

# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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**TO:** Commissioners and Alternates

**FROM:** Steve Goldbeck, Acting Executive Director (415/352-3611 [steveg@bcdc.ca.gov](mailto:steveg@bcdc.ca.gov))  
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**SUBJECT:** **Draft Staff Report and Preliminary Recommendation for Proposed San Francisco Bay Plan Amendments 3-11 and 4-11 Concerning Changes to the San Francisco Waterfront Special Area Plan Open Water Basin, Public Plazas, and Public Access Policies; the Implementation Requirements Related to the Development of Pier 27 and Removal of the Pier 23 Shed; and Temporary Use of Open Water Basins.**  
(For Commission Consideration on February 2, 2012)

## Preliminary Staff Recommendations

The staff preliminarily recommends that the Commission:

- 1. Bay Plan Amendment 3-11.** Amend the San Francisco Waterfront Special Area Plan by:
  - (1) requiring a public process to be initiated by July 2012 and completed in July 2015 to preserve an open water basin and develop a public plaza in the Fisherman's Wharf geographic area;
  - (2) add findings that explain the policy and implementation requirement changes;
  - (3) modify the Open Water Basin Policies to: (a) delete the open water basin between Piers 19 and 27; and (b) require a planning process to identify a new open water basin within the Northeastern Waterfront (Pier 35 to China Basin) to replace the deleted open water basin;
  - (4) provisionally delete the requirement to remove a portion of the Pier 23 shed, conditioned on the approval by BCDC of a new, substitute open water basin within the Northeastern Waterfront;
  - (5) modify Public Plaza policies for Northeast Wharf Plaza to: (a) revise the view requirements around Piers 23 and Piers 29 and at Northeast Wharf Plaza; (b) modify the Pier 27 shed removal requirements;
  - (c) delete the allowance for commercial active recreation use of Northeast Wharf Plaza and the requirement for waterside and small craft access in the plaza; and
  - (6) modify the Plan Implementation Requirements to: (a) reflect completed requirements; (b) identify new public benefits and phasing; (c) accelerate the completion of the Northeast Wharf Plaza; (d) identify the phasing and parameters for creating a replacement open water basin within the Northeastern Waterfront (Pier 35 to China Basin); and (e) require a



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public process to identify strategies for addressing historic resources along the San Francisco Waterfront that have been closed to occupancy and use for public safety reasons.

2. **Bay Plan Amendment 4-11.** Amend the San Francisco Waterfront Special Area Plan by:
  - (1) adding findings related to the policy changes; (2) modifying the Open Water Basin Permitted Uses to allow the temporary use for the 34<sup>th</sup> America's Cup events; and
  - (3) requiring the public benefits to balance the impacts of the temporary use of the basins.

### Proposed San Francisco Waterfront Special Area Plan Amendments

**Bay Plan Amendment Application 3-11.** The Port of San Francisco has applied to the Commission to amend *San Francisco Waterfront Special Area Plan* ("SAP"), an element of the *San Francisco Bay Plan* (Bay Plan), in order to locate an international cruise terminal at Pier 27 and to retain the Pier 23 shed for future development opportunities. Locating an international cruise terminal at Pier 27 and retaining the Pier 23 shed will require amendments to the open water basin and public plaza policies in the SAP and the implementation requirements for Pier 27 and Pier 23.

**Bay Plan Amendment Application 4-11.** The Port of San Francisco and the America's Cup Event Authority, LLC have applied to the Commission to amend *San Francisco Waterfront Special Area Plan* (SAP), an element of the *San Francisco Bay Plan* (Bay Plan) to: (1) temporarily use the Brannan Street Wharf Open Water Basin to moor team racing yachts and several large, private yachts for the 34<sup>th</sup> America's Cup (AC34) Events; (2) temporarily berth large, private yachts in a portion of the Rincon Point Open Water Basin from the northern boundary of Rincon Park to Pier 14; (3) temporarily berth large, private yachts in the Broadway Open Water Basin; and (4) temporarily berth a variety of vessels in the Northeast Wharf Open Water Basin. The proposed uses are inconsistent with the current open water basin policies in the SAP. (See Figure 1)

Three of the four open water basins were also contemplated by the City of San Francisco and the America's Cup Event Authority for long-term uses, which are not the subject of this amendment, but are related to actions that are subject to this amendment. These long-term uses include:

- (1) a recreational marina in the Rincon Point Open Water Basin; the rights to negotiate the development rights would have been triggered by the dredging necessary for the temporary use that is the subject of this amendment. However, the Host and Venue Agreement was amended to remove this long-term marina development right for Rincon Point Open Water Basin and relocate it to Pier 54;
- (2) a recreational marina in the Brannan Street Wharf Open Water Basin; the rights to negotiate the development rights are triggered by the dredging necessary for the temporary use that is the subject of this amendment. The America's Cup Event Authority's holds rights to negotiate for development in this basin; and
- (3) a cruise ship terminal in the Northeast Wharf Open Water Basin, which is not the subject of Bay Plan amendment 4-11, but is the subject of amendment No. 3-11 initiated by the Commission on May 5, 2011, with a public hearing scheduled for February 2, 2012.

While the amendment request from the Port and the Event Authority only identifies the temporary use as the subject of the amendment request, it is important to evaluate the request, which includes dredging at Brannan Street Wharf, in the context of the right to negotiate long-term development rights that are triggered by dredging for the temporary use of this basin.

**Applicant's Purpose for Requesting Plan Amendment 3-11.** Over ten years ago, the Port of San Francisco identified Piers 30-32 as the ideal location of the future international cruise ship terminal for the City and County of San Francisco. This location was included in the 2000 amendment to the SAP. A proposal for a commercial recreation project on Pier 27 was also included in the 2000 amendments. BCDC approved a major permit for the Pier 30-32 cruise terminal in 2003 but, the Port's recent pier condition analysis showed that Piers 30-32 would require extensive rehabilitation for any project to occur there and the cruise ship terminal project was no longer financially feasible for that location. The analysis determined that Pier 27 was in good condition. Additionally, due to the size, apron length and width, adjacent channel and presence of infrastructure that would make it easier to provide shoreside power, Pier 27 was determined to be the best location for the City and County's primary international cruise ship terminal.

The pier condition analysis also concluded that Pier 23 was also in good condition. The 2000 amendment of the SAP required that a portion of the Pier 23 shed be removed and possibly a portion of the pier deck. The purpose of the removal was to enhance the Northeast Wharf Open Water Basin designated between Pier 19 and Pier 27 and to provide expansive views to the Bay from the Northeast Wharf Plaza and the Embarcadero. The determination that Pier 23 was in good condition and public concern about the removal of a contributing resource to the historic district motivated the Port to request the deletion of the requirement to remove a portion of the Pier 23 shed.

**Inconsistencies with Current SAP Objectives.** The siting of the primary cruise ship terminal at Pier 27 and the retention of the Pier 23 shed are inconsistent with the SAP in a number of ways. The berthing of cruise ships in the Northeast Wharf Open Water Basin: (1) is inconsistent with the permitted uses in the SAP for Pier 27; (2) requires security closures of pier-side open spaces, eliminating public access before, during and after ship calls; (3) significantly reduces the opportunity for improving views; and (4) eliminates the possibility of on-water recreation access at this site. A cruise terminal at Pier 27 will disrupt the relationship between the open water basin and the Northeast Wharf Plaza and Pier 27 apron access. These impacts result in the need to relocate the public benefits, public access and open water basin to another location between Pier 35 and China Basin.

**Alternative Public Benefits-Port Proposal and Staff Recommendations.** The Port and BCDC have worked together to identify public benefits that will be sufficient to offset the public benefits currently required by the SAP, but that will not be implemented as part of the cruise ship terminal project. In developing the public benefits package, meetings and discussions were held with Save the Bay, the Telegraph Hill Dwellers Association and San Francisco Tomorrow. Additionally, the interviews conducted with approximately 30 waterfront stakeholders and the summary findings that were presented to the Commission in May 2011 were also used to identify the public benefits that would be most consistent with perspectives of the stakeholders. Based on these discussions, the Port has proposed the following list of public benefits (*in italics*), with BCDC staff response following:

- *Remove the northeast portion of the Pier 27 shed and reconstruct the east wall of Pier 29 consistent with Secretary's Standards.* BCDC staff has indicated to the Port that the shed removal at both Piers 27 and 29 alone is an insufficient public benefit, because the resulting pier-end open space is far from the Embarcadero and, if not properly improved, would be infrequently visited by the public. However, if a new open water basin were established and improved along the northern edge of this pier-end open

space that would allow the public to have new views of the Bay opened up from the Embarcadero and the Promenade and improvements consistent with a public open space, this Pier end space may result in a public benefit associated with the cruise ship terminal. Determining whether this pier-end open space would constitute a public benefit is best achieved through the proposed planning process for identifying a new open water basin.

- *Either in conjunction with construction of Phase 2 improvements to the cruise ship terminal, or at a later date determined jointly by BCDC and the Port, increase the size of Northeast Wharf Plaza to include a Beltline piazza adjacent to the Embarcadero Promenade.* BCDC staff has indicated to the Port that the proposal to increase the size of the Northeast Wharf Plaza should not be considered an increase, but a partial offset for closing portions of the plaza for cruise activities and that this will also not be considered an additional public benefit. Also, the plan currently requires that the area around the Beltline Building should be improved and incorporated into the plaza.
- *Submit a plan for review by the BCDC Design Review Board (DRB) and the Waterfront Design Advisory Committee (WDAC) for use of the open water basin at the end of Piers 27 and 29 resulting from the removal of the northeastern portion of Pier 27 that addresses the wind impacts in this location and provides for public assembly, active recreation, water-oriented recreation, or other uses that take advantage of the panoramic views at this location.* BCDC staff has told the Port that the creation of a new open water basin to replace the Northeast Wharf Open Water Basin will require more than creating public access opportunities at the tip of Piers 27 and 29. A new open water basin will need to be designed to provide new opportunities for public access around the perimeter, provide new views to the Bay, expand opportunities for water recreation and transient berthing and create a new public plaza or open space adjacent to the new open water basin. The plan for the open space at the tip of Piers 27 and 29 should be developed in a public process that engages waterfront stakeholders and ultimately should be reviewed and approved by the Commission.
- *Implement phased public access improvements to Pier 27 and Pier 29 north apron and provide public access through Pier 29 or Pier 29 ½ to the Pier 29 apron, including a Bayside History Walk, triggered by a major permit for a new long-term lease or major rehabilitation project at Pier 29 or Pier 29 ½ or an earlier date agreed by BCDC and the Port.* BCDC staff has told the Port that if the public access through Pier 29 and Pier 29 ½ and along the Pier 29 apron, including the Bayside History Walk is to be considered a public benefit, it needs to be implemented prior to a major development at Pier 29. In order to consider this public access a public benefit, it would need to be made available to the public earlier than what is now required by the SAP. BCDC staff recommends that the Port make some of this public access available at the time of certificate of occupancy for the cruise ship terminal and some of it available within five years of certificate of occupancy to ensure that the public access is a public benefit. Based on current SAP policies, these public access areas will be required when Pier 29 is redeveloped, which would not result in additional public benefits. The staff also recommends that the Pier 29-1/2 access be included in the public benefit package.
- *Implement phased public access improvements to Piers 31-33 areas, triggered by a major permit for a new long-term lease or major rehabilitation project at Pier 31 or Pier 33 or an earlier date agreed to by BCDC and the Port.* BCDC staff believes that this proposal would conflict with the public process to plan for the appropriate public benefits at these or other piers and that it is important that the Port not contemplate a long-term lease at either of these sites, until the public process has resulted in a plan for these piers. Lease terms at these sites should be short in duration until the public process has been completed. As

proposed by the Port, the staff believes that the public access improvements at the Piers 31-33 area would not be a public benefit, but would be public access associated with these future leases and projects.

- *Submit a plan for review by the BCDC DRB and the WDAC for a new Open Water Basin at Piers 29-31, and potentially to Pier 33, which provides for water-oriented recreation access, triggered by a major new lease at one or more of these locations.* The review of the new open water basin at either Piers 29-31 or at another location between Pier 35 to China Basin, will require an amendment to the SAP and review and approval by the Commission, not only the DRB or the WDAC. Additionally, the public process should be triggered by the cruise ship terminal project, which is eliminating the existing open water basin, not by a major new lease at Piers 29-33. Additionally, the staff recommends that any new open water basin in this area should extend to Pier 33, not potentially extend to Pier 33.
- *If the Open Water Basin at Piers 29-31 (or Piers 29-33) and the open space at the end of Pier 29 is approved by BCDC, eliminate the requirement to remove the easternmost 315 feet of the Pier 23 shed.* Locating a cruise ship terminal at Pier 27 in the Northeast Wharf Open Water Basin eliminates the possibility of realizing the public benefits of an open water basin there. Therefore, the Port is required to find a new location for the Northeast Wharf Open Water Basin, whether or not the Pier 23 shed requirement is eliminated or implemented. However, if the Commission approves the new open water basin at Piers 29-33 or at another location between Pier 35 and China Basin, and a new public open space at the end of Pier 29 that meets the requirements of an open water basin regarding public access, public space, water recreation and transient berthing and views, then the staff recommends that the requirement to remove the easternmost 315 feet of the Pier 23 shed should be eliminated.
- *Develop design standards for phased improvements to the pedestrian and bicycle experience on the east and west side of The Embarcadero from China Basin to Fisherman's Wharf, in consultation with the San Francisco Planning Department, SFMTA and BCDC.* These standards would improve the pedestrian experience by building wider sidewalks that allow for improved landscaping, public seating and opportunities for public art. The interviews conducted jointly by the Port and BCDC made it clear that a large number of waterfront stakeholders would like to see improvements to the pedestrian and bicycle access on both the east and west side of the Embarcadero from China Basin to Fisherman's Wharf. However, the staff believes that timing and phasing, as well as the process for developing the standards would need to be incorporated into the SAP for this to be considered a public benefit for the cruise ship terminal project.
- *Implement phased, new openings to the Bay through Pier 19 ½, or phased removal of Pier 19 ½ in its entirety, with the option to build new maritime or other trust consistent facilities, including structures to support such uses within a portion of the existing footprint of Pier 19 ½, in Piers 19-23 basin.* Such phased improvements would require the reconstruction of the north wall of the Pier 19 bulkhead and the westernmost portion of the Pier 19 shed, consistent with Secretary's Standards, and public access along the Pier 19 north apron, the Pier 19 ½ apron and the Pier 23 south apron, including a Bayside History Walk, timed with a new long-term lease of Piers 19-23 or an earlier date agreed to by BCDC and the Port. As is the case with the Pier 29 and Pier 29 ½ improvements, the staff recommends that the public access improvements at Piers 19, 19 ½ and 23 should only be considered public benefits for the cruise ship terminal project, if this public access were to occur earlier than what is currently required by the SAP. If the improvements were completed later with a major lease at one or more of these piers, then that would be public access required by that project and not a public

benefit for cruise ship terminal project. BCDC staff has suggested that the public access and public benefit improvements to Piers 19, 19 ½ and 23 occur within 5 years of issuance of certificate of occupancy for the cruise ship terminal.

- *By a date to be determined jointly by BCDC and the Port, expand the Pier 43 Promenade Project to incorporate the renovation of the public plaza at the Pier 43 Historic Arch and adjacent areas, consistent with Secretary's Standards, to further improve public access and views along Fisherman's Wharf shoreline. For purposes of this requirement, no improvements that trigger a seismic upgrade will be required.* The Port and BCDC staff are in general agreement regarding the need for a public process that will result in more public space in Fisherman's Wharf—specifically a new open water basin in front of Pier 43 and a new public plaza in the area adjacent to Pier 43 that would serve to better connect the city to the Bay in this location. However, the staff recommends that the timing, parameters and outcomes of the public process would have to be better identified in order to provide a public benefit for the cruise ship terminal project. BCDC staff has suggested that this process be initiated by July 2012 and completed by July 2015.

**Applicant's Purpose for Requesting the Plan Amendment 4-11.** The America's Cup Event Authority and the Port of San Francisco requested an amendment to the SAP to allow the temporary berthing and mooring of assorted vessels in all four of the open water basins designated by the SAP. The temporary berthing of vessels associated with the America's Cup events in both 2012 and 2013 are currently inconsistent with the SAP and with the purpose of the open water basins as required by the SAP.

