baseline of \$75,000-\$100,000 is to be paid to the City if the percentage of total gross revenue falls short of \$75,000-\$100,000.

In reaching these agreements, municipalities and counties further hope that increases in Hotel TOT and Sales Tax through expanded tourism, as well as revenue sharing with Big League

Dreams USA LLC, will ultimately justify funding the construction of these projects on public lands.

This particular operation has resulted in some performance issues over time. These include a track record of poor field maintenance, such as a large number of outstanding contracts in the case of Manteca Big League Dreams facility which makes it so that no bidders want to fix turf which has caused injuries to players due to exposed concrete under artificial turf. Another concern has been smaller than expected returns for cities: In 2016, Chino Hills Mayor Art Bennett stated that the Big League Dreams sports park in Chino Hills is an investment that has not panned out for the city, stating that the revenues from Big League Dreams for fiscal year 2015-16 fell \$8,974 short of the city's budget amount of \$114,900. Loss of the "refundable" licensing fee has been an issue, as conflicts have arisen between Big League Dreams and communities when it came to refunding licensing fees.

26. I want to know what the decibel level is of pile driving. What can we compare the volume of pile driving to?

Table 4.J-7 in the Noise Section of the Baylands EIR shows that the noisiest phase of construction would be during pile driving, which would generate noise levels of approximately 90 to 105 L_{eq} at 50 feet. Levels would be 81-96 L_{eq} at 200 feet, 72 to 87 L_{eq} at 400 feet and 60 to 75 L_{eq} at 1,600 feet. At 50 feet, the noise levels cause by pile driving are roughly equivalent to the noise of a baby crying loudly when you are holding it. However, noise from pile driving comes in a series of single event impacts, accompanied by vibration, which makes pile driving noise intrusive.

Pile driving may be necessary for mid- and high-rise office or hotel structures in later phases of site development. Under the CPP and CPP-V scenarios, the closest sensitive land use to pile driving would be offsite receptors approximately 1,600 feet away. At this distance, pile-driving noise would be attenuated to 73 dBA which, while noticeable, would be of similar intensity as high-volume roadway traffic.

27. I want to clarify that despite whether the council desires a renewable energy farm, doesn't mean we can force UPC to comply correct?

Correct. While the Planning Commission recommendation calls for development of a commercial-scale solar farm, its actual development is dependent on the willingness of a renewable energy provider to purchase the land and develop such a facility, and the ability UPC and such a renewable energy developer to reach agreement on a sales price or ground lease for the property.

28. I want to know more about developments that have been built on unregulated dumps or fill that are more than 20 years old. I want the corresponding cancer data from that area. And how have these developments affected human health in that area?

In assessing historic development of remediated sites or landfills more than 20 years old, it is important to recognize that such development was undertaken based on technology from more than 20 years ago.

The following URL identifies Solid Waste Information Systems database of landfills with Disposal Facility and with Operational Status Active and with Regulatory Status Permitted.

<http://www.calrecycle.ca.gov/SWFacilities/Directory/SearchList/List?FAC=Disposal&OPSTATUS=Active®STATUS=Permitted>

The California Integrated Waste Management Board (now CalRecycle) commissioned a unique, two-phase, cross-media study of the state's municipal solid waste landfills. Phase I consisted of a comprehensive, cross-media inventory and assessment of MSW landfill performance for the time period from January 1998 through December 2001 (see Attachments 2B and 2C).

Phase II consisted of an assessment of the effectiveness of current regulatory requirements in controlling environmental impact over time. The study is the most comprehensive inventory ever undertaken of California landfills, involving multiple regulatory agencies in measuring the overall environmental effects of solid waste disposal in California.

GeoSyntec Consultants, Inc. of Oakland, California, conducted the two-phase study, which began June 2000 and ended June 2004.

Phase I: GeoSyntec profiled 224 municipal solid waste (MSW) landfills that have accepted waste since October 9, 1993, when U.S. EPA's first comprehensive landfill standards went into effect. This initial part of the study provides an exhaustive databank on existing facilities, including the physical features of the landfills, the environmental protection systems in place, and landfill compliance with environmental requirements.

Phase II: GeoSyntec analyzed the design and operation of 53 landfills—including 13 sites that closed before 1993—and assessed the effectiveness of current regulations in controlling environmental impacts over time (see attached study). This part of the study recommends ways to improve landfill operations to ensure greater environmental protection. In formulating recommendations for improvement, GeoSyntec reviewed regulations from selected states and countries as well as emerging waste disposal technologies, which could lead to reforms in the way California manages the 38 million tons of waste it landfills each year (see attached study).

ATTACHMENT 3

Responses to Information Requests from Councilmember Lentz

TRANSPORTATION

1. Provide information on San Francisco's new guidelines for traffic mitigation and parking for new development.

The City and County of San Francisco has published *Transportation Impact Analysis Guidelines for Environmental Review* that contains criteria for determining the significance of impacts on transportation facilities in San Francisco (San Francisco Planning Department, 2002). The Guidelines may be found here:

http://sf-planning.org/sites/default/files/FileCenter/Documents/6753-Transportation_Impact_Analysis_Guidelines.pdf.

Note that subsequent to those Guidelines, the San Francisco Planning Commission voted to adopt a resolution to remove automobile delay as a significant impact on the environment and replace it with a vehicle miles traveled threshold.

San Francisco parking requirements are included in zoning use district summaries found here: <http://sf-planning.org/zoning-use-district-summaries>. The portion of the Recology site within San Francisco is governed by the San Francisco General Plan, which designates the area as *Light Industry*. The San Francisco zoning classification for the site is M-1, Light Industrial. The existing Recology facility is within the Project Site and is a part of the CPP and CPP-V scenarios. It is not, however, part of the DSP or DSP-V scenarios. The off-street parking requirements for M-1 is as follows: "151 OFF-STREET PARKING -- 1 parking stall for each dwelling unit. Based upon "occupied floor area" as defined in Section 102 of the Planning Code: 1 space for each 2,000 square feet of warehouse, 1 for 1,500 square feet of industrial, 1 for 500 square feet of business office or retail and 1 for 300 square feet of medical office. See Table 151 of the Planning Code for parking requirements for other uses. No parking required for less than 10,000 square feet of warehouse, less than 7,500 square feet of industrial, or less than 5,000 square feet of retail or office space." <http://sf-planning.org/zoning-use-district-summaries#m1m2>

San Francisco removed parking minimums in the downtown area after the construction of BART. San Francisco continued to remove parking minimums for new residential and commercial developments such as in Mission Bay and Rincon Hill. To further decrease parking spaces, the City of San Francisco instituted strict parking maximums. These maximums for residential developments are determined by the area's access to transit and density and range from 0.5 to 1 space per unit. San Francisco has also mandated unbundled parking across the city whereby the costs of parking are separated from the actual housing cost and individuals have the option of buying or choosing not to buy parking.

In the downtown area of San Francisco, personal vehicles are still allowed, but the City has shifted its roadway and parking priority from single occupancy vehicles to busses, taxis, and pedestrians-- for example creating bus only lanes, carpool only freeway entrances, and pedestrian only streets. By making it more difficult to drive and easier to walk, bike or take transit, San Francisco hopes to encourage a reduction in motor vehicles.

SFPark Program uses technology to fluctuate meter prices and notify meter maids of cars who've overstayed their time, in order to improve parking efficiency. The program aims to maintain 85% parking occupancy on curbs so that cars do not circle the block trying to find a spot which contributes to roadway congestion, increased greenhouse gas emissions, and illegal double parking.

2. Flesh out the PC's recommendation regarding infrastructure development prior to site development.

The Planning Commission's recommendation is to require provision of appropriate infrastructure and site amenities for each increment of development within the Baylands by incorporating specific performance standards into the General Plan.

- Each increment of development would be required to be provided with appropriate infrastructure, services and facilities, and site amenities.
- Development phasing specified in an approved specific plan would be required to include specific milestones for development in relation to provision of:
 - Environmental site mitigation (e.g., open space dedication, habitat restoration, trails).
 - Roadway improvements, including the Geneva Avenue extension and Candlestick interchange, as well as description of allowable development patterns prior to the Geneva Avenue extension.
 - Transit improvements.
 - Other infrastructure (e.g., water, sewer, water recycling plant, drainage improvements; police and fire services and facilities).

3. Explore cities that have instituted minimal or no parking requirements in order to promote public transportation and private bus service (Can the City institute no personal parking spaces for housing and employment?)

The Baylands EIR explains that while a parking deficit may trigger secondary physical environmental impacts, including increased traffic congestion at intersections and the accompanying air quality, safety, and noise impacts, parking supply does not constitute an environmental impact. Arguably the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a

relatively dense pattern of urban development, may induce drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits.

According to the Los Angeles County Metropolitan Transportation Authority, which has extensively studied reducing parking standards to encourage transit and is providing grants for transit-oriented development planning, reductions in minimum parking requirements are often applied in transit supportive districts in order to reflect the potential for reduced automobile ownership and usage among residents and commuters, given the close proximity of high quality transit services. Typically, these reduced parking minimums are applied to land use types that are better correlated with transit usage, such as multi-family residential, commercial office, and small-scale retail. Common approaches to applying reductions to minimum parking requirements include applying an overall percentage reduction to citywide parking requirements or establishing new minimum parking ratios that apply with the boundaries of the plan or transit station area.

As an alternative to reducing minimum parking requirements, some cities have implemented parking maximums. Under the parking maximum approach, cities establish a maximum ratio for parking spaces for various development types. Developers then have the option to provide less parking than the maximum amount allowed. Parking maximums can be used in tandem with reduced parking minimums to ensure that the minimum parking needs of a transit-oriented community are met while still encouraging walking and transit use.

Reducing off-street parking requirements results in more efficient use of land by freeing up space for other uses, such as public plazas, open space, affordable housing, or additional office, retail, or residential development. Increasing the buildable area can improve the overall economic viability and accelerate the pace of new development within the area that contributes to the overall success of a transit supportive development project.

Associated outcomes of reducing parking minimums or establishing parking maximums include:

- Increase compactness of development near transit stations
- Increase space available for more optimal land uses such as affordable housing, mixed use, community spaces, and parks/open space
- Reduce vehicle ownership and vehicle trips
- Reduce paved surfaces may decrease the urban heat island effect

<https://www.metro.net/projects/tod-toolkit/parking-minimums-and-maximums/>

Some examples include the Pasadena Central District Specific Plan, UTA TOD Design Guidelines (in Utah), San Diego Transit Overlay Zone Parking Standards, and City of Portland. Specifics for the Pasadena Central District Specific Plan are provided below and descriptions of

the other examples are included on the Los Angeles County Metropolitan Transportation Authority website here:

<https://www.metro.net/projects/tod-toolkit/parking-minimums-and-maximums/>

The Pasadena Central District Specific Plan includes a parking management approach that reduces parking requirements to promote the use of transit and alternative modes of transportation. Section 5 of Pasadena's Central District Specific Plan requires the following minimum and maximum parking requirements:

- Reduce the minimum parking requirement by 10% for short-term / high turnover parking (for example, retail customer parking) and by 25% for low turnover parking (for example, office employee parking). A parking demand study may allow for further reduction; the former minimum standard becomes a maximum requirement.
- Apply the following parking standard to urban housing (48 dwelling units per acre or greater):
 - Units over 550 square feet shall provide a minimum of 1.5 spaces per unit to a maximum of 1.75 spaces per unit.
 - Units of 550 square feet or less shall provide a minimum of 1 space per unit to a maximum of 1.25 spaces per unit.
 - The parking requirement may be further reduced through a parking demand study and approval of a minor conditional use permit.

Planned as a Transit Oriented Infill Development on an abandoned quarry in Hayward, Bayview Quarry Village plans to limit cars by unbundling parking, not building garages for single family homes portion of the development, and by providing frequent bus service to BART and the nearby CSU East Bay Campus. The development is in a primarily suburban neighborhood, and shopping is located a short drive away in car centric strip malls which do not promote walkability. The development has not been built yet, and is currently going through approval process and design review by the Hayward City Council. There is still debate as to whether the single family homes will have unbundled parking or partially unbundled parking (one spot included). Bayview Quarry Village is designed to provide housing for students and faculty of CSUEB, low income residents, and seniors, as well as commuters who can use BART to get to work. The affordable housing will be integrated into the development through different housing sizes and styles. According to the site plan, one main street offers parking, which residents may park at and then use foot paths to walk to their homes or condos. Many of the homes and units are only accessible via walking. While the development does assume and account for bikes, the steepness of the quarry may prove a limiting factor. Overall there are a lot of aspirational goals for the development, and if successful it may provide a new template for suburban growth in the Bay Area.

More globally Vauban, Germany is an experimental suburb which has disallowed cars, instead residents bike and walk to school, stores and work. Residents who wish to have cars may pay to park their car at the fringe of the town. Those who forgo their cars receive subsidies on transit. Of the city's 5,500 residents and 600 employees, 70% do not own cars. 57% of residents sold their car prior to moving into Vauban. The town is designed with extensive bike and pedestrian pathways, and all homes are built within a short walking distance of a train station. The town was built in 1998 on a former military site, so like the Baylands, Vauban is an infill development. In order to achieve this low-to-no car development, Vauban planned the suburb with transportation in mind, putting shops along a commercial street instead of in a shopping mall, building pathways which streamline walking and biking to commercial areas, and make public transit easily accessible to all areas of the development.

4. What steps would we need to take if we wanted to move the proposed multi-modal station location to the Geneva Ave Extension?

Establishment of a multi-modal station at the Geneva Avenue extension would entail agreement between Brisbane, San Francisco, Caltrain, and other transit providers. A sufficient amount of development intensity to provide a support base within a ½ walking distance of such a multi-modal station would also likely be required.

5. Multi-modal impacts on reducing traffic congestion in the Baylands and from SF development

Generally, the more convenient it is to use transit, the greater proportion of trips to and from an area will occur via transit. The following factors will assist in maximizing transit use at the Baylands:

- Sufficient development intensity and a mix of uses within a ½ mile walk of transit to support station use throughout the day;
- Convenient access from destinations within the Baylands to transit; and
- Multi-modal transit options to a variety of destinations at convenient times.

Additional factors are provided in Response Lentz-9, below.

Increasing transit use will reduce the potential for traffic congestion result from new development as compared to the congestion that would result from the same development with lesser use of transit. Because the majority of trips that will occur between the Baylands and destinations outside of the Baylands will continue to be via automobile for the foreseeable future, transit orientation for new development within the Baylands will not solve existing congestion problems.

6. Examples of successful bicycle commuter cities

The following were identified by cyclists as important factors that contribute to whether a particular neighborhood is bikeable:

- Safe bike routes that lead to major destinations, connect to each other and have physical separation barriers from cars, and are on streets with low traffic volume and away from large trucks and buses.
- Low traffic conditions
- Street network that allow cyclists to maintain momentum which include a grid system with long blocks, streets with no bridges, tunnels or highways running through it.
- Topography
- Environment – routes that have heavy air pollution or are very noisy are not enticing to cyclists
- Distance – primarily the time it takes to complete a trip. 30 minutes of cycling is optimum for commuters
- Neighborhood land use – primarily areas that are calm, safe and aesthetically pleasing

<http://cyclingincities.spph.ubc.ca/files/2011/10/WhatMakesNeighbourhoodsBikeable.pdf>

According to Bicycling.com, the top three bikeable cities include Chicago, San Francisco, and Portland OR. San Francisco is considered very bikeable because the City has added miles of new and high quality cycling facilities, including protected bicycle lanes on high-injury corridors, bike racks and bike share networks, and has seen a resulting surge in ridership. The number of people commuting by bicycle in San Francisco increased by 16 percent between 2012 and 2014. <http://www.bicycling.com/culture/news/the-50-best-bike-cities-of-2016/slide/2>

7. How would you build a rail yard if the land around the tracks is raised?

Physical design of a high-speed rail maintenance yard, including the design of rail approaches to the yard would be the responsibility of the California High Speed Rail Authority. Conceptual design of rail approaches to the two alternative sites within the Baylands being considered by the Authority for a rail yard were previously presented to the City Council on June 7, 2017 .

8. Examples of the best walkable cities

Walk Score, a Redfin product, measures the walkability of addresses throughout the United States. The following features make a neighborhood walkable according to walkscore.com:

- **A center:** Walkable neighborhoods have a center, whether it's a main street or a public space.
- **People:** Enough people for businesses to flourish and for public transit to run frequently.
- **Mixed income, mixed use:** Affordable housing located near businesses.
- **Parks and public space:** Plenty of public places to gather and play.