The SAP designated four open water basins from China Basin to Pier 35 in order to provide increased physical and visual access to the Bay, to provide open water adjacent to existing and proposed public open spaces and plazas, to provide public access along the perimeter of the open water basins and to provide opportunities for water-oriented recreation and transient berthing. The temporary berthing of vessels associated with the America's Cup prevent or frustrate many of these objectives by blocking views to the Bay, eliminating the opportunity for water-oriented recreation in most of the basins during the events and placing fill in the Bay to temporarily moor and berth vessels. Additionally, the length and magnitude of the America's Cup events are also inconsistent with the SAP. The length of mooring time, from approximately six months to 18 months, is longer than most temporary events, which often last a weekend. The magnitude of the event is large and the use of all four basins, the events along the San Francisco Waterfront both along the shoreline and in the water will dominate the waterfront for this amount of time.

BCDC staff requested that the Event Authority and the Port attempt to find alternative locations for the mooring and berthing of these vessels in order to avoid using the open water basins for this purpose. The alternative locations included Pier 80, Treasure Island and other areas along San Francisco's southern waterfront. The Port and the Event Authority were unable to find other suitable locations to moor and berth the vessels associated with the America's Cup for several reasons. The first is that the Event Authority stressed the importance of all of these vessels being in close proximity to the racing course, including the racing yachts, the private spectator yachts, the tender boats and the other boats associated with the events. The Event Authority did not feel that any of the alternative sites would be close enough to the race course to achieve the project objectives for the events.

Although the use of the open water basins remains part of the Event Authority and Port proposal, some areas were changed from the original berthing proposal. The original proposal was to use all of the Rincon Point Open Water Basin, the Brannan Street Wharf Open Water Basin and the Northeast Wharf Open Water Basin. BCDC staff believes that the area in front of Rincon Park should be left open to allow the public an area during the America's Cup Events that would not be dominated by the events and where the Bay would remain visible. At its

November 3, 2011 meeting, most Commissioners suggested that short and long-term use of this open water basin was inappropriate. The large, private yachts that were originally planned for the area in front of Rincon Park were moved to the Broadway Open Water Basin between Pier 9 and Pier 7 and in the area behind the ferry building north of Pier 14 ½.

BCDC staff met frequently with the Port, the Event Authority and the City, as well as stakeholders associated with water-oriented recreation and public access to develop the public benefits package for the America's Cup amendment. As with the public benefits package for the cruise ship terminal, the stakeholder interviews conducted in the winter of 2010 were also considered to determine possible priorities for improving the waterfront. In order to ensure that the public benefits balance with the use of all four open water basins during the America's Cup Events, the following benefits have been proposed to mitigate for the loss of the open water basins during the events:

- Removal of Pier 64 by March 2013;
- Removal of Pier ½ by March 2013 to provide improved public access and views prior to the 2013 America's Cup Events;
- Removal of the restaurant at Pier 2 and the provision of temporary public access on Pier 2 by March 2013 to provide improved public access and views prior to the 2013 America's Cup Events and the removal of Pier 2 as part of the Downtown Ferry Terminal Phase 2; and
- Provision of one or two water-recreation access sites along the San Francisco Waterfront by March 2013 to be available during the 2013 America's Cup Events and made available permanently after the events are over.

**Background.** The Bay Plan and SAP were amended in 2000 to alter BCDC's policies regarding fill removal and permitted use on piers, and this effort provided the opportunity to comprehensively plan the section of the waterfront from China Basin to Pier 35. The plan amendments were intended to strategically achieve the goals of the replacement fill policy, otherwise known as the 50 percent, rule rather than relying on a project-by-project approach. The amendments also set aside the McAteer-Petris Act requirement that uses on repaired piers must be water-oriented.

Prior to the 2000 amendment, the Bay Plan and SAP required that each project along the San Francisco waterfront that involved substantially rehabilitating a pier had to remove or provide public access on approximately 50 percent of that pier or another pier within the same geographic vicinity. By requiring that each project comply with the policy, both project and fill removal implementation was difficult and led to unreliable results. Fill may have been removed, but not in the most ideal locations. A site that was adequate for a certain project could be required to reduce its size and thereby eliminate the feasibility of the project. The new use requirements broadened the range of possible uses, and increased flexibility for the Commission, the Port and project proponents, increasing the likelihood that the waterfront would be developed with a vibrant mix of uses that served the community and the region.

A key purpose of the 2000 amendment to the SAP was to find the best locations for projects and the best locations for fill removal and, in a comprehensive plan amendment for the northeast waterfront, identify those locations and remove the requirement for each project to comply separately, which would likely have resulted in a haphazard approach to fill removal and to project design. The intent was to ensure that the result was a waterfront with accessible open water, public plazas, public access and viable project sites in a way that provided a rhythm of uses that complimented one another and provided public open spaces and views that complement and provide relief from the more intensely developed areas.

The overall objectives for the public benefits in the 2000 SAP amendment as identified in the findings for the SAP were:

- removal of deteriorating piers that pose a threat to navigation, and to public safety and health;
- restoration of significant areas of open water to enhance the ecological health of the Bay and to facilitate needed public recreation and access opportunities;
- completion of a waterfront-wide, integrated public access network, guided by a policy framework for expanding public access; design policies that promote low-scale development and preserve significant Bay views; an implementation program to fund and construct the plazas and pier removals; and enhancement of Bay views and opportunities to enjoy water areas adjacent to the Embarcadero;
- preservation of important and unique historic resources along the waterfront; and
- development of new uses to enable public enjoyment of the waterfront, including life safety and seismic improvements and repairs of existing piers.

The implementation requirements that ensure the public benefits required in the SAP include:

- Pier 34 removal within one year of adoption of amendments to the SAP or in July 2001 (*Completed*);
- Pier 24 removal within three years of adoption of amendments to the SAP or in July 2003 (*Removed most of the pier on a revised schedule approved by BCDC, delay caused by Migratory Bird Treaty, removal of remainder required to be completed by 2008, pursuant to 2003 BCDC permit*);
- Historic District Nomination by June 2002 (*Completed in May 2005, delays approved by BCDC*);
- Pier 36 removal within 15 years of the issuance of a certificate of occupancy for a major reuse of Piers 30-32, or a comparable development; (*Will be complete June 2012*);
- Brannan Street Wharf: 1) construct Phase 1 of the Brannan Street Wharf within 5 years of the issuance of a certificate of occupancy for a major reuse of Piers 30-32, or a comparable development and 2) complete the Brannan Street Wharf within 15 years of the issuance of a Piers 30-32 certificate of occupancy if funding is available, and within 20 years if funding is not available (*Port is planning to commence construction in 2011*);
- Northeast Wharf Plaza: construct Phase 1 of the Northeast Wharf Plaza upon the issuance of a certificate of occupancy for a major reuse of Piers 27-31, or a comparable development, by removing that portion of the Pier 27 shed required to create the Plaza, and 2) complete the Northeast Wharf Plaza within 15 years of the issuance of a Piers 27-31 certificate of occupancy, or a comparable development, if funding is available, and within 20 years if funding is not available (*this requirement will be the subject of the Port's request to amend the SAP for the cruise ship terminal project*);
- Pier 15-17 valley and non-historic shed removal within 20 years of the issuance of a certificate of occupancy for a major reuse of Pier 27 or a comparable major development (*modified by the Exploratorium amendment approved by the Commission in 2010; the Port and the Exploratorium are required to remove a portion of the valley and to remove fill equal to any remaining portion of the valley and non-historic shed additions in another location between Pier 35 and India Basin*);
- Portion of Pier 23 Shed removal within 15 years of the issuance of a Piers 27-31 certificate of occupancy or comparable development (*the subject of the Port's request to amend the SAP for the cruise ship terminal project*);

- Pier ½ removal triggered by Ferry Terminal Phase 2 development (*proposed changes as part of this amendment that would result in the removal of Pier ½ by March 2013 as part of the 34<sup>th</sup> America's Cup events*); and
- Pier 2 removal triggered by Ferry Terminal Phase 2 development or Agriculture Building renovation. (*proposed changes as part of this amendment that would result in the removal of the restaurant on Pier 2 by March 2013 to allow for the provision of public access during the 2013 34<sup>th</sup> America's Cup events and removal of Pier 2 by January 2015.*)

In order to approve an amendment to the SAP, the Commission must make the following finding: “[f]uture amendments of the SAP, as adopted on July 20, 2000, affecting the Northeastern Waterfront Area (Pier 35 to China Basin), may only be approved if the Commission finds that the revised public benefits and revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the public in the entire Bay Area.”

**Cruise Ship Terminal Amendment Proposal 3-11.** The proposed amendments for the cruise ship terminal impact many of the public benefits identified in the 2000 amendment to the SAP. The proposed amendment was initiated by a descriptive notice, which was mailed out on April 22, 2011. The hearing for the descriptive notice was held on May 5, 2011. There were two oral comments provided at the public hearing. The first, given by Ruth Gravanis for Teri Shore of Turtle Island Restoration Network, expressed concern regarding air quality impacts of the cruise ship terminal. Specifically, Ms. Shore's statement identified the dismantling of the shore side power that was recently installed at Pier 27 to allow for the 34<sup>th</sup> America's Cup Events and the inability of the Port to use this shore side power during the America's Cup events, would result in air quality impacts. Additionally, Ms. Shore's statement indicated that the mitigation that was required for the cruise ship terminal at Piers 30-32, which was not built, should be required for the cruise ship terminal at Pier 27. This mitigation included no dumping of waste water or ballast water, requirements for use of shore side power and cleaner fuels while in port, public reporting and monitoring of discharges and fuel quality used by the cruise ships. The second oral comment was from David Osgood of the Rincon Center Tenant's Association. Mr. Osgood expressed concerns that the cruise ship terminal project would result in reduced visual and physical access to the Bay.

There were a number of informal conversations and one formal meeting of the stakeholders to discuss the amendment proposal. The stakeholders expressed the same concerns about the proposal to amend the SAP for the cruise ship terminal as they did regarding the amendment of the SAP in early 2010 for the Exploratorium project. Specifically, they stated that they were concerned that amending the SAP for a project would compromise the public benefits and that the amendment should be approached comprehensively, moving beyond the project site for public benefits and policy changes. They also expressed that they would like the public benefits to occur in the Northeastern Waterfront, sooner than what is currently required in the SAP and as close to the project site as possible. Another important consideration for the stakeholders who were involved in the discussions was that the fill should be removed in a location where people would be able to enjoy it, rather than in a remote location with little public access. The balance between historic resource preservation and fill removal was also discussed with the stakeholders, as the Port's request to retain the Pier 23 shed and the Port's need to relocate the Northeast Wharf Open Water Basin may result in the need to remove sheds and piers that are currently designated as contributing resources to the historic district. Some of the stakeholders expressed concerns about removing contributing resources and others expressed the need to find a balance between historic resources and fill removal and open water. Both agreed that a public process to develop a better approach to deteriorating historic resources should be developed by the Port and BCDC. The stakeholders involved in the discussions included David Lewis of Save the Bay, Jennifer Clary of San Francisco Tomorrow and Aaron Peskin of the

Telegraph Hill Dwellers. Additionally, as stated previously, the results of the 35 stakeholder interviews conducted in late 2010 and early 2011 were also used to develop the approach and components for the public benefits package for the cruise ship terminal.

**America's Cup Amendment Proposal 4-11.** The proposed amendments for the 34<sup>th</sup> America's Cup Events address the short-term use of all four open water basins designated by the SAP. The amendment would allow for:

- The temporary use of the Northeast Wharf Open Water Basin for the temporary mooring and berthing of assorted vessels in the entire basin from May 2013 to September 2013. The fill associated with the temporary mooring and berthing will be removed no later than January 2014.
- The temporary use of a portion of the Broadway Open Water Basin, from Pier 7 to Pier 9, for the temporary berthing of large, private yachts from May 2013 to September 2013. The fill associated with the temporary berthing will be removed no later than January 2014.
- The temporary use of a portion of the Rincon Point Open Water Basin, from the northern boundary of Rincon Park to Pier 14, leaving views in front of Rincon Park unobstructed, for the temporary berthing of large, private yachts from May 2013 to September 2013. The fill associated with the temporary berthing will be removed no later than January 2014.
- The temporary use of the Brannan Street Wharf Open Water Basin for the berthing and mooring of team racing boats and large, private yachts from May 2012 to September 2013. The fill associated with the temporary berthing will be removed no later than January 2014.

In addition to the temporary uses associated with this amendment request, there was a right to negotiate long-term development in the Rincon Point Open Water Basin that was relocated to the Pier 54 area, and a similar right in the Brannan Street Wharf Open Water Basin that remains. These rights are described in the 34<sup>th</sup> *America's Cup Host and Venue Agreement* between the America's Cup Event Authority and the City and County of San Francisco. The long-term development rights for recreational marinas in both of these open water basins are inconsistent with the current SAP, and would require that new open water basin locations be found to replace the open water basins that would be eliminated by filling them with marinas.

The America's Cup amendment was initiated by a descriptive notice, which was mailed out on October 21, 2011. The hearing for the descriptive notice was held on November 3, 2011. There was one written comment and fourteen oral comments provided at the public hearing. The written comment was a joint letter signed by David Lewis of Save The Bay, Jennifer Clary of San Francisco Tomorrow and Jon Golinger of the Telegraph Hill Dwellers. The letter expressed concern regarding the request to amend the SAP for projects rather than a comprehensive amendment to the SAP and recommended that BCDC and Port staff review the stakeholder interviews for guidance on how to approach these amendments to the SAP. Additionally, these stakeholders urged the Commission to consider the amendments for the cruise ship terminal together rather than as separate amendments and to look at the following issues when considering these amendments to the SAP—ensure that the three open space plazas described in the SAP be completed by a date certain, protect all four open water basins and require mitigation for short-term loss and protect public access at public spaces from restrictions and require mitigation for short-term loss.

The oral comments were provided by:

- Julie Ring, representing Waterbar and Epic Restaurants who spoke in support of the amendment as currently proposed with the views from Rincon Park protected.

- Katy Liddell, the President of the South Bay Rincon Mission Bay Neighborhood Association and member of the Rincon Point South Beach Citizens Advisory Committee who spoke in opposition to permanent recreational marinas in either the Rincon Point or Brannan Street Wharf Open Water Basins.
- David Lewis, Executive Director of Save The Bay expressed concern regarding the current implementation of the SAP policies and the current proposal to amend the SAP for the America's Cup project. He described possible mitigation for the impacts to public access and SAP goals, including removing buildings behind the ferry building to open up views and public access both during and after the event.
- Corinne Woods, Co-chair of the Port Central Waterfront Advisory Group, a Port waterfront tenant, who stated that the Commission should require enforceable mitigation measures to offset the impacts of these short-term uses of the special areas, expressed concern regarding the America's Cup and its impact to Port revenue and spoke in opposition to permanent marinas in either Rincon Point or Brannan Street Wharf Open Water Basins.
- Paul Nixon, member of the Central Waterfront Advisory Group and member of the Board of Directors of Bay Access, expressed concern that different users of the Bay will not be able to use the Bay during preparations for and during the event, including the open water basins where the boats will be berthed and moored.
- Jennifer Clary, President of San Francisco Tomorrow expressed concern that the amendment would split the temporary and long-term uses and take a big piece out of the open water basins, a foundational component of the Special Area Plan. She requested that the Commission find a way not to use all four basins and find mitigation for the temporary use of the basins, creating new open water views.
- Christina Rubke, Vice-Commodore for the Bay Area Association of Disabled Sailors and member of the America's Cup Organizing Committee expressed support for the amendment.
- Bridgette LeBlanc, board member for the San Francisco African American Chamber of Commerce, stated that the America's Cup will benefit San Francisco businesses and add to the economic development for San Francisco and urged the Commission to support the amendment.
- Penny Wells, member of the Bay Access Board of Directors, expressed concern that there will be restrictions on access for small boats and for the ability of the public to get to the water. She requested an executive summary of proposed restrictions and limitations be presented along with the mitigation accompanying those limitations.
- William Robberson, the San Francisco Board Sailing Association also expressed concern regarding restrictions to access and urged the Commission to lead this discussion. He expressed support for an America's Cup event if it were done in a balanced way.
- Deb Self, Executive Director of San Francisco Baykeeper and member of the America's Cup Environmental Council expressed concern that the short-term impacts were being addressed in this amendment while the long-term impacts were not being analyzed and stated that she did not want the amendment to result in long-term impacts that are accidental and expressed opposition to recreational marinas in the Rincon Point and Brannan Street Wharf Open Water Basins.

- Brad Benson, Special Projects Manager with the Port of San Francisco urged the Commission to support the amendment and stated that the amendment was a temporary amendment and the fill associated with the amendments will be removed at the conclusion of the events and that the Port will continue to work to develop a public benefit package that retains the vision of the SAP.
- David Osgood, President of the Rincon Center Tenants Association, expressed opposition to both the short and long term use of the open water basins for mega-yachts, including the dredging associated with the short-term use, which he described as an incredibly destructive process.

Since the public hearing, there have been discussions with stakeholders regarding the amendment proposal, as well as a number of meetings with the Port, City and Event Authority staff to attempt to reduce or avoid the impacts of the current proposal and to find the appropriate mitigation measures for the impacts that cannot be reduced or avoided. Through these negotiations, the long-term marina use at Rincon Point Open Water Basin has been removed from the Host and Venue Agreement and the right to negotiate a recreational marina use has been moved to the area around Pier 54. A marina use at this site is consistent with the current policies in the SAP. Additionally, the public benefits proposal developed for the America's Cup events was guided by the public comments provided at the public hearing as well as discussions with stakeholders. These new public benefits include fill removal, the development of at least one and possibly two access sites for water-oriented recreation for use both during the America's Cup events and permanently after the close of the events, the early removal of the restaurant at Pier 2 prior to the 2013 America's Cup events to provide new views to the Bay and the early removal of Pier ½ prior to the 2013 America's Cup events to bring Bay views closer to Embarcadero and the Promenade. Additionally, the permit for the America's Cup will require a number of public access benefits, both long and short term.

New findings and policies in the SAP attempt to address some of the concerns raised by the public during public hearings for both the cruise ship terminal and the America's Cup events. A finding regarding the purpose of the open water basins and the importance of retaining their integrity is proposed, as well as findings regarding the need to provide public benefits for short-term uses of the waterfront that are in scale with the duration and magnitude of the events.

The new policies proposed for the SAP were designed to provide a public benefits package that would balance with the proposals to amend the plan for the cruise ship terminal and the America's Cup projects. The policies attempt to provide a comprehensive amendment to the SAP and span the San Francisco Waterfront from Pier 64 to Fisherman's Wharf. However, the policies also attempt to ensure that the new public benefits occur as close to the project sites as possible and also are required to be implemented sooner, or no later than, those that were required in the 2000 amendment.

The proposed policies proposed also include the requirement to conduct three future public processes to: (1) determine the location for a new open water basin to replace the one eliminated by the City and County of San Francisco's new cruise ship terminal, (2) develop a clearer process for managing historic resources along the waterfront; and (3) planning, designing and developing an implementation plan for a new public plaza and new open water basin in Fisherman's Wharf. These policies were designed to recognize the balance between amending the SAP in time to allow the America's Cup events to move forward without losing sight of the need to take a more comprehensive look at the SAP, particularly once the America's Cup events are completed to address several unresolved issues. These public processes must meet specific parameters and deadlines for completion to provide a level of certainty for the public and to avoid upsetting the balance of public benefits, which underpins the SAP. This balance must be maintained, or the Commission may set aside the SAP, and the regulatory changes embodied in it.

### Preliminary Recommendation

The staff preliminarily recommends that the Commission amend the SAP as follows:

**1. Proposed 3-11 Amendments to**

- a. Require a public process to be initiated in July 2012 and completed by July 2015 to develop an open water basin and public plaza in the Fisherman's Wharf geographic area;
- b. Add findings that explain the policy and implementation requirement changes;
- c. Modify the Open Water Basin Policies to: (a) delete the open water basin between Piers 19 and 27; and (b) require a planning process to identify a new open water basin within the Northeastern Waterfront (Pier 35 to China Basin) to replace the deleted open water basin; (4) provisionally delete the requirement to remove a portion of the Pier 23 shed, conditioned on the approval by BCDC of a new, substitute open water basin within the Northeastern Waterfront;
- d. Modify Public Plaza policies for Northeast Wharf Plaza to: (a) revise the view requirements around Piers 23 and Piers 29 and at Northeast Wharf Plaza; (b) modify the Pier 27 shed removal requirements; and (c) delete the allowance for commercial active recreation use of Northeast Wharf Plaza and the requirement for waterside and small craft access in the plaza;
- e. Modify the Plan Implementation Requirements to: (a) reflect completed requirements; (b) identify new public benefits and phasing; (c) accelerate the completion of the Northeast Wharf Waterfront Plaza; (d) identify the phasing and parameters for creating a replacement open water basin within Northeast Wharf (Pier 35 to China Basin); and (e) require a public process to identify strategies for addressing historic resources along the San Francisco Waterfront that have been closed to occupancy and use for public safety reasons;
- f. Modify Figure 2 Open-Water Basins, Open Water Areas and Public Plazas to reflect changes described above in a through e (See Figure 2);
- g. Modify Figure 3 Northeast Wharf Plaza to reflect changes to the planning area from Pier 19 to Pier 33 (See Figure 3);
- h. Modify Special Area Plan Map 1 to add new requirements for a planning process to develop an open water basin and a public plaza in Fisherman's Wharf planning area (See Figure 4); and
- i. Modify Special Area Plan Map 2 to reflect changes to the planning area from Pier 19 to Pier 33. (See Figure 5)

**2. Proposed 4-11 Amendments to:**

- a. Add findings related to proposed policy changes;
- b. Modify Open Water Basin Permitted Uses to allow the temporary use for the 34<sup>th</sup> America's Cup events;
- c. Modify Open Water Basin Policy 3 to allow the temporary use for the 34<sup>th</sup> America's Cup Events that will result in temporary fill to berth vessels;
- d. Require the following public benefits to balance the impacts of the temporary use of the basins; and
- e. Modify Special Area Plan Map 5 to add the requirement to remove Pier 64. (See Figure 6)

**Proposed Changes to the San Francisco Waterfront Special Area Plan for Bay Plan Amendment Nos. 3-11 and 4-11**

The SAP sections for the cruise ship terminal amendment would be modified by the proposed amendment. Proposed additions in language are shown as underlined, while proposed language deletions are shown as ~~struck through~~.

<p align="center"><b>PROPOSED POLICY: FISHERMAN’S WHARF (HYDE STREET PIER THROUGH PIER 39 AND EAST WHARF PARK)</b></p>	<p align="center"><b>STAFF ANALYSIS</b></p>
<p><b>Add underlined and delete <del>struck through</del> language as follows:</b></p> <p>Develop a major public plaza extending to the Bay <u>and an open water basin</u> within the Fisherman’s Wharf area. <u>The Fisherman’s Wharf Open Water Basin should include a small craft launch to allow for water recreation and transient boating opportunities.</u> <u>In order to identify the appropriate location and design of the plaza and open water basin, a working group involving Port tenants in the area, the Port, the San Francisco Planning Department, BCDC, local and regional interest groups and other interested parties should be formed to develop plaza and open water basin concepts. This planning process should be initiated by July 1, 2012 and should develop a plan that includes the Fisherman’s Wharf Open Water Basin and Plaza design and financing by July 1, 2015. Following the implementation of the public plaza extending to the open water basin, in combination with the Port’s removal of Pier 43 ½ and adjacent public access improvements at Jefferson Street, the Port may initiate an SAP amendment to request that the Commission substitute the Fills for Public Trust Uses policy for the Replacement Fill Policy (50% rule) in the Fisherman’s Wharf geographic area. This would involve establishing a Fisherman’s Wharf plaza planning process involving the tenants, Port of San Francisco Planning Department, BCDC, Save the Bay and other interested parties to address the many issues associated with a plaza at Fisherman’s Wharf and to establish a plan and implementation program for effectuating the plaza as part of an overall review of the Special Area Plan policies in the Fisherman’s Wharf area.</u></p>	<p>In order to ensure that the public benefits associated with the cruise terminal amendment are significant and comprehensive enough to balance the loss of the open water basin between Piers 23 and 27, the development of a planning process that would result in the provision of an open water basin and public plaza in the Fisherman’s Wharf area was proposed by BCDC staff and agreed to by the Port staff. The proposal for a public process is a refinement and clarification of a current policy in the SAP and also recognizes the opportunity that the Port’s removal of Pier 43 ½ provides for both an open water basin and plaza, but also for the elimination of the Replacement Fill Policy (50% rule) in Fisherman’s Wharf, which would remove uncertainty and barriers to seismic and other improvements in Fisherman’s Wharf and for other circulation improvements that are currently being evaluated by the City and County of San Francisco.</p>

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN) Base of Telegraph Hill Description</b>	
<b>Proposed Text Changes</b>	<b>Staff Analysis</b>
<p><b>Add underlined language as follows:</b></p> <p>...the northernmost area contains a mix of uses that reflect the area’s maritime history and its active transition to an urban and commercial district. Cargo shipping, warehousing and other maritime operations, including the international cruise ship terminal, the bar pilots and tugboat operations, still occupy some of the finger piers in this area. However, trends indicate that cargo shipping will continue to consolidate in the central and southern waterfront. <u>Pier 31 has been closed to occupancy and use due to its advanced deterioration.</u> Piers 9 to 33 are used for office uses, warehousing, including the foreign trade zone warehouse, incubator businesses, fish processing, parking, tour bus staging, excursion boat operations, surplus military ship berthing and various other uses. In general, these uses reflect the industrial, maritime character of the waterfront.</p>	<p>The addition of this language to the description of the Base of Telegraph Hill area acknowledges the Port’s analysis of pier condition, specifically that Pier 31 has been closed to occupancy and use for public safety reasons.</p>
<p><b>Add underlined and delete struck-through language as follows:</b></p> <p>The Herb Caen Way promenade connects this area to the adjacent Fisherman’s Wharf and Ferry Building areas and provides continuous physical public access through the area. Opportunities to expand public access include creating a significant plaza and improving access on each pier and the shoreline with development projects. Visual access to the Bay is limited, available only through the periodic breaks in the relatively continuous facade of historic bulkhead buildings in this area. Opportunities to open views in this area are limited by historic preservation goals, <u>except for non-historic portions of Piers 27 and 29 and deteriorating sheds and piers where rehabilitation is not feasible or pursued, one key location between Piers 23 and 29, where removal of significant portions of the Pier 23 and Pier 27 (non-historic) sheds or piers could greatly enhance visual and physical access in this area.</u></p>	<p>The proposed change in language to this section of the Base of Telegraph Hill description is to acknowledge the change in opportunity for opening up views that results from the Port’s analysis of pier condition, the relocation of the cruise ship terminal from Piers 30-32 to Pier 27, the intention to retain the Pier 23 shed and the intention to remove the entire Pier 27 shed and replace with a new building and to remove the non-historic portion of Pier 29.</p>

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN) South Beach Waterfront Description</b>	
<b>Proposed Text Changes</b>	<b>Staff Analysis</b>
<p><b>Add underlined and delete <del>struck-through</del> language as follows:</b></p> <p>...extends from the northern edge of Pier 24-1/2 at the terminus of Harrison Street south to <u>the Giant's baseball park-Pacific Bell Park</u>, adjacent to the Third Street Bridge at Pier 46B on China Basin. Piers in this area encompass a mix of uses, including maritime, industrial, office, dry boat storage, film production, moving and storage, open parking, occasional events, and other uses. <u>The majority of Pier 24 and all of Pier 34 have been are condemned, and their removal removed, pursuant to the plan implementation requirements adopted in 2000 offers the opportunity to improve</u> improving visual and physical access to the Bay. The three remaining historic bulkhead buildings along the shoreline reflect the Mission Revival (Piers 26-28) and Mediterranean styles (Pier 38), distinct from the monumental classical style of their northern neighbors. Seawall lots in the area are improved with residential uses, open parking lots, a park and <u>the Giant's baseball park-Pacific Bell Park</u>.</p>	<p>The proposed change in language to the South Beach Waterfront description is to bring the SAP up to date regarding pier removal and the changes in the name of the Giant's baseball park.</p>

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN) Findings</b>	
<b>Findings</b>	<b>Staff Analysis</b>
<p><b>Add underlined language as follows:</b></p> <p>20. <u>Since the 2000 amendment to the SAP, the Port has conducted a more thorough analysis of the condition of its piers and sheds. This analysis determined that Piers 30-32, previously planned as the future international cruise ship terminal for the City and County of San Francisco, will require significant rehabilitation prior to development. The assessment also determined that Piers 23 and 27 were in good condition, requiring little rehabilitation prior to development. A number of piers were also identified as being in failing or poor condition and in need of significant repair, including Piers 26, 28 and 31.</u></p>	<p>The new finding recognizes new information available to the Port, BCDC and other interested parties regarding the condition of the sheds and piers within the Port's jurisdiction. The findings of the Port's analysis have implications for this amendment, in that the findings regarding Piers 30-32, Piers 27-29 and Pier 23 are directly related to the requests to relocate the cruise ship terminal and to retain the Pier 23 shed. The finding also recognizes that several piers and pier sheds are in need of significant repair and intervention to avoid becoming a public health and safety hazard and result in ecological impacts to the Bay.</p>
<p><b>Add underlined language as follows:</b></p> <p>21. <u>A number of public benefits identified in the 2000 amendment were predicated on the development of Piers 27-31 in a way that would result in the preservation of an open water basin adjacent to the Northeast Wharf Plaza, public access along the adjoining pier aprons, the removal of a portion of Pier 23 to open up views to the Bay from the plaza and the Embarcadero and boating access from the plaza to the open water basin. The relocation of the new international cruise ship terminal from Piers 30-32 to Pier 27 and the finding that Pier 23 is in good condition and could be developed, compromises many of the public benefits envisioned in 2000 in conjunction with the development of these piers, requiring that new public benefits be identified for this area of the waterfront that are equal to or better than the public benefits required by the 2000 amendment.</u></p>	<p>This finding describes the impacts that relocating the cruise ship terminal to Pier 27 has on the public benefits in the current plan and states that new public benefits would need to be found that are equal or better to those being eliminated or impacted by relocating the cruise ship terminal to this location in order for the Commission to continue to find that the regulatory changes adopted in the 2000 amendment are necessary to the public health, safety and welfare of the entire Bay Area, and warrant setting aside the otherwise applicable use policies of the McAteer-Petris Act.</p>

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN) Findings</b>	
<b>Findings</b>	<b>Staff Analysis</b>
<p><b>Add underlined language as follows:</b></p> <p>22. <u>The 2000 amendment required the Port to nominate the Northern Waterfront Historic District for listing on the National Register of Public Places. The District was listed on the National Register in 2005. The piers, sheds and other features identified as contributing resources to the Historic District are important to retain to the extent feasible. However, a Port-BCDC-sponsored public process is needed to develop a plan for those facilities that have been closed to occupancy and use for public safety reasons and that continue to deteriorate, to ensure that the deterioration does not result in public and environmental hazards, and that the integrity of the District is maintained rather than becoming an area characterized by extensive areas of deteriorating piers that are unusable.</u></p>	<p>The finding describes the process that was required and completed to list the Northern Waterfront Historic District from China Basin to Pier 35 on the National Register of Public Places. The finding goes on to recognize that the listing by itself does not ensure the protection of these resources and public process to develop a plan for facilities that have been closed to occupancy and use for public safety reasons is necessary to ensure both the integrity of the Northern Waterfront Historic District and the public health and environmental safety of the Port's lands.</p>
<p><b>Add underlined language as follows:</b></p> <p>23. <u>Pier 27 is the most suitable location for a new, international cruise ship terminal on the San Francisco waterfront due to its size, its apron length and width, structural integrity, and the availability of the infrastructure to easily supply the cruise ships with shoreside power. Other cruise ship berthing sites on the Northeastern Waterfront are also necessary to accommodate the annual ship calls. Sites that are viable as secondary sites for ship calls include Pier 35 and Piers 30-32.</u></p>	<p>The finding acknowledges the unique aspects of Pier 27 that make it especially suitable for a cruise ship terminal.</p>

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN) Findings</b>	
<b>Findings</b>	<b>Staff Analysis</b>
<p><b>Add underlined language as follows:</b></p> <p>24. <u>The use of the San Francisco Waterfront for special events may provide a unique opportunity to achieve several key objectives of the SAP, including bringing more people to the waterfront and increasing the public's enjoyment of the Bay. If special events use of the San Francisco Waterfront, including the designated open water basins, is consistent with the integrated public benefits identified in Finding 15, the use is temporary and provides public benefits to balance the temporary impacts which are commensurate with the size and duration of the event, then such a use could be found consistent with the SAP.</u></p>	<p>The finding describes the potential benefits of allowing special events along the San Francisco Waterfront and the types of public benefits that can offset the impacts of such special events that privatize public access areas and disrupt normal, ongoing public use and enjoyment of the waterfront. The finding clarifies that future use of the waterfront from Pier 35 to China Basin for special events could be consistent with the SAP if public benefits are provided that are within the scale of the proposed event.</p>
<p><b>Add underlined language as follows:</b></p> <p>25. <u>The 2000 amendment required four open water basins for the purpose of preserving or opening up views of the Bay, connecting public access and public plazas with the Bay, providing areas for temporary and transient berthing and mooring along the San Francisco Waterfront and creating opportunities to develop recreational access to the water. To maintain the balance of public benefits with public and private development, it is necessary that the area from China Basin to Pier 35 still contain four open water basins, without other permanent uses, such as marinas or cruise ship berthing, being sited in these open water basins. Proposals for non-conforming uses that prevent achieving the open water basin purposes in any of the designated open water basins can only be approved if a new, alternative open water basin within the area between China Basin and Pier 35 is identified and established through a future amendment of the SAP. The 2012 amendment establishes a policy requiring a public planning process and the timely identification of a substitute open water basin for the Northeast Wharf Open Water Basin.</u></p>	

Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN) Findings	
Findings	Staff Analysis
<p><b>Add underlined language as follows:</b></p> <p><u>26. The removal of Pier 31 could create a suitable replacement for the Northeast Wharf Open Water basin between Pier 29 and Pier 33. In combination with the removal of the shed at the tip of Pier 27-29 to create a pier-end public space, providing public access on the north side of Pier 29, opening Pier 29 1/2 public access and providing the Bayside History walk in Pier 29, the open water basin created here could provide similar benefits as those eliminated by developing the primary cruise terminal at Pier 27, eliminating the Northeast Wharf Open Water Basin and retaining the Pier 23 shed.</u></p>	

**Policies.** The proposed policy changes enable the reuse of certain piers along the Northeastern Waterfront and facilitate the implementation of a public benefits package. The public benefits include a program of pier removal to create open water, creation of two major public plazas, and the provision of on-pier public access, including a Bayside History Walk.

Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)	
Open Water Basins Permitted Uses	Staff Analysis
<p><b>Add underlined language as follows:</b></p> <ul style="list-style-type: none"> <li><u>Temporary use for the 34<sup>th</sup> America's Cup event that increases the public enjoyment and interest in the Bay and is developed consistent with Finding 15 of the SAP, including the provision of public benefits that balance the extent and duration of the temporary use. (Policy expires June 30, 2014)</u></li> </ul>	<p>The policy provides the use of the open water basins from July 2012 to January 2014 for the 34<sup>th</sup> America's Cup events, if the project provides public benefits sufficient to offset impacts on public access and is consistent with the finding associated with the public benefits package required in the current SAP.</p>

Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)	
Open Water Basins Policies	Staff Analysis
<p><b>Add underlined and delete struck-through language as follows:</b></p> <p>2. Preserve or create four Open Water Basins, including the removal of certain piers, to enable permanent enjoyment of the Bay at the following locations:</p> <p>a. <u>In order to ensure the integrity of the public benefits provided for in this plan and to replace the Northeast Wharf Open Water Basin, the Port must identify and BCDC must approve in a subsequent amendment to this plan, a new location for the fourth open water basin within the Northeastern Waterfront (Pier 35 to China Basin) by December 31, 2015. The new open water basin should improve views to the Bay from the Embarcadero, provide an opportunity for increased water-recreation access to the Bay and be as close to Piers 27-29 as possible. If siting an open water basin between Piers 29 and 33 is found to be infeasible by a public process beginning no later than July 2012 and being completed no later than July 2015, the requirement to remove the Pier 23 shed, including at least 315 feet of the easternmost portion of the shed will remain until the location, planning and funding of a replacement open water basin is identified by the Port and approved by BCDC. No development may be authorized in the easternmost 315 feet of Pier 23 until BCDC has approved the replacement water basin in an amendment to the SAP. The “Northeast Wharf Open Water Basin” between Piers 19 and 27, including removal of a portion of the Pier 23 shed to improve Bay views. The removal of the Pier 23 shed should include at least 315 feet of the easternmost portion of the shed. Any additional removal should reflect the historic preservation goals of this plan, and the Port’s and the City’s plan policies. The Pier 23 deck supporting that part of the Pier 23 shed that would be removed, may be removed or may be retained and used for public access purposes, including transient and temporary non-commercial recreational boat berthing.</u></p>	<p>This policy identifies the process and parameters for the relocation of the fourth open water basin that results with the use of Pier 27 as a cruise ship terminal and the retention of the Pier 23 shed.</p>

Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)	
Open Water Basins Policies	Staff Analysis
<p><b>Add underlined and delete struck-through language as follows:</b></p> <p>3. Within Open Water Basins, limit new fill to:</p> <p>a. mooring buoys and pile-supported or floating platforms for non-commercial, transient boats to provide shoreline access;</p> <p>b. <u>Temporary use for the 34<sup>th</sup> America's Cup Events requiring temporary fill to berth vessels. Fill will be placed in May 2013 and removed no later than January 2014, except within the Brannan Street Open Water Basin, where fill will be placed in May 2012 and removed no later than January 2014. In the Rincon Point Open Water Basin, the temporary fill should be limited to the area from Pier 14 to the northern boundary of Rincon Park (see Exhibit 1) to ensure that public views from Rincon Park and the Promenade will be unobstructed by berthed vessels. The public benefits required to balance the temporary impact to all four open water basins are: (1) the siting of at least one, permanent, accessible, small craft launch along the San Francisco Waterfront by March 2013 so that it can be used during the event and will be available for use after the event; (2) removal of Pier ½ by March 2013; (3) removal of the restaurant on Pier 2 by March 2013 and the provision of public access on this Pier to be made available for the event; and, (4) removal of Pier 64 by January 2015.</u></p> <p>c. berthing facilities, such as mooring dolphins and buoys, pile-supported or floating platforms, etc., for berthing of commercial vessels (vessels up to approximately 300 feet in length) and temporary ceremonial and visiting ships at the boundary of the Open Water Basins, as provided below:</p> <p>Policies d, e, f, g, h – no change</p>	<p>The policy provides for the duration and parameters of the temporary use of the open water basins for the America's Cup events and identifies the associated public benefits required to balance and reduce the impacts of the temporary use of the open water basins. The policy also restricts the area that may be used within the Rincon Point Open Water Basin temporarily for the America's Cup events.</p> <p>The policy providing the parameters for the Northeast Wharf Open Water Basin is being deleted in recognition that the public benefits associated with this open water basin must be relocated.</p>

Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)	
Open Water Basins Policies	Staff Analysis
<p>i. <del>in the Northeast Wharf Open Water Basin, at Pier 27, facilities may be permitted for temporary berthing of ceremonial and visiting ships that do not extend landward of the Pier 27 shed (as partially removed to create the Northeast Wharf Plaza). At Pier 23, facilities may be permitted for lay berthing of boats on the south apron, provided berthing does not extend Bayward of the Pier 23 shed (as partially removed, see Open Water Basin policy 2 above);</del></p>	
Open Water Area Policies	Staff Analysis
<p><b>Add underlined and delete struck through language as follows:</b></p> <p>1. Open Water Areas are those areas of the Bay not designated as Open Water Basins. Create new Open Water Areas as follows:</p> <p>a. remove Pier 24;</p> <p>b. <u>By March 2013, remove a portion of Pier 1/2 as part of the 34<sup>th</sup> America's Cup Event project, Ferry Terminal Phase 2 development project,</u> retaining only that portion required for retaining a vessel berthing facility and public access;</p>	<p>This policy accelerates the requirement to remove Pier ½ so that is provided as part of the America's Cup project and is provided in time to be a public access, view and fill removal benefit for the public during the event.</p>
<p><b>Add underlined and delete struck through language as follows:</b></p> <p>c. <u>By March 2013, remove the existing restaurant at Pier 2 as part of the 34<sup>th</sup> America's Cup Event project and make this space available for public access during the event. <del>Remove the northern portion of Pier 2 as part of the Downtown Ferry Terminal Phase 2 development project, either as part of:</del> (1) <u>the Agriculture Building improvement project or the Ferry Terminal Phase 2 development project, whichever comes first;</u> or (2) any reconfiguration of the existing restaurant on Pier 2;</u></p>	<p>This policy accelerates the requirement to remove the restaurant at Pier 2 so that it is provided as part of the America's Cup project and is provided in time to be a public access and fill removal benefit for the public during the event. The provision of new public space during the event is particular critical based on the number of people that are projected to visit the waterfront to enjoy the America's Cup events.</p>

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)</b>	
<b>Public Plazas Policies Northeast Wharf</b>	<b>Staff Analysis</b>
<p><b>Add underlined and delete struck-through language as follows:</b></p> <ol style="list-style-type: none"> <li>1. Create a "Northeast Wharf Plaza," as a new, major, destination plaza between Piers 23 and 29 along The Embarcadero, opening up views from <u>the Embarcadero to the Bay, Lombard Street and The Embarcadero to the Bay, Yerba Buena and Treasure Islands, and the Bay Bridge</u>. The approximately 2-acre plaza should be designed to function as a major attraction for visitors and residents. In addition, provide open space around the Beltline Railroad Office Annex building, if it remains in its present location, and maintain unobstructed views from the Annex across the plaza to the Bay. <del>The Plaza should be oriented to the Open Water Basin between Piers 27 and 19.</del></li> </ol>	<p>The policy deletes reference to views that will not be available with the retention of the Pier 23 shed and the open water basin that will be relocated to another location within the Pier 35 to China Basin area.</p>
<p><b>Add underlined and delete struck-through language as follows:</b></p> <ol style="list-style-type: none"> <li>2. <u>If the Pier 27 shed is not removed to construct a new cruise ship terminal, then</u> <del>To</del> create this plaza, remove approximately 56,000 square feet of the Pier 27 shed (384 feet in length as measured from its southwest corner near Pier 23 and 224 feet in length as measured from the northwest corner near Lombard Street), and remove the Pier 27 Annex Building (the two-story, modern office building). See Figure 3 illustrating the plaza boundaries and footprint.</li> </ol>	<p>As part of both the America's Cup and cruise ship terminal projects, the Pier 27 shed is proposed to be removed and a new building constructed in its place. If the shed is removed, the detail regarding the development of the plaza and the amount of shed to be removed will be unnecessary.</p>

**Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)**

**Delete struck-through language as follows:**

3. ~~Commercial Active Recreation Use of Northeast Wharf Plaza: In the event that the Pier 27/29 complex is developed as a private commercial facility for active recreation, (e.g., gymnastics, swimming, racquetball, etc.), and only in that event, an approximately 15,000 square foot portion of the Northeast Wharf Plaza may be used by the developer for commercial, outdoor recreation activities, provided that the following conditions are met:~~
- a. ~~the 15,000 square foot area is confined to the area located and illustrated on Figure 3;~~
  - b. ~~the commercial use serves an important active recreation need of the residents of the City and of the Bay region;~~
  - c. ~~the commercial use complements or enhances the public use and enjoyment of the Plaza;~~
  - d. ~~the project sponsor recognizes and agrees that this designated area is part of the Plaza, and that the commercial use should complement or enhance its function as a public park;~~
  - e. ~~the project sponsor submits an Outdoor Area Use Plan as part of its initial permit application to BCDC, and a proposed Outdoor Area Use Program on an annual basis thereafter, to be reviewed jointly by the BCDC and Port Design Review Boards;~~
  - f. ~~structures or fixtures may be erected as part of the commercial activities, only if they are integrated into the overall design and contribute to the public enjoyment of the area, when made available for general public use. Such structures or fixtures should not impair or obstruct views to the Bay from The Embarcadero or from other vantage points within the Plaza and should be approved by the BCDC and Port Design Review Boards. Any temporary structures or fixtures used as part of the commercial activity must be removed as soon as the activity ceases;~~

During the 2000 amendment to the SAP, there was a proposal to develop a commercial recreation use at Piers 27-29. That proposal is no longer relevant and the policy pertaining to the proposal should be deleted.

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)</b>	
<p><del>g. no barriers are erected to prevent cost free public access to the area when commercial activities are not occurring;</del></p> <p><del>h. the area does not serve as a storage area for temporary structures, fixtures or apparatus serving the commercial use;</del></p> <p><del>i. significant periods of time during the year are set aside when no commercial activity occurs within the designated area, during which time the area functions solely as part of the larger Plaza.</del></p>	
<p><b>Add underlined and delete <del>struck through</del> language as follows:</b></p> <p>4.3. The Plaza design should be consistent with the following criteria:</p> <p>policies a and b-no change.</p> <p>e. <del>the Plaza should provide for water side uses, such as temporary, small craft tie ups and hand held boat launching. Create connections with the water's edge such as ramps, stairs or docks that allow users to easily access the Bay;</del></p>	<p>The current SAP emphasizes the importance of the relationship between the Northeast Wharf Plaza and the adjacent open water basin. With the siting of the cruise ship terminal at Pier 27 and the associated relocation of the open water basin, the references to the relationship between the Northeast Wharf Plaza and the adjacent open water basin are no longer relevant.</p>
<b>Plan Implementation Requirements</b>	<b>Staff Analysis</b>
<p><b>Add underlined and delete <del>struck through</del> language as follows:</b></p> <p>4. The Port will: Implementation Requirements a and b, no change</p> <p>c. remove Pier 34 within one year of BCDC's adoption of amendments to the SAP <u>(completed)</u>;</p> <p>d. remove Pier 24 within three years of BCDC's adoption of amendments to the SAP <u>(partially completed)</u>;</p> <p>Implementation Requirements e, no change</p>	<p>Updates the status of the implementation requirements c and d.</p> <p>Clarifies the linkages between public benefits and pier redevelopment projects.</p>

**Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)**

**Add underlined and delete ~~struck-through~~ language as follows:**

- f. upon Port issuance of a certificate of occupancy for the major reuse of Piers 27-~~31~~, or a comparable major development on adjacent piers, in addition to that provided for in Implementation Requirement 4-e above, carry out the following public benefits:
- i) complete Phase 1 of the Northeast Wharf Plaza by removing that portion of the Pier 27 shed required to create the Plaza and make it, the pier perimeter area, and the area adjacent to The Embarcadero, as shown in Figure 2 "Northeast Wharf Plaza," accessible and useable by the public prior to the Port issuing a certificate of occupancy for a large development on Piers 27-31, or a comparable major development on adjacent piers. If the cruise ship terminal or other maritime use is developed at Pier 27, provide pier perimeter public access to the north apron of Pier 29, a Bayside History Walk through Pier 29 or Pier 29 ½ connecting the Embarcadero Promenade to the north apron of Pier 29 and Phase 1 of the pier end open space at Pier 27-29. Within five years of certificate of occupancy for the cruise ship terminal at Pier 27, provide public access on the north apron of Pier 19, the south apron of Pier 23, the Pier 19 ½ apron, the Pier 29 ½ apron and provide public access through the Pier 19 ½ and the Pier 29 ½ connector buildings.

The new language in this implementation requirement describes the relocation of public benefits and public access associated with the siting of the cruise ship terminal at Pier 27 and timing of these public benefits and public access.

<b>Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)</b>	
<p><b>Add underlined and delete <del>struck-through</del> language as follows:</b></p> <p>ii) complete the Northeast Waterfront Plaza <u>upon issuance of a certificate of occupancy for the cruise ship terminal at Pier 27</u> <del>within 15 years</del> if necessary grants or other funding are available, or within <del>20-11</del> years if necessary grants or other funding are not available;</p>	<p>The proposed change to this implementation requirement accelerates the completion of the Northeast Wharf Plaza by either 15 years or 9 years, making it available to the public almost a decade sooner in either case.</p>
<p><b>Add underlined language as follows:</b></p> <p>iii) <u>in order to replace the open water basin eliminated by the cruise ship terminal project, identify a shed and/or pier to remove that will contribute to the development of a new open water basin within the area from Pier 35 to China Basin and as close to Pier 27 as feasible. A public planning process and financing plan for this new open water basin and planning for Phase 2 of the pier end open space at the end of Piers 27-29 should begin in July 2012 and be completed by July 2015. Phase 2 of the pier end open space at the end of Piers 27-29 should be implemented within 11 years of issuance of occupancy for the cruise ship terminal of a long-term lease of Pier 29. The pier or shed removal within the replacement open water basin should be completed within 15 years of issuance of occupancy for the cruise ship terminal at Pier 27, or remove the portion of the Pier 23 shed consistent with the Open Water Basin policies of this SAP within 15 years of a major development at Pier 27 or a comparable major development on an adjacent pier;</u></p>	<p>The changes to this implementation provide the parameters and the timing of the planning process for relocating the open water basin eliminated by siting a cruise ship terminal at Pier 27 and retaining the Pier 23 shed. The requirement to remove the Pier 23 shed remains if the replacement open water basin is not completed within 15 years of issuance of occupancy for the cruise ship terminal at Pier 27.</p>

Proposed Changes to NORTHEASTERN WATERFRONT (PIER 35 TO CHINA BASIN)	
<b>Policies g. and h. no change</b>	
<b>Add underlined language as follows:</b> <ol style="list-style-type: none"> <li>i. The Port will initiate preparation of nomination materials for a Northern Waterfront Historic District from China Basin through Pier 35 to be listed on the National Register of Historic Places. The nomination will be submitted no later than June 30, 2002, and the Port will strive to submit the nomination by June 30, 2001 (<u>completed</u>);</li> </ol>	Updates the status of the implementation requirement.
<b>Add underlined language as follows:</b> <ol style="list-style-type: none"> <li>j. <u>by July 2015, the Port should initiate a planning process to identify strategies for ensuring that the contributing resources to the Northern Waterfront Historic District are either rehabilitated or removed within a certain number of years of being closed to occupancy and use in order to protect both the historic resources along the waterfront and public health and safety and Bay ecology.</u></li> </ol>	This new implementation requirement provides for a public planning process to develop an approach to ensuring piers and sheds that are closed due to deterioration are managed in a way that protects the integrity of the historic district and public health and safety and Bay ecology.
<b>Re-letter policies j-l as k. through m.</b>	

Proposed Changes to SOUTHERN WATERFRONT	
<b>Southern Waterfront Pier 52 Policies</b>	<b>Staff Analysis</b>
<b>Add underlined language as follows:</b> <ol style="list-style-type: none"> <li>1. <u>As part of the 34<sup>th</sup> America's Cup events public benefits, improve the small craft launch at Pier 52 to make it accessible to all small craft users by March 2013 and permanently thereafter.</u></li> </ol>	Identifies a location for the one of the small craft launches that will be provided as part of the America's Cup project.
<b>Central Basin Policies</b>	<b>Staff Analysis</b>
<b>Add underlined language as follows:</b> <ol style="list-style-type: none"> <li>2. <u>When no longer needed for maritime activity, Pier 64 should be developed for a park and marina use in accordance with, but no limited to, the provisions of the Recreation and Open Space Plan of the City of San Francisco. As part of the 34th America's Cup events public benefits, remove Pier 64 by March 2013.</u></li> </ol>	The policy identifies the fill removal required as part of the America's Cup project public benefits package.