- **Pedestrian design:** Buildings are close to the street, parking lots are relegated to the back.
- **Schools and workplaces:** Close enough that most residents can walk from their homes.
- **Complete streets:** Streets designed for bicyclists, pedestrians, and transit.

<https://www.walkscore.com/walkable-neighborhoods.shtml>

For each address, Walk Score analyzes hundreds of walking routes to nearby amenities. Points are awarded based on the distance to amenities in each category. A city with a high walk score has more neighborhoods with amenities within walking distance. The cities with the ten highest walkability scores in order of most to least walkable include Manhattan, Jersey City, San Francisco, Boston, Newark, Philadelphia, Miami, Chicago, Washington, DC, Seattle. <https://www.moneytalksnews.com/slideshows/the-35-most-walkable-cities-america/36/>

9. Examples of multi-modal transit hubs that have partnered with the private sector to incorporate retail, hotel and/or entertainment

Multi-modal transit hubs with private sector retail/hospitality/entertainment represent a form of Transit Oriented Development (TOD). TOD is the creation of compact, walkable, pedestrian-oriented, mixed-use communities centered around high quality transit systems. According to the Transit Oriented Development Institute, components of Transit Oriented Development include (<http://www.tod.org/home.html>):

- Walkable design with pedestrian as the highest priority
- Train station as prominent feature of town center
- Public square fronting train station
- A regional node containing a mixture of uses in close proximity (office, residential, retail, civic)
- High density, walkable district within 10-minute walk circle surrounding train station
- Collector support transit systems including streetcar, light rail, and buses, etc.
- Designed to include the easy use of bicycles and scooters as daily support transport
- Large ride-in bicycle parking areas within stations
- Bikeshare rental system and bikeway network integrated into stations
- Reduced and managed parking inside 10-minute walk circle around town center / train station
- Specialized retail at stations serving commuters and locals including cafes, grocery, dry cleaners

Some examples of Bay Area TOD Plans include the following: Hillsdale Specific Plan (City of San Mateo, CA), North Fair Oaks Community Plan (San Mateo County, CA), East Palo Alto

Ravenswood/4 Corners Specific Plan (City of East Palo Alto), South San Francisco Downtown Specific Plan (City of South San Francisco), and Suisun City Downtown Specific Plan. http://www.ba1.com/sus_bay_area_tod

10. What steps would be needed to implement a free shuttle service throughout the Baylands and the rest of Brisbane?

Provision of such a service could be negotiated and incorporated into a development agreement. Alternatively arrangements could be made directly with a transit agency, depending on the intensity of development and types of uses approved within the Baylands.

11. To reduce vehicle miles traveled for retail, hotel, and entertainment uses to and from the Baylands, how would we explore potential options for having a multi-modal station like those in Europe and Asia where these uses are under the same roof as the multi-modal station?

This would depend on the mix of uses and development intensity of development approved for the Baylands. Generally, supporting the type of multi-modal station described above would require a high intensity of development and a broad mix of uses within walking distance of the station.

EMISSIONS

12. Describe Title 24 Zero Net Emissions requirements for residential and commercial

The California Zero Net Energy requirements are part of California's Big Bold Energy Efficiency Strategies (CBBEES). CBBEES require that all eligible low income homes be energy efficient by 2020; all new residential buildings shall be zero net energy or equivalent by 2020; and all new commercial buildings must be zero net energy or equivalent by 2030.

Zero net energy is a general term applied to a building with a net energy consumption of zero over a typical year, this means the amount of energy provided by on-site renewable energy sources is equal to the amount of energy used by the building. To cope with fluctuations in demand, zero energy buildings are typically envisioned as connected to the grid, exporting electricity to the grid when there is a surplus, and drawing electricity when not enough electricity is being produced. CBBEES accounts for the Time Dependent Value of electricity, and defines a social cost to the use of energy during peak periods. Zero Net Energy takes into account this social cost of peak energy usage; therefore the building must produce more than or equal to the social cost of the energy it takes from the grid. While related, this term has separate meanings from "Net Zero Ready" and "Net Zero Equivalent."

Originally the policy stated that all homes be zero net energy, however the policy was adjusted to read "zero net energy or equivalent." The addition of equivalent allows for applications where ZNE is not feasible, in situations such as high rise buildings, or where obstructions to solar energy generation exist. Buildings can be ZNE equivalent by purchasing credits and/or by using renewable energy produced by other sources, or at an off site location.

Net Zero Energy is achieved by sustainable energy generation and minimizing energy use. This includes the use of low energy appliances, solar panels, and adjusting building material (building envelopes) so that the need for heating and cooling can be minimized. For buildings which Net Zero is not feasible, they may be Net Zero Equivalent through the purchase of clean, renewable energy credits from solar, wind, geothermal or hydropower.

Since a key user of energy is appliances, Title 20 allows State and Federal regulations to limit the total amount of energy used by common building appliances. The Energy Commission has adopted efficiency standards for these appliances, and in order to reach net zero, the Energy Commission revises existing standards as technology improves so that appliances become increasingly efficient.

Design concepts that consider climatic characteristics of a region such as weather and seasonal temperature variations, and site-specific optimization, including orientation, daylight, shade, and prevailing wind, can significantly minimize building energy demand, and subsequently help to achieve ZNE.

Many homes are being marketed as net zero ready; this means that while a home may not be presently net zero in its ability to produce the energy it uses, homes can be built and scaled to reduce energy usage so they would be able to be supported by renewable energy sources in the future.

Net Zero Ready homes comply with ENERGY STAR for Homes Program Requirements and Inspection Checklists for:

- Thermal Enclosure
- HVAC Quality Installation (Contractor and HERS Rater)
 - Exceptions for QA-Credentialed HVAC Contractor (December 2016)
- Water Management
- The target home/size adjustment factor used by ENERGY STAR
- Feature energy efficient appliances and fixtures that are ENERGY STAR qualified.
- Use high-performance windows that meet ENERGY STAR v5.0 and v6.0 specifications (depending on climate zone).
- The required U and Solar Heat Gain Coefficient (SHGC) values are shown below, effective 8/22/2016.

13. Examples of multi-story buildings that are zero carbon

According to the New Buildings Institute (NBI), Zero net energy (ZNE) buildings are ultra-efficient new construction and deep energy retrofit projects that consume only as much energy as they produce from clean, renewable resources. Most of the examples of ZNE buildings are smaller, one-story facilities, primarily within the education sector. However, NBI put out a report in 2016 of ZNE buildings which showed that all building types were now pursuing ZNE goals including larger multi-story buildings. One example is zHome in Issaquah, WA. zHome is a 13,400 square foot multi-family building constructed in 2011. zHome uses 78% less energy than

the city average for homes. Photovoltaic systems individually sized to each unit cover most available roof area and produce enough energy to completely offset energy consumption. http://newbuildings.org/wp-content/uploads/2016/10/GTZ_2016_List.pdf

EcoFlats is the name of a mixed-use apartment building in Portland, OR constructed in 2011 striving to achieve a net-zero energy status. The four story building contains 18 apartments and a roof top array of PV panels and a roof trellis with solar thermal panels. Between the 21 kW PV system, the 500 gallons of solar thermal collection, and the energy efficient features, the total energy needs of the building's residential and commercial tenants should be met on an annual basis. <http://www.ecoflatspdx.com/>

The Ridge Flats Plan in East Falls Philadelphia is anticipated as one of the most innovative housing developments in the city, with its "net-zero energy" design. The plan calls for solar panels on the roof and other features that would reduce energy use by the building. <https://philadelphiaheights.wordpress.com/2013/07/18/ridge-flats-in-east-falls-will-be-the-nations-largest-energy-independent-net-zero-energy-building/>

Some international examples include: Athletes Village, Beijing; Darling Harbour Re-Development, Sydney, The Village on False Creek, Vancouver and Barangaroo South, Sydney http://www.cibse.org/getmedia/223c7dcd-aed5-41bb-906e-4c29abf988a3/Sustainable-Mixed-Use-Developments_-Ken-Dale-2013_Angela-Reid.pdf.aspx

Kaupuni Village is a 19 unit low income single family home development for Hawaiian natives. The development allows residents to meet zero net energy goals through solar panels, and makes efforts to reduce residents' carbon, water consumption, and food miles. Residents living in the houses bought the homes at a reduced rate with the understanding that they would do their part to reduce energy usage. Residents must pay their own electricity bill, and if they are effectively able to reach net zero energy they pay very minimal electricity bills. The homes are built at a low density (varying between single and two stories) which allows them to sustain themselves on solar energy. The homes are outfitted with rainwater roof collection, low energy appliances, and no-energy alternatives (such as clothes lines as well as a conventional dryer). A key reason for the project's success is the residents interest and desire in achieving Zero Net Energy, as well as the small scale and small density of the development.

UC Davis West Village is a student and faculty apartment complex on the UC campus. The complex has 663 units of housing, 42,500 sq ft of commercial space and a community college. Funded through public private partnerships, with Federal and State energy research grants, and private contractors, the project was designed to be a research opportunity to achieve zero net energy. This is the first time that net zero energy has been tried on apartment scale housing, and has served as a point of reference for future developments.

While the mixed use development has yet to reach its goal of zero net energy, usually being able to provide 80-85% of energy needs, West Village Community Partnership seeks to add additional solar panels and a biodigester to reach ZNE in the near future. Currently the project's energy comes from solar. The project would likely meet its energy target if the tenants had to pay for electricity separately (currently, the electricity is a fixed amount bundled in with rent, so there is no incentive for tenants to save electricity), and if those residing in the complex were families instead of students since students tend to use more electricity. It is generally very difficult to achieve Zero Net Energy on the large scale, especially with multi-story buildings, as the surface area for solar panels is typically not large enough to support the multiple stories of the building.

The Kirsch Center for Environmental Studies, at De Anza College, Cupertino, CA is a 22,300 sq ft academic building which first sought to reduce electricity use through constructing the building in such an orientation and out of such materials which reduce the need for heating, cooling and light. To address temperature in the summer and winter they added an efficient cooling and heating system which made use of "air to air energy recovery." The addition of solar panels brought the building close to ZNE, but would not effectively supply energy for the entire building. To address the shortcomings of the solar panels, De Anza College purchases Carbon credits which purchase renewable energy from the grid.

14. Can we achieve a zero carbon development that includes residential and commercial uses? Please show examples

Response is under preparation.

15. Examples of small urban biomass facilities converting green waste into CNG and compost

According to the Bay Area Biosolids to Energy Coalition, biosolids are the nutrient rich natural by-product of wastewater treatment. They are produced by removing the organics from municipal sewage - the majority of which comes from residential homes. Over 158,000 metric tons of "dry solids" are produced annually in the San Francisco Bay Area. The Biosolids to Energy Coalition is committed to creating energy from biosolids using state-of-the art technology to generate clean and renewable energy resources of value to society and the environment.

Several cities across the U.S are converting biosolids into compost-like products while generating renewable energy at the same time. Generally, these are larger cities where the substantial capital investment in biomass facilities can be spread over a large amount of development, and where a sufficient amount of salable product can be generated to make marketing of such product viable. Cities such as Washington, DC, Seattle, Tacoma, Austin, Houston, and Boston also use and sell their high quality biosolid soil amendment

products. <https://pegplant.com/2017/04/10/dc-waters-bloom-recycling-biosolids-into-soil-conditioner/>

A Denmark-based subsidiary of U.S.-based Babcock and Wilcox Power Generation Group Inc., announced that it had reached an agreement with Italy-based Advanced Renewable Energy Ltd. to supply up to 25 small biomass plants over the next 10 years, all of which will be built in Italy.

All 25 plants will be built in regions of southern Italy-Calabria and Sicily where the towns are small. Plants will thus be designed to serve towns of 1,000 to 5,000 people.

The Italian government is encouraging development of small biomass plants to support the local forestry industry. They essentially have large tracks of forest land, and are trying to provide a market for the waste products that are generated at mills. The key to developing small biomass plants is to have sufficient raw materials for conversion.

Other companies such as Quebec, Canada-based Sanimax and Ontario-based StormFisher Biogas also favor small, local facilities to utilize continuous waste streams. With plans to invest more than \$160 million, the companies recently announced a joint venture to construct eight biogas plants in the US Midwest.

Sanimax annually collects more than 1 million tons of animal and food byproducts, vegetable oils, and hides and skins and transforms them into useable products for industries worldwide, including feed companies, chemical manufacturers, tanneries, soap producers and pet food manufacturers.

StormFisher Biogas, a renewable energy company that builds, owns and operates biogas plants across North America, works with the food processing and agricultural industries to process organic byproducts into electricity and natural gas. The company is in the process of developing 18 plants across North America, each of which will process about 100,000 tons of organic byproducts annually and generate 2.6 MW of electricity, enough to power approximately 2,600 homes.

16. Can we partner with BCDC to create off-shore wind generation? If so, how would we conduct a study to determine feasibility?

To provide off-shore wind generating facilities would require discussion with BCDC as to whether it would entertain such a use in the Brisbane area. Should BCDC be willing to discuss off-shore wind generating facilities, an expert off-shore wind generation could be retained to analyze its feasibility and design options. Any discussions the City may wish to have regarding this issue can occur independently from the Baylands planning process.

PUBLIC BENEFITS

17. Provide examples of how the school districts could receive additional funding and what might be an expected amount based on the current plans?

Current funding streams for schools is described below in Response Lentz-54. Any additional funding for schools districts would occur as the result of a negotiated agreement between the developer and the school district.

18. Explain the process for requiring/negotiating cultural benefits such as public art, museums, activities for ethnic groups and clubs, seniors and youth

Cultural benefits, such as those described above would either be part of a development proposal or negotiated as part of a development agreement.

19. Explain the process for requiring/negotiating recreational opportunities such as ball fields, gyms and trails

See Response Davis-8.

20. Could we create funding mechanisms through development to provide basic health and wellness services for citizens and workers in Brisbane?

Funding mechanisms for health and wellness services could be negotiated as part of a development agreement in cooperation with the San Mateo County Health System, which would presumably operate the health and wellness program.

21. Are there opportunities for adult education?

Yes, the City has the ability to allow for such land uses in the plan ultimately approved for the site. The implementation of such programs would require coordination/agreement with the Jefferson Union High School District, which currently offers a program in Daly City. (<https://www.juhsd.net/domain/186>)

Libraries in the vicinity of the Baylands provide community rooms and spaces for a variety of services including adult lecture series, early and adult literacy programs, and teacher services.

22. Can we bring back some of Brisbane's rural past by creating an urban farm on the northside of Ice House Hill, where you could raise animals and grow crops in raised beds?

Additional study would be needed to determine the safety and feasibility of establishing an urban farm north of Ice House Hill. The Planning Commission is recommending long-term use of the area surrounding the Machinery and Equipment building as open space, including providing for community gardens, as well as a potential permanent location for the existing nursery on Icehouse Hill. If this direction is of interest to the City Council, supporting General Plan policies could be crafted.

23. What steps could we take to expand the Mission Blue Nursery? Could we provide some work force/tiny house living opportunities near the Nursery?

The City could ensure that future planning and zoning of the site accommodate potential expansion of Mission Blue Nursery. Specific requirements for the developer to expand the nursery could potentially be negotiated through a development agreement.

24. Is it feasible to remove the large rocks around the Lagoon, so that we could build a more natural shoreline?

While removal of existing rip rap to create a more natural shoreline would be theoretically possible, additional study would be required to determine whether sufficient area is available to create a natural shoreline without creating erosion hazards. Each of the development scenarios and the Planning Commission recommendation proposed realigning Lagoon Road to the north, which would provide the opportunity for a more natural shoreline and a larger buffer between the former landfill and the lagoon.

25. Could we zone for an Artists Village, where artist could live and work for certain lengths of time?

See Response Davis-6.

26. As part of the negotiations of the Development Agreement, could the City request that UPC purchase the Levinson and Peking Handicraft properties, and dedicate them to open space?

The City could attempt to negotiate such a provision within a development agreement.

27. If public services for the Baylands could be self-funded by assessments districts and taxes, could revenues generated by the Baylands be spent on items in Central Brisbane and the Ridge?

Revenue generated by an assessment district of Baylands property owners, must be used for the benefit of the properties whose owners pay the assessments.

However, revenues generated within the Baylands through property tax (any which are unencumbered by bonded indebtedness), sales tax, business license tax, and franchise fees that flow to the General Fund can be used for whatever purpose the City Council desires.

REMEDICATION

28. Compare standards between CAL EPA and other states, as well as other countries

There are many standards that have been developed for different purposes and with different attributes. For example, there are screening level standards for soil, soil vapor, groundwater and

ambient air. Exceeding these standards does not imply cleanup is warranted, but rather triggers additional assessment and/or investigation. Such screening-level standards are not directly comparable to the risk-based standards used in California. Within Europe, the use of “Dutch standards” is common. These standards set forth specific remediation targets based on naturally occurring background levels found in the Netherlands. In some cases, such as arsenic, such standards would be far less stringent than California standards.

Typically, State of California standards are more stringent than the USEPA standards, and are developed to be protective of human health using a human health risk-based approach by the Office of Environmental Health Hazard Assessment and the Human and Ecological Risk Office. These State of California regulatory agencies review federal standards and scientific peer-reviewed literature (that is not restricted to State or national studies and research) and revise or add standards every 6-12 months as needed. The risk-based standards used in California are considered extremely conservative:

The residential exposure scenario that would be used by regulatory agencies assumes that an individual is exposed to the “exposure point concentration” of onsite contaminants (defined as either the maximum concentrations detected in the medium assessed, or the 95% upper confidence level of the mean) for the first 30 years of life², 24 hours/day, 350 days/year. Essentially, this scenario assumes that an individual on the site would be consuming, inhaling or touching site constituents and contamination from birth for 30 years. For this reason, the resulting estimated risk and hazard values are extremely conservative, which dictates a much more conservative remediation than a commercial exposure scenario.

The commercial exposure scenario is similar to the residential exposure scenario in terms of the dose of contaminants assumed, but the length of exposure reflects commercial use. Specifically, it assumes that an adult is exposed to the exposure point concentration of site constituents or contaminants for 250 days/year for 25 years.

Additionally, the threshold to which the estimated risk values are compared is more conservative for the residential scenario. The residential threshold indicates an incidental increase in the potential for 1 person in a population of 1 million (1×10^{-6}) to have an increased carcinogenic risk due to exposure to the exposure point concentration of the contaminant for 24 hours/day, 350 days/year over 30 years. This exposure frequency and duration is unrealistic and therefore highly conservative to account for the uncertainty inherent in site characterization, exposure and remediation. The threshold for the commercial scenario indicates an incidental increase in the potential for 1 person in a population of 100,000 (1×10^{-5}) to have an increased carcinogenic risk

² Ages 0-6 are assessed as a child exposure and ages 7-24 are assessed as an adult exposure.

due to exposure to the exposure point concentration of the constituent or contaminant for 250 days/year over 25 years.

To account for exposure to multiple constituents on a site, estimated risk values for individual constituents are added together to provide a summed risk value due to exposure to all detected constituents or contaminants in the medium assessed on a site. This summed risk value for exposure for all constituents onsite is compared to the appropriate threshold value for the exposure scenario.

There is no regulatory authority to impose international standards on projects within the State of California.

29. How many Title 27 Land Closures have occurred in the Bay Area?

The following URL identifies Solid Waste Information Systems database of landfills with Disposal Facility and with Operational Status Active and with Regulatory Status Permitted.

<http://www.calrecycle.ca.gov/SWFacilities/Directory/SearchList/List?FAC=Disposal&OPSTATUS=Active®STATUS=Permitted>

Additional response is under preparation

30. How many landfills are still awaiting Title 27 status in the Bay Area?

See Response 29, above.

31. Of the landfills that have received Title 27 status in the Bay Area, please indicate the uses that were built

See Response 29, above.

32. Have any of the Title 27 Land Closure developments caused people to develop illnesses?

See Response Davis-12.

33. How do we assure ourselves that radioactive soil or material from the Hunter's Pt. Naval Ship Yard has not been delivered to the Baylands?

Response to this request is under preparation.

34. When dirt is moved from the landfill side to the rail yard side, will the soil be tested?

A protocol will be established and implemented to ensure that soils placed within the Baylands meet applicable risk-based health standards.

35. What point in the process should the City hire a remediation consultant?

Assuming the purpose of such services is to ensure that the remediation and landfill closure plans are protective of the community of Brisbane and future occupants (residents and/or workers) of the Baylands, these services should be in place prior to submittal of a formal request by the applicant for regulatory agency approval of a remedial action plan or Title 27 landfill closure plan.

36. Could there be a role for Dr. Lee? If yes, to what capacity?

The retention of Dr. Lee was considered at the July 20 City Council meeting but the outcome of that discussion is unknown as of the preparation of this staff report.

37. If we allowed uses along Industrial Way to remain, would UPC be required to test for contamination in this zone?

Requirements for testing and remediation (if needed) would be triggered by a change of use or new construction, even if the new use were of similar industrial character as existing uses.

WATER

38. Provide examples of small water treatment facilities that put the water back into the system and turn the solids into fuel and compost

Response to this request is under preparation.

39. Can we treat Brisbane's water at the Baylands? If so, how would that affect how much water would be needed at the Baylands?

Response to this request is under preparation.

40. Can we provide a simple statement to the public regarding our relationship with MID, and their role in the process?

As described in other responses, the proposed water supply agreement contemplates the following regarding Modesto Irrigation District (MID): upon delivery of water from Oakdale Irrigation District (OID), MID would credit the transfer water amount to San Francisco Public Utilities Commission (SFPUC) in the Don Pedro Reservoir, which would allow SFPUC to retain an amount equivalent to the water transfer in the Hetch Hetchy Reservoir. (See Final EIR at p. 2.4-79.) In accordance with the term sheet between OID and Brisbane, Brisbane would be responsible for securing a transfer agreement with MID. The transfer agreement, along with the water supply agreement and other agreements necessary to effectuate the transfer, would be

evaluated in a project level CEQA document, upon which all parties would have the opportunity to review and comment.

41. Can we require that the Baylands be a zero-wastewater development?

Response to this request is under preparation.

42. With law makers in San Francisco advocating for housing on the Baylands, how can we get assurances from SFPUC that a reliable source of water will be allocated for the site?

Response to this request is under preparation.

43. Can we require a zero waste mandate similar to San Francisco?

Yes.

44. Can we require that vacuum tube technology be incorporated throughout the development, so that waste goes directly from buildings to waste facilities?

Use of such technology would be dependent on Recology's ability to receive waste in that manner. Currently, Recology does not have that capability. Any such proposals should be taken into consideration in remedial action/landfill closure plans for the site.

45. Can we implement restrictions on packaging?

It is not anticipated that the Baylands would represent a market for packaged goods large enough to make such restrictions practical.

ENERGY

46. Provide examples of multi-story buildings creating their own energy

A response for this request is under preparation.

47. Can we require that the development be energy neutral? If so, how do you recommend we get there?

The City Council could establish a General Plan policy to that effect. Whether (or how) this goal would be achieved would depend on the land use program approved by the City and project-level design details which cannot be known at this stage of planning.

48. Explore the possibilities of building an urban bio-mass facility, so that all green waste is turned into energy and compost. Since Recology processes San Francisco's (and possibly other cities) green waste, could we require that a certain % of this waste is processed at the urban bio-mass facility to provide energy for the Baylands development?

A response for this request is under preparation.

49. Could wind play a role with some aspects of energy generation?

As discussed in Section 4-P Energy Resources of the Baylands EIR, each of the four proposed development scenarios would include development of alternative energy technologies on the Project Site, producing approximately 42,000 to 45,000 megawatt hours (MWh) of energy annually. The CPP and CPP-V scenarios are intended to generate an equivalent amount of renewable energy through a combination of solar and small-scale wind facilities installed on rooftops and within spaces dedicated to other uses, as well as within stand-alone solar “farms.” The proposed Recology expansion would also employ small wind turbines for renewable energy generation.

Under the DSP and DSP-V scenarios, renewable energy generation would include production, through solar energy generation, of approximately 42,000 to 45,000 megawatt hours (MWh) of energy annually. However, due to the intensity of land uses proposed, wind facilities were not proposed.

Also, the Baylands EIR includes a Renewable Energy Generation Alternative. Land uses under the Renewable Energy Generation Alternative would include 170 acres of alternative energy uses consisting of a large PV solar farm, small vertical-axis wind turbines, wind turbines placed within development, and rooftop PV solar panels; 654,900 square feet of research and development facilities on 59 acres; and 173,800 square feet of retail/entertainment uses on 26 acres.

50. Could the City require Title 24 requirements regarding zero net energy for homes by 2020 and commercial by 2030 be implemented now?

Response to this request is under preparation.

51. Explore sewage treatment facilities that turn non-water elements into energy and compost

Response to this request is under preparation.

52. The Sustainability Framework mentions the use of infrastructure tunnels. Could infrastructure tunnels be built below the streets and buildings, creating a controlled environment to not only maintain energy and waste infrastructure, but to also monitor exposure levels from toxins at the site?

Unknown at this time. The potential feasibility of such a concept would be dependent on requirements for Title 27 landfill closure and remediation within the former rail yard area as well as the technological capabilities of the impacted service providers. Further analysis could be undertaken if so desired by the City Council.

ECONOMICS

53. Lay out an economic analysis that shows how the Baylands would be required to fund its own needs regarding public service, infrastructure (Public Works issues), park and rec, and all other pertinent General Fund financial obligations

Development of a public infrastructure financing plan is highly dependent on the mix and intensity of land use proposed for the Baylands. The Planning Commission's recommendation places responsibility on the developer to demonstrate that each increment of development within the Baylands would pay for itself.

54. What are the current funding streams for education?

In general, California's public schools receive funding from three sources: the state (57%), property taxes and other local sources such as a parcel tax – a flat fee per parcel of land, interest on investments, limited student fees, and private donations (29%), and the federal government (14%). The proportion of funding from each source varies across school districts. <http://www.ppic.org/publication/financing-californias-public-schools/>

On July 1, 2013, Governor Jerry Brown signed into law the new Local Control Funding Formula (LCFF), which significantly changes how California funds its K-12 schools and gives school districts more authority over how the money will be spent. The new funding formula replaces the old system of “revenue-limits”—general-purpose funding from the state, which was based on complex historical formulas and made up approximately 70% of a district's budget—with a per-student base grant that varies by grade span. The transition to the new formula began with the 2013-14 school year, with full implementation of the new funding formula expected to take eight years. Although the majority of school districts will receive more funding under the new formula, districts that were already receiving more funding than what they would get under LCFF are protected by a provision specifying that no district will receive less state aid than it received in 2012-13. Unlike categorical programs that come with restrictions on how the money can be spent, schools will have broad discretion over how they use the base grants they receive under the new system. <http://www.ed-data.k12.ca.us/Pages/LCFF.aspx>

Under the new funding formula, school districts are subject to new rules for transparency and accountability, which include creating—with input from parents and the community—and adopting a Local Control Accountability Plan (LCAP) that lays out how the district will spend the funds and its goals for improving student outcomes according to eight priorities that the Legislature set. The priorities include academic achievement, student engagement, parent involvement, and the successful implementation of new academic standards. Districts that fail to meet their goals and improve student outcomes will receive help through a new system of interventions. The Jefferson Union High School District LCAP may be found here: <https://www.juhsd.net/Page/238>.

Per Section 4.L Public Services of the Draft EIR, school districts in the vicinity of the Baylands include Brisbane Elementary School District, Bayshore Elementary School District, and Jefferson Union High School District. The Brisbane ESD is a kindergarten through eighth grade (K-8) school district comprised of two elementary schools and one middle school. The Brisbane ESD receives funding based on average daily attendance, called “Revenue Limit District Funding,” and generally approves inter-district transfer permits. Further, it is Brisbane ESD board policy to allow Brisbane ESD employees’ dependents to attend schools (Presta, 2012).

The Bayshore ESD is a K-8 school district comprised of two elementary schools serving residents in parts of Daly City and Brisbane. The Project Site lies within the boundaries of Bayshore ESD. According to Section 4.L Public Services of the Draft EIR, The Bayshore ESD receives funding solely from property taxes within its district, a funding method called “Basic Aid District Funding.” For this reason, the Bayshore ESD often limits its inter-district transfers.

Also of note is Senate Bill 50 or the Leroy F. Greene School Facilities Act of 1998, which restricts the ability of local agencies, such as the City of Brisbane, to deny land use approvals on the basis that public school facilities are inadequate, and precludes local agencies from requiring more than a standard developer fee. SB 50 authorizes school districts to levy developer fees to finance the construction or reconstruction of school facilities to address local school facility needs resulting from new development. SB 50 establishes the base amount of allowable developer fees for school impacts.

In January 2012, the State Allocation Board (SAB) approved maximum Level 1 developer fees at \$0.51 per square foot of enclosed and covered space in any commercial or industrial development, and \$3.20 per square foot for residential development (SAB, 2012). Public school districts must submit justification to levy Level 1 developer fees and can impose higher fees than those established by the SAB, provided they meet the conditions outlined in the Leroy F. Greene School Facilities Act. Private schools are not eligible for fees collected pursuant to SB 50.

The JUHSD serves as the collection agency for its partner elementary school districts. In 2012, both the JUHSD and the Brisbane ESD had approved Level 1 fees of \$0.47 and \$2.97 per square foot of commercial/industrial and residential development, respectively. The Bayshore ESD’s approved Level 1 fees are \$0.42 and \$2.63 per square foot of commercial/industrial and residential development, respectively (Fuentes, 2012; Cook, 2012b). Therefore, the JUHSD collects, from the developer, \$0.47 and \$2.97 per square foot of commercial/industrial and residential development, respectively. Of these Level 1 fees collected, the partnered elementary

school district in which the development occurs would collect, from the JUHSD, 60 percent of its approved Level 1 fee. The remaining fee is retained by the JUHSD.³

Section 65995(h) of the Government Code, which sets forth the provisions of SB 50, states that the payment of statutory fees is “deemed to be full and complete mitigation of the impacts of any legislative or adjudicated act, or both, involving but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization...on the provision of adequate school facilities.”

55. Is it possible to make the NREL Feasibility Study more complete, so that it addresses land cost, Title 27 landfill closure costs, and impacts on development for other areas of the Baylands?

A response for this request is under preparation.

56. Show examples of insurance policies or funding structures that address issues such as natural disasters and potential contamination exposure

A response for this request is preparation.

HOUSING

57. Provide examples of former rail yards that have been remediated and turned into developments that include housing

Sacramento Railyards Project:

(<http://www.nytimes.com/2009/08/12/realestate/commercial/12rail.html>)

Sioux Falls Railyards Project:

(<https://www.usatoday.com/story/news/city/2017/03/29/6-want-first-crack-railyard-redevelopment/99794986/>)

58. If housing is allowed, can the City dictate the type of housing it would prefer? For example, could it require a certain number of work force housing units be based on the square footage of a proposed development? Instead of the housing types proposed by UPC, could the City mandate that it wants housing for seniors or artists or real live/work communal neighborhoods?

³ For example, the JUHSD would collect \$2.97 for each square foot of residential development within the Bayshore ESD. The JUHSD would then distribute \$1.58 to the Bayshore ESD (60 percent of its approved \$2.63) and keep the remaining \$1.39.

If housing were to be permitted within the Baylands, the City could define the specific types of housing that would be permitted, including workforce housing owned and maintained by businesses for their workers. Through a development agreement, the City could negotiate a development standard calling for a provision of a certain number of housing units to be “affordable” in order to provide “work force” housing units. A limitation on the square footage of the units could be imposed. The City would need to oversee such a program to ensure the units remained affordable over time.

The City would most probably not be able to restrict housing to “artists,” but could provide development standards that would permit live/work space. Requirements for the provision of such types of housing could be negotiated through a development agreement.

59. If a higher standard of remediation for housing is being implemented by another state or country, how would you recommend applying that standard?

The City does not have regulatory authority to determine the remediation standard to be applied within the Baylands, The City could also request that the regulatory agency use a standard being implemented by another state or country.

60. Does the City have the ability to require that housing sites be remediated at standards that would also allow for schools and day care centers?

Yes. For example, the City could adopt a General Plan policy that would permit housing within the Baylands only if:

- The site of such housing was remediated to a residential standard allowing for contact between proposed housing and the final ground surface (such as would be implemented for single family housing)⁴; and
- There were no institutional controls established that would preclude development of local schools and day care facilities to serve proposed residential development.