### Staff Analysis

In determining whether or not to recommend that the Commission initiate an amendment to the SAP for these projects, staff analyzed the amendment requests to determine if amending the plan was necessary to achieve the objectives of the projects and if the projects were broadly consistent with the goals and objectives of the SAP, the McAteer-Petris Act and the Bay Plan.

The Port's request to amend the plan to relocate the cruise ship terminal from Piers 30-32 to Pier 27 is a reasonable request based on the relative viability of each site and the need for a primary cruise ship terminal in San Francisco to serve the demand for this water-oriented use. A comprehensive analysis of its condition demonstrated that Piers 30-32 would require significant rehabilitation for any new development. The Pier 27 site was found to be in good condition and in need of minor rehabilitation. The Pier 27 site also provides a long and wide apron adjacent to large water basin that would be advantageous for the berthing of cruise ships. The site is large and would allow for the necessary ground transportation and provisioning areas and the city's infrastructure would make it relatively easy and cost-effective to establish shoreside power at the site. Based on all of these factors and the general support in the SAP, the McAteer-Petris Act and the Bay Plan for maritime uses within Port lands and along the shoreline, the request to amend the SAP to relocate the cruise ship terminal to Pier 27 was determined to be broadly consistent with the goals and objectives of BCDC's regulatory framework. The Commission adopted a descriptive notice on May 5, 2011 to initiate Bay Plan Amendment No. 3-11 to consider modifying the SAP to allow the location of a cruise terminal at Pier 27.

The Port and the Event Authority application to amend the SAP to allow for the temporary use of the open water basins to berth and moor vessels associated with the 34<sup>th</sup> America's Cup Events was initially problematic based on certain components in the request. The original amendment request included the use of all four open water basins, leaving only a portion of the Broadway Open Water Basin from Pier 7 to Pier 3 without vessels. BCDC staff felt that even temporary use of all four open water basins would have significant impacts on views and public access for four months or longer that would be inconsistent with the broad goals and objectives of the SAP, the McAteer-Petris Act and the Bay Plan. Through negotiations with the Port, the City and the Event Authority, the amendment request was revised to reduce the use of the Rincon Point Open Water Basin to leave the views in front of the park open and to berth boats only adjacent to Pier 14, north of Rincon Point Park. The revised amendment request also included public benefits for fill removal, shed removal and improved water-recreation access to balance the temporary impacts of the events. BCDC staff acknowledged that the America's Cup events would provide the public and the region with an international event that could draw more people to the Bay shoreline and provide for more opportunities to enjoy and learn about the Bay. With the revisions to the amendment request, the request for the staff concluded that temporary use of the open water basins for the America's Cup events would be broadly consistent with the goals and objectives of BCDC's regulatory framework. The Commission adopted a descriptive notice on November 3, 2011 to initiate Bay Plan Amendment No. 4-11 to consider modifying the SAP to allow the temporary use of open water basins to accommodate the 34<sup>th</sup> America's Cup Race.

**SAP Amendment Framework.** The SAP provides a framework for evaluating amendments affecting the Northeastern Waterfront. The amendment process is described in the Northeastern Waterfront Plan Implementation Requirements; requirement 4-1 states, in part that "[f]uture amendments of the SAP, as adopted on July 20, 2000, affecting the Northeastern Waterfront Area (Pier 35 to China Basin), may only be approved if the Commission finds that the revised public benefits and revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public benefits would be necessary to the health, safety and welfare of the public in the entire Bay Area." The amendment process does not state that the public benefits must be restricted to

the Northeastern Waterfront, nor does it establish fill or shed removal ratios for the any fill removal offsets that occur outside of the Northeastern Waterfront. The amendment process also does not proscribe ways to provide alternative public access or public benefits in the event that a maritime or other use eliminates or impairs existing public access, benefits or views. The framework provides the Commission with broad discretion to determine how to achieve the balance of public benefits and development entitlements, but strictly requires that the balance be maintained.

The second fundamental issue raised by the proposed amendments, and by several members of the public who have provided comments about both projects, is whether the amendments can be accomplished by focusing on reducing impacts and improving benefits at the project sites or if the proposals require a more comprehensive analysis and update of the SAP. In analyzing this issue, it is important to compare the proposed benefits to the public benefits currently required by the SAP and also to describe the Port's success in delivering public benefits as required by the plan. The public benefit requirements associated with the sites that are the subject of the amendments for the cruise ship terminal and the America's Cup events are critical components of the public benefits package in the SAP and it is possible that amending these requirements could frustrate the provision of other benefits and make it difficult to maintain the balance of public benefits and the development of these projects as described in the amendment requests.

In assessing the integrity of public benefits package required by the current SAP, it is important to determine the status of the Port's provision of public benefits to date. The background section of this staff report lists the status of the other public benefits required in the SAP. With the exception of the removal of approximately 14,000 square feet of Pier 24, the Port has completed the public benefits within the required timeframes and as described in the SAP. This includes removing Pier 34, removing the majority of Pier 24 and listing of the Embarcadero Historic District on the National Register. The Port is also pursuing funds and planning for a number of the other public benefits required by the SAP, such as Brannan Street Wharf, and Pier 36 removal, which were both approved by the Commission in November and the Port is seeking funds for and has developed a conceptual design for the Northeast Wharf Plaza, working with BCDC staff and stakeholders.

It is also important to evaluate the recent amendment to the SAP in conjunction with the proposed amendments to ensure that there are no unintended cumulative impacts that may create an imbalance of entitlements and public benefits. Also, it may be appropriate to integrate additional guidance regarding future plan amendments, especially since the staff proposal contemplates near-term future amendments regarding public benefits.

The SAP has been amended once since the 2000 amendment established the public benefits package and implementation requirements. This amendment, approved by the Commission on December 3, 2009, was for the Exploratorium project. The amendment permitted the Port to reduce a fill removal requirement between Piers 15 and 17 and provide off-site fill removal at another location along the waterfront outside the Northeastern waterfront. The amendment resulted in reduced fill removal between Piers 15 and 17.

The Commission determined that the residual fill removal requirement at Piers 15-17 still provided many of the benefits that the larger amount of fill removal would have achieved, e.g., providing Bay access closer to the Embarcadero Promenade, providing public access around the open water area and improving views to the Bay from public access vantage points. The revised public benefits also required that fill be removed at an off-site location within the Port's jurisdiction sufficient to offset the retained fill. The Commission concluded that the amendment did not require a comprehensive approach to the SAP and determined that the overall benefits of the on and off-site fill removal requirements maintained the overall balance of benefits and entitlements.

The 2009 amendment provides some guidance for future amendments because the off-site fill requirement established ratios for fill removal, depending on whether the fill removal would occur within the same geographic area of the waterfront. The 2009 amendment provided that if the removed fill was within the same geographic area, close to the project site and/or removed sooner than what was originally required in the 2000 amendment, then less fill removal would be required. Conversely, more fill removal was required if the removed fill was outside the geographic area, far from the project site and was not completed within the timeframe established in 2000.

Based on this analysis, the staff recommends that the Commission adopt a phased approach to amending the SAP that accommodates the accelerated schedules of cruise ship terminal and the America's Cup events in phase 1, but requires a comprehensive approach to amending the SAP in the second phase, which includes providing benefits throughout the lands within the Port's jurisdiction and comprehensively reviewing the amendments to ensure that the cumulative impacts do not result in an unintended erosion of public benefits and that the public benefits to be added to the SAP as a result of this and a subsequent amendment will work together to provide a package of public benefits than may result from only a project by project amendment.

**34<sup>th</sup> America's Cup Project Proposal.** Bay Plan Amendment No. 4-11 to the SAP for the America's Cup project would enable the Commission to allow the event sponsors to temporarily use portions of all four open water basins to moor and berth vessels associated with the America's Cup events. The Commission could authorize use of portions of Rincon Point Open Water Basin, portions of the Broadway Open Water Basin and all of the Northeast Wharf Open Water Basin for the 2013 events provided the fill would be in place from approximately May 2013 to January 2014. All of the Brannan Street Wharf Open Water Basin could be used for the 2012 and 2013 events and the fill could only be in place from approximately May 2012 to January 2014.

The primary impacts associated with the temporary use of these open water basins include impacts to views of the Bay, increased intensity of use along the San Francisco Waterfront, impediments and restrictions on water-recreational access at these sites, impacts to Bay species that may use these open water basins, both from the active use, and the placement of fill and dredging in the Bay. The proposed public benefits were designed to balance these impacts by: (1) removing fill at Pier 64, and accelerating fill removal at Pier ½ to provide for more open water in these locations; (2) accelerating removal of a building currently used as a restaurant at Pier 2 to provide more public Bay views and public access along the Bay in time for the America's Cup; and (3) providing improved and increased access for water-recreation at several locations along the San Francisco Waterfront.

By providing public benefits along the waterfront that include new and accelerated fill removal, accelerated public view improvements and increased water-recreation access that will also be available in time for the events, the staff believes the public benefits proposal provides a balance to the temporary impacts that will be associated with the event. Additionally, the proposed restriction on where and for how long the berthing may occur in the open water basins also ensures that public benefit of these open water basins will not be lost on a long-term basis .

The long-term development rights associated with the America's Cup project are not the subject of this amendment. The staff believes that some of the projects in the agreement are inconsistent with the SAP. If the Port, City or Event Authority pursues projects that are inconsistent with the SAP, subsequent environmental review and amendment of the SAP will be required. The original host and venue agreement included the rights to negotiate long-term marinas in both the Rincon Point Open Water Basin and the Brannan Street Wharf Open Water Basin. Since the Commission initiated this plan amendment, the host and venue agreement was amended to remove the rights to negotiate a marina at Rincon Point. The rights to negotiate a

marina at Brannan Street Wharf remain in the host and venue agreement and would require an amendment to the SAP before the Commission could authorize such a project. Additionally, the proposed finding associated with this amendment attempts to provide more clarity and certainty regarding the appropriate uses of the four open water basins designated by the SAP.

By changing the amendment request to reduce the original impacts at the Rincon Point Open Water Basin associated with the amendment, by reducing the potential long-term inconsistencies related to marina rights and by requiring that the temporary use of the open water basins be off-set with benefits that will permanently reduce fill, improve views and provide more access to water-recreation opportunities, staff believes that the balance of public benefits is maintained by Bay Plan Amendment No. 4-11. Additionally, the America's Cup events will provide an opportunity for the Bay Area public, visitors and people around the world to have a new experience of the Bay and provide them with an opportunity to discover or re-discover the San Francisco Waterfront and the Bay. Increasing opportunities to enjoy the Bay and bringing more people to the San Francisco Waterfront and Bay shoreline are both important objectives of the SAP, the McAteer-Petris Act and the Bay Plan.

**Cruise Ship Terminal Project.** The purpose of Bay Plan Amendment No. 3-11 to the SAP for the cruise ship terminal project is to allow for: (1) the relocation of the City and County of San Francisco's proposed primary cruise ship terminal from Piers 30-32 to Pier 27; (2) the retention of the Pier 23 shed; (3) the deletion and relocation of the Northeast Wharf Open Water Basin; and (4) the relocation of public access and public plaza benefits from Pier 27 and the Northeast Wharf Plaza. Public access that was planned along the southern apron of Pier 27 and at the end of Pier 27 and 29 would be closed approximately half of the year, due to cruise ship terminal activity. Bay Plan Amendment No. 3-11 would allow the Commission to authorize a cruise terminal project that reduced public access on Pier 27, restricted use of public plaza open spaces, limited views to the Bay from the plaza and the Embarcadero Promenade and eliminated the opportunity for water-recreation access from the Northeast Wharf Plaza. The amendment would also result in a new, much needed cruise terminal to serve as the city's primary cruise facility, re-establishment of shoreside power at this cruise ship terminal and a new public plaza, public access and view improvements at Pier 27.

The Pier 27 site is one of the best sites along the San Francisco Waterfront for the city's primary cruise ship terminal. However, the SAP identifies Pier 27 as the location of a number of the public benefits required by the 2000 amendment. At that time, the Port had planned to locate the primary cruise ship terminal at Piers 30-32 in a large mixed-use project, and a mixed commercial/recreation project at Piers 27 and 29. The public benefits required at Piers 27 and 29 were compatible with the proposed mixed commercial/recreation project. The relocation of the primary cruise ship terminal to Piers 27 and 29 results in a number of conflicts between the industrial, maritime use of a cruise terminal, which requires restrictions on public access and public use for safety and security reasons and the public benefits that were required at the site by the 2000 amendment.

**Alternative Public Benefits.** If the cruise ship terminal is to be relocated to Pier 27, the public benefits will also need to be relocated. Due to the conflicts between the cruise terminal and public access and the public plaza, a new open water basin, new public access areas, new opportunities to water-recreation access, new Bay views from the Embarcadero Promenade and other public spaces and new plaza and open spaces will need to be incorporated into the SAP public benefit requirements. The proposed amendment includes a number of new public benefits that will provide these qualities. The amendment will require that certain public access areas be provided sooner than originally required in the SAP at Piers 29, 29 ½, 19, 19 ½ and 23. A public process to plan, design and implement public open spaces at the end of Piers 27-29, Piers 31-33 and Fisherman's Wharf will be conducted by the Port, BCDC, leaseholders and other interested parties. New views will be developed that will create new views at Pier 19 ½, 29 ½ and other locations along the waterfront. A new open water basin will be created in

Fisherman's Wharf between Pier 45 and Pier 41 and a public process to plan, design and implement a new open water basin in the Northeast Wharf area from Pier 35 to China Basin, possibly from Pier 29 to Pier 33, will be conducted by the Port, BCDC, leaseholders and other interested parties. The two new open water basins will provide increased opportunities for water-recreation access, transient berthing and improved public access and views to bring the public closer to the Bay.

Additionally, the new and existing public benefits are also timed to occur sooner than currently required in the SAP. During the amendment process for the Exploratorium and the interviews with San Francisco Waterfront stakeholders, one of the issues frequently mentioned was the need to provide more of the public benefits sooner than what was originally required by the SAP and that providing benefits such as public access, fill removal, public plazas and views sooner was a tangible benefit. Some of the benefits that will be provided sooner as a result of this amendment include Phase 2 of the Northeast Wharf Plaza, the Bayside History Walk at Pier 29, public access at Pier 29, 29 ½, 19, 19 ½ and 23.

The amendment also requires the development of several public processes to plan, design and implement a public open space at the end of Piers 27 and 29, an open water basin and public plaza in Fisherman's Wharf near Pier 43 and an open water basin within the Northeastern Wharf area from Pier 35 to China Basin and a management approach for deteriorating historic piers. The requirement for planning processes recognizes the need for a comprehensive approach that includes public participation and input.

Based on the need to amend the SAP to accommodate the America's Cup events in 2012 and 2013, there is insufficient time to conduct the comprehensive planning processes necessary to identify the specific public benefits associated that would offset benefits being lost. However, the proposed time requirements and triggers associated with these public processes ensure that public benefits will be provided in timely fashion and at desirable sites. As described earlier in this section, the Port has been an active partner in the process of providing the public benefits required by the SAP. With the exception of the delay in removing a portion of Pier 24, all of the public benefits required have been completed by the Port on time. The staff believes that the requirement for comprehensive planning with required outcomes at specific sites is not substantially different than a requirement to remove fill or nominate a portion of the waterfront as a historic district. Based on past performance, these requirements will be conducted on time as well.