OPEN SPACE/OPEN AREA

61. Show examples of how open space is embedded throughout the development, so that it is easily accessible to all and creates a “greener” landscape. Areas of the Presidio/ Crissy Field are models that balance development and nature.

Presidio/Crissy Field is a development form intended to balance the built environment with nature. Development is primarily on the perimeter of the open space of the Presidio and Crissy

⁴ This would provide for implementation of California’s stringent residential remediation standard.

Field with easy pedestrian access to hiking paths, beaches, picnic areas, and wild open spaces. Residents and visitors run, stroll, and cycle along the Bay Trail to the Golden Gate Bridge and former airplane hangars and warehouses are home to recreational uses from a rock climbing gym to a trampoline house. Parking is limited but the area is well served by the PresidiGo Shuttle.

<http://www.presidio.gov/places/crissy-field>

Another example would be Morley Field in San Diego. Surrounded by the urban areas of North Park and South Park, Morley Field provides open space along with sports complexes, tennis clubs, disc golf courses, and a native plant garden. There are also walking and hiking paths through the surrounding canyons which lead to Balboa Park.

<https://www.balboapark.org/recreation/morley-field-sports-complex>

62. How do we retain the rural remnants near Ice House Hill? Can we expand it so that we can create an urban farm?

Additional study would be needed to determine the safety and feasibility of establishing an urban farm north of Ice House Hill. The Planning Commission is recommending long-term use of the area surrounding the Machinery and Equipment building as open space, including providing for community gardens, as well as a potential permanent location for the existing nursery on Icehouse Hill. If this direction is of interest to the City Council, supporting General Plan policies could be crafted.

63. Could parks be designed and constructed for public use, but privately maintained? Trails and open space?

Yes. This could be accomplished, for example, through formation of a landscaping and lighting district to maintain parks within the Baylands.

64. Could we set up an open space assessment district that provides funding for habitat restoration and propagation of native plants?

Habitat restoration, including propagation of native plants for use in such restoration could be a function of an assessment district. However, establishment of such a district, a landscaping and lighting district to maintain parks, or other maintenance districts should be undertaken as part of a comprehensive plan for funding maintenance activities within the Baylands.

65. Can we create a more natural environment for the shoreline around the Lagoon, while also protecting it from contamination from the landfill?

Establishment of a more natural shoreline as described in Response Lentz 24, above, could be designed to protect it from landfill-generated leachate and landfill gas.

66. Explore opportunities to ensure that the Levinson and Peking Handicraft properties are protected as open space

In the context of Baylands refer to Lentz Response-26.

CONSTRUCTION

67. Can the City set the allowed time to pile drive?

Refer to Davis Response-4.

68. Can the City require that no dirt movement will occur when wind conditions meet a certain threshold?

The City may include such a requirement within project conditions of approvals. However, for mitigation of fugitive dust emissions, the BAAQMD *CEQA Air Quality Guidelines* recommend following the current Best Management Practices (BMP) approach. The guidelines note that individual measures have been shown to reduce fugitive dust by anywhere from 30 percent to more than 90 percent and conclude that projects that implement construction BMPs would reduce fugitive dust emissions to a less than significant level. While the BMPs do not specifically include restricting soils movement under particular wind conditions, there are several performance measures that do address the specific concern of fugitive dust emissions resulting from wind. These measures are listed (along with others) in Mitigation measure 4.B-1 and include the following:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

69. Can the City require pile driving techniques that drastically reduce negative noise impacts? Sites at Oyster Pt. in South San Francisco and Mission Bay in San Francisco seem to be not as noisy as when the Tunnel Bridge was built?

Yes. Mitigation Measure 4.J-4a states that construction contractors shall implement “quiet” pile-driving technology (such as pre-drilling of piles and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and

structural requirements and conditions. During review and approval of the Noise Control Plan, which is also required as a part of that mitigation measure (see last question), the City will have the opportunity to require specific techniques. Also, text was added to the Final EIR for Mitigation Measure 4.J-2b which requires contractors to provide a Pre-Construction Assessment which would include, among other things, the following: “Evaluate and implement feasible measures for reducing vibration, such as alternative pile driving methods (e.g., cast-in-drilled-hole piles versus driven piles), alternative foundation types for the new construction (e.g., spread footings versus driven piles), alternative compaction methods, and physical measures (intervening trench, increased distance).” The added text also includes monitoring of pile-driving within 85 feet of the Roundhouse and the Machinery & Equipment Building. Additionally, the City may also include pile-driving techniques as project condition of approval once specific development proposals are brought forward.

SUSTAINABILITY FRAMEWORK

70. How would you recommend implementing the Sustainability Framework into the General Plan?

If, at the conclusion of its deliberations, it is City Council’s desire to incorporate applicable provisions of the sustainability Framework in the General Plan, staff should be directed to bring back specific wording for General Plan policies.

71. Could the goals and aspirations of the Framework help shape decisions regarding land use policy? If so, how?

Whether and how the provisions of the Sustainability Framework should help shape land use policy for the Baylands is a policy matter for discussion by members of the City Council.

STATE REQUIREMENTS

72. What impacts if any does SB 375 have regarding funding for transportation infrastructure?

Senate Bill 375 (SB 375) requires the state to establish greenhouse gas (GHG) emissions reduction targets for each of the state’s regions. SB 375 further recognizes the linkages between transportation land use, and air quality, and seeks to coordinate related policies and investments to reduce transportation-related GHG emissions. SB 375 specifically requires preparation of a Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) for each of the state’s metropolitan areas, including the San Francisco Bay Area. The SCS is a mandated regional land use/transportation strategy to achieve state-established regional GHG emissions reduction targets for automobiles and light trucks. The SCS is further required to provide a 25-year land use strategy that accommodates projected population (including all income groups) and employment growth. Therefore, the over \$200 billion of transportation

investment typically including in the RTP must align with the land use patterns and GHG emissions reductions described in the SCS.

Sustainable Communities Strategies and Regional Transportation Plans neither fund specific transportation projects nor change local land use policies. They simply provide a blueprint for future transportation investments which will assist the region in meeting its Air Resources Board GHG reduction targets. While MTC serves as the Bay Area's transportation "banker", funding decisions for transportation infrastructure are ultimately determined by its source, whether it be local, regional, state or federal. However, projects funded using federal funds as well as "projects of regional significance" are required to be consistent with Plan Bay Area 2040.

In developing Plan Bay Area 2040, MTC estimates projected committed and discretionary funding, and then outline how the funds will be spent in the following 23 years. According to Plan Bay Area 2040, approximately 90% of these funds will be directed toward maintaining and operating the current transportation network. The remaining 10% will be invested in modernizing and expanding transit and roadways. This 10% of funding is where SB 375 will likely have the largest impact, as MTC is to prioritize sustainable transportation infrastructure projects, such as Transit Oriented Development in Priority Development Areas (e.g. Brisbane Baylands). Considering this, some funding sources allow greater MTC discretion in determining which particular transportation infrastructure projects their funds go towards.

SB 375 is likely to have a large impact on funds which are considered "discretionary," as they can be applied to various transportation purposes within the framework of the funding source. One example of discretionary funding is the One Bay Area Grant (OBAG) Program, which exists within the Cap and Trade auction and reserve fund framework. OBAG grants focus on building complete streets, bicycle and pedestrian improvements, and streetscape improvements. These transportation infrastructure funds are distributed through a formula which rewards counties that plan for and produce affordable housing, a key element of Plan Bay Area 2040.

One example of a successful OBAG grant was for the planned Montague Expressway Pedestrian Bridge at Milpitas BART, totaling \$3,440,000. This area is considered to be a Priority Development Area, given its proximity to the planned Milpitas BART extension. Therefore, this OBAG grant is consistent with Plan Bay Area 2040, as it is likely to help the region reach its ARB greenhouse gas reduction targets

The largest impact SB 375 will have regarding funding for transportation infrastructure is for projects funded using federal funds as well as "projects of regional significance," as they are required to be consistent with MTC's Regional Transportation Plan and Sustainable Community Strategy: Plan Bay Area 2040. Future discretionary spending on transportation infrastructure projects will also be impacted, in order for MTC to meet its ARB greenhouse gas reduction target of 10 percent per capita reduction from 2005-2020 and 16 percent per capita reduction from 2005-2035.

73. What should we expect regarding the next regional housing needs allocation (RHNA)?

SB 375 also requires that each region’s eight-year regional housing needs allocations (RHNA) which serve as the basis for local Housing Element updates reflect the growth projections of the SCS. The adopted SCS, Plan Bay Area, adopted in July 2013, is currently being updated.

An overview of the update process was provided to the City Council in March 2015, with information on the update’s growth projections provided on September 15, 2016. As shown in the following table, the updated draft Plan Bay Area proposes significant increases in project growth within Brisbane and the Bi-County PDA, which encompasses the Brisbane Baylands and Parkside areas. As noted in staff’s September 2016 presentation to the City Council, while ongoing planning for the Parkside area will add approximately 230 dwelling units, the only way for the proposed Plan Bay Area population projections to be met would be to include a substantial residential component in the Brisbane Baylands.

As also noted in staff’s September 2016 presentation to the City Council, ABAG/MTC staff has gone to great lengths to reassure local municipalities that Plan Bay Area will not govern, control, or otherwise override local land use decisions. It should be noted that the current Plan Bay Area update will not serve as the basis for the Regional Housing Needs Allocation for the required 2022 Housing Element update, since another update to the SCS will be required prior to 2022.

TABLE 3. PROPOSED PLAN BAY AREA UPDATE EMPLOYMENT AND HOUSEHOLD PROJECTIONS

	Existing as of 2010	2040 Projections	
		2013 Plan Bay Area	Proposed Plan Bay Area Update
Total Households	1,800	2,050	6,300
PDA	0	0	4,400
Balance of Brisbane	1,800	2,050	1,900
Total Employment	5,200	8,180	17,600
PDA	0	1,100	10,900
Balance of Brisbane	5,200	7,180	6,700

74. Does our involvement in the Bi-County PDA restrict our ability to impose our own land use desires?

No.

Attachment 4

Responses to Information Requests from Mayor Liu

- 1. High Speed Rail - are the site options proposed for HSR the same as the proposed location for housing in UPC's DSP proposal? If so, what discussions, if any, has UPC had with HSR about where they would build the housing if HSR takes that portion of the property? Residents have raised the concern that if HSR takes over the property, the housing would be shifted to the south, and the cost for HSR to purchase the property (or take by eminent domain), would increase once it is approved for housing, causing more tax payer dollars to be spent in payment to UPC to purchase that land.**

While most of the proposed housing locations in UPC's draft specific plan do not conflict with HSR's west railyard alternative, there would be an area of potential conflict northerly of Ice House Hill.

Staff is unaware of any ongoing discussions between UPC and HSR regarding this matter. UPC has gone on the record opposing the use of its property for a HSR maintenance yard.

UPC has not provided any information regarding how it would revise its proposal in response to any action by HSR to acquire its property either through negotiated sale or eminent domain. As noted above, the preliminary west side railyard option impacts the southerly end of UPC's proposed housing area. Implementation of the westerly railyard alternative would not leave room to shift housing south due to the presence of Ice House Hill. HSR has indicated it is its preference to negotiate with and acquire land from willing sellers. If HSR chose to obtain the land via eminent domain, it would be required to pay the property owner fair market value of the property and many factors go into that determination. Typically, a judge, rather than a jury, determines the land use designation that is to be applied in determining a property's value and the court typically relies on the uses of the property as allowed by the local jurisdiction. Whether the property would be more valuable with housing rather than commercial is speculative.

- 2. Environmental clean-up controls: what requirements can the Council impose to ensure that the clean up issues found in Hunters Point? I read some news reports, and in that case, the company supervising the cleanup allegedly instructed employees taking soil samples to change the results to show less contamination and also manipulated the data regarding radiation findings. What oversight can we place on the company taking soil samples to make sure the risks are accurately documented?**

Proactive involvement in the site remediation process along with independent review by an technical consultant retained by the City is included in the Planning Commission's recommendation.

3. Some residents have stated that the EIR is insufficient because it did not study enough toxins. Are there any additional toxins that we should recommend be studied? If so, what would be the process and timeframe for doing so?

The EIR addressed all of the toxins identified and analyzed in the characterization studies prepared to date. Based on these studies and their analyses, the EIR concluded that while sufficient analysis existed for a General Plan level land use decision, sufficient information was not yet available to support approval of a specific plan or site-specific development. Thus, Mitigation Measure 4.G-2a requires that the Department of Toxic Substances Control (DTSC), Regional Water Quality Control Board (RWQCB), and/or the San Mateo County Environmental Health Division as the Local Enforcement Agency, as applicable, complete their review of Remedial Action Plans and Title 27 landfill closure prior to approval of a specific for the Baylands.

As part of its independent review of remedial action plans and Title 27 landfill closure plan, the City and its remediation consultant will have the opportunity to comment on site characterization studies prepared, and identify any additional toxins that need to be analyzed. The City and its remediation consultant will also have the opportunity to review updated site characterization studies and human health risk assessments prepared for the Baylands prior to approval of a specific plan for the Baylands.

4. Water supply - some residents have asserted that there is not enough water supply for the Baylands because Hetch Hetchy's supply is inadequate. What would happen in case of drought? Also, what is legal impact of recent court decision re OID? And can we please have further analysis of CA Supreme Court case referenced by Deb Horn?

A recent trial court decision arising out litigation filed by the Oakdale Groundwater Alliance against the OID has no legal impact on the Council's deliberations. The issue decided by the court was whether an EIR, rather than a negative declaration, was required for a groundwater project approved by the District. The project that was subject of this litigation is unrelated to the water supply proposed for the Baylands. In addition, the EIR under consideration here already recognizes that additional environmental work, including a project-level EIR will be needed prior to approval of any agreement concerning water supply for the Baylands.

The case to which Ms. Horn referred is *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. 4th 412. CEQA requires an EIR to identify and analyze the impacts of supplying water to a project. In *Vineyard Area Citizens*, which is the leading case setting forth CEQA's requirements for assessment of impacts on water supplies, the California Supreme Court identified a series of general principles for an adequate analysis of water supply in an EIR.

Vineyard Area Citizens involved the County of Sacramento's approval of a community plan for a large mixed-use development project as well as a specific plan for the first portion of that

development. A citizens group sued to overturn the approval based in part on the claim that the EIR prepared for the community and specific plans had failed to adequately identify and evaluate future water sources for the development. The Court agreed, finding that while the EIR had adequately identified analyzed near-term water supplies, it failed to identify long-term water supplies or to adequately analyze the impacts of providing long-term supplies.

In its decision, the Court articulated the following principles for an adequate analysis of future water supplies:

CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must be presented with sufficient facts to evaluate the pros and cons of supplying the amount of water that the project will need.

An adequate impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years. While an agency may defer detailed analysis of later phases of a project until those phases are up for approval, it may not defer identification and analysis of future water sources. An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing that water.

The future water supplies identified and analyzed in an EIR must bear a likelihood of actually proving available. Speculative sources and unrealistic allocations are insufficient bases for decision making under CEQA. An EIR for a land use project must address the impacts of likely future water sources, and the EIR's discussion must include a reasonable analysis of the circumstances affecting the likelihood of the water's availability.

Where it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental impacts of those sources. It is not sufficient to provide that future development will not proceed if the anticipated water supply fails to materialize. But, when an EIR provides analysis of the water sources that the project is likely to use (and acknowledges the remaining uncertainty), it may also impose a measure for curtailing development if the intended sources fail to materialize.

The burden of identifying likely water sources for a project varies with the stage of project approval involved. The necessary degree of confidence for approval of a conceptual plan is much lower than for the issuance of building permits.

The ultimate question under CEQA is not whether an EIR establishes a likely source of water or whether sufficient water supplies are available, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. (*Vineyard Area Citizens* at pp. 430-434.)

Significantly, the Court stressed that an EIR for a land use plan *does not* need to demonstrate an assured water supply through signed, enforceable agreements with a provider and already built or approved treatment and delivery facilities. The Court acknowledged that requiring this level of certainty for a long-term large-scale development when it was initially approved “would likely be unworkable, as it would require water planning to far outpace land use planning.” (*Id.* at 432.)