The package of public benefits associated with the cruise ship terminal amendment is designed to balance the public benefits with the development rights within the Northeast Wharf area of the waterfront. By requiring new benefits that will improve and increase views, public access, water-recreation access, public open spaces, and provide for several public processes for significant new areas of improvement along the waterfront, as well as providing that the benefits occur earlier than currently required, the staff believes that the balance of public benefits is maintained by the amendment. While the SAP does allow for amendments, it provides little guidance on how to carry out such amendments except for the requirement that the public benefits are developed at an equal or greater rate to the development along the waterfront. Based on the proposed amendment, staff recommends that the Commission find that the revised public benefits and revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the public in the entire Bay Area and that the cruise ship terminal, which is an important maritime use to accommodate within Port lands, can be relocated at Pier 27 and the public benefits that will be relocated to other areas of the waterfront are significant enough to balance the impacts associated with the siting the cruise terminal at Pier 27.

**Consistency with the McAteer-Petris Act**

As described above, the Commission relied upon its authority pursuant to section 66632(f) of the McAteer-Petris Act to protect the “health, safety and welfare of the entire Bay Area” to approve the 2000 amendment to the SAP, which was otherwise inconsistent with certain provisions of McAteer-Petris Act. Subsequently in 2001, in Chapter 489, the state legislature declared that the amendments to the *San Francisco Bay Plan* and the SAP by the Commission in 2000 were authorized under Section 66632(f) of the McAteer-Petris Act as necessary to protect the health, safety and welfare of the entire Bay Area. The findings that the Commission relied upon to make this determination included SAP Northeastern Waterfront Finding 14, which found that in order to achieve the objectives of the McAteer-Petris Act, such as Bay protection and public access, an amendment to the SAP would be required that would relax restrictions on uses while providing a variety of public benefits. These benefits would have to be sufficient to warrant BCDC to exercise its authority to set aside these use limitations on new Bay fill across a portion of the Northeastern Waterfront in the interests of the health, safety or welfare of the public in the Bay Area. SAP Northeastern Waterfront Finding 15 identified these public benefits to include the removal of deteriorating piers, the restoration of significant areas of open water, a public access network, Bay views, public plazas, historic preservation and the development of new uses to enable public enjoyment of the waterfront, including life safety and seismic improvements and repairs of existing piers. SAP Northeastern Waterfront Finding 16 stated that “[t]he public benefits described above could not be attained through application of BCDC’s existing regulatory regime. Restrictions limiting the repair, reconstruction or redevelopment of piers would prevent these benefits from being achieved since there is limited demand for exclusively water-oriented uses.” Finally, SAP Northeastern Waterfront Finding 20 states that the Commission finds that the amendments to the SAP are necessary to the health, safety and welfare of the public in the entire Bay Area.

Based on the findings above, in order to be consistent with the McAteer-Petris Act in this case, the proposed amendment needs to maintain the public benefits included in the SAP, by either implementing them as required, or by proposing new public benefits that are equal to or better than those required in the SAP prior to amendment. The proposed amendment to relocate the cruise ship terminal to Pier 27 from Piers 30-32 and to retain the entire Pier 23 shed maintains a balance of public benefits envisioned by the SAP by relocating public access and public benefits to other locations with the Port’s lands, by providing a number of public benefits earlier than originally envisioned in the SAP and by not allowing the elimination of the requirement to remove the Pier 23 shed until a public planning process has identified a new location for shed removal associated with a new open water basin. By providing public access and public benefits both on the site of the new cruise ship terminal at Pier 27 that are consistent with the cruise ship terminal use and committing to the provision of public access and public benefits at other locations within the Port’s lands, the amendment will result in maintaining the balance of public benefits on which the current SAP is based and the proposed amendment is consistent with the findings of the SAP and with the objectives of the McAteer-Petris Act.

The America’s Cup amendment also needs to maintain the public benefits included in the SAP, by either implementing them as required, or by proposing new public benefits that are equal to or better than those required in the SAP prior to amendment. The proposed amendment to temporarily use the open water basins for berthing and mooring of vessels associated with the 34<sup>th</sup> America’s Cup events maintains a balance of the public benefits envisioned by the SAP by

providing long-term improvements along the waterfront, including fill and shed removal and increased opportunities for water-recreation. Additionally, the proposal was modified to reduce inconsistency with the SAP by removing the portion of the amendment requesting to berth large yachts in front of Rincon Park. By modifying the amendment request and providing public benefits to respond to the duration and magnitude of the temporary use open water basins, resulting in maintaining the balance of public benefits on which the 2000 amendment to the SAP was based, the proposed amendment is consistent with the findings of the SAP and with the objectives of the McAteer-Petris Act.

For all these reasons, the staff recommends that the Commission determine that proposed Bay Plan Amendment Nos. 3-11 and 4-11 are consistent with the findings and declarations of policy contained in the McAteer-Petris Act.

### **Environmental Assessment**

The proposed amendment must meet the requirements of the McAteer-Petris Act and the Commission's standards for environmental review through an Environmental Assessment. Environmental Assessments are prepared in conformance with the Commission's regulations (CCR, Title 14, Section 11511-11512), which have been certified by the Secretary of Resources as functionally equivalent to the California Environmental Quality Act (CEQA). The Environmental Assessment describes the potential environmental impacts of the proposed SAP amendment at a programmatic level. Staff has reviewed and submitted public comments on the 34<sup>th</sup> America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Final Environmental Impact Report (FEIR). Information contained in the FEIR, as summarized below, provides a significant basis for the staff analysis in the Environmental Assessment of the proposed SAP amendments. The staff concludes that there will be no significant, adverse impact on the environment that could not be mitigated, from relocating a cruise ship terminal at Pier 27 or by holding the America's Cup events along the San Francisco Waterfront, provided that the mitigation measures included in the FEIR are implemented and the public benefits provided as a part of both projects enable the Commission to make the finding necessary to amend the SAP. The City and County of San Francisco, as the lead agency for both the America's Cup and the Cruise Ship Terminal Projects, certified the FEIR for the project on December 15, 2011. The certification was appealed to the Board of Supervisors, which will hear it on January 10, 2012. If the Board accepts the issues raised in the appeal and does not certify the FEIR, then the Commission will postpone the February 2, 2012 public hearing on the SAP amendment until after any substantiated deficiencies in the FEIR are remedied and the FEIR is certified.

The FEIR included a discussion and analysis of project variants that would provide a package of public benefits for both the America's Cup and cruise terminal projects and would result in addressing the impacts to the public benefits envisioned by the current SAP in a way that would balance impacts to views, public access, public open spaces and open water basins. The analysis found that the project variants would result in less-than-significant impacts, except for the long-term development of marinas at Rincon Point Open Water Basin and the Brannan Street Wharf Open Water Basin. The development of recreational marinas at both of these locations was found to have the potential of a significant, immitigable impact. Since the FEIR was written, the project no longer includes the potential for a marina at Rincon Point Open Water Basin. The potential for the America's Cup Event Authority to negotiate for a marina at the Brannan Street Wharf Open Water Basin remains in the project, but would require a

separate CEQA analysis and would be subject to a separate and future SAP amendment. Additionally, the finding addressing temporary uses in open water basins proposed for this amendment to the SAP clarifies how the open water basin policies and implementation requirements should be interpreted, making it more difficult to site a recreational marina in an open water basin without replacing that open water basin to another location along the Port's lands from Pier 35 to China Basin.

The potential environmental impacts associated with the temporary use of the open water basins for berthing and mooring of vessels associated with the 34<sup>th</sup> America's Cup Events include impacts to views, recreational use and ecology. The public benefits package associated with the project includes the removal of Pier 64 to improve Bay ecology and public health and safety in the Bay, the provision of a small craft launch to improve recreational access to the Bay during and after the event, the removal of a shed on Pier 2 to improve views of the Bay and the removal of Pier ½ to improve Bay ecology, public health and safety and Bay views.

The potential environmental impacts associated with the relocation of a cruise ship terminal from Piers 30-32, where the SAP originally contemplated the primary cruise ship terminal, to Pier 27 are not significantly different from those envisioned by the current SAP except with respect to the public benefits that were supposed to result at the Pier 27 and Pier 29 site. The use originally contemplated by the SAP was a commercial recreation use that would have resulted in similar impacts to transportation and views. The relocation of the primary cruise ship terminal to Pier 27 does result in the elimination of a designated open water basin, reduced water-recreation opportunities for the public and reduced public access and public open space opportunities along the Pier 27 apron, the Northeast Wharf Plaza and the pier end open space at Piers 27-29, significant portions of which will be closed approximately half of the year to accommodate cruise ship terminal activity. However, SAP currently contains policies, which contemplate the possibility of the closure of public access in association with maritime activities, and requires that any public access that must either be reduced or eliminated due to maritime activity must be relocated to another part of the Port's lands. The amendment includes sites for the relocation of public access and public benefits and develops two planning processes at Fisherman's Wharf and within the Northeastern Waterfront from Pier 35 to China Basin, that would result in a balance of the public benefits lost as part of this amendment.

The retention of the entire Pier 23 shed has visual impacts that are inconsistent with the SAP. The removal of a portion of the Pier 23 shed was designed to create new views to the Bay from the Embarcadero Promenade, the planned Northeast Wharf Plaza and from different vantage points within the city, as well as support the open water basin between Piers 19 and 27. The siting of a cruise ship terminal at Pier 27 eliminates the potential for an open water basin between Piers 19 and 27 and also results in blocking views from the promenade and the plaza. At this time, it is not possible for BCDC staff to find that the public benefits associated with this amendment will result in balancing out the impact of retaining the Pier 23 shed. This amendment provides the opportunity for the Port to find a new location for the open water basin and for shed removal that will result in similar or better views from the Embarcadero Promenade, other vantage points within the city and public open spaces and open water basin benefits that will provide opportunities for water-recreation access, transient berthing, and public access and open space interaction with the Bay.

The City and County of San Francisco, as the lead agency for the Final Environmental Impact Report for The 34<sup>th</sup> America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza, State Clearinghouse Number 201102204. The City and County of San Francisco found the following within the FEIR:

**Visual Impacts-Cruise Ship Terminal.** At present, the existing Pier 27 and 29 sheds and the Pier 27 Annex building and the historic Pier 29 Belt Line office building block all views of the Bay from The Embarcadero at Piers 27 and 29. As noted in the FEIR, the removal of the Pier 27 shed, the end of the Pier 29 shed, and the Pier 27 Annex buildings for the proposed Cruise Terminal and Northeast Wharf Plaza would open views of the Bay, Yerba Buena Island, Treasure Island, and Angel Island from The Embarcadero. As such, the FEIR concludes that the proposed Cruise Terminal and Northeast Wharf Plaza would have largely beneficial effects on scenic and visual resources compared to existing conditions.

Under the proposed SAP amendment, the easternmost 315 feet of the Pier 23 shed could be retained. As a result, views of the Bay from the future Northeast Wharf Plaza would not be improved to the extent contemplated under the existing SAP. In addition, cruise ships berthed at Pier 27 under the proposed project would partially block views of the Bay from the future Northeast Wharf Plaza in conflict with SAP Open Water Basin policies. However, the amendment requires that a new open water basin be identified by the Port and approved by BCDC between Piers 35 and China Basin prior to eliminating the requirement to remove a portion of the Pier 23 shed and in order to provide new views, water-recreation opportunities and public access improvements.

Additionally, the proposed SAP amendment would reduce future improvements to Bay views at the Northeast Wharf Plaza and Open Water Basin as described above, it would instead provide new improvements to Bay views not afforded under the existing SAP. These improvements would include:

- A public process to plan, design and implement a potential, future Open Water Basin at Piers 29-33, that provide for water-oriented recreation access or at another location from Pier 35 to China Basin and new public views of the open water basin, wherever located.
- New views to the Bay through Pier 19½, or removal of Pier 19½ in its entirety.
- New views to the Bay through Pier 29 ½.
- A public process to plan, design and implement a future open water basin and connecting public plaza in Fisherman's Wharf.

**Visual Impacts-America's Cup.** Under the proposed SAP amendment, temporary berthing of large spectator boats, sponsor boats, race support vessels, and/or racing yachts in the Broadway, Rincon Point and Brannan Street Wharf Open Water Basins would affect views of the Bay from adjacent shoreline areas. In response to comments from BCDC staff, the Event Authority revised the project description to relocate the proposed floating docks within the Rincon Point Open Water Basin to the north end of the basin leaving the views of the Bay at this location largely unobstructed. With this modification and because the proposed vessel berthing within the Broadway, Rincon Point and Brannan Street Wharf Open Water Basins would be temporary and limited in duration, the FEIR concludes that the resulting impacts on visual resources would be less than significant. However, the amendment includes several public benefits to improve views to the Bay permanently and in time for the event. These visual improvements include fill removal at Pier ½, shed removal at Pier 2 and fill removal at Pier 64.

While the proposed berthing within the Open Water Basins for the AC34 events would be temporary, the AC34 events also trigger potential long-term development of a marina in the Brannan Street Wharf Open Water Basin which could have potential impacts on public views and visual quality. As discussed in the FEIR, the AC34 Host and Venue Agreement between the City and Event Authority provides for future long-term marina development rights after

conclusion of AC34. Future marina development in the Brannan Street Wharf Open Water Basin would conflict with SAP policies, which reserve this area for public views of open Bay waters, water-recreation access and ecological benefits of open water basins. Any such future development would be subject to a subsequent amendment of the SAP that would need to be approved by the Commission as well as separate project-level CEQA review.

**Water Quality and Biological Resources-Cruise Ship Terminal.** Bay Plan Amendment 3-11 to the SAP does not add a cruise ship terminal along the San Francisco Waterfront. The current SAP contemplates a cruise ship terminal at Piers 30-32, which would have generally the same water quality and biological resource impacts as those which will occur instead at Pier 27. While the water quality and biological resource impacts do not change as a result of the cruise ship terminal use along the waterfront, the elimination of the Northeast Wharf Open Water Basin could have water quality and biological resource impacts that were not contemplated by the SAP. However, the amendment requires that the Port identify and the Commission approve a new open water basin within the area between Pier 35 and China Basin, which would provide these water quality and biological resource improvements at a site near the one that was contemplated by the current plan. Implementation of this water basin will be subject to environmental review at the project level, which will identify specific impacts associated with implementation and avoidance or mitigation measures that address those impacts.

The FEIR found that at present, Pier 35 functions as the Port's primary cruise ship terminal with Pier 27 serving as the secondary terminal when more than one cruise ship is in port at the same time. Under this amendment, Pier 27 would become the Port's primary cruise ship terminal and Pier 35 would be used as the secondary terminal. The total number of cruise ship calls would remain the same. As presented in the FEIR, with the implementation of feasible mitigation measures, this reversal in the role of the Port's two existing cruise terminal locations would not result in significant impacts on marine species or habitats. The dredging associated for the cruise ship terminal use is maintenance dredging that has already been authorized by BCDC permits.

With respect to the cruise ship terminal use, the FEIR found that potential water quality impacts related to operation of the cruise terminal and Northeast Wharf Plaza include discharges from cruise ships using the terminal and potential contributions to combined sewer overflows, as well as pesticide use for landscaping. The FEIR determines that implementation of water quality protection measures required under existing state, federal, and international regulations would ensure that water quality impacts related to cruise ship discharges would be less than significant. As stated in the FEIR, the Northeast Wharf Plaza and Cruise Terminal projects would incorporate stormwater management features consistent with the Port's Stormwater Design Guidelines and runoff from the Cruise Terminal and Northeast Wharf Plaza would not be discharged to the City's combined sewer system. As such, the FEIR concludes that neither the Cruise Terminal nor the Northeast Wharf Plaza would have a significant impact on water quality related to increased wet weather combined sewer overflows. The FEIR also concludes that due to the minimal area of potential pesticide use, the low risk of mobilization by runoff, and existing federal, State, and local regulations governing safe use of pesticides in a manner that minimizes environmental harm, water quality impacts relating to pesticide use at the Cruise Terminal and Northeast Wharf Plaza would be less than significant.

**Water Quality and Biological Resources-America's Cup.** Uses of the Northeast Wharf, Broadway, Rincon Point and Brannan Street Open Water Basins for the America's Cup that would be allowed under this amendment would involve dredging, pile driving, installation (and subsequent removal) of temporary floating docks and gangways, and temporary mooring of racing yachts, team and sponsor support boats, and spectator yachts. The FEIR evaluates the

potential water quality impacts related to all of these uses, concluding that through compliance with existing regulatory requirements and implementation of feasible mitigation measures identified in the FEIR, potential impacts on water quality from dredging and construction activities in the Bay and use of the open water basins by race-related and spectator vessels would be less than significant.

The temporary use of the open water basins provided for under this amendment for race-related and spectator vessels could have adverse impacts on sensitive marine species and habitats related to dredging, pile driving, and the introduction or spread of non-native invasive species. The FEIR evaluates each of these potential effects and determines that compliance with existing regulatory requirements and implementation of feasible mitigation measures identified in the FEIR would ensure that the temporary use of the open water basins for the America's Cup would not have a significant impact on marine species or habitats.

However, the amendment also includes fill removal at Pier ½ and Pier 64 which would be permanent improvements to water quality and biological resources that would occur in time for the event. Removal or replacement of creosote-treated pilings with non-toxic materials would result in a long-term improvement in water quality, although temporary water quality effects could occur during removal due to re-suspension of sediments containing organic compounds from the sediments, and debris potentially produced during removal. However, removal activities would be conducted in accordance with applicable regulatory permits, which would require the project sponsor to implement standard best management practices to minimize disturbance of sediment, and to prevent discharges of debris or pollutants during fill removal activities. The FEIR concludes that with implementation of water quality protection measures required under existing state and federal regulations, water quality impacts related to removal of creosote-treated piles and remnant wharf/piers would be less than significant.

Fill can also be used as habitat by a number of marine species. The pilings proposed to be removed may be colonized by sessile and mobile marine invertebrates such as mussels, barnacles, oysters, encrusting sponges, tunicates, crabs, sea stars, anemones, and other species. In addition, disruption of Bay muds during removal could result in localized increased turbidity and the release of toxic compounds. However, the FEIR concludes that the long-term habitat benefits from removing creosote-treated pilings from the Bay would outweigh potential adverse effects from temporary disruption of sediment and the removal of artificial habitat. Additionally, a new, permanent roosting area would be sited in the area around where Pier 64 was removed to replace this habitat use.

**Public Health and Safety and Recreation-Cruise Ship Terminal.** As stated previously in this Environmental Assessment, Pier 27 currently serves as the Port's secondary cruise ship terminal and the SAP currently contemplates a cruise ship terminal at Piers 30-32. Given these facts, the relocation of the cruise ship terminal to Pier 27 would have similar public health and safety impacts as those found under the current plan. The primary difference between the proposed amendment and the current SAP is the elimination of the Northeast Wharf Open Water Basin, which would reduce the opportunities for water-recreation and public access at the Pier 27 site and alter the use of the Northeast Wharf Plaza, which was planned with the adjacent open water basin in mind. The requirement to replace the open water basin at a new site from Pier 35 to China Basin and to design and implement the new open water basin to include the same visual, water-recreation and public access improvements that were required in the current SAP, reduces the impact of the project on recreation and relocates the recreation opportunities to another site along the Northeast Waterfront. Additionally, the new plaza and open water basin in Fisherman's Wharf will result in new water and land recreation opportunities in an area of the waterfront that has a lot of visitors and few public open space and water-recreation opportunities.

The closure of the public access, portions of the Northeast Wharf Plaza and the pier end open space at Piers 27-29 has potential impacts on recreation. However, the current SAP contemplates the temporary closure or elimination of public access adjacent to certain maritime uses if necessary for public health and safety. The plan requires that this public access be relocated to other sites along the waterfront and this relocation is included in this plan amendment to occur at Piers 19, 19 ½, 23, 29 and 29 ½.

**Public Health and Safety and Recreation-America's Cup.** Although none of the open water basins contain existing improvements or facilities supporting recreational uses, the temporary use of the open water basins provided for under this amendment for America's Cup race, support, and spectator vessels could conflict with use of these areas for other water-related recreational uses, such as kayaking or other transient boating use. The FEIR found that because use of the open water basins for the America's Cup would be limited in duration and would not affect existing recreational facilities, the impact of the proposed amendment on water-oriented recreation would be less than significant. However, in order to balance the public benefits and with the impacts associated with the project, the amendment includes the requirement that one or two new or improved, accessible, water-recreation access be sited along the San Francisco Waterfront in by March 2013, in time for the America's Cup 2013 events and available permanently after.

Removal of fill required by amendment associated with the America's Cup project at Pier ½ and Pier 64, as described above would improve public health and safety by removing potential navigational and public health and safety hazards. Removal of fill at the locations identified may also enhance recreational use of the Bay for boating and other water-oriented recreational uses by increasing open water along the San Francisco shoreline.

**Cultural Resources-Cruise Ship Terminal Project.** The amendment for the cruise ship terminal project, which includes the request to retain the Pier 23 shed, results in a number of changes to the public benefits package and results in new locations for projects and planning processes within the San Francisco Waterfront Historic District, both of which could have implications for contributing resources to the Historic District.

Public access provisions and improvements at Pier 19, 19 ½, 23, 29, 29 ½ should be designed and implemented to be consistent with Secretary's Standards. The planning process at Piers 29 to 33 may result in impacts to contributing resources, specifically Pier 31. Pier 31 is a contributing resource to the San Francisco Waterfront Historic District, but is currently closed to all activity due to structural deficiencies and the Port does not have the resources to rehabilitate the structure. Pier 31 has significant deficiencies and is a small pier and shed, making it less attractive to investors to repair and re-use it. In contrast, Pier 23 which the SAP currently requires be removed, is in good condition and requires little rehabilitation to re-use and lease.

The removal of a portion of the Pier 23 shed was a compromise that was agreed to in the 2000 amendment to the SAP, which required both the removal of a portion of the Pier 23 shed to contribute to the Northeast Wharf Open Water Basin that was designated from Pier 19 to Pier 27 and to improve views from the plaza and the Embarcadero and the nomination of the San Francisco Waterfront Historic District. The historic district was designated in 2005 and Pier 23 was one of the contributing resources to the district. The SAP's compromise appeared to some to be a conflict, but was actually a compromise that was agreed to in 2000. The request to retain the shed is a conflict with the current SAP and needs to be offset with shed removal in another location from Pier 35 to China Basin. Currently, the proposed amendment identifies Pier 31 as the possible location for this offset. However, due to the accelerated timeframe of the America's Cup project and its relationship to the cruise ship terminal project, there is no time to develop the type of public process necessary to plan, design and implement an open water basin in this location.

While the SAP amendment identifies the Pier 29 to 33 location as the best opportunity for a new open water basin which would achieve the same or similar benefits to those being lost with the elimination of the open water basin between Piers 19 and 27, it is possible that another location between Pier 35 and China Basin will be found and it may also contain contributing resources to the historic district. The necessary environmental analysis of the impacts to the San Francisco Waterfront Historic District will be conducted during the planning process and subsequent amendment to the SAP. This may be an analysis of Pier 31 or of another historic pier. Ideally, the site of the new open water basin between Pier 35 and China Basin would be sited in area that would not result in the removal of historic piers or sheds. However, there are only a few sites where this could occur as most of the piers have been identified as contributing resources to the Historic District.

**Cultural Resources-America's Cup Project.** The amendment for the America's Cup project allows for the temporary use of the open water basins for the berthing and mooring of private yachts and racing yachts during the America's Cup events. The fill associated with the project will be temporary and removed in 2014. The temporary use of these open water basins should not have any impacts on cultural resources. However, the dredging for the use of the open water basins may result in impacts on archaeological resources, including shipwrecks. The FEIR found that these impacts could be mitigated by measures to prepare for and respond to inadvertent discovery of such resources. Additionally, the temporary fill associated with the berthing of vessels in the open water basins may result in significant impacts on the bulkhead wharf and substructure at historic piers. The FEIR found that these impacts could be mitigated through prior approval of designs that ensure compliance with the Secretary's Standards.

**Transportation and Circulation-Cruise Ship Terminal Project.** As stated previously in this Environmental Assessment and described in the FEIR, Pier 27 currently serves as the secondary cruise ship terminal for the Port. The transportation and circulation impacts associated with the primary cruise ship terminal currently occur several piers to the north at Pier 35. Additionally, the SAP contemplated a cruise ship terminal use at Piers 30-32 and a mixed-use commercial recreation project at Pier 27. Based on these factors, the transportation and circulation impacts to the waterfront with the plan amendment will be similar to those under the current SAP. However, the relocation of the cruise ship terminal from Piers 30-32 to Pier 27 may have site specific impacts and the cruise ship terminal use at Pier 27 would differ from the mixed-use commercial recreation impacts due to increased bus and truck traffic associated with a cruise ship terminal use.

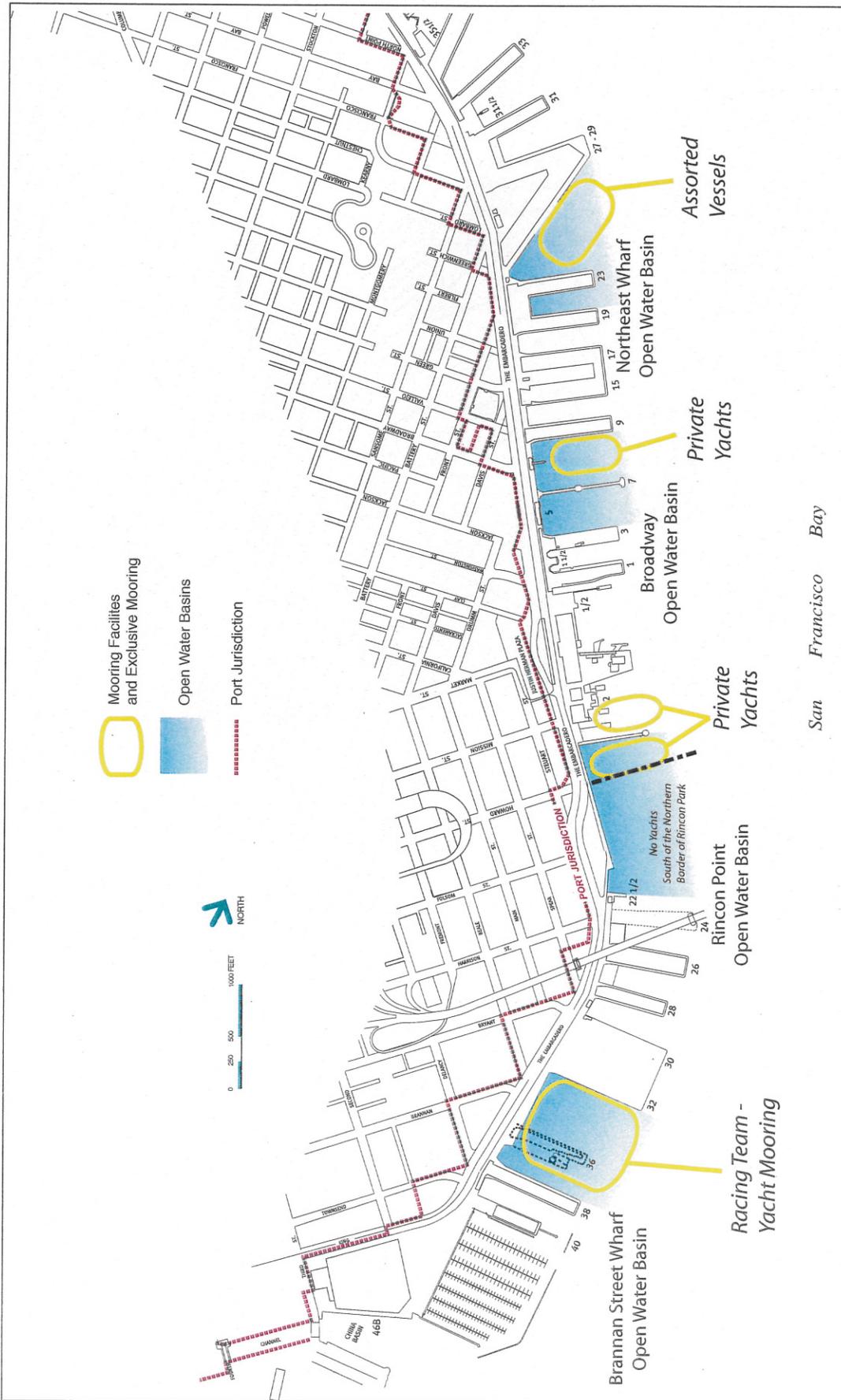
The cruise ship terminal use at Pier 27 has the potential to create significant impacts on traffic operations on The Embarcadero due to vehicles exiting and entering the cruise ship terminal. The site design of the cruise ship terminal and the configuration of Piers 27 and 29, result in the reduction of potential impacts on The Embarcadero. The project circulation was designed with a single point of entry and exit and a right turn only exit to reduce the number of crossings of The Embarcadero and impacts of circulation on The Embarcadero. The large area available in the valley area between Piers 27 and 29 and the smaller footprint of the building replacing the Pier 27 shed results in traffic being able to move quickly and efficiently onto the site and not result in stacking of vehicles on The Embarcadero. Additionally, the impacts associated with provisioning occur at early hours of the day, when less traffic occurs on the Embarcadero.

The FEIR includes mitigation measures for the cruise ship terminal project that would avoid or reduce impacts to the extent possible, including a right turn only exit and relocating the vehicular access to about 30 feet south of where it currently occurs.

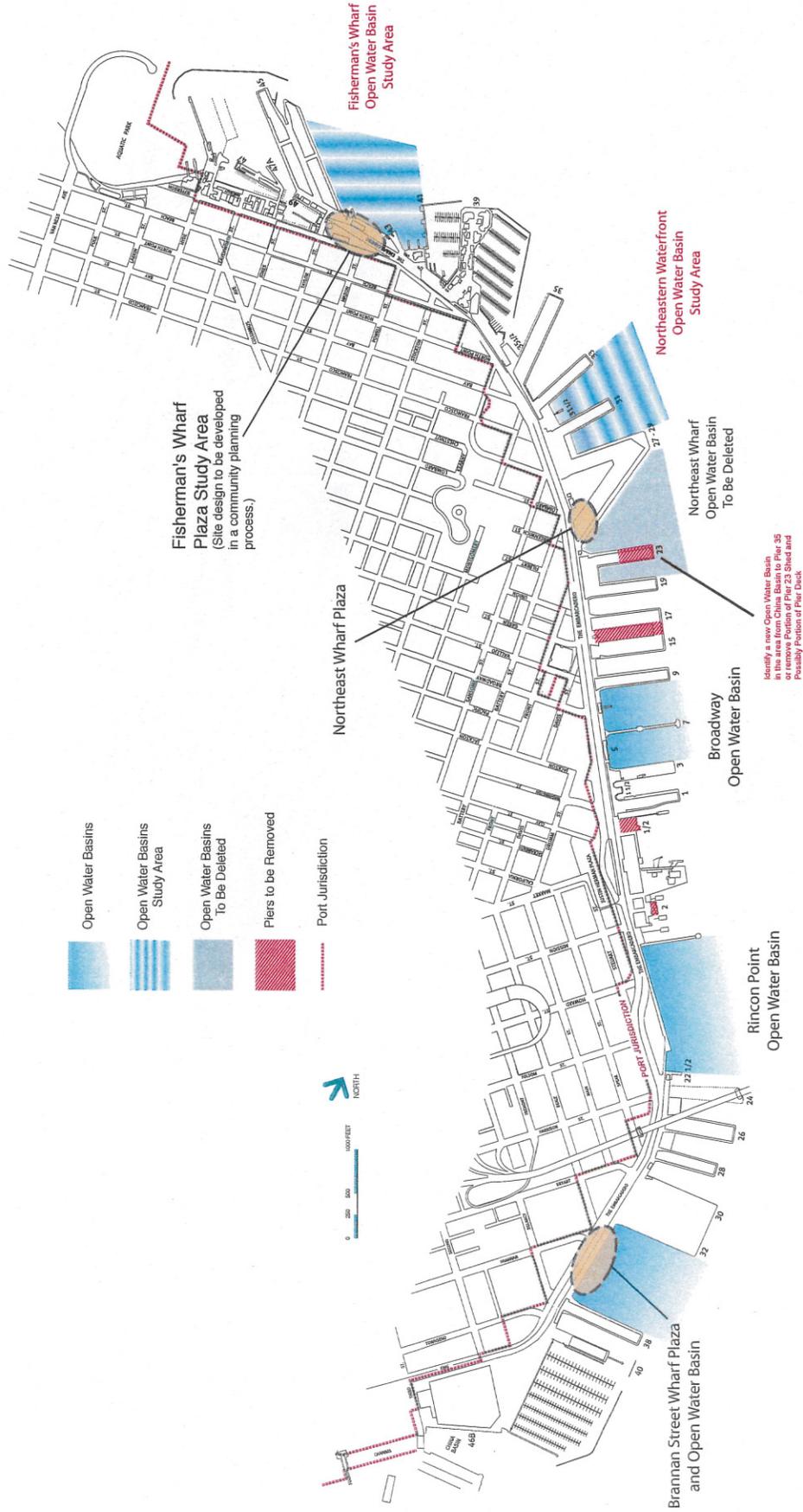
**Transportation and Circulation-America's Cup Project.** The temporary use of the open water basins for the America's Cup events in 2012 and 2013 will not have significant impacts on transportation and circulation. Although not directly addressed in the FEIR, the potential impacts to traffic and circulation as a result of the berthing and mooring of vessels in the open water basins might include landside provisioning and increased traffic around the vessels from those who would like to view them. The FEIR and project does not provide for landside provisioning and states that provisioning will only occur from the Bay side. The increased traffic around the vessels will be temporary and managed by the City and County of San Francisco under the People Plan and through mitigation measures included in the FEIR.