In its decision, the Court also examined two state statutes addressing the coordination of land use and water planning, SB 610 and SB 221, and concluded that neither statute conflicted with its conclusion that CEQA does not require assured water supply at an early phase of planning for large development projects. The Court noted that SB 610 (Water Code §§ 10910-10915), which requires projections about water availability to be developed before certain large development projects may be approved (and preparation of a water supply assessment to be included in the EIR for those projects), does not require assurances for future supplies needed to serve the project. (*Id.* at 433.) Similarly, while SB 221 (Government Code Section 66473.7) requires a written verification that adequate water supplies will be available for the project, this verification is not required until approval of a large residential subdivision (more than 500 dwelling units). (*Id.*)

Other courts have relied on the principles articulated in *Vineyard Area Citizens* when evaluating an EIR’s analysis of water supply for a land use plan. (See, e.g., *Watsonville Pilots Association v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1092 [it is not necessary for an EIR on a general plan to establish a likely source of water because general plan EIRs are conceptual]; *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 23 [EIR not required to determine the total effect on water demand that might result from implementation of the zoning ordinance].)

The water supply analysis in the Baylands EIR⁵ meets the requirements set forth in the *Vineyard Area Citizens* case, which identifies specific requirements for an adequate analysis of water supply issues in an EIR. As required by CEQA, the EIR analyzes the physical impacts of supplying water to proposed Baylands development (the DSP, DSP-V, CPP and CPP-V scenarios), including a discussion of existing water supply and demand in the City of Brisbane and identification and analysis of the additional water supply that would be needed for development of the Baylands.

⁵ Issues related to water supply are discussed in detail in the Project Description chapter (Draft EIR Section 3.10), in the Utilities, Service Systems, and Water Supply chapter (Draft EIR Section 4.O), and in Master Response 29 (Final EIR Section 2.4). The Draft EIR also includes a Water Supply Assessment prepared pursuant to the requirements of SB 610 (Cal Water Code §§ 10910-10915) in Appendix L.

As discussed in detail in the EIR, water supply for the proposed development of the Baylands would come from the Oakdale Irrigation District (OID). To this end, the City negotiated a term sheet for a proposed water transfer agreement with OID which would guarantee the transfer of up to 2,400 acre feet per year (AFY), including up to 2,000 AFY for development of the Baylands, depending on the development scenario and/or other land uses ultimately approved by the City, and 400 AFY for the buildout of the City's existing General Plan. The EIR describes the general pathway of the water transfer between OID and the City and analyzes the physical impacts of transferring the water between the two agencies.

Consistent with the requirements set forth in the *Vineyard Area Citizens* case, the EIR identifies and analyzes the total water supply – 2,000 AFY – that would be needed for full buildout of proposed Baylands development.⁶ Because the EIR is evaluating a planning-level decision – a proposed General Plan amendment and Specific Plan – it does not (and cannot) undertake a detailed analysis of the operational and engineering details of the water transfer because these details are entirely dependent on the amount of water that would be needed, which, in turn, is entirely dependent on the land uses, type and amount of development the City ultimately approves. At such time as the City Council approves the types and intensities of development it believes to be appropriate for the Baylands and certifies the EIR, the next step in the planning process for Baylands water supply would be to work with OID, Modesto Irrigation District (MID), and the San Francisco Public Utilities Commission (SFPUC) to develop a detailed operational plan for transfer of water to Brisbane. This plan would inform the City's negotiation of a water transfer agreement with OID and “wheeling agreements” with MID and the SFPUC, which would be subject to environmental review under CEQA. The wheeling agreements would be developed in accordance with provisions of the California Water Code, which requires a public agency to allow others to use its available conveyance capacity to implement a water transfer in exchange for fair compensation, but does not require that agency to change or adversely affect its operations or customer deliveries.⁷

As the Council is aware, MID provided comments on the Draft EIR in which it asserted that the City had failed to provide a project-level review of the water transfer agreement, i.e., a detailed analysis of the direct and indirect impacts of transferring the water, including analysis of the manner of conveyance, operations, etc. It also asserted that the City had failed to work with

⁶ As noted previously, the EIR evaluates the transfer of 2,400 AFY, which includes 400 AFY for buildout of the City's General Plan. Because the 400 AFY would not be for Baylands development it is not discussed further.

⁷ Water Code Section 1810 provides “neither the State, nor any regional or local public agency may deny a bona fide transferor of water the use of a water conveyance facility which has unused capacity, for the period of time for which that capacity is available, if fair compensation is paid for that use.”

MID to develop specific details of the water transfer agreement.⁸ The City addressed MID's comments in the Final EIR. (See Section 2.7.2.) As discussed above, given the planning level nature of the decision pending before the City, the details requested by MID are simply not available at this stage in the approval process because the water transfer agreement has not yet been negotiated. At such time as the City Council approves a plan for Baylands development, the City would enter into discussions with OID, MID and the SFPUC regarding the amount of water needed, and the manner in which the water would be delivered and conveyed. It is at that point, after negotiation of transfer and conveyance agreements, that the City would undertake project-level CEQA analysis.⁹ Nothing in the *Vineyard* case requires a different approach. In fact, the California Supreme Court specifically acknowledged in *Vineyard* that an EIR for a land use plan is not required to demonstrate the existence of an assured water supply through signed, enforceable agreements with a provider and already built or approved treatment and delivery facilities. "Requiring certainty when a long-term, large-scale development project is initially approved would likely be unworkable, as it would require water planning to far outpace land use planning." (*Vineyard Area Citizens* at p. 432.) The Court went on to emphasize that "the burden of identifying likely water sources for a project varies with the stage of project approval involved; the necessary degree of confidence involved for approval of a conceptual plan is much lower than for issuance of building permits." (*Id.* at p. 434.)

Consistent with *Vineyard*, the EIR identifies a reasonably likely source of water that would be sufficient to supply full buildout of the Baylands, and analyzes, at a planning level, the physical impacts of transferring the water from OID to Brisbane, including impacts to the MID and SFPUC systems. As required by SB 610, should the City Council wish to approve UPC's proposed specific plan, the EIR includes a water supply assessment which determines that water supplies are projected to be adequate. As noted in the February 24, 2017 City Council staff report, while policies could be incorporated into the General Plan to require that an assured water source be identified and necessary agreements and environmental analysis completed prior to the

⁸ Counsel for MID reiterated these comments at the City Council's February 24, 2017 public hearing on Baylands water supply, at which time responses were provided by City staff and outside legal counsel. MID has not expressed its opposition to a future water supply agreement; it has simply raised issues with the analysis provided to date. As discussed at the 2/24 hearing and in this memo, given its comments about project-level analysis, it would appear that MID may have misunderstood the planning-level nature of the decisions currently before the City Council.

⁹ SFPUC has not indicated that it is opposed to a future water supply agreement between the City and OID. Instead, SFPUC's comments on the Draft EIR indicate that prior to approving a water supply agreement a project-level EIR should be prepared to fully evaluate the impacts of providing water supply to the Baylands, including evaluation of any new facilities or infrastructure. (See Final EIR at pp. 5-77.) SFPUC's comments go on to detail the specific analyses that it would like to see in a future EIR evaluating the water supply agreement. As discussed above, because the EIR evaluating Baylands development is a program EIR, additional CEQA review and analysis would be undertaken prior to approval of any water supply agreement by the City, and any related agreements by other parties, including MID and SFPUC. This analysis would include evaluation of any proposed new facilities and infrastructure.

City's approval of a specific plan or any site-specific development,¹⁰ there is no legal requirement for such assurances at this point in the planning process.

5. Liquefaction - some residents have asserted that there is insufficient information on liquefaction of the landfill. Is there any additional information that we should recommend be studied?

The EIR provides a program-level analysis of potential liquefaction hazards for future development within the Baylands. Prior to any development within the former landfill area, detailed design studies for building foundations would be required pursuant to the California Building Code (CBC). Such studies would identify site-specific requirements for the design of each building foundation within the Baylands. The specific foundation design requirements needed to meet applicable requirements would vary based on the specific location, size, and bulk of each proposed building. Liquefaction-related requirements also be very different for the large buildings proposed by the applicant within the former landfill area, and the renewable energy generation and open space facilities recommended by the Planning Commission.

6. Phasing - since the project is proposed to be built in phases, what guarantee do we have that if the developer builds the residential component and then runs out of money, that they won't move forward with building the commercial component of the project, which will generate tax revenue for the City?

As recommended by the Planning Commission, the fiscal effect of proposed development would be evaluated to provide assurance to the City that adequate municipal revenues will be generated to cover municipal costs. The Commission further recommended that this analysis of costs and revenues be undertaken for each increment of development to ensure adequate ongoing revenues to the City to cover its costs.

7. Some residents have suggested that Brisbane cede the portion of the property that would be for housing to San Francisco, so that our city wouldn't have to provide for that development. Is that even possible? What would be the process and ramifications of doing so?

Under existing law, in order for any portion of the Baylands to become part of the City and County of San Francisco, the property owner would need to seek detachment of the property through the San Mateo Local Agency Formation Commission, the City would need to agree and

¹⁰ The *Vineyard* opinion stressed that it would *not* be sufficient to provide that future development will not proceed if the anticipated water source fails to materialize. However, as long as the EIR provides analysis of the water sources that the project is likely to use, it may also impose a measure for curtailing development if the intended sources fail to materialize. (*Vineyard Area Citizens* at p. 432.)

there would need to be state legislation to change the boundaries of San Francisco and San Mateo Counties

8. Sea Level Rise / flooding - clarify risk in terms of proposed project. Did EIR study risk of flooding on landfill - could it break the cap? Are there any additional studies that should be done?

As part of its regulatory review of Title 27 landfill closure, the engineering design of the proposed landfill cap will be specifically evaluated. As part of its independent review of the regulatory review process could request that the Regional Water Quality Control Board provide for protecting the integrity of the landfill cap in relation to projected sea level rise. Protection from sea level rise could also be incorporated into the City' General Plan for the Baylands.

9. Environmental liability - Lloyd Zola recommended we obtain environmental insurance and request the City be listed as an additional insured party. At what point in the process would we do this? And would the city have to pay for such insurance, or can it be covered by UPC?

There are commercially available insurance policies that will provide coverage for damages arising out "pollution." For example, the property owners at Sierra Point have formed a property owners' association that purchases such insurance. The insurance would be purchased by the parties requesting coverage (e.g., property owners).

10. Site remediation - Dr. Susan Mearns recommended that we request that the OU-1 risk assessment should include the residential standard (which is higher). At what point in the process do we need to make this request?

Such a request would be made as part of the regulatory agency review of the human health risk assessment and remedial action plan for OU-1. See also Response Lentz-60 in relation to a land use regulatory approach to achieve a residential remediation standard.

11. Impact of new voters - some residents have raised concerns about having a new block of voters that outweighs the existing voters, and that Brisbane could lose its small town character. Is there any mechanism to ensure that the feel of our existing town (Central Brisbane) continues, for instance by ensuring that our current moratorium on big box establishments and places like Starbucks are not allowed in Central Brisbane? Could we establish a special trade zone (Central Brisbane) where such establishments are not allowed? And is there any way to ensure that these rules could be kept in place by a future Council?

One of the basic principles for the Baylands discussed by City Council members at its July 13 meeting was retaining the community's small town character.

The city does not currently have any zoning or land use restrictions on either formula or big box retail.

Any adopted regulations would remain in effect unless and until such time they are amended by this or a future City Council. Unless such regulations were imbedded in a zoning ordinance, for example, approved by the voters, future City Councils cannot be precluded from adopting different land use regulations established by a then current City Council.

Responses to Information Requests from Councilmember O'Connell

- 1. Please include San Francisco City and County Draft Bayshore Multi-Modal Facility Study Phase II, April 2017 in the records for the Baylands Planning Process. This study states that 50,000 new residential units are planned/studied to be in the area of the Caltrain multi-modal area. Is that a correct number?**

The requested study is provided in Attachment 5A.

- 2. Cal Train is determined to have 10,000 new riders boarding at the Bayshore Station, is there capacity on Cal Train currently and is there commitment to rolling stock and electrification? Will there be adequate capacity with electrification, does that ridership include the additional residential units planned in South San Francisco, and that this ridership will be boarding prior to Bayshore Station, will the trains be able to absorb this capacity and bike storage?**

Response to this request is under preparation.

- 3. EIFD –Enhanced Infrastructure Funding District--**

Horizontal costs + remediation + Operation & management (of remediated sites) =

+ Lighting and landscape fees

+ City service/park fee's

Will an EIFD or other financing mechanism be a shift from private cleanup to public clean up responsibility?

The City would bond for only those infrastructure projects that were public in nature (ie. Roads, sewer, open space development). Those that are private in nature clean-up, vertical costs would need to have private financing.

Lighting and landscaping districts could be used for the maintenance of the lighting and landscape associated with the public spaces of the project area. Such as roadway medians, or street lights. Private maintenance would need another source of revenue.

4. If an EIFD is used to finance Baylands cleanup and infrastructure costs, the maximum time frame is 40 years, would that be able to be extended if build out takes longer or costs are higher? (are they extendable?)

Bonds can only be sold be a secured revenue source. Therefore, the bonds could not be sold until there was enough increment to make the bond payments or unless the bonds were secured by a secondary revenue source (such as developer commitment). Once the bond is sold the term of the bond is fixed and can only be changed through a refinancing. If the cost of the project was higher than initially bonded for then there would need to be additional bonds sold which would need to be secured either through additional tax increment or another secondary revenue source. If the build out takes longer than 40 years the EIFD would expire and another EIFD would have to be put in place to take advantage of the additional tax increment created by the new assessments.

5. Can we request DTSC oversight on the entire Baylands site including the landfill area so that there is continuity in remediation?

The purpose of the Site Designation process is to allow a Responsible Party who agrees to carry out a site investigation and remedial action (e.g., landowner) to request the Site Designation Committee within the California Environmental Protection Agency to designate a single state or local agency (Administering Agency) to oversee the site investigation and remedial action. There is no provision under these procedures for a municipality or other interested party to make such a request, although the City could support or encourage the Responsible Party to make such an application.

<https://calepa.ca.gov/programs/site-designation-committee/>

6. What would the additional fees be per square foot (residential) to be anticipated by these costs to a potential homeowner's property tax liability? Would that be affordable?

This will depend on what types of funding districts and amount of money which the City will need to collect in the different districts. After knowing this, the question will be determining the amount that will be charged to any of the commercial projects versus the residential projects. An example might be useful. If the City was to create an EIFD for street, water, storm drain, and sewer improvements, a community facility district to maintain open space, and a Lighting and Landscaping District to maintain the public lighting and landscaping aspects of the project, and municipal improvement district to pay for road maintenance, and a Community Facility District to pay for Parks and Recreation programs and public safety; then we would need to determine the amount of revenue we would need to pay for these services. Not fully knowing the extent of the costs for the residential portion of the project (since all numbers have been project wide to this point) using the potential square footage of the residential vs. commercial space might be a good proxy. According to the DSP the Residential portion will have 5,150,000 sq. ft. at build-out and the commercial will have 7,088,400 sq. ft. This means the residential will be about 42%

of the square footage of the project. The next step is to determine the costs that property owners might be required to pay for through various assessment districts. The initial infrastructure cost of the project might be paid for by a Mello-Roos District, an EIFD or other special assessment district. The costs would be those that are public infrastructure related like roads, water, storm water, and wastewater systems. But it shouldn't include private purpose expenditures like power, remediation, demolition of existing infrastructure and buildings, or landfill closure. Further, it could be assumed that a portion of the street and roadway system is regional and will be borne regionally through state or federal funding. If we remove the entire private purpose infrastructure and half of the cost of the roadway system the total cost of the infrastructure would about \$1.1 billion according to the Developer's 2017 estimated cost. If the City facilities the financing of this amount through the annual repayment cost would be approximately \$67 million. On a sq. ft. basis this would equate to \$5.52 a year. As regards the on-going municipal costs; fire, police, parks and recreation, and the library could be included in a community facility district, and the public works costs in lighting and landscaping district or municipal improvement district. According to the KMA study the annual cost for these services is \$12,530,000. On a sq. ft. basis this would be \$1.02 per sq. ft. The total cost per sq. ft. could be as high as \$6.55 a year. It could be lower if not everything was charged through the assessment district process. The average house size according to the DSP is about 1,170 sq. ft. This is derived from taking the total residential square footage of 5,150,400 sq. ft. and dividing it by the number of housing units 4,400. Therefore, the average residential unit might pay approximately \$7,600 a year in assessments.

	Sq. Ft.	Infrastructure Costs	Annual cost of a bond for infrastructure	On-going Costs	Cost per Sq. Ft. per year
Commercial	7,088,400	\$637,864,445	\$39,159,482	\$7,257,055	\$6.55
Residential	5,150,400	\$463,469,476	\$28,453,106	\$5,272,944	\$6.55

7. What other fees would be anticipated to be charged to either residential or commercial properties to offset City services (library fee's, water/infrastructure fee's etc.).

In addition to the fee analysis conducted above water and sewer use fees would be charged to the residential and commercial properties based on the amount of water used. Additionally, businesses would be charged a Business License Tax as outlined in the City's Municipal Code. Both the residential property and the commercial property would be required to have garbage service. These are the major fees other than those listed above and that appear on the property tax bill (ie. NPDES, School District bond issues, and parcel taxes).

8. What is the anticipated cost of the land acquisition and planning fees and profit that are not included in the financial study?

Response to this request is under preparation.

- 9. The current soils storage on the landfill is 85' in height on much of the site. It has been stated in the past that this would need to be removed to "cap" the landfill and place a non-permeable barrier on the site to fulfill title 27 landfill closure. Will this be a requirement or will the un-engineered fill on the site be allowed to remain and act as the cap.**

The landfill cap is proscribed by Title 27 and regulated by CalRecycle. Materials in the landfill require over-excavation to achieve geotechnical requirements to support infrastructure. The unengineered fill at the landfill will not act as the cap.

- 10. Can the removal of the soils be a requirement that can be written into any land use approved by the City, or is it discretion of the County Health and Water Resource Board?**

Response to this request is under preparation.

- 11. The Bi-County PDA states that Brisbane did not agree to housing as a part of the PDA, with the housing being provided in San Francisco. Is this a correct assumption?**

The Bi County PDA was established in 2008 and the following excerpt from the October 6, 2008 City Council report authorizing the application and adoption of supporting resolution summarizes the basis for the application:

“Designation as a PDA is predicated on the existence of transit and planning for additional housing that would support transit, thereby reducing vehicle miles traveled and greenhouse gas emissions on a regional basis. An expanded Visitacion Valley/Schlage/Executive Park/Baylands PDA would meet these criteria, irrespective of the final land use decisions for the Baylands. The resolution neither implicitly nor explicitly represents a commitment to establish housing on the Baylands, as the expanded PDA includes residentially designated property within the City of San Francisco that is adjacent to transit.”

Furthermore Resolution 2008-38 incorporated into the PDA application includes the following clause which again demonstrates that the City’s commitment to considering “smart growth” principles *to the extent they are consistent with the City's General Plan*:

“Whereas the City of Brisbane is committed *within the context of its General Plan* to considering smart growth principles such as VMT reduction, creating efficient and effective transit and transportation systems, and land use patterns which best support transit;”

- 12. Has San Mateo County been approached to waive property tax in the project area?**

Not yet. Staff would recommend waiting until there is an approved project and an understanding what financing the project will need before determining the amount of tax increment needed. Then we can go to the County with a complete financing plan so they would understand how their tax increment benefits the project and allows for the development to happen and provides for other tax revenues besides the forgone property tax revenues.

13. Has Jefferson Union High School District, Brisbane Elementary School District, SMC Library District, San Mateo Community College District or Bayshore Elementary School District been approached regarding waiver of taxes in the Baylands to help fund potential development?

No, but for a different answer than above. There is no longer a financing mechanism that the City can use which incorporates school district tax increment revenue. Any tax increment financing the school districts would want to do would need to go through the school districts directly. This is different from pre RDA dissolution. At that time the City and the Districts could negotiate a deal which would provide the school districts a benefit for foregoing future tax increment. Current law does not provide for this arrangement anymore.

14. Recology site: To get to zero waste, would burners be required to dispose of waste or other gasses?

The technologies used to achieve a zero waste mandate would be determined based on the anticipated waste flow. Such a determination has not been made in relation to a potential zero waste mandate for the Baylands.

15. Are there any burners on the Baylands property, and if so, at what locations. Would those burners remain after remediation?

Pursuant to the requirements of Regulation 8, Rule 34, USEPA 40CFR Part 60 725(b)(2)(i) and 40CFR Part 62.14356 (a)(1) a gas collection system was installed in 1991 on the landfill (BKF 2011). The existing landfill gas control system has been operational since 2002 and will be required to continue to operate in accordance with Title 27 regulations. The flare station operates a single flare 7 hours/day (to comply with emission control limits) with a destruction efficiency of 98 percent and a temperature of 1400 degrees Fahrenheit (BKF 2011). Test results from 2001 indicate generation of methane gas decreased from 140 SCFM in 1992 to approximately 40 SCFM in 2001 and VOCs, as measured with an OVA, were ND (BKF 2011). To ensure the landfill gas control system continues to meet operational material, weekly monitoring of the flare station, monthly monitoring and adjustment of the landfill gas extraction wells and quarterly monitoring of emissions is performed. Repairs are performed during monitoring visits and as needed and are documented in monthly reports.

16. Is Brisbane currently in compliance with Regional Housing Needs Assessment?

Once the Parkside Plan is approved and the implementing housing overlay zones are adopted the City of Brisbane will have satisfied our RHNA obligations as set forth in the adopted 2015-2022 Housing Element.

17. What is equitable growth for a City of our size and population in comparison with Marin County and the current exemption under review by the State of California for density?

This is a policy decision for the City of Brisbane to make as part of its General Plan. This is also a policy decision ABAG/MTC are required to make as part of its regional sustainable communities strategy that will drive the next regional housing needs allocation. The referenced density exemption in Marin County pertains to utilizing a ‘suburban’ density standard of 20 du/acre as opposed to an ‘urban’ standards of 30 du/acre for purposes of determining state defined Housing Element thresholds for what qualifies as presumptively affordable in terms of satisfying Regional Housing Needs Allocation for low and moderate income units. Brisbane is also subject to the ‘suburban’ 20 du/acre threshold.

18. Can Brisbane require Geneva Extension or the Geneva Harney BRT to be built prior to allowing housing to be built?

The timing for completion of the Geneva extension or bus rapid transit service would best be tied to traffic impacts on the area roadway system. The Planning Commission recommended establishing a series of performance standards that would tie development of new land uses within the Baylands to the availability of infrastructure such as the Geneva extension. In addition, EIR mitigation measures limit the amount of development permitted within the Baylands prior to construction of the Geneva extension and Candlestick interchange improvements.

19. Can we require more characterization and information on waste that was put in the landfill, is there any information as to the possibility of military waste including radioactive waste, tire dump, rendering plant disposal?

Response to this request is under preparation.

20. If the landfill area is taken down to historical grade level, with that put the area at a higher risk of sea level rise and water intrusion?

The landfill has a 10’ to 40’ deep layer of fill on top of the solid waste. Due to the onsite soil recycling operations the depth and condition of the fill cover has changed over time based on demand for the recycled soil. Beneath this layer of fill is a 20’ to 35’ deep layer of solid waste disposed from the 1930s to 1967. The solid waste was deposited on top of Bay Muds. The first layer of Bay Muds is between 10’ to 50’ deep and is on top of a 50’ to 200’ deep layer of Bay

Muds intermixed with layers of sand and weathered bedrock. At the northern edge of the site a 30ft to 100ft deep sand layer has been identified (BFK, February 2011).

Grading at the landfill will be regulated by CalRecycle and the City through the permitting process to ensure the materials meet geotechnical specifications for infrastructure. The change in grade of the landfill should not have an appreciable impact on the potential effects of sea level rise and water intrusion.

21. Did the San Mateo County infrastructure vulnerability study look at moving 101 inland to protect the transportation corridor?

Caltrans staff provided the following response;

“Caltrans is currently conducting a District-by-District Climate Change Vulnerability Assessment. They are in the process of reviewing the draft for District 4 (SF Bay Area), and the expectation is it will be available for stakeholder review later this year, and finalized by the Fall of this year. Please be aware that this report will primarily provide high-level screening information that identifies locations along the state highway system expected to be exposed to various climate change stressors, including sea level rise, storm surge, increased precipitation, wildfires, and temperature fluctuations. It will not provide a detailed assessment of the impacts of sea level rise to specific state highway assets, nor provide adaptation strategy recommendations.”

Additionally, San Mateo County released a Draft Sea Level Rise Vulnerability Assessment Report in April 2017. The assessment identifies essential regional transportation networks and infrastructure (BART, Caltrain, Highway 101, State Route 1) as vulnerable assets. The report also identifies impacts and consequences of sea level rise inundation on major roadways like Highway 101. The primary focus of the report is to identify areas of vulnerability and provide a broad introduction to future adaptation planning. It does not provide suggestions for policy changes nor analyze relocation of infrastructure, but it does include “relocation” as a possible adaptation strategy in general (not specifically for Highway 101).

<http://seachangesmc.com/current-efforts/vulnerability-assessment/>

22. What is the risk of saltwater intrusion and hydraulic pressure on the landfill contents on both the old rail fill and the garbage fill? Will this cause increased corrosion to the piers of construction?

Building foundation piers will be required to be designed to withstand potential corrosion due to contact with saltwater below the ground surface.

23. Can we draw a “circle of safety” around current hazardous uses and sites, including but not limited to Kinder Morgan, Recology, any burners, roadway pollutants and

railroads to be able to cluster any development in sites that have the least possibility of safety issues? Is this an issue for an industrial risk assessment?

The distribution of land uses and development intensity within the Baylands should address the relationship of new development to existing uses such as Recology, Kinder Morgan Tank Farm, railroad, and freeway. Each development scenario and the Planning Commission's recommended land use take a different approach to doing so.

24. Discrepancies with liquefaction data from the EIR and the developer's consultants, needs to be resolved prior to certification of the EIR. Could the EIR, if certified, be used to increase what will be approved into a larger project, and then determined to "have already been studied," leaving Brisbane no option?

Whether and how severe liquefaction would occur within the Baylands is dependent on the magnitude and epicenter of the earthquake causing groundshaking within the Baylands. The Brisbane Baylands. the Baylands EIR noted that the *potential* for liquefaction within the Baylands is very high based on USGS liquefaction susceptibility mapping. Based on site-specific soils underlying the landfill portion of the site, Tom Graff, a consultant to UPC report the effects of liquefaction within the former landfill area would be at most minor (see Attachment 2A).

All subsequent site-specific development, as well as any future amendments to General Plan policy, as well as adoption and amendments of a specific plan will be subject to future environmental review. The standard required to be used for such future review is whether the previously certified EIR adequately addresses the specific impacts of the future proposal, and whether the subsequent proposal raises site-specific issues not previously examined, would create one or more new significant impacts, or substantially increase the severity of an impact that was previously identified in the EIR. CEQA also provide for requiring supplemental or subsequent EIRs to be prepared when there are changes in the circumstances under which the project would be undertaken as compared to the assumptions and circumstances under which the original EIR was prepared.

25. UPC has stated that they will use Union Trade Workers to build out their project, can that be written into any specific plan, and is there any prohibition from those Union Trade Workers building commercial, as they have stated that the Union wants to build housing only? Were members of the Building Trade paid or compensated for attending our City Council meetings? And if paid, by whom?

Response to this request is under preparation.

26. Under the DSP/DSP-V where would Golden State Lumber relocate and what would the timeline be for downtime to the business? Is Golden State Lumber a property owner or are they leaseholder? Have they been contacted by Brisbane for input on the potential

development project options? Would they continue to be able to receive goods by rail with any of the studied projects?

Under the DSP and DSP-V scenarios Golden State Lumber would relocate to a site in the area between Caltrain and Tunnel Avenue, northerly of Ice House Hill. There is no timeline established at this point in time, but if and when such a move were to occur the City would be an active participant in such discussions with the goal of limiting downtime and minimizing the loss of city sales tax revenue the City due to business closure. ? Golden State Lumber owns their site on the east side of Tunnel Avenue, and lease land from UPC on the west side of Tunnel Avenue where outdoor storage occurs. Golden State Lumber has been kept apprised of the City's ongoing Baylands planning process. The proposed relocation site was selected in part to maintain opportunities for rail access. However it is unknown if Caltrain electrification and/or high speed rail would affect rail access in the future.

27. Will any of the living species currently in the Baylands wetlands survive, or will they be displaced and/or replaced when the grading is done?

Response to this request is under preparation.

28. Is UPC responsible for costs of closure of the landfill and remediation of the site under their purchase agreement with former owners? If so, what mechanism short of granting development up zone can Brisbane use to incentivize or require cleanup? Are clean up requirements only based on change of use or can other government leverage be used?

Response to this request is under preparation.

29. Can MTC require local land use change? Is MTC trying to dictate to Brisbane the proper use of lands, and what can Brisbane do to challenge that dictate?

Local governments are not forced to make land use decisions dictated by the regional agencies that prepare the SCS (ABAG and the Metropolitan Transportation Commission for the Bay Area). Furthermore, regional agencies have no authority to actually implement the SCS; only local governments can do so, meaning that the City would not be legally required to amend its general plan to provide for any housing identified in the SCS.

While MTC cannot directly require a local agency to modify its land use, pursuant to the requirements of SB 375, MTC is required to prepare a regional transportation plan and sustainable communities strategy for the Bay Area region capable of meeting statewide greenhouse gas emissions reduction targets. Based on the regional sustainable communities strategy, MTC is required under state housing law to prepare a regional housing needs allocation (RHNA) to determine each city's and county's "fair share" of regional housing needs. Each city and county within the state is required to maintain an adequate General Plan Housing Element

that demonstrates an adequate inventory of property zoned land to accommodate the housing identified in the RHNA. The sustainable communities strategy is updated on a regular 4-year cycle. Housing elements with an adequate inventory of land to meet RHNA needs are updated on an 8-year cycle.

30. Can Brisbane require better site clarification and studies of “constituents of concern”? Is there a methodology for how the constituents work together to form other compounds that have a higher or unknown risk to people and the environment?

Response under preparation

31. BCDC, do they have authority over the lagoon? Have they been consulted on the partial filling of the lagoon to provide a “better” interface with the shoreline and a softer water intrusion profile? How many acres are intended to be filled? Was this studied in the EIR and what was the determination of the tidal action at the tubes area and Fishermen’s Park?

BCDC has jurisdictional authority over Brisbane Lagoon. No contact has been made with BCDC or the State Land Commission regarding the potential for modifying the lagoon’s shoreline. No specific proposal for modifying the lagoon’s shoreline has been made to date, and as a result this was not studied in the EIR.

32. Has Bayshore Elementary School District weighed in on their capacity to serve the additional students due to Schlage Lock phase I and II development and possible students from Baylands housing?

The Bayshore Elementary School District was contacted during the preparation of the EIR and was provided the EIR during public review. To date, there have been no comments received from the Bayshore Elementary School District. Per Section 4.L Public Services of the Draft EIR, the total 1,078 elementary or middle school students that would be generated by proposed development under the DSP and DSP-V scenarios would result in an increase of more than 125-percent beyond the combined current enrollment of both the Brisbane ESD and the Bayshore ESD (total 941). In addition to required school facilities impact fees under SB 50, the DSP and DSP-V scenarios designate two specific sites within the Icehouse District for the development of institutional uses, including an elementary school and a charter high school (see Figures 3-11 and 3-12 in Chapter 3, *Project Description*, of this EIR) (UPC, 2011). The elementary school site would be located in the northern portion of the district just south of the Roundhouse Green at the southern terminus of the proposed Promenade. The charter high school site would be located at the base of Icehouse Hill on a 5.3-acre site to be used as a shared-use recreational facility.

These facilities, which are included within the proposed institutional uses under the DSP and DSP-V, are intended to meet the increased demand for schools generated by development of the Project Site and a less than significant impact was identified for the DSP and DSP-V scenarios.

The CPP and CPP-V scenarios do not designate an area for development of an elementary or middle school. Because the CPP and CPP-V scenarios do not designate an area for development of an elementary or middle school, and because the addition of 329 elementary and middle school students under these scenarios would necessitate the addition of a school, impacts associated with new school facilities would be significant without mitigation. Mitigation Measure 4.L-3 requires a site for an elementary/middle school of sufficient size to accommodate development-related enrollment under the CPP and CPP-V scenarios shall be reserved as part of the specific plan required by the Brisbane General Plan for development within the Project Site.

33. How can we insure that the roundhouse is not impacted by surrounding development, it appears that the EIR stated that 2-3 stories, but drawings show looming buildings over the site, are these consistent?