#### **Summary of Written Comments Received 3-11 and 4-11**

No written comments were received following the distribution of the descriptive notice for the cruise ship terminal amendment, on May 6, 2011. No written comments were received following the distribution of the descriptive notice for the 34<sup>th</sup> America's Cup amendment, on November 3, 2011.



**Figure 1**  
 America's Cup Proposed Amendment  
 Temporary Use of Open Water Basins



**Figure 2**  
 Cruise Ship Terminal and  
 America's Cup Proposed Amendment  
 Open-Water Basins and Public Plazas

Proposed Cruise Ship Terminal Amendment 3-11 Public Benefits and Public Access

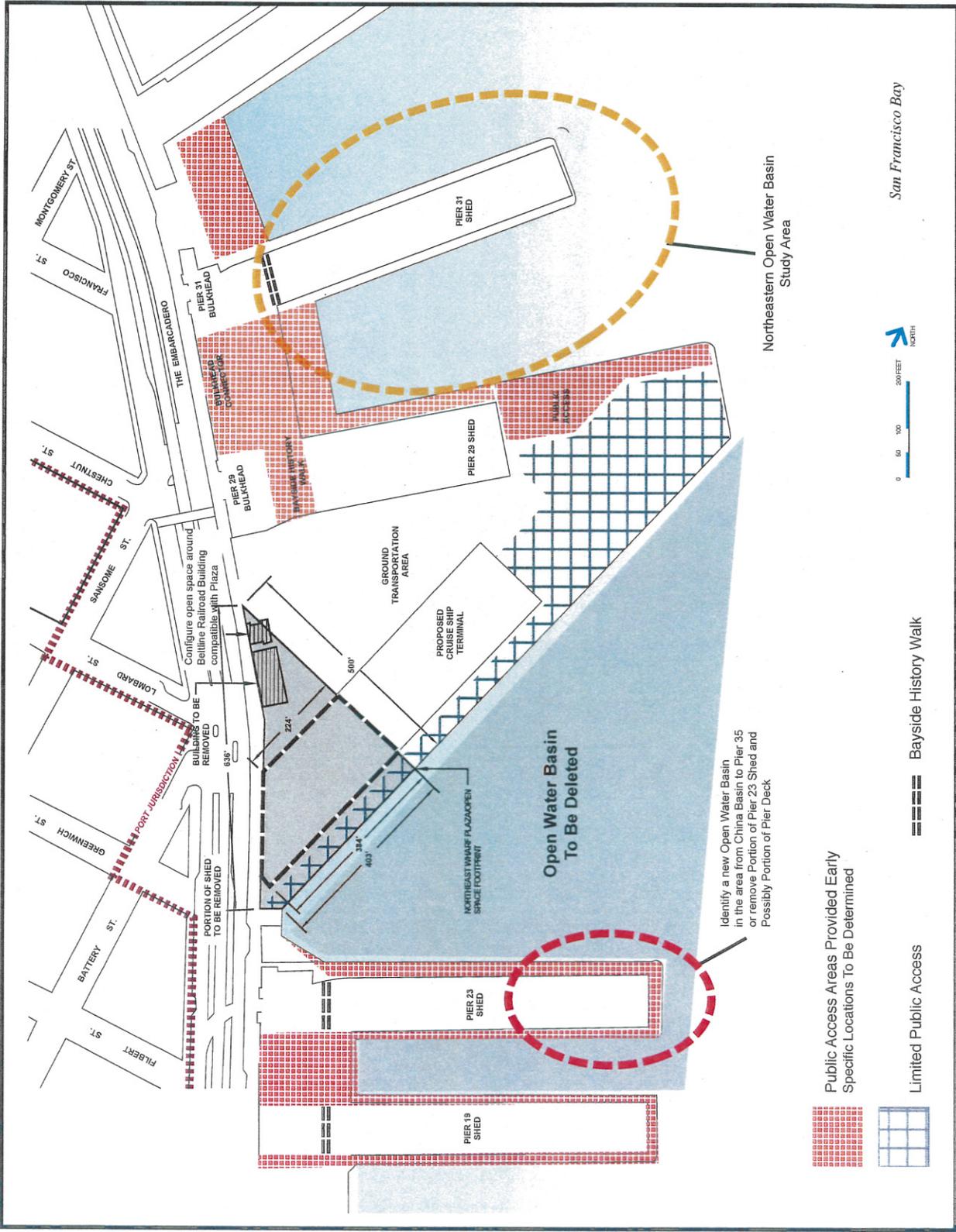


Figure 3

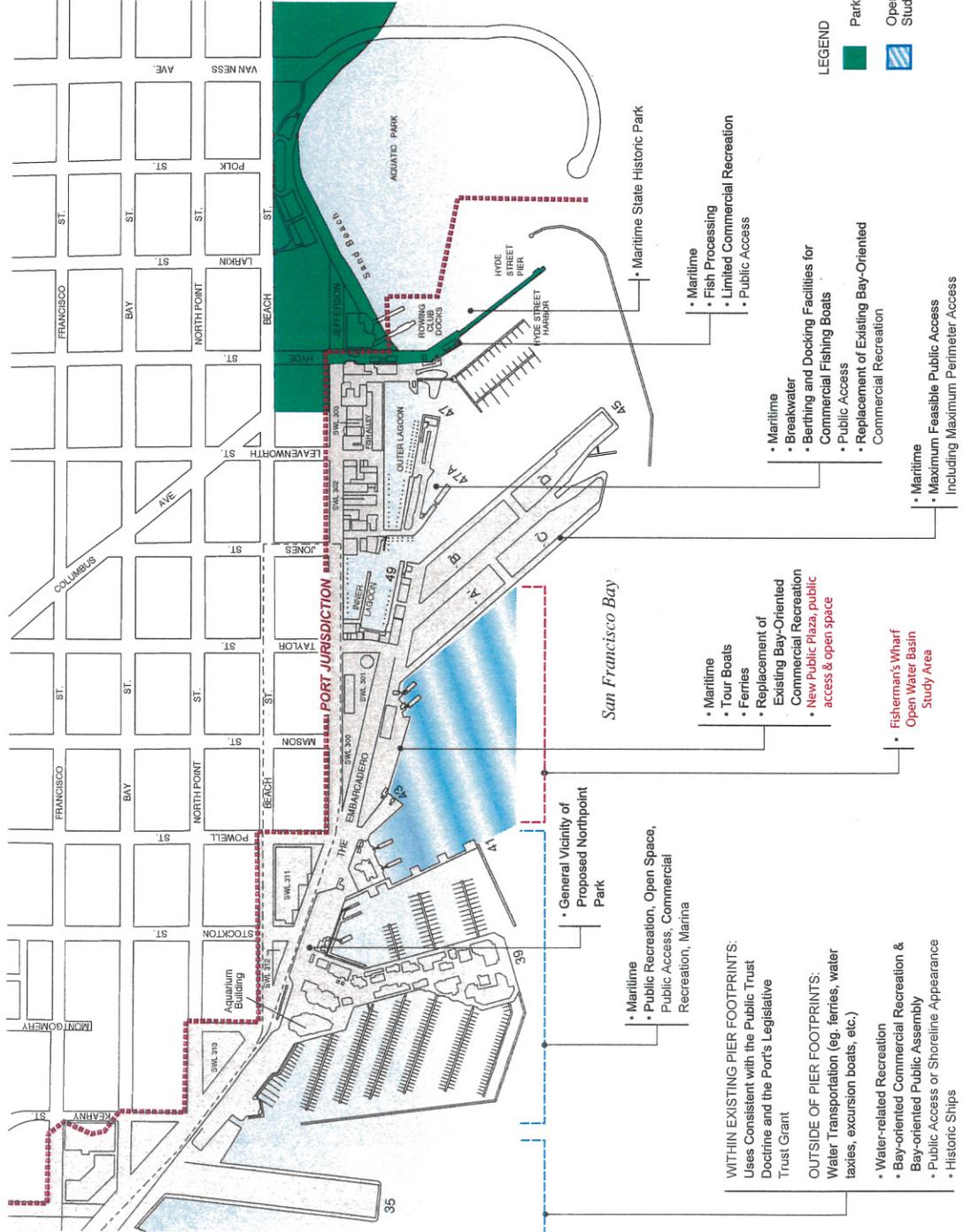
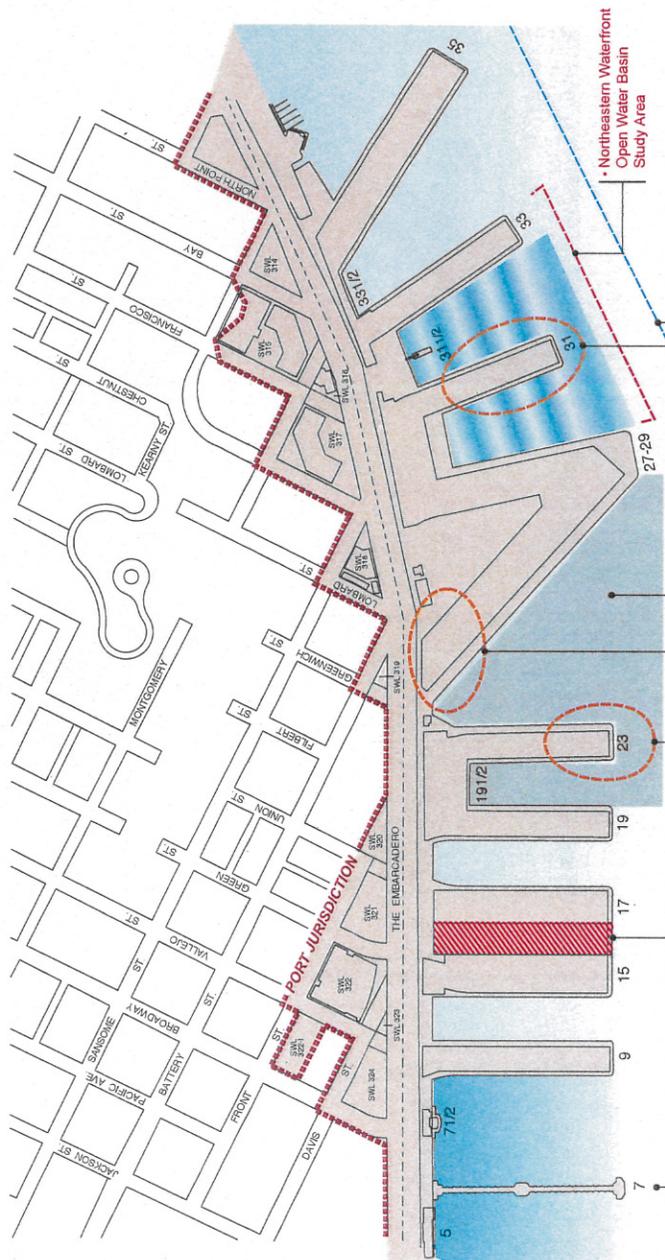


Figure 4



# Proposed Revised Special Area Plan Map 2



**WITHIN EXISTING PIER FOOTPRINTS:**  
 Uses Consistent with the Public Trust Doctrine and the Port's Legislative Trust Grant

**OUTSIDE OF PIER FOOTPRINTS:**  
 Water Transportation (eg. ferries, water taxis, excursion boats, etc.)

- Water-related Recreation
- Bay-oriented Commercial Recreation & Bay-oriented Public Assembly
- Public Access or Shoreline Appearance
- Historic Ships

- **Northeastern Waterfront Open Water Basin Study Area**
- **Northeastern Wharf Open Water Basin To Be Deleted**
- Construct Northeast Wharf Park
- **Identify a new Open Water Basin in the area from China Basin to Pier 35 or remove Portion of Pier 23 Shed and Possibly Portion of Pier Deck**

- Remove Deck and Pilings that Form the Valley Between Pier 17 and Pier 15 (Consistent with Open Water Area Policy 1-d)
- **Public Process to restore or remove**

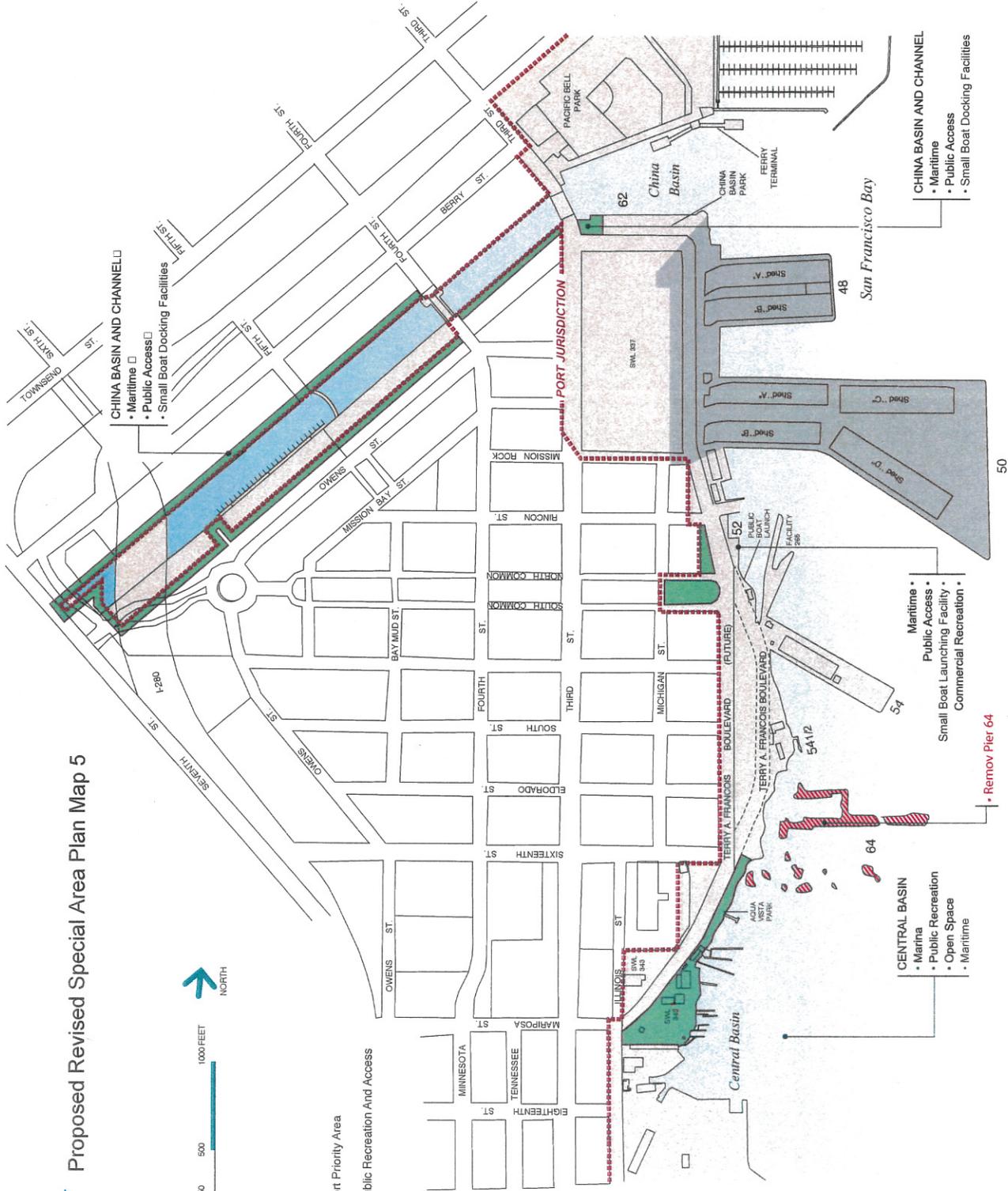
San Francisco Bay

Figure 5

**SAW** Proposed Revised Special Area Plan Map 5



- LEGEND**
- Port Priority Area
  - Public Recreation And Access



**Figure 6**