The City will ultimately control the lands uses and development standards for properties near the roundhouse, and should utilize its regulatory authority to ensure that any such future development in this vicinity is of a form and scale deemed appropriate in proximity to this landmark structure.

34. Please give more information on “value engineering”. Is this a concept of doing lesser work for lesser amount of money and finding a back way to get around regulations or engineering that is expected to cost less for the project developers?

“Value engineering” is defined as an organized effort directed at analyzing designed building and infrastructure features, systems, and material selections for the purpose of achieving essential functions at the lowest life cycle cost consistent with required performance, quality, reliability, and safety. Properly applied value engineering considers alternative design solutions to optimize the expected cost/worth ratio of buildings and infrastructure at completion.

35. Who will be study and pay for the phasing and fiscal model, who will be responsible for any bonds issued, will Brisbane be affected by the debt bond ratio?

Debt financed through special assessments districts do not affect the City’s bonded debt ratio. Our bonded debt ratio is only impacted by bonds sold by the City and not backed by special district financing. The City has been the conduit for special district financing in the past. Most recently this was with bonds sold to finance infrastructure for the Northeast Ridge. The City collected money assessed on the property owners of at the Northeast Ridge. The bonds paid for basic public infrastructure for the project including water and sewer lines. The bonds were paid off using a special assessment on all properties related to the improvements. The money was collected by the County on the property tax roll and then passed on to the City to pay off the

bonds. Delinquent assessments were placed as a lien against the property. The bonds have been paid on time each and will be paid off this year.

36. What is the current amount owed by UPC for the Baylands Planning process to Brisbane?

As of the last billing cycle March 2017 UPC owes \$238,604.36 for the EIR Process and \$272,585.37 for what is considered General Baylands charges. They are on a payment plan which will pay this off by October 15, 2017.

37. Site at Sierra Point is shovel ready, but as of yet, not developed. Approved plans, after 30+ years, still paying off the debt from the former RDA. What makes the Baylands more attractive?

One of the issues the City has consistently been told about the Sierra Point development is the distance it is from the train station and not having on and off ramps in both the north and south directions from 101. The Baylands will have easier access to 101 through the new Geneva on/off ramps. There will also be a multi-modal station included in the project which will increase the access to public transit as well.

38. Please provide a breakdown of fees from the 2 UPC businesses, soils processing and soils storage.

For Calendar year 2016:

- Soils Processing - \$487,889.51
- Truck Haul Fees - \$341,234.51
- Engineering Plan Check - \$33,049.00
- Inspection - \$113,616
- Recycling - \$330,62
- Truck Haul Fees - \$194,132.01
- Engineering Plan Check - \$22,875.00
- Inspection - \$113,616.00

39. How do we keep our EIR current throughout the buildout/each phase?

Response under preparation.

Responses to Other Information Requests

1. Applicability of Regional Welfare Doctrine as it pertains to approving housing

The regional welfare doctrine does not require the City to approve housing on the Baylands to address the jobs-housing imbalance or the regional housing shortage. Instead, it sets forth a standard for assessing the constitutionality of zoning enactments and other land use restrictions. In cases where the effect of the restriction will be felt beyond the borders of the municipality or the territory of the enacting government, the doctrine holds that the general welfare to be considered by the enacting agency is that of the entire affected area, and not just that of the local jurisdiction. (See, e.g., *Associated Home Builders of Greater Eastbay v. City of Livermore* (1976) 18 Cal.3d 582 [California Supreme Court held that a local zoning ordinance prohibiting the issuance of further residential building permits in the city until local educational, sewage disposal, and water supply facilities complied with specified standards had the effect of shifting the burden of providing new housing to other communities in the Bay Area since it precluded new residential construction within the city]; see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401 [proper constitutional test is one which inquires whether the ordinance reasonably relates to the welfare of those whom it significantly affects].) The *City of Del Mar* case involved approval of the first phase of a large planned community (anticipated to house 40,000 people at completion). While the court found that construction of the community would affect the larger region, it concluded that San Diego “has adequately researched and considered the numerous competing interests in the region, and in view of the demonstrated need for new housing, the North City West approvals at this stage constitute a reasonable accommodation of these interests.” (*Id.* at 415.) Based on this finding, specifically that the City had considered the regional welfare prior to approving the project, the court upheld the City’s approval.

2. Legal requirements on the part of the City to approve housing to comply with Sustainable Communities Strategy and/or SB 375 targets

SB 375 does not require local jurisdictions to approve housing. It also does not supersede a local agency’s general plan, other planning policies, or land use authority. SB 375 (Chapter 728, Statutes of 2008) directs the California Air Resources Board to set regional targets for reducing greenhouse gas emissions. The new law establishes a “bottom up” approach to ensure that cities and counties are involved in the development of regional plans to achieve those targets. SB 375 builds on the existing framework of regional planning to tie together the regional allocation of housing needs and regional transportation planning in an effort to reduce greenhouse gas (GHG) emissions from motor vehicle trips.

SB 375 has three major components: (1) using the regional transportation planning process to achieve reductions in GHG emissions from passenger vehicles consistent with AB 32’s goals; (2) offering incentives under CEQA to encourage projects that are consistent with a regional plan

that achieves GHG emission reductions; and (3) coordinating the regional housing need allocation process with the regional transportation planning process while maintaining local authority over land use decisions.

SB 375 sets up a collaborative process between metropolitan planning organizations (MPOs) and the ARB to establish greenhouse gas emissions targets for each region in the state. SB 375 requires each MPO to include a “Sustainable Communities Strategy” (SCS) in the regional transportation plan that demonstrates how the region will meet the greenhouse gas emission targets, typically by promoting compact, mixed-use commercial and residential development. If the SCS falls short of meeting the targets, the region must prepare an “alternative planning strategy” that, if implemented, would meet the targets.

Local officials are the key decision-makers in how the provisions of SB 375 are ultimately implemented. While the ARB is responsible for setting region-wide greenhouse gas emission targets for each MPO in the state, each MPO will be responsible for developing its own SCS (and alternative planning strategy if necessary). MPOs are governed by local elected officials.

Neither the “sustainable communities strategy” nor the “alternative planning strategy” supersede a city’s or county’s general plan or other planning policies or authorities. Nor must a local agency’s planning policies be consistent with either strategy. Rather, these strategies provide a basis for determining eligibility of residential development or transportation projects for SB 375’s CEQA streamlining incentives, if cities or counties choose to offer them. These include transit priority projects and residential/mixed-use projects. (See Pub. Resources Code §§ 21155, 21155.1, 21155.2, 21159.28.)

3. Legal challenges to pre-1914 Water Rights

A water right is a legal entitlement authorizing water to be diverted from a specified source for public or private use. Water rights are property rights, but their holders do not own the water itself. Rather, they possess the right to use it. The exercise of some water rights requires a permit or license from the State Water Resources Control Board (SWRCB), whose objective is to ensure that the State’s waters are put to the best possible use, and that the public interest is served.

Water rights are constrained by the rule of reasonableness, which has been preserved in the state Constitution since 1928. The California Constitution states, in relevant part: “The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water...” (Cal. Const., Art. X, § 2.)

Beneficial uses include the use of water for farming, industrial activities, municipal and domestic supply, and recreation, as well as for the support and preservation of ecosystems, habitats, fish

and other wildlife species. California courts have never defined precisely what constitutes an “unreasonable” use of water. What they have said, is that the reasonableness of water use is highly situational and fact-driven, i.e., “[w]hat may be a reasonable beneficial use, where water is present in excess of all needs, would not be a reasonable beneficial use in an area of great scarcity and great need. What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time.” (*Tulare Dist. v. Lindsay-Strathmore Dist.* (1935) 3 Cal.2d 489, 567.)

Up to the early 1900’s appropriators – most of them miners and nonriparian farmers – simply took control of and used what water they wanted. Sometimes notice was filed with the county recorder, but no formal permission was required from any administrative or judicial body. The Water Commission Act of 1914 established today’s permit process. The Act created the agency that later evolved into the SWRCB and granted it the authority to administer permits and licenses for California’s surface water. The Act was the predecessor to today’s Water Code provisions governing appropriation.

The California Supreme Court has established that riparian rights holders have priority for diverting water over most if not all appropriative water rights holders.¹¹ Appropriators may only divert water that is “surplus” to that diverted by riparian right holders from any given stream. Further, there is a seniority system in place for appropriative water rights holders. Those with rights resulting from pre-1914 filing claims have priority over all other appropriative rights holders for diverting and using water. Until recently, their rights have not been subject to review or action by the SWRCB.¹²

Water is allocated in California based on how long ago it was claimed, with the earliest rights going back to the Gold Rush. After passage of the 1914 Water Commission Act, the state began issuing permits for water claims. Claims that pre-date passage of the Act, commonly referred to as “pre-1914 rights,” do not have permits from the state.

Pre-1914 rights do not require a water right permit unless the use of water has increased since 1914. If there has been an increase in use since 1914, a water right permit is required for the new

¹¹ California maintains a “dual system” of water rights, which distinguishes between the rights of “riparian” users, those who possess water rights by virtue of owning the land by or through which flowing water passes, and “appropriators,” those who hold the right to divert such water for use on noncontiguous lands. Pre-1914 water rights are “appropriative rights,” which means that the water is taken for use on non-riparian land, e.g., land that does not touch a lake, river, stream or creek. Riparian users and pre-1914 appropriators need neither a permit nor other governmental authorization to exercise their water rights. Appropriative rights are junior in priority to riparian rights.

¹² On February 4, 2015, the SWRCB ordered all persons claiming senior water rights in the Sacramento-San Joaquin Delta watershed to provide detailed information on the water rights they claim and diversions associated with those rights. (See ORDER WR 2015-0002-DWR: ORDER FOR ADDITIONAL INFORMATION IN THE MATTER OF DIVERSION OF WATER FROM THE SACRAMENTO AND SAN JOAQUIN RIVER WATERSHEDS, available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/2015sacsjinfororder.pdf)

amount, unless there is proof that a plan was in place before 1914 to use the additional water after 1914. Pre-1914 water rights can only be confirmed by issuance of a court decree that the right exists.

While the SWRCB does not have permitting authority over pre-1914 water rights, it does have the authority to prevent illegal diversions and to prevent waste or unreasonable use of water, regardless of the basis under which the right is held. (*California Farm Bureau Federation v. State Water Resources Control Bd.* (2011) 51 Cal.4th 421, 429.) Consistent with this authority, the SWRCB may issue a cease and desist order for an illegal diversion of water even when the diverter claims pre-1914 water rights. To do so, courts have held, the SWRCB necessarily must have jurisdiction to determine whether a claim under a pre-1914 right of appropriation is valid. (*Young v. State Water Resources Control Board* (2013) 219 Cal.App.4th 397; see also *Millview County Water District v. State Water Resources Control Bd.* (2014) 229 Cal.App.4th 879, 893 [interpreting Water Code § 1831 and holding that “[a]ny other rule would permit a diverter to place his or her diversion beyond Board regulation merely by claiming to possess, as opposed to validly possessing, a pre-1914 water right.”])

OID was formed in 1909, and is a senior water right holder on the Stanislaus River. OID co-owns (with the South San Joaquin Irrigation District) pre-1914 water rights to divert up to 257,074 acre-feet per year from the Stanislaus River at Goodwin Dam. (Draft EIR at p. 4.O-6.) These pre-1914 water rights were adjudicated and confirmed by court judgment in 1929.¹³

Senior water rights have largely been considered untouchable in California, and for years have represented a guarantee of unlimited water in California’s “first-come, first-served” water distribution system. They’ve only been curtailed once before (during the 1976-77 drought) when the state ordered senior water rights holders to stop pumping from many rivers and streams. While it is clear under California’s priority system that the most recent, or “junior,” water right holder must be the first to discontinue use, pre-1914 water rights are generally considered protected. There has been no definitive decision from the courts as to whether the SWRCB has the authority to curtail pre-1914 water rights, even in times of severe drought, when available supply may not be sufficient to service those rights.

Signaling that the drought may have changed the conventional rules, after ordering senior water rights holders to provide detailed information about their claimed rights, in June 2015 the SWRCB issued curtailment notices to pre-1914 water right holders within various state watersheds, including the Sacramento-San Joaquin River watershed and Delta, indicating that

¹³ In 1917, OID and SSJID petitioned the State Water Commission (the predecessor to the SWRCB) for a determination of the rights of the various parties claiming appropriative rights to use the waters of the Stanislaus River. The water commission entered its order on September 21, 1922, and the order was confirmed by the San Joaquin Superior Court on November 14, 1929.

there was insufficient water in the system to service their claims of right.¹⁴ In response to the curtailment notice, OID, SSJID and the San Joaquin Tributaries Authority¹⁵ filed a lawsuit against the SWRCB in Stanislaus County Superior Court, alleging the state had denied the districts' due process rights by failing to officially notify them of its intention to curtail water rights and affording them an opportunity to speak at a hearing. The districts also claimed that the state lacked jurisdiction to curtail their pre-1914 water rights. The case was placed on hold in August 2015.

Also in June 2015, in response to an action filed by various irrigation districts and water agencies to stay enforcement of SWRCB's curtailment notices, the Sacramento County Superior Court directed the SWRCB to halt its enforcement of these notices on similar grounds to those asserted by OID and the other petitioners; specifically, that they did not afford water users adequate due process.¹⁶ The court affirmed the SWRCB's enforcement powers,¹⁷ but warned that it could not use the prior curtailment notices as a basis for such enforcement actions. In response, the SWRCB issued a revised notice clarifying the previously issued curtailment notices, stating that the "curtailment" portions of the notices had been rescinded; specifically, any language in the notice that could have been construed as an order requiring the water right holder to immediately stop diverting water.¹⁸

¹⁴ See NOTICE OF UNAVAILABILITY OF WATER AND NEED FOR IMMEDIATE CURTAILMENT FOR THOSE DIVERTING WATER IN THE SACRAMENTO-SAN JOAQUIN WATERSHEDS AND DELTA WITH A PRE-1914 APPROPRIATIVE CLAIM COMMENCING DURING OR AFTER 1903, available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/pre14curtailmentjun2015.pdf

¹⁵ The Tributaries Authority consists of the Oakdale, South San Joaquin, Merced, Modesto, and Turlock irrigation districts, as well as the City and County of San Francisco, which owns and operates the Hetch Hetchy Reservoir and has water rights on the Tuolumne.

¹⁶ Order After Hearing on Ex Parte Application for Temporary Stay, available at: http://www.waterboards.ca.gov/press_room/press_releases/2015/west_side_ir%20v_cswrcb.pdf. The court found that the notices were not solely informational but were coercive in nature, because their language resulted in a command by the government to stop water diverting activities.

¹⁷ Unauthorized diversion and use are subject to penalties of up to \$1,000 per day of violation and \$2,500 for each acre-foot diverted or used in excess of water available to the water right priority must be assessed. Unauthorized diversion and use includes diversion when there is not available water under the priority of right. (See Question and Answers on Notices of Unavailability of Water Issued In the Sacramento River Watershed, San Joaquin River Watershed and Delta and Scott River, available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/water_availability/july15_factsheet.pdf.)

¹⁸ PARTIAL RESCISSION OF APRIL, MAY AND JUNE 2015 CURTAILMENT NOTICES AND CLARIFICATION OF STATE WATER BOARD POSITION RE: NOTICES OF UNAVAILABILITY OF WATER FOR THOSE DIVERTING WATER IN THE SACRAMENTO RIVER WATERSHED, SAN JOAQUIN RIVER WATERSHED AND DELTA, AND SCOTT RIVER, available at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/water_availability/july15_clarif_ltr.pdf

The lawsuits filed as a result of the SWRCB's 2015 curtailment notices have not proceeded, possibly because the notices were quickly rescinded and revised by the SWRCB, and the pre-1914 water rights at issue were not ultimately curtailed. This issue may not re-emerge in the immediate future, i.e., in the next year or so, given the heavy rains recently experienced in California and the current status of the Sierra snowpack. Ultimately, however, given California's propensity for drought, future litigation is likely to arise on this issue, and the question of whether senior water rights may be limited by the SWRCB in times of water scarcity may be answered.

4. What are the corrosive properties of underlying soils within the Baylands? How will development address this issue?

According to Section 4.E Geology, Soils, and Seismicity of the Draft EIR, corrosive subsurface soils may exist in places within the Project Site and are especially likely along Bayshore Boulevard, where Bay Mud is present beneath the fill. The landfill waste can also have corrosive properties depending on the chemistry of the leachate. Corrosive soils could have a detrimental effect on concrete and metals. Corrosion is typically a result of contact with soluble chloride salts found in the soil or water, which requires moisture to form solutions of these salts. Several key factors that influence the severity and rate of corrosion include: the amount of moisture in the soil, the conductivity of the solution, the pH of the solution, and the oxygen concentration within the soil (aeration). The organic content of the soil, soil porosity, and soil texture indirectly affect corrosion of metals in soil by influencing the key factors listed above. Depending on the degree of corrosivity of subsurface soils, concrete and reinforcing steel in concrete structures and bare-metal structures exposed to these soils could deteriorate, eventually leading to structural failures.

As such, corrosivity of future engineered fill at the Project Site would require evaluation as part of site specific analysis of geotechnical hazards for buildings within the Project Site. Typically, use of imported engineered fill or reuse of suitable onsite materials, as determined by building code requirements, are resistant to corrosion. Per Mitigation Measure 4.E-2a and in compliance with the CBC, final design-level site specific geotechnical evaluations would be submitted to the City for final approval which would include an assessment of potentially corrosive soils on the Project Site. Development elements would be designed and constructed in accordance with requirements of the final design-level geotechnical report and would be verified prior to the issuance of building permits. Based on that report, all concrete in contact with the soil would be designed in accordance with local building code requirements. All metals in contact with corrosive soil would be designed based on the results of the soil corrosivity testing and

subsequent recommendations of the manufacturer or a corrosion engineer. The City Engineer would approve all final design and engineering plans prior to any construction.

5. What is depth to bedrock within the Baylands?

Bedrock underlies the Project Site however the depth to bedrock varies across the project site depending on the level of thickness of soil cover, artificial fill, and bay mud. Soil cover above the landfill ranges in thickness from a few feet to more than 30 feet. In the southern portion of the former landfill area, artificial fill thickness ranges from 6 to 40 feet. The fill is underlain by Bay mud, which is a very soft to soft compressible marine clay. The total thickness of Young Bay Mud deposits on the Project site ranges from zero to approximately 50 feet. The estimated thickness of Old Bay Mud ranges from 50 feet in the west to more than 200 feet in the east. This would place bedrock at 50 to 250 feet below the ground surface of the former rail yard (56 to 290 feet below the surface of the former landfill).

CEQA requirements require specific water allocation and delivery agreements at the concept phase to guarantee that there is enough water for the specific plan - so decision makers have guarantees before they agree to make changes in things such as zoning, general plan etc. This is spelled out in CEQA Guidelines. Based upon Modesto's response, our FEIR is inadequate since there is no guarantee that the paper water can be delivered. FEIRs that are incomplete have been overturned in court, including the CA Supreme Court. What is the staff and City Council response to this issue that was brought before you?

See previous response discussing CEQA's requirements for identification of water supply at the conceptual planning level, the consistency of the Baylands EIR's analysis with these requirements, and MID's comments on the Draft EIR and proposed water supply agreement.

6. Why does the EIR water supply assessment pretend that an OID exchange for Hetch Hetchy water is reliable when SF and Modesto have already said No to the concept? So how reliable is the OID exchange when both SFPUC and Modesto have already said no?

As discussed above, neither agency has said no to the proposed water supply agreement. In its comments on the Draft EIR, the SFPUC commented that project-level CEQA analysis should be conducted prior to approval of a water supply agreement, and recommended various analyses to be included in a future CEQA document. This recommendation is consistent with the Baylands EIR, which notes that additional CEQA review would be required prior to approval of a water supply agreement for the Baylands. (Final EIR, p. 2.4-79, 80.) MID has also raised issues with the EIR's analysis, but it would appear that its comments are based on a misunderstanding regarding the type of CEQA analysis prepared to date. Specifically, MID seems to believe that the Baylands EIR is intended to provide a project-level analysis of the water transfer agreement, when in fact it is a program level analysis. Until the City determines what land uses it wishes to approve for the Baylands, it is not possible to determine how much water will be needed to

support those uses. At such time as the City approves a land use plan for the Baylands, a water supply agreement would be negotiated that would provide sufficient water for that plan, and accompanying project-level CEQA review would be performed. In the absence of specific approved land uses, it is not possible to know how much water would be needed, or the engineering and operational details of how the water would be conveyed.

7. Why are we not looking at the entire record? For example:

- **It was already explained to Brisbane in 2009 that, there would be no water for the Baylands.**
- **And, that SFPUC has sole discretion about water deliveries to Brisbane and Modesto about exchanging Hetch Hetchy water.**
- **Furthermore, proposed future exchanges for Hetch Hetchy water are superseded by the 2009 CCSF Water Supply Agreement.**

As discussed in other responses, water for Baylands development would be provided by OID via a proposed water supply agreement. SFPUC is a key component of the proposed agreement, as it would be credited with the OID water by MID, at which point it would move Tuolumne River water into its system and convey that water to Brisbane. As discussed at length in the EIR, Brisbane would need to enter in a wheeling/conveyance agreement with the SFPUC. SFPUC's comments on the Draft EIR were limited to recommendations about the types of analyses to be included in future project-level CEQA review of the water supply agreement.

8. How does the City prepared WSA (water supply assessment) meet CEQA requirements when there is no reliable water source?

Regarding the water supply assessment ("WSA"), by statute (see Water Code §§ 10910-10915), EIRs for certain large projects must include an assessment of water supply information. Under Public Resources Code §21151.9, when a city or county determines that a "project," as defined by Water Code § 10912,¹⁹ is subject to CEQA, the lead agency must request that the public water

¹⁹ Water Code § 10912 defines a "project" as follows:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1000 persons or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1000 persons or having more than 250,000 square feet of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed-use project that includes one or more of the projects specified in this subdivision; or

system identified as the water provider for the project (the City of Brisbane, in the case of the Baylands), prepare a water supply assessment. (CEQA Guidelines § 15155(b)(1).) The water supply assessment must discuss whether projected water supplies will meet projected water demands for the project and other planned growth, and describe its plans for acquiring additional water supplies if it concludes that its existing water supplies are not sufficient to serve the project. (Water Code §§ 10910(b), 10911(a).) The water supply assessment must be included in the EIR prepared for the project. (Water Code § 10911(b).)

Consistent with CEQA and Water Code requirements, the WSA prepared for the Baylands (Draft EIR, Appendix L), presents information on water demand and water supply availability for the four concept plans and the specific plan prepared for the DSP and DSP-V scenarios, including information on plans to acquire additional water supplies. Regarding requirements for water supply reliability at various stages of development, see discussion of the *Vineyard Area Citizens* case, above.

9. Why does the EIR say that the proposed OID agreement does not require the construction of any new facilities when SFPUC says it does?

As discussed above, the SFPUC's comments on the Draft EIR recommended that various analyses be included in future project-level CEQA review of the water supply agreement. This includes analysis of potential construction of new facilities. At this time, the proposed water transfer agreement does not contemplate the construction of new facilities; only existing diversion rights and existing facilities would be used. (Final EIR at p. 2.4-78.) However, to the extent that new facilities were needed, their construction and operation would be evaluated in a project-level CEQA document.

10. Additional detail regarding water transfer agreement and role of MID.

While the amount of water needed will ultimately depend on the land uses approved by the City for the Baylands, the proposed water supply agreement contemplates the delivery of up to 2,400 AFY of water (2,000 for the Baylands, if necessary, and 400 for build out of the City's general plan). As described in the EIR (see Draft EIR, p. 4.O-33 and Final EIR, Master Response 29, starting at p. 2.4-77), the proposed water transfer would be implemented by OID physically delivering up to 2,400 AFY of water into the MID system, via existing facilities (i.e., released from OID's Claribel canal system generally located near Claribel Road south of the City of Riverbank into MID's South Main Canal). MID would make use of the 2,400 AFY and, in turn, would hold an equivalent amount in storage in New Don Pedro Reservoir, located downstream from the SFPUC's Hetch Hetchy Reservoir on the Tuolumne River and northeast La Grange. By a similar exchange, MID would forego delivery of 2,400 AFY from the SFPUC's Hetch Hetchy

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- A project that would demand an amount of water equivalent to or greater than the amount of water required by a project of 500 dwelling units.

system. Thus, the SFPUC would reduce its water bypass or releases from Hetch Hetchy Reservoir to the Tuolumne River by up to 2,400 AFY. The SFPUC has a water bank account in New Don Pedro Reservoir, and MID would credit the SFPUC with the annual amount provided by OID to the City, up to the maximum 2,400 AFY. The SFPUC would, in turn, deliver up to 2,400 AFY from its regional water supply system to Brisbane using existing water supply infrastructure and operational plans. The City is responsible for establishing the necessary exchange and wheeling agreements to accomplish the transfer of water from OID to MID and from MID to the SFPUC.

If the City Council approves land uses for the Baylands and certifies the program-level EIR, then the next step in the planning process for Baylands water supply would be to work with OID, MID, and the SFPUC to develop a detailed water transfer operational plan based on detailed modeling of conveyance through the OID, MID, and SFPUC systems, recognizing the conveyance capacity of each agency to move the transfer water from OID to Brisbane. This plan would provide the detailed information necessary to establish specific terms and requirements for transfer operations and responsibilities for MID and SFPUC participation in the water transfer, thereby facilitating preparation of project-level environmental evaluation and documentation for the proposed water transfer.

It is expected that neither MID nor the SFPUC would allow conveyance of the OID water transfer to Brisbane to result in adverse effects on their operations or customers and that they would develop agreement terms with Brisbane for participation in the water transfer that protect their respective operations and customer deliveries. In the interest of supporting water transfers to help meet water supply needs within the state, state law provides that public agencies with unused water conveyance capacity shall make that capacity available for others to use to transfer water through their systems; however, the law does not require that agencies change or affect their operations or customer service and does allow them to charge an appropriate fee for use of their system.

11. What is the liability for the City of Brisbane for future problems or effects of earthquakes or sea level rise on the development?

Concerning seismic hazards, state regulations (California Code of Regulations, Title 14, Section 3724) set forth specific criteria for projects within seismic hazard zones and are to be applied by local agencies when approving such projects. For example, a site specific project shall be approved only when the nature and severity of the seismic hazards of the site have been evaluated in a geotechnical report and appropriate mitigation measures have been adopted. The geotechnical report must be prepared by a registered civil engineer or certified engineering geologist who has competence in the field of seismic hazard evaluation and mitigation. The report must have site specific evaluations of seismic hazards affecting the project and shall identify portions of the project site containing seismic hazards. The report shall also identify any known off site seismic hazards that could adversely affect the site in the case of an earthquake.

Prior to approving a site specific project, the City shall independently (through a third party reviewer) review the geotechnical report to determine the adequacy of the hazard evaluation and proposed mitigations to determine that the requirements of the regulations as set forth above have been satisfied. This independent review shall likewise be conducted by a certified engineering geologist or registered civil engineer who has competency in the field of seismic evaluation and mitigation.

Concerning sea level rise, the City operates its floodplain management as set forth in requirements imposed by the Federal Management Agency, codified in Chapter 15.56 of the Brisbane Municipal Code. That Chapter requires a floodplain administrator to review proposed developments in the floodplain to ensure they do not increase the water elevations above the “base flood” elevation and to review new construction of all structures to ensure the elevation of the lowest floor is elevated above the base flood elevation. In addition, the City’s storm drain master plan has design criteria to evaluate the adequacy of the existing storm drain system and to develop recommended capital improvements for the system to function properly in the future. These design criteria include calculating the 100 year peak flow rates to limit the potential for discharges to damage private property and providing street and pipe capacity to convey the calculated 10 year peak discharge.

As a general principle, a public employee is immune, i.e., not liable, for an injury resulting from an act or omission that was the result of the exercise of discretion vested in the employee. Government Code, section 820.2. A public entity is not liable when the employee is immune from liability. Government Code, section 815.2 (b). The discretionary immunity established by Section 820.2 extends to any public employee who, in the course of performing his/her official duties, exercises discretionary authority, i.e., decisions that require judgment based on an analysis of competing risks and advantages.

Accordingly, in evaluating a site specific project for potential earthquake and/or sea level rise hazards, the City, either through its own employees or through contracts with professionals who have the requisite expertise, will exercise discretion in determining what mitigations are appropriate to address those hazards. Under such circumstances, the immunities under the Government Code would apply and the City will not be liable should there be damage to property as a result of an earthquake or sea level rise.

12. What is required elevation of new water tank?

The elevation required for the bottom of the new tank is 260-270 MSL. For reference, that elevation is found adjacent to Guadalupe Canyon Parkway, halfway between Bayshore Boulevard and Carter Street.

13. Identify heavy metals associated with urban runoff.

Water running off impervious surfaces in urban areas tends to pick up gasoline, motor oils, heavy metals, trash, and other pollutants from roadways and parking lots, as well as fertilizers and pesticides from lawns. Roads and parking lots are major sources of the heavy metals, which including nickel, copper, zinc, cadmium, and lead. Roof runoff also contributes zinc (from galvanized gutters).

14. How do the commute patterns of Brisbane residents compare with Baylands projections?

The 2015 American Community Survey indicates the following travel patterns for existing Brisbane residents.

Number of workers age 16+ living in Brisbane:	2,382
Means of Travel to Work	
Drove alone:	61.8%
Carpooled:	13.4%
Public transit:	11.5%
Walk to work:	5.5%
Bicycle:	0.9%
Taxi, motorcycle:	2.3%
Work at home:	4.7%
Place of Work	
Brisbane:	16.4%
San Mateo County not Brisbane	26.2%
Outside San Mateo County:	57.4%

Source: 2011-2015 American Community Survey

Based on the mode share data in the 2010 Census, American Community Survey, and *Travel Characteristics of Transit Oriented Development (TOD) in California*²⁰ mode splits for work trips and non-work trips generated by Fehr & Peers for the proposed development scenarios analyzed in the Baylands EIR.

Means of Travel to Work, Brisbane Baylands

²⁰ This report by Hollie Lund, Robert Cervero, and Richard Wilson provides a measurement of travel behavior in California TODs. Surveys were conducted around stations for a variety of transit types. Of particular interest to this analysis is the survey data of residents living near three Caltrain stations: Broadway, Mountain View, and Palo Alto.

Car, truck, van:	80.0%
Public transit:	15.0%
Walk, Bicycle, Other	4.5%

15. What are implications of multi- modal station access on reducing vehicle trips?

In short, multi-modal station access would result in reducing overall vehicle trips. In the case of the Baylands EIR, Project Site development-generated vehicle trips were initially estimated based on the trip rates obtained from the Institute of Transportation Engineers (ITE) *Trip Generation (ITE, 2008)*, which provides daily, AM, and PM peak hour vehicle trip generation rates for all uses except for the Recology site (recycling center land use). The ITE *Trip Generation* has been used by local jurisdictions throughout the county to estimate vehicle trips to be generated by development projects and is based on national averages for trips generated by land use. However, the ITE trip rates would not be suitable to Project Site development unless appropriate adjustments are made to account for the scale, mix, and availability of transit for Project Site development. Project Site development is intended to achieve the TDM goals by providing improved transit options as well as a detailed package of TDM measures as described in the EIR. However, due to uncertainty pertaining to quantifying the effectiveness of implementing the proposed TDM strategies, the travel demand analysis does not assume additional trip reduction due to specific TDM strategies beyond those associated with internal, pass-by, and diverted linked trips.

16. What tools are available to the City to compel the property owner to stabilize/protect the Roundhouse from further deterioration?

The City’s primary tools to compel UPC to take action to stabilize or protect the Roundhouse would be in the form of EIR mitigation measures, Project conditions of approval, Specific Plan policies, and/or negotiated terms in a development agreement. There are no existing maintenance requirements in either federal or state law that would apply to the Roundhouse, and the City does not have specific requirements in its Municipal Code to this effect.

The Municipal Code does contain procedures for nuisance abatement, though these would not necessarily accomplish the objective of protecting the Roundhouse. “Public nuisance” is defined in Section 8.36.010 and includes buildings or structures in a dilapidated or dangerous condition or in a state of disrepair. If the City determined that a public nuisance existed with respect to the Roundhouse, it would be able commence abatement proceedings. Typically, however, “abatement” consists of actions to eliminate the imminent threat of serious injury or harm posed by the nuisance. These types of actions would not be likely to include actions to stabilize or protect the building, but rather would be focused on abating harm to the public by, for example, prohibiting access